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NOTES ON A SUMMER OF TEACHING LAW
IN GUATEMALA

BY JOHN H. CRABB*

The basis of the observations that are the subject of this article is a summer of teaching international law at the University of San Carlos in Guatemala. Obviously, such experience is too limited to make one an expert on legal education in Latin America, or even Guatemala. Nevertheless, it did afford some unusual opportunities to pick up some information and impressions that are not commonly available. It is hoped that a report of these observations can serve a useful purpose of diffusing information about our Spanish-speaking neighbors. Though it may seem idle or presumptuous to narrate personal adventures as such, to a considerable extent personal episodes must be the vehicle for conveying information; but it is a frequent source of error and misimpression to make generalized statements on the basis of particular episodes of personal experience. For such episodes may be unique, but the stranger experiencing them may, because of his unfamiliarity with the background, mistake them for customary or expectable events. Hence, in attempting reporting of this kind, accuracy may be best served by relating personal experiences for whatever they may be worth, without venturing to generalize them as representative of the character of the foreign locale.

Perhaps an additional caveat should be made as to how representative Guatemala, and its institutions of legal education, may be of Latin America generally. It is probably reasonably representative of the smaller and lesser developed Latin American countries. If Guatemala is not on a level with Cuba or Argentina in such respects, neither is it in the bottom rank, as an inspection of the law school in Tegucigalpa, Honduras, readily attests. Though a strong "family resemblance" exists among Spanish American states, there is not such homogeneity among them that an observation of one can be safely used to project uncritically a picture of all Spanish America.

I. *The University and Legal Education*

The University of San Carlos is the only institution of higher learning in Guatemala. Although it is supported financially by the state, it is "autonomous" in that it is not controlled by the state. In-

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stead, the university officers are elected through a complex machinery in which students, faculty and alumni participate, and perhaps other categories of persons as well. This is a startling concept for the foreigner from the United States, and is a reflection of the traditional and well-publicized political preoccupation of Latin American universities.

The university consists of some eight "faculties"—e. g., engineering, humanities, medicine — and they are scattered throughout the capital city. There is no semblance of a "campus," and each faculty operates seemingly quite without reference to any other, although there are various university-wide functions and assemblies. There is a project underway to construct a complete university plant on the edge of the city, in a concept similar to the dazzling new University of Mexico outside of Mexico City. However, so far only two buildings have been completed on this new campus, although there are concrete balustrades and stairways leading to nowhere except empty fields, and it is apparent that they will be broken up by weeds and vegetation before the buildings they are designed to service will be constructed. The law school is known as the faculty of social and juridical sciences. It is located in the central business section of the city in a one floor building of traditional style, with the classrooms opening off a cloister which surrounds the patio. Though this building is only somewhat in excess of a century old, it rates as one of the most antiquarian structures in the city, since earthquakes have been frequent enough there to prevent many buildings from acquiring much seniority.

Each faculty is a fully integrated unit, and grant their own degrees of *licenciado* or "doctor," in most cases; usually at the end of four to six years of university study. There is no parallel to our "undergraduates" and "graduate" curricula and degree. Instead, in Guatemala the university student will enter one of the various faculties at the equivalent of what would be our undergraduate level. While each faculty determines its own admission requirements, they generally consist of secondary education such as is provided by the liberal arts or equivalent programs in our universities, and upon which the graduate and specialized schools may build.

As a result, the faculty of social and juridical sciences is not the equivalent to a "law school" in the United States, but rather is more nearly comparable to a combination of our undergraduate pre-law curricula and law school. So, if for convenience the term "law

school" is applied to this faculty, it must be remembered that the equivalency is very inexact, and that such a "law school" gives courses such as Spanish grammar, introduction to literature, French, English, and sociology, as well as regular law courses.

Generally, the law courses occupy an increasingly greater proportion of the students' programs as they proceed through their six years of university and legal education. It also appears that their law curriculum is more general and conceptual in its approach than ours, with far greater emphasis, than our legal education gives, to jurisprudence, criminal law, and public law. The reasons for this contrast seem to stem ultimately from differences in the civil and common law systems, and would themselves provide a topic for extensive discussion.

