

REFORMS IN THE PHILIPPINE BAR

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The immediate function of law is order; but its ultimate end is justice and freedom—or freedom and justice, if you will; it matters not which you name first; they walk side by side, hand in hand. Whether we believe that, in today's society, liberty cannot exist without law, that there can be no individual freedom without organized restraint; or whether we believe, as Justice Learned Hand did, that "liberty lies in the hearts of men and women: when it dies there, no constitution, no law, no court can save it; . . . while it lies there, it needs no constitution, no law, no court to save it" (*The Spirit of Liberty*, Irving Dilliard, editor, p. 144), no one, I think, will deny that when justice dies, liberty dies with it; that the spirit of liberty is empty and vain, unless it seeks not merely freedom, but freedom with justice. Nor will anyone deny either, I think, that the primary responsibility for maintaining and upholding justice, for keeping alive in the hearts of our people the spirit of justice, rests upon that most villified band of men to whom some of you and I have the honor to belong, and which many others of you aspire one day to join—the hardy breed of men of the law, who plead the people's causes at the bar, and seal their fate on the bench.

In 1899, when the late Dr. Leon Ma. Guerrero, Rector of the University of the Philippines created by our Provisional Revolutionary Government, addressed its first and only graduating class, he entrusted this task to those of its graduates who had undertaken the study of the law and to all lawyers who have come after them: "And you," he said, "men of the law, will uphold the empire of justice and defend from every attack the glorious liberty of our people." (*Malolos, Crisis of the Revolution*, by Teodoro Agoncillo, p. . . .). It seems fitting, on this law day, set aside to call the attention of our people to the important role of lawyers, that we should ask ourselves: How well have we fulfilled these tasks? What yet needs to be done? How can we do better?

By and large, in the protection of individual freedom, the bar and the bench may look back with justifiable pride to the record of the last sixteen years. The pages of our law reports glow with decisions after decisions upholding the rights of our citizens, striking down unjust laws, setting aside arbitrary executive action, pro-

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tecting public officials from the changing winds of politics, and safeguarding the patrimony of the nation. The Krivenko case (79 Phil., 46); the de los Santos-Mallare case (48 O.G. 1787); the Recto, Laurel and Rodriguez Resolution (L-6724, September 29, 1954); the Amado Hernandez case (52 O.G. 4612); the Redistricting Bill case (L-18684, September 14, 1961)—to mention but a few—are landmarks in the struggle for freedom under law in the country. These and other equally important cases would never have been but for the courage, the foresight, the wisdom of the bench and the bar who have broken new ground often braving strong political pressure and adverse public opinion.

But in the matter of the speedy administration of justice, the record does not speak half so well. True, in the last five years, our courts of first instance have disposed of 205,660 cases, but, unfortunately, at the end of every fiscal year, the backlog of pending cases has increased steadily: from 70,556 in 1957, to 77,154 in 1959 to 82,123 in 1961. And, irony of ironies, although Congress has provided for 172 courts of first instance, more than one-third—61 to be exact—of those courts have no judges today.

The situation has attracted widespread attention from the bench, the bar and the press; an indication of the preoccupation with the problem is the fact that since 1958 to date, no less than 16 articles have appeared in the *Lawyers Journal* urging reforms in the administration of justice.

The blame has been placed everywhere—on the Executive for leaving more than one-third of the judgeships vacant; on the politicians for sponsoring aspirants so strongly that it becomes difficult for the President, particularly in an election year, to choose wisely or to choose at all; on the aspirants themselves for seeking political support; and on the bench, because some judges are too lenient in granting postponements and extensions, sometimes come late to Court or not at all, or conduct other affairs during court hours, or fail to take firm control over proceedings to prevent prolixity and delay, and commit other peccadillos. But, ladies and gentlemen, there is a fact we must face, and face squarely, if we are ever to really solve the problem—that fact is that a large measure of the blame lies on us, the members of the bar.

For if the situation has become such that, with an ever increasing backlog of cases, the Executive may fail to fill vacancies with impunity; that the endorsement of a politician counts more than the recommendation of the bar for a transfer or appointment to the bench; that cases are postponed, periods extended, and trials over-

long, it is because we, the members of the bar, have allowed it to become so. Preoccupied with the need of earning a living, burdened by the problems of our clients, and partly because some of us hope to benefit personally from the situation, we have, by our lethargy, let the evil grow, hoping that someone else will find the cure. That hope, my friends in illusory; believe me, it is a false and foolish hope. No one else will find the solution for us; we must find it ourselves.

For though the responsibility for maintaining and upholding justice lies upon the bench and bar, it lies more heavily on the bar than on the bench. The bench may act only on what the bar lays before it; more important still, it is from the bar that the bench is filled. In a thousand ways, the bench will reflect the character of the bar: a servile bar will breed an arrogant bench; a dishonest bar, a corrupt bench; but an alert, courageous and upright bar cannot but create a just, impartial, and considerate bench before whom, in the words again of Justice Learned Hand, "the least shall be heard and considered side by side with the greatest."

Please do not misunderstand me; I am not accusing or implying that the Bench or the Bar are servile, dishonest or cowardly. The truth is that no other profession can count with more men and women as honest, as fearless, as alert. It is not I that say this; let the record speak: in the sixteen years since liberation, only one Judge of the Court of First Instance has been purged from the bench; and of the 497 administrative cases filed against the bar, 230 have been dismissed; 251 are pending; and only ten lawyers have been disbarred and six suspended from the practice of the law. If we consider that out of twelve carefully selected apostles, there was one Judas, then one judge defrocked out of more than 100 judges and 16 lawyers disciplined out of an estimated 5,000 in practice, is an excellent record. But then again, it must be said that there should have been no Judas, that one judge dismissed or 16 lawyers penalized are one and 16 too many. So that, while I speak candidly of the ills of the bar and the bench, I also speak lovingly, with the voice of a suitor speaking of his love, proved only by the desire to make her as he imagines her to be: without scar, without stain, without mote, without blame.

