A Critical Survey of Legal Education in the Philippines

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(Continued from last issue)

CHAPTER IV

WEAKNESSES AND SHORTCOMINGS OF PRESENT SYSTEM

Standard of Judgment—aim of education—

It is necessary before any criticism is attempted to set certain fundamental standards as a basis of that criticism. Everything may be said to be relative, so that a norm must be established. In the adoption of our standards of measure, the following questions might profitably be posed: Firstly, what are the objectives of higher education? Secondly, what are the objectives of the legal profession? Having answered both these questions, we shall attempt to give a satisfactory answer to the final question which is: What are the objectives of true legal education?

Education in general has been variously defined. The following broad definitions would be suitable:

> "Everything not known intuitively and instinctively is education." [1]

> "With reference to man education is all that disciplines and enlightens the understanding, corrects the temper, cultivates the taste, and forms the manners and habits." [2]

The objectives of education are numerous, but they can all be embodied in the following succinct statement: The purpose of all education is to help students live their own lives. [3]

To concern ourselves with the objectives of higher education. it is the production of educated men in the highest sense of the term, who would be so considered by world standards. The mark of such an individual would not be the amount of information or the fund of knowledge he might possess. The demands go far deeper than that. For in education what is sought is quality—not the sum of education but the kind of education. Education is not a process of deluging the mind with facts. It is not merely the accumulation of learning, it is the development of certain attitudes and aptitudes in the minds of the students. The attitudes, which rest on character, would be mainly concerned with the well being of man in society; with

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[1] Cook vs. State, 90 Tenn. 407, 410, 13 LRA 183.
[2] Watton vs. Cruce, 44 Okl. 186.
[3] "General Education in a Free Society" Report of the Harvard Committee (1945) p. 43

the obligations and duties to his fellowmen which an educated man is deeply aware of. By aptitudes are meant certain abilities which education in the real sense develops. These abilities are the ability to think effectively and consecutively, the ability to convey thought and ideas, and the ability to appraise and judge values.[1] The educated man goes to the bottom of things, to ultimate causes and basic principles.

The expectations which have been made to rest on higher education were aptly stated by the late President Manuel L. Quezon, when, on speaking of the mission of the University of the Philippines, he said:

> "It is to produce men of character and wisdom trained in the arts and sciences, who are to assume leadership in those political and social activities which are vital to the state."[2]

Before we even begin to produce men truly educated according to world standards we must perforce examine the material that we are to work with. For the products of an educational system "will never be found to be on a plane immeasurably higher than the society of which they are integral parts."[3] It is advantageous to know the nature of the material we have to work with, so as to be able to make the best of the situation.

The following will serve to describe from the educational standpoint, the "society" as mentioned above:

> "Intellectually the Filipino is far from despicable. He has quick perceptions, retentive memory, aptitude and extraordinary docility. He is, in fact, one of the most teachable of persons; and it is astonishing how quickly he can possess himself of the more obvious aspects of a problem. He matures early and soon finds himself in a position of influence and even of authority. Almost all leaders in war and politics of the past quarter of a century have been strikingly young men. There is unquestionable danger for the Filipino in both his aptitude and his precocity —the danger of superficiality. Under sound teaching he is capable of genuine patience in study and will work a matter through to its end. But release him from the influence of sound scholarship, and he speedily deserts a field, believing that a cursory exploration has given him mastery.[4]

> "It is the fondest dream of Filipino parents to be able to send their children to college. They look upon higher education as a means of escape from manual labor, as an open sesame to the white collar jobs, and as a passport to the circles of the social elite. Thus, they are willing to sacrifice everything for the professional training of their children."[5]

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[1] cf. Chapter III "General Education in a Free Society" Report of the Harvard Committee.

[2] "The Philippines—A Study in National Development" by Joseph R. Hayden (1942) p. 534.

[3] "The Philippines—A Study in National Development" by J. R. Hayden (1942) p. 535.

[4] "A Friendly Estimate of the Filipinos" David P Barrows in Asia Magazine, Vol. 21, p. 947.

[5] "Education in the Philippines" Antonio Isidro et al. p. 147.

Education is still "like a polish on metal. Any metal will take a polish, but the sheen is characteristic of the metal, and no amount of polish will more than alter its appearance, because the basic substance remains the same."[1]

The objectives of the legal profession may be summed up in one word—service. It may be said, without fear of contradiction, that of all the professions law offers the most numerous and the most varied opportunities for service.

> "When is a lawyer a harmonizer and when a parasite? In the long run humanity manages to exterminate the parasite and the survival of the legal profess on and the perpetuation of honest pride in this occupation must be entirely dependent of what lawyers give to society in excess of what they take away." [2]

There is the work of the practising attorney—as advocate, barrister or counsellor — his work with that of his associates is directed at obtaining the righteous settlements of the individual disputes that are a necessary characteristic of human society. In the government of men his work is concerned with the creation of laws that will bring about the 'greatest good for the greatest number,' and with the execution of just government.

> "A government is a mechanism devised and maintained by lawyers, just as a power plant is a mechanism devised and maintain d by engineers." [3]

The work of the lawyer, although seemingly humdrum and done from day to day, reaches far out into the future. It is his mission, guided by the proved principles of law-making and law enforcement "to rebuild a civilization shattered by a world wide assault upon the idealism of good faith, good will, individual freedom and service to mankind."[3]

True legal education, therefore has to do with the training of the young lawyer that he may be prepared to shoulder the burdens of the profession he is to enter. As Justice Holmes put it, "it is the business of lawyers to know the law."[4] That preparation is carried out by giving him the fundamentals of legal practice—the sound technical knowledge that is necessary for all lawyers, no matter what activity of law they undertake.

> "It is the mission of the lawyer to understand the legal order, to master the authoritative materials of judicial and administrative action, and to have a sound knowledge of the nature and course of the judicial process and the administrative process as they are designed to be and as they are." [5]

But professional training is far from being sufficient. The law-

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[1] "A University for the Philippines" B. M. Gonzales (Address delivered 19 October 1939) p. 9.

[2] "The Post War Lawyer" Donald Richberg in the Journal, American Bar Association, May 1944.

[3] "The Post War Lawyer" Donald Richberg in the Journal, American Bar Association, May 1944.

[4] Quot. American Law School Review, Vol. 7, No. 10.

[5] Roscoe Pound, Address delivered before the Legal Education Section, Am. Bar. Assoc. 29 Aug. 1933.

yer is to be spiritually imbued with that idealism that perpetually seeks the amelioration of the lot of human society.

Legal education, however, should not rest content with the training of lawyers and of men whose concern it is to direct the activities of government. It has the mission of not only disseminating knowledge and preserving the sources thereof, but of extending its boundaries. This is to be accomplished by legal research and investigation, by the development of new concepts of legislation and jurisprudence in line with the demands of a changing society and the readjustments of the economic structure. Progress in the science of jurisprudence and in the development of law, the world over, has been mainly the result of the efforts of teachers of the law.

Application of standards to present system—

Having established the standards on which criticism will be based, we shall proceed to an application of these standards. The norm so presented is by no means arbitrary—it has been used as a measure of the validity and effectiveness of education in other professional fields. Have the law schools, taken as a body, been able to meet these standards? We have spoken of the production of truly educated men, according to the universally accepted concept of such entities. We shall prescind from a discussion of this point with reference to the degrees conferred by these schools. Sad to say, with the exception of one law school, the degrees conferred by our law schools, ranging from the Ll.B. to the D.C.L. are not recognized anywhere else, except perhaps in Spain, as a result of a particular set of fortunate circumstances. Rather than consider the subject at hand from the point of view of acceptability of degrees, for degrees in themselves mean little, we shall examine the nature and general content of the legal courses offered.

Are the products of our law schools truly educated? By and large, our graduates are turned out after a sufficient period of training in vocational proficiency—they could pass perhaps as lawyers, but the breadth of outlook that is the mark of a cultured person, the ability to reason out and judge abstract concepts, the art of separating the chaff of details from the grain of fundamentals, the ease of self-expression, the high sense of public and moral duty, all these, in the majority of cases have not been given sufficient opportunity to develop. Educational institutions have been established not for the training of artisans or tradesmen—they exist with the bounden duty of producing professionals.

With regard to the extension of the boundaries of knowledge in the field of legislation and jurisprudence, while a certain amount of progress has been made in these directions, that progress is pitifully insignificant, in comparison with accomplishments in these fields by law schools in other countries of the world. The great bulk of the contributions to the science of jurisprudence and the development of authoritative

treatises on particular phases of the law have been done by our judges and practitioners. As to the work of law students, including that of aspirants to post graduate degrees in law, their contributions to the fund of knowledge, with a few rare exceptions may be said to be inconsiderable. A brief survey of the legal publication of our law schools will serve to prove this point. In their long search for a stock of legal information, proven at the end of a four year term by the all-pervading bar examinations, the law schools seem to have forgotten their obligation to the cause of original and progressive thought.

