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San Jose Seminary (1768-1915)

LEO A. CULLUM, S.J.

SAN Jose Seminary was founded in 1601.¹ Its history till 1768 has been well told by another writer.² In 1915—fifty years ago—the seminary began a second period under Jesuit direction. We propose in this article to tell briefly the story of the years between.

On August 16, 1773 a brief suppressing the Society of Jesus throughout the world was issued by Pope Clement XIV. Four years before, a decree of exile had been issued by the Spanish court banishing the Jesuits from all Spanish dominions. This decree was published in Manila on May 19, 1768. On that day a body of Spanish troops surrounded the Colegio de San Jose, secured the keys and set guards on the doors.³

Four days later on May 24, Don Manuel Galban presented himself at the Colegio to make formal announcement

¹ The present article is so heavily dependent upon the manuscript history of San Jose Seminary by Father William C. Repetti, S.J. that it might be more appropriate simply to name him as the author. However since the present writer has ventured upon some interpretations of the documents which are purely his own, he is taking responsibility for the story as presented. Father Repetti's manuscript will be referred to as WR. But even where no such reference occurs, more often than not, it has been the guide to the sources.

² Horacio de la Costa, S.J. *The Jesuits in the Philippines 1581-1768*. (Harvard University Press: 1961)

³ de la Costa. pp. 583 ff.; Nicholas P. Cushner, S.J. *Philippine Jesuits in Exile* (1964) pp. 55 ff.

of the decree, to inventory the properties and make disposition for the future.

The next day Father Martin de Antonio de Abad, a member of the Congregation of the Pious Schools, was appointed Rector. This appointment was made by the Archbishop of Manila, Basilio Sancho de Santa Justa y Rufina, himself a Piarist, who obtained the approval of Governor Raon to convert the institution into a diocesan seminary for Filipinos. There were 41 students of San Jose at the time, all on vacation at the Colegio's farm in San Pedro Tunasan. These were directed to pursue their studies in Santo Tomas or San Juan de Letran or one of the several schools in the city.

This move of Governor Raon and Archbishop Sancho was resented in Manila and representations were made to the King in protest. When therefore the Archbishop reported the change to Madrid, the king rebuked him for what he called a "spoliation." San Jose was for Spanish students, to teach them grammar, philosophy and theology. There were other provisions already in existence for the Filipinos. Hence San Jose reverted to its former status and an alumnus of San Jose, Father Ignacio de Salamanca, later Bishop of Cebu, was appointed rector to replace Father Martin de Antonio de Abad. All this was not accomplished in a day. It was not until 1777 that the Colegio reopened in its old role. A notice was published March 3, 1777 that the thirteen "burses" would again be available, and that the former incumbents would be given preference if they desired to resume them. The scholarships were filled but it is not known if any of the old boys returned after the lapse of nine years.⁴

⁴ WR. 373: *Province Archives*. San Jose College. (Hereafter *Province Archives*) Mar. 3, 1777. There is some reason for thinking that between the dismissal of the diocesan seminarians and 1777, the Colegio had boys attending Santo Tomas. WR. 298: *Province Archives*. Nov. 11, 1813. The King's instructions had expressly directed that this be done. WR. 135. *San Jose College Case*, Supreme Court Records, (Hereafter *San Jose Case*) #4 and #5, Document no. 10; #7 p. 48, Document no. 1; #11, p. 62, Exhibit n. 1.

JESUITS RETURN TO THE PHILIPPINES

On August 7, 1814 the Society of Jesus was restored throughout the world. On September 10, 1815 Ferdinand VII of Spain signed a decree allowing the establishment of the Society once again in the Philippines.⁵ On May 3, 1816 this permission was further implemented by a royal order that all houses, properties and income which the Jesuits had possessed at the time of their expulsion should be returned to them, excepting such property as had been alienated with an equivalent return value (*titulo oneroso*), or had been applied to public institutions, and which therefore could not be restored without harm to the public good.⁶

Certain preliminary steps had been taken to execute this order when the Society was again suppressed in 1820. It was restored again on June 11, 1823, and a new order was issued directing the return to the Society of what remained of its temporalities, its archives and whatever else belonged to it. This decree was dated September 27, 1824. The Provincial, Father Gordón, was authorized to appoint an attorney-in-fact to receive the Society's property. He named D. José de Azcárraga, commissioner of the Royal Company and a resident of Manila.⁷

However, the government officials in Manila found difficulty in complying with the orders. No property formerly belonged to the Society could be returned. It had all either been applied to the national war fund in 1803, or was being used for important religious work. In view of this it was deemed prudent by the Manila civil authorities not to move until the king could be acquainted with the situation and had made provision accordingly.

As for the Colegio de San Jose, there was no difficulty in restoring that to the Society's administration, but it could not be surrendered to an attorney-in-fact. Manila contended

⁵ E. Frías, S.J. *La Provincia de España de la Compañía de Jesús 1815-1863* (Madrid: 1914) p. 22; Pablo Pastells, S.J., *Mision de la Compañía*. I (1914) p. 1

⁶ Pastells, *loc. cit.*

⁷ Pastells, p. 4

that the Jesuit superior had no authority to delegate the administration of the Colegio to a layman who was not competent in any case to conduct the delicate work of running a college. Nevertheless, these authorities said, there would be no difficulty in surrendering the Colegio to the Fathers themselves upon their return.

