Editorial

SUGGESTIONS FOR THE BAR EXAMINATIONS

It is perhaps inevitable that, every time the results of the periodic bar examinations are announced, there should be a certain amount of criticism and complaint. Those who were unsuccessful or who were not so successful as they expected to be, among the candidates themselves and the schools that trained them, naturally feel dissatisfied with the present system and the way it is conducted.

We are not concerned now with the necessity or desirability of requiring prospective lawyers to pass a state—supervised examination before admission to the bar. There are many valid arguments for and against it. However, if the present system is to be retained, as in all probability it will be, certain changes may be advisable.

To start with, the schedule of subjects in the examination should be brought up to date. Law has undergone great and significant developments in the past few years, reflecting the evolution of the modern concept of government and the rights and duties of the individual citizen. Our own recent history proves the increasing importance of such subjects as social legislation and taxation and, indeed, the corresponding authorities have given due recognition to their importance by making them separate subjects in the law curriculum. Yet, strangely enough, the Supreme Court has not yet seen fit to give these subjects the emphasis they deserve in the examinations for the bar. Taxation, it is presumed, is lumped with the whole range of political law while social legislation seems to have no place at all, since the Civil Code provisions on torts and the other codal provisions on the contract of employment and the relation of master and servant are woefully inadequate and antiquated. There is no denying the fact that the bulk of our social legislation is contained, not in the codes, but in special laws.

The result of this notable gap in the bar examinations is that the average student, who is understandably concerned mainly with being admitted to the bar, tends to treat these subjects lightly and in passing, as mere incidents of the course. Only by including them as separate subjects for examination, therefore, can the student be compelled to give them the importance they deserve.

This will make, we submit, not only better lawyers but better citizens. At present lawyers tend to leave problems of taxation to accountants because they themselves feel inadequately prepared to handle them. Many a practising attorney has also regretted not having devoted more time to the study of social legislation, which continually increases in complexity and extent. It is indeed regrettable that these two subjects, with which even the ordinary laymen should be familiar if he is to fulfill his duties as a citizen, should be so neglected even by the members of the legal profession, who might otherwise supply the lack with their competent advice.

With reference to the present procedures followed in the examinations, the compensation given to the examiners seems to be inadequate, amounting only, as we are informed, to five hundred pesos for each examiner for the entire tedious and exacting task of preparing fair and balanced questionnaires, attending the various deliberations of the board, and—worst of all—grading the enormous number of papers which are submitted in every examination. Since there are usually about one thousand candidates in each of these tests, the individual examiner can expect to receive a compensation of about fifty centavos for correcting each paper, not to mention his other duties.

The question of compensation may appear to be relatively minor but, upon reflection, its importance will be readily seen. The bar examinations would be obviously of no use whatever if they were not conducted by skilled and successful members of the bar. The latter are naturally extremely busy with the practise of their profession and it is unfair to expect them to devote all their time to the grading of the vast number of papers, at the unattractive rates of compensation now prevailing. They could not be blamed therefore if they should do this work hurriedly, and even with a certain degree of impatience and carelessness, or even if they should delegate the tiresome and boring task to office assistants. This does not seem to be fair either to the candidates or to the examiners themselves.

We have no intention of criticizing the examiners in past tests who doubtless and to all appearances have fulfilled their duties splendidly and at great personal sacrifice. But we do wish to point out that the purposes of the bar examinations would be better served if the work of the examiners is adequately compensated.

In this connection, another change from the present system may also prove desirable. As we understand it, the proceeds of the examinations, derived from the fees paid by the candidates, are now devoted to the expansion of the library of the Supreme Court. That library is unquestionably one of the best and most complete in the country and there is, of course, every reason to keep up its splendid standards.

In stark contrast, however, many, if not most, Courts of First Instance in the Republic are not equipped with even the most elementary treatises and texts; sometimes the libraries of these tribunals are confined to a set of Philippine Reports and Official Gazettes. Since the great proportion of litigation in this country probably begins and ends in these courts, it would seem logical and conducive to the interests of justice to give them also adequate reference sources. If the central government is unable or unwilling to appropriate sufficient funds for this purpose, the Supreme Court would be doing the administration of justice in the Philippines a signal service if it should channel at least part of the proceeds of the bar examinations to this purpose.

One last suggestion. We have never been able to understand the practical necessity of concealing the names of the examiners. Those names inevitably become common knowledge sooner or later and, if the purpose of the secrecy is to avoid the use of unfair influence and pressure on the examiners, it is obvious that that purpose is not effectively served in reality. On the other hand, the present system would seem to imply a reflection on the integrity of the examiners. Surely, if the Supreme Court has sufficient faith in them to appoint them to their posts at all, it should be consistent and extend that faith completely.

At any rate there is no fool-proof guarantee against corruption. If an examiner should desire to take advantage of his position, he could do it under the present system just as easily as he could if his name were not concealed. As it is now, therefore, no assurance of complete integrity is gained while the examinations are allowed to remain in an ambiguous atmosphere of calculation and intrigue.

There is another potent reason why the names of the examiners should be made public before the examinations take place, and that is, to enable the public, particularly the bar candidates, to object to the selection of a particular examiner upon good ground or cause in the same way that the public is enabled, by the publication of the names of the candidates before the examinations, to object to the admission to the bar examinations of any candidate who is unfit to become a member of the bar by reason of moral turpitude.