The claim can hardly be advanced that legal education has fulfilled its mission of training leaders familiar with the art of government. Of our leaders in the not distant past—and of most of our leaders of today it can truly be said that they succeeded in spite of the education they received. As it has been aptly put, "nothing succeeds like success." Modern education has laid claims to the ability of training leaders—in the case of law schools this would mean leaders in the legislative, executive and judicial fields—but when we consider that none of these leaders were especially trained—whether with reference to a suitable background or to specialized training for the roles they were to play—that they had to improvise as they went along—then we are made aware of the shortcomings of our legal educational system. The dearth of young men capable of filling the positions held by those of the generation that was born at the turn of the century is painfully apparent. An answer might be brought forward to quiet these perhaps over-optimistic demands made of legal education—that leaders are born, not made. That may be so, but what kind of leaders do they turn out to be?

Criticism — entrance requirements—

The Rules of Court provide that every applicant for admission to the bar must have completed, prior to entering law school, what, for want of a better designation has been called a pre-law course, consisting of "the first two years of a course of study prescribed therein for a degree in arts or sciences."[1] The course, generally called "Pre-law" and offered as such by practically all of our liberal arts colleges is a misnomer. It is a compliance with the requirements of the Rules of Court, being the first two years of a four year course leading to a bachelor's degree, but from the educational standpoint it cannot be rightly called "pre-law" because it hardly gives any training that would constitute an adequate preparation for the study of law. With regard to preparatory law training, there are two divergent schools of thought. The first school, upheld by the classical schools such as Harvard and Chicago believe in an all-round cultural training in pre-

[1] Section 6, Rule 127.
[2] Roscoe Pound, in American Law School Review, Vol. VII, No. 10, p. 893.

paration for law." The second school holds the opinion that the pre-law course should have certain subjects not strictly legal in nature, but which would be of use to future law students and practitioners. These would include accounting, economics, finance, psychology and other similar subjects.[1] It is apparent that our law schools do not follow any of these theories—at best they steer between them—and accomplish preciously little.

Criticism—method of presentation—

Under the present curriculum, the initiation of the new student to the study of law is anything but inspiring. Classes begin and he is introduced to subject after subject without even being given a general picture on the background of the law. Instruction in elementary law is no exception to this immediate plunge into details and particularization. The student who is just beginning the study of law expects the whole course to be a drudgery — and the course as presented, turns out according to his expectations. This is not to say that the interest of the student should be artificially stimulated by glamorizing the role of the lawyer or by sugar-coating the subject. The movies and the newspapers have done enough of that. But the law student should at least be given an idea of what law is all about, its role in human society, and how men, with their primitive instincts, rivalries and enmities are able to live peaceably together, thanks to the system of rules that has been evolved in order to define their rights and duties. The experience of the student in beginning the study of law has been described by a celebrated English jurist as follows:

> "I found myself attending a class in Roman law in which dreary lectures were delivered at 8:00 a.m. to a huge concourse of uninterested students, most of whom, like myself, were supposed to be receiving their initiation into the most magnificent system of ordered thought on human life and human affairs that the world has ever seen."[2]

The experiences of practically all the students who have taken the subject of Roman Law have not been any different. Once a student's interest and appreciation have been aroused, he is bound to learn much more quickly, to listen to lectures with greater avidity. All this can be done by explaining the role of law in human society and giving a general picture of the whole body of the law.

Presentation of subject matter disjointed—

The subject matter of the law course as now offered to the student is disorganized and disjointed. To the student, the different subjects are merely different phases of the law — he does not see the whole structure, he is unaware of their inter-relation, he merely has the

[1] John Barker Waite, Professor Michigan Law Sch. in American Bar Assoc. Journal, May 1944.

[2] The Rt. Hon. Lord Macmillan, P.C., G.C.V.O., Lord of Appeal in Ordinary in "Education for the Law" Reports Am. Bar Assoc. 1938.

vaguest idea of how these different subjects dovetail with one another. As a matter of fact, very few students, even after having finished four years of law, see the law as a complete picture, an organized concept. This patent defect in the curricula of our law schools of today was pointed out by Blackstone in 1758 when he wrote:

> "The ideal task of an academical expounder of laws should be to consider his course as a general map of the law, marking out the shape of the country, its connections and boundaries, its greater divisions and principal cities; it is not his business to describe minutely the subordinate limits or to fix the longitude and latitude of every inconsiderable hamlet... For, if as Justinian has observed, the tender understanding of the student be loaded at first with a multitude and variety of matter, it will either occasion him to desert his studies or will carry him heavily through them with much labor, delay and despondence."

The present curriculum of law studies are a patent example of how details, in many cases, by sheer force of numbers can becloud fundamentals and cause men to lose their way.

> "Expanded curricula and institutions teaching all things to all men are in part a result and in part an exciting cause of this faith in information. Teachers eager to pass on what they have worked out laboriously have cooperated in keeping it alive...But the bulk of information of the world today, if nothing else, precludes a scheme of legal education covering everything a lawyer ought to know.[1]

Lack of electives—

A noticeable characteristic of the curricula offered is the fact that the course of study presented for the four years is an iron clad one. The student has to take the subjects semester by semester as they are presented to him —in short, were education food, as it really is food for thought, the student would be perpetually on a strait-jacketed diet of premixed cereal. He would be expected to thrive on such dehydrated subjects as Public Service Law and Insurance. The obvious result would be acute mental indigestion. He has no say on the matter—the exercise of discretion on his part would be anathema. He must take what is offered in the manner the schools dictate, and at the time in the course of his progress through law that the schools dictate. The offering of electives is unheard of. No matter whether a student is mainly interested in Taxation—a field he would like to be in as a practitioner—he must waste his time on such detailed and minor subjects such as Mining Law, Irrigation Law, and Bailments and Carriers. The result is that he knows too little of everything and not enough of anything. In actual practice, as an attorney, he would not be able to remember a thing, in let us say, Mining Law. But if a case came up in which that law were involved, he would certainly master that law to the extent that the case would require. It would be more profitable to al-

[1] Roscoe Pound in "What Constitutes a Good Legal Education?" The American Law School Review, Vol. 7, No. 10, p. 889

low the student to concentrate on the particular branches of law he is interested in, after he has been thoroughly grounded on the fundamentals. Such a system would result in greater interest in the subjects offered, because the students would be taking such subjects by choice, with a view to their utility and practical value. It would also give the student the satisfaction of knowing that he has a hand and a voice in his own education.

In their anxiety to boost or promote sales, that is, to increase enrolment, the schools strive to garner good records in the bar examinations. Such a sentiment on their part is quite understandable; maturity and depth do not win appreciation as quickly as performances in the "annual law open" or bar examinations. Why strive for well grounded and thorough students when in a few months you can create a number of ninety-day wonders, or bar topnotchers? By the undue emphasis on review courses and pre-bar integration sessions in the curriculum, one can rightly conclude that the law colleges are obsessed with the idea of performing well in the bar examinations. The fault, of course, does not lie entirely with the law schools. Under the present system the bar examinations furnish practically the only test of a school's effectiveness and merit. Other means must be devised by which the measure of these institutions may be taken.

> "In conclusion, let me say that to me the bar examination seems only an incident in the training for professional service. It is an important incident, it is true, but it remains only an incident, which must not be magnified into prime importance in its present form. Students must pass such examinations and the law schools are not doing their duty if they award their degrees to person not believed to be qualified to pass a proper bar examination. On the other hand, the school which has done no more than prepare for such a test has most emphatically failed in its duty. We must not lose the substance in reaching for the shadow. Sound training in fundamental legal theory is still the best training for bar examinations, and sound training in fundamental legal theory is the job of the law schools. Law schools have a higher aim than mere bar examinations; that aim is sound preparation for the years of service which continue long after the quirks of the bar examination are forgotten. I do not know a better statement with which to close this paper than the words of Dean Goodrich...'If the law student has been properly trained, he need not fear a bar examination. If he has not been, it is high time that such a fact be revealed."[1]

Lack of full time faculty members—

It is evident that in every law school in the country (cf. page 32, supra) judging by standards of other law schools in the world, there is an insufficient number of full time faculty members. In many cases the only full time faculty member is the administrative officer of the school. The

[1] "The Law School and the Student" by Lyman P Wilson, Professor of Law, Cornell University in the American Law School Review, Vol VII, No 5, p 411

dearth of full time professors is easily explained — very few schools can afford, or would care to afford many full time faculty members. The result is that in many cases the teaching is not as good as it could be, due to the divided interests of the teachers. Furthermore the faculty member has enough time only for teaching — legal research work and the production of original treatises come few and far betwen. The situation in Spanish law schools, which resembles the situation here, has been described as follows:

> "...el estudiante debe vivir todo el dia para el estudio y el profesor todo el dia para la enseñanza. En la actualidad, unos y otros viven universitariamente las horas de clase...y gracias. El catedratico tiene la catedra como un modo de ayudarse, porque ocupa poco tiempo. Lo principal de su actividad esta absorbido por la politica, el ejercicio de la profesion, la intervencion en sociedades, la colaboracion en periodicos y revistas, o la vida elegante y mundana." [1]

The situation just stated is not too glaring a defect—at least the professorial lecturers concerned have the ability to teach. The situation is much worse when it happens, as it has so happened, that a particular school hires a particular professor to teach a subject due to his success in that field, or due to his prominence. Such a teacher may add prestige to the school, but in not a few cases the celebrity may not know how to teach at all. Students in all law schools have come across one or more of the type—they seem to be a necessary evil. The purpose of an educational institution is still the teaching of law.

