

BOOK REVIEW

An Introduction to the Study of Law. By Crisolito Pascual. Manila: G. Rangel & Sons, 1951. pp.x, 145.

The publication of this book by a former classmate provides a welcome opportunity for appraisal and comment. A practising lawyer and at the same time professor of jurisprudence at the College of Law of Arellano University, Crisolito Pascual has behind him a solid training in the law. He obtained his LL.B. from the University of the Philippines in 1940 and from Boston University he obtained an LL.M. in 1949.

As its title indicates the book is an introduction to the study of law and is intended primarily for use in the first year course bearing a somewhat similar title. The book, however, presents an entirely new approach; it rejects the orthodox treatment. As the author says, "The problem in a course such as this is not so much the presentation of the entire field of Philippine law as it is the systematic analysis of the complex term 'law' and its elements, which has affected the growth of legal institutions and legal philosophy." The author sees no "advantage in giving the student a modicum of every branch of Philippine law in one brief semester when he has the whole of his four years in law school to really analyze each and every one of them in the proper manner and in the fullness of their respective ranges and scope."

Following his logic, the author divides his work into three parts. Part I deals with the nature of law and takes up in rapid order the different juristic schools, namely: the historical, imperative, teleological, functional, realist and policy science schools. Part II deals with the elements of law, analyzing such concepts as state, sovereignty, jural relations, persons, facts and things. Part III gives the background of Philippine law.

In the College of Law of the University of the Philippines, the need for re-examination of the contents of some courses have long been felt. In an abortive attempt to revise the law curriculum, one of the proposals was to replace the course entitled *Introduction to Law* with a course named *Introduction to the Study of Law*. The intended change was not motivated by purely semantic reasons but was to go deeper than mere terminology. It was then planned that instead of offering a general survey of all the branches of law in force in the Philippines, as is at present being done, the freshman student would be initiated in the basic concepts of law so that he may more fully appreciate the flavor of the bread and butter courses like Persons and Family Relations, Criminal Law, etc. Needless to say, the pioneering in this case has been accomplished by another law school through the energetic action of one of its professors.

The text of the book consists of 134 pages and it may well be that the author intended it to be used merely as an outline instead of a regular text. If that is so, then the book seems to suffer by the lack of adequate citation of sources which will facilitate a common elaboration by the instructor and the student.

The author has made excellent summaries of most of the schools of legal philosophy. But on this score the reviewer would like to take issue with the author. First, the brief summaries, while well done, reveal their inherent weaknesses. Giving a little of many things gives rise to the suspicion of being superficial, which in any branch of professional instruction is serious enough. Certainly, devoting four or five pages to the views of a juristic school is insufficient to do justice to a philosophy of law which has been elaborated in great detail. The author's treatment of the imperative school, for instance, takes up a scant five pages whereas Austin, the founder of the school, devoted several hundred pages to the formulation of his view in his book entitled *The Province of Jurisprudence Determined*. This treatment, it is evident, does not do full justice to the Austinian theory. As Professor Lon L. Fuller of Harvard Law School says: ". . . if we wish to know what Austin's theory is we must understand the process of argument by which it was developed and defended. It is not something that really can be known 'in its main outlines.' One can of course learn from secondary sources to recite certain definitions. . . . Statements of this kind convey meaning to about the same extent as when we inform a layman, who knows nothing of the nuances involved, that, 'A contract results from a meeting of the minds,' or 'It is a tort to injure another negligently.' To know what Austin's theory really is we need to see it in action, we need to participate intellectually in the process of its formation, we need to witness the struggle of Austin's mind to remove the obstacles that stood in the way of the clear conceptions he sought." (*The Problems of Jurisprudence*, pp. 103-104).

For another thing, a study of most of the schools of legal philosophy by freshmen students may not be appreciated by them and the instructor runs the risk of having his students suffer from an acute case of mental indigestion. The reviewer at one time handled the third year course in *Jurisprudence* in the College of Law, University of the Philippines, and although, among other things, he exposed his students only to the imperative and natural law schools, only very few could appreciate the discussions and the implications raised therefrom. This was not at all surprising for the reviewer's experience at the Harvard Law School gives a parallel. There the reviewer heard his classmates (both graduate and undergraduate students with bachelor degrees in arts or science) complain that the course in *Jurisprudence* was too esoteric and that most of the time the professor was talking above their heads. One can, therefore, imagine the reception by a freshman student in law with six years of elementary school, four years of high school and two years of pre-legal education, of attempts to make him savor the nice distinctions involved in the different philosophical approaches to law.

But for all these seeming defects, which after all are the views of only one reviewer, Professor Pascual is certainly to be congratulated in being able to agitate a fresh breeze in the beginner's study of law.

VICENTE ABAD SANTOS
Associate Professor of Law
University of the Philippines