COURTS OF FIRST INSTANCE: THEIR PROBLEMS AND SOLUTIONS

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INTRODUCTION

Preliminary Statement

Justice, to be meaningful, must be administered promptly. Justice delayed, we have long been told, is justice denied. The proverb which goes "Of what use is the fodder if the horse is dead?" is the Tagalogs' way of emphazing that promptness is an indispensable ingredient of justice. A criminal must be punished without delay. To allow him to go free for an unwarranted length of time is to compound the injustice he has committed against society. The obverse of this is that, anyone accused wrongly must be vindicated as soon as possible, if not immediately. To make him suffer the torments of an unjust accusation for any length of time is to deny him justice.

Criticisms have been made that justice in this country grinds too slowly to the disadvantage of the poor and underprivileged masses. The prosecution of crime today, it is stated, is no match to the boldness and increasing volume of criminality. One factor behind the deterioration of peace and order, observers point out, is the inefficiency of the agencies enforcing the law and dispensing justice. Hence these agencies and their officials have been severely castigated and taken to task in public.

It is submitted, however, that there are, in the judiciary no less than in the other branches of government, people who are genuinely dedicated to public service. The judicial system still remains the last bulwark against the excesses of an elitist society. The impression that parts of the judicial ramparts have crumbled in the face of the onslaughts of graft and corruption is, of course, unfortunate. But what shortcomings there are require not just accusations but more importantly, perhaps, a clear understanding of their root causes. Hopefully, thereafter, remedial action may then be taken to overcome those failings.

Statement of the Problem

This study does not purport to analyze the socio-cultural factors that have debilitated the judicial system; rather it intends only to look into some of the administrative and procedural aspects of the system itself. More specifically this study is an attempt to look into the problem of backlog of cases constituting 82,825 cases in the

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Courts of First Instance as of June 30, 1969. The unresolved cases in City and Municipal Courts, the Court of Appeals and the Supreme Court are excluded. The period covered by this study is from fiscal year 1959 to fiscal year 1969.

The writer was motivated to look into the problem of court congestion because the phenomenon of "clogged court dockets" has reached an alarming proportion. The fact is that the tremendous backlog of cases in court has been the concern of every administration. In spite of the pledges and efforts of all post-liberation Secretaries of Justice to hasten the termination of these cases or to declog the dockets, the deplorable condition of the courts has continued to the present time.

Among the different factors affecting this problem, which relate to the administrative supervision of the Secretary of Justice over the Courts of First Instance are:

1. One thousand three hundred seventy three (1,373) Municipal Judges in ordinary municipalities do not exercise their concurrent jurisdiction over criminal cases with the Courts of First Instance; instead, they simply conduct preliminary investigations and elevate the cases to the latter who try the cases on their merits.

2. There is an apparent lack of judicial manpower to cope with the ever increasing number of cases filed.

3. The required high standard of qualifications has been disregarded in many instances in the selection and appointment of judges and other court personnel.

4. Delay in the disposition of cases has been caused by unsystematic calendaring of cases; tardiness in the submission or transcription of stenographic notes, relatively frequent granting of postponements of trials, and difficulty in the serving of notices or processes.

5. The power of Congress to increase appropriations for the position of clerk of court and other court personnel and to create positions has contributed to the packing of the courts with political proteges.

6. Equipment, traveling expenses, supplies and sundry expenses, and library materials have generally been inadequate.

Definition of Terms

Certain terms have to be defined here in order to present a more or

less common frame of reference for analysis. These terms are:

1. Courts — shall mean only the Courts of First Instance of the Philippines or CFI for short.

2. Congestion — refers to the volume of undisposed cases in a court's docket regardless of how long they have been pending in court.

3. Delay — signifies the lapse of an "abnormal" length of time between the filing of a case and its termination by the court.

4. Concurrent jurisdiction — is that which is possessed over the same parties or subject-matter at the same time by two or more separate tribunals.[1]

5. Pre-trial — is a procedural devise under which the parties in a litigation, either voluntarily or by mandate of the rules or law, or on orders of the court, appear in a conference before the judge or a person designated by the Court, after issues have been joined, to consider matters with the end in view of arriving at an amicable settlement of the case dispute or simplify the trial. [2]

ANALYSIS ON THE NUMBER OF CASES IN THE COURTS OF FIRST INSTANCE

The backlog of cases pending over the years remains a most urgent concern of the Department of Justice. The number of cases pending in the Courts of First Instance as of June 30, 1969 is 82,825. It is the purpose of this study to find a workable solution in declogging the courts' docket. By analyzing the statistical data from the courts such as the number of new cases filed, the number of cases disposed of, the number of pending cases at year end and the nature of the cases, meaningful and significant information may be derived to enable the Department to arrive at a solution to this problem.

Installation of a cumputer program at the PES—DND was established only recently, and it collates only criminal cases.

It would have been more significant and most welcome if the computerized judicial statistics were available. Unfortunately, the

The statistical data used in this analysis are from the Statistics Section, Judiciary Division, Department of Justice, and tabulated by the writer.

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[1] 1 (Bouvier's Law Dictionary) 1761 (3rd ed., 1937).

[2] SANTOS, GATCHALIAN & CLUTARIO, PRE-TRIAL; COMPROMISE AND ARBITRATION PROCEDURES, 1 (1964).

Analysis of New Cases Filed

Of the 49, 430 cases filed in the Courts of First Instance during fiscal year 1969, some 25,095 or 51% were criminal cases, 28% or 14,111 were civil cases and the balance of 21% or 10,224 were all other cases.

Criminal Cases — For the ten-year period, the lowest number of criminal cases filed is 21,304 in fiscal year 1960 and the highest is 25,945 in fiscal year 1968 showing an upward trend. The yearly rate of increase in .54%. This trend may continue because of the worsening condition of peace and order in the country and the increase in population. However, there is a decrease of 850 cases (from 25,945 in fiscal year 1968 to 25,095 in fiscal year 1969) which was probably due to the creation of the Circuit Criminal Courts where some of the case were filed. As to whether this decrease will continue or follow the upward trend in previous years, is hard to determine with certainty. It may decrease because of the phenomenal achievement of the Criminal Circuit Courts and of increased efforts in the maintenance of peace and order; or it may still follow the upward trend considering the factors mentioned above. For the purpose of offering a quantifiable solution to the problem of backlog, the writer takes the conservative view of probable upward trend. On this assumption and using the yearly average rate of increase of 54%, and the number of cases filed for the first six months of fiscal year 1970 of 11,436 cases, it is expected that the criminal cases to be filed in fiscal year 1970 will total 23,544.

Civil Cases — The number of civil cases filed during fiscal year 1969 is 14,111. During the ten-year period under study there is an average yearly rate of increase of 1.87%. The lowest number of civil cases filed is 8,817 in fiscal year 1960 and the highest is 14,111 in fiscal year 1969. The trend is also going upward and this is expected to continue because of such factors as population explosion, the propensity of our people to indulge in litigations even on matters that are or may be easily settled out of court, and the number of recalcitrant debtors. Based on the yearly rate of increase of 1.9% and the number of cases filed during the first semester of the current fiscal year 1970 of 6,645, it is expected by conservative estimate that the number of civil cases to be filed for fiscal year 1970 will be 13,290.

Other Cases — Under this category are special proceedings, land cases, administration cases, election contests, naturalization and all other cases. During fiscal year 1969, some 10,224 cases were filed. It would have been more significant if information were available about the nature of these cases. Unfortunately, these data were not

available at the time of study. The lowest number of cases under this category is 8,735 in fiscal year 1961 and the highest is 15,281 in fiscal year 1960. There is an average annual rate of increase of .41% covering the ten year period. On this basis it is estimated that the number of other cases to be filed for the current fiscal year will be 12,032.

On the whole, the average number of new cases (criminal, civil and other cases) filed in the Courts of First Instance increases every year by .85% because of the increase in population and many other factors. While there were 45,514 cases filed during fiscal year 1969, after the lapse of ten years, there were no radical changes in the number of new cases filed during the intervening years. The highest number of cases filed is 51,629 in fiscal year 1968 and the lowest is 40,643 in fiscal year 1961. There is an upward trend that can be established to jibe with the increase of population. During the same period, the population of the Philippines gradually increased from 23 million in 1959 to 36 million in 1969. For fiscal year 1970 it is therefore expected that 48,866 cases (criminal, civil and other cases) may be filed on the basis of the average yearly rate of increase of 1.7%. This estimate is necessary for the quantification of the solution of backlog of cases to be shown in the latter part of this study.

A study made by the University of the Philippines Law Center presents in detail findings with respect to the number of new cases filed per 1,000 population. The purpose is to determine the most litigious areas on the basis of the number of new cases filed in the CFI courts each year in relation to population. The filings are categorized as *heavy, medium, light and very light,* depending on the frequency in which these new cases per 1,000 population are filed.

The national average based on the 10-year period under study is 1.5 new cases per 1,000 population. Manila and Rizal with over a million population each have the heaviest filings and Bohol the lightest.[3]

Heavy — Filings are characterized as "heavy" when new case are filed at the rate of 3 or more cases per 1,000 population:

Ave. No. of Cases
Filed Per 1,000

[3] U.P. LAW CENTER, A STUDY OF THE CONGESTION OF CASES IN THE CFI, 4-5 1969). Mimeographed.

Population	*Province*
7.4	Manila
3.6	Rizal

Medium — Filings are "medium" when the rate of filing is 1.4 but not more than 3 cases per 1,000 population:

Ave. No. of Cases Filed Per 1,000

Population	*Province*
2.0	Cavite
1.9	Capiz
	Nueva Vizcaya
1.8	Zambales
1.7	Bulacan
1.5	Albay
	Agusan
	La Union
	Leyte
	Misamis Occidental
	Mountain Province
	Zamboanga del Norte
	Cagayan
	Davao
	Laguna
	Mindoro Occidental
	Quezon
	Zamboanga City

Light — Filings are "light" when new cases are filed at rate of 1.3 but not less than 1 case per 1,000 population:

Ave. No. Cases Filed Per 1,000

Population	*Province*
1.3	Aklan
	Bataan
	Camarines Norte
	Cebu
	Ilocos Norte
	Masbate
	Pangasinan

1.2	Abra
	Camarines Sur
	Nueva Ecija
	Palawan
	Samar
1.1	Ilocos Sur
	Isabela
	Mindoro Oriental
	Misamis Oriental
	Sorsogon
	Surigao del Norte
	Surigao del Sur
1.0	Catanduanes
	Basilan City

Very light — Filings are "very light" when the filing rate of new cases is less than 1 case per 1,000 population:

Ave. No. of Cases Filed Per 1,000 *Population*	*Province*
.96	Batangas
	Iloilo
.95	Bukidnon
.94	Pampanga
.86	Negros Oriental
.85	Marinduque
.81	Cotabato
.77	Romblon
	Lanao del Norte
	Zamboanga del Sur
.72	Tarlac
.70	Negros Occidental
.65	Sulu
.64	Batanes
.63	Antique
.59	Lanao del Sur
.54	Bohol

Analysis of Cases Disposed of

The total number of cases disposed of during fiscal year 1969 is 51,946. This number of cases is broken down as follows: 53% or 28,048 is for criminal cases, 13,484 for civil cases and 10,415 for other cases.