According to my information, the number of students enrolled in the university was between 3,500 and 4,000, and in the faculty of social and juridical sciences about 1,700. However, the figure given for the entire university appears to represent actually effective and substantial university students, while that given for the law school includes many "ghost" students. It seems that certain personal and political advantages accrue from being affiliated with the university. Hence, people in political or otherwise public life may continue to be officially matriculated in the university for decades or throughout their entire professional lives. Such "students," of course, do not attend classes, nor take examinations. The technical student roster may be further inflated by students registered in a course only for the purpose of taking an examination in it. If a student has taken a course and failed the examination in it, he may nevertheless retake the examination, at least a goodly number of times, if not indefinitely. Such students will not attend classes again, presumably because they do not pay the fees for class attendance, which are different than the fees for taking the examinations. For example, in the course I taught I understood there were over 75 registered for the examination, although the class at full strength numbered only 25. Thus, any meaningful general statistics as to the university population are difficult to find and would always require interpretation. But perhaps this is no more complex than certain organizational aspects of our own universities.

II. *Teaching Relationships and Procedures*

The law faculty consists entirely of practicing lawyers in Guatemala City. They usually teach one course, of three scheduled

hours per week, and receive a salary of something like \$90 a month—and \$90 goes no further in Guatemala than in the United States. So, their law teaching was a secondary economic interest with these professors, though this status and activity might be very important for their professional advancement in private business, politics or government. It seemed that the law professors were leading attorneys of the country. The professor whose course I taught, for example, had until several months previously been the foreign minister of the country. Most of these professors appeared to have had some type of advanced legal education abroad, in Europe or the United States.

This extra-curricular preoccupation of the faculty resulted in faculty relationships and procedures that were in great contrast with our law schools. There was very little faculty contact, at least at the university, as each professor would be on the premises only for the hours of his teaching. There was nothing whatever in the way of faculty offices, and hence little in the way of practical occasions or facilities for inter-faculty contacts. When I naively inquired as to my office accommodations, there was some embarrassment. Finally I was told I should feel perfectly free to use the tables in the library if I wished to do some of my work at the school. The library proved to have one solitary table, which normally was used by students for the purpose of reading the daily paper. And, the library was open only from 5:00 until 8:00 in the evening, and very early in the morning. It was completely inaccessible outside of those hours and on week-ends. My office work hence was relegated to my apartment.

The proverbial leisureliness or "mañana" attitude of the Latin American seems to stem more from the record of actual accomplishment than from personal attitudes or the manner in which business is conducted. In my first conference with faculty members, to map out my program of activities at the school, the talk immediately got right down to business. After the formal introductions, there was nothing in the way of casual talk such as we customarily generate preliminary to tackling a conference. When I attempted a few irrelevancies or pleasantries, I was made to feel somewhat like an anachronism still adhering to the quaint manners of a more leisured, by-gone era. There were no questions asked about my journey, what part of the United States was my home, how I was finding things in Guatemala, or what were my thoughts and impressions about anything. Nor did there seem to

be any consideration given to the fact that Spanish was not my native tongue, as the conference took off at full tilt at the outset, and I had to fall into step as best I could.

It was decided that in addition to taking over the teaching of a course in public international law, I should collaborate with two other professors in drawing up plans for three courses in the international law field. I assumed that one of the other two professors would take the initiative to contact me and arrange conferences whereby we could discuss this project and decide what we wanted to do and how to go about it. However, time went by, and it was getting toward the end of the summer, with no word whatever from my colleagues as to our supposedly joint project. Ultimately, in order to discharge my commitment in the matter, I composed three course plans of my own, and submitted them to the dean, with a covering letter and comments in which I ascribed the then shortage of time as the reason for my unilateral action, as it appeared doubtful that there would be any opportunity for the other professors and me to work together on the project. There was no expression of regret, surprise, or dismay that the agreed plan had never been implemented. I do not mean to suggest any lack of cordiality or courtesy toward me on the part of the faculty, but merely to point to professional customs and procedures that to us seem strange and disconcerting to some degree. But I may say that the relative scarcity of contact with members of the faculty was a disappointing aspect of my sojourn.