Though the Society was asked as early as 1824 to send men to the Philippines, lack of personnel and another suppression, July 17, 1834, delayed the execution of the project.⁸ On October 19, 1852 Queen Isabel II signed a royal circular which among other things dealt with the care of souls in the Philippines. It therefore reestablished the Society of Jesus in the Philippines: "declaring that by this reestablishment no right whatever is conceded them to be reinstated in the parishes and mission stations, nor in the temporalities which they possessed in those islands, it being my charge to make provision as far as necessary for their decent support and to indicate the things they are to perform in the sacred ministry."⁹

Finally on February 4, 1859 five Jesuit priests and two brothers left for the Philippines. They were destined for Mindanao but would have a central house in Manila. It was understood by both the Society and the government that they might expand into secondary education.¹⁰

After the expulsion of the Jesuits and after the brief Piarist interlude, San Jose was placed under the secular clergy. Father Salamanca was the first of this line of rectors. A report of Father Tomas Casaña, November 11, 1813, praises the high scholastic ideals of his three predecessors: Father Salamanca, Father Miguel Allende and Father Valentin Anaya, but describes conditions which, at least since the beginning of Father Anaya's term, can hardly have been conducive to the realization of those ideals.¹¹ Three quarters of the Colegio building were occupied by soldiers! It seems to have been

⁸ Pastells. p. 5

⁹ *ibid.* p. 6

¹⁰ *ibid.* pp. 7 & 9

¹¹ WR. 298: *Province Archives.* Nov. 11, 1813

Father Casaña himself who was able to arrive at an understanding with the military by which San Jose in 1817 simply moved to other quarters, to the corner of Magallanes and Real Streets.¹² Much later (1871) there was another move to 17 Cabildo St. near Anda.¹³ There are other indications as we shall see later¹⁴ that the Colegio suffered decline after it passed from the hands of the Jesuits. And Father Casaña's report probably reveals the reason. He decries the excessively minute dependence upon the royal vice-patron, and this same official's "abandonment" of the seminary. Our information on this period is spotty and the line of rectors incomplete. When the educational system was reorganized and placed under Santo Tomas, we find the rector, Father Mariano García, protesting against San Jose's inclusion in the orders (1865).¹⁵ Father Felipe Morales de Setien was rector during the later negotiations for the transfer of San Jose to Santo Tomas¹⁶ and Father Manuel Clemente was rector when the change actually took place.¹⁷

THE SOCIETY OF JESUS AND ITS FORMER PROPERTIES

Father Pío Pi, S.J. says: "The new mission was only established upon acceptance of the condition imposed by the Government of Madrid that it would not ask back any of its old properties."¹⁸ This is undoubtedly true, but can lead to a misunderstanding unless one makes a clear distinction, made by everybody at the time, between the property of the Jesuits and the Colegio de San Jose. The King, for example, in his

¹² WR. 222: *Province Archives*. Casaña's report of 1813 pp. 16 & 17; Fernando Benítez. *Reseña Histórica del Real Colegio de San José desde su creación hasta fines de 1882*. (Manila: 1883), p. 20. Until the move to Magallanes St., the Colegio had been situated from its very foundation on the northwest corner of General Luna and Muralla.

¹³ WR. 223: *San Jose Case*. #7, pp. 195-203; #11 pp. 256-7.

¹⁴ Cf. *infra*, n. 38.

¹⁵ WR. 72: *Province Archives*. Letter of Mariano García. Nov. 29, 1865.

¹⁶ WR. 144: *Report of the War Department* 1901. (Washington, D.D., 1901), Vol. I, Part 10, (Hereafter War Department) p. 720; *infra* p. 18

¹⁷ WR. 149: *San Jose Case* #11, p. 259; *infra* p. 24

¹⁸ Pastells. *Carta-prologo*. p. v.

rebuke to Archbishop Sancho said: "the said order of the Society of Jesus had no rights over the College except direction and management."¹⁹ And when the authorities of Manila in 1825 reported on the possibility of returning Jesuit property, they carefully distinguished between the property of the Jesuits, which had all been alienated and "the Royal College of San Jose." "There does not exist," they wrote, "in these islands any property which might be called the actual property of the Jesuits...and the second class of property, that is property over which the Society had simply the right of administration...presents graver difficulties."²⁰

The Jesuits never understood that they had renounced all rights to the Colegio. This is explicitly stated by Jesuits who may be presumed to have known what the Society understood and to be reporting that attitude truthfully. There is a typewritten document in the archives of the Society of Jesus, dated September 22, 1906, a copy of one that was given to Archbishop Harty, which states that even before the Society returned to the Philippines, it had asserted its right to San Jose.²¹

After the return of the Society, it had continued to hold that position. Father Fidel Mir, Superior of the Mission, in a letter to the Apostolic Delegate, states categorically "the Society...has always believed it had the exclusive right to the administration of the revenues of the old Colegio, conformably to the will of the founder of the pious fund."²²

Naturally it is strange that the Jesuits did not assert this right. But the documents in the case show that at least on one occasion they did assert it. After the Society returned to the Philippines, they brought their case indirectly to the attention of the authorities through D. Felipe Govantes, Council-

¹⁹ WR. 136: *San Jose Case* #4 & #5, Document no. 10; #11, p. 62; Exhibit 1; Blair and Robertson. *The Philippine Islands 1493-1899* (Cleveland, Ohio: 1904) XLV pp. 125 ss.

²⁰ WR. 157: *San Jose Case*, #11 pp. 291-292

²¹ WR. 158

²² WR. 160

lor of the Administration.²³ But the Society never brought official action for reasons that are easy to understand.

It must be remembered that the Society returned to the Philippines in 1859, seven Jesuits. They were destined for Mindanao, but were detained in Manila by popular demand.²⁴ Some did go to Mindanao to open up the great reduction of Tamontaca. But the Jesuits who remained in Manila were few in number and confronted with work far beyond their capacity. They were interested in God's work, not in pushing their abstract rights. If San Jose had been offered to them they would have been in no position to run it.²⁵

Moreover at the time they arrived there was a project on foot to assign the estate to Santo Tomas University for the support of the schools of pharmacy and medicine. There were elements among the secular clergy,—the secular clergy was administering San Jose—which opposed this. The Jesuits would have no desire to intervene in a problem which might be an occasion of ill-will between them and the Dominicans. Father Fidel Mir says: "the Mission never laid a formal claim before the ecclesiastical or civil authorities for reasons of a higher nature, that all who knew the state of things in the Philippines at that time could divine."²⁶

It seems that Father Mir is referring here to something more than the sensitive area of Dominican-Jesuit relations, though at this time there were special reasons for treading softly. The reorganization of education in the Philippines had set up Santo Tomas University as a kind of department of education. Students of other schools were examined by professors of Santo Tomas. The Jesuits were probably not very happy about this.

But it is more probable that Father Mir is referring to something more explosive in his enigmatic remark. We have

²³ WR. 158 & 160

²⁴ Pastells, p. iii

²⁵ *ibid.*, p. 320. The Jesuits turned down a request to run a seminary around 1879. What seminary was this?