Dearth of legal scholars—

It is very regrettable that in the Philippines there are hardly any legal scholars to speak of the ones who, exclusively in the field of scholarship would enjoy a standing in this country comparable to that of a Wigmore, a Mechem or a Clemente de Diego may be counted on two or three fingers of one hand. This may be attributed to two factors—namely, that a person of such abilities would find it more profitable to enter into some other field—and secondly that such a person is not sufficiently appreciated by the general public. Somehow scholars in the Philipines do not get the credit and prestige that their brethren receive in other countries. Can it be because the outlook and the standards of our people have not yet sufficiently advanced? In many cases, after a person has begun to make a mark in the teaching of law, showing forth promise in the field of legal scholarship, other branches of the government exert their utmost to obtain his services. The gain to the particular entity may be considerable, but the loss to education of the youth and to the future is immeasurable.

Students, generally speaking, too young—

College students in the Philippines are generally too young. The average age, prior to the war, of a law school graduate

[1] Angel Ossorio en "La Justicia Poder" conferencias pronunciadas en la Real Academia de Jurisprudencia y Legislacion (1927) p. 120

was 24 years (cf. table page 38, supra) which average had been brought up, due to economic factors. Among students coming from the upper middle and higher classes, the average age was 22 years. The shortening of the number of years in grade school plus the threatened shortening of the high school course will bring the age of law graduates down to 20 years—unless measures are taken to counteract such an eventuality. Further causes of the extreme youth of our college graduates are the system of promotions in the grades and the eagerness of most Filipino parents to have their children finish early, not so much as a matter of convenience, but as a source of pride. The ability to be in a class composed of older students has been mistakenly considered by many as an infallible sign of brilliance or intellectual superiority. Nothing can be father from the truth. The student may have finished law and passed the bar at the age of twenty—but his mind is still immature. An exception would be the type known as the prodigy—who exists, once in a million in the arts, but strangely and perhaps happily, does not seem to exist in the legal field. Such young lawyers, be they twenty, or twenty two years old find themselves doing nothing at the end of their studies—clients are loathe to entrust their interests to such tender hands—and in many cases, so are established law firms to which they apply for apprenticeship. The young lawyer, more often than not, finds himself studying some other course—liberal arts, perhaps, or some business subjects.

The average age of law graduates in France, England, Germany and the United States is 26 years.[1] The present average age of our law graduates as of 1940 was 24 years. The two years may be justified by the fact that Filipinos have a shorter life span than the European races. But in the light of our present educational policy of spreading education as thinly and as widely as possible, the time may come when graduates of our law schools will find it impossible to obtain recognition from educational institutions abroad—as a matter of fact, many of the better law schools in the United States do not recognize the degrees conferred by the local law schools — one of the reasons, among others, being that our law graduates do not hold A.B. degrees. Most of our graduates may not seek further education abroad, but there is always an advantage in having a well-credited educational system.

Mental Attitude of Law Student—

There are very few young men, who beginning the study of law, look upon it with any degree of awe or reverence. The tendency, rather, is to underestimate the difficulties attendant to the study of the profession. This is based, perhaps on the idea prevalent in the Philippines, that anyone who is fond of argument or discussion, or who can raise his voice a bit

[1] "A Bachelor's Degree at the Bargain Counter" B.M. Gonzalez in the Philippines Free Press, Sept. 20, 1941.

more than his companions, is cut out to be an 'abogado.' Other students, finding that they do not easily take to mathematics, decide that law would be an easy and moreover, dignified way out. The shock, sometimes bordering on consternation with which students come to discover that law is not as easy a study as it was thought to be, and that argument and a loud voice play little part in the profession, sheer work constituting about 90% of the factors of success almost overwhelms the would-be lawyer. As the months go on and the professors seem to be gaining in intelligence, the law student begins to think that his briliance might have a few limitations. By the end of the first year, the student is sure that he really knows very little.

Law students in the beginning are given to loud discussion of points of law (very elementary, of course) in the corridors of the school building, raising their voices and pronouncing basic technical terms with relish, especially when students of other schools, and therefore their social inferiors, are passing by. One can tell how far the students have gone in their law course by listening to these discussions—the amount of discussion is in inverse proportion to the number of years they have been studying law. When the students reach the senior year they seldom, if ever, stage discussions outside of class periods.

In spite of the student's modesty as regards himself, and when in the company of other law students, somehow the law student assumes an air of superiority over all the students of the other colleges. The tragedy of it is that invariably the students of other colleges let him get away with it. Perhaps life on the college campus is not too different from real life as we know it. For in the day-by-day world most people allow the politicians to play the same role as the law student does on the campus. The politician, like the law student, gets away with almost anything.

Law Student Organization—

It may be due to the political tendencies of law students or to the fact that law, as a study encourages debating, oratory, work on legal journals and moot courts—but it is a fact that law students have organized more fraternities and societies than have students of other professions. The existence of these fraternities and associations have certain advantages—*esprit de corps*, school spirit and sometimes useful lines of endeavor are thereby promoted. But fraternities and student organizations also bear their disadvantages.

Too many of them have direct connections with outside politics and politicians. It would be no cause for concern if the students carried on their political activities and gave vent to their political tendencies off the campus. But too often the school grounds become a bailiwick and battle ground for the political conflicts and disputes that are taking place outside. The importance of preserving academic life and

institutions of learning free from politics cannot be overstressed. It is the task of members of the faculty and student advisers to see to it that politics is not dragged into their campus.

All the law schools have faculty advisers for the fraternities that are organized, and these advisers exert, or are supposed to exert, some supervision over the activities of the students. It all depends on whether sufficient supervision or control is brought to bear. Lack of attention may result in sadistic initiations, vulgarity, rowdiness and outside political interference, as has happened in some cases.

Women Beginning to Glut Law Schools—

The writer wishes to call attention to the fact that women are beginning to glut our law schools. (*cf. page 36, supra*) That this situation is serious can admit of no argument. The fact that women gradually and unnoticed begun to make inroads on the professions of pharmacy, dentistry and education until the time came when they controlled these professions is too well known. The following figures show the percentage of women students, with reference to the total enrolment in the different colleges of the University of the Philippines:

Education	95.17%
Dentistry	71.11%
Liberal Arts	51.82%
Pharmacy	95.72%
Law	20.00%

Women form 42.87% of the entire student body of the University of the Philippines. All the figures stated are for the school term 1945-46. The percentage of women students in the professions has ben increasing steadily—nowadays, male pharmacists, dentists, or school teachers are hopelessly in the minority. Women thereupon attempted to obtain, in the same manner, a stranglehold on the medical profession. Whether they shall succeed in doing so or not remains to be seen. The fact, however, was noticed by medical educators, so that perhaps such a disaster may not take place.

In taking up this delicate topic the writer is not unaware that he is inviting more than the tempestuous wrath of the elements on his head. Perhaps he may be wrong—it was no less a man than Governor General Leonard Wood who once said that the best man in the Philippines is the Filipino woman. True enough — women dominate practically all Filipino households today. In America, statistics bear out the fact that 80% of the national wealth is in the hands of women — in the Philipines, the reason why a survey on the matter has not been taken is probably because the men are afraid to know or perhaps to admit, the truth. The fact is, however, that practically all the pursestrings in the country are tied to apron strings. Women have also become politically minded, and even ambitious. The writer recalls that sometime on January, 1946 Presidential candidate Manuel Roxas boldly came out with the statement

that woman's place is in the home, and that they have no business in politics. The statement brought forth the hearty agreement and assent of voiceless millions. Men were swung by the thousands to the Roxas wing by that defiant statement. But it was too good to last. The strength of women in politics was an undeniable fact—more than that it partook of the nature of a fait accomplis — so that even Mr. Roxas had to beat a retreat, and deny having made such a statement. The male voters were disappointed, but they understood the situation.