Mention could be made of various aspects of classroom organization and procedure that we would find incomprehensible. I may dismiss as a humorous eccentricity the episode toward the end of the first class I taught when, as a preliminary to celebration of a holiday that was to occur the following day, a band started playing on the patio. It seemed most unfair that the first time in my life I lectured in Spanish I should be required to project myself over a band, and after making what I deemed to be an honorable, if ineffectual, attempt to do so, I dismissed the class.

No calendar of the academic year was ever in evidence, so that I did not know in advance the dates of holidays, and moreover, neither did anyone else, it appeared, until a few days before they were to occur. Rarely were any explicit notices sent to me to advise me of such events, and I never did get the knack of finding out about such things other than relying on what the students told me or inquiring at the administrative office of the school—and I

always took the precaution of checking at the office any time the students told me a holiday was in the offing. It seems all their holidays are not annually recurring events, but a number of them are determined each year.

Then there was a series of lectures given over a period of three weeks by a distinguished Argentine jurist named Soler. This series was for the entire student body and the faculty, and most of these lectures conflicted directly with my class hours. But it was never made clear to me just what were to be the hours and days of his lectures, and how long the series was to last, and no official notices whatever about this rescheduling were sent to me from the administration. As a result, I assumed I was to carry on with my class all this time, and was disturbed when on some occasions during this period perhaps only five people would show up. As I later learned, I should have been impressed by this as devotion of the class beyond the call of duty, because toward the end of this three weeks one of my colleagues said that when a special lecture series of that sort is in progress, all conflicting classes are suspended, and for that reason he himself had not taught a class for three weeks. Apparently I missed out on a three weeks vacation because of my dogged notions of duty.

On another occasion my students informed me they would not be able to meet my class the following scheduled period, because on that day they were to be given a two hour examination in criminal law, which met the hour preceding mine. I checked with the administration, and found that this was true. By what right or principle my colleague could thus appropriate my class time without so much as notice to me, let alone permission from me, was completely beyond me. I will never know whether I had equal and reciprocal rights, because the only way to have found out would have been for me to have retaliated in kind against my colleague, but I never made any such attempt.

There was nothing in the way of casebooks or textbooks which the students would acquire for the courses. All that existed as the nucleus of the course would be an outline, in considerable detail, of the subject, and the students would consult such reference works as they saw fit. Hence there was never any "preparation" for which the students would be responsible, and the conventional style of instruction was chiefly lecturing. I never saw a sign of anything in the way of a class roster, and there is no taking of attendance or keeping any class records apart from examination re-

sults. The rate of absenteeism among students is high, as it is also, startlingly enough, among some of the professors, who may do little more than give examinations for their courses, and rarely conduct a class during the entire year. That type of professor is more exceptional than common, but of course it is astonishing that such a practice would be tolerated to any degree at all.

In addition to the underlying novelty of teaching law in Spanish, I had some other unexpected linguistic experiences. I found to my surprise that they did not use the conventional legal Latinisms that I had supposed were of international circulation. *Res judicata*, for example, was simply referred to as *cosa juzgada*. When I used Latin in the same manner and degree as it normally appears in the course of legal studies here, I found I created confusion, and also unwittingly built up a reputation for profound scholarship based on my "familiarity" with Latin terminology. The same thing I found to be true with French phrases that we employ in connection with some aspects of international law and relations. They would not know, for example, what a charge 'd' affaires might be, since they refer to such an officer as an *encargado de negocios*.

And I found that my linguistic experience in Guatemala made a profound impression on my attitude toward the word "American" to refer to the United States and its citizenry. In Guatemala and much of Spanish America the word "American" normally is used to refer generally to the Western Hemisphere, or in contradistinction to "Spanish" or "Castilian." To make reference to the United States the normal word with them is "North American" ("norteamericano") or "United Statesian" ("estadunidense"). I so far fell in with their usage of vocabulary that the word "American" has taken on an ambiguous meaning for me. When I was visiting in El Salvador and encountered the word "American" I was confused as to just what was being discussed, until I discovered that in that country when they say "American" they are referring to the United States. "North American" is still objectionable on the grounds of ambiguity, and of course Guatemalans also are among those who dwell in North America, but it is at least more precise in degree than "American." "United Statesian" of course is a linguistic abomination, and though perforce I have reverted to our use of the word "American," I do so now with a certain twinge of conscience that was never there before.