²⁶ WR. 160

seen that San Jose was run by the secular clergy. The time must also be remembered. In 1872, only thirteen years after the Jesuits returned, Fathers Zamora, Burgos and Gomez were executed. The feeling between secular clergy and Spanish religious was at a fever pitch.

There are extant copies of an interchange of letters between the Rector of San Jose, Father Mariano García, and the Rector of Santo Tomas, Father Francisco Rivas, apropos of the Dominican hegemony in education. These letters manifest an intensity of feeling that seems to indicate a deeper issue than the superficial occasion of their writing.²⁷

It is also probable that San Jose was considered a center of sedition and the secularization movement. One reason why Jose Rizal went to the Ateneo Municipal and not to San Jose, as his brother Paciano had done, was because at San Jose, Paciano had been associated with some nationalist leaders and friends of the three martyr-priests, one of whom had been a student at San Jose. In fact Paciano's experience with the authorities was the reason why the national hero changed his name from Mercado to Rizal.²⁸ If this is true, that San Jose was considered a center of revolutionary thought and dangerous propaganda, it would be a good reason why the civil and ecclesiastical authorities would want it to pass into the control of Spaniards whose loyalty was beyond question. At the same time it would be a good reason why Jesuits would not want to touch the problem.

Much of this is admittedly conjecture but Father Mir's reference to the delicate situation *at that time* seems to point to something more than the perennial Jesuit-Dominican touchiness, and even to something more than the embarrassing education structure which was in existence for a short time after the Moret decrees.

²⁷ WR. 72-84: *Province Archives*. Letters of Mariano García, Nov. 29, 1865, Jan. 17, 1866; *San Jose Case*. #11, pp. 111-122

²⁸ Leon Ma. Guerrero. *The First Filipino*. (Manila: 1963), pp. 13, 37-28.

DOMINICANS RECEIVE THE COLEGIO

When the Jesuits arrived in 1859, they found, as we have said, a plan already far advanced to allocate the Colegio de San Jose to Santo Tomas University.²⁹ As early as April 2, 1842 a Commission on Studies had been organized at the direction of the Madrid government, and they were told to weigh, among other things, the possibility of using the funds of the Colegio de San Jose for other educational purposes. It is reasonable to suppose that the original suggestion in this regard came from Manila.

The board was composed of a member of the Royal Audiencia, the Rector of Santo Tomas University, a prebend of the Cathedral (who was also Rector of the Colegio de San Jose), a member of the Ayuntamiento, and a member of the Economic Society. Father Vicente Ayala, O.P. drew up a plan to allocate the Colegio de San Jose to support the university's faculties of medicine and pharmacy. The Rector of San Jose opposed the proposal, but the commission as a whole approved and sent its report to Spain on March 4, 1844.

No action was taken on this report. A royal order of August 2, 1846 ordered the Governor to draw up a detailed budget for education. A Commission was named for the purpose but apparently accomplished nothing, for seven years later it was reorganized for the same purpose. On June 15, 1855, the Commission, of which Father Pedro Pelaez was secretary, presented the budget. The revenues of the Colegio de San Jose were included in the budget as available for educational purposes.³⁰ Father Pelaez was a secular priest, at one time ecclesiastical governor of the Archdiocese of Manila.

In 1869 Father Morales de Setién, Rector of the Colegio de San Jose, judged a change in the use of the Colegio funds desirable. He thought that in view of the fact that Manila was

²⁹ WR. 141 ss.

³⁰ *Ibid*; Juan Sánchez y García, O.P. *Sinopsis Histórica Documentada de la Universidad de Santo Tomas de Manila*. (Manila: 1928), pp. 59-60

already well provided with secondary schools, something else, dictated by the needs of the nation, should be undertaken.³¹

On August 13, 1870, a board composed of the Rector of the University of Santo Tomas, the Rector of the Ateneo Municipal,³² the Rector of the Colegio de San Jose (Father Setién), and representatives of the Santo Tomas faculties of medicine and pharmacy, gave as their opinion that the application of the funds of the Colegio to the University faculties would not be contrary to the conditions of the foundation.³³

On April 14, 1871 another Committee including among others Father Magín Ferrando, S.J., (Minister of the Ateneo Municipal) and Father Setién, Rector of the Colegio de San Jose considered the same problem. Apparently the decision of this committee too declared for the liceity of the change, though Father Ferrando and Father Setién argued strongly against the other members. Father Setién therefore had undergone a change of mind since the previous year.³⁴

Still nothing happened. The University of Santo Tomas was endeavoring to run its faculties of medicine and pharmacy and was finding it an excessive financial burden. The Procurator of the Order of Preachers in Madrid, Father Pedro Payo, presented a memorial to the government there explaining the difficulties the University was experiencing in operation and urging the now thoroughly debated solution, namely that Colegio de San Jose funds be made available.³⁵ Finally a de-

³¹ WR. 144: *War Department*, p. 722

³² Father Juan Vidal was Superior of the Mission and Rector of the Ateneo Municipal when the Commission was formed. Father Pedro Beltran held these positions and Father Martin Luengo was vice-Rector of the Ateneo when the Commission rendered its decision. It is not clear which of the three acted on this committee.

³³ WR. 142: *San Jose Case*, #11, pp. 506-7; Benítez, pp. 34-35; *War Department*, p. 720; Blair and Robertson, XLV, 132

³⁴ Pastells, p. 122. Father Ferrando was the priest, who, having spent the night with Fathers Burgos, Zamora and Gómez before their execution, said Mass for them and gave them Holy Communion. He then accompanied them to the place of execution. Other Jesuits and other religious sought also to help them. Pastells, 127-128

³⁵ WR. 145: Sánchez y García, pp. 97-98; Pablo Fernández, O.P. *Dominicos Donde Nace El Sol* (Manila: 1958), p. 378

cree of Alfonso XIII, October 29, 1875, brought the long debate to a close converting the Colegio de San Jose into the faculties of medicine and pharmacy of the University of Santo Tomas.³⁶

It is important to understand the issues of this debate in order to avoid drawing mistaken conclusions. First the University of Santo Tomas was confronted with the grave problem of supporting faculties of medicine and pharmacy. It was certainly important for the welfare of the Philippines that these faculties should be continued and therefore that funds should be found. Secondly, the Colegio had funds; there were three haciendas together with a certain amount of city property and investments which were producing revenues for the Colegio.