Criminal Cases — A comparison between the criminal cases filed during fiscal year 1969 with the number of criminal cases disposed of shows a 112% ratio of disposal over new cases filed. Thus, the courts reversed the old trend by disposing of more cases than were filed. The lowest number of criminal cases disposed of is 17,075 in fiscal year 1962 and the highest in 28,048 in fiscal year 1969. The average yearly rate for a period of ten years of criminal cases disposed of as compared with the new cases files is 97% leaving 3% to be added to the backlog. Also for the same period all CFI salas disposed of an annual average of 41% of their caseload indicating a pending workload of an annual average of 59%. Based on the demonstrated performance of the 230 CFI judges in fiscal year 1969 and the number of cases disposed of for the first six months of the current fiscal year 1970, it may be safe to estimate the number of criminal cases to be disposed in fiscal year 1970 will be 22,830.

Civil Cases — For fiscal year 1969, the number of civil cases disposed of is 13,483. Since the number of new civil cases filed for the same period is 14,111, there was, therefore, a 96% ratio of disposal against new cases filed thus indicating that the remaining 4% has been added to the backlog. Of the ten-year period, there are only three fiscal years (1960, '62 and '64) where the number of cases disposed of is more than the number of new cases filed. The remaining seven years showed negative results, that is, new cases filed are more than the cases disposed fo. On the whole ten-year period, the average annual rate of disposal over new cases filed is 95% and the disposal over the total workload is 31%. Applying the annual rate of disposal over new cases filed, it is estimated that the number of civil cases to be disposed of in fiscal year 1970 will be 12,620. This is arrived at by multiplying the annual average rate of 95% to the estimated new cases filed mentioned earlier.

Other Cases — An analysis of the other cases disposed of for the ten year period, shows a satisfactory trend of more other cases disposed of than new cases filed. This performance was consistent throughout the ten-year period except for fiscal year 1960. The average annual rate of disposal over new cases filed is 105%, and disposal against total workload is 32%. The excess of 5% over new cases filed is the yearly reduction in backlog. The projected number of other cases to be disposed of this current fiscal year 1970 is 12,630. This is computed on the basis of annual average rate of disposal of 105% and the new cases expected to be filed for fiscal year 1970 which was discussed earlier.

In recapitulation, the disposal of all cases (criminal, civil and other cases) during fiscal year 1969 as compared to all new cases

filed for the the same year is considered as a reversal of the old trend. This is the first time in five years that the Courts have disposed of 105% over new cases filed. The average rate of cases disposed of as against the workload for fiscal year 1969 is 39% as compared with the yearly average rate of 36%.

The question that is pertinent, therefore, is how did the CFI judges succeed in making a breakthrough when they, at least in 1969, disposed of more cases than the number of cases filed? The answer is probably that most judges had foregone vacation and sick leaves and had utilized new forms, other decision aids, and procedural improvements as authorized, agreed upon and circularized; as well as the strict enforcement by the Department of Justice of administrative rules and regulations. On the basis of the above conditions, it is believed that the performance of the 230 CFI judges will be maintained if not to continue increasing in subsequent years.

What is hard to reconcile, however, is that while there was a reversal of trend in accomplishment, yet as borne out by statistical data, the yearly average number of cases disposed of per judge had been decreasing from 346.4 cases during the fiscal year 1960 to 225.8 cases for fiscal year 1969 or a yearly decrease of 2.56%. The reason that the judges have to forego their vacation and sick leave so as to dispose of more cases may not be valid and of little significance because it actually decreased instead of increasing their rate of output. It is difficult to determine with accuracy the causes that have contributed to the decline in the performance of judges during the ten year period.

It is significant, however, to mention that for fiscal year 1969, of the 230 judges, 31 were newly appointed who assumed their office after the confirmation of their appointment by the Commission on Appointments; and this was around May of that year. So practically these new judges had barely one or two months of the fiscal year to work and these few months were devoted to the organization of their staffs and familiarization with the work.

Analysis of Backlog and their Solutions

The backlog of cases as of June 30, 1969 is 82,825. Of this number of cases 33,456 is for criminal cases, 27,731 for civil cases and 21,638 for other cases. At the end of fiscal year 1969 there was a decrease in backlog of criminal (8.11%), and other cases (.87%) and an increase in civil cases by 2.31%. On the whole there was a net decrease of 2,516 cases or 2.94% (that is, from 85,341 in fiscal year 1968 to 82,825 in fiscal year 1969).

Disposing of this total number of cases of 82,825 is still a formidable task. There is therefore, the imperative need to pursue (1) effective administrative and (2) judicial reforms, (3) to implement the laws creating new salas right away, and (4) to appeal to the high sense of duty among the judges, judicial officers and employees to the end that this problem of backlog of cases be overcome.

Whenever the problem of the clogged dockets is discussed, it is invariably suggested that the solution to the problem is very simple and this is to increase the number of CFI judges. It was pointed out that the required number of judges to cope with actual caseload would be 626 or almost three times the present judicial force (230 judges) in the CFI; therefore requiring 396 new appointees as well as the creation 271 additional courts (626 — 355).

This is at best an expensive solution; at worst it tends to lower the standard of the judiciary. The writer does not adhere to the creation of an additional 271 courts. What is recommended here is the immediate filling up of the existing court vacancies. The existing number of courts of 355 is more than enough to cope with the backlog. If the present 230 judges can already cope with the new cases filed, the other 125, if appointed, will be able to wipe out the backlog in two years or less.

In making a short range projection therefore, within a time frame of two years, a quantifiable solution to the 82,825 backlog of cases in the Courts of First Instance may be formulated based on the following considerations:

I — *Prevent the inflow of new cases*:

(1) 1,373 ordinary municipal courts to exercise concurrent jurisdiction with Courts of First Instance.

(2) Mandatory Pre-Trials of 355 CFI judges.

II — *Increasing efficiency of judges to the level annual average rate per judge for the last ten years* (*FY* 1959-69):

FY 1959 to 1969	273 cases
FY 1968 to 1969	225 cases
Difference	48 cases

III — *Filling of existing vacant positions*:

(1) Old vacant positions 13

Rep. Act No. 6092 112

Total vacant positions 125

Relative Performance of the Courts of First Instance by Sala or Branch

The performance of each court is presented below and is characterized as above average, and below average. In order to have an overview picture of the rates of disposal in ten years, the current backlog of cases are also indicated.

Above Average — Courts whose case disposal is above average of the national average of 273 fall under this category. There are 66 branches in this category.

BRANCH	*DISTRICT*	*Location*	*10 years Ave. of Cases Disposed of*	*FY 1969 Backlog of Cases*
XII	7th Jud. Dist.	Caloocan, Rizal	721	983
I	16th " "	Davao, Davao	684	500
IX	7th " "	Pasig, Rizal	665	1,110
II	7th " "	Pasig, Rizal	640	521
XIV	7th " "	Pasig, Rizal	635	1,095
IV	7th " "	Quezon City	626	923
III	5th " "	Valenzuela, Bulacan	626	713
VII	7th " "	Pasay City, Rizal	588	851
II	16th " "	General Santos, Cotabato	538	866
III	7th " "	Pasay City	519	907
I	7th " "	Pasig, Rizal	476	456
I	5th " "	Malolos, Bulacan	467	521
IV	6th " "	Manila	465	570
VIII	7th " "	Pasig, Rizal	461	979
X	7th " "	Pasig, Rizal	450	627
III	16th " "	Davao, Davao	446	213
VI	14th " "	Cebu City, Cebu	443	423
XV	6th " "	Manila	438	306
I	3rd " "	Olongapo, Zambales	431	649
XIII	7th " "	Pasig, Rizal	431	365
I	15th " "	Cagayan de Oro, Or. Misamis	430	958
V	7th " "	Pasig, Rizal	416	851
I	10th " "	Legaspi, Albay	396	1,191
XVIII	6th " "	Manila	387	428
I	4th " "	Tarlac, Tarlac	382	167

XIII	6th	Jud.	Dist	Manila	380	354
I	16th	"	"	Cotabato City, Cotabato	376	304
VI	6th	"	"	Manila	372	501
XI	7th	"	"	Pasig, Rizal	369	473
X	6th	"	"	Manila	368	189
VIII	6th	"	"	Manila	364	350
V	6th	"	"	Manila	359	203
II	6th	"	"	Manila	359	220
III	6th	"	"	Manila	358	270
XI	6th	"	"	Manila	358	254
VII	6th	"	"	Manila	355	457
VI	7th	"	"	Pasig, Rizal	353	633
I	10th	"	"	Sorsogon, Sorsogon	351	606
XII	6th	"	"	Manila	338	145
V	3rd	"	"	Urdaneta Pangasinan	326	230
I	16th	"	"	Dipolog, Zamboanga del Norte	323	430
I	2nd	"	"	Vigan, Ilocos Sur	321	296
II	8th	"	"	Lipa, Batangas	320	285
	16th	"	"	Pagadian, Zamboanga del Sur	320	1,158
II	16th	"	"	Davao, Davao	320	498
XVII	6th	"	"	Manila	320	269
I	13th	"	"	Catbalogan, Samar	319	213
XVI	6th	"	"	Manila	318	467
XXV	6th	"	"	Manila	311	438
III	7th	"	"	Cavite City, Cavite	311	367
II	9th	"	"	Lucena, Quezon	311	723
I	10th	"	"	Masbate, Masbate	308	779
IX	6th	"	"	Manila	308	514
XXII	6th	"	"	Manila	306	160
XXIV	6th	"	"	Manila	305	323
XXIII	6th	"	"	Manila	301	508
XXI	6th	"	"	Manila	294	212
V	13th	"	"	Ormoc City, Leyte	291	194
I	11th	"	"	Capiz, Roxas City	289	420
XIV	6th	"	"	Manila	286	343
XX	6th	"	"	Manila	286	354
IV	9th	"	"	Caluag Quezon	283	309
II	1st	"	"	Aparri, Cagayan	283	227
I	1st	"	"	Tuguegarao, Cagayan	281	240
I	9th	"	"	Lucena, Quezon	278	630
XIX	6th	"	"	Manila	275	326

Average — Courts whose average case disposal is lower above average of the national average of 273 fall under this category. There are 3 such branches.

BRANCH	DISTRICT	Location	10 years Ave. of Cases Disposed of	FY 1969 Backlog of Cases
VI	13th Jud. Dist.	Carigara, Leyte	273	224
II	13th " "	Tacloban City, Leyte	273	No Report
I	6th " "	Manila	273	330

Below Average — Courts whose average case disposal is below average of the national average of 273 fall under this category. There are 161 such branches.

