

**ORATIONS AND RESPONSE DELIVERED AT THE MEMORIAL  
SERVICE FOR GEORGE ARTHUR MALCOLM  
ON JULY 14, 1961 AT THE LAW THEATER**

**W**E are gathered here this afternoon in order to honor the memory of George Arthur Malcolm. Born in Concord, Michigan, on November 5, 1881, he passed away quietly and with dignity on May 16, 1961, in Los Angeles, California. It is proper—nay, a matter of duty—that we do honor to his memory, for the life and works of George Arthur Malcolm are linked with an indissoluble bond to the efforts of the Filipino people to determine their own destiny.

Many of us know how young Malcolm landed in the Philippines in 1906 at the age of 25. He had only \$3 in his pocket, a college education in his head, and a letter of introduction in his hand. But only 4 years afterwards he had founded a law school which was to become the College of Law of the University of the Philippines. In one more year he was to become the first permanent dean of the school which he had founded. And in 5 more years he was to become a justice of the Supreme Court of the Philippines.

The positions which George Arthur Malcolm held do not fully reflect the stature of the man unless viewed in relation to his motives and the things which he did in order to give them reality. Because of limited time and in order to minimize duplication, I must confine my discourse and speak only of Malcolm the founder and dean of the College of Law.

At this juncture a brief explanation might be in order why we have chosen to designate the man whose memory we honor here today as “dean”, instead of “justice”, in the memorial service program, and why the College of Law has taken the initiative in holding this service. Undoubtedly the title of “justice” is more exalted than that of “dean.” But to those of us who have served the College of Law for a good many years, the explanation is simple enough. For the man we honor here today regarded the founding of the College of Law as his greatest accomplishment, as his most enduring monument, and he was manifestly more partial to his academic title. We have two of his pictures which he had autographed: “Dean George A. Malcolm.” To us then, he was better known as Dean Malcolm—the dean who, although advanced in years, always had the requisite energy and stamina to visit his first love no less than 4 times in the space of 12 years.

We have had as a people many benefactors from his country but none as understanding and more lovable than Dean Malcolm. He belonged to that breed of Americans who have genuine liking for our people. Notwithstanding his high stature, he had a way of dealing with us in terms of a gracious equality. I well remember the many times I visited him in his hotel suite. He would greet me at the door upon arrival and motion me to sit by his side on the sofa whenever I attempted, in deference to him, to take a straight-backed chair. And yet he could be critical and embarrassingly frank. For instance, when the cornerstone for Malcolm Hall was laid at the Padre Faura campus in January of this year, he made the pointed remark that he hoped it would not go the way of most memorials in the Philippines—just a cornerstone. He could speak thus because he felt as one of us and, accordingly, his criticisms were uttered as a challenge and with full knowledge that we have the capacity to measure up to his expectations. In other words, his strictures were proof of his faith in us.

Dean Malcolm came with the conquerors a colonial careerist as he confesses in his last book. But he had no share in the bad habits usually associated with the ruling class. He was without the superior and imposing air of the victorious. He was in the insular bureaucracy from the beginning, but he became neither self-righteous nor cocksure. He had learning without pomposity, dignity without superciliousness, courage without a propensity to bully. A colonial bureaucrat, he nonetheless sympathized with the native aspirations which would one day end his power. He was a white man without the white man's burden of prejudice.

Men must be measured partly by their dreams; and in his own fashion, Dean Malcolm was a dreamer. He saw visions for our people. Where many of his countrymen saw the Filipinos as a conglomeration of semi-civilized tribes, he sensed with the eye of a prophet the rise of the first Malayan republic. He was fully in sympathy with the Filipino struggle towards ultimate statehood. So he founded the College of Law.

The College of Law, as conceived by Dean Malcolm, was to be not only a school that would turn out competent lawyers but more importantly to train Filipinos who would be capable of holding responsible offices in the government. For as Dean Malcolm himself had said:

"A principal purpose of the College of Law was the training of leaders for the country. The students were not alone trained in abstract dogmas; they were inculcated with the principles of democracy. All were made to work hard, and they developed a real sense of responsibility.