Regrettably this money was being badly employed. The Colegio de San Jose did not maintain good standards.³⁷ Moreover its financial administration was wretched. The Philippine Commission said some forty years later, speaking of the administration of the Colegio during the period between the suppression of the Society of Jesus and the incorporation in the University of Santo Tomas: "The management of the college was not successful and the administration of its properties was negligent, and possibly in some years corrupt."³⁸ In other words the ample revenues of the Colegio were being wasted when they could be so well employed.

They offered an excellent solution to the difficult problem, if they could be made available. But could they? Was it con-

³⁶ Fernandez, Lc.

³⁷ Evergisto Bazaco, O.P. *History of Education in the Philippines* (Manila: 1953) p. 313. Father Bazaco says that "the students of San Jose did not reach a dozen." He seems to be referring to the "scholars" i.e. those receiving a free education. We have the list of those who received burses in 1877 when the new administration took over. There were fifteen. WR. 360: Benitez. Appendix VII, p. xxxiii. Moreover the enrollment in 1861 was 368. WR. Lc.; *Guía Oficial de 1861*; Miguel Saderra Masó, S.J. *Misiones Jesuíticas de Filipinas* (Manila: 1924) p. 44

³⁸ *Report of the Philippine Commission (1907)* (Hereafter Philippine Commission) p. 340

sonant with the conditions attached to them to convert them into resources for the faculties of medicine and pharmacy at Santo Tomas? For over thirty years learned and good men had felt differently about this.

What was the issue? Certainly the explicit purpose of the Figueroa bequest was not in doubt. The will said:

. . . shall be used to found a college in the manner that shall be stated below. . . A house shall be built next to the Society of Jesus [i.e. the old College of the Jesuits] of the City of Manila . . . which shall be used for a college and seminary for boys where all those may enter who desire . . . to learn first letters in such a seminary. . . And if any income remains after payment of maintenance for said boys and clothing for those that are poor, the said patron may dispose of it, and dispense it according to his will, whatever it may be, on the said College [of San Jose] and in that of the Society [College of Manila], or in any other pious work, as he may deem best.³⁹

Therefore the primary purpose was certainly a house where boys could live and be educated in first letters. Implicit in the circumstances, though not expressed in the terms of the bequest, was the objective of fostering priestly vocations in those showing aptitude for the calling.⁴⁰ The money derived from the Figueroa bequest was further to feed and keep these boys, and clothe them if necessary.

This much seems clear. On what grounds then could the funds of the Colegio be alleged available for any other purpose than this? It is difficult at this distance and in the absence of a complete record of the discussions to know exactly on what arguments the proposal rested. There seem to have been two lines of approach. The first denied that the bequest was intended to establish a "house for boarding students" and that with regard to study and education there is nothing said of what class or faculty these should be, the only

³⁹ WR. 25-26; Colín-Pastells. *Labor Evangélica*. Nueva Edición (Barcelona: 1900) II, 483, n.

⁴⁰ Figueroa had been very much interested in the founding of the College of Manila, which had as one express purpose, the providing of a clergy. It is altogether likely therefore that this same purpose is implied in this other project of establishing a boarding college at the side of the College of Manila. WR. 11: Colín-Pastells. I, 505; II, 29

provision being for the education in virtues and letters of the sons of well-born Spaniards."⁴¹

The second argument was based on the wide powers conceded to the administrator [now the King of Spain] in the event that a surplus of revenues should remain. Since in the circumstances of the second half of the 19th century, the original purpose was not being properly served and was moreover no longer even useful with the abundance of better education available, it was argued that the administrator was empowered to allocate the funds to other charities.⁴²

San Jose's low level of education and the abundance of better schools had produced a condition in which the funds of Figueroa were as a matter of fact not achieving their purpose but were providing sinecures for ecclesiastics with little to show in the way of educational fruits. Therefore the problem arose of seeking to accomplish the wider purpose of Figueroa as intimated in the second part of the will, where he allows the Patron to apply a surplus to other educational work, and almost any good work. The argument held that it was reasonable to judge that Figueroa would want his money used for other purposes since the primary purpose was being so poorly achieved.

We do not know which of the above lines of reasoning prevailed with the authorities in Madrid. In any case a royal decree was issued, as we have noted, on October 29, 1875 reorganizing the University of Santo Tomas and prescribing that the College of Medicine and Pharmacy should be lodged in the Colegio de San Jose and be supported by its revenues.⁴³

Thus after 35 years of discussion the question was solved. The slow pace was due to the fact that Spain was going through a series of political crises, with government following government, and continuity was difficult.

⁴¹ Cf. note 33 supra.

⁴² Cf. note 31 supra.

⁴³ WR. 148; Blair and Robertson XLV pp. 133-134; Sánchez y García pp. 102-106; Saderra Masó p. 44; Benítez pp. 37-38; *San Jose Case* #7. p. 55 Document "K"; #11 pp. 72-76; *Gaceta de Manila* Jan. 18, 1876.

As first Rector in the new arrangement Father Manuel Clemente was renamed.⁴⁴ After one year in office he was made the subject of an investigation and was found guilty of incompetence and was made to resign.⁴⁵ After his resignation there was a brief period when San Jose was under the Rector of Santo Tomas as Director and a layman as Administrator. On March 24, 1880 Madrid prescribed steps to place the Colegio more fully under the Rector of Santo Tomas.⁴⁶

The question thereupon arose as to the number of scholarships which had to be awarded. At the time the Colegio ceased functioning as a secondary school there were twenty boys receiving a free education. After the conversion of the Colegio to the University these twenty boys were distributed between Letran and the Ateneo.⁴⁷

But meanwhile the administrators were studying the question of burses more deeply. As a result of their study they came to the conclusions that 1) only the original Figueroa money was encumbered with burses, which were three in number. 2) The rest and major portion of the estate was not so encumbered. It was simply property of the Colegio and its income was at the disposal of the authorities for any educational purpose they might choose. 3) This second class of property itself carried a few small obligations.

The Government was not entirely satisfied with these conclusions and asked Father Juan B. Heras, S.J. whether he could supply any information about the scholarships formerly existing under the Jesuit administration. Father Heras was Superior of the Mission at the time.