BRANCH	DISTRICT	Location	10 years Ave. of Cases Disposed of	FY 1969 Backlog of Cases
II	10th Jud. Dist.	Legaspi, Albay	269	641
IV	3rd " "	Dagupan, Pangasinan	269	274
II	5th " "	San Fernando, Pampanga	266	453
II	5th " "	Malolos, Bulacan	256	387
I	14th " "	Cebu City, Cebu	265	450
V	13th " "	Calbayog, Samar	258	129
I	9th " "	Daet, Camarines Norte	258	684
III	10th " "	Legaspi, Albay	258	221
I	5th " "	San Fernando, Pampanga	256	611
I	8th " "	Biñan, Laguna	254	398
VI	3rd " "	Layug, Pangasinan	252	265
I	8th " "	Calapan, Mindoro Or.	248	82
II	16th " "	Ozamis City, Occ. Misamis	247	221
V	14th " "	Cebu City, Cebu	245	613
III	11th " "	Mambusao, Capiz	234	397
VIII	3rd " "	Dagupan, Pangasinan	323	366
IV	14th " "	Cebu City, Cebu	231	431
III	14th " "	Cebu City, Cebu	228	431
II	13th " "	Borongan, Samar	226	268
I	15th " "	Marawi City, Lanao del Sur	226	170
III	8th " "	San Pablo City, Laguna	225	366
II	15th " "	Iligan City, Lanao del Norte	224	830
III	9th " "	Gumaca, Quezon	223	766
III	10th " "	Naga City	222	465
III	5th " "	San Fernando, Pampanga	221	193

I	15th	Jud.	Dist.	Butuan City, Agusan	220	258
II	15th	"	"	Butuan City Agusan	220	258
	16th	"	"	Basilan City	219	416
I	8th	"	"	Batangas, Batangas	217	232
VII	3rd	"	"	Alaminos, Pangasinan	215	183
II	1st	"	"	Cauayan, Isabela	214	272
II	10th	"	"	Masbate	211	589
	5th	"	"	Balanga, Bataan	206	688
III	11th	"	"	Iloilo City, Iloilo	205	307
IV	13th	"	"	Tacloban City, Leyte	204	92
II	8th	"	"	Sta. Cruz, Laguna	202	220
III	13th	"	"	Laoang, Samar	200	293
	16th	"	"	Zamboanga City	198	91
XV	7th	"	"	Makati, Rizal	198	445
IV	13th	"	"	Catarman, Samar	196	187
I	12th	"	"	Dumaguete City, Or. Negros	194	452
III	4th	"	"	Tarlac, Tarlac	193	131
II	4th	"	"	Tarlac, Tarlac	192	230
I	3rd	"	"	Lingayen, Pangasinan	190	56
V	10th	"	"	Libmanan, Camarines Sur	189	748
II	16th	"	"	Dipolog, Zamboanga del Norte	186	484
II	10th	"	"	Naga City, Camarines Sur	184	399
III	8th	"	"	Balayan, Batangas	183	306
III	13th	"	"	Maasin, Southern Leyte	183	576
I	1st	"	"	Ilagan, Isabela	182	342
V	4th	"	"	Gapan, Nueva Ecija	182	410
II	3rd	"	"	Iba, Zambales	182	256
II	2nd	"	"	San Fernando, La Union	179	360
IV	5th	"	"	Angeles, Pampanga	179	123
VII	12th	"	"	San Carlos City, Occ. Negros	178	410
	10th	"	"	Catanduanes	177	451
III	3rd	"	"	Dagupan	177	238
I	2nd	"	"	San Fernando, La Union	177	258
II	8th	"	"	Pinamalayan, Mindoro Or.	175	297
II	12th	"	"	Dumaguete City, Or. Negros	173	619
III	16th	"	"	Cotabato	173	414
	2nd	"	"	Bangued, Abra	172	127
VI	12th	"	"	Himamaylan, Occ. Negros	172	264
III	12th	"	"	Dumaguete City, Or. Negros	171	686
VII	11th	"	"	Iloilo City, Iloilo	171	203
II	15th	"	"	Malaybalay	124	747
VI	13th	"	"	Guiuan, Samar	123	63
VIII	13th	"	"	Babay, Leyte	123	172
II	8th	"	"	San Jose, Occ. Mindoro	123	70

I	16th	Jud.	Dist.	Jolo, Sulu	122)	416
I	16th	"	"	Jolo, Sulu	122)	
III	1st	"	"	Ilagan, Isabela	123	415
VII	14th	"	"	Barili, Cebu	122	369
IX	13th	"	"	Burauen, Leyte	121	311
VI	4th	"	"	Sto. Domingo, Nueva Ecija	119	401
VII	4th	"	"	Cabanatuan, Nueva Ecija	119	142
IV	16th	"	"	Cotabato City, Cotabato	119	391
III	2nd	"	"	Laoag, Ilocos Norte	119	257
I	2nd	"	"	Laoag, Ilocos Norte	117	234
II	14th	"	"	Cebu City, Cebu	117	441
I	16th	"	"	Oroquieta, Occ. Misamis	117	108
IV	5th	"	"	Baliuag, Bulacan	115	268
I	1st	"	"	Bayombong, Nueva Vizcaya	113	386
	11th	"	"	Marinduque	112	353
IV	15th	"	"	Catarman, Or. Misamis	111	15
I	8th	"	"	Mamburao, Mindoro Occ.	111	32
II	11th	"	"	Iloilo City, Iloilo	110	378
I	4th	"	"	Cabanatuan, Nueva Ecija	108	231
II	2nd	"	"	Narvacan, Ilocos Sur	107	177
IV	12th	"	"	Bacolod, Occ. Negros	106	528
III	15th	"	"	Medina, Or. Misamis	104	121
	11th	"	"	Romblon	102	257
II	14th	"	"	Cebu City, Cebu	102	444
IV	1st	"	"	Roxas, Isabela	102	240
V	9th	"	"	Mauban, Quezon	97	177
I	2nd	"	"	Bondoc, Mt. Province	94	28
IX	13th	"	"	Basey, Samar	93	303
	9th	"	"	Baler, Aurora Sub-Province	91	109
	9th	"	"	Infanta	88	117
IV	1st	"	"	Sanchez Mira, Cagayan	84	246
II	15th	"	"	Surigao, Surigao del Norte	84	51
X	14th	"	"	San Francisco, Cebu	79	131
IV	2nd	"	"	Candon, Ilocos Sur	78	242
II	1st	"	"	Bayombong, Nueva Viscaya	78	386
XI	3rd	"	"	Alaminos, Pangasinan	73	28
XI	14th	"	"	Bantayan, Cebu	68	173
X	3rd	"	"	San Carlos, Pangasinan	67	206
I	15th	"	"	Surigao, Surigao del Norte	65	95
IX	14th	"	"	Toledo, Cebu	57	313
IV	7th	"	"	Tagaytay City, Cavite	53	181
III	15th	"	"	Dapa, Surigao del Norte	49	47
II	2nd	"	"	Kianga, Mt. Province	47	68
III	2nd	"	"	Tabuk, Mt. Province	47	143

III	15th Jud. Dist. Marawi City, Lanao del Sur	45	64
	12th " " Siquijor	35	46
IV	2nd " " Bauang, La Union	17	41
	1st " " Batanes	10	15
VII	13th " " Allen, Samar	5	80

Uneven Distribution of Caseload

Steps should be taken to redistribute the present Courts of First Instance in the different parts of the country. Some courts have few pending cases that they have become glorified municipal courts. As pointed out by Justice Arsenio Solidum, he said that:[4]

> "The location of some Courts of First Instance has not been motivated by a sincere desire for an efficient administration of justice but by political preferences. When the Judiciary Act of 1948 was enacted, by which more district courts were established, a great many were placed in certain provinces not necessarily due to big cumulations of pending cases but simply because Senators and Congressmen thought that their political fortunes would be enhanced if any of said courts would be established within their district. The result, as everybody knows, is that while some courts are loaded heavily with cases, others have very few cases, so much so that a judge once said that if he would set for hearing all the pending cases in his court, he would be able to dispose of all of them in three months only that he did not want to do so because them he would have no more work to do."

Courts loaded heavily with cases —

BRANCH	*DISTRICT*	*Location*	*10 years Ave. of Cases Disposed of*	*FY 1969 Backlog of Cases*
IX	7th Jud. Dist.	Quezon City	665	1,110
XIV	7th " "	Caloocan City	635	1,095
IV	7th " "	Quezon City	626	923
I	16th " "	Davao, Davao	684	500
II	7th " "	Pasig, Rizal	640	521
III	5th " "	Valenzuela, Bulacan	626	713
VII	7th " "	Pasay City	588	851
II	16th " "	General Santos, Cotabato	538	866
III	7th " "	Pasay, City	519	907
I	7th " "	Pasig, Rizal	476	456
I	5th " "	Malolos, Bulacan	467	521

[4] Solidum, *The Clogging of Cases*, 33 PHIL. L. J. 347 (1958).

IV	6th	Jud.	Dist.	Manila	465	570
VIII	7th	"	"	Pasig, Rizal	461	979
X	7th	"	"	Pasig, Rizal	450	627
VI	14th	"	"	Cebu City, Cebu	443	423
I	7th	"	"	Olongapo, Zambales	431	649
I	15th	"	"	Cagayan de Oro, Or. Misamis	430	958
V	7th	"	"	Quezon City	416	851
I	10th	"	"	Legaspi, Albay	396	1,191
XVIII	6th	"	"	Manila	387	423
VI	6th	"	"	Manila	327	501
XI	7th	"	"	Pasig, Rizal	369	473
VII	6th	"	"	Manila	355	457
VI	7th	"	"	Pasig, Rizal	353	633
I	10th	"	"	Sorsogon, Sorsogon	351	606
I	16th	"	"	Dipolog, Zamboanga	323	430
	16th	"	"	Pagadian, Zamboanga del Sur	320	1,158
II	16th	"	"	Davao, Davao	320	498
XVI	6th	"	"	Manila	318	467
XXV	6th	"	"	Manila	311	438
II	9th	"	"	Lucena, Quezon	311	723
I	10th	"	"	Masbate, Masbate	308	779
IX	6th	"	"	Manila	308	514
XXIII	6th	"	"	Manila	301	508
I	3rd	"	"	Lingayen, Pangasinan	190	56
IV	5th	"	"	Angeles, Pampanga	179	123
	2nd	"	"	Bangued, Abra	172	127
II	2nd	"	"	Laoag, Ilocos Norte	167	153
II	3rd	"	"	Lingayen, Pangasinan	159	141
II	4th	"	"	Cabanatuan, Nueva Ecija	157	140
I	15th	"	"	Tandag, Surigao del Sur	153	182
IV	11th	"	"	Iloilo City, Iloilo	153	147
III	4th	"	"	Cabanatuan, Nueva Ecija	148	189
III	14th	"	"	Tagbilaran, Bohol	142	107
VII	13th	"	"	Naval, Samar	137	92
IV	4th	"	"	Cebu City	133	148
VIII	14th	"	"	Barili, Cebu	132	43
I	14th	"	"	Tagbilaran, Bohol	128	185
III	16th	"	"	Oroquieta, Occ. Misamis	127	81
II	6th	"	"	Cavite City, Cavite	126	193
VI	13th	"	"	Gutuan, Samar	123	63
II	8th	"	"	San Jose, Occ. Mindoro	123	70
VII	4th	"	"	Cabanatuan, Nueva Ecija	119	142