The Spanish-trained and older men—Aguinaldo, Tavera, Sumulong, Palma, Quezon and Osmeña—in time would depart the scene. Ready to succeed them would be capable leaders. The College of Law would have fulfilled its mission."

How well has the College of Law fulfilled the expectations of its founder? In the founder's message given on the occasion of the celebration of the Golden Jubilee of the College of Law, he said: "College of Law alumni have largely become responsible for the destiny of the Republic." He pointed with pride to the fact that three graduates "scaled the Olympian Heights to become Presidents of the Philippines." He concluded by saying: "Just as George Washington was first in war, first in peace, and first in the hearts of his countrymen, is the College of Law, University of the Philippines, first in the educational system and first in the Republic of the Philippines."

Yes, Dean Malcolm is gone. But he has built an enduring monument to his name. For as long as there is a U.P. law alumnus alive, Malcolm will be remembered for his precious legacy to the Filipino people.

VICENTE ABAD SANTOS  
*Dean, College of Law*  
*University of the Philippines*

A GREAT MAN is dead. His death is a grievous one.

But George A. Malcolm is still with us. For the physical frame that died last May did not carry with it his teachings and his love for the Philippines. These are our gain, indeed a heritage of nationwide significance and permanence.

The adventurous spirit that impelled George A. Malcolm in his youth to come to our country is not in itself singular. For many young Americans came to the Philippines along about the time that he did. But only a few took the Filipinos at heart; and among the few was George A. Malcolm. He stood above many of them for his concern for the educational needs of our people. He conceived of the establishment of a law school in our country to be conducted in English.

Much has been said of Malcolm, the jurist, who, at 35 was already a justice of the highest court of our land, and an articulate champion of the fundamental rights of man. Much has been said of him as an author and an adviser. Mention has been made of his work in professional and civic organizations. But it is George A. Malcolm the educator that shines brightest among the many facets that comprised his brilliant career.

To this founder of the U. P. College of Law, to this Dean of the law school which produced men to steer the State as well as men who have distinguished themselves not only in the legislative and judicial branches of the Government but in other fields of endeavor as well; to this pioneer in legal education whose overriding interest in maintaining the standard of excellence in legal education can be traced the move that eliminated substandard law schools and the opposition to remove from the Supreme Court the task of supervision over bar examinations, we of the WILOCI pay our respects and homage.

It is our regret that the short period of 5 years during which he was Dean and professor of the U. P. College of Law allowed only a very limited few to study under him directly. But we are grateful that on what he called his "borrowed time" he was able to share with us his thoughts, his friendship and his very self during the Law Golden Jubilee celebration. The WILOCI, in particular, can look back to the afternoon of January 29th when, refusing to be carried on a chair, Justice Malcolm, unaided, walked up the four flights of steps of the Amparo Building to inaugurate the new

office of the WILOCI Legal Consultation Center. We shall treasure the wise counsel he gave.

We dare to hope that in keeping faith with his teachings, we, too, will someday form part of his "golden harvest" and be included among his "illustrious exhibits."

CAROLINA BASA-SALAZAR  
*President*  
*U. P. Women Lawyers' Circle*

THE man whose death we mourn and in whose memory we are gathered this afternoon was our special guest during the celebration of the Golden Jubilee of the College of Law, University of the Philippines. When he arrived at the airport last November, among his first words were these: "I come here on borrowed time."

With his beloved wife, he used his "borrowed time" to make his last sentimental sojourn in this land he loved and to visit, even briefly, its people who have loved him. He came to meet once more the Malcolm Boys, the U. P. Law Alumni, and the numerous friends he made here.

Many shed tears of joy upon seeing him at the airport, clasping his frail hands, looking into his misty eyes, listening to his tired voice. So touched was he by the warm welcome given him that in a speech he delivered during the U. P. Conference on Legal Education, he said:

"I thank all of you for the innumerable acts of kindness, not only performed by you but by other people in the community. It has been a wonderful experience for my wife and myself; we will treasure it during our remaining lives. I was told by my physician that I had a 50-50 chance of coming here, but especially due to your friendliness and hospitality, the 50% has become 100% in my favor."

