

IN THE MATTER OF PROCEEDINGS FOR DISCIPLINARY ACTION AGAINST ATTY. VICENTE RAUL ALMACEN IN L-27654, ANTONIO H. CALERO VS. VIRGINIA Y. YAPTINCHAY.

G.R. No. L-27654. February 18, 1970

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

Before us is Atty. Vicente Raul Almacen's "Petition to Sur-render Lawyer's Certificate of Title," filed on September 25, 1967, in protest against what he therein asserts is "a great injustice com-mitted against his client by this Supreme Court." He indicts this Court, in his own phrase, as a tribunal "peopled by men who are calloused to our pleas for justice, who ignore without reasons their own applicable decisions and commit culpable violation of the Cons-titution with impunity." His client, he continues, who was deeply aggrieved by this Court's "unjust judgment," has become "one of the sacrificial Victims before the altar of hypocrisy." In the same breath that he alludes to the classic symbol of justice, he ridicules the members of this Court, saying "that justice as administered by the present members of the Supreme Court is not only blind, but also deaf and dumb." He then vows to argue the cause of his client "in the people's forum," so that "the people may know of the silent injustices committed by this Court," and that "whatever mistakes, wrongs and injustices that were committed must never be repeated." He ends his petition with a prayer that

"x x x a resolution issue ordering the Clerk of Court to receive the certificate of the under-signed attorney and counsellor-at-law IN TRUST with reservation that at any time in the future and in the event we regain our faith and confidence, we may retrieve our title to assume the practice of the noblest profession."

He reiterated and disclosed to the press the contents of the aforementioned petition. Thus, on September 26, 1967, the Manila Times published statements attributed to him, as follows:

"Vicente Raul Almacen, in an unprecedented petition, said he did it to expose the tribunal's unconstitutional and obnoxious' practice of arbitrarily denying petitions or appeals is without any reason.

"Because of the tribunal's 'short-cut justice,' Almacen deplored, his client was condemned to Pay 120,000, without knowing why he lost the case.

* * *

"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 for justice, who ignore without reason their own applicable decisions and commit culpable violations of the Constitution with impunity.'

* * *

"He expressed the hope that by divesting him-self of his title by which he earns his living, the pre-sent members of the Supreme Court 'will become responsive to all cases brought to its attention with-out discrimination, and will purge itself of those unconstitutional and obnoxious "lack of merit" or "denied

resolutions.” (emphasis supplied)

Atty. Almacen's statement that

“... our own Supreme Court is composed of men who are calloused to our pleas of [sic] justice, who ignore their own applicable decisions and commit culpable violations of the Constitution with impunity,”

was quoted by columnist Vicente Albano Pacis in the issue of the Manila Chronicle of September 28, 1967. In connection therewith, Pacis commented that Atty. Almacen had “accused the high tribunal of offenses so serious that the Court must clear itself,” and that “his charge is one of the constitutional bases for impeachment.”

The genesis of this unfortunate incident was a civil case entitled *Virginia Y. Yaptinchay vs. Antonio H. Calero*,^[1] in which Atty. Almacen was counsel for the defendant. The trial court, after due hearing, rendered judgment against his client. On June 15, 1966 Atty. Almacen received a copy of the decision. Twenty days later, or on July 5, 1966, he moved for its reconsideration. He served on the adverse counsel a copy of the motion, but did not notify the latter of the time and place of hearing on said motion. Meanwhile, on July 18, 1966, the plaintiff moved for execution of the judgment. For “lack of proof of service,” the trial court denied both motions. To prove that he did serve on the adverse party a copy of his first motion for reconsideration, Atty. Almacen filed on August 17, 1966 a second motion for reconsideration to which he attached the required registry return card. This second motion for reconsideration, however, was ordered withdrawn by the trial court on August 30, 1966, upon verbal motion of Atty. Almacen himself, who, earlier, that is, on August 22, 1966, had already perfected the appeal. Because the plaintiff interposed no objection to the record on appeal and appeal bond, the trial court elevated the case to the Court of Appeals.