I	16th	Jud.	Dist	Oroquieta, Occ. Misamis	117	108
IV	15th	"	"	Catarman, Or. Misamis	111	15
I	8th	"	"	Mamburao, Mindoro Occ.	111	32
II	2nd	"	"	Narvacan, Ilocos Sur	107	177
III	15th	"	"	Medina, Or. Misamis	104	121
V	9th	"	"	Mauban, Quezon	97	177
I	2nd	"	"	Bondoc, Mountain Province	94	28
	9th	"	"	Baler, Aurora Sub. Province	91	100
	9th	"	"	Infanta	88	117
II	15th	"	"	Surigao, Surigao del Norte	84	51
XI	14th	"	"	Bantayan, Cebu	68	173
I	15th	"	"	Surigao, Surigao del Norte	65	95
IV	7th	"	"	Tagaytay City, Cavite	53	181
III	15th	"	"	Dapa, Surigao del Norte	49	47
II	2nd	"	"	Kiangan, Mountain Province	47	68
III	2nd	"	"	Tabuk, Mountain Province	47	143
IV	2nd	"	"	Bauang, La Union	17	41
	1st	"	"	Batanes	10	15
VII	13th	"	"	Allen, Samar	5	80

CAUSES OF DELAY IN JUDICIAL PROCEEDINGS

Many of the proposed reforms in the organization and procedure of the judiciary are essentially directed at reducing delay in the disposition of cases. This delay is the most common complaint against the judicial system. It is a problem that confronts not only the courts of this country but also those of other lands with similar judicial system.

Delay Arising from the Court System

Docket congestion as a cause of delay —

If the dockets of the Courts of First Instance are congested because of numerous cases filed and it is humanly impossible for the judge to dispose of these cases within a reasonable time, the result is delay. In American jurisdictions, delay in the administration of justice caused by congestion of cases pending in the courts is regarded by authorities on judicial administration as the most serious problem of the law.[5] Such congestion of court docket is the natural result of new cases being filed more rapidly than old ones can be disposed of.[6] According to one authority, however, increased litigation is inevitable in wider and more complex human relationships and especially

[5] Brownell, Jr., *The Problem of Backlogs: A National Short-Coming in Our Courts*, 12 A.B.A.J. 1032 (1956).

[6] MacDonald, *op. cit.*, 171-172.

from added criminal legislation.[7] The progress of civilization is thus fundamentally responsible for the growth of court backlogs. When a large number of cases is pending action by a judge or court official, the disposition of these cases would be delayed since only one case can be acted on at a time. Consequently, the greater the number of pending cases, the longer the delay.[8]

Delayed transcription of stenographic notes

The congestion of cases in the Courts of First Instance can also be attributed to a certain extent the delay in transcribing stenograpic notes.

Sometimes, delay in transcribing stenographic notes of court proceeding hold up the trials. The lawyers request postponement if the notes are not yet transcribed. Trials should not be postponed simply because stenographers are busy too in many cases to be able to transcribe their notes. As Justice Hermogenes Concepcion Jr., said.[9]

> "Think that in every district where there are more than three (3) salas, certain stenographers may be assigned to do nothing but transcribe the notes taken by other stenographers by steno-type machines. In the Court of Appeals, there are cases that we cannot decide because the stenographers who took down the notes in their own shorthand, either have retired or died, or transferred their residence abroad. The notes taken down by them in their own shorthand cannot be transcribed by other stenographers because of the differences in strokes. Sometimes witnesses who testified are no longer available so that courts are faced with the dilemma of what to do. But, if notes were all taken down by steno-type machines, transcription would be an easy matter. Anyone who knows the symbols or code would be able to transcribe the notes."

Mr. Pedro Arao, Judicial Supervisor of the Department of Justice made certain observations regarding the two CFI branches in Pasig, Rizal. He had this to say regarding the second branch.[10]

> "The examination reveals that the principal cause of delay in the disposition of cases in this sala is that transcripts of stenographic notes are not submitted on time. It has been observed that the preparation of decision of cases which long been submitted has been considerably delayed by the failure of stenographers to submit the corresponding

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[7] *Ibid.*

[8] Clutario, *Proposed Reforms in the Organization and Procedure of the Judiciary* 23 (1966). Mimeographed.

[9] Concepcion, Jr., *How to Expedite the Trial of Criminal Cases in Trial Problems*, (TRIAL PROBLEM IN CFI,) 1968 134 (U.P. Law Center 1968).

[10] Memorandum of Atty. Pedro Arao to Undersecretary of Justice Felix Antonio, dated September 30, 1969.

transcript of stenographic notes within a reasonable time after the same have been taken by them. In the case of *People v. Cheng Eng Sheng*, an order was issued by the President Judge on November 7, 1967 that the motion to dismiss filed shall be deemed submitted for resolution upon receipt by the Court of the TSN. The transcripts were submitted on May 15, 1969. In *People v. Numerenciana Valle*, the defense rested its case on January 22, 1968 but the transcript has not yet been transcribed up to now (Sept. 30, 1969)."

Judge Jorge R. Coquia of the Court of First Instance of Manila made the following observation regarding delay in court system. [11]

"Another court delay system is the lack of qualified court stenographers in many courts. Available stenographers cannot simply cope with the voluminous transcription of the notes taken, hence, the preparation of decisions are usually delayed. Secretary Teehankee has suggested that judges should take down their own notes of the proceedings for their use in the preparation of decisions."

Another cause of delay as pointed out by Judge Jesus Perez in his report to the Executive Judge of CFI, Manila is that: [12]

"There are many cases throughout the Philippines which have been sleeping for many years, so to speak, because the trial of these cases were held before judges who later on retired or transferred to some other courts and there are no transcriptions of the stenographic notes taken at those trials for the reason that the stenographers who took the said notes have either retired or transferred to some other court so that the new presiding judge cannot proceed to continue the trial of these so-called 'refrigerated cases.' In order to avoid this situation, it has been suggested that the stenographers should be required to transcribe within one or two weeks, all the stenographic notes taken by them so that these transcriptions would be immediately available to the new judge under whom the trial was held or the transfer or retirement of the stenographer who took the stenographic notes in said trial.

Calendaring of cases for hearing left to party litigants —

There is much to be desired in the calendaring of cases for hearing in the Courts of First Instance. This is one source of delay in the court system. Judge Coquia observed that: [13]

"In cities and heavily populated centers, it is a common occurrence that about twenty or more cases are listed for hearing in the daily calendar. Actually, however only two or three cases are heard for the

[11] Coquia, *Court Congestion, Status, Causes and Remedies*, 33 LAWYERS J. 291 (1968).

[12] Perez, *Problem of Clogged Dockets in the CFI*, 29 LAWYERS J. 289 (1964).

[13] Coquia, *supra*, note 11.

day while the parties and witnesses of the other cases spend the whole morning waiting in vain for their turn. It is also usual that the calling of the calendar alone and the manifestations and arguments on such trivial matters as motions for postponements take a substantial period of the court session. This practice of overloading the trial list is one means of assuring the trial court to hear at least a case or two for the day. On the other hand, the situation tends to make lawyers come unprepared for trial especially if they know that their case is far down the list. In the same way, parties and their witnesses get discouraged when their time is wasted after repeated postponements of trials."

Mr. Victoriano Endaya, a private practitioner has this to say regarding calendaring of cases for hearing: [14]

"The Clerk of Court should set just the right number of cases for each session. If he sets more than the reasonable number, he is liable to waste not only the supplies of the government but also the time and energy of the employees. At the same time, that would have the effect of virtually throwing away the money, time and effort of the litigants, their counsel and their witnesses who are required to appear without being heard. On the other hand, if he calendars too few cases, the session would have to be adjourned much ahead of the time alloted. His daily experiences will guide him in determining the right number of cases to be included in every particular calendar."

Mr. Pedro Arao, who examined the records of all Courts of First Instance in Manila and suburbs has the following observations of the sixth CFI branch in Pasig: [15]

"It has been observed that in civil cases, the parties sometimes control the proceedings. Unless a party notifies the court to set the case for hearing, the same remains unacted. In one case, Civil Case No. 4826 which was filed way back on January 23, 1958, per order of the court dated, February 19, 1960 and by agreement of the parties, stipulations of facts will be submitted and the hearing to be set upon motion of any of the parties. The motion to set the case for hearing was filed only on July 23, 1968. The Court should not allow the parties to control the proceedings. It is the duty of the deputy clerk of court to see to it that all the cases are moving systematically, so that those which have been set one or two months ago can be re-set again. In that way cases will be terminated earlier thereby easing the courts clogged dockets."

Delays Caused by Dilatory Tactics of Lawyers and/or Parties

Not all delays can be attributed directly to court personnel.

[14] Endaya, *On the Clogging of Dockets*, 31 LAWYERS J. 116 (1966).

[15] Pedro Arao to Undersecretary Antonio, dated September 30, 1969.

One factor which adversely affects the prompt disposition of cases is the postponements of trials for an unreasonable number of times. Sometimes, though, the judges themselves are to be blamed for unreasonable postponements because if the lawyers know that the judge is one who is against postponement, then it seems likely that the lawyers will only ask for postponement in really meritorious cases. On the other hand, if the lawyers know that the judge is prone to grant motions asking for the postponement of trials, then it would seem easy for them to resort to postponements merely for the purpose of harrassing the adverse party; in the process they thereby contribute to the clogged docket.

For the seventh branch of the CFI of Pasig, Rizal, Mr. Arao, made the following observation: [16]

> "We noted that the presiding judge has an innate aversion to motions for postponement. This is a good sign considering that one of the causes of delay in the prosecution especially of criminal cases in this branch is the apparent laxity in granting motions for postponement. To cite just two examples we have Criminal Case No. 14772 filed on November 23, 1965 where the initial hearing was held almost 2 years from the date of arraignment i.e., after 10 postponements have been granted the defense, and Criminal Case No. 11341 filed March 26, 1962 wherein, after 10 hearings and 50 postponements, the defense is still presenting evidence."

Mr. Victoriano Endaya, a practicing lawyer, made some pertinent points regarding the practice of postponement of some lawyers. He said that:[17]

> "Motions for postponement should be granted sparingly. They ought not to be countenanced except when predicated upon very meritourious grounds. Sometimes, a lawyer wants to postpone the hearing of a case simply because no definite agreement has as yet been arrived at regarding his fees; or the fees already agreed upon have not yet been paid, either fully or partially. Lawyers and litigants who know in advance that it would be hard to secure a postponement would definitely settle their relationship very much ahead of the dates of the trial. Maybe a party wishes to post the hearing of a case just to spite the adverse party — to harras him and make him spend unnecessarily. There are even rare instances of postponements sought merely because of the lawyer or the client, or both, would like to go on pleasure trip. Such practices should be discouraged."

