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[G.R. Nos. 79690-707. October 7, 1988.]

ENRIQUE A. ZALDIVAR, *petitioner*, ***vs.*** **THE HONORABLE SANDIGANBAYAN and HONORABLE RAUL M. GONZALES, claiming to be and acting as Tanodbayan-Ombudsman under the 1987 Constitution**, *respondents*.

[G.R. Nos. 80578. October 7, 1988.]

ENRIQUE A. ZALDIVAR, *petitioner*, ***vs.*** **HON. RAUL M. GONZALES, claiming to be and acting as Tanodbayan-Ombudsman under the 1987 Constitution**, *respondent*.

R E S O L U T I O N

PER CURIAM :

The following are the subjects of this Resolution:

1) a Motion, dated 9 February 1988, to Cite in Contempt filed by a petitioner Enrique A. Zaldivar against public respondent Special Prosecutor (formerly Tanodbayan) Raul M. Gonzales, in connection with G.R. Nos. 79690-707 and G.R. No. 80578, and 2) a Resolution of this Court dated 2 May 1988 requiring respondent Hon. Raul Gonzalez to show cause why he should not be punished for contempt and/or subjected to administrative sanctions for making certain public statements.

I

The pertinent facts are as follows:

Petitioner Zaldivar is one of several defendants in Criminal Cases Nos. 12159-12161 and 12163-12177 (for violation of the Anti-Graft and Corrupt Practices Act) pending before the Sandiganbayan. The Office of the Tanodbayan conducted the preliminary investigation and filed the criminal informations in those cases (originally TBP Case No. 86-00778).

On 10 September 1987, petitioner filed with this Court a Petition for Certiorari, Prohibition and Mandamus (G.R. Nos. 79690-707) naming as respondents both the Sandiganbayan and Hon. Raul M. Gonzalez. Among other things, petitioner assailed: (1) the 5 February 1987 Resolution [1] of the Tanodbayan" recommending the filing of criminal informations against petitioner Zaldivar and his co-accused in TBP Case No. 86-00778; and (2) the 1 September 1987 Resolution [2] of the Sandiganbayan in Criminal Case Nos. 12159-12161 and 12163-12177 denying his Motion to Quash the criminal informations filed in those cases by the "Tanodbayan." In this respect, petitioner alleged that respondent Gonzales, as Tanodbayan and under the provisions of the 1987 Constitution, was no longer vested with power and authority independently to investigate and to institute criminal cases for graft and corruption against public officials and employees, and hence that the informations filed in Criminal Cases Nos. 12159-

12161 and 12163-12177 were all null and void.

On 11 September 1987, this Court issued a Resolution, which read:

> "G.R. Nos. 79690-707 (Enrique A. Zaldivar vs. The Honorable Sandiganbayan and Honorable Raul M. Gonzalez, Claiming To Be and Acting as Tanodbayan-Ombudsman under the 1987 Constitution). — Acting on the special civil action for certiorari, prohibition and mandamus under Rule 65 of the Rules of Court, with urgent motion for preliminary injunction, the Court Resolved, without giving due course to the petition, to require the respondents to COMMENT thereon, within ten (10) days from notice.
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> The Court further Resolved to ISSUE a TEMPORARY RESTRAINING ORDER, effective immediately and continuing until further orders from this Court, ordering respondent Sandiganbayan to CEASE and DESIST from hearing and trying Criminal cases Nos. 12159 to 12161 and 12163 to 12177 insofar as petitioner Enrique Zaldivar is concerned and from hearing and resolving the Special Prosecutor's motion to suspend dated September 3, 1987."

The parties later filed their respective pleadings.

Petitioner Zaldivar filed with the Court a second Petition for Certiorari and Prohibition (G.R. No. 80578) on 19 November 1987, initially naming only Hon. Raul M. Gonzalez as respondent. The Petition assailed the 24 September 1987 Resolution [3] of the "Tanodbayan" in TBP Case No. 87-01304 recommending that additional criminal charges for graft and corruption be filed against petitioner Zaldivar and five (5) other individuals. Once again, petitioner raised the argument of the Tanodbayan's lack of authority under the 1987 Constitution to file such criminal cases and to investigate the same. Petitioner also moved for the consolidation of that petition with G.R. No. 79690-707.

In a Resolution dated 24 November 1987, [4] this Court, without giving due course to the second petition: (1) required respondent Gonzalez to submit a comment thereon: and (2) issued a temporary restraining order "ordering respondent Hon. Raul M. Gonzalez to CEASE and DESIST from further acting in TBP Case No. 87-01394 . . . and particularly, from filing the criminal information consequent thereof and from conducting preliminary investigation therein." In a separate resolution of the same date, [5] G.R. Nos. 79690-707 and G.R. No. 80578 were ordered consolidated by the Court.

In the meantime, however, on 20 November 1987 or four (4) days prior to issuance by this Court of a temporary restraining order in G.R. No. 80578, the Office of the Tanodbayan instituted Criminal Case No. 12570 [6] with the Sandiganbayan, which issued on 23 November 1987 an Order of Arrest [7] for petitioner Zaldivar and his co-accused in Criminal Case No. 12570. Upon Motion [8] of petitioner Zaldivar, this Court issued the following Resolution on 8 December 1987.

> "G.R. No. 80578 (Enrique A. Zaldivar vs. Hon. Raul M. Gonzalez and Sandiganbayan). The motion filed by the Solicitor General for respondents for extensions of thirty (30) days from the expiration of the original period within which to file comment on the petition for certiorari and prohibition with prayer for a writ of preliminary injunction or restraining order is GRANTED:
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> Acting on the manifestation with motion to treat the Sandiganbayan as party-respondent, the Court Resolved to (a) Consider IMPLEADED the Sandiganbayan as party respondent; and (b) In pursuance of and supplementing the Temporary Restraining Order of November 24, 1987 ordering respondent

Hon Raul M. Gonzalez to CEASE and DESIST from further acting TBP No. 87-01304 entitled, "Commission on Audit vs. Gov. Enrique Zaldivar, et al., and particularly, from filing the criminal information consequent thereof and from conducting preliminary investigation therein" ISSUE a TEMPORARY RESTRAINING ORDER effective immediately and continuing until further orders from this Court, ordering respondents Hon. Raul M. Gonzalez and Sandiganbayan to CEASE and DESIST from further acting in Criminal case No. 12570, entitled, "People of the Philippines vs. Enrique M. Zaldivar, et al. and from enforcing the order of arrest issued by the Sandiganbayan in said case."

The Solicitor general filed a Comment [9] on the petition in G.R. No. 80578, and we required the petitioner to submit a Reply [10] thereto.

On 9 February 1988, petitioner Zaldivar filed with the Court a Motion to Cite in Contempt [11] directed at respondent Gonzalez. The Motion cited as bases the acts of respondent Gonzalez in: (1) having caused the filing of the information against petitioner in Criminal Case No. 12570 before the Sandiganbayan; and (2) issuing certain allegedly contemptuous statements to the media in relation to the proceedings in G.R. No. 80578. In respect of the latter, petitioner annexed to his Motion a photocopy of a news article, reproduced here *in toto*, which appeared in the 30 November 1987 issue of the "Philippine Daily Globe."

Tanod Scores SC for Quashing Graft Case

TANODBAYAN Justice Raul M. Gonzalez said yesterday the Supreme Court order stopping him from investigating graft cases involving Antique Gov. Enrique Zaldivar '*can aggravate the thought that affluent persons can prevent the progress of a trial*.'

'*What I am afraid of*(with the issuance of the order)*is that it appears that while rich and influential persons get favorable actions from the Supreme Court, it is difficult for an ordinary litigant to get his petition to be given due course*.' Gonzales told the Daily Globe in an exclusive interview.

Gonzalez said the high tribunal's order *'heightens the people's apprehension over the justice system in this country, especially because the people have been thinking that only the small fry can get it while big fishes go scot-free*.'

Gonzalez was reacting to an order issued by the tribunal last week after Zaldivar petitioned the court to stop the Tanodbayan from investigating graft cases filed against him.

Zaldivar had charged that Gonzalez was biased in his investigations because the latter wanted to help promote the political fortunes of a friend from Antique, lawyer Bonifacio Alentajan.

Acting on Zaldivar's petition, the high court stopped Gonzalez from investigating a graft charge against the governor, and from instituting any complaint with the Sandiganbayan.

'*While President Aquino had been prodding me to prosecute graft cases even if they involve the high and mighty, the Supreme Court had been restraining me*.' Gonzalez said.

In accordance with the President's order, Gonzalez said he had filed graft cases against two 'very powerful' officials of the Aquino government — Commissioner Quintin Doromal of the Presidential Commission on Good Government and Secretary Jiamil I.M. Dialan of the Office of Muslim Affairs and Cultural Communities.

'*While I don't wish to discuss the merits of the Zaldivar petition before the Supreme Court, I am a little bit disturbed that (the order) can aggravate the thinking of some people that affluent persons can prevent the progress of a trial,'* he said.

He disclosed that he had a talk with the Chief Executive over the weekend and that while she sympathizes with local officials who are charged in court during election time, 'she said that it might be a disservice to the people and the voters who are entitled to know their candidates.'

