EVERY MEMBER OF THE BAR AND BENCH MUST RECOGNIZE THEIR RESPECTIVE RESPONSIBILITY *

By CHIEF JUSTICE RICARDO PARAS

I have been wondering whether your invitation for me to address this National Convention of Lawyers is, witting'y or unwittingly, a mere ruse of getting even with us, the members of the Supreme Court, for subjecting lawyers to the ordeal of interpellations during oral arguments which, though often giving credit to many, embarrass some to the point of showing their lack of preparation. The lawyers may want to make it appear that, by a poor speech he delivers, a Justice is not after all as good a scholar and jurist as he seems to be when confronting lawyers. With this apprehension I will avoid rhetorical flights, dogmatic references and pontifical assertiveness, and thus refuse to take the test, so to speak. The expert consultants and members of this Convention have already dwelt upon many subjects requiring academic and highly technical deliberation and treatment, in addition to the brilliant guest speakers that you have previously heard, and I am therefore left in a situation where I have merely to limit myself to some observations gained from personal experiences or otherwise warranted by factual considerations. At any rate, a modern version of Chancellor Lyndhurst's definition of a good Judge — and a Justice for that matter — is not, that he must be a great scholar and jurist, but is merely the following: "First, he must be honest. Second, he must possess a reasonable amount of industry. Third, he must have courage. Fourth, he must be a gentleman. And then, if he has some knowledge of law, it will help." I can perhaps invoke this definition to cover up any shortcomings.

But one good quality of a Judge is industry, and in an attempt at exemplification, I have chosen to gather and present facts regarding our bar and judiciary with a view at least to provoking some thought.

To begin with I may inform you that, as of the year 1952, there are in our country 12,823 lawyers, including the unknown dead. In this connection ours is always a feeling of pride and satisfaction whenever groups of new lawyers are sworn in before the Supreme Court, in great contrast to our disappointment whenever attorneys plead before us in defense of themselves against disbarment proceedings. Incidentally, since the liberation alone we have received 160 complaints for malpractice and at least five lawyers have been reprimanded, suspended or disbarred.

The increasing number of lawyers should not cause any alarm. Those who have already an established lucrative practice need not worry about competition, and those who are new and merely forging ahead in the field still have plenty of room because, with our population of twenty millions, there are about 1,559 for every lawyer, even assuming that all the lawyers listed in the Roll of Attorneys are practicing, which is very far from the truth. On the other hand, as of 1940 alone, there were in the United States (with a population of 131,822,000) 180,000 lawyers, or 732 for every lawyer. As a matter of fact, many of our recorded attorneys have died or are not engaged in the active practice of law, being employed in one capacity or another in or out the Government Service. According to statistics released by the Bureau of the Census, there are more physicians than law practitioners and that there are only about 1,500 lawyers actually engaged in the legal profession. Moreover, a great majority of law students are aiming merely to utilize the law course or membership in the bar as a means for cultural upliftment and general practical utility.

The bench is not entirely free from blemish because also since liberation 371 administrative cases have been filed against justices of the peace. The grounds are many and varied, ranging from the minor and petty act of arrogance to the serious crimes of bribery and extortion. During the same period there have been filed in the Supreme Court 30 administrative cases against judges of first instance.

Now, to give you an idea of the dockets of our courts of first instance throughout the Philippines, without mentioning the number of finished cases, I may state that at the end of the year 1948, there

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were pending 38,738 cases. This was increased to 40,973 at the end of the year 1949. By the end of the year 1950, the number reached 43,289, and this was enlarged at the end of the year 1951 when the total was 45,848. This upward trend continued until the end of the year 1952 when the number of pending cases in said courts became 52,171. Of this last figure, 13,245 are criminal cases; and 23,632 are special proceedings and cases of miscellaneous nature. Many of these cases are perhaps not ready for decision.

In the Court of Appeals the number of cases docketed from 1946 to 1953 is 12,104, as against 9,516 cases disposed of up to 1953. As of December 28, 1953, the number of cases pending decision is 974.

Lest I may be charged with hiding the status of the docket of the Supreme Court, allow me to tell you that from 1945 up to December 7, 1953, 7,304 cases have been filed and docketed. From 1945 up to yesterday, the Court has disposed of either by decision or by resolution a total of 6,587 cases. I wish to inform you that, as of today, the number of cases submitted to a pending decision by the Supreme Court is 510. Of this number, 3 cases are of the 1950 calendar; 4 cases pertain to the 1951 calendar; 53 cases are of the 1952 calendar; and 465 cases are of the 1953 calendar. You will note that there are no cases older than 1950, and the cases before 1953 are only 45 which, together with the 465 cases of the 1953 calendar, the Court will take up and dispose of beginning January, 1954. Many of these pending cases have been voted, awaiting the preparation of the necessary opinions. After the summer of 1954, I estimate that we shall have disposed of by penned decisions around 250 cases, and our docket will then be almost up-to-date. In this connection I am pleased to announce that in the year 1953 alone we have written "finis" to 957 cases, or an average of about three cases a day, which represent perhaps, modesty aside, a good working record.

One reason for the improvement of the docket of our Supreme Court, apart from the fact that every member has been working as hard as he can, is undoubtedly the circumstance that, notwithstanding its right to vacation periods, the Court continuously is in session throughout the year, — something that perhaps makes it unique. Allowed by statute to hold summer sessions in Baguio, with corresponding appropriations from year to year, the Court, animated by the temperate climate, is usually able to promulgate in two months about one third of the total number of its decisions and resolutions in one year. Of course, by foregoing the yearly vacation period, every member of the Court is able to accumulate as much as one-year vacation leave; but as a matter of expedient policy and in the interest of the service, the Court sees to it that not more than two members go on leave at a time.