The writer is aware that charges of bias will be hurled against him—bias caused by the fact that in his, the graduating class of 1946, until recently, when the men decided to alter the situation, four of the five honor students were women. Nevertheless, he shall attempt to point out the futility, the impracticability and the disadvantage of having women glut our law schools. In the first place, the study of law does something to women—99% of the male population consulted on the matter agreed that the study of law deprives the lady student of her feminine appeal—in her pursuit of cases, in her struggle to make her intuitive mentality grasp the law, she loses her charm. And all for what? The less charm she has the less hope or chances she has of marrying successfully. And after all, in the face of repeated denials marriage is still a woman's most lucrative and most desirable sphere of activity. But let us concede that the woman lawyer has succeeded in getting married —that fortunately she had enough appeal left to snare some unsuspecting male. The chances of such a marriage — with a wife trained in discussion — a field in which she naturally excels — with her knowledge bordering on obsession, of her rights in the conjugal partnerships and under democratic ideals, the right of suffrage and other rights—well, what chance does it have to succeed?

But let us look at the other side of the picture. The woman lawyer, by choice, of course, as all women maintain, remains single. She has preferred to be wedded to her profession. What chance does she have for success? Her feminine intuition, her industry and application to her law books, her phenomenal memory — it has repeatedly been proven, are of little avail. At present there is no prominent woman practitioner; in the judiciary there is only one woman lawyer who has attained a slight measure of success; in the field of teaching, the writer knows of one or two. Portias may sound attractive in Shakespeare, but in the light of actual conditions this is still a mans world.

The reason for this discussion with regard to legal education is the undeniable fact that in an attempt at maintaining standards, and faced with limited enrolments, such as is the case with the U.P. College of Law, women could deprive men of the opportunity to study law. Aside from that, the prospect of having the country filled with fish-wife-style politicians, frustrated or mediocre practitioners, wives

interfering in politics, and argumentative spouses is by no means a cheerful one.

The only valid reason for the attendance of female students in the colleges of law would probably be as follows: "No part of education is more important to young women than the society of the other sex of their own age." How this end is not attained by women in the schools of law has already been stated. The College of Medicine of the University of the Philippines, alarmed at the tendency of having too many women in the school, and subsequently in the profession, decided to take measures in order to limit the enrolment of women students. Such a step, whether the scheme of limitation devised be official or unofficial, is definitely called for in the field of legal education.

Method of Instruction—

Of the eight law schools, three use the combined recitation and lecture system, the rest using the recitation system alone. No school uses the lecture system solely, probably because such a system has been found advantageous in law only when applied to post graduate students or professionals. In the system of instruction that prevails at present, the avowed aim is to keep the student studying, to enforce attention to the text, and the best way of doing this is by the recitation system. It is no surprising fact that the lecture system, especially when done daily over long period of time is unable to command sufficient attention. Even if quizzes are periodically given distraction is sure to creep in during lecture hours. In Spain, Germany, and in most of the European countries, where legal instruction is mainly left to practitioners, the lecture system is more prevalent.[1] The fact that the recitation system is more prevalent in this country constitutes a state of affairs that should be allowed to continue—instruction is thereby rendered more effective, the teacher comes to know the students more intimately and personally, and the students are kept alert. The lecture system is more advantageous however, when used by professors who are generally recognized as leaders in the study of a particular branch of law. By their lecturing, the students derive more advantage and benefit than they would from the recitation system. Furthermore, authorities of the stature of Chief Justice Moran, former Justice Laurel, Appelate Justice Albert and the late Eulogio P. Revilla would probably not appear to advantage when asking a student such elementary questions as the repetition from memory of a certain article.

Impatience on the part of teachers—

In many cases, the students are of the type that would tax the patience of anyone. The impatient teacher however, is part of every educational system:

> "There is scarcely any teacher of law who has not been confronted at some time in his career with a student who objected to a decision

1 Ossorio "La Justicia Poder" Madrid, 1927, pp. 117 et seq.

> because he thought it was unjust. The approved method of dealing with such a student is to pour contempt upon him and to treat his objections as not merely irrelevant but slightly stupid."[1]

The justification for this would probably be an attempt to acquaint students with conditions that at times exist in actual practice.

Undue Emphasis on Case System—

There is a predominant tendency among some law professors, especially in the University of the Philippines, to place undue emphasis on the reading of cases. Assignments of thirty cases a day in a particular subject many of them illustrating the same point were by no means uncommon. Such a system would have continued, most probably, were it not for the fact that the library was destroyed in the battle for Manila. The same complaint has been made with regard to the method of teaching of some professors in private schools.

The case system of teaching is well known in the United States—where case law governs—and it has come to be identified as the Langdell system, after its first proponent, Christopher Colombus Langdell, who introduced it at Harvard. The system, which has resulted in any number of case books, was subsequently adopted by the majority of schools throughout America. Recently, the placing of undue stress on the case system has been the object of criticism. On the Langdell spirit, which is built on case work, the following opinion has been given:

> "That spirit has choked legal education. It has compelled the experienced practitioner, turned teacher, to belittle his experience at the bar. It has forced him to place primary emphasis on the library, to regard a collection of books as the heart of the law school. A school with a library as its heart is what one may well imagine. The men who teach there, however interested they may have been in the actualities of the law office and the courtroom must pay only a subordinate regard to those actualities. The books are the thing. The word, not the deed. Or only those books which are or become words. Verbal acts, so to say are central and all else peripheral... That spirit I grant you is somewhat weakened. The undiluted principles of Langdell are nowhere in good repute today. But they are still the basic ingredient of legal pedagogy, so that whatever else is mixed with them, the dominant flavor is still Langdellian."[2]

In a country such as the Philippines, where the laws are codified, even less emphasis should be placed on the case system. A few cases—say five or ten to bring out the interpretations of a particular article would suffice.

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[1] Max Radin in the "California Law Review" as quoted by Robert M. Hutchins, Pres., Univ. of Chicago, in Repts. Am. Bar. Assoc. Vol. 62, p. 562.

[2] Jerome N. Frank in "What Constitutes a Good Legal Education" American Law School Review, Vol VII, No. 10, p 827.

Failure to coordinate theory with practice—

What is learned in law school is mostly theory—the basic principles, definitions and classifications of the law. With the limited time allowed for the study of such a broad field the system cannot be otherwise. As a matter of fact, it already suffers too much from the presentation of minor subjects which are highly specialized. But law, besides being a matter of basic concepts and principles also has its techniques—perhaps to a greater extent than any profession. The employment of practitioners as professors of law in order that students may learn more of conditions actually existing in the law office and in the courtroom is a measure that deserves all encouragement. But the teacher, be he a practitioner, cannot explain actual practice with sufficient thoroughness so as to make his version of conditions approximate reality. There can be no substitute for information obtained first hand through actual experience. The student, with all his units in legal bibliography, with all his time spent on classroom research will discover on first looking for supporting cases on an actual legal point, a task he will early meet with in a law office, that all his school experience profits him little; the student who did well in practice clubs and in moot court will find the courtroom atmosphere quite different. All these difficulties call for some kind of apprenticeship under actual conditions.

To further crowd the difficult hours of the law student would be impracticable. Other countries have adopted another system. In England and Germany, and in a number of states of the American union, students, prior to graduation, serve apprenticeships in law offices and legal research departments connected with the government, or maintain legal aid bureaus and legal aid societies, or even, as in Japan, act as understudies to judges in the courtrooms. The internship system is in use in the Philippines in our medical schools. A parallel method in law could well be introduced. One year of apprenticeship, after the senior year as researchers in the legal departments of government entities, with legal aid bureaus, with established law firms, would not be in the realm of the impractical. The idea is not to vocationalize law, but to instruct, not only in theory, but in practice.

> "No one, if he could do otherwise would teach the art of playing golf by having the teacher talk about golf to the prospective player and have the latter read a book relating to the subject. The same holds for dancing, swimming, automobile driving, haircutting or cooking Welsh rarebit. Is legal practice more simple? Why should law teachers and their students be more hampered than golf teachers and their students."[1]

Shortcomings Resulting from Commercialization—

It has been said, and rightly, that there are only two kinds of businesses in which Filipinos excel—cinema houses and edu-

[1] Jerome Frank, American Law School Review, Vol. 7, no. 10 p. 898.

cation. Such a statement, made prior to the war, was true at the time. That education is a profitable business no one will gainsay—the increasing number of private schools attest to the fact. And in the business of education, law schools would constitute a good investment. A library costs less than laboratory equipment, machinery, or maintaining a hospital. The usual disadvantages follow in the train of commercialization.

Among these disadvantages would be (1) a tenous adherence to academic standards, entrance requirements and attendance regulations. (b) the prevalence of over-sized classes. (cf. page 37, supra) that such facts do not appear of record is not hard to explain—there is a wide gap between establishing regulations and complying with them. Instances of faculty members being advised to err on the side of leniency have not been infrequent; the exercise of the right to appeal—with success—to the dean concerning an unfavorable grade is availed of. Certain figures are available, moreover, to rebuild definite trends. A number of schools, for example, have presented bar examinees more than 50% of whom did not subsesequently suceed in passing the examinations. (cf. Letter of Justice Roman Ozaeta, November 26, 1941, page 49 supra). Not that the bar examinations should be the sole criterion of a student's ability, but the success of a comfortable majority of the candidates from any school would seem to be necessary in order that the existence of the school concerned be justified.