In his reply Father Heras agreed with some points in the findings of the administration. He listed certain scholarships which had been founded at various times by individuals subsequent to the establishment of the Colegio. He thought these were seven in number. But apart from these he denied

⁴⁴ WR. 149; *San Jose Case*, #11. p. 246.

⁴⁵ WR. 151; Benítez, p. 42; *War Department* p. 721

⁴⁶ WR. 153; *War Department*, p. 122.

⁴⁷ WR. 375; Benítez. p. 38; *Anuario de Filipinas*. 1877 p. 216

that there could be any question of scholarships in connection with the estate. The *whole net* income was to be devoted to the education of young men. Hence the number of men receiving a free education differed from time to time according to the fortunes of the estate. But whatever it was, the whole net income had to be devoted to the purpose of the founder. Father Heras said:

After the endowment, the college was obliged in justice to devote all the inherited property with its revenues and products, whatever their nature, to the purposes of the foundation, which were: 1° to secure a suitable building, and 2° to support the number of students possible, with the corresponding faculty, to which it was obliged to devote all that remained from the first [purpose i.e. building] without being empowered to devote any part of it to other purposes, although pious, without the express will [except as expressed in the will?] of the founder.⁴⁸

Father Heras' opinion was referred back to the committee which in spite of it maintained its original position that the number three had been fixed in the original document as a ceiling. Among the documents they themselves presented as an exhibit was one which explained the number of burses as three "because at that time they [the revenues] could not be extended further," a phrase which seems to favor Father Heras' view of the question.⁴⁹

In any case the opinion of the administrators prevailed. The scholarships were reduced from 20 to 15 in a few years, and presumably kept at a level of three thereafter.

THE SAN JOSE CASE

On June 13, 1899 the Rector of the University of Santo Tomas asked General E. S. Otis, Military Governor, for authorization to open classes in the University. Apparently somebody had been talking to the General for he asked for time to study the status of the University, and requested a complete account of property, and other information concerning the Colegio de San Jose. The Rector replied very reasonably

⁴⁸ WR. 376. *Province Archives*, May 21, 1879.

⁴⁹ WR. 376-386; *Province Archives*, Nov. 21, 1879; May 21, 1879.

that the opening of classes in medicine and pharmacy could have no bearing on the issue of ownership; but Otis stood firm.⁵⁰

The influence at work was the Philippine Medical Association led by T. H. Pardo de Tavera which advanced the opinion that the Colegio de San Jose had been Spanish government property, and so now with the fall of the Spanish regime, became the property of the United States of America.

As soon as the Philippine Commission arrived, the case was brought to their attention. General Arthur MacArthur, who had succeeded Otis, asked for a decision from the Commission. A group of eleven professors of the suspended faculties delivered a vigorous protest against the action of the Pardo de Tavera group. They characterized it as an effort to get control of the faculties for themselves.⁵¹ There seems no doubt that the Association was motivated by other considerations than the advancement of science. In their appeal to the United States government they revealed their animus by emphasizing the need of withdrawing "secular" subjects like pharmacy and medicine from monkish influence.⁵²

The Philippine Commission at first wished to appoint a joint administration for the faculties but both sides rejected this. Then the Commission proceeded to hear evidence on both sides. Pardo de Tavera was the soul of the attack; his attorney was Felipe Calderón. Archbishops Nozaleda and Chapelle presented the arguments for the Church.⁵³

On January 6, 1901 the Commission summed up its conclusions regarding the Colegio.⁵⁴ They first state the problem: what was the status of the property at the time of the Treaty of Paris? was it ecclesiastical or state? The Commission felt obliged to accept as right whatever status obtained

⁵⁰ WR. 91 ss: Blair and Robertson. XLV *passim*; Sánchez y García. pp. 128-134.

⁵¹ WR. 94: Sánchez y García, pp. 134-138.

⁵² WR. 92: *War Department*, p. 715.

⁵³ WR. 94-95: *War Department*, 1.c.; Sánchez y García. 1.c.; *San Jose Case* #2, 3, 4 & 5.

⁵⁴ WR. 97: *War Department*, pp. 714-732.

under Spanish law; they could not, they said, reexamine decisions made previously in the history of the Colegio.

The Commission thought that the arguments presented by both sides were respectable, and that therefore the case could and should be referred for a decision to the Supreme Court of the Philippines which they authorized by special law to take cognizance of the case in first instance. The Commission appointed to prosecute the case a Board of Directors of the Colleges, who were Directors only for the purpose of the case, and were inhibited from endeavoring to take control of the faculties. This Board was made up of: Dr. T. H. Pardo de Tavera, Dr. Charles R. Greenleaf (Colonel and Chief Surgeon of the Division of the Philippines, U.S. Army), Dr. Leon Ma. Guerrero, Dr. Manuel Gómez Martínez and Dr. Frank S. Bourns.

The Commission stated that in naming Pardo de Tavera to represent the United States' claims, it did not accept thereby his contention, but wished simply to assure the vigorous prosecution of the case. They also expressed their regret that the case had become surrounded with political passion. It should be decided exclusively according to law. Finally they saw no reason for keeping the faculties closed, and so on January 22, 1901, General MacArthur revoked the Otis order.⁵⁵

Taft in a communication to the President of the United States later said that of the Commission, he and Wright thought the property was ecclesiastical; Worcester, Ide and Moses wished the United States Government to press its claim.⁵⁶

The Supreme Court began taking evidence on December 28, 1901. The line which the Pardo de Tavera group took was that the Colegio was an institution having as its purpose an activity that was not religious, namely education. The administrator of the institution and its funds was the Provincial of the Jesuits. When the Jesuits were expelled, and when there-

⁵⁵ WR. 104: *San Jose Case*. #11 pp. 76-80.

⁵⁶ WR. *ibid.*: *Philippine Commission*. p. 314.

fore there was no Provincial, the state stepped into his shoes to administer the estate for the purpose designated. Now that the United States had succeeded to Spain, the United States should succeed to the role of administrator.

The argument of the Catholic Church was that the Colegio was founded for a religious purpose, not *any* education but Catholic education. When the Jesuits were expelled, the King stepped in not as King but in virtue of the *Patronatus* by which he had wide powers in ecclesiastical affairs. He was therefore Patron of the College. When Spain left the Philippines, the Archbishop of Manila was the proper successor, and to him in fact the departing Spanish Governor-General surrendered the administration of the Colegio.