But the Court of Appeals, on the authority of this Court's decision in *Manila Surety and Fidelity Co., Inc. vs. Batu Construction & Co.*, L-16636, June 24, 1965, dismissed the appeal, in the following words:

“Upon consideration of the motion dated March 27, 1967, filed by plaintiff-appellee praying that the appeal be dismissed, and of the opposition thereto filed by defendant-appellant; the Court RESOLVED TO DISMISS, as it hereby dismisses, the appeal, for the reason that the motion for reconsideration dated July 5, 1966 (pp. 90-113, printed record on appeal) does not contain a notice of time and place of hearing thereof and is, therefore, a useless piece of paper (*Manila Surety & Fidelity Co., Inc. vs. Batu Construction & Co.*, G. R. No. L-16636; June 24, 1965), which did not interrupt the running of the period to appeal, and, consequently, the appeal was perfected out of time.”

Atty. Almacen moved to reconsider this resolution, urging that Manila Surety & Fidelity Co. is not decisive. At the same time he filed a pleading entitled “Latest decision of the Supreme Court in Support of Motion for Reconsideration,” citing *Republic of the Philippines vs. Gregorio A. Venturanza*, L-20417, decided by this Court on May 30, 1966, as the applicable case. Again, the Court of Appeals denied the motion for reconsideration, thus:

“Before this Court for resolution are the motion dated May 9, 1967 and the supplement thereto of the same date filed by defendant-appellant, praying for reconsideration of the resolution of May 8, 1967, dismissing the appeal.

“Appellant contends that there are some important distinctions between this case and that of *Manila Surety and Fidelity Co., Inc. vs. Batu Construction & Co.*, G.R. No. L-16636, June 24, 1965, relied upon by this Court in its resolution of May 8, 1967. Appellant further states that in the latest case, *Republic vs. Venturanza*, L-20417, May 30, 1966, decided by the Supreme Court concerning the question raised by appellant's motion, the ruling is contrary to the doctrine laid down in the *Manila Surety & Fidelity Co., Inc.* case.

“There is no substantial distinction between this case and that of *Manila Surety & Fidelity Co.*

"In the case of Republic vs. Venturanza, the resolution denying the motion to dismiss the appeal, based on grounds similar to those raised herein was issued on November 26, 1962, which was much earlier than the date of promulgation of the decision in the Manila Surety Case, which was June 24, 1965. Further, the resolution in the Venturanza case was interlocutory and the Supreme Court issued it 'without prejudice to appellee's restoring the point in the brief.' In the main decision in said case (Rep. vs. Venturanza), the Supreme Court passed upon the issue sub silencio presumably because of its prior decisions contrary to the resolution of November 26, 1962, one of which is that in the Manila Surety and Fidelity case. Therefore Republic vs. Venturanza is no authority on the matter in issue."

Atty. Almacen then appealed to this Court by certiorari. We refused to take the case, and by minute resolution denied the appeal. Denied shortly thereafter was his motion for reconsideration as well as his petition for leave to file a second motion for reconsideration and for extension of time. Entry of judgment was made on September 8, 1967. Hence, the second motion for reconsideration filed by him after the said date was ordered expunged from the records.

It was at this juncture that Atty. Almacen gave vent to his disappointment by filing his "Petition to Surrender Lawyer's Certificate of Title," already adverted to - a pleading that is interspersed from beginning to end with the insolent, contemptuous, grossly disrespectful and derogatory remarks hereinbefore reproduced, against this Court as well as its individual members, a behavior that is as unprecedented as it is unprofessional.

Nonetheless we decided by resolution dated September 28, 1967 to withhold action on his petition until he shall have actually surrendered his certificate. Patiently, we waited for him to make good his proffer. No word came from him. So he was reminded to turn over his certificate, which he had earlier vociferously offered to surrender, so that this Court could act on his petition. To said reminder he manifested "that he has no pending petition in connection with Case G. R. No. L-27654, Calero vs. Yaptinchay, said case is now final and executory;" that this Court's September 28, 1967 resolution did not require him to do either a positive or negative act; and that since his offer was not accepted, he "chose to pursue the negative act."

In the exercise of its inherent power to discipline a member of the bar for contumely and gross misconduct, this Court on November 17, 1967 resolved to require Atty. Almacen to show cause "why no disciplinary action should be taken against him." Denying the charges contained in the November 17 resolution, he asked for permission "to give reasons and cause why no disciplinary action should be taken against him x x x in an open and public hearing. "This Court resolved (on December 7) "to require Atty. Almacen to state, within five days from notice hereof, his reasons for such request, otherwise, oral argument shall be deemed waived and incident submitted for decision." To this resolution he manifested that since this Court is "the complainant, prosecutor and Judge," he preferred to be heard and to answer questions "in person and in an open and public hearing" so that this Court could observe his sincerity and candor. He also asked for leave to file a written explanation "in the event this Court has no time to hear him in person." To give him the amplest latitude for his defense, he was allowed to file a written explanation and thereafter was heard in oral argument.