Honorable Claudio Teehankee then Secretary of Justice, in his

[16] Memorandum of Mr. Pedro Arao, Judicial Supervisor to Undersecretary Felix Antonio, dated September 30, 1969.

[17] Endaya, *On the Clogging of Dockets*, 21 LAWYERS J. 115 (1966).

address during the Judicial Conference for Judges of Courts of First Instance has this to say. [18]

> "Our supervisor examined the records of each of these criminal cases especially those cases that have been pending for more than a year. We looked into the number of postponements granted in each case and the reasons for the postponement as shown in the records. In one sala, we found out that more than 40 criminal cases have been pending for more than one year without the accused having been arraigned. There were cases wherein as many as 30 to 40 postponements had been granted. Postponements of hearings except one made *motu proprio* by the court, were generally granted on motion of the accused on such grounds as sickness, absence of witnesses, lack of counsel or failure of counsel to appear. Postponements that were usually granted upon motion of the prosecution were on grounds of unpreparedness for trial, absence of prosecution witnesses or indisposition of the fiscal. While postponements of trials are part of our judicial process, we have noted that in certain courts there seems to be a pattern of repeated postponements on practically the same grounds. The result of course was protracted delays giving rise to the suspicion that such moves were intentional dilatory tactics on the part of the accused, abetted by the fiscals, and wittingly or unwittingly tolerated by the courts. . . ."

Extra-judicial Processes as Causes of Delay

Another cause of the delay in the disposition of cases is the frequent failure to notify lawyers or the parties of the hearing. This delay is not actually attributed to courts but to the non-judicial government agencies that aid the court in serving notices or processes, such as the police, the PC and the post office. Due process of law requires that a party is notified of all hearings, otherwise, the court proceedings may be nullified. Courts located in the rural areas are greatly handicapped in notifying the parties for the trial. Aside from the poor postal services, registered notices are usually unclaimed in the rural areas, hence, courts are often compelled to order policemen and barrio captains to hand-carry summons or notices. It is of general knowledge that police forces in the provinces are either undermanned or they are not fully trained to know the importance of serving courts notices.

Under the present set-up, summons and warrants of arrest are served by police warrant officers who do not form part of the regular complement of the judicial machinery and are not directly responsible administratively to the courts. Moreover, as borne out by the uniform complaints of judges, police warrant officers are not always available to the courts because they have to perform other

[18] Teehankee, *Address before the Judicial Conference for Judges of the Court of First Instance*, April 16, 1968 in TRIAL PROBLEMS IN THE CFI 289 (1968).

duties as well. Consequently, numerous warrants are left unserved or, more frequently, improperly served, resulting in postponements and unwarranted delay in the disposition of cases. This is very unfortunate especially in criminal cases where the accused, under the Constitution, is guaranteed the right to speedly trial.

It is submitted that the above problems and other attendant anomalies could be considerably reduced, if not wholly eliminated, by the appointment of process servers as members of the regular complement of the courts of first instance. The process servers would work on full-time basis and would therefore be readily available to the judges. They would be directly responsible administratively to the courts which could, therefore, make them discharge their duties efficiently.

Mr. Pedro Arao, made the following observation on the Manila courts:[19]

> "The present practice could yet be, if it is not already, one of the biggest sources of graft and a blight in the administration of justice. When an accused cannot be located in his given or known address, the warrant of arrest is returned with the notation that the accused could not be found. The Judge and in many instances, the Deputy Clerk of Court sends the case to the files and archives it without issuing an alias warrant of arrest, except when the offended party requests it. There are thousands of criminal cases consigned to oblivion in this manner every year and we fear that police officers who are supposed to execute these warrants of arrests, if they are corrupt and unscrupulous, could subvert the administration of justice by stating in the return that the accused could not be found in his address, although he was always there, either for some money consideration or for friendship's sake or 'pakiusap'. We, therefore, suggest that a system be adopted to obviate these corrupt possibilities and to require that Judges should be the ones to order the archiving of cases and not left to the Deputy Clerk of Court. That in all cases where an accused could not be arrested according to the return, an alias warrant of arrest must immediately be issued by the Judge and the same should be directed also the Constabulary, the NBI, CIS and other police agencies. With the great number of unarrested accused persons in Manila alone, it is very possible that the city is very heavily populated with police characters."

CONCURRENT JURISDICTION OVER CRIMINAL CACES AND BACKLOG IN COURTS OF FIRST INSTANCE

Another way of helping solve the problem of clogged dockets is to minimize the number of cases that are filed in the CFI. This can be done within the framework of existing judiciary laws. Fiscals

[19] Memorandum of Atty. Pedro Arao to the Undersecretary of Justice, dated

could be instructed, for example, to file in the Justices of the Peace and Municipal Courts, and for said courts to hear on the merit, all cases specified in Sec. 87(b) of the Judiciary Act of 1948, as amended. An experiment of this was tried in the Courts of First Instance of Pasay City.

Previously, there had been no less than ninety five cases filed every month with the two branches of the Courts of First Instance of Pasay City. Then, an experiment was tried in which the Fiscal of Pasay City filed with the Municipal Court of said City all criminal cases involving crimes enumerated in Sec. 87(b) of the Judiciary Act of 1948, as amended. The Justice of the Peace of Parañaque, Las Piñas and Muntinlupa which fall under the Courts of First Instance of Pasay City likewise took cognizance and tried on the merit all cases under said Sec. 87(b). As a result, the number of cases filed in the Courts of First Instance of Pasay City was reduced from over ninety to only some sixty cases a month. This shows that the load in the Courts of First Instance of Pasay City was reduced by almost one third.[20]

The concurrent jurisdiction of the ordinary Municipal Courts to try criminal cases falling within the concurrent jurisdiction of the Courts of First Instance are reflected under the following provisions in the Judiciary Act of 1948 (R.A. No. 296) as amended:

> "Sec. 44. *Original jurisdiction* — Courts of First Instance shall have original jurisdiction:
>
> (a) x x x
>
> (f) In all criminal cases in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos:
>
> Sec. 87. *Original jurisdiction to try criminal cases..* — Justices of the Peace and judges of municipal courts of chartered cities shall have original jurisdiction over:
>
> (a) x x x
>
> (b) x x x
>
> (c) Except violations of election laws all other offenses in which the penalty provided by law is imprisonment for not more than three years, or a fine of not more than three thousand pesos, or both such fine and imprisonment.
>
> Said justices of the peace and judges of municipal courts *may also conduct preliminary investigation for any offense* alleged to have

[20] Liwag, *The Clogged Dockets*, 27 LAWYERS J. 163 (1962).

> been committed within their respective municipalities and cities, which are cognizable by Courts of First Instance and the information filed with their courts without regard to the limits of punishment, and may release, or commit and bind over any person charged with such offense to secure his appearance before the proper court." (Underscoring supplied)

The Supreme Court of the Philippines, interpreting these two paragraphs, said:

> "It is mandatory for the municipal courts of the capitals of provinces, sub-provinces and city courts to try on the merits, cases within their concurrent jurisdiction with courts of first instance, their proceedings to be recorded, and their decisions therein, appealable direct to the Courts of Appeals or the Supreme Court, as the case may be; and if their proceedings are not recorded, the same are null and void."[21]

The ordinary municipal courts are not covered by the last two paragraphs of Section 87 (c), but the Supreme Court, in the case of *Esperat v. Avila* stated that their decisions may be appealed to the Court of Appeals or Supreme Court, in an appropriate case, but this appeal is only permissive, not mandatory.

Trial of cases within Concurrent Jurisdiction by Municipal Courts

Notwithstanding the concurrent jurisdiction of ordinary municipal courts with courts of first instance as provided for by Sections 44(f) and 87(a), (b), (c), the second paragraph of Sec. 87(c) makes it ineffective. The ordinary municipal courts have authority to conduct preliminary investigation instead of trial on the merits for any offense committed within their respective municipalities, which are cognizable by the Courts of First Instance. When the judges of ordinary municipal courts find probable cause in this preliminary investigation, they just elevate said cases to the Courts of First Instance for trial on the merits. This procedure results in the accumulation of cases in the Courts of First Instance as ordinary municipal courts do not try cases on the merits within their concurrent jurisdiction as provided by law.

The objective of the Judiciary Act in having given concurrent jurisdiction to the ordinary municipal courts, was for them to help the courts of first instance dispose of cases falling under their concurrent jurisdiction when they are filed before them. In order that

[21] Esperat v. Avila, G.R. No. 25922, June 30, 1967.

this objective will not continue to be illusory, there is apparently a need to make it mandatory for the ordinary municipal courts to try cases of this nature on the merits. Their decisions are appealable direct to the Court of Appeals of Supreme Court as the case may be. This is now feasible, considering that all judges of ordinary municipal courts are lawyers with five years practice, upon their appointment, and all are provided with clerk-stenographers.

If the ordinary municipal courts are required to try on the merit cases falling within their concurrent jurisdiction with the courts of first instance, this would mean utilizing the latent manpower of the Judiciary consisting of about 1,373 ordinary municipal courts.

It may appear at a glance that this will clog the Court of Appeals with cases because the decisions of ordinary municipal courts in cases within their concurrent jurisdiction are appealable direct to the Court of Appeals. This apparent difficulty has been remedied by making final, the decisions of the Courts of First Instance in appealed cases of ordinary municipal courts falling within their original exclusive jurisdiction. The cases which will be final in the Courts of First Instance will compensate the cases of concurrent jurisdiction which will be appealable direct from the ordinary municipal courts to the Courts of Appeals.

Republic Act No. 6031 now provides that city and municipal courts shall be courts of records and that cases appealed from said courts shall not again be tried anew but shall be decided by the district judge on the basis of evidence and records transmitted by the city or municipal courts. The elimination of trial *de novo* which has been the cause of agonizing delays in the final termination of cases appealed from these courts to the Courts of First Instance will hasten the termination and final adjudication of cases and certainly bring an immeasurable reduction of backlog.

For example, Section 44(f) could be amended by restricting the original jurisdiction of the Courts of First Instance to "all criminal cases in which the penalty provided by law is imprisonment for more than *three years* or a fine of more than *three thousand pesos.*" The present jurisdiction includes criminal cases in which the penalty is imprisonment for more than six months, or a fine of more than two hundred pesos.

Section 45 could also be amended by giving Courts of First Instance exclusive appellate jurisdiction not only over all civil cases but also over all criminal cases coming from city and municipal courts. At present, in criminal cases where municipal courts in the capitals

of provinces and sub-provinces and city courts have concurrent jurisdiction with Courts of First Instance (with reference to cases where the offense committed carries a penalty not exceeding *prison correctional* or imprisonment for not more than six years or fine not exceeding six thousand pesos or both), appeals from said municipal and city courts are elevated directly to the Court of Appeals.