It is also an acknowledged principle among educators, that for effective instruction, the maximum number of students that any single teacher can handle at one time should not exceed forty students. The principle, needless to say, is often disregarded. At present, due to the fact that other factors have reduced enrolment, classes are of necessity, smaller. Prior to the war however, instances of classes numbering anywhere from 60 to a hundred students were not uncommon. The ugly head of commercialization was clearly in evidence.

Insufficient Time for Preparation of Thesis—

Legal research has a very minor and sad role in the scheme of legal education. The submittal of a thesis as one of the requisites for graduation, a feature of the curricula of only a few schools originally, was made obligatory for all private schools, by a directive issued by the Office of Private Education a few months prior to the war. The College of Law of the University of the Philippines is perhaps the only institution which has had a thesis requirement for a bachelorate since the first years of its existence. The idea of adding a thesis requirement to the curriculum is perfectly valid—even praiseworthy. But the manner in which the project is being carried out could bear a little scrutiny—and criticism. In the first place, not enough time is given the students to produce anything worthwhile If a the-

sis is to be written it must come up to certain standards—other than that of length and acceptability of subject matter. It has to represent originality of thought, maturity and thoroughness. With the time alotted to the production of a thesis, it is obvious that very little of value can be presented—that if students by their monumental labors succeed in bringing forth brainchildren, the children would be largely illegitimate in the sense of being unlegal and perhaps even spurious—in another sense. Candidates for degrees in the sciences—such as in Agriculture or in Education work on the production of a thesis over a period of two years. While law students may admittedly be brilliant, with some even accused of genius, still, to expect a thesis worthy of the name after one semester of work would be a case of extreme optimism. Given two years within which to produce something, the chances of its being creditable would be infinitely greater than it is under the present circumstances. The temptation on the part of some students to leave everything undone until the last few days before the date of submittal of the thesis may be counteracted by the close supervision and examination on the part of a faculty adviser of the work done. With more time allowed for the writing of a thesis the work turned out should be appreciably better than work done hurriedly and under pressure, such as this one.

Such a state of affairs gives good grounds to the suggestion made by a certain high official in the Department of Justice, who is also a recognized authority on civil law, who recommends that candidates for a bachelorate in law should not be required to present a thesis all, since most of the theses presented would be of dubious validity. For what worthwhile treatise, especially when it has to be original, can be put forth by any young student whose experience in the field of law consists of four long years spent in memorizing rules, taking down cases, and learning a few fundamentals? Some form of original study, no matter how inadequate, would seem to be called for however, it being a step in the right direction—the promotion of research and the logical arrangement and organization of ideas. The name 'term paper' or 'monograph' as applied to compositions of slightly more than 4000 words instead of 'thesis might be more accurate and less pretentious.

Graduate Work—

The validity of any academic degree depends, first, upon the standing of the institution conferring it and second, upon the contents and requirements of the course leading up to that degree. Under these considerations, the post-graduate degrees conferred by our law schools can be said to fall short of accepted world standards. The ultimate test of such titles would be the recognition accorded it by leading institutions in other countries of the world, especially the United States, upon whose educational system ours has been modelled. The degree may have, added to it,

all manner of high-sounding qualifications, but if it is unaccepted anywhere else, it begins to share the characteristics of currency without backing—or even counterfeit coin. For purely local consumption such academic degrees might serve their purpose—but the people have been slowly increasing in sophistication and in the ability to appraise values. The very holders of these degrees, under certain conditions, are apologetic instead of being complacently self-confident.

Perhaps the only way of remedying the situation would be through public opinion—these degrees would not continue to be offered if no one was interested in taking them. Public opinion is oftentimes too slow, but once effective, it has the advantage of permanence and painlessness.

Inadequacy of Supervision by Official Agencies—

That the Office of Private Education, with its limited number of personnel and the magnitude of the task assigned to it, cannot possibly comply with all the conditions, eminently desirable, for optimum supervision of law schools is, to quote the present Officer in charge, "an old story." What gives cause for wonder is the fact that the office is able to perform, considering the handicaps under which it labors, most of the duties assigned to it, and these comparatively well. The fact that the Office of Private Education is undermanned and is not receiving the financial support that it deserves to enable it to obtain more personnel has been stated and commented upon:

> "The inadequate supervisory force of the Office of Private Education is another deterring factor in the full enforcement of the provisions of Commonwealth Act 180. The Director of Private Education and the eighteen supervisors (author's note: now fourteen) are inadequate for the present number of private schools and colleges. There are (1939) under the supervision and control of the Office of Private Education, 47 kindergarten, 280 primary, 230 intermediate, 346 secondary, and 261 collegiate courses found in 429 private educational institutions located in 44 provinces and 7 cities... The foregoing data do not include 100 other schools which are permitted to operate special vocational courses, such as fashion courses, decorative arts, etc." [1]

To await the time when the Office of Private Education will be adequately staffed would be, especially under conditions that prevail at present, optimistic, or would even constitute an evasion of the issues, especially when other measures can well be taken to bring us out of the difficulty. The importance of standards cannot be overlooked for any length of time, and the amelioration of conditions should be the concern primarily, of members of the profession—in the government service and out of it—or if the lawyers are supinely uninterested, who will be interested?

[1] Jose Motemal, Supervisor of College and Universities, Office of Private Education in "Education in the Philippines" by Isidro et al., page (1939).

Supreme Court, and the Bar Examinations—

It might be profitable, at this juncture, to examine what is practically the only avenue of supervision on the part of the Supreme Court over legal education, namely, the conduct of the bar examinations. Except, perhaps, for the examinations given in 1944, in which laxity has been alleged, little is left to be desired with regard to the mechanics of conducting the actual examinations. As a result of a few unfortunate incidents the examiners' committees have adopted a system by which there is every safeguard and guarantee that the examinees will act ethically in an examination fairly conducted. Such measures include the employment of Supreme Court employees as watchers, the last minute preparation of question sheets, and the intentionally delayed appointment of the members of the committee. It may seem out of place to refer at all to the mechanics of conducting examinations, but in taking the practical point of view coupled with the students' awareness of how many examinations are misconducted, it is seen that the topic deserves passing mention.

"Is examination an art? Many... teachers will at once reply: 'No, it is an evil—' Thus spoke President Lowell of Howard University, who went on to say that in America the object, scope and utility of examinations have not been sufficiently well considered. The result is that the art of giving examinations is still in its infancy, imperfect and fraught with difficulty. With regard to bar examinations, there is considerable confusion wherever they are given, as to what their proper function is, and as to how they actually do function."[3]

To concern ourselves with the content of local bar examination questions: A common criticism of the question given in bar examinations is that in many cases a question is more a test of sheer memory than of organized knowledge, of superficial details rather than of depth. The questions deal with enumerations and exceptions instead of calling upon the examinee's ability to reason. While it is true that a few question of this nature are necessary, and that memory work in any technical line is essential, still, such questions should be the exception rather than the rule. Questions that call for memory should be judicially used and should be based on the importance of the particular matter or point at hand. An example might serve to clarify what is meant by importance. The following questions both call on the student's memory: What are the grounds for a motion to dismiss? and, What are the duties of a captain? It is evident that the first question is a good one, as the answer is one of importance, to be known by any practitioner. The second question, on the other hand, is not ony unimportant, but even foolish.

"Information and grasp of technique are demanded...by the bar

[2] People vs. Castro, 54, p. 42.
People vs. Romualdez, 57, p. 149.
[3] Philip Wickser, in Reports American Bar Assoc., Vol. 55, page 639.

> the bar examination. The examiners must determine what is the minimum of fundamental information—of information of enduring worth—what is the standard of accuracy, and what the measure of ability to apply fundamental information in a lawyerlike manner which they should exast in order to determine whether the applicant has been so trained and is so equipped as to be able to do his part reasonably well in the role of a beginner in the profession. I say fundamental information. Recondite points in late decisions, unless they admit of intelligent answer by use of general principles or of the settled conceptions or pervading rules of important fields of law, are out of place." [1]

A set of examination questions must be based on hypothetical cases, on the steps and measures to be taken by the student given a particular legal problem. A trained memory is definitely an asset for the prospective practitioner but undue stress is too often laid upon it instead of upon forcing the student to learn how to think by giving him a bar examination that would require such a process.

It is a generally accepted and well established principle among educators that the purpose of any examination is to find out how much the examinee knows—not how much he does not know. Yet, by the all too common use of catch questions and tricky problems — a practice indulged in by many examiners, the end served is the discovery of what the candidates do not know. This form of examination is given by a concentration on exceptions to the general rule in law, by emphasis on minor classifications. It can safely be said with regard to many catch questions that they can only be answered by the students to whom the problem had beeen posed once before. No matter how well grounded the examinee might be in the law, had he not previously come across the problem, he would be unable to solve it. The case, a number of years ago, of a certain professor of criminal law, who being appointed an examiner on that subject proceeded to ask questions on phases of criminal law that were his particular interest in the subject, and which students of other professors had no conceivable way of knowing is an illustration of this point.