His written answer, as undignified and cynical as it is unchastened offers no apology. Far from being contrite, Atty. Almacen unremittingly repeats his jeremiad of lamentations, this time embellishing it with abundant sarcasm and innuendo. Thus:

"At the start, let me quote passages from the Holy Bible, Chapter 7, St. Matthew:-

"Do not judge, that you may not be judged. For with what judgment you judge, you shall be judged, and with what measure you measure, it shall be measured to you. But why dost thou see the speck in thy brother's eye, and yet dost not consider the beam in thy own eye? Or how canst, thou say to thy brother, "Let me cast out the speck from thy eye"; and behold, there is a beam in thy own eye? Thou hypocrite, first cast out the beam from

thy own eye, and then thou wilt see clearly to cast out the speck from thy brother's eye.

"Therefore all that you wish men to do to you, even so do you also to them; for this is the Law and the Prophets.'

* * *

"Your respondent has no intention of disavow-ing the statements mentioned in his petition. On the contrary, he reaffirms the truth of what he stated, compatible with his lawyer's oath that 'he will do no falsehood, nor consent to the doing of any in court. But he vigorously DENY under oath that the under-scored statements contained in the CHARGE are in-solent, contemptuous, grossly disrespectful and derogatory to the individual members of the Court; that they tend to bring the entire Court, without jus-tification, into disrepute; and constitute conduct unbecoming of a member of the noble profession of law.

* * *

"Respondent stands four-square that his statement is borne by TRUTH and has been asserted with NO MALICE BEFORE AND AFTER THOUGHT but mainly motivated with the highest interest of jus-tice that in the particular case of our client, the members have shown callousness to our various pleas for JUSTICE, our pleadings will bear us on this matter, x x x

* * *

"To all these beggings, supplications, words of humility, appeals for charity, generosity, fairness, understanding, sympathy and above all in the highest interest of JUSTICE, - what did we get from this COURT? One word, DENIED, with all its hardi-ness and insensibility. That was the unfeeling of the Court towards our pleas and prayers, in simple word, it is plain callousness towards our particular case.

* * *

"Now that your respondent has the guts to tell the members of the Court that notwithstanding the violation of the Constitution, you remained unpunished, this Court in the reverse order of natural things, is now in the attempt to inflict punishment on your respondent for acts he said in good faith.

"Did His Honors care to listen to our pleadings and supplications for JUSTICE, CHARITY, GE-NEROSITY and FAIRNESS? Did His Honors attempt to justify their stubborn denial with any semblance of reason, NEVER. Now that your respondent is gi-ven the opportunity to face you, he reiterates the same statement with emphasis, DID YOU? Sir. Is this the way of life in the Philippines today, that even our own President, said: - 'the story is cur-rent, though nebulous as to its truth, it is still be-ing circulated that justice in the Philippines today is not what it is used to be before the war. There are those who have told me frankly and brutally that justice is a commodity, a marketable commo-dity in the Philippines.'

* * *

"We condemn the SIN, not the SINNER. We detest the ACTS, not the ACTOR. We attack the de-cision of this Court, not the members. x x x We were provoked. We were compelled by force of ne-cessity. We were angry but we waited for the finality of the decision. We waited until this Court has performed its duties. We never interfered nor obstruct in the performance of their duties. But in the end, after seeing that the Constitution has placed finality on your judgment against our client and sensing that you have not performed your duties with 'circumspection, carefulness, confidence and wis-dom', your Respondent rise to claim his God-given right to speak the truth and his Constitutional rights of free speech.

* * *

"The INJUSTICES which we have attributed to this Court and the further violations we sought to be prevented

is impliedly shared by our President. . . .

* * *

"What has been abhorred and condemned, are the very things that were applied to us. Recalling Madam Roland's famous apostrophe during the French revolution, O' Liberty, what crimes are committed in thy name', we may dare say, O' JUSTICE, what technicalities are committed in thy name' or more appropriately, 'O JUSTICE, what injustices are committed in thy name.'