Section 87 could likewise be amended by giving municipal and city courts original exclusive jurisdiction over all offenses, except violations of Election Laws, in which the penalty prescribed by law is imprisonment for not more than *three years* or fine of not more than *three thousand pesos,* or both such fine and imprisonment.

This amendment would in effect abolish the concurrent jurisdiction of Courts of First Instance and all inferior courts. Thus, a complicated aspect of jurisdiction would be simplified. [22]

Aside from simplification of jurisdiction between the Courts of First Instance and all inferior courts, it will lessen the work-load of the former because the original jurisdiction over all criminal cases is proposed to be increased in penalty.

PRI-TRIAL

Mandatory Pre-Trial

Rule 20 of the Revised Rules of Court provides that after the pleadings in a civil cases have been filed, the case shall be calendared for a pre-trial conference in which case a party who fails to appear may be non-suited or declared in default.[23] This is a major step in expediting the disposition of pending cases.

To encourage and promote greater use of pre-trial the Department of Justice issued a circular, stating the objective as follows: [24]

> "1. The fundamental problem of a trial judge is to ascertain before trial the matters to be tried, and for that purpose to determine whether or not there is *prima facie* foundation of the various assertions and denials in the pleadings. The importance of pre-trial in court practice these days cannot be over-emphasized and it is an outstanding recent development for the improvement of trial practice.
>
> 2. The main purpose of a pre-trial conference is to make a preliminary examination of the issues and evidence with which the par-

[22] Appendix "C" — for proposed bill entitled "An Act to Amend Section Forty-Four, Forty-Five and Eighty-Seven of the Judiciary Act of 1948.

[23] Rev. Rules of Court, Rule 20, secs. 1, 2 & 5.

[24] Department of Justice Circular No. 63, dated November 10, 1958.

ties have to prove their cases and emphasis should be laid on (a) simplifying the issues and/or eliminating unnecessary issues; (b) obtaining admission of facts and of documents to avoid unnecessary proof as may shorten the trial of cases; and (c) while the possibility of an amicable settlement may be touched upon, such final disposition should be considered as by-products rather than the principal purpose of the pre-trial conference."

Effects of Pre-Trial

It has been said that the effect of pre-trial, from the standpoint of judicial efficiency, has been the reduction of court's dockets. A statistical study on this aspect has been made in Courts of First Instance in Manila. In determining the results of mandatory pre-trial in civil cases, the Court of First Instance of Manila constitutes a valuable observation point on account of its large dockets and its large number of qualified judges. In the number of cases filed in this court and the number disposed of by it, the average for each judge ranks among the largest in the country. At the same time the court is manned by experienced judges who have previously served in other stations.

Statistical data on the number of cases disposed of through pre-trial in the different branches of the Court of First Instance of Manila shows that in fiscal year 1969, the average monthly number of cases disposed per judge is 2.75. The highest number of cases disposed of during this fiscal year is 34 under Branch XXI. It is significant to note that there are seven judges who do not even have a single case disposed of through pre-trial for the entire fiscal year. This may be true with other judges throughout the country. If all the 230 judges would only dispose of one case a month and by way of quantification, this would mean 7,590 cases a year, the backlog will undoubtedly be reduced.

Pre-Trial in Criminal Cases

Pre-trial in criminal cases should also be applied to increase the output of CFI judges. There are criminal cases which will end up in a settlement between the parties. Such cases as oral defamation, estafa (which in most is actually civil in nature), and physical injuries, are usually settled amicably. The judge is often asked or forced to mediate between the parties and it is in such cases that a lot of tact is required of the judge.

In cases where the accused is a recidivist or a well-known police character and the evidence against him is overwhelming, a few leading questions would sometimes convince the accused to plead guilty

or admit the commission of the crime charged. A little tact and a little resourcefulness in situations like this often saves the court from the rigors of a protracted trial.

In many estafa cases that come up, the only purpose of the complainant is to collect the sum of money allegedly swindled by the accused. In situations like this, when the judge mediates between the parties, the case is usually settled amicably. Judges should not hesitate to do so because the time they save in trying cases of this nature could very well be devoted trying other more important ones.

JUDGES, COURT PERSONNEL, OTHER OPERATING EXPENSES AND EQUIPMENT

Appointment of Judges

The need for more judges —

One of the most pressing problems of the Courts of First Instance today is seemingly the lack of judges. As of June 30, 1969, there were 243 authorized positions for judges, of which 233 had incumbents. As of the same date, the CFI had a total of 82,825 pending cases. Incoming new cases average 45,902 a year.[25]

To cope with this workload, there seems to be a need for additional judges. Lately, there have been agitations in various quarters to increase the number of judges to act on the crowded court dockets. Judge Jesus P. Morfe of the Manila Court of First Instance is one of those who has proposed this solution to the problem of mounting backlog of cases. He has called for the creation of a special committee to study the proper ratio between the population and the number of CFI judges.[26]

On this score, the University of the Philippines Law Center has said that judicial efficiency can be attained with 626 courts of first instance.[27] This means that 271 more CFI salas have to be set up to ease the situation in the badly undermanned judiciary. It is probably for this reason that 112 new courts of first instance were provided for by Republic Act No. 6092.

Considering that the population of the Philippines has been increasing at the rate 3.5% a year, not to mention the growing awareness of the people of their rights and obligations under the law and the increase of business or commercial activities in the

[25] Judiciary Division, Department of Justice.
[26] Manila Times, January 2, 1969.
[27] U.P. Law Center, *supra*, note 3 at 10.

country, [28] the need for the filling of the 112 new salas of the Courts of First Instance becomes imperative.

The need for better judges —

Equally important, if not more so, than the need for more judges is the upgrading of the quality of such judges. Even if many more judges are needed, this is no reason for appointing lameducks, particularly when the only qualification of such persons is their closeness to influential politicians.

An afternoon daily has this to say on the need for more *and better* men for judiciary: [29]

> "x x x If mere election service shoud be an important considera-ration in the naming of members of the bench, how can there be impartiality in the dispensation of justice? A political judge is incessantly under obligation to repay party favors."

It was advocated that in looking ahead, strict adherence to the criteria for the selection of nominees to the judiciary be followed. Among the criteria proposed are moral courage, ethical firmness and imperviousness to venal influence. A nominee's judicial temperament must be augmented by decisiveness, capacity for hardwork, good health, and zeal for public service. His education, training, association and experience must show that he is eminently qualified to hold a judicial office.[30]

Judicial selection —

The system of selection and appointment of judges by the President with the consent of the Commission on Appointment,[31] is far from being satisfactory. It is widely known that, during the many past administrations, appointments to the bench had been based, more on political considerations, than on merit.[32]

Associate Justice Jose B. L. Reyes for one, believes that the main defect in the present system of selection and promotion in the judiciary is that these processes are entrusted exclusively to the executive and the legislative. He proposes that the President should select from a list submitted by the bar and approved by the Supreme Court. Another method which Justice Reyes suggests, is to have the

28 Manila Times, January 2, 1969.
29 Editorial, The Daily Mirror, January 16, 1970.
30 The President's 1970 State of the Nation Message.
31 CONST. art. VII, sec. 5.
32 "We, the People," Manila Times, January 9, 1970.

selection done by a Superior Council of the Judiciary like in Italy. The Council, headed by the President as *ex-officio* chairman, would be composed of the Chief Justice; the university professors and lawyers with at least 15 years practice chosen by the Congress.[33]

There is another group which advocates the removal of the appointing power from the Chief Executive and vest it the Supreme Court. However, it is believed that this would contravene the principle of checks and balances which is one of the fundamental safeguards of republican government.[34]

Another point of view[35] is that the power of confirmation should be vested in the Supreme Court, instead of in the Commission on Appointments. It is believed that under this system wherein two different agencies participate in the process of appointment, the principle of checks and balances would be observed; at the same time such a procedure would reduce to a great degree the possibility of politicizing the judiciary. As former Senator Vicente Francisco pointed out, this procedure would have definite advantages: firstly, having greater familiarity with the relative capacity and qualifications of the applicants, the Supreme Court is in a far better position to confirm judicial appointments; and, secondly, being mainly responsible for the administration of justice, it would naturally feel and take seriously this responsibility in the confirmation of those who will help it in the legal or judicial ordering of society.

In order to maintain the Constitutional balance of power, there is no substitute for the appointment of judges strictly on merit and not on extraneous considerations such as politics. This would require members of the bar to be vigilant at all times and that they must resist all attempts to make the judiciary the dumping ground of political proteges. As the American Bar Association put in its Professional Ethics:[36]

> "x x x It is the duty of the bar to endeavor to prevent political considerations from outweighing judicial fitness in the selection of judges. It should protest earnestly and actively against the appointment or election of those who are unsuitable for the bench and it should strive to have elevated thereto only those willing to forego other employments, whether of a business, political or other character, which may embarrass their free and fair consideration of questions before them for decisions. The aspiration of lawyers for

[33] Foz, *The Times in* '68, Manila Times, December 31, 1968.

[34] 2 U.P. Law Center, Project on the Proposed Reforms in the Administration of Justice, Reference Materials, 78 (1969).

[35] *Ibid.*

[36] 49 Editorial, 33 LAWYERS J. 253 (1968).

> judicial position should be governed by an impartial estimate of their ability to add honor to the office and not by a desire for the distinction the position may bring to themselves."

Court Personnel

Overstaffing —

The appointment of more and highly qualified judges may not, however, be enough. Certain other dehabilitations would have to be corrected.

It has been noted for example, that during the last few days Congress has been increasing the appropriations of the courts or creating new positions in the budgets for the Courts of First Instance without prior consultation with the Department of Justice. This is not bad *per se*: what is rather disquieting is that those newly created positions were really earmarked and promised to the political proteges of politicians without regard for career men who might have been more deserving of such positions.[37]

The practice has also resulted in the overstaffing of many courts. In the Court of First Instance of Caloocan City for instance, there are as many as forty three personnel. The Court of First Instance of Catanduanes has forty one employees. In at least seven salas there is an excess of about 100% over the normal staffing pattern of sixteen personnel. In other courts the average number of employees is nineteen.[38] It is for this reason that for some time now the Department of Justice has been withholding the filling of new positions authorized in the budget.

The fact that Congress has been increasing the appropriations of the courts and creating new positions even without the recommendations of the Secretary of Justice has not been left unnoticed by the Chief Executive. In relation to the budget for 1962-1963, then President Macapagal observed:[39]

> "The Secretary of Justice and I have gone over the numerous positions inserted in this Bill for the Courts of First Instance. We have noted that the above enumerated positions are not necessary. Mindful of the Constitutional prerogative of the Congress to increase the items of appropriation requested in the budget of the Judiciary but considering also the necessity of limiting appropriations to absolute need, I suggest that during the preparation of the budget the dif-

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37 ABELLERA, THE ADMINISTRATION OF JUSTICE IN THE PHILIPPINES 36 (1962).