III. *The Students*

The most interesting and satisfying aspect of affiliation with the university was the relationship with the students. Allusion has already been made to the peculiarly political orientation of university students in Guatemala, and, expectably enough, this reaches its epitomé in the law school. In the briefings I received, from both United States and Guatemalan sources, it was stressed that a good deal of leftist and anti-Yanqui sentiment existed among the student body, and that I must be prepared for possible vigorous expressions of such opinions in class. Other American professors who had been in Guatemala as my predecessors had, had some strenuous experiences along such lines. However, although I found evidences among my students of the endemic anti-Yanquiism of Latin America, it never took any rough or discourteous forms, and was always kept within the framework of thoughtful and rational discussion. Toward the end of my stay, I was told by some of my students that prior to my arrival they had held a sort of caucus to decide whether they would attend the classes to be given by the American professor that was expected. Their decision was to attend at least a class or two to investigate the situation. Apparently they concluded that I was not bent on perpetrating any outrages, because no boycott of my classes developed. It is probably just as well that at the outset I was unaware of the severity of the scrutiny to which I was being subjected, or that student opposition and boycott had forced one of my predecessors to withdraw.

The students I taught were in their fourth year, and the age distribution was similar to that in our law schools. The youngest students were around 20, most of them were under 30, but some were older and there was a scattering of middle-aged students. They came from the "middle class" stratum of Guatemalan society. Usually the children of the very wealthy, such as the great *finqueros* (plantation owners), acquire their university education abroad, mostly in the United States or Spain. There were some women law students, but none in my class.

It is rare that a person of the menial or Indian class could ever hope to attend the university. Apart from the financial aspects of the problem, the psychological and social impediments in the way of an Indian, in the course of one lifetime, crossing over into the "ladino" or middle class are enormous. The ladinos are quite like the people of the United States in basic personal outlook, standards and orientation. The Indians on the other hand eat, dress and live

differently, and the degree of "Indianness" may sometimes reach the point where they speak dialects rather than Spanish among themselves. While the top social crust of the country is mostly pure-blood Spanish, the majority of the large ladino group is of mixed blood. The term "ladino" refers not so much to one's ethnic composition as it does to his social grouping. Thus a ladino may be a full-blooded Indian who has separated himself from the Indian way of life and lives according to European standards; and among my students, who were all "ladinos," there were some whose appearance indicated they were predominantly of Indian blood, and perhaps full-blooded.

By way of easing into the teaching routine, I attended one class given by the professor whose course I was taking over and, apart from being presented to the students and saying a few words of greeting, I merely observed. The following period I did the instructing while my colleague sat silently. At this class the students were very quiet, and I sensed that they were observing me very intently. I considered that this was a natural sort of curiosity and reaction, and, though I did not then realize it, for at least many of the students I was the first specimen of United States citizenry with whom they had personal contact. They did not respond to leads I threw out designed to generate discussion, and I had to answer my own questions with such grace as I could muster. It should be mentioned at this point that the style of law classes there is quite different from here. The professor generally lectures, and class discussion is not used as the vehicle for instruction, though some may arise through student initiative upon questions being asked of the professor. Hence, my attempts to question them undoubtedly took them unawares.

However, at the ensuing class period, things loosened up considerably, and they began responding voluntarily. And they did more. They began asking me questions that struck me as being of a somewhat baiting and premeditated nature, and that challenged me to justify such things as the United States' annexation of Mexican territory following the Mexican War of 1846-48. I thought that perhaps this was the beginning of the political "treatment" of which I had been warned, but I did not attempt to avoid or discourage the discussion, despite its increasingly political tenor and deviation from the subject-matter of the class period. However, I did say that, while political matters and the like were of keen interest to me, we were together, after all, for the purpose of study-

ing international law, and these extraneous matters should not be allowed to interfere with it. I stated that though the course must be taken care of first, I would gladly remain after class to discuss politics or anything else they wished.