Gonzalez said that while some cases against local against local officials during election time could be mere harassment suits, the Constitution makes it a right of every citizen to be informed of the character of the candidate, who should be subject to scrutiny."(Emphasis supplied)

Acting on petitioner's Motion to Cite in Contempt, the Court on 16 February 1988 required respondent Gonzalez "to COMMENT on aforesaid Motion within ten (10) days from notice." [12]

On 27 April 1988 , the Court rendered its Decision [13] (*per curiam*) in the Consolidated Petitions. The dispositive portion thereof read:

"WHEREFORE, We hereby:

(1) GRANT the consolidated petitions filed by petitioner Zaldivar and hereby NULLIFY the criminal informations filed against him in the Sandiganbayan; and

(2) ORDER respondent Raul Gonzalez ro cease and desist from conducting investigations and filing criminal cases with the Sandiganbayan or otherwise exercising the powers and functions of the Ombudsman.

SO ORDERED."

A Motion for Reconsideration [14] was filed by respondent Gonzalez the next day, 28 April 1988. In his Motion, respondent Gonzalez, after having argued the legal merits of his position, made the following statements totally unrelated to any legal issue raised either in the Court's Decision or in his own Motion:

1. That he "ha(d) been approached *twice* by a leading member of the court . . . and he was asked to 'go slow' on Zaldivar and 'not to be too hard on him;'"

2. That he "was approached and asked to 'refrain' from investigating the COA report on illegal disbursements in the Supreme Court because 'it will embarrass the Court; '" and

3. That "(i)n several instances, the undersigned respondent was called over the phone by a leading member of the Court and was asked to dismiss the cases against (two Members of the Court)."

Respondent Gonzalez also attached three (3) handwritten notes [15] which he claimed were sent by "some members of this Honorable Court, interceding for cases pending before this office (i. e., the Tanodbayan)." He either released his Motion for Reconsideration with facsimiles of said notes to the press or repeated to the press the above extraneous statements: the metropolitan papers for the next several days carried long reports on those statements and variations and embellishments thereof.

On 2 May 1988, the Court issued the following Resolution in the Consolidated Petitions:

> "G.R. No. 79690-707 (Enrique Zaldivar vs. The Hon. Sandiganbayan, et al.); G.R. No. 80578 (Enrique A. Zaldivar vs. Hon. Raul M. Gonzalez, etc.). —
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> 1. Acting on the Motion for Reconsideration filed by respondent Gonzalez under date of April 28, 1988, the Court Resolved to REQUIRE the petitioner to COMMENT thereon within ten (10) days from notice hereof.
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> 2. It appearing that respondent Raul M. Gonzalez has made public statements to the media which not only deal with matters *sub-judice* but also appear offensive to and disrespectful of the Court and its individual members and calculated, directly or indirectly, to bring the Court into disrepute, discredit and ridicule and to denigrate and degrade the administration of justice, the Court Resolved to require respondent Gonzalez to explain in writing within ten (10) days from notice hereof, why he should not be punished for contempt of court and/or subjected to administrative sanctions for making such public statements reported in the media, among others, in the issues of the 'Daily Inquirer,' the 'Journal,' the 'Manila Times,' the 'Philippine Star,' the 'Manila Chronicle,' the 'Daily Globe' and the 'Manila Standard' of April 29 and 30, and May 1, 1988, to wit:
>
> > (a) That the Court resolution in question is merely 'an offshoot of the position he had taken that SC Justices cannot claim immunity from suit or investigation by government prosecutors,' or motivated by a desire to stop him 'from investigating cases against some of their porteges or friends;'
> >
> > (b) That no less than six of the members of the Court 'interceded for and on behalf of persons with pending cases before the Tanodbayan,' or sought 'to pressure him to render decisions favorable to their colleagues and friends;'
> >
> > (c) That attempts were made to influence him 'to go slow' on Zaldivar and 'not to be too hard on him,' and 'to refrain' from investigating the Commission on Audit report on illegal disbursements in the Supreme Court because 'it will embarrass the Court;'
> >
> > (d) That there were also attempts to cause the dismissal of cases against two Associate Justices; and
> >
> > (e) That the Court had dismissed judges 'without rhyme or reason' and disbarred lawyers 'without due process.'
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> 3. It further appearing that three (3) affidavits relative to the purpose of and circumstances attendant upon the notes written to said public respondent by three (3) members of the Court have since been submitted to the Court and now form part of its official records, the Court further Resolved to require the Clerk of Court to ATTACH to this Resolution copies of said sworn statements and the

annexes thereto appended, and to DIRECT respondent Gonzalez also to comment thereon within the same period of ten(10) days.

4. It finally appearing that notice of the Resolution of February 16, 1988 addressed to respondent Gonzalez was misdelivered and therefore not served on him, the Court Resolved to require the Clerk of Court to CAUSE SERVICE of said Resolution on the respondent and to REQUIRE the latter to comply therewith."

Respondent Gonzalez subsequently filed with this Court on 9 May 1988 an Omnibus Motion for Extension and Inhibition [16] alleging, among other things: that the above quoted 2 May 1988 Resolution of the Court "appears to have overturned that presumption [of innocence] against him;" and that "he gravely doubts whether that 'cold neutrality [of an impartial judge]' is still available to him" there being allegedly "at least 4 members of this Tribunal who will not be able to sit in judgment with substantial sobriety and neutrality." Respondent Gonzalez closed out his pleading with a prayer that the four (4) Members of the Court identified and referred to there by him inhibit themselves in the deliberation and resolution of the Motion to Cite in Contempt.

On 19 may 1988, [17] after receipt of respondent's Supplemental Motion for Reconsideration, [18] this Court in an extended *per curiam* Resolution [19] denied the Motion and Supplemental Motion for Reconsideration. That denial was made "final and immediately executory."

Respondent Gonzalez has since then filed the following pleadings of record:

1. Manifestation with Supplemental Motion to Inhibit, [20] dated 23 May 1988;

2. Motion to Transfer Administrative Proceedings to the Integrated Bar of the Philippines, [21] dated 20 May 1988;

3. Urgent Motion for Additional Extension of Time to File Explanation Ex Abundante Cautelam, [22] dated 26 May 1988;

4. Urgent Ex-Parte Omnibus Motion

(a) For Extension of Time

(b) For Inhibition, and

(c) For Transfer of Administrative Proceedings to the IBP, Under Rule 139-B, [23] dated 4 June 1988 (with Annex "A"; [24] an anonymous letter dated 27 May 1988 from the alleged Concerned Employees of the Supreme Court" and addressed to respondent);

5. Ex-Parte Manifestation, [25] dated 7 June 1988;

6. Urgent Ex-Parte Motion for Reconsideration, [26] dated 6 June 1988; and

7. Urgent Ex-Parte Manifestation with Motion [27] dated 23 September 1988.

In compliance with the 2 May 1988 Resolution of this Court quoted earlier, respondent Gonzalez submitted on 17 June 1988 an Answer with Explanation and Comment [28] offering respondent's legal arguments and defenses against the contempt and disciplinary charges presently pending before this Court. Attached to that pleading as Annex "A" thereof was respondent's own personal Explanation/Compliance. [29] A

second explanation called "Compliance," [30] with annexes, was also submitted by respondent on 22 July 1988.

II

We begin by referring to the authority of the Supreme Court to discipline officers of the court and members of the court and members of the Bar. The Supreme Court, as regular and guardian of the legal profession, has plenary disciplinary authority over attorneys. The authority to discipline lawyers stems from the Court's constitutional mandate to regulate admission to the practice of law, which includes as well authority to regulate the practice itself of law. [31] Quite apart from this constitutional mandate, the disciplinary authority of the Supreme Court over members of the Bar is an inherent power incidental to the proper administration of justice and essential to an orderly discharge of judicial functions. [32] Moreover, the Supreme Court has inherent power to punish for contempt, to control in the furtherance of justice the conduct of ministerial officers of the Court including lawyers and all other persons connected in any manner with a case before the Court. [33] The power to punish for contempt is "necessary for its own protection against an improper interference with the due administration of justice, " "(it) is not dependent upon the complaint of any of the parties litigant." [34]

There are, in other words, two (2) related powers which come into play in cases like that before us here; the Court's inherent power to discipline attorneys and the contempt power. The disciplinary authority of the Court over members of the Bar is broader that the power to punish for contempt. Contempt of court may be committed both by lawyers and non-lawyers, both in and out of court. Frequently, where the contemnor is a lawyer, the contumacious conduct also constitutes professional misconduct which calls into play the disciplinary authority of the Supreme Court. [35] Where the respondent is a lawyer, however, the Supreme Court's disciplinary authority over lawyers may come into play whether or not the misconduct with which the respondent is charged also constitutes contempt of court. The power to punish for contempt of court does not exhaust the scope of disciplinary authority of the Court over lawyers. [36] The disciplinary authority of the Court over members of the Bar is but corollary to the Court's exclusive power of admission to the Bar. A lawyers is not merely a professional but also an officer of the court and as such, he is called upon to share in the task and responsibility of dispensing justice and resolving disputes in society. Any act on his part which visibly tends to obstruct, pervert, or impede and degrade the administration of justice constitutes both professional misconduct calling for the exercise of disciplinary action against him and contumacious conduct warranting application of the contempt power.