Fortunately these defects in the type of questions given in the bar examinations are not difficult to remedy. They have attracted comment and criticism because in any examination a single unreasonable question can literally ruin the whole examination. The examinees lose sight of the fact that most of the questions were reasonable — they remember only the unreasonable ones. The chairman of the committee, with the advise and assistance of educators can do much in the way of providing for fair and logical question by passing on the particular questionnaires as submitted by the examiners.

Of recent years much has been done to improve the na-

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[1] Roscoe Pound "Bar Examinations in Retrospect and Prospect" Am. Law Sch. Rev. Vol. VIII, No. 4, p. 312.

ture and type of questions given—and credit is due to one or two members of the Supreme Court who have appreciated the concepts of true legal education—both by passing on the questions given and by the selection of examiners who have had experience as teachers of law. The criticisms that have just been stated are a presentation of the usual state of affairs—and should not be interpreted as having application to all examinations. A number of examiners, appreciated and acknowledged by the bar candidates, have conducted and examinations that have been true and valid tests of knowledge, aptitude, and most important of all, the ability to think.

CHAPTER V

RECOMMENDATIONS

Entrance Requirements—

Assuming that entrance requirements are more strictly enforced, we come to a discussion of prelegal training. The background and preparation of students beginning the study of law is definitely inadequate.

> "...the training received in the Philippine public schools is distinctly inferior as a preparation for the kind of education which the U.P. seeks to give them, than the schooling received by the student who has been graduated from the average American high school." [1]

Sixty units of Liberal Arts training which includes a little of history, philosophy and political science added to the high school training described above can hardly be said to improve the situation. This being the case, a broad cultural training instead of specialized subjects would seem to be indicated as the content of our prelegal education.

> "Usually pre-legal curricula are made up on the information theory. Usually they aim to impart what it is conceived a lawyer ought to know. Usually they are constructed on the idea that a student cannot know a thing unless it has been formally taught him and will know it if it has been so taught him. But I seem to have learned from following the work and looking into the preparation of some five thousand students that the nature rather than the content of pre-legal training is the significant thing...Personally I should put the stress upon an all round cultural training before entering the study of law. The general problem of an ordered society, the special problems of the legal order are increasingly complex and difficult. Law has become the paramount agency of social control... Something more is called for than a stock of information believed in for the time being in the name of the social sciences. Hence the importance of an all-round cultural training of those who have to do with the administration of justice in any capacity."[2]

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[1] Joseph Ralston Hayden—"The Philippines, A Study in National Development" page 538.

[2] Roscoe Pound—Am. Law Sch., Review Vol. VII No. 10, page 893.

As to the subjects to be taught in the 'cultural training' emphasis should be placed on the classics, logic, rhetoric and English. Difficulty is still encountered in self-expression, due to the lack o ffamiliarity with the English language. In the light of trends abroad, and due to the fact that our intermediate and high school courses have been drastically abbreviated, the cultural courses should last four years.

Presentation of general picture of law—

With regard to changes in the curriculum first of all, the student should be given a general view of the whole field of law. It is not claimed that instruction in acquainting the student wth law, or instruction in elementary law, is entirely neglected. But much is left to be desired in the elementary or introductory courses given by the law schools. In the first place, these courses as conducted stress more of the details of the particular branches of law than they do the fundamentals. The all-important function of law in human society, the development of law through the ages, the work and lives of great jurists—all these are glossed over, more attention being paid to the finer points of persons and family relations, torts and the intricacies of remedial law —matters which, in any case will be taken up as the student progresses in the course. The basic principles of law should be stated and drilled into the minds of the students.

> "If our students have a general view of the law there will be a lessening of the tendency to regard the subject as an air-tight compartment with doctrines separate and distinct from each other. We all know how the average student dislikes to be called upon to apply in his second year anything which has been taught in his first year. . . . The idea of the curriculum as a series of air-tight compartments must be broken down if we are to get adequate legal thinking from our students. This means hard work on the instructors' part, and on the students' for that matter, but it is essential. I submit that a general view of the whole field of the law is a great help in this direction." [1]

The introduction of courses on Legal History, Elementary Penal Science and the world's legal systems by some schools, especially the U.P. College of Law is evidence of the awareness of our legal educators of the importance of furdamentals

Social Legislation—

The role of law as the paramount agency of social control is well known. Plans for a new social and economic structure—if these plans are at all to succeed—call for still more law. Necessarily then, social and labor legislation should be made as much a part of the curriculum of the law school as corporation law and taxation are. Since all branches of our government are dominated by lawyers, legislation might as well be in the hands of men who at least know something

[1] Arthur T. Vanderbilt, Address before the Section on Legal Education, Am. Bar. Assoc., (1938).

of the subject. Improvisation may have its points, but the trial and error method, especially under present conditions, is unwarrantedly wasteful and extravagant.

> "Now it is clear that more than ever a profession of men of initiative and daring, possessing a broad training in all the interrelations of our social organization, is needed, and that our law schools must share the task of preparing them...so that there may be a real gain in scientific knowledge and in methods of control of our intricate social organization." [1]

Electives—

The present practice in our law schools is to stuff the mind with information — to force the student to take as many subjects as there are laws—so that in many cases a whole course has been built around a single bill of the legislature dealing with a highly particularized piece of legislation. An offshoot of such a system is the one unit subject—taken by law students once a week during the semester, or every day for three weeks, until instruction on the subject has been completed. The subject just given is too highly specialized, and therefore, most of the students will not remember what they have learned. The only ways in which it is given—once a week or daily for three weeks—precludes any thorough instruction in the subject matter. It would be much more advantageous were the one unit subject dropped out of the curriculum entirely, or at least consolidated with some major (3 to 5 unit) subject.

The emphasis on details and the undue importance given to gaining information have been flayed in the following terms:

> "Still another persistent difficulty ...comes from a general assumption that education and consequent tendency to stuff programs of professional education with a maximum of informational topics which it is felt, the ideal lawyer should be acquainted with. It cannot be insisted upon too strongly that education is not primarily, nor indeed except incidentlly, the acquisition of information, there is a widespread idea...that a law school should give formal instruction in everything which an ideally prepared lawyer need know. Nothing could be more fallacious. Few things are more ephemeral than information." [2]

Since not all students intend to specialize in the same branch o the law, and since some students are interested in certain subjects while others consider these subjects a hopeless drudge, a system of electives should be instituted in the curricula. The students by this curricula with electives, would have to take all the subjects given in the first two years of law. The subjects would supply them with the fundamentals and basic principles of all the main branches of the law. Having completed the first two years, the students should then be allowed the freedom of choosing no less than one half

[1] C. E. Clark, Dean Yale Law School quot. vol. VII, No. 12, Am. Law Sch. Review, p. 1127.

[2] Roscoe Pound in "What Constitutes a Good Legal Education, Vol. VII, No. 10, Am. Law Sch. Rev., p. 889.

(in unit credit value) of the subjects given in the third and fourth years. In this way, specialized training in any particular phase of the law will have been given the student.

The system of offering electives finds support in the present day policies of many leading American educational institutions. Two extremes are to be guarded against in any curricula—the first is too little liberty allowed the student in the choice of subjects; the second is too much liberty or a system under which a student chooses any subject he has taken a fancy to, without first learning fundamentals. The middle ground, or what would approach the ideal, is the system described above, in which electives are allowed during the last two years of the course, and to a limited degree. The following news item may prove of interest at this juncture:

> "Princeton's plan calls for a closer watch over freshmen and sophomores than before...Junior and Senior years they'll be more on their own. Says President Harold W. Dodds: 'the new plan stresses both the unity of knowledge and the diversity of human beings." [1]

Coordination of Theory and Practice—

More opportunities should be given the law student to acquire practical experience in legal work than is at present offered. A number of schools mention the fact, as an attraction, that the school building is located in the court districts, where the students can look into the trial of cases, and listen to oral arguments. Such a system is inadequate in giving the student a first hand knowledge of what it is all about. The only way to train the student along practical lines is to give him actual legal work to do, through the establishment, under the auspices of the school and with the aid of the government, of legal aid clinics and legal aid societies, such as exist in California. An example of such a clinic would be the Southern California Legal Aid Clinic, which is not directly an integral part of the law school of the University of Southern California. Maintained by the Southern California Legal Aid Clinic Association, a non-profit corporation, it is governed by a board of fifteen directors, of which the dean of the law school is ex oficio a member. Clinic offices are mantained in the school of law, and the director is a member of the law school faculty.

Another alternative would be arrangements with different legal departments of the government whereby the services of graduating law students could be availed of, the students, in turn, deriving practical experience.