I was very surprised and pleased at the ready and effective acceptance of this ground rule. From that point on, they kept quite faithfully to the subject-matter of the course during the scheduled class hours. Towards the end of the period I would allow the discussion to take whatever direction they wished, and usually they would keep me about 45 minutes after class in various sorts of conversation — law, politics, or lighter matters. This was an extremely pleasant and satisfying aspect of my experience. No political roughness or unpleasantness ever occurred, and if differences of opinion did develop, they could be discussed on a rational and intellectual basis as one would expect at a university law college.

University students in Latin America are known to use "strikes" as a method of retaliating for grievances they may feel against their university. I was not exposed to any such disruptive activity, but I learned that a strike occurred several months after my departure, the grievance being a ten dollar raise in tuition. The lack of logic in this procedure seems obvious, since a university is in no sense an employer or master of the students, and the effects of a strike cut most deeply at the interests of the students themselves by retarding their own plans and ambitions. However, apparently this consideration is not adequate to deter them from such a step. Also, I have been told that if the university fails to provide an Easter vacation, the students may make one for themselves by staging the *huelga de dolores* ("strike of sorrows") during Holy Week.

I gave one brief exam to my class, and gave them a translation of a question I had used here in an international law exam. From a standpoint of analytical content of the answers they were below the average one would expect from a class of American law students. However, perhaps such a comparison has little validity, since these students were being given a foreign style of examination—i.e., the solution of a specific legal problem rather than discussion of broad legal principles,—and they were being judged according to a foreign standard. They showed themselves superior to United States law students, however, in their use of language; I felt they used Spanish more literately and effectively than our students use English. Another pleasant surprise was their hand-

writing, which was superior in quality and legibility to that of our students generally. In the grading system, they use numerical percentage grades, and these correspond with letter grades of A, B, C and D. Each grade represents a range of 25 points, and C and D, representing maximum grades of 50 and 25 respectively, are both failing grades. The rate of failure and retaking of examination is high.

IV. *Political Overtones*

The political preoccupation of the university students, particularly those following law, and the infusion of politics into university life was demonstrated to me in a number of ways. A bulletin board in the patio of the law faculty was used as a method of political self-expression. On this board would be pinned editorials on a variety of political subjects. The authorship would usually be anonymous, frequently there would be some artistry in the format of the essays, and they were stimulating and interesting reading matter.

During my stay, Dr. Milton Eisenhower visited Guatemala in the course of a trip through Central America as a representative of the United States government. Only a short time before, Vice-president Nixon had received very rough receptions through Latin America, and there was apprehension that Dr. Eisenhower's visit would also be an occasion for anti-Yanqui outbursts. Fortunately, no such unruliness developed, although the University of San Carlos observed a distinctly chilly attitude toward the visitor. In advance of his coming the university announced that there would be no official entertainment of Eisenhower by the university, since he was not coming as its guest. The rector also stated that at that time he would have to be in Nicaragua at a meeting of Central American universities, and would have to take all but one of the deans with him in his entourage; unfortunately for the artfulness of the rector's dodging, this meeting was cancelled at the last minute, though there was no modification of the calculated coolness toward Eisenhower. Undoubtedly this official attitude, as reflected by the rector, was in deference to influential anti-Yanqui public opinion among the student body, which, after all, exerted a degree of electoral control over the university. The bulletin board carried anti-Eisenhower-visit editorials, and a manifesto of the student organization appeared as a paid advertisement in the city papers with a flatly unfriendly tone. My students called all these things to my attention, and I discussed and argued the point with them,

and sought to defend and justify the visit, and the policy of the American government generally. I devoted my efforts not so much to refuting directly the attacks on the United States as to trying to pose the issue on a rational basis and seeking to dispel some of the provincialism and naiveté that is at the root of this unfortunate attitude. As to the Eisenhower visit itself, I was personally not enthused about it, and feel that official junkets of that sort are often poorly conceived by our government. This is hardly an appropriate occasion to attempt to discuss and analyze the thorny subject of anti-United States feeling in Latin America, which our experts on such matters appear still not to have fathomed. Suffice it to say that it does exist, to the discredit of both sides. To a large extent, they still think of our transgressions towards them in terms of Dollar Diplomacy, marines and gunboats. This is quite exasperating, since these things are all old hat, and naive nineteenth century tactics which we certainly have outgrown; if one is to be denounced as a villain, he likes at least to be accused of being so in a contemporary and efficient way. But the view appears to be widespread that our government's Latin American policy is designed primarily to serve the financial interests of the large United States investors, who substantially control the Department of State. Then we are charged with using Communist accusations indiscriminately as a device to justify our liquidating any Latin American régime that is inimical to the interests of our financial overlords. The allegedly United States-inspired overthrow of the Arbenz government in Guatemala in 1954 is cited as an example of this. Our readiness to equate anti-Yanqui sentiments with Communism is held up to ridicule.