While the case was being heard, and while the decision was pending, negotiations were under way to settle the San Jose case, and other similar cases, extra-judicially and by one agreement.

In 1902 Taft visited Rome and was successful there in obtaining consent to an extra-judicial settlement of the San Jose case in conjunction with other properties under study. Taft returned to the Philippines and conferred with Monsignor Guidi, the Apostolic Delegate. As a result of these negotiations the case before the Supreme Court was suspended.

However several things happened to abort these negotiations. First of all, Taft was called to the United States to become Secretary of War in the Roosevelt cabinet. Leo XIII died on July 20, 1903. Monsignor Guidi died June 26, 1904. With the negotiations thus at a standstill, the Supreme Court case was resumed.⁵⁷

However, extra-judicial efforts were not completely dropped. The Philippine Commission offered a settlement by which the Church would recover everything but San Lazaro, which was to remain in the hands of the civil authorities as a hospital.

In 1905 Taft, who returned to the Philippines, made substantially the same offer to Msgr. Agius who had succeeded

⁵⁷ WR. 106: *Philippine Commission*. p. 313.

Guidi as Apostolic Delegate.⁵⁸ In anticipation of a settlement favorable to the Church as a result of these negotiations, but apprehensive of what subsequent action might be, Father Santiago Payá, Dominican Procurator at Rome, obtained a brief from the Holy See confirming the University in possession of the Colegio. This was published in the daily papers.⁵⁹

On June 8, 1907 a tentative agreement was signed between Taft and Harty incorporating the terms that had again and again been suggested, namely that the civil government retain San Lazaro, the Church get all the rest.⁶⁰ On September 23, 1907 the Philippine Commission passed Law 1724 which authorized the Attorney General to conclude an agreement according to the terms agreed between Taft and Harty. Consequently Gregorio Araneta, the Attorney General, on January 29, 1908 appeared before the Supreme Court and requested it to decide the case according to the agreement as described.⁶¹

In all these negotiations and in the motion as presented to the Supreme Court there was always appended with reference to San Jose a qualifying clause to the effect that it was "to be administered for the special purposes of the foundation." There was no doubt what the parties meant by this, at least in its negative implications. It was not to continue as the Colleges of Medicine and Pharmacy of the University of Santo Tomas.

⁵⁸ *Philippine Commission*, p. 316.

⁵⁹ WR. 109: Sánchez y García. pp. 143-145; Fernandez. *Dominicos*. p. 551.

⁶⁰ *Philippine Commission*. 320-324. There were seven properties in controversy: Hospicio de San Jose, Hospital de San Juan de Dios, Colegio de San Jose, Hospital de San Jose de Cavite, Colegio de Santa Isabel, "the buildings, plant, foundation and estates known as the Santa Potenciana," and finally the Banco Español-Filipino. Taft said there was really no doubt that Santa Isabela was ecclesiastical, nor that Santa Potenciana was civil. Regarding the Bank the question was not of ownership but of certain provisions of its charter. In addition to retaining San Lazaro, the government also got Santa Potenciana, and obtained its wishes with regard to the bank.

⁶¹ WR. 115: *Province Archives*. Sept. 23, 1907; Sánchez y García. pp. 151-152.

Father Raimundo Velásquez, the Rector of the University, who saw the way events were shaping, through his legal counsel filed a motion before the Supreme Court to prevent the Harty-Taft agreement from going into effect.⁶² This was less than three weeks after Araneta had appeared before the Supreme Court to present the agreement.

Agius, the Apostolic Delegate, who was strongly in favor of the agreement, was in Rome in 1909. Father Velásquez was informed that it was the wish of the Holy See to allow the agreement to be consummated, and that he should withdraw his motion, which he did.⁶³ On November 20, 1909, the agreement was signed between the civil government and the Church, Father Velásquez being one of the signatories.⁶⁴

Everything was clear now for a decision, and therefore on December 8, 1909 the decision was handed down by the Supreme Court making final the provisions of the agreement. The decision was signed by Justices Arellano, Mapa, Johnson, Carson, Moreland, and Elliott.⁶⁵

RETURN TO THE JESUITS

The inevitable question had been raised whether the estate should go back to the Jesuits. It had been the opinion of the Philippine Government from the very beginning that use by Santo Tomas was a departure, if indeed possibly a legitimate and beneficial departure, from the pristine purpose. Their opinion is recorded in the Report of the War Department 1901 and echoes the conclusions of Lieut.-Col. Crowder who had been deputed by General Otis to examine the case at the end of July 1899.

. . . it was argued that the specific intention of the founder had failed and that the general intention in favor of educational charity should be effectuated by the government through a *cy-pres* application of the funds, or as the canonical phrase is, by commutation.⁶⁶

⁶² Fernandez. 551-552.

⁶³ *ibid.*

⁶⁴ WR. 118.

⁶⁵ *ibid.*

⁶⁶ WR. 144: *Report* Vol. I, part 10 p. 720.

Cy-pres was a principle adopted in English law by the court of chancery in dealing with trusts for charitable purposes. When the charitable purpose intended by the testator cannot be carried into effect, but the general charitable intent is clear, the court will apply the funds to some other purpose as near the original as possible.

In other words the Philippine Commission judged the use of the funds in the faculties of medicine and pharmacy to be a departure from the original purpose of the will, but conceivably a justifiable departure on general principles of law.

We have seen that almost from the very beginning, namely from 1902, efforts were made for a package agreement which would include San Jose and the other properties. San Lazaro alone of all the really disputed estates was to become civil property. On July 2, 1907 Taft wrote to President Theodore Roosevelt:

The members of the Commission were long convinced of the wisdom of ending the litigation . . . and agreed that if we could secure the administration of the San Lazaro property as a leper hospital and for other diseases, we would be entirely willing to allow the other trusts to be administered without question by the Roman Catholic Church. . . .