From where we living mortals are to where the late beloved George A. Malcolm now rests is not very far. It is only a breath, a heartbeat away. We have no way of measuring that distance. But to be remembered, to be revered, to be loved, to be lionized, to be showered with friendly tears, Justice Malcolm does not have to make another journey on "borrowed time." He is now a living spirit. And as a spirit, he can be anywhere, he can be inside or outside of us. We can recall him as a living vibrant personality. We can remember him as one of those on whose shoulders fell the awesome responsibility of training the leaders of our country.

No pompous words are necessary. Praising him becomes futile. Beauty of language pale into insignificance and somehow lose their meaning. The eloquence of silent honors is a thousand-fold better. The poignancy of contemplation easily replaces speech. If we remain still long enough, we can recapture the Malcolm that we knew and loved.

Say not that he has departed. Rather say that he has arrived. He gave himself to this land and in return received praises and love

that will endure. He earned for himself a niche in the hearts of Filipinos. In this land and among its people his memory will remain fresh.

May the Good Lord, who gave him to us, take him back to his bosom, there to rest in peace!

DEOGRACIAS T. REYES  
*President*  
*U. P. Law Alumni Association*

**A**S President and in behalf of the Philippine Bar Association of which the late Justice Malcolm was one of the early promoters, I join the U. P. College of Law, the Supreme Court, and other entities here represented in paying tribute to his beloved memory.

It is but fitting that we hold this memorial service for him. I believe no single individual exercised a greater influence upon the lives of so many Filipinos of the past and the present generations than George A. Malcolm did. By doing so, he influenced in no small degree the course of our nation's destiny.

He came to our country in the first decade of this century and dedicated thirty-five years of his life to the service of our people—as founder and first dean of the U. P. College of Law, as Associate Justice of the Supreme Court, and as a leader and promoter of civic enterprises.

As dean and professor of law, Malcolm took special interest in the progress of his students, and he inspired and inculcated in their minds human dignity, ethical concepts, civic spirit, and love of liberty. Above all, he took pains to prepare them for leadership. At a time when talks of Philippine independence were frowned upon by other American officials, Malcolm disregarded their attitude and permitted and encouraged his students to debate and even agitate for independence.

Many of his students became leaders of the nation, and many more, the leaders in the law profession. Four of his former students became Presidents of the Philippines, others became Justices of the Supreme Court and of the Court of Appeals, many became judges, legislators, eminent lawyers, and business leaders. I venture to say that George A. Malcolm has contributed a great deal to make what the Philippines is today—an independent Republic with one of the most stable democratic governments in the Orient.

As an associate justice of the Supreme Court, where he served for twenty years, Malcolm contributed in large measure to the building of Philippine jurisprudence whereby freedom of speech, liberty of the press, due process of law, individual liberty and other basic rights have become part and parcel of our way of life.

As an author, Malcolm wrote valuable books on Philippine history, Philippine government, legal ethics, and constitutional law, on all of which he was an eminent authority.

We resisted American occupation after the oppressive Spanish rule had been overthrown. We believed it was our God-given right



to manage our own affairs free from alien domination. And we fought a desperate war against the United States to maintain that right. The pangs of defeat and the subsequent humiliation of being resubjected to alien rule were intense. But it was gradually attenuated and in time a strong bond of friendship was forged between the United States and the Philippines through the policy of the United States Government of sending dedicated men of high principles to train us in the art of self-government preparatory to our assumption of independent statehood. Although Malcolm, then an unknown young graduate of Michigan Law School, came here penniless, he proved, in my humble opinion, to be one of the most valuable contributions of America towards the promotion of democracy and freedom in this part of the world.