From the facts and figures I have just pointed out, I have drawn a few observations which I want to present for what they maybe worth. Let us begin with the increasing number of disbarment proceedings which, as I have already mentioned, occasionally make it our painful duty to impose certain disciplinary measures on erring attorneys. If only to lessen the work of the Supreme Court, would not this Convention feel constrained to do something calculated to minimize, if not eliminate altogether, the cause for suspension or disbarment? Of course, I cannot be mistaken when I state that one sure way of preventing complaints against lawyers is for the latter to faithfully adhere to the oath of office which they are required to take before their admission to the bar, and for them to comply strictly with the duties of attorneys enumerated in section 19 of Rule 127 of the Rules of Court. I need not refresh your minds as to the contents of the lawyer's oath and as to his reglementary duties, and I merely hope that you have not forgotten them or, if you already do, you would occasionally read them over. There may be some humor in this, but I have often heard the remark that, as a new lawyer is sworn in and reads his oath before the Supreme Court, he feels nervous and faltering when he reaches that part which says that "I shall delay no man for money or malice," because this is too much of an obligation to impose upon him who intends to practice law. Stated more bluntly, the idea of depriving himself of the prospects of earning money in any way is too hard for a lawyer to swallow. Certainly an attorney has to earn and live like any other professional, but don't we think that, if we cannot earn by justifiable methods, it would be better to give up the law practice?

With respect to the alarming number of administrative cases against justices of the peace and judges of first instance, I may say that, in the majority of cases, the grounds are unfounded or more or less motivated by dissatisfaction resulting from unfavorable decisions. However, we cannot dismiss lightly the unwholesome effect of such administrative proceedings, and the bar should impose upon itself the duty of being alert about the conduct of all members of the bench and, always consistent with fairness and truth, reporting to the proper authorities anyone who is derelict in the performance of his duties. Upon the other hand, if the members of the bench will only perform rightly and firmly his judicial functions, he need not worry about any administrative actions.

On matter of the increasing number of pending cases every year, without touching on the point whether there are sufficient courts and judges to cope with the judicial work, I think much can be derived if every member of the bench, from the lowest justice of the peace to the highest Justice of the Supreme Court, should assume and feel that it is his responsibility to accomplish as much work as is humanly possible. He need not kill himself by overwork, but he can, if he wants, set a standard that is consistent with his capacity and health, the amount of work to be done, and the saying that "justice delayed is justice denied." At this point I may return to the modern version of the definition of a good judge by Chancellor Lyndhurst requiring "that a good judge must possess a reasonable amount of industry." In other words, every member of the bench is expected to display at least a reasonable amount of industry, and when he can no longer meet this, for the good of the service and of himself, he should retire. I am happy to admit that the Government has shown its liberality and earnestness to provide for an adequate system.

Hand in hand with the efforts exerted by the members of the bench towards disposing of as many cases as possible, the members of the bar are called upon to give the court all the aid necessary to achieve the purpose. The lawyer should realize that, as the one in effect controlling the progress of a trial or of a proceeding on appeal, he is responsible — perhaps more than the court — for clogging the judicial docket. The court can decide, under ordinary circumstances, only as fast as the lawyers can submit a case for decision. And while courts are established to administer justice, not infrequently, justice can be achieved and secured outside of a judicial tribunal. Sometimes a just and amicable, extra-judicial settlement or compromise, satisfactory not only to your client but also to the adverse party, can be arrived at, with the use of a little tact and patience. If that is achieved, you will be saving the courts of time and unnecessary labor, and also expense, time and worry to your client, at the same time promoting peace and good will in the community. This is specially true in cases involving partition, inheritance, probate of wills, etc., where the parties are close relatives, even brothers and sisters. Of course in those cases you cannot expect as much remuneration as in prolonged court litigation, including appeals, but, for your inner satisfaction, you may dwell in the consoling thought that you are not engaged in a business, to make money, but you are practicing a profession, a noble one.

There is one other point, somewhat detached from the subject already mentioned, which in passing I would like to bring to your attention. The complexities of modern life have necessitated the creation of administrative, quasi-judicial agencies to operate in a field lying between the known legislative and judicial functions on one side and the common executive powers on the other. Commissions and boards, like the Securities and Exchange Commission, Public Service Commission, Workmen's Compensation Commission, Board of Tax Appeals, Patent Office, Court of Industrial Relations, — parenthetically I may state that jurisdiction over appeals from these commissions and boards has greatly increased the work of the Supreme Court, — have from time to time been established to handle certain relationships resulting from the tides of expanding agricultural, commercial and industrial development, which regular judicial and legislative procedures could not adequately and expeditiously meet. Misgivings were at first aired about the possible courts of law, their expansion and multiplication having been oftentimes debated, specially in the United States. So far, however, in our country they have generally inured to the benefit of the people at large, partly perhaps, because their actuations have usually been subject to judicial review, which besides scrutinizing the law applicable to the matter, has laid special emphasis on the query whether the adjudication had been made under conditions meeting the due process clause, and the tenets of fair and impartial investigation. To proceedings before these agencies the Rules of Court are not, of course, applicable *ex propio vigore*. Wherefore the time is ripe may be for the bar to take interest in the advisability or possibility of devising and recommending some kind of uniform procedure for the regulation of the practice before these administrative agencies, as has been done in the United States.

In closing, permit me to lay special stress on the need for every member of the bar and the bench to recognize their respective responsibility, and for them to assume without any reservation such responsibility, in relation to our judicial system. We cannot relax without jeopardizing the administration of justice. To the extent that the lawyer is true to his oath of office and to the cause of his client, and to the extent that every member of the bench conscientiously discharges his judicial functions and fast enough to avoid unnecessary delay, the people's confidence will remain firm and unshakable in the so-called last bulwark of democracy, the Judiciary

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