On the importance of practical training, the following would serve to illustrate the point:

> "Litigation is the ultimate reference for the lawyer. In the last analysis, legal rights and duties, so called, are nothing more or less

[1] 'Time' magazine, section on Education 6, Oct. 1945.

than successes or failures in lawsuits. A lawyer who has inadequate acquaintance with litigious processes is an impotent lawyer. If it were not for a which blinds us, would we no consider it absurd that, with litigation laboratories just around the corner, law schools confine their students to what they can learn about litigation in books. What would we say of a medical school where students were taught surgery solely from the printed page?" [1]

Stress on Basic Principles of Attitude and Conduct—

The lawyer is supposed to be an urbane, polished and courteous individual—perhaps such qualities are more important to him than they are to members of other professions. To this end there is training in debating, oratory, in practice courts — and there are the more obvious measures — like the compulsory wearing of a coat to class. All these, however, while serving a purpose, are mere externals. In the training of lawyers something more basic and fundamental than manner should be taught. It is that training, by example, more than by precept, that makes of the lawyer a worthwhile member of the community, well aware of his responsibilities as a member of an honored profession.

"Likewas and equally it (legal education) should seek to develop in the students an appreciation of the highest ethical standards and to inspire a consciousness of the place a lawyer should assume in society in coordinating social and economic forces and in promoting the wise development of the law ...no law school is worthy of the of the name which does not set its course by that goal" [2]

Faculty—increase of Full Time Members—

The lack of full time faculty members in our law school would constitute, perhaps, the greatest deterrent to progress in legal education. This is not to say that part time faculty members and professorial lecturers are undesirable; the employment of practitioners and government officials in teaching is part of the scheme of things—through them contact is maintained with the practical side of the law and its day by day activities. But the idea can be carried too far, as it is in some schools which practically have no full time faculty members on the teaching staff, the full time members, if any, doing mainly administrative work. The disadvantages of such a state of affairs would be the following: Lack of complete attention to the interests of the school, as many faculty members, besides holding full time positions elsewhere teach in two or more different schools; lack of time for research and original study. Necessarily, in case of any conflict of interests between the school and the teachers main occupation, the school will emerge a poor second. The claim may be made that these part time faculty

[1] Jerome Frank, Am. Law Sch. Review, Vol. 7, No. 10.

[2] Albert J. Harpo, Dean, University of Illinois Law School in "Lights and Shadows in Qualifications for the Bar." Am. Law Sch. Rev. Vol. VII, No. 7, page 586.

members or professorial lecturers are persons of superior ability—a statement that cannot be gainsaid—but still, divided attention cannot call forth the best in the person concerned, no matter what abilities he may have been endowed with.

The reason for the employment of professorial lecturers and part time faculty members is apparent. The majority of the law schools are in the game for business, and the more full time faculty members there are, the smaller the dividends. Profits obtained from operating a school are substantial, furthermore the school plant, unlike other business establishments, is tax free. Measures could be taken with regard to the employment of more full time faculty members and an increased outlay of school funds towards better instruction without seriously crippling the financial standing of the institution. Students of such institutionns, with an increased number of full-time faculty members, would be getting something more closely resembling a just return on their money's worth from their fees.

How can the increase of full time faculty members be best effectuated? In the United States it has been done through the promulgation of certain required standards to be complied with before any school can become a member of the Association of American Law Schools. A school that is not a member of the association would not attract most law students, as the majority of students would prefer not to have gone through a second or third rate institution. Such an association could be formed in this country, under the sponsorship of the Supreme Court and the Department of Public Instruction. If this means should take too long or be too indirect, the Department of Public Instruction could set a minimum requirement on the number of full time faculty members before recognition would be accorded to any law school. Such a requirement could be sanctioned by a specific law — the Supreme Court and the profession—not to say public opinion — would be behind it.

Faculty—increase of incentive

The teaching profession in this country is by far, considering the professional preparation and hours of work demanded, the most poorly paid. The statement holds true with regard to the teachers of law. In public institutions, the scale of compensation granted to university faculty members suffers in comparison with that given to those who serve in other branches of the government, notably, the legislative. In private institutions, the bulk of the receipts are consumed either in real estate projects, i.e. the school plant, which constitute a good investment, or as dividends to the stockholders, in most cases numbering as many as there are members in one family. Everything has its price, and quality, in education, as elsewhere, cannot be brought at the bargain counter. If legal education is to improve it must, as a matter of policy, attract the best lawyers, and this would be impossible with-

out offering them what they are worth. Idealism may be a great thing, but a straight diet of idealism can grow rather tiresome. Comparisons are odious, but a law professor in this country should at least be worth, and actually receive as much as a judge of the Court of First Instance. In the United States, and in the continental countries, professors of law are paid salaries commensurate with the dignity,, responsibility and demands of their calling. A teacher of law in these countries, in the better schools, certainly receives more than what is received by bureau directors, legislators or lower court judges in the same countries.

The result is that in some cases, the professor of law, faced with a tempting offer by some government legal department, which offer carries with it a salary twice as high, and a dignity of position that is at least equal to that of a law professor, finds it very hard to resist the temptation of accepting the proferred position. And no one can blame him for doing so—he has his own interests to look after. Such a state of affairs is the source of the greatest difficulty to any organizer of a worthwhile law school, or to any administrator of a university. The position of the faculty members of the law school is unique. Unlike the faculty members of the other colleges, including medicine (since the medical practitioner finds connections with the medical college and the government hospital absolutely essential) the law professor in most cases can make a very comfortable if not luxurious living in other branches of the legal profession. It is the very breadth and versatility of the law that gives him this advantage. Thus, in order to get the better men ,the men of standing in the profession, a law school finds that it must compete with private law firms, government legal departments or the judiciary—and idealism alone, the love of teaching, the desire for a secluded life devoted to the study of law are factors that are not strong enough in themselves to counterbalance the attractions of prestige and compensation that other positions might have to offer. Until some system is devised whereby law faculty members can be compensated in a manner that is commensurate to their value with reference to other fields of the profession to which they may be called, the law schools will find it exceedingly difficult to get the best men as full time faculty members. Colleges will thus continue to suffer what has been aptly termed "raids" on the faculty

The problem presents peculiar difficulties, which at first glance may seem impossible of solution—and that is, the misconception that the salary scale of members of a law faculty cannot exceed by too great a margin the salaries of faculty members of other colleges. In the final analysis, the problem is mainly economic. With an increased budget, provision can be made to adequately compensate the professor of law. In universities abroad, especially in first class American law schools full time law professors

receive salaries approaching the incomes they would receive as practitioners. Such salaries are greater than those received by other faculty members of other colleges in the same institution. The practice of compensating men according to their "market value" has its amusing results — the football coach of an American university sometimes receives more than the university president.

The increase of compensation for law faculty members, with reference to the University of the Philippines was the subject of this recommendation made by the Committee on Educational Policy of the Board of Regents:

> "In order to get and insure the retention of a law staff of quality, it is recommended that the salary range be from ₱3000 for instructor of ₱9000 for a full professor. The top salary of ₱9000 for a full time professor is suggested as the lowest amount which would permit the college to secure and retain on its staff the needed quality of teachers. In considering this recommendation, it should be remembered that the sum of ₱9000 indicated as necessary for a full professor is the lowest amount paid by a judge of the Court of First Instance." [1]

It is to be noted that the above recommendation was made long before the present time, when college of law facultymen were not in as great demand as they are now.

There also is presented the less pleasant aspect of the case. It runs along the principle "if you cannot do anything else with a trade, teach it." There are those, and fortunately they are in the minority, who regard teaching as a mere sinecure, to be abandoned for greener pastures, to be regarded as a safety device, and to be returned to when the grass gives out.

Diminution of Teaching Load of Faculty Members—

The function of a law school faculty is not only to instruct, but also to extend the boundaries of legal knowledge through research work. So important is this mission that one university, namely Johns Hopkins, established a law faculty purely for the task of conducting legal research. For if an institution is to be regarded as a source of authoritative knowledge, and law schools are establishments of higher learning, that institution must present the results of original thought and research work. In the Philippines, especially the task undertaken of codifying our laws and compiling decisions had just begun before the war with the organization of the Code Committee. A number of legal educators were called upon to assist the committee in its work. The resumption of the work of codification will mean that more time will be required by members of law faculties who may be called upon for assistance.

[1] "Report on a Survey of the University of the Philippines" (Parker-Elliott mission, 1939) page 71.

Student opinion on the school—

In certain educational institutions, and in at least one college of the University of the Philippines, the faculty members and the dean are enabled to obtain the views of the student body on the system of instruction, on the merits or shortcomings of particular professors, and on suggestions as to improve the operation of the school. Questionnaires are distributed to the students before the close of the school year, in which their opinions on certain matters are solicited. They are also asked to rank the instructor or professors they have had in the order of their ability to teach. Any criticisms of the school or of particular faculty members may also be made. The questionnaires, to be signed by the students, are seen only by the dean, and are kept by him in strict confidence. By such a system the head of the school will be enabled to apprise himself of suggestions for improvement, complaints of the student body and other like information. Faculty members who are repeatedly given a low ranking by the student body will also be given an opportunity to improve their methods of teaching or to correct whatever shortcomings they might have.