Accordingly, in the discussion with Monsignor Agius, the Apostolic Delegate, I renewed a proposition, as Secretary of War in 1905, which the Commission had made before my visit to the islands in that year, that if the Church would consent to our holding and administering the San Lazaro Estate, which was in our possession, we would compromise by allowing the Church to retain all the other trusts, including the College of San Jose which was in litigation, and would consent to a decree directing that that be turned over to the control of the Archbishop of Manila, for administration, in accordance with the original purpose of the founder.⁶⁷

Therefore as far as San Jose was concerned, its return was qualified. It was to be used "in accord with the original purpose of the founder." This phrase which echoes the Philippine Commission's conclusion from the Crowder report, now occurs in all the documents dealing with negotiations. It is contained in Law No. 1724, in the motion of the Attorney Gen-

⁶⁷ *Report of Secretary of War in Report of Philippine Commission* 1907. pp. 315-316.

eral before the Supreme Court and finally in the decision itself of December 8, 1909: "and in view of the stipulation of the agreement that San Jose be awarded to the Catholic Church, the Supreme Court did so award it to be administered for the special purposes of the foundation."⁶⁸

Archbishop Harty's views were even more emphatic. Writing to President Roosevelt, he said, speaking of the transfer of the property to the University of Santo Tomas in 1878. "...the King of Spain exceeding according to my understanding, the faculties which he possessed as Patron, ordered its income dedicated to the support of the faculties of medicine and pharmacy."⁶⁹

It is not contended here that either the opinion of the Philippine Commission or of Archbishop Harty was correct. The same issue had been debated back and forth for thirty or forty years under the Spanish regime without very clear conclusions. It has not grown clearer with the years and the disappearance of evidence. But it is clear what opinion the American lawyers and Harty held. This attitude helps us to understand the climate of thought in which the negotiations were carried on.

Meanwhile what was the Society of Jesus doing, if anything? We have seen above that the Society of Jesus never felt that it had lost its right to San Jose.⁷⁰ However the only record we have for this period is dated after American opinion had formed. It is the document dated September 22, 1906 already referred to, which asserts the Society's right to the possession of San Jose. It could have been occasioned by the brief which Father Payá obtained from the Holy See confirming Santo Tomas in possession of San Jose. The brief had appeared in the newspaper only a few months previously.⁷¹

There was one circumstance which caused the Society of Jesus to manifest special interest in the fate of the Colegio.

⁶⁸ WR. 119.

⁶⁹ *Philippine Commission*. p. 326.

⁷⁰ *Supra*. n. 21 & 22.

⁷¹ *Supra*. n. 59.

When Monsignor Guidi arrived in the Philippines in 1902 the Society was still operating the Normal School on Padre Faura. The new delegate asked the Society to open a seminary and this was done.⁷² Archbishop Harty arrived on January 16, 1904 when the enterprise was already well advanced. From the beginning there were financial difficulties with the seminary which was called San Francisco Javier. Clear agreements had not been made with the Archbishop, and as a result finances were in a deplorable condition. Under these circumstances Father Fidel Mir wrote to the Apostolic Delegate, March 24, 1909. At this time the decision with regard to San Jose was already practically a *fait accompli* and the letter could have had no effect on it.⁷³

In his letter Father Mir says, as we recorded in part above, that the Society of Jesus had always believed that it was the rightful administrator of the Colegio, and had actually under the Spanish regime brought its claims to the attention of the civil authorities, but had not pressed them. Also upon the arrival of the American authorities, the Society had made no move to enter the litigation as a third party. However the case having been settled, the Society felt it could and in fact should apply for the return of the administration, since that was the clear mind of Figueroa the donor. The revenues of the estate would be also a solution of the grave financial problem that confronted them in running the diocesan seminary.⁷⁴

The letter was addressed to Monsignor Agius and anticipated the official court decision by three months. However it shows that it was well known what the decision would be. The compromise had been presented to the Supreme Court the previous January.

This was in 1909. It may be asked whether the Jesuits were busy even before this in forming an opinion favorable to

⁷² Joaquín Anón. "Manila: Our Colleges and Sodalities". *Woodstock Letters*. 32 (1903), 101-102.

⁷³ WR. 161.

⁷⁴ Here is another indication of the intention of the Jesuits to realize the purpose of the San Jose funds in San Francisco Javier. This was actually done, and it was not for some years that the name San Jose was substituted.

their claims. It is conceivable that this was so in some degree, and if it was so, there is nothing discreditable in urging just claims, but there seems to be no evidence to that effect. It may be taken for granted that Guidi, Harty and Agius consulted the Jesuits.

The qualifying clause about San Jose in the Supreme Court decision was critical. The United States civil authorities left the Church entirely free in the administration of the properties except San Jose, whose use was restricted. The Church therefore, in accepting the compromise, was not free to return the property to Santo Tomas for the Colleges of Medicine and Pharmacy.

In Rome in the meantime the Society was scrupulously holding aloof from the negotiations. Father Wernz, the General of the Society of Jesus, on April 10, 1910 wrote to the Superior of the Society in Manila, explaining what his attitude had been.

While this question was being discussed in Rome there was no interference of the Society whatever either in presenting it to the Apostolic See, or in urging its treatment, or securing a final decision of any kind. The whole question was dealt with and discussed by the Apostolic Delegate with the Supreme Pontiff and the Cardinal Secretary of State; on our part we refrained religiously from touching it. Even from the very first arrival of the [case] I declared and protested that the Society did not urge any of its rights lost by the suppression, and much less the administration of the College of San Jose, awarded by Apostolic authority to the Dominican Fathers . . . Wherefore from the time that the suit or controversy over the goods of that College arose, we completely left the discussion and handling of the matter to the Apostolic Delegate and Bishops who were defending the revenues of the property which the American government was claiming for itself. . . .⁷⁵

After the decision of the Supreme Court on December 8, 1909, Rome moved swiftly. Everything had been thoroughly discussed beforehand. Cardinal Merry del Val, Papal Secretary of State, wrote to Father Wernz on April 12, 1910 informing him of the decision of the Holy See. At the same time the Cardinal informed the Master General of the Order of

⁷⁵ WR. 164-165: *Province Archives*. Apr. 15, 1910.