It is sometimes asserted that in the exercise of the power to punish for contempt or to the disciplinary authority of the Court over members of the Bar, the Court is acting as offended party, prosecutor and arbiter at one and the same time. Thus, in the present case, respondent Gonzalez first sought to get some members of the Court to inhibit themselves in the resolution of this case for alleged bias and prejudice against him. A little later, he in effect asked the whole Court to inhibit itself from passing upon the issues involved in this proceeding and to pass on responsibility for this matter to the Integrated Bar of the Philippines, upon the ground that respondent cannot expect due process from this Court, that the Court has become incapable of judging him impartially and fairly.

Respondent Gonzalez misconceives the nature of the proceeding at bar as well as the function of the members of the Court in such proceeding. Respondent's contention is scarcely an original one. In *In Re Almacen*, [37] then Associate (later Chief)

Justice Fred Fruiz Castro had occasion to deal with this contention in the following lucid manner:

"xxx xxx xxx

It is not accurate to say, nor is it an obstacle to the exercise of our authority in the premises, that, as Atty. Almacen would have it appear, the members of the Court are the 'complainants, prosecutors and judges' all rolled up into one in this instance. This is an utter misapprehension, if not a total distortion, not only of the nature of the proceeding at hand but also of our role therein.

Accent should be laid on the fact that disciplinary proceedings like the present are sui generis. Neither purely civil nor purely criminal, this proceeding is not — and does not involve — a trial of an action or a suit, but is rather an investigation by the Court into the conduct of its officers. Not being intended to inflict punishment, it is in no sense a criminal prosecution. Accordingly, there is neither a plaintiff nor a prosecutor there. It may be initiated by the Court*motu proprio. Public interest is its primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileged as such. Hence, in the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who by their misconduct have proved themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney. In such posture, there can thus be no occasion to speak of a complainant or a prosecutor.*

Undeniably, the members of the Court are, to a certain degree, aggrieved parties. Any tirade against the individual members thereof. But in the exercise of its disciplinary powers, the Court acts as an entity separate and distinct from the individual personalities of its members. Consistently with the intrinsic nature of a collegiate court, the individual members act not as such individuals but only as a duly constituted court. The distinct individualities are lost in the majesty of their office. So that, *in a very real sense, if there be any complainant in the case at bar, it can only be the Court itself, not the individual members thereof — as well as the people themselves* whose rights, fortunes and properties, may, even lives, would be placed at grave hazard should the administration of justice be threatened by the retention in the Bar of men unfit to discharge the solemn responsibilities of membership in the legal fraternity.

Finally, *the power to exclude persons from the practice of law is but a necessary incident of the power to admit persons to said practice. By constitutional precept, this power is vested exclusively in this Court. This duty it cannot abdicate just as much as it cannot unilaterally renounce jurisdiction legally invested upon it*. So that even if it be conceded that the members collectively are in a sense the aggrieved parties, that fact alone does not and cannot disqualify them from the exercise of the power because public policy demands that they, acting as a Court, exercise the power in all cases which call for disciplinary

action. The present is such a case. *In the end, the imagined anomaly of the merger in one entity of the personalities of complainant, prosecutor and judge is absolutely inexistent*.

xxx xxx xxx." [38]

It should not be necessary for the members of this Court expressly to disclaim any bias or prejudice against the respondent that would prevent them from acting in accordance with the exacting requirements of their oaths of office. It also appears to the Court that for all the members to inhibit themselves from sitting on this case is to abdicate the responsibility with which the Constitution has burdened them. Reference of complaints against attorneys either to the Integrated Bar of the Philippines or to the Solicitor General is not mandatory upon the Supreme Court; such reference to the Integrated Bar of the Philippines or to the Solicitor General is certainly not an exclusive procedure under the terms of Rule 139-B of the Revised Rules of Court, especially where the charge consists of acts done before the Supreme Court. There is no need for further investigation of facts in the present case for it is not substantially disputed by respondent Gonzalez that he uttered or wrote certain statements attributed to him. In any case, respondents had the amplest opportunity to present his defense; his defense is not that he did not make the statements ascribed to him but that those statements give rise to no liability on his part, having been made in the exercise of his freedom of speech. The issues which thus need to be resolved here are issues of law and of basic policy and the Court, not any other agency, is compelled to resolve such issues.

III

It is necessary to become very explicit as to what respondent Gonzalez was saying in his statements set out above. Respondent has not denied making the above statements; indeed, he acknowledges that the newspaper reports of the statements attributed to him are substantially correct. [39]

Respondent Gonzalez was in effect saying, firstly, that the Supreme Court deliberately rendered an erroneous or wrong decision when it rendered its *per curiam* Decision dated 27 April 1988 in G.R. Nos. 79690-707 and 80578. That decision according to respondent Gonzales, was issued as an act of retaliation by the Court against him for the position he had taken "that the (Supreme Court) Justices cannot claim immunity from suit or investigation by government prosecutors," and in order to stop respondent from investigating cases against "some of (the) proteges or friends (of some Supreme Court Justices)." The Court cannot, of course, and will not debate the correctness of its Decision of 27 April 1988 and of its Resolution dated 19 May 1988 (denying respondent Gonzalez' Motion for Reconsideration) in the consolidated Zaldivar case. Respondent Gonzalez, and anyone else for that matter, is free intellectually to accept or not accept the reasoning of the Court set out in its *per curiam* Decision and Resolution in the consolidated Zaldivar cases. This should not, however, obscure the seriousness of the assault thus undertaken by respondent against the Court and the appalling implications of such assault for the integrity of the system of administration of justice in our country. Respondent has said that the Court rendered its Decision and Resolution without regard to the legal merits of the Zaldivar cases and had used the judicial process to impose private punishment upon respondent for positions he had taken (unrelated to the Zaldivar cases) in carrying out his duties. It is very difficult to imagine a more serious affront to, or greater outrage upon, the honor and dignity of this Court than this. Respondent's statements is also totally baseless. Respondent's

statements were made in complete disregard of the fact that his continuing authority to act as *Tanodbayan* or Ombudsman after the effectivity of the 1987 Constitution, had been questioned before this Court as early as 10 September 1987 in the Petition for Certiorari, Prohibition and Mandamus filed against him in these consolidated Petitions, [40] that is more than seven (7) months before the Court rendered its Decision. Respondent also ignores the fact that one day later, this Court issued a Temporary Restraining Order effective immediately ordering the *Sandiganbayan* to cease and desist from hearing the criminal cases filed against petitioner Zaldivar by respondent Gonzalez. Respondent also disregards the fact that on 24 November 1987, upon the filing of a second Petition for Certiorari for Prohibition by Mr. Zaldivar, the Court issued a Temporary Restraining Order this time requiring the *respondent* to cease and desist from further acting in TBP Case No. 87-0934. Thus, the decision finally reached by this Court in April 1988 on the constitutional law issue pending before the Court for the preceding eight (8) months, could scarcely have been invented as a reprisal simply against respondent.

A second charge that respondent Gonzalez hurled against members of the Supreme Court is that they have improperly "pressured" him to render decisions favorable to their "colleagues and friends," including dismissal of "cases" against two (2) members of the Court. This particularly deplorable charge too is entirely baseless, as even a cursory examination of the contents of the handwritten notes of three (3) members of this Court addressed to respondent (which respondent attached to his Motion for Reconsideration of the Decision of this Court of 27 April 1988 in the consolidated Petitions) will show. It is clear, and respondent Gonzalez does not pretend otherwise, that the subject matters of the said notes had no relation at all to the issues in G.R. Nos. 79690-707 and 80578. This charge appears to have made in order to try to impart some substance (at least in the mind of respondent) to the first accusation made by respondent that the Court had deliberately rendered a wrong decision to get even with respondent who had, with great fortitude, resisted "pressure" from some members of the Court. Once again, in total effect, the statements made by respondent appear designed to cast the Court into gross disrepute, and to cause among the general public scorn for and distrust in the Supreme Court and, more generally, the judicial institutions of the Republic.

Respondent Gonzalez has also asserted that the Court was preventing him from prosecuting "rich and powerful persons," that the Court was in effect discriminating between the rich and powerful on the one hand and the poor and defenseless upon the other, and allowing "rich and powerful" accused persons to go "scot-free" while presumably allowing or affirming the conviction of poor and small offenders. This accusation can only be regarded as calculated to present the Court in an extremely bad light. It may be seen as intended to foment hatred against the Supreme Court; it is also suggestive of the divisive tactics of revolutionary class war.