Generally, it may be said that this sentiment is born of a collection of half-truths and misconceptions, for some of which the United States and its citizenry are responsible. It may represent fixed convictions and prejudices that are very difficult to allay, even with intelligent and educated people. However, it must also be remembered that there is a large, though less articulate, element, that sees Communism as the main peril and issue of the time, and is principally distrustful of those displaying tolerance or indifference towards Communist activities. I was impressed and convinced by the genuineness of disclaimers of Communistic leanings or sympathies on the part of those who were most strongly critical of the United States. I never encountered an avowed Communist or pro-Communist, and I believe the number of such

persons in the country is small, however much they may be dedicated, dangerous or powerful. While all the Communistically inclined element would be opposed to the United States as matter of course, only a small portion of anti-Yanqui would be Communists or their affiliates. In any case, while this unfriendly attitude exists toward the United States, it does not appear to rub off against any of its citizenry. I have not observed any sort of personal discrimination or antagonism against United States citizens as such. These resentments are reserved chiefly for some amorphous creatures no more certainly identified than "Wall Street" or "imperialistic capitalists" and the like.

Towards the end of my stay I was forcibly reminded of how the political conscientiousness had always been only slightly below the surface, despite the atmosphere of personal congeniality that had prevailed in the classroom. I decided to give a cocktail party for the class and the professor whose place I was taking, and I announced this and issued the invitation to the class nearly a week before the party was to be held. It did not seem to me to be an excessive gesture toward the class, since they had treated me as a guest of the country, rather than as an unwelcome foreign intruder. I had received gifts from the class in the form of books and small personal items, and various gratifying considerations had been shown to me, and I had a feeling of very good rapport with the class. But after the next class period I was approached by several of the students who said that, although the cordiality of my party invitation was appreciated by everyone, there would be a substantial number of class members who would absent themselves from my party because of the unfavorable political connotations that would be engendered toward them within the university community. I had announced the party would be held at the American Club, a private downtown club operated by a Guatemalan staff, but catering primarily to the American foreign colony in the city. As far as I was concerned, it was simply the most logically convenient and desirable place to put on such an affair. However, it seemed that a number of students conceived the notion that this party, held under such auspices and at such a place, would appear to others to be some sort of an official function, attendance at which would signify one's having sold out to the capitalist-imperialist exploiters. I assured them of the completely private nature of the affair and that it was wholly my doing, without the least participation by the Department of State, and that I would see to it

that there would be no newspaper publicity. Finally these spokesmen said they would try to convince the skeptics of the simplicity and innocence of my invitation. They seemed to have conveyed the idea very well, because the whole class attended the party, with but two exceptions—one of whom later apologized effusively for not being able to be there because of having to take his baby to the doctor. I was very pleased with the tone and nature of the party as it developed, and highly favorable student comment subsequently circulated back to me. The congeniality of the affair was indicated by the fact that the guests stayed about two hours past the announced time of the party, which had been given as from 7:00 to 8:00. As the custom in Guatemala is to eat dinner early, I expect most of them had already had dinner before my cocktails. Incidentally, this was strictly a stag affair, as it is not considered that women would be appropriate at a function of this sort in Guatemala.

From my own personal point of view, these political overtones added zest, color and interest to my experience without entailing any baleful consequences. While the extent and importance of these unwelcome political attitudes should not be ignored, neither should they be causes for dismay. Obviously, one should take account of these known sensibilities, and not give careless or deliberate affront to them. I have no specialized talents for dealing with such situations, and my own experience suggests that the vagaries of Latin American politics need not be fearsome things, and need not interfere with the personal relationships and satisfactions of a United States citizen in his contacts with these people.