BOOK REVIEWS

LEGAL EDUCATION IN THE UNITED STATES by Albert J. Harno. Published for the Survey of the Legal Profession by Bancroft-Whitney Co., San Francisco. 1953. pp. v, 211. $3.50.

This book, written by Albert James Harno who is the dean of the College of Law of the University of Illinois, will likely make law teachers in the United States, pause, ponder and act but whether it will produce the same effect on law teachers in the Philippines is a matter of conjecture notwithstanding the fact that the pattern of legal education in the Philippines is essentially States-side. The reason is, subject to a few exceptions, there is not much soul searching being made by law teachers in the Philippines. Lawyers are a conservative lot and a lawyer turned teacher carries his attitude even into the classroom. Hence we see little innovation and experimentation; tradition is exalted beyond its just value.

This book is the result of a 4-year survey and research conducted by Dean Harno with the aid of more than 50 trained men and was prepared under the auspices of the American Bar Association as a part of the Survey of the Legal Profession. Specifically Dean Harno wanted to find out how good is legal education in the United States today.

Mr. Harno starts his report by tracing the history of legal education in the United States and he points to the fact that legal education in America goes far into English history. This, of course, is not at all surprising since American law is a legitimate kin of English law. Mr. Harno states that the first law school in America was the Litchfield Law School which was in existence from 1784 to 1833. Thereafter the history of legal education in the United States was principally the history of the Harvard Law School, the admitted pace-setter in American legal education.

Mr. Harno also mentions the impact of professional organizations in the United States on legal education. Special mention should be made of the American Bar Association and its offspring, the Association of American Law Schools. Perhaps more than any other professional organization, these two have been responsible for improvement of legal education in America. Since the College of Law of the University of the Philippines has the distinction of being the only law school in this country which is a member of the Association of American Law Schools, it may be interesting to note that this association was organized in 1900 with the avowed purpose of the improvement of the legal profession through legal education. It implements this purpose by enforcing a set of standards some of which are as follows: (1) A member school shall not operate as a commercial enterprise. (2) A faculty member should not teach more than an average of 8 hours per week. (3) A faculty member should have academic freedom and tenure. (4) A member school shall maintain a law library, adequately housed and administered so as to be readily available for the use of students and faculty. (5) A member school shall require at least 3 years of acceptable college work for the admission of students provided that a school with a 4-year curriculum may admit a student who has completed 2 years of acceptable college work. (6) A member school shall not admit students dismissed from another school on account of low scholarship save in exceptional cases where it appears that the failure was occasioned by factors other than lack of capacity. (7) A member school shall not accept for advanced standing credit earned at a school which is not a member of the association or provi-

sionally approved by the American Bar Association. Failure of a member school to comply with the requirements and standards of the association may result in suspension or exclusion.

The most interesting portion of Mr. Harno's report deals with the appraisal of the criticisms of legal education in the United States. Mr. Harno trains his sight first on the unapproved law school, that is, a law school not approved by the American Bar Association. He calls this school the maverick of legal education and laments the fact that as long as unapproved law schools remain on the scene they will continue to be a demoralizing factor to legal education. He suggests that graduates of unapproved law schools be made ineligible for bar examinations. In the Philippines, it may be stated that although all our law schools are approved, that is, authorized by the Department of Education to operate, yet we do have a number of sub-standard private law schools and one need only point to the Bar Flunkers Act to prove this assertion. Perhaps our Supreme Court and Department of Education can get together in order to eliminate the sub-standard private law schools which are operated chiefly as commercial enterprises.

The next criticism dealt with is that which concerns prelegal education. Mr. Harno states that law schools have been shortsighted in focusing their attention only to the time that the student spends in law school although many of the problems of legal education are the result of deficiencies in prelegal education. He says that although there is a requirement of 3 years of college work imposed by the Association of American Law Schools, that requirement is quantitative and not qualitative. What should be the content of prelegal education? His answer is that nobody can agree and the result is that there is no correlation between prelegal and legal education and they are in fact divorced from each other. In the Philippines, the Department of Education, through the Bureau of Private Schools, has taken a commendable step in prescribing the content of prelegal education. In Memorandum No. 25, series 1953, the Bureau of Private Schools announced that effective the school year 1954-1955 the requirements for admission to the law courses in authorized private colleges and universities under the Department of Education shall be 78 units grouped as follows: (1) English, 18 units; (2) Spanish, 12 units; (3) Natural Science, 10 units; (4) Mathematics, 6 units; and (5) Social Science, 27 units distributed among Philosophy, Psychology, History, Political Science, Economics, Sociology and any other Social Sciences. The memorandum also prescribes that the minimum residence requirements for the pre-law course shall be 4 semesters or 6 quarters. It now remains for the University of the Philippines to re-examine its own pre-law requirements.