> Respondents, finally, assailed the Court for having allegedly "dismissed judges 'without rhyme or reason' and disbarred lawyers 'without due process.'" The Court notes that this last attack is not without relation to the other statements made by respondent against the Court. The total picture that respondent clearly was trying to paint of the Court is that of an "unjudicial" institution able and willing to render "clearly erroneous" decisions by way of reprisal against its critics, as a body that acts arbitrarily and capriciously denying judges and lawyers due process of law. Once again, the purport of respondent's attack against the Court as an institution unworthy of the people's faith and trust, is unmistakable. Had

respondent undertaken to examine the records of the two(2) judges and the attorney he later identified in one of his Explanations he would have discovered that the respondents in those administrative cases had ample opportunity to explain their side and submit evidence in support thereof. [41] He would have also found that there were both strong reasons for and an insistent rhyme in the disciplinary measures there administered by the Court in the continuing effort to strengthen the judiciary and upgrade the membership of the Bar. It is appropriate to recall in this connection that due process as a constitutional precept does not, always and in all situations, require the trial-type proceeding, [42] that the essence of due process is to be found in the reasonable opportunity to be heard and to submit any evidence one may have in support' of one's defense. [43] "To be heard" does not only mean verbal arguments in court; one may be heard also through pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process. [44]

As noted earlier, respondent Gonzalez was required by the Court to explain why he should not be punished for contempt and/or subjected to administrative discipline for making the statements adverted to above. In his subsequent pleadings where he asked the full Court to inhibit itself and to transfer the administrative proceedings to the Integrated Bar of the Philippines, respondent made, among others, the following allegations:

> (a) That the Members of the Court "should inhibit [themselves] in the contempt and administrative charges against the respondent, in the light of the manifest prejudice and anger they hold against respondent as shown in the language of the resolution on the Motion for Reconsideration;" (b) That "the entire membership of the court has already lost that 'cold neutrality of an impartial judge' [to] be able to allow fairness and due process in the contempt citation as well as in the possible administrative charge;"
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> (c) That "respondent honestly feels that this court as angry and prejudiced as it is, respondent has no china man's chance to get fair hearing in the contempt and possible administrative charges;"
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> (d) That one must consider "the milieu before this Tribunal with, perhaps passion and obfuscation running riot;"
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> (e) That respondent, "after having been castigated with such *venom* by the entire Court in its decision denying the Motion for Reconsideration, does not have confidence in the impartiality of the entire Court" and that he "finds it extremely difficult to believe that the members of this Tribunal can still act with unbiased demeanor towards him; and
>
> (f) That "the Tribunal is determined to *disbar* [respondent] without due process" and that a specified Member of the court "has been tasked to be the *ponente*, or at least prepare the decision." (Emphasis in the original)

Thus, instead of explaining or seeking to mitigate his statements earlier made, respondent sought to heap still more opprobrium upon the Court, accusing it of being incapable of judging his acts and statements justly and according to law. Once again, he paints this Court as a body not only capable of acting without regard to due process but indeed determined so to act. A grand design to hold up this Court to public scorn and disrespect as an unworthy tribunal, one obfuscated by passion and anger at respondent, emerges once more. It is very difficult for members of this Court to

understand how respondent Gonzalez could suppose that judges on the highest tribunal of the land would be ready and willing to violate their most solemn oath of office merely to gratify any imagined private feelings aroused by respondent. The universe of the Court revolves around the daily demands of law and justice and duty, not around respondent nor any other person or group of persons.

Whether or not the statements made by respondent Gonzalez may reasonably be regarded by this Court as contumacious or as warranting exercise of the disciplinary authority of this Court over members of the Bar, may best be assayed by examining samples of the kinds of statements which have been held in our jurisdiction as constituting contempt or otherwise warranting the exercise of the court's authority.

1. In *Montecillo v. Gica*, [45] Atty. Quirino del Mar as counsel for Montecillo, who was accused in a slander case, moved to reconsider a decision of the Court of Appeals in favor of the complainant with a veiled threat that he should interpose his next appeal to the President of the Philippines. In his Motion for Reconsideration, he referred to the provisions of the Revised Penal Code on "knowingly rendering an unjust judgment," and "judgment rendered through negligence" and implied that the Court of Appeals had allowed itself to be deceived. Atty. del Mar was held guilty of contempt of court by the Court of Appeals. He then sued the three (3) justices of the Court of Appeals for damages before the Court of First Instance of Cebu, seeking to hold them liable for their decision in the appealed slander case. This suit was terminated, however, by compromise agreement after Atty. del Mar apologized to the Court of Appeals and the justices concerned and agreed to pay moral damages to the justices. Atty. del Mar some time later filed with this Court a Petition for Review on Certiorari of a decision of the Court of Appeals in a slander case. This Court denied the Petition for review. Atty. del Mar then filed a Motion for Reconsideration and addressed a letter to the Clerk of the Supreme Court asking for the names of the justices of this Court who had voted in favor of and those who had voted against his Motion for Reconsideration. After his Motion for Reconsideration was denied fore lack of merit, Atty. del Mar filed a Manifestation in this Court saying:

> "I can at this time reveal to you that, had your Clerk of Court furnished me with certified true copies of the last two Resolutions of the Supreme Court confirming the decision of the Court of Appeals in the case entitled Francisco M. Gica vs. Jorge Montecillo, *I would have filed against the Justices supporting the same, civil and criminal suits as I did to the justices* of the Court of Appeals *who, rewarding the abhorrent falsification committed by Mr. Gica,* reversed for him the decisions of the City Court and the Court of First Instance of Cebu, *not with a view to obtaining a favorable judgment therein but for the purpose of exposing to the people the corroding evils extant in our Government,* so that they may well know them and work for their *extermination.*" (60 SCRA at 240; Emphasis supplied)

Counsel was asked to explain why he should not be administratively dealt with for making the above statements. In his additional explanation, Atty. del Mar made the following statements:

> ". . . Graft, corruption and injustice are rampant in and outside of the Government. It is this state of things that convinced me that all human efforts to correct and/or reform the said evils will be fruitless and as stated in my manifestation to you, I have already decided to retire from a life of militancy to a life of seclusion, leaving to God the filling-up deficiencies." (60 SCRA at 242)

The Court suspended Atty. del Mar, "until further orders," from the practice of law saying:

> ". . . Respondent is utilizing what exists in his mind as state of graft, corruption and injustice allegedly rampant in and outside of the government as justification for his contemptuous statements. In other words, he already assumed by his own contemptuous utterances that because there is an alleged existence of rampant corruption, graft and injustice in and out of the government, We, by Our act in G.R. No. L-36800, are among the corrupt , the grafters and those allegedly committing injustice. We are at a complete loss to follow respondent del Mar's logic. . .
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> xxx xxx xxx
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> "To aged brethren of the bar it may appear belated to remind them that *second only to the duty of maintaining allegiance to the Republic of the Philippines and to support the Constitution and obey the laws of the Philippines, is the duty of all attorneys to observe and maintain the respect due to the courts of justice and judicial officers* (Sec. 20 (b) Rule 138, Rules of Court). But We do remind them of said duty to emphasize to their younger brethren its paramount importance. A lawyer must always remember that he is an officer of the court exercising a high privilege and serving in the noble mission of administering justice."
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> As already stated, the decision of the Court of Appeals in C.A. G.R. No. 45604-R was based on its evaluation of the evidence on only one specific issue. We in turn denied in G.R. No. L-36800 the petition for review on certiorari of the decision because We found no reason for disturbing the appellate court's finding and conclusion. In both instances, both the Court of Appeals and this Court exercised judicial discretion in a case under their respective jurisdiction. *The intemperate and imprudent act of respondent del Mar in resorting to veiled threats to make both Courts reconsider their respective stand in the decision and the resolution* that spelled disaster for his client cannot *be anything but pure contumely for said tribunals.*
>
> *It is manifest that respondent del Mar has scant respect for the two highest court of the land when on the flimsy ground of alleged error in deciding a case, he proceeded to challenge the integrity of both Courts by claiming that they knowingly rendered unjust judgment. In short, his allegation is that they acted with intent and malice, if not with gross ignorance of the law, in disposing of the case of his client.*
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> xxx xxx xxx
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> . . . *To those who are in the practice of law and those who in the future will choose to enter this profession, We wish to point to this case as a reminder for them to imprint in their hearts and minds that an attorney owes it to himself to respect the courts of justice and its officers as a fealty for the stability of our democratic institutions.*": (60 SCRA at 242-247; emphasis supplied)

2. In *Surigao Mineral Reservation Board v. Cloribel*, [46] four (4) members of the

bar, acting as counsels for MacArthur International Minerals Company were required by this Court to explain certain statements made in MacArthur's third Motion for Reconsideration:

> "d. ' . . .; and the Supreme Court has overlooked the applicable law due to the misrepresentation and obfuscation of the petitioners' counsel.' (Last sentence, par. 1, Third Motion for Reconsideration dated Sept. 10, 1968).
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> e. '. . . Never has any civilized democratic tribunal ruled that such a gimmick (referring to the "right to reject any and all bids") can be used by vulturous executives to cover and excuse losses to the public, a government agency or just plain fraud . . . and it is thus difficult, in the light of our upbringing and schooling, even under many of the incumbent justices, that the Honorable Supreme Court intends to create a decision that in effect does precisely that in a most absolute manner.' (Second sentence, par. 7, Third Motion for Reconsideration dated Sept. 10, 1968)." (31 SCRA at 6)

They were also asked to explain the statements made in their Motion to Inhibit filed on 21 September 1968 asking —