Such are the fortune and the achievements of the man whose demise we mourn and whose memory we are now gathered to revere and eulogize. We loved him because he loved us truly and sincerely. We made him by law an honorary Filipino citizen. He reciprocated our affection by coming, for the fourth time, to visit us, last November on the occasion of the golden jubilee of the U. P. College of Law. He stayed with us for four months, giving us his wise counsels in various speeches and in private conversations. Although he was then already physically weak, he was still mentally vigorous and alert. Scarcely two months after his last visit with us, we received the sad news of his death.

We owe him eternal gratitude as a benefactor. His name is now enshrined in the history of the Philippines. We shall forever treasure the memory of his long and fruitful association with our people. Those of us who have known him personally will long cherish his vibrant voice, his kindly gaze, his ready wit, and his sincere friendliness.

To his bereaved and beloved widow, daughter and grandchildren, let us extend our deepest sympathies.

ROMAN OZAETA  
*President*  
*Philippine Bar Association*

LAST May, upon being informed of the death of George A. Malcolm, a former Justice of the Supreme Court, the Court adjourned its session for the day, after approving a resolution of condolence and sympathy to his bereaved widow and family in Los Angeles, California.

The matter of holding memorial ceremonies under the Court's auspices was considered, but although his former pupils in the Court constituted a majority, 10 out of 11, the post-war precedent had to be followed that none are officially held for its members who die after retiring from the Court.

So, as an alumnus of the U. P. College of Law and a former student of the departed dean, I accepted the invitation to speak at this memorial service in his honor.

When, in the future, someone should write the history of Philippine-American relations, he will no doubt devote a chapter to recount the inspiring life and labors of George A. Malcolm, the American colonial careerist, whose distinguished public service in our country impelled Congress to pass a law adopting him as a Filipino citizen. Our utterances today expressing our gratitude for what he did and our appreciation of what he was will surely form a major portion of that chapter.

The speakers before me have already given his biographical data, works and accomplishments. Nothing of importance may further be added to the same. However, I should like to offer a few remarks in sincere appraisal of some aspects of his fruitful career.

I was fortunate to reach the Supreme Court years after Malcolm, who was my professor, had left the unsurpassed record of having promulgated, with characteristic felicity of expression and clarity of thought, some 3340 opinions in nineteen years.

As a professor, Malcolm was thorough. He conscientiously prepared his outlines and lectures, conducted searching quizzes, assigned copious readings and imposed exacting homework. Naturally his students learned his subjects. In my forty years as a public official I have often been greatly helped by the fundamentals of law and government he so ably expounded. Of apparently forbidding countenance and serious disposition, George Malcolm was really kind at heart, for he sedulously looked after the welfare of his students and helped them whenever he could. I shall never forget the unsolicited laudatory note he sent to my Chief, Attorney-General Villareal, after

I had orally defended a case before the Supreme Court.<sup>1</sup> It inspired me to work harder. It was one of those good deeds that Malcolm was in the habit of doing for his former students, and for which he will always be gratefully remembered.

In 1917 he was promoted from the deanship of the College of Law, which he founded, to the Supreme Court at the age of 35, the youngest ever appointed to the Court. His numerous decisions covered a wide variety of legal topics. Nevertheless, there is general unanimity that his pronouncements commands universal respect and admiration. His decisions in the field of political and constitutional law reflected his passionate concern for civil liberties, specially for the freedom of the press and for the right of association, even as he scrupulously observed and enforced the constitutional division of governmental powers.

In my view, one of the most far-reaching of his decisions was the one holding that the American Governor-General of the Philippine Islands could not lawfully transfer a judge of the Court of First Instance from one district to another without the latter's consent. I was then working in the Office of the Attorney-General which defended the power of the American Chief Executive. At that time I regarded our position as impregnable, considering the words of the statute that expressly give the Governor-General power to transfer, and did not expressly give the judge the privilege to refuse. I thought then that the Court had read into the statute a qualification or condition not found in the text.