The next topic deals with the financial status of law schools. Mr. Harno deplores the lack of adequate financial help given to law schools and he even notes that many law schools have been supported primarily, or entirely, from student fees. He adds that some university administrations actually draw on the student-fee income of their law schools to help support other units of their institutions. Applied to the Philippine scene, Mr. Harno's observations seem to be entirely relevant. Consider private law schools. It is of common knowledge that they depend on their student-fee income to support themselves. Even the College of Law of the University of the Philippines is no exception. It supports itself from less than 60% of the fees paid by its students and the excess goes to the general funds of the university to be used for other purposes.

The case method of teaching has been described as the most significant American contribution to legal education. Originated by Christopher Columbus Langdell of Harvard in 1870, it is now the prevailing method used today in the United States. To a very great extent this method has been adopted in the Philippines although in a modified manner, i.e. the study of cases is combined with the study of statutory provisions. Yet the case method of study has not escaped criticism in the United States. One criticism, for instance, is that since law teachers find it relatively easy to produce a casebook, they have almost given up the writing of treatises. And on the instructional side the criticism is to the effect that case study takes up too much of the student's time; that after the first year of law study there is noticed an appreciable lag of interest on the part of students in reading their cases. This is a valid criticism but Dean Harno offers no solution. However, it would seem that a partial solution to the problem is the recent tendency among American law teachers to produce casebooks containing abundant textual material. In the College of Law much remains to be done to relieve the students from heavy assignments of cases despite the fact that professors have been beseeched by the dean to be more selective in their case assignments.

One criticism that is probably not very serious insofar as Philippine legal education is concerned deals with the charge that legal education in America fails to provide a synthesis; that students are trained to see the trees and not the forest. In the Philippines we seem to be guilty the other way around. Aside from attempting to teach our students all the areas of the law, we also require them to take up such courses as Legal History and Roman Law, Legal and Judicial Ethics, Legal Medicine and Jurisprudence. On top of these we require them to take as an integral part of the curriculum, reviews in the major areas of the law, followed by an optional bar refresher course.

The criticism that legal education in the United States fails to provide a training in practical skills is admitted by Mr. Harno as unassailable. We, in the Philippines, however, can take pride by pointing out that we try to give our students as much practical training as is possible under the circumstances. Thus we require our students to take Legal Forms and Brief-making, Trial Technique, and Practice Court. Perhaps the inclusion of legal clinic work would improve matters although it must be noted that some reputable legal educators are not in favor of legal clinic work. Thus the late Chief Justice Stone, formerly dean of the Columbia Law School, said: "Emphasis of the proper and important functions of the law school necessarily by contrast emphasizes those functions of legal training of lesser importance, or which possibly do not belong to the law school at all. Recognizing that the law school has supplanted the law office as an instrumentality for legal instruction because of its superiority in certain directions, we must also recognize that in certain other directions the law office and the court room are superior agencies for legal training. If, therefore, we attempt to do what the office can do better than the law school at the expense of the training which the law school can do better than the office, there is always danger of economic loss, not to say of wasted opportunities."

One other criticism taken up by Dean Harno is that law schools are deficient in teaching ethics. Mr. Harno dismisses this charge by saying that learning about ethics does not insure ethical conduct because the latter is an expres-

sion of character which, it may be added, takes years to develop properly. In the College of Law the study of Legal and Judicial Ethics is required but it can be truthfully said that whatever the student learns in the course will not make much difference how he behaves during his law school residence or thereafter.

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CASES ON THE LAW ON BILLS AND NOTES, by William Everett Britton, Callaghan and Company, Chicago, 1951. $7.50.

The perennial quest for good teaching material and a standard textbook for the course in the Negotiable Instruments Law virtually finds an adequate answer in this casebook by Prof. Britton. This book combines the good features of a standard text both for statute law and case study all in one single volume and contains, by way of introduction to the unoriented, facsimiles of the typical forms of negotiable paper currently in use in today's business world. The author treats the whole field of Negotiable Instruments in his own unique way by dividing the subject into six main headings, namely:

I. Operative Facts of Negotiability
II. Transfer
III. Holder in Due Course
IV. Equities and Defenses
V. Liabilities of Parties
VI. Discharge

These headings are further subdivided into sub-headings in order to attain a maximum detail in the analysis of the law and the cases cited thereunder. This approach to the Negotiable Instruments Law makes possible a comparative study of the different sections of the statute in a manner that is simple but effective. All this is achieved without sacrificing clarity, comprehensiveness and authoritativeness to form.

The cases are cited under proper headings together with the sections of the NIL of which they are illustrative or interpretative. The facts are carefully digested so as to allow a clear perusal of the court's decisions. The decisions are, however, quoted verbatim, italics being used indispensably in those cases where one or several significant points are emphasized. This method of presentation makes possible a quick grasp of the principles therein enunciated. The author cites well-known writers in the field of commercial paper, from Lord Coke down to modern commentators on the subject like, Brannan, Ogden, Beutel and many others—refuting their views when he disagrees, reconciling their differences in those matters where they disagree and expressing his own views on those points which are very much-controverted.

Much of the construction and interpretation given to the provisions of the NIL have been evolved by the courts in the course of evolutionary process. In his work the author lays stress on the historical background of the more