> "Mr. Chief Justice Roberto Concepcion and Mr. Justice Fred Ruiz Castro to inhibit themselves from considering, judging and resolving the case or any issue or aspect thereof retroactive to January 11, 1967. The motion charges '[t]hat the brother of the Honorable Associate Justice Castro is a vice-president of the favored party who is the chief beneficiary of the false, erroneous and illegal decision dated January 31, 1968' and the *ex-parte* preliminary injunction rendered in the above entitled case, the latter in effect prejudging and predetermining this case even before the joining of an issue. As to the Chief Justice, the motion states '[t]hat the son of the Honorable Chief Justice Roberto to Conception was given a significant appointment in the Philippine Government by the President a short time before the decision of July 31, 1968 was rendered in this case.' The appointment referred to was as secretary of the newly-created Board of Investments. The motion presents a lengthy discourse on judicial ethics, makes a number of side comments projecting what is claimed to be the patent wrongfulness of the July 31, 1968 decision. It enumerates 'incidents' which, according to the motion, brought about respondent MacArthur's belief that 'unjudicial prejudice' had been caused it and that there was 'unjudicial favoritism' in favor of 'petitioners, their appointing authority and a favored party directly benefited by the said decision.'" (31 SCRA at 6-7)

Another attorney entered his appearance as new counsel for MacArthur and filed a fourth Motion for Reconsideration without leave of court, which Motion contained the following paragraphs:

> "4. The said decision is illegal because it was penned by the Honorable Chief Justice Roberto Concepcion when in fact he was outside the borders of the Republic of the Philippines at the time of the Oral Argument of the above-entitled case — which condition is prohibited by the new Rules of Court - Section 1, Rule 51, and we quote" '
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> 'Justices; who may take part. — . . . Only those members present when any matter is submitted for oral argument will take part in its consideration and adjudication . . .' This requirement is especially significant in the present instance because the member who penned the decision was the very member who was absent for approximately four months or more. This provision also applies to the

Honorable Justices Claudio Teehankee and Antonio Barredo.

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6. That if the respondent MacArthur International Minerals Company abandons its quest for justice in the judiciary of the Philippine Government, it will inevitably either raise the graft and corruption of Philippine Government Officials in the bidding of May 12, 1965, required by the Nickel Law to determine the operator of the Surigao nickel deposits, to the World Court on grounds of deprivation of justice and confiscation or property and/or to the United States Government, either its executive or judicial branches or both, on the grounds of confiscation of respondent's proprietary vested rights by the Philippine Government without either compensation or due process of law — and invoking the Hickenlooper Amendment requiring the cutting off of all aid and benefits to the Philippine Government, including the sugar price premium, amounting to more than fifty million dollars annually, until restitution or compensation is made." (31 SCRA at 10-11)

Finding their explanations unsatisfactory, the Court, speaking through Mr. Justice Sanchez, held three (3) attorneys guilty of contempt:

"1. We start with the case of Atty. Vicente L. Santiago. In his third motion for reconsideration, we indeed, find language that is not to be expected of an officer of the courts. He pictures petitioners as 'vulturous executives.' He speaks of this Court as a 'civilized, democratic tribunal,' but by innuendo would suggest that it is not.

In his motion to inhibit, his first paragraph categorizes our decision of July 31, 1968 as 'false, erroneous and illegal' in a presumptuous manner. He then charges that the ex parte preliminary injunction we issued in this case prejudiced and predetermined the case even before the joining of an issue. *He accuses in a reckless manner two justices of this Court* for being interested in the decision of this case: Associate Justice Fred Ruiz Castro, because his brother is the vice president of the favored party who is the chief beneficiary of the decision, and Chief Justice Roberto Concepcion, whose son was appointed secretary of the newly-created Board of Investments, 'a significant appointment in the Philippine Government by the President, a short time before the decision of July 31 1968 was rendered.' In this backdrop, he proceeds to state that 'it would seem that the principles thus established [the moral and ethical guidelines for inhibition of any judicial authority] by the Honorable Supreme Court should first apply to itself.' He puts forth the claim that lesser and further removed conditions have been known to create favoritism, only to conclude that there is *no reason* for a belief that the conditions obtaining in the case of the Chief Justice and Justice Castro 'would be less likely to engender favoritism and prejudice for or against a particular cause or party.' Implicit in this at least is that the Chief Justice and Justice Castro are insensible to *delicadeza*, which could make their actuation suspect. He makes it plain in the motion that the Chief Justice and Justice Castro not only were not free from the appearance of impropriety but did arouse suspicion that their relationship did affect their judgment. He points out that courts must be above suspicion at all times like Ceasar's wife, warns that loss of confidence for the Tribunal or a member thereof should not be allowed to happen in our country, 'although the process has already begun.'

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What is disconcerting is that Atty. Santiago's accusations have no basis in fact and in law. *The slur made is not limited to the Chief Justice and Justice Castro. It sweepingly casts aspersion on the whole court.* For, inhibition is also asked if, we repeated, 'any other justices who have received favors or benefits directly or indirectly from any of the petitioners or any members of any board-petitioner or their agents or principals, including the president.' *The absurdity of this posture is at once apparent*. For one thing, the justices of this Court are appointed by the President and in that sense may be considered to have each received a favor from the President. Should these justices inhibit themselves every time a case involving the Administration crops up? Such a thought may not certainly be entertained. The consequence thereof would be to paralyze the machinery of this Court. We would in fact, be wreaking havoc on the tripartite system of government operating in this country. Counsel is presumed to know this. But why the unfounded charge? *There is the not-too-well concealed effort on the part of a losing litigant's attorney to downgrade this Court.*

The mischief that stems from all of the foregoing gross disrespect is easy to discern. Such disrespect detracts much from the dignity of a court of justice. Decidedly not an expression of faith, counsel's words are intended to create an atmosphere of distrust, of disbelief.

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The precepts, the teachings, the injunctions just recited are not unfamiliar to lawyers. And yet, *this Court finds in the language of Atty. Santiago a style that undermines and degrades the administration of justice. The stricture in Section 3 (d) of Rule 71 of the Rules — against improper conduct tending to degrade the administration of justice — is thus transgressed. Atty. Santiago is guilty of contempt of court.*

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Third. The Motion contained an express threat to take the case to the World Court and/or the United States government. It must be remembered that respondent MacArthur at that time was still trying to overturn the decision of this Court of July 31, 1968. In doing so, unnecessary statements were injected. More specifically, the motion announced that MacArthur 'will inevitably . . . raise the graft and corruption of [the] Philippine government officials in the bidding of May 12, 1965 . . . to the World Court' and would invoke 'the Hickenlooper Amendment requiring the cutting off of all aid and benefits to the Philippine Government, including the sugar price premium, amounting to more than fifty million dollars annually . . .'

This is a clear attempt to influence or bend the mind of this Court to decide the case in its favor. A notice of appeal to the World Court has even been embodied in Meads' return. There is a gross inconsistency between the appeal and the move to reconsider the decision. An appeal from a decision presupposes that a party has already abandoned any move to reconsider that decision. And yet, *it would appear that the appeal to the World Court is being dangled as threat to effect a change of the decision of this Court. Such act has no aboveboard explanation.*

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The dignity of the court, experience teaches, can never be protected where infraction of ethics meets with complacency rather than punishment. The people should not be given cause to break faith with the belief that a judge is the epitome of honor amongst men. To preserve its dignity, a court of justice should not yield to the assaults of disrespect. Punctilio of honor, we prefer to think, is standard of behavior so desirable in a lawyer pleading a cause before a court of justice." (31 SCRA at 13-23; emphasis supplied)

3. In *In re Almacen,* supra, Atty. Vicente Raul Almacen, in protest against what he asserted was "a great injustice committed his client by the Supreme Court," filed a Petition to Surrender Lawyer's Certificate of Title. He alleged that his client was deeply aggrieved by this Court's "unjust judgment," and had become "one of the sacrificial victims before the altar of hypocrisy," saying that "justice as administered by the presents members of the Supreme Court [was] not only blind, but also deaf and dumb." Atty. Almacen vowed to argue the cause of his client "in the people's forum" so that "the people may know of this silent injustice committed by this Court" and that "whatever mistakes, wrongs and injustices that were committed [may] never be repeated." Atty. Almacen released to the press the contents of his Petition and on 26 September 1967, the "Manila Times" published statements attributed to him as follows:

"Vicente Raul Almacen, in an unprecedented petition, said he did not expose the tribunal's *unconstitutional and obnoxious practice of arbitrarily denying petitions or appeals without any reason*.

Because of the tribunal's 'short-cut justice,' Almacen deplored, his client was condemned to pay P120, 000, *without knowing why he lost the case*.

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There is no use continuing his law practice, Almacen said in this petition, '*where our Supreme Court is composed of men who are calloused to our pleas of justice, who ignore without reason their own applicable decisions and commit culpable violations of the Constitution with impunity*.'

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He expressed the hope that by divesting himself of his title by which he earns his living, the present members of the Supreme Court '*will become responsible to all cases brought to its attention without discrimination, and will purge itself of those unconstitutional and obnoxious "lack of merit" or denied resolutions.'" (31 SCRA at 565-566; emphasis supplied)*

Atty. Almacen was required by this Court to show cause why disciplinary action should not be taken against him. His explanation which in part read:

"xxx xxx xxx

The phrase, *Justice is blind* is symbolized in paintings that can be found in all courts and government offices. We have added only two more symbols, that *it is also deaf and dumb*. Deaf in the sense that no members of this Court has ever heard our cries for charity, generosity, fairness, understanding, sympathy and for

justice; dumb in the sense, that inspite of or beggings, supplications, and pleadings to give us reasons why our appeals has been DENIED, not one word was spoken or given . . . We refer to no human defect or ailment in the above statement. We only described the impersonal state of things and nothing more.