If then reforms in the bench are to become effective, they must be accompanied by reforms in the bar. We are the rod of justice; if we are straight, our shadow cannot be crooked.

There is much room for reform in the bar; there are many problems to be met and solved. One of the most pressing is to

erase the impression prevalent among so many of our people—an impression grossly exaggerated and false—that politics controls not only the selection of judges, but also exercises an undue influence in the dispensation of justice itself. Another impression that must be erased—an impression that seems unfortunately prevalent not only among laymen, but even among lawyers—is the belief that the function of the lawyer is to win cases at any cost, that the worth of the lawyer is to be measured, like a mining share in the stock exchange, by the number of cases he has won and lost. Still another crying need is for a program of continuing legal education, where young and inexperienced lawyers may learn how to handle clients and try cases, without the losses to clients that would otherwise be the cost of their learning. Another is to provide effective and efficient legal services to all citizens at a cost they can afford. Still another is the need for a common meeting place, where lawyers of varying ages, abilities and experience may meet in cheerful camaraderie and pass on to one another the great traditions of the profession. And there is, of course, the need to maintain the highest standards of professional and personal conduct, to eliminate entirely the deplorable sight of notaries setting up shops within the portals of the Supreme Court itself to service bar candidates, until they were driven from the temple; of lawyers running citizenship schools for aliens, teaching them just enough of tagalog, history, civics and government, to get a certificate of naturalization, without real inquiry as to whether they possess the intrinsic qualities required by our law or the real desire to embrace our way of life; of cases dismissed because appeals or briefs or motions were not filed on time or because lawyers failed to appear at trials; of cases needlessly lost because lawyers were unprepared or bungled.

I do not pretend to know how these problems are to be solved; but I submit that they cannot be solved unless the Bar is first organized or organizes itself on a nationwide basis. The Bench cannot solve these problems; too overburdened they are deciding cases; and even if they could, the problems are ours. It is we who must put our own house in order; but no lawyer alone, no small group of lawyers, can do the job.

The unfortunate fact about the bar is that no other learned profession in this country has more members or more associations, yet no other profession is as badly disorganized and as impotent in matters pertaining to its proper sphere. Let me cite but a few examples: every other profession has the right to recommend who will compose the board of examiners to determine fitness to enter the profession; the bar alone has no say at all in the selection of

bar examiners. Every other profession has one recognized national organization which looks after the interests of its members; the bar alone has several, but of these, only one or two have done more than hold luncheons or dinners on constitution day, law day, etc. No one has accurate statistics on which to base some general conclusions on the practice of the law, its cost or its economic utility. Indeed, we do not even know how many lawyers there are in this country. The Supreme Court has a list of those who have been admitted to the bar since 1899 (there were 24,716 as of yesterday); but there is no record there or anywhere else of how many of these have died, how many are not engaged in active practice, how many of those in practice are in the Government service, and how many of those in private practice are practicing by themselves or in partnerships with others or are working for other lawyers or as house counsel of business firms. We have no accurate information on the median earnings of private practitioners; or the cost to clients of bringing or defending suit. More important still, there is no provision for the placement of lawyers; or for caring for those who become incapacitated or for the families of those who die in need—matters that other organizations, of which the Philippine Medical Association is a notable example, have provided for their members. No incident illustrates more clearly the disorganization of the bar than the attitude of the Supreme Court in the revision of the Rules of Court that it is currently undertaking. Surely, no one would deny that the bar has a vital interest in the revision of the Rules for these are the tools we work with—yet apart from a few lawyers and some judges who have been furnished with copies of the proposed revision, the bar, as a bar, had not been accorded recognition by the Court. The Court is not to be blamed; it could not, even if it would, recognize the bar because the bar, as an organized body, does not exist.

The organization of the bar then, must be the first step if the basic problems of expediting and improving the administration of justice are to be solved, if the empire of justice is to be better upheld. Once organized, I have faith that the combined talent and wisdom of the bar will find solutions to these problems, perhaps not final or total solutions, but at least working solutions that will bring us closer to the goal of speedy and inexpensive justice for all.

"An illusory hope," you say; "a dream; impossible?"

Let me answer you by repeating the conversation between an old Judge and a young lawyer that James Gould Gozzens recorded in his novel "The Just and the Unjust":

"Don't be cynical," Judge Coates said. "A cynic is just a man who found out when he was about ten that there wasn't any Santa Claus, and

he's still upset. . . . There'll be deaths and disappointments and failures. When they come, you meet them. Nobody promises you a good time or an easy time. I don't know who it was who said that when we think of the past we regret and when we think of the future we fear. And with reason. But no bets are off. There is the present to think of, and as long as you live there always will be. In the present, every day is a miracle. The world gets up in the morning and is fed and goes to work, and in the evening it comes home and is fed again and perhaps has a little amusement and goes to sleep. To make that possible, so much has to be done by so many people that, on the face of it, it is impossible. Well, every day we do it; and every day, come hell, come high water, we're going to have to go on doing it as well as we can.'

" 'So it seems,' and Abner.

" 'Yes, so it seems,' said Judge Coates, 'and so it is, and so it will be! And that's where you come in. That's all we want of you.'

"Abner said, 'What do you want of me?'

" 'We just want you to do the impossible,' Judge Coates said."

In essence, that is the lawyer's function: to do the impossible.