Preachers and Monsignor Petrelli in Manila, who was acting for Monsignor Agius. Petrelli immediately got in touch with Father Fidel Mir in a letter of April 13. Wernz instructed Mir in a telegram to accept the administration. The official decision of the Holy See came out on May 3, 1910. In this letter the Holy See made its own the opinion which had gained acceptance in both civil and ecclesiastical circles in Manila that the use since 1875 had been a departure, stating that the property should be returned to its original destination, "restituatur in pristinum statum."⁷⁶ The letter then went on to direct that the estate should be turned over to the Jesuits for the education of priests. Certainly this was in full harmony with the original destination, but if the Holy See meant to affirm that the "pristine use" of the Colegio properties had been exclusively and specifically for the training of seminarians, it was stating something which could be confirmed neither from the original bequest nor from the subsequent history of the Colegio.

DETAILS OF THE TRANSFER

Immediately upon receipt of official notification from Rome steps were taken to effect the transfer. It was agreed that the University should continue to use the classes and laboratories of the Colegio during the school year 1910-1911.⁷⁷ On August 16, 1910 Father José Clos, S.J. accepted transfer of the properties acting for the Apostolic Delegate.⁷⁸

The next step was to have the Archbishop renounce all claim on his part, which he did on October 25, 1910.⁷⁹ Thus all was ready for the transfer to the Society which took place on March 20, 1911. In the transfer it was stipulated that the University would continue to use the buildings of the Colegio situated on 100 Anda St. and 198 Cabildo, Intramuros, Manila for a period not to exceed five years, with the option of buying them if the University so desired.

⁷⁶ *Acta Apostolicae Sedis* 2 (1910) 326.

⁷⁷ Fernandez, p. 553.

⁷⁸ WR. 166.

⁷⁹ WR. 167: *Province Archives*. Oct. 25, 1910.

The announcement of the transfer caused excitement among the students. A committee was formed and a meeting held which resulted in a decision to send a delegation to Rome to appeal the case. The meeting was followed by a parade through the streets. The animus of the students was especially directed against the Apostolic Delegate.

In August the medical and pharmacy students went on strike and were joined later by all the other students except those in theology. A meeting was held in the Manila Opera House, attended by representatives of twelve other schools. The students threatened court action for breach of contract inasmuch as they had no place to continue their medical studies in Spanish. The Consistorial Congregation met the protest by ordering that the University be allowed to continue to use the buildings for five years rent-free⁸⁰ This was to last until June 30, 1916. Thus the transfer was not fully accomplished until that date. At the expiration of the five year grant, the University continued the use of the building at a monthly rental, an arrangement that lasted until 1927.

SAN JOSE REDIVIVUS

To understand what took place at this juncture it is necessary to recall certain facts already alluded to. At the end of the hostilities in Manila the Jesuits resumed operation of their Escuela Normal. Not long after this they were asked by the Apostolic Delegate, Msgr. Guidi, to undertake the education of priests, a request which Archbishop Harty seconded upon his arrival.⁸¹ Consequently in June 1904 the Jesuits opened a seminary in the Padre Faura building under the title of St. Francis Xavier Seminary. In 1911 this institution opened its doors to non-seminary students.⁸²

⁸⁰ Fernandez, p. 553.

⁸¹ Joaquín Anón, l. c. Also same author. "La Compañía de Jesús y la Educación de Juventud." *Cultura Social* II (1914) 446; *Cartas Edificantes de la Provincia de Aragón* (1915) p. 61.

⁸² Minutes of Administrative Meeting, San Francisco Javier. Dec 18, 1910; *Cartas Edificantes de la Asistencia de España* (1910) no. 2, p. 355. It seems that only in 1911 did this become a regular policy

Meanwhile the Jesuits and the Dominicans were adjusting the matter of the transfer of the properties of San Jose. As soon as funds were made available, history repeated itself. As in 1610 upon adjudication of the estate to them, the Jesuits had simply made an existing institution the beneficiary in pursuit of the Figueroa objectives, so in 1911 the funds were put to use in the already existing San Javier. Several complete scholarships were awarded and a scaled lowering of fees was effected for the seminarians.⁸³

In 1913 Archbishop Harty removed his seminarians from San Javier and transferred them to the care of the Congregation of the Mission and the Seminary of San Carlos in Mandaluyong, and San Javier then became simply a college.⁸⁴ After the removal of the seminarians, and with an eye to future developments, the name of San Javier was changed to Colegio de San Jose. This was on April 1, 1914, fully a year before ecclesiastical education was resumed under that title.⁸⁵ However to the public San Javier continued to be known under its old name, and it was not until 1915 that the change was published and the new plans promulgated. A prospectus of the spring of 1915 reads:

"The College known up to the present time as the College of St. Francis Xavier, will in the future be called the College of St. Joseph. The reason of this change of name is that the time having come in which the orders of our Holy Father... with regard to the property of the College of St. Joseph can be carried into effect, it has been thought conducive to the execution of these orders to establish an Apostolic School, and at the same time it has appeared proper that both the college

Nevertheless on Oct. 16, 1910 the question was raised in an administrative meeting of *retaining* non-seminarians. In the meeting of Dec. 18, 1910 the question was asked "si convendría dar *amplitud* a la admisión de colegiales."

⁸³ Minutes of Administrative Meetings. San Francisco Javier. July 9, 1911; Sept. 5, 1911; Dec. 8, 1911.

⁸⁴ *Boletín Eclesiástico*. IV (1926) 521.

⁸⁵ *Cartas Edificantes de la Provincia de Aragón* (1914) no. 1 p. 321.

and the school should bear the name The College of St. Joseph."⁸⁶

It is clear therefore that the San Jose Jesuits have been completely accurate in considering the alumni of San Francisco Javier to be alumni of Colegio de San Jose. San Jose was San Javier under another name. The founding of the *Schola Apostolica* in 1915 was simply a new form for carrying out the purpose of the estate. But well before that the Jesuits had renewed their operation of San Jose in fact, and, as we have seen, even in name.

The seminary branch of the new San Jose was not called Apostolic, as some have fondly imagined, because it has the special patronage of the Holy See, but because unlike a diocesan seminary which is restricted in scope, this seminary was to prepare for any diocese or religious order. The seminary courses began on June 16, 1915 with fourteen students.⁸⁷ With this ceremony San Jose entered upon a new phase which is beyond the scope of this history.

⁸⁶ *Cultura Social*, III (1915) 356-361.

⁸⁷ *Cartas Edificantes de la Provincia de Aragón* (1915) No. 1, p. 243.