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As we have stated, *we have lost our faith and confidence in the members of this Court and for which reason we offered to surrender our lawyer's certificate,* IN TRUST ONLY. Because what has been lost today may be regained tomorrow. As the offer was intended as our self-imposed sacrifice, then we alone may decide as to when we must end our self-sacrifice. *If we have to choose between forcing ourselves to have faith and confidence in the members of the Court but disregard our Constitution and to uphold the Constitution and be condemned by the members of this Court, there is no choice, we must uphold the latter*." (31 SCRA at 572; emphasis supplied)

was found by the Court to be "undignified and cynical" and rejected. The Court indefinitely suspended Almacen from the practice of law holding through Mr. Justice Fred Ruiz Castro, that Almacen had exceeded the boundaries of "fair criticism."

4. In *Paragas v. Cruz*, [47] counsel, whose Petition for Certiorari was dismissed by this Court, made the following statements in his Motion for Reconsideration:

"The petitioner respectfully prays for a reconsideration of the resolution of this Honorable Court dated April 20, 1965 on the ground that it constitutes a violation of Section 14 of Rule 112 of the Rules of Court promulgated by this very Hon. Supreme Court, and on the further ground that is likewise a *violation of the most important right in the Bill of Rights of the Constitution of the Philippines, a culpable violation which is a ground for impeachment*.

. . . The rule of law in a democracy should always be upheld and protected by all means, because the rule of law creates and preserves peace and order and gives satisfaction and contentment to all concerned. *But when the laws and the rules are violated, the victims resort, sometimes, to armed force and to the ways of the cave-men! We do not want Verzosa and Reyes repeated again and again, killed in the premises of the Supreme Court and in those of the City Hall of Manila*. Educated people should keep their temper under control at all times! But justice should be done to all concerned to perpetuate the very life of Democracy on the face of the earth.'" (14 SCRA at 810; emphasis supplied)

The Court considered the above statements as derogatory to the dignity of the Court and required counsel to show cause why administrative action should not be taken against him. Counsel later explained that he had merely related factual events (i.e., the killing of Verzosa and Reyes) and to express his desire to avoid repetition of such acts. The Court, through Mr. Justice J.B.L. Reyes, found these explanations unsatisfactory and the above statements contumacious:

". . . The expressions contained in the motion fore reconsideration . . . are *plainly contemptuous and disrespectful, and reference* to the recent killing of two employees is but a *covert threat upon the members of the Court . . That such treats and disrespectful language contained in a pleading filed in courts are*

constitutive of direct contempt has been repeatedly decided(Salcedo vs. Hernandez, 61 Phil,. 724; People vs. Venturanza, 52 Off. Gaz. 769; Medina vs. Rivera, 66 Phil. 151; De Joya vs. Court of First Instance of Rizal , L-9785, September 19, 1956; Sison vs. Sandejas, L-9270, April 29, 1959; Lualhati vs. Albert, 57 Phil. 86). *What makes the present case more deplorable is that the guilty party is a member of the bar*; for, as remarked in People vs. Carillo, 77 Phil. 580 —

> '*Counsel should conduct himself towards the judges who try his cases with that courtesy all have a right to expect. As an officer of the court, it is his sworn and moral duty to help build and not destroy unnecessarily that high esteem and regard towards the courts so essential to the proper administration of justice*.'

It is right and plausible that an attorney in defending the cause and rights of his client, should do so with all the fervor and energy of which he is capable, but *it is not, and never will be so, for him to exercise said right by resorting to intimidation or proceeding without the propriety and respect which the dignity of the courts require*. (Salcedo vs. Hernandez, [In re Francisco], 61 Phil. 729)" (14 SCRA at 811-812; emphasis supplied)

5. In *In re Sotto*, [48] a newspaper reporter, Mr. Angel Parazo, invoking the Press Freedom Law, refused to divulge the source of the news item which carried his by-line and was sent to jail for so refusing. Atty. Vicente Sotto, a senator and author of said law, caused the publication of the following item in a number of daily newspapers in Manila:

> "As author of the Press Freedom Law (Republic Act No. 53), interpreted by the Supreme Court in the case of Angel Parazo, reporter of a local daily, who now has to suffer 30 days imprisonment, for his refusal to divulge the source of a news published in his paper, *I regret to say that our high Tribunal has not only erroneously interpreted said law, but that it is once more putting in evidence the incompetency or narrow mindedness of the majority of its members. In the wake of so many blunders and injustices deliberately committed during these last years, I believe that the only remedy to put an end to so much evil, is to change the members of the Supreme Court*. To this effect, I announce that one of the first measures, which I will introduce in the coming congressional sessions, will have as its object the complete reorganization of the Supreme Court. *As it is now constituted, the Supreme Court of today constitutes a constant peril to liberty and democracy*. It need be said loudly,, very loudly, so that even the deaf may hear: The supreme Court of today is a far cry from the impregnable bulwark of justice of those memorable times of Cayetano Arellano, Victorino Mapa, Manuel Araullo and other learned jurists who were the honor and glory of the Philippine Judiciary." (82 Phil. at 597-598; Emphasis supplied)

In finding Atty. Sotto in contempt, despite his avowals of good faith his invocation of the constitutional guarantee of free speech and in requiring to show why he should not be disbarred, the Court, through Mr. Justice Feria, said —

> "To hurl the false charge that this Court has been for the last years committing deliberately 'so many blunders and injustices,' that is to say, *that it*

has been deciding in favor of one party knowing that the law and justice is on the part of the adverse party and not on the one in whose favor the decision was rendered, in may cases decided during the last years,*would tend necessarily to undermine the confidence of the people in the honesty and integrity of the members of this Court, and consequently to lower and degrade the administration of justice by this Court*. The Supreme Court of the Philippine is, under the Constitution, the last bulwark to which the Filipino people may repair to obtain relief for their grievances or protection of their rights when these are trampled upon, and if the people lose their confidence in the honesty and integrity of the members of this court and believe that they cannot expect justice therefrom, they might be driven to take the law into their hands, and disorder and perhaps chaos might be the result. *As a member of the bar and an officer of the courts Atty. Vicente Sotto, like any other, is in duty bound to uphold the dignity and authority of this Court, to which he owes fidelity according to the oath he has taken as such attorney, and not to promote distrust in the administration of justice. Respect to the courts guarantees the stability of other institutions, which without such guaranty would be resting on a very shaky foundation*." (82 Phil. at 601-602; emphasis supplied)

6. In *Salcedo v. Hernandez*, [49] Atty. Vicente Francisco filed a Motion before the Supreme Court which contained the following paragraph (in translation):

"We should like frankly and respectfully to make it of record that the *resolution of this court*, denying our motion for reconsideration is absolutely erroneous *and constitutes an outrage to the rights of the petitioner Felipe Salcedo and a mockery of the popular will expressed at the polls* in the municipality of Tiaong, Tayabas. We wish to exhaust all the means within our power in order that this error may be corrected by the very court which has committed it, because we should not want that some citizen, particularly some voter of the municipality of Tiaong, Tayabas, resort to the press publicly to denounce, as he has a right to do, the *judicial outrage* of which the herein petitioner has been the victim, and because it is our utmost desire to safeguard the prestige of this honorable court and of each and every member thereof in the eyes of the public. But, at the same time *we wish to state sincerely that erroneous decisions like these, which the affected party and his thousands of voters will necessarily consider unjust, increase the proselytes of 'sakdalism' and make the public lose confidence in the administration of justice*." (61 Phil. at 726; emphasis supplied)

When required by the Court to show cause why he should not be declared in contempt, Atty. Francisco responded by saying that it was not contempt to tell the truth. Examining the statement made above, the Court held:

'. . . [they] disclose, in the opinion of this court, an*inexcusable disrespect of the authority of the court* and an intentional contempt of its dignity, *because the court is thereby charged with no less than having proceeded in utter disregard of the laws, the rights of the parties, and of the untoward consequences, or with having abused its power and mocked and flouted the rights* of Attorney Vicente J. Francisco's client, because the acts of outraging and mocking from which the words 'outrage' and mockery' used therein are derived, means exactly the same

as all these, according to the Dictionary of the Spanish Language published by the Spanish Academy (Dictionary of the Spanish Language, 15th ed., pages 132-513).

The insertion of the phrases in question in said motion of Attorney Vicente J. Francisco, for many years a member of the Philippine bar, was neither justified nor in the least necessary, because in order to call the attention of the court in a special way to the essential points relied upon in his argument and to emphasize the force thereof, the many reasons stated in his said motion were sufficient and the phrases in question were superfluous. In order to appeal to reason and justice, *it is highly improper and amiss to make trouble and resort to threats,*as Attorney Vicente J. Francisco has done, because *both means are annoying and good practice can ever sanction them by reason of their natural tendency to disturb and hinder the free exercise of serene and impartial judgment, particularly in judicial matters, in the consideration of question submitted for resolution*.