Looking back, however, after this many years, I have become convinced that, instead of legislating judicially, the Court, thru Mr. Justice Malcolm, accomplished a feat of judicial statesmanship. Along the interstitial spaces between the words of the statute and the intention of the legislator, the Supreme Court proceeded towards the goal of judicial security of tenure. This judicial landmark laid the foundations of judicial independence, which the Constitutional Convention ratified and improve. In reaching its conclusion the Court postulated the law's desire for good judges; and judges, according to the Court, can be good only when acting without undue interference. Mr. Justice Malcolm explained: "Our conception of good judges has been, and is, of men who have a mastery of the principles of law, who discharge their duties in accordance with law, who are permitted to perform the duties of the office undeterred by outside influence. . . . We are pleased to think of judges as of the type of

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<sup>1</sup> *Borja v. Agoncillo*, 46 Phil. 432.

the erudite Coke who, three centuries ago, was removed from office because when asked "if in the future he would delay a case at the King's order, replied: 'I will do what becomes of me as a judge.'"

Note that Lord Coke did not say "I will do what I like," because the freedom of the judge does not extend thus far. Neither did he say "I will do what is right" because that is always understood, and the question of right or wrong was not then at issue. A matter of discretion was involved and Lord Coke stated, "I will do what becomes of me as a judge," namely, what is proper in the circumstances, consistent with self-respect. In another way of putting it, Mr. Justice Malcolm's idea of a good judge is one who is free to choose—yet choosing properly—is self-restrained and independent, always resisting outside pressure on the citadel of his respectability.

I like to think that even as the Supreme Court declared what may not be done to judges it also enjoined judges to do what becomes them as judges. It means among others, that the judge should be patient, industrious, prompt, considerate of witnesses and counsel, and should not be swayed by the public clamor or considerations of personal popularity. Mr. Justice Malcolm brought the concept of a good judge to the attention of the bench and bar. It is the core around which revolve several canons of the judicial ethics adopted in 1925 by the American Bar. This, for me, is the "categorical imperative" of a judge.

Mr. Justice Malcolm is now gone. It is possible that the impact of his personality and his concepts upon us may one day cease but before that happens, judges should ponder the implications of his message: to attune their behaviour with the ideal he has depicted for them. There is time for each to resolve: "I will do what becomes me as a judge."

Rest in peace George A. Malcolm. Across the seas, in this land you loved so much, your students will treasure the memory of their learned dean and professor; lawyers and judges will quote your authoritative opinions; and the judiciary will fulfill your expectation of judges to become truly independent by doing "what becomes them as judges."

CESAR BENGZON  
*Chief Justice*  
*Supreme Court of the Philippines*

## RESPONSE

IN behalf of Lucille, his wife; Marymac, his daughter; his son-in-law, his grandchildren, and myself, his goddaughter, we pour out to you, cherished friends, admirers, and sympathizers, our warmest and deepest thanks.

In the gloom of bereavement, our faculties do not play us true and even our thoughts are stifled. We can only assure you that, amidst all the sadness, the sentiments of sympathy and condolence you have expressed in your cabled and written messages shone around us with spiritual and practical support.

News of this memorial service brought us fresh tears. It has brought into sharper focus the love and esteem with which he is held. His last visit here, in his own words, gave an "unsurpassed climax to his full life." The service today and the heart-stirring orations in final tribute to him and his memory, furnish the climax after his death. No greater legacy could he have transmitted to his daughter and grandchildren than that they could read and know of the greatness in this man that is so revered.

I must tell you of his last hours. Mrs. Malcolm said: "His mind remained clear and brilliant right to the very last. His last hour was easy. He went the way he did everything in this life. His work was over—and so he died. My heart is heavy but I would not change one thing. He wanted to live to see the Golden Jubilee and he was satisfied with what he saw. Few men are so blessed."

Justice Malcolm has passed on. Our hearts are heavy with the sadness of an eternal farewell. But we, too, realize that there is a fullness of time when men must go. We will always find solace in the root and record and in the eloquent tribute of your friendship, for we know that true and faithful friends continue to live in one another still.

Justice Malcolm is surely with us in spirit this hour. For heaven itself could favor him with no choice of places more dear to his heart, of all the monuments to his memory that he would cherish the closest than the love of you all attending these services today. We join you in grateful prayer.

AMOR MELENCIO HERRERA