38 Judiciary Division, Department of Justice

39 Veto message, Rep. Act No. 3500.

> ferent members of Congress propose to the Secretary of Justice the items that they want to include in the budget of the Judiciary for determination of their necessity."

However, it seems that this admonition by the Chief Executive has fallen on deaf ears. Congress still continues this practice to the detriment of the service.

Sometimes, in order to forestall the presidential veto, Congress resorts to the device of showing new positions in the budget not as separate items but integrating new positions with old items having the same designations and rates of salaries.[40] Hence, the Chief Executive is estopped from vetoing the items for if he does so, he would eliminate the items concerned and lay off the incumbents of the old positions to the prejudice of the public service.

Another factor that contributes to overstaffing of the courts is the reshuffling of personnel and internal reorganization of the courts by Congress. Although these changes are disruptive to sound executive planning,[42] they are nevertheless made by Congress to accomodate the party faithful.

Inasmuch as it is the Secretary of Justice who has administrative and executive supervision over the court employees pursuant to the Judiciary Act,[42] he should be given the discretion to decide on the needs of the courts.

Salary inequality —

It has also been observed that demoralization is slowly but steadily creeping in among the rank and file of court personnel due to the inequalities in pay. This salary inequality is an offshoot of the practice of some Congressmen and Senators to increase the salaries of their proteges without the recommendation of the Department of Justice.

Moreover, some influential legislators have been able to effect changes in the designations of court personnel without the approval of the Department. These changes have been resorted to not only to upgrade positions so as to pave the way for subsequent salary increases, but also to make the positions conform to the eligibility or lack of eligibility of the favored incumbents. Worse still, many changes of designations have been made as a means of securing budgetary promotions in disregard of the rights of the deserving old

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[40] Veto message, Rep. Act No. 4164.

[41] Veto message, Rep. Act No. 4164.

[42] Judiciary Act of 1948, sec. 46.

employees.[43] As the Chief Executive observed at one time.[44]

> "With very few exceptions, the changes in designations will enable the incumbents to receive an increase in pay, even though their authorized salaries have been made to appear the same in the bill. The new designations will eventually entitle the incumbents to salary adjustment upon the reclassification of their position to a higher range or grade. The increase in salaries was not originally provided in the budget."

Sometimes, because of political pressure, the Department of Justice personnel give in to the requests and demands of these politicians for the implementation of the proposed changes in salary and/or designation of their followers as reflected in the budget. This has led to accusations, that the salaries of some officials and employees of the courts are not based on merit but on the strength of their respective congressmen.[45] And perhaps, this is also one of the reasons why the personnel of the Court of First Instance of Manila has filed an original petition for *mandamus* with the Supreme Court to compel the Budget Commissioner to release the sum of ₱292,188 for the salary differentials of employees of the Court of First Instance of Manila. For lack of cause of action, however, the petition was dismissed.[46]

In some instances, however, Congress as a body has tried to solve the problem of salary inequity among court personnel. In 1969, it enacted RA 5885 standardizing the salaries of clerks of court, branch clerks of court and assistant clerks of court. This was a wise decision but it seems that Congress has not really met the problem head-on. On the basis of the principle of "equal pay for equal work", many court personnel are still underpaid. It is no wonder then that employees who have no strings to pull are complaining, for it is not enough that they receive a one-grade or five per cent increase, everytime election season comes around. What is urgently needed are broad-gauged, not piece-meal, solutions to their predicament.

Supervision of other personnel

Another factor which gave rise to problems in the efficient administration of justice is lack of supervision and training, hence, lack of discipline and poor performance of court personnel.[47] This

[43] Memorandum of Secretary Teehankee to Budget Commissioner, January 17, 1968.

[44] Veto message, Rep. Act No. 6050.

[45] ABELLERA, *supra*, note 37 at 37.

[46] Genato v. Budget Commissioner, G.R. No. 23095, May 12, 1967.

[47] Lintag, *The Proposed Transfer of the Administrative Supervision over Inferior Courts to the Supreme Court*, 10 FAR EAST. L. REV. 259 (1963).

may be partly attributed to the failure of the Department of Justice to devise a system that would compel each and every one of the members of the judicial team to do his share of the work without delays. This system is necessary in view of the fact that not all the members of the judicial team are under the supervision of the Department of Justice; neither are all of them paid from national funds.[48]

The national officials in the judicial team who are under the supervision of the Department of Justice are the Judge, the Clerk of Court or the Deputy Clerk of Court, the Stenographer, the Interpreter, and the Sheriffs. Provincial and city fiscals are under the supervision of the Department although their salaries come partly from the national government and partly from the province or city where they render service. The salaries of Chiefs of Police who are *ex-officio* deputy sheriffs in their municipalities, are paid from the municipal fund, they are not under the supervision of the Department.[49]

The case of the chiefs of police has given rise to some difficulties. Under the present law, the orders of arrest and notices of hearing are served by the chiefs of police in their capacity as *ex-officio* sheriffs.[50] Strictly speaking, they do not form part of the regular complement of the judicial machinery and are not directly responsible administratively to the courts.[51] Moreover, as borne out by the complaints of some judges, police warrant officers are not always available to the courts because they have to perform other duties as well. Consequently, numerous warrants are left unserved or more frequently, improperly served, resulting in postponements and unwarranted delay in the disposition of cases. This is very unfortunate especially in criminal cases where the accused under the Constitution, is guaranteed the right to speedy trial.[52]

Cognizant of these delays, the Department proposed in the Appropriation Bill for FY 1970 the creation of the items of process servers as part of the regular complement of the courts of first instance. It is believed that by the appointment of process servers, the above problems and other attendant weaknesses of the judicial system will be considerably reduced, if not wholly eliminated. The reason for this expectation is that process servers work on a full-

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48 ABELLERA, *supra*, note 37 at 62.

49 *Id.* at 60

50 REV. ADM. CODE, sec. 184 (1955).

51 Letter of Secretary Enrile to the Chairman, Committee on Finance dated June 6, 1969.

52 *Ibid.*

time basis and are therefore readily available to the judges. They will also be directly responsible administratively to the courts, which could, therefore, make them discharge their duties efficiently.[53]

Another phenomenon that affects public interest is the failure of other officials and employees of the courts to keep regular office hours.[54] In view of the unusually heavy workload of the courts, there is an urgent need to improve the attendance of the employees.

It has been proposed that closer supervision over the work and attendance of employees, particularly stenographers, be exercised.[55] It has been observed by the Department that despite the assignment of two stenographers to practically each Judge, there are still stenographers who are very much behind, if not delinquent, in submitting their transcripts required of them by the courts; so much so that in several instances the Courts are constrained to impose fines and sometimes order the arrest of delinquent stenographers. It has likewise been noted that there are stenographers who do not take advantage of their judge's being on leave or not being on duty by working on their pending transcription of stenographic notes; they prefer to remain idle specially if the litigants in a case are paupers or have not indicated their desire to buy a copy of the transcript. [56]

The Department does not see any valid reason why a stenographer who is not alone in a particular sala should have so many overdue transcripts when he can devote these days he is not attending court sessions to his transcription work. The department assumes that the two stenographers (sometimes three stenographers in some salas) assigned to a Judge attend sessions alternately to give them time to attend to their pending transcripts. Moreover, if necessary, stenographers could be directed to work overtime daily to be up-to-date in their transcript.[57]

Inadequacy of Supplies, Equipment and Library Facilities

A contributory factor to the slow grind of justice is the problem of inadequate supplies, equipment and facilities. The inability of the provincial governments to provide the Courts of First Instance with equipment, supplies and facilities as required by law, has to some extent impaired the efficiency of the courts in the administration

53 *Ibid.*
54 ABELLERA, *supra*, note 37.
55 Circular No. 88, dated November 13, 1956.
56 *Ibid.*
57 *Ibid.*

of justice in helping keep the peace.

The provincial governments are obliged to furnish court room, furniture, fixtures, supplies, equipment, etc. This is in accordance with Section 190 of the Revised Administrative Code, quoted hereunder:

> "All expenses incident to the repair, alteration, and custody of the courthouse, or courtroom and court offices and the cost of all equipment and supplies for a court of first instance including necessary books and stationery shall be borne by the province concerned. x x"

This provision has been strenghtened by the case of *Province* of *Tarlac, et. al v. Gale* (26, Phil. 338 (1913) where the Supreme Court ruled that provincial officials cannot escape the obligation which the law imposes upon them. Unfortunately, however, a number of provinces are in no financial position to discharge their responsibility. Out of a total number of sixty-five provinces, there are only forty-two first class provinces, ten second and ten third class provinces. The remaining nineteen belong to the lower category. This problem is compounded by some provincial government's evasion of their responsibility for reasons of political or personal differences with the judge. The result is the crippling of the judicial machinery.

The Courts of First Instance located in cities are likewise faced with the same problem. While some cities are willing to shoulder part, of the expenses for maintenance of court-houses, the Auditor General believes that there is no law obliging the cities to shoulder the responsibility of the province concerned. To cite an example, two resolutions of the Municipal Board of San Carlos City appropriating ₱1,800 and P1,000 as financial aid to the Court of First Instance stationed in San Carlos City were not allowed in audit. The Auditor General in its 2nd indorsement dated July 17, 1969, ruled:

> "x x x that the proposed disbursement cannot be allowed on the ground that it is not in accordance with any provision of law, rule and/or regulation and that it is the obligation of the province of Negros Occidental to provide for all expenses of the Court of First Instance stationed therein."

Secretary Juan Ponce Enrile in his appeal to governors of provinces for assistance said: [58]

> "In the inspection of the various courts made by this Department, the Court of First Instance in your province, among others, was found deficient in supplies and equipment, which to some extent has impaired its efficiency."

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[58] Letter of Secretary Ponce Enrile to Governors of Provinces, dated February 13, 1969.

The Judicial Supervisors of the Department of Justice headed by Atty. Pedro Arao on their inspection of CFI in the suburban areas, have the following to say as regards CFI — Branch VII. Pasay City:[59]

> "The very first thing that disturbed us is the physical condition of the Court. The session hall, the office of the Clerk of Court and his employees, and the chamber of the Judge, are located on the second floor of the City Hall of Pasay which is always crowded not only by litigants and their witness but also by people who have some business with the City Mayor and his Secretary whose offices are also located on the same floor. The quarters alloted to the Court including that of the Clerk of Court and his employees is very small, dirty, drab and dilapidated. It also lacks chairs and tables for its employees and records are just piled-up on top of tables and on few cabinets. The rooms are too cramped and during the summer months the heat and the noise are unbearable. The chamber of the judge is a small room almost bare were it not for two dilapidated and squeaky chairs intended for guests or callers of the Judge. It has an air-conditioning unit but it is useless since it is out of order. The judge had to bear with it all. Despite the fact that the Judge is not robust and does not seem to enjoy good health, he heroically endures the very unpleasant condition of his Court and continues working hard without complaint."

Judge Pedro Singson Reyes, President of the League of CFI Judges complained during a conference that "my court does not even have a typewriter of its own to type my decisions. We have to borrow from another office just so my decisions will be finished on time".