There is no question that said paragraph of Attorney Vicente Francisco's motion contains a more or less veiled threat to the court because it is insinuated therein, after the author shows the course which the voters of Tiaong should follow in case he fails in his attempt, that they will resort to the press for the purpose of denouncing, what he claims to be judicial outrage of which his client has been victim; and *because he states in a threatening manner with the intention of predisposing the mind of the reader against the court, thus creating an atmosphere of prejudices against it in order to make it odious in the public eye, that decisions* of the nature of that referred to in his motion to promote distrust in the administration of justice an increase the proselytes of *sakdalism*, a movement with seditious and revolutionary tendencies the activities of which, as is of public knowledge, occurred in this country a few days ago. *This cannot mean otherwise than contempt of the dignity of the court and disrespect of the authority thereof* on the part of Attorney Vicente J. Francisco, because *he presumes that the court is so devoid of the sense of justice that, if he did not resort to intimidation, it would maintain its error notwithstanding the fact that it may be proven, with good reasons, that it has acted erroneously*.

As a member of the bar and an officer of this court, Attorney Vicente J. Francisco, as any attorney, is in duty bound to uphold its dignity and authority and to defend its integrity, not only because it has conferred upon him the high privilege, not a right (Malcolm, Legal Ethics, 158 and 160), of being what he now is: a priest of justice (*In re Thatcher,* 80 Ohio St., Rep., 492, 669), but also because in so doing, he neither creates nor promotes distrust in the administration of justice, and prevents anybody from harboring and encouraging discontent which, in many cases, is the source of disorder, thus undermining the foundation upon which rests that bulwark called judicial power to which those who are aggrieved turn for protection and relief." (61 Phil. at 727-728; emphasis supplied)

It should not be supposed that the six (6) cases above discussed exhaust our case law on this matter. In the following cases, among others, the Supreme Court punished for contempt or administratively disciplined lawyers who had made statements not very different from those made in the cases discussed above:

1) In re Wenceslao Laureta, 148 SCRA 382 (1987);

2) Borromeo v. Court of Appeals, 87 SCRA 67 (1978);

3) Rheem of the Philippines v. Ferrer, 20 SCRA 441 (1967);

4) Malolos v. Reyes, 1 SCRA 559 (1961);

5) De Joya, et al. v. Court of First Instance of Rizal, Pasay City Branch, 99 Phil. 907 (1956);

6) People v. Venturanza, et al., 98 Phil. 211 (1956);

7) In re Suzano A. Velasquez, per curiam Resolution (unreported), Promulgated 29 April 1955;

8) Cornejo v. Tan, 85 Phil. 772 (1950);

9) People v. Carillo, 77 Phil. 572 (1946);

10) Intestate Estate of Rosario Olba; Contempt Proceedings against Antonio Franco, 67 Phil. 312 (1939); and

11) Lualhati v. Albert, 57 Phil. 86 (1932).

Considering the kinds of statements of lawyers discussed above which the Court has in the past penalized as contemptuous or as warranting application of disciplinary sanctions, this Country is compelled to hold that the statements here made by respondent Gonzalez clearly constitute contempt and call for the exercise of the disciplinary authority of the Supreme Court. Respondent's statements, especially the charge that the Court deliberately rendered an erroneous and unjust decisions in the Consolidated Petitions, necessarily implying that the justices of this Court betrayed their oath of office, merely to wreak vengeance upon the respondent here, constitute the grossest kind of disrespect for the Court. Such statements ever clearly debase and degrade the Supreme Court and, through the Court, the entire system of administration of justice in the country. That respondent's baseless charges have had some impact outside the internal world of subjective intent, is clearly demonstrated by the filing of a complaint for impeachment of thirteen (13) out of the then fourteen (14) incumbent members of this Court, a complaint the centerpiece of which is a repetition of the appalling claim of respondent that this Court deliberately rendered a wrong decision as an act of reprisal against the respondent.

IV

The principal defense of respondent Gonzalez is that he was merely exercising his constitutional right of free speech. He also invokes the related doctrines of qualified privileged communications and fair criticism in the public interest.

Respondent Gonzalez is entitled to the constitutional guarantee of free speech. No one seeks to deny him that right, least of all this Court. What respondent seems unaware of is that freedom of speech and of expression, like all constitutional freedoms, is not absolute and that freedom of expression needs on occasion to be adjusted to and accommodated with the requirements of equally important public interest. One of these fundamental public interests is the maintenance of the integrity and orderly functioning of the administration of justice. There is no antinomy between free expression and the integrity of the system of administering justice. For the protection and maintenance of freedom of expression itself can be secured only within the context of a functioning and orderly system of dispensing justice, within the context, in other words, of viable independent institutions for delivery of justice which are accepted by the general

community. As Mr. Justice Frankfurter put it:

> ". . . A free press is not to be preferred to an independent judiciary, nor an independent judiciary to a free press. Neither has primacy over the other; both are indispensable to a free society.
>
> The freedom of the press in itself presupposes an independent judiciary through which that freedom may, if necessary, be vindicated. And one of the potent means for assuring judges their independence is a free press." [50]

Mr. Justice Malcolm of this Court expressed the same thought in the following:

> "The Organic Act wisely guarantees *freedom of speech and press. This constitutional right must be protected in its fullest extent. The Court has heretofore given evidence of its tolerant regard for charges under the Libel Law which come dangerously close to its violation*. We shall continue in this chosen path. The liberty of the citizens must be preserved in all of its completeness. *But license or abuse of liberty of the press and of the citizens should not be confused with liberty in its true sense. As important as is the maintenance of unmuzzled press and the free exercise of the rights of the citizens is the maintenance of the independence of the Judiciary*. Respect for the Judiciary cannot be had if persons are privileged to scorn a resolution of the court adopted for good purposes, and if such persons are to be permitted by subterranean means to diffuse inaccurate accounts of confidential proceedings to the embarrassment of the parties and the courts." [51] (Emphasis supplied)

Only slightly (if at all) less important is the public interest in the capacity of the Court effectively to prevent and control professional misconduct on the part of lawyers who are, first and foremost, indispensable participants in the task of rendering justice to every man. Some courts have held, persuasively it appears to us, that a lawyer's right of free expression may have to be more limited than that of a layman. [52]

It is well to recall that respondent Gonzalez, apart from being a lawyer and an officer of the court, is also a Special Prosecutor who owes duties of fidelity and respect to the Republic and to this Court as the embodiment and the repository of the judicial power in the government of the republic. The responsibility of the respondent "to uphold the dignity and authority of this Court" and "not to promote distrust in the administration of justice " [53] is heavier than that of a private practicing lawyer.

Respondent Gonzalez claims to be and he is, of course, entitled to criticize the rulings of this court, to point out where he feels the Court may have lapsed into error. Once more, however, the right of criticism is not unlimited. Its limits were marked out by Mr. Justice Castro in *In re Almacen* which are worth noting:

> *"But it is the cardinal condition of all such criticism that it shall be bona fide, and shall not spill over the walls of decency and propriety.* A wide chasm exists between fair criticism, on the one hand, and abuse and slander of courts and the judges thereof, on the other*. Intemperate and unfair criticism is a gross violation of the duty of respect to courts. It is such a misconduct that subjects a lawyer to disciplinary action."*
>
> *The lawyer's duty to render respectful subordination to the courts is essential to the orderly administration of justice*. Hence, in the assertion of

their clients' rights, lawyers — even those gifted with superior intellect — are enjoined to rein up their tempers.

. . . "[54] (Emphasis supplied)

The instant proceeding is not addressed to the fact that respondent has criticized the Court; it is addressed rather to the *nature* of that criticism or comment and the *manner* in which it was carried out.

Respondent Gonzalez disclaims an intent to attack and denigrate the court. The subjectivities of the respondent are irrelevant so far as characterization of his conduct or misconduct is concerned. He will not, however, be allowed to disclaim the natural and plain import of his words and acts.[55] It is, upon the other hand, not irrelevant to point out that respondent offered no apology in his two (2) explanations and exhibited no repentance.[56]

Respondent Gonzalez also defends himself contending that no injury to the judiciary has been shown, and points to the fact that this Court denied his Motion for Reconsideration of its *per curiam* Decision of 27 April 1988 and reiterated and amplified that Decision in its Resolution of 19 May 1988. In the first place, proof of actual damage sustained by a court or the judiciary in general is not essential for a finding of contempt or for the application of the disciplinary authority of the Court. Insofar as the Consolidated Petitions are concerned this Court after careful review of the bases of its 27 April 1988 Decision, denied respondent's Motion for Reconsideration thereof and rejected the public pressures brought to bear upon this Court by the respondent through his much publicized acts and statements for which he is here being required to account. Obstructing the free and undisturbed resolution of a particular case is not the only species of injury that the Court has a right and a duty to prevent and redress. What is at stake in cases of this kind is the integrity of the judicial institutions of the country in general and of the Supreme Court in particular. Damage to such institutions might not be quantifiable at a given moment in time but damage there will surely be if acts like those of respondent Gonzalez are not effectively stopped and countered. The level of trust and confidence of the general public in the courts, including the court of last resort, is not easily measured; but few will dispute that a high level of such trust and confidence is critical for the stability of democratic government.

Respondent Gonzalez lastly suggest that punishment for contempt is not the proper remedy in this case and suggests that the members of this Court have recourse to libel suits against him. While the remedy of libel suits by individual members of this Court may well be available against respondent Gonzalez, such is by no means an exclusive remedy. Moreover, where as in the instant case, it is not only the individual members of the Court but the Court itself as an institution that has been falsely attacked, libel suits cannot be an adequate remedy.[57]

The Court concludes that respondent Gonzalez is guilty both of contempt of court in *facie curiae* and of gross misconduct as an officer of the court and member of the Bar.