Legal Institutes for Practitioners—

Another line of endeavor to which law schools can devote themselves with a view to service, would be the establishment of an institute for practicing attorneys. In such an institute, lectures will be given by law professors who are authorities in particular fields of law, and have kept abreast with its developments. Practicing lawyers who feel that their knowledge of certain phases of the law is inadequate would welcome these lectures. The movement has gained ground in the United States, to the advantage of practitioners and the enhancement of the prestige of law teachers among their practising brethren.

The bar was formerly skeptical of the knowledge to be obtained from law professors, but of late, members of the law faculties have earned the respect of members of the bar. The value of the work they have been doing has gradually come to be appreciated. This is borne out by the fact that many practitioners go to law facultymen for advice and information on specific legal questions.

> "To say that the modern law teacher has something of value for the practicing members of the bar is not to claim for him any general superiority, intellectual or otherwise. The claim is based upon the fact that today in the stronger law schools, only able and energetic men are employed, and that after their general training these men are given the opportunity of cultivating intensively one or more fields of the law... He (the modern law teacher) has made a profound study of his subject. He has not merely examined the authorities and the best literature on the subject, but he had subjected all to analysis, to reorganization, to a fresh view, and out of it all he has been able to

> trace the development of doctrines, their modification, the influences to which they have yielded, and the trends which they have taken so that he can predict with some probable certainty how the doctrine is likely to be developed in the immediate future." [1a]

Classes could be held in the evenings or during the summer. The sincerity of purpose of attorneys long in the practise of the profession will be somewhat different from the well-known attitude of members of the bar who are still completing their undergraduate work.

Recommendations on Government Supervision—

The method of supervision at present exercised by the government over law schools is far from adequate. There is no intention whatsoever to cast the blame or place the responsibility for this inadequacy on the Department of Public Instruction, much less upon the agency through which it operates—the Office of Private Education. The Office of Private Education, undermanned, and with an insufficient appropriation is accomplishing its mission in the best way possible, and to the utmost of its capabilities. The fault would seem to lie in the very state of affairs. The Office of Private Education, which already has the prodigious task of supervising all private schools in the country also has to supervise all law schools. The Office, for this highly technical responsibility, does not have a single lawyer—it merely counts with one law student among its employees. The inspection of law schools is in import, as much legal as educational. What would be required would be men trained along legal lines and men trained in the field of education. Personnel well-versed in both fields would be ideal.

To place the responsibility of supervision on the Supreme Court, which is charged, under the Constitution [1b] with admission to practice of prospective members of the bar will also be impracticable. The function is more or less of an executive character, coupled with the fact that the Supreme Court with all the pressure of work with which it is burdened hardly has the time to conduct the annual bar examinations, without having to shoulder further responsibilities.

A feasible solution, therefore, would be the formation of a committee on legal education, to be composed of legal educators, members of the practising profession, members of the judiciary and a representative of the Department of Public Instruction, all acting under the auspices of the Supreme Court. The task of the committee will include the periodic inspection of all the law schools that have been recognized. Inspections will also be conducted to pass on the approval or disapproval of schools that are applying for recognition. The inspections or

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[1a] Henry M. Bates, Dean, University of Michigan Law School in "Legal Institutes for Practicing Lawyers", Vol. VIII, No. 10, Am. Law Sch. Rev. pages 936, 937.

[1b] Sec. 13, Art. VIII.

surveys would be conducted with emphasis on the school plant itself, the size of classes, the library and research facilities available, the method of instructio and all other details that are a part of successful law school administration. Schools shall then be graded and classified, the classification to be made public, with the withdrawal of recognition as a final remedy, in case drastic measures would be required. In most cases the publicity given with regard to the classification of law schools will be sufficient to force the less adequate ones to close. In the United States there were many known cases of schools, which, upon receiving low ratings in the classifications, voluntarily surrendered their charters.

The idea is by no means new. It has been in use in the United States in the field of medical education, where noteworthy successes have been credited to it. Subsequently schools of other professions adopted the system, thus raising the general level of education everywhere. The name of Abraham Flexner, who started the movement for the inspection and grading of medical colleges under the auspices of the Carnegie Foundation for the Advancement of Teaching is well known not only in the sphere of medical education, but in the entire field of medicine. On his report, the following has been said:

> "The report was made only after personal inspection by Mr. Flexner of every school in the country, with such eminent fairness and with such prophetic vision that it appealed alike to the good sense of trustees of universities and to college executives, Many schools promptly surrendered their charters; others consolidated with stronger schools in an effort to strengthen faculties and assets. There was a great rush for university affiliation, not perfunctory but real, and there was borne in on the consciousness of university presidents and trustees the fact that medical education must be done well or not at all. Constructive and consistent progress in medical education dates from the publication of this report."[1]

Like progress has been made in legal education, under the sponsorship of the American Bar Association's special committee on Legal Education and through the activities of the Association of American Law Schools. The requirements for membership in the Association of American Law Schools, with certain minor changes, could be used as a model for requirements to be imposed on law schools in the Philippines, until through gradual progress, these schools will have met the standards required for law schools worthy of recognition in any country of the world.

Lack of an active Bar Association—

It is a state of affairs to be deplored that in the Philippines there is no such entity as an active and potent bar association. Such an organization would be able to accomplish a great deal towards the raising

[1] Irving S. Cutter, D.Sc. M.D., Dean of Medicine, Northwestern University in "Higher Education in America" page 290.

of the standards of legal education and in promoting its continued progress. The American Bar Association and like groups in England have as one of the chief sources of their merited prestige the task of grooming future members of their able profession.

CHAPTER VI

CONCLUSION

What has been given are but a few of the observations that may be made with regard to legal education as it is conducted at present in the Philippines. But standards and criteria of judgment are variable. What may appear ideal today may be undesirable tomorrow, and vice versa. "No one would seriously contend that there is a one absolutely good legal education, good for all times, all places and all men." [1]

A number of problems with regard to legal education still remains unsolved. They present a challenge and at the same time a reminder that there is much still left undone.

> "We have not discovered as yet, a sufficient test of capacity to prevent the annual tragedy to hundreds of young men who end their law study in the humiliation of defeat. We still have no definite consensus of opinion upon the most effective methods of initiation for the novice; whether we shall throw him in and let him swim, or whether we shall regale him with stories of great swimmers and the name and description of the types of strokes. Shall we try to give the student some acquaintance with all the branches of law or shall we drill him intensively in so-called fundamentals? Should a law school try to instruct in the ways of practice? The list of questions could be indefinitely lengthened by any of us. To some of the questions, many here present have definite convictions about the answer. But others will have equally definite convictions which are diametrically opposite. Neither can, in our present stage of knowledge prove his case by any but opinion evidence...Mental peace can never be the position of the law teacher, who confronts the double uncertainties of unsolved problems of law and education. 'And I gave my heart to know wisdom and to know madness and folly. I perceived that this also is vexation of the spirit. For in much wisdom is much grief, and he that increaseth knowledge increaseth sorrow.' The law teacher must, if he is intellectually honest, be intellectually humble as well." [2]

It has been said, and rightly, that the easiest of all tasks is to criticize — for criticism involves destruction. What would be difficult is the long, conscientious and persistent activity of constructive effort, to seek the amelioration and im-

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[1] Roscoe Pound, Am. Law Sch. Rev. Vol. VII, No. 10, page 887.

[2] Herbert Goodrich, "Our Black Ink Balance" Am. Law Sch. Review, Vol. VII, No. 5, page 386.

provement of present conditions. Still, criticism, no matter how destructive in itself, is necessary and must be given with a view to reconstruction. The claim may be put forth that the present system of legal education is entirely satisfactory—such an attitude, while being comfortable in its complacency and self delusion does not forecast well for the future of a profession that is supposed to lead the country from its present state of inertia, born of destitution, to a condition of steady, fruitful progress. If the members of a profession are to lead they must first start with the defects of their own house, in order that their successors will not be burdened by the same handicaps that beset them For legal education has brought forth a profession that has been overcrowded with technicians, who, beyond the letter and intricacies of the law seem to be unaware of the role it plays; a group whose only training has consisted in their being prepared for a set of arbitrary examinations; a calling supposedly learned, which is becoming more and more a trade — where the ability to make money is more honored than the learning of scholars. What hopes for leadership can be expected from a profession that is unaware of its social responsibilities, that has kept itself remotely unconcerned with regard to the burning issues of labor, capital, economics and agrarian unrest?

The claim is not made that efforts at improving legal education will solve all of these difficulties — it would, however, constitute a significant beginning. The members of the legal profession cannot look for leadership and initiative from the other professions nor from the general public. They must find it in themselves.

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