In an open forum during the convention of CFI Judges, Judge Singson Reyes also made the following comments: [60]

> "Whenever we go to the Department of Justice asking for facilities, we are told that we do not have funds. But we can solve this problem without need of any special fund to be appropriated from the general fund. Section 6 of the Judiciary Act says: *"Disposition of moneys paid into court* — All money accruing to the Government in the Supreme Court, in the Court of Appeals, and in the Court of First Instance, including fees, fines, forfeitures, costs, or other miscellaneous receipts, and all trust or depository funds paid into such courts shall be received by the corresponding clerk of court, and in the absence of special provision, shall be paid by him into the National Treasury to the credit of the proper account or fund and under regulations as shall be prescribed by Auditor General; Provided, however, that twenty percent of all fees collected shall be set aside as a

[59] Memorandum of Judicial Supervisors to Undersecretary Felix Q. Antonio dated July 15, 1969.

[60] Judicial Conference for Judges of CFI conducted jointly by U.P. Law Center and the Department of Justice on April 17-19, 1968.

special funds for the compensation of attorneys de oficio as may be provided for in the Rules of Court.

This section should be amended in such a way that the remaining 80% should be used for the purchase of equipment of judges and for the service fees of subpoenas, summons, etc."

This fund is meant to augment the appropriation made by provincial governments for the acquisition of basic supplies and equipment of the courts. Based on actual collections of ₱1,472,400 of fiscal year 1969 from sources stated above, 80% of this amount of ₱1,177,920 will go a long way in solving his perennial need of the trial courts for basic supplies and equipment.[61]

In addition to this amount, through the strong representation of Secretary of Justice Juan Ponce Enrile, Congress provided in the 1970 General Appropriation Act (Rep. No. 6050), an amount of ₱7,800,000 intended solely for support of the operations of the Courts of First Instance.[62]

Unfortunately, the above cited amount has not been programmed up to the present because of the precarious financial condition of the National Treasury. The programming and release of this appropriation is an apparent solution to the problem of inadequacy of supplies and equipment.

Lack of library facilities —

One of the most deplorable hindrances to the efficient administration of justice is the dearth of research materials in Courts of First Instance in Manila and in the provinces. The General Appropriation Act contains an item providing for researchers for all Courts of First Instance, but there is no law appropriating funds for the establishment of law libraries for the Courts of First Instance.

Clearly, one of the first tasks of the Congress is to appropriate an amount for researchers and research facilities for the Courts of First Instance. As it is, many judges in the provinces, in order to have a working library for their use, have to solicit donation of law books from lawyers who publish them. A justice of the Court of Appeals told the editor of the Lawyers Journal that the Court does not even have funds for subscribing to the Journal.[63]

Inadequate Operating Expenses

To expeditiously dispose of the backlog of Courts of First Ins-

[61] See Appendix "E' — for proposed bill amending Sec. 6 of the Judiciary Act.

[62] General Appropriation Act (Rep. Act No. 6050) Item No. 5, page 367.

[63] Editorial, 33 LAWYERS J. 433 (1968).

tance, there is a need for speedy delivery of court processes to the parties concerned. Some judges prefer personal delivery of these processes by the deputy sheriffs to mailing them; the former is the best way of obtaining positive results. However, the sheriffs are hesitant to deliver these processes as they are not given cash advance for travel expenses. Whatever they have to pay out of their own pocket is reimbursed by the Department of Justice only upon submission of a properly accomplished travel expense voucher. This of course, is in accordance with the following provision of law. [64]

> "Actual and necessary travelling expenses incurred by the provincial sheriffs and their deputies (including chiefs of police as ex-officio deputy sheriffs) in the performance of their official *duties cannot be collected in advance from the Government* but will be paid, upon submission of a properly accomplished reimbursement voucher, to the Bureau of Justice (now Department of Justice) from the appropriation of the Inferior Courts, subject to the usual audit requirement of the General Auditing Office and such other administrative regulations that the Honorable Secretary of Justice may prescribe." (Underscoring supplied)

The problem of lack of readily available travel money is further complicated in those cases where Courts of First Instance have territorial jurisdictions comprising several islands. In places like Sulu, Palawan and others where there are no regular means of transportation, conveyances have to be hired and this means increased traveling expenses. It would be interesting to find out how a poor process server can go to distant islands where the amount involved in traveling is his entire salary for one month and when the reimbursement of this expenses by the Department of Justice takes a long considering the inefficient postal service and bureaucratic red tape.

Related to this problem is the question of how to encourage indigent parties and their witnesses to attend the trial of their cases considering that their attendance entails an additional expense for them. It was due to contingencies like this that Rep. Act No. 6034 providing for reasonable allowance for meal and lodging to indigent defendants or complainants and witnesses in criminal cases was enacted. Said allowances are payable by the provincial, city or municipal treasurer but have to be reimbursed by the national government.

There are several cases of CFI judges who have been appointed to newly created salas whose courthouses have not been organized for the moment and are therefore not ready for occupancy, hence, said

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[64] B.A.F. No. 118-1069, March 4, 1932; B.A.F. No. 80-407 January 20, 1932.

appointees are ordered to share the salas of some other judges outside of their official station for a period not exceeding three months. This is enough reason for them to claim for travel expenses. The problem is that if the courthouses could not be organized in some one or two years, their courts become ambulatory. They would therefore continue to claim travel expenses which, as past experiences show, is a big drain to the appropriation of the Department.

In this connection, it might be stated that there is a general clamor to implement the provisions of GAO Circular No. 88-A. The full implementation of the rates[65] prescribed in said circular would greatly alleviate the problems cited above. As of now, the CFI has only a programmed appropriation of ₱560,000 for travel expenses for FY 1970 which is available for 5,484 employees of the courts. There is therefore a need to increase the Department's programmed appropriation for travel.

An objective analysis shows that while demands for their services have rapidly expanded there has been on systematic or commensurate support for the courts of justice in the terms of men, money and material. The Department of Justice has consistently received only less than 2.5% per cent of the national budget. As new duties are laid on the department its material requirements also increase; and this increase must be met for it for fulfill its tasks successfully.[66]

CONCLUSIONS AND RECOMMENDATIONS

"Efficient administration of justice" is an elusive term, which in some instances is incapable of objective measurement, like integrity, honesty of judges and the length of time it takes a judge to disposed of a case. It is the view that a maximum of two hundred fifty cases a year (median of 225 and 273 cases) may be considered the normal and desirable caseload of one court. It is small enough to enable the judge to thoroughly examine the various aspects of the cases and it is big enough to keep the judge on his toes. We are therefore

[65] **Rate of Per Diem for Officers and Employees receiving a monthly Salary of:**

Place of Travel (Destination)	*Below* ₱500	₱500 *and above*
In Bacolod, Baguio, Cebu, Davao, Iloilo and Manila	₱14.00	₱20.00
In all other Chartered Cities	12.00	16.00
In all placed Other than chartered Cities	10.00	14.00

proceeding on the premise that the maximum caseload on 250 cases per court is an adequate translation of the abstract goal known as "efficient administration of justice." This is not to say that we are equating "efficient administration of justice" with a "maximum 250 caseload." Rather, from realistic and practical view point, measures to bring down the caseload to 250 would necessarily induce an approximation of the ideal "efficient administration of justice."

The following three-pronged approach is recommended to solve the serious problem of "clogged court dockets"; (1) those intended to reduce the inflow of cases; (2) those designed to declog the court dockets by speeding up the disposition of litigations and (3) those aimed at quick promulgation of correct decisions after litigants have rested.

Those intended to reduce the inflow of cases — Once controversies arise, the various steps that should be taken to nip them in the bud are:

(a) Rep. Act Nos. 5967 and 6031 making the city and municipal courts, courts of record and providing that in cases where the courts of first instance and the municipal courts have concurrent jurisdiction, the decisions of the latter would be directly appealable to the Court of Appeals will greatly reduce the intake of Courts of First Instance cases. Proposed legislative measures further amending the Judiciary Act of 1948 is necessary to effect the desired changes. (See Appendix "C").

(b) Requiring judges to conduct pre-trial conferences aimed at resolving cases out of court or, at least, clarifying issues these cases as an insurance against long drawn-out an involved trials.

Those designed declog the courts' dockets by speeding up the disposition of litigations — Measures to speed up cases brought before the court should begin with the improvement of the judge, his subordinates and the much-needed logistical support. Since judges play the central role in the trial of cases, the following are steps to declog the courts' dockets constituting 82,825 pending cases, as well as to upgrade the quality of the judiciary in the disposition of cases:

(a) Filling up of the existing vacant positions of judges. There should be strict adherence to a set of criteria in the selection of nominees to the judiciary. Among the criteria proposed are moral courage, ethical firmness and imperviousness to venal influence. Nominee's temperament must be augmented by decisiveness, capacity for hardwork, good health, and zeal for public service.

(b) Promotions and transfers to prestigious salas should be

made on the basis of the judge's performance. As far as practicable, top producers and judges least reversed and most affirmed by the appellate courts will be given first preference in said promotions and transfers. Recognition to top producers by way of citations should be given by the Department of Justice yearly.

(c) Requesting judges with overloaded salas to waive their yearly leave.

(d) Adopt a more realistic reform in procedural system by making trial procedures more efficient and less technical, by imposing sanctions on dilatory tactics of lawyers, and by a more strict implementation of time limitations in postponements of trials.

(e) Training court personnel in the methods to expedite trials. Clerks of court should be given intensive courses in management principles to increase their efficiency.

(f) Standardize the salaries of personnel from clerks of court to the lowest position of janitor, based on the principle of equal pay with equal work and at the same time defining the duties and responsibilities of these personnel. Follow strictly the standard staffing pattern of 18 persons. Excess personnel over and above this number should be reassigned to other courts whose personnel are below the standard.

(g) Whenever funds are available, the use of the steno-type machine should be required to enable stenographers to transcribe each others notes, thereby minimizing delays caused by the inability of stenographers to keep up with their transcriptions. Provide tape recording equipment to record all courts' proceedings.

(h) The computerized system of reporting cases already in operation for criminal cases, should be extended to civil cases; up-to-date data will be made available to the Department of Justice, enabling it to institute *ad hoc* measures as soon as the computer reports facts indicating a developing trouble area.

(i) Improving and expending court facilities. The amount of ₱7,800,000 appropriated for maintenance and other operating expenses as well as equipment be immediately programmed for expenditures.

Those aimed at quick promulgation of correct decisions after litigants have rested — The quick promulgation of correct decisions are sought to be attained by the following measures:

(a) The Department of Justice shall furnish up-to-date decisions of the Supreme Court and Court of Appeals which make significant changes in prevailing doctrines or which establish new ones. Pertinent new laws, executive orders and regulations, administrative orders and circulars will also be included.

(b) Amend Section 5 of the Judiciary Act to provide for shorter deadlines for simple cases not requiring too much legal research and study. The 30-day limit imposed on Circuit Criminal Courts should be imposed on the regular courts.