ACCORDINGLY, the Court Resolved to SUSPEND Atty. Raul M. Gonzalez from the practice of law indefinitely and until further others from this Court, the suspension to take effect immediately.

Let copies of this Resolution be furnished the *Sandiganbayan*, the Ombudsman, the Secretary of Justice, the Solicitor General and the Court of Appeals for their

information and guidance.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea and *Regalado, JJ.,* concur.

Footnotes

1. Rollo of G.R. Nos. 79690-707, pp. 98-111, Annex "H-1" of Petition.
2. Id., pp. 126-129, Annex "I" of Petition.
3. Rollo of G.R. No. 80578, pp. 28-38, Annex "B" of Petition.
4. Id., p. 39.
5. Id., p. 48.
6. Id., pp. 57-58, Information.
7. Id., pp. 59-60.
8. Id., pp. 51-56.
9. Id., pp. 75-94.
10. Id., p. 96.
11. Id., pp. 98-106.
12. Id., p. 117.
13. Id., pp. 123-129.
14. Id., pp. 131-135.
15. Id., p. 136.
16. Id., pp. 168-170.
17. A *Constancia* was also filed by respondent on this day arguing the merits of his motion and supplemental motion for reconsideration.
18. Rollo of G.R. No. 80578, pp. 172-178.
19. Id., pp. 179-188.
20. Id., pp. 193-206.
21. Id., pp. 208-210.
22. Id., pp. 211-216.
23. Id., pp. 218-224.
24. Id., p. 225.
25. Id., p. 227.
26. Id., pp. 228-229.

27. Id., pp. 348-352.

28. Id., pp. 235-278.

29. Id., pp. 279-301.

30. Id., pp. 314-321.

31. Article VIII, Section 5(5) of the 1987 Constitution and Rule 138, Sections 27, 28 and 29, Revised Rules of Court.

32. Rule 71, Section 3(d) Revised Rules of Court; Halili vs. Court of Industrial Relations, 136 SCRA 112 (1985); Montalban vs. Canonoy, 38 SCRA 1 (1971); Commissioner of Immigration vs. Cloribel, 20 SCRA 1241 (1967); Slade Perkins v. Director of Prisons, 58 Phil. 271 (1953);In re Vicente Pelaez, 44 Phil. 567 (1923); In re Kelly, 35 Phil. 944 (1916).

33. In Re Kelly supra; In Re Severino Lozano and Anastacio Quedo, 54 Phil. 801 (1930); In Re Vicente Pelaez, supra; Slade Perkins v. Director of Prisons, supra; and In Re Vicente Sotto, 82 Phil. 595 (1949).

34. Halili vs. Court of Industrial Relations, supra; Andres vs. Cabrera, 127 SCRA 802 (1984); Montalban vs. Canonoy , supra; Commissioner of Immigration vs. Cloribel, supra; Herras Teehankee v. Director of Prisons, 76 Phil. 630 (1946).

35. See Section 3(a), (c) and (d), Rule 71 and Section 27, Rule 138, Revised Rules of Court.

36. The same rule obtains in other jurisdictions, E.g., In re Isserman, 87 A. 2d 903 (1951) cert. denied Isserman v. Ethics Committee Of Essex County Bar Assn., 345 U.S. 927, 97 L.Ed. 1357 (1953):

    " . . . The right or power of suspension or disbarment is different and distinct from the power to punish for contempt, and the exercise of the power to punish for contempt does not prevent disbarment."

37. 31 SCRA 564 (1970).

38. 31 SCRA at 598-602. The same contention was made and rejected or disregarded in e.g., De Joya, et al. v. Court of First Instance of Rizal, 99 Phil. 907 (1956).

39. Answer with Explanation and Comment, Annex "A," pp. 7-10.

40. The question was raised by petitioner Zaldivar even earlier, on 27 August 1987, before the Sandiganbayan in a Motion to Quash in Criminal Cases Nos. 12159-12177.

41. See Prudential Bank v. Judge Jose P. Castro and Atty. Benjamin M. Grecia, Adm. Case No. 2756, prom. November 12, 1987; Consolidated Bank v. Hon. Dionisio M. Capistrano, etc., Adm. matter No. R-66-RTJ, prom. March 18 1988.

42. Torres v. Gonzalez, 152 SCRA 272 (1987).

43. Tajonera v. Lamaroza, 110 SCRA 438 (1981); and Richards v. Asoy, 152 SCRA 45 (1987).

44. Juanita Yap Say et al. v. Intermediate Appellate Court, G. R. No. 73451, March 28, 1988.

45. 60 SCRA 234 (1974).

46. 31 SCRA 1 (1970).

47. 14 SCRA 809 (1965).

48. 82 Phil. 595 (1949).

49. 61 Phil. 724 (1935).

50. Concurring in Pennekamp v. Florida, 328 U.S. 331 at 354-356 (1946).

51. In Re Severino Lozano and Anastacio Quevedo, 54 Phil. 801 at 807 (1930).

52. In the Matter of the Citation of Atty. C.A. Frerichs, 238 N.W. 2d 764 (1976), respondent attorney charged the Supreme Court of Iowa with willfully avoiding constitutional questions raised by him thus violating the constitutional rights of his clients. In answering the citation for contempt, respondent argued that he was merely fulfilling his duty to be critical and exercising his freedom of expression. The Supreme Court of Iowa said:

"A *lawyer, acting in a professional capacity, may have some fewer rights for free speech than would a private citizen*. As was well explained in In re Woodward, 300 S.W. 2d 385. 393-394 (Mo. 1957):

'. . . Neither the right of free speech nor the right to engage in "political" activities can be so construed or extended as to permit any such liberties to a member of the bar; respondent's action was in express and exact contradiction of his duties as a lawyer. *A layman, may, perhaps, pursue his theories of free speech or political activities until he runs afoul of the penalties of libel or slander, or into some infraction of our statutory law*. A *member of the bar can, and will, be stopped at the point where he infringes our Canons of Ethics and if he wishes to remain a member of the bar he will conduct himself in accordance therewith. . . '*

The United States Supreme Court had before it an attorney disciplinary proceeding in In re Sawyer, 360 U.S. 622, 79 S. Ct. 1376. 3 L. Ed. 2d 1473 (1959). On the 'free speech' issue respondent raises here, Mr. Justice Stewart, concurring in result, clearly was speaking for at least five members of the court when he said:

'. . . A lawyer belongs to a profession with inherited standards of propriety and honor, which experience has shown necessary in a calling dedicated to the accomplishment of justice. He who would follow that calling must conform to those standards.

'*Obedience to ethical precepts may require abstention from what in other circumstances might be constitutionally protected speech. . .* '" (238 N.W. 2d at 769; emphasis supplied)

In In re Raggio, 487 P. 2d 499 (1971), the Supreme Court of Nevada said:

"We are never surprised when persons, not ultimately involved with the administration of justice, speak out in anger or frustration about our work and the manner in which we perform it, and shall protect their right to so express themselves. *A member of the bar, however, stands in a different position by reason of his oath of office and standards of conduct which he is sworn to uphold conformity with those standards has proven essential to the administration of justice in our courts.*"

. . . " (4887 P. 2d at 500-501; emphasis supplied)

53. In re Sotto, 82 Phil. 595 at 602 (1949).

54. 31 SCRA at 580-581.

55. Borromeo v. Court of Appeals, 87 SCRA 67 (1978).

56. Subsequent public statements and acts of respondent Gonzalez fully document the lack of repentance and the absence of *bona fides* so essential for legitimate criticism and fair comment. E. g., he repeated before a Committee of the House of Representative his charge that the Court was promoting "unequal opportunity (for) justice in the country" by issuing restraining orders against criminal prosecution of "big cases" (Daily Globe, May 4, 1988; Evening Star, May 4, 1988). He threatened personally to file impeachment proceeding against three (3) members of the Court whom he had accused of "pressuring" him to render decisions favorable to their friends (Philippine Star, May 4, 1988). He accused the Court of "malversation of public funds" for using "public funds" to pay premiums on "private [group hospitalization] insurance policies" of its members (Manila Chronicle, May 4, 1988) He asserted that four (4) members of the Court could not dispense justice to him with "the cold neutrality of an impartial judge" (Malaya, May 6, 1988; Manila Chronicle, May 10, 1988).

57. This was underscored by then Mr., Justice Moran in his dissenting opinion in People v. Alarcon —

> "It might be suggested that judges who are unjustly attacked have a remedy in action for libel. This suggestion has, however, no rational basis in principle. In the first place, the outrage is not directed to the judge as a private individual but to the judge as such or to the court as an organ of the administration of justice. In the second place interest will gravely suffer where the judge, as such, will, from time to time, be pulled down and disrobed of his judicial authority to face his assailant on equal grounds and prosecute cases in his behalf as a private individual. The same reasons of public policy which exempt a judge from civil liability in the exercise of his judicial functions, most fundamental of which is the policy to confine his time exclusively to the discharge of his public duties , applies here with equal, if not superior, force. . . " (69 Phil. 265 at 278 [1939]).