* * *

"We must admit that this Court is not free from commission of any abuses, but who would correct such abuses considering that yours is a court of last resort. A strong public opinion must be generated so as to curtail these abuses.

* * *

"The phrase, Justice is blind is symbolize 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 our beggings, supplications, and pleadings to give us reasons why our appeal has been DENIED, not one word was spoken or given. ... We refer to no human defect or ailment in the above statement. We only describe the impersonal state of things and nothing more.

* * *

"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."

But overlooking, for the nonce, the vituperative chaff which he claims is not intended as a studied disrespect to this Court, let us examine the grain of his grievances.

He chafes at the minute resolution denial of his petition for review. We are quite aware of the criticisms^[2] expressed against this Court's practice of rejecting petitions by minute resolutions. We have been asked to do away with it, to state the facts and the law, and to spell out the reasons for denial. We have given this suggestion very careful thought. For we know the abject frustration of a lawyer who tediously collates the facts and for many weary hours meticulously marshalls his arguments, only to have his efforts rebuffed with a terse unadorned denial. Truth to tell, however, most petitions rejected by this Court are utterly frivolous and ought never to have been lodged at all.^[3] The rest do exhibit a first-impression cogency, but fail to withstand critical scrutiny. By and large, this Court has been generous in giving due course to petitions for certiorari.

Be this as it may, were we to accept every case or write a full opinion for every petition we reject, we would be unable to carry out effectively the burden placed upon us by the Constitution. The proper role of the Supreme Court, as Mr. Chief Justice Vinson of the U.S. Supreme Court has defined it, is to decide "only those cases which present questions whose resolutions will have immediate importance beyond the particular facts and parties involved." Pertinent here is the observation of Mr. Justice Frankfurter in *Maryland vs. Baltimore Radio Show*, 346 U.S. 85, 562, 566:

"A variety of considerations underlie denials of the writ, and as to the same petition different reasons may lead

different justices to the same result x x x.

"Since there are these conflicting, and to the uninformed, even confusing reasons for deny-ing petitions for certiorari, it has been suggested from time to time that the Court indicate its reasons for denial. Practical considerations preclude. In order that the Court may be enabled to discharge its indispensable duties, Congress has placed the control of the Court's business, in effect, within the Court's discretion. During the last three terms the Court disposed of 260, 217, 224 cases, respectively, on their merits. For the same three terms the Court denied, respectively, 1,260 1,105, 1,189 petitions calling for discretionary review. If the Court is to do its work it would not be feasible to give rea-sons, however brief, for refusing to take these cases. The time that would be required is prohibitive. Apart from the fact that as already indicated different reasons not infrequently move different members of the Court in concluding that a parti-cular case at a parti-cular time makes review undesirable."

Six years ago, in *Novino, et al. vs. Court of Appeals, et al.*, L-21098, May 31, 1963 (60 O.G. 8099), this Court, through the then Chief Justice Cesar Bengzon, articulated its considered view on this matter. There, the petitioner's counsel urged that a "lack of merit" resolution violates Section 12 of Article VIII of the Constitution. Said Chief Justice Bengzon:

"In connection with identical short resolu-tions, the same question has been raised before; and we held that these 'resolutions' are not 'decisions' within the above constitutional requirement. They merely hold that the petition for review should not be entertained in view of the provisions of Rule 46 of the Rules of Court; and even ordinary lawyers have all this time so understood it. It should be re-membered that a petition to review the decision of the Court of Appeals is not a matter of right, but of sound judicial discretion; and so there is no need to fully explain the court's denial. For one thing, the facts and the law are already mentioned in the Court of Appeals' opinion.

"By the way, this mode of disposal has -- as intended -- helped the Court in alleviating its heavy docket; it was patterned after the practice of the U.S. Supreme Court, wherein petitions for review are often merely ordered 'dismissed'."

We underscore the fact that cases taken to this Court on petitions for certiorari from the Court of Appeals have had the benefit of appellate review. Hence, the need for compelling rea-sons to buttress such petitions if this Court is to be moved into accepting them. For it is axiomatic that the supervisory jurisdic-tion vested upon this Court over the Court of Appeals is not in-tended to give every losing party another hearing. This axiom is implied in sec. 4 of Rule 45 of the Rules of Court which recites:

"Review of Court of Appeals' decision, dis-cretionary. - A review is not a matter of right but of sound judicial discretion, and will be granted only when there are special and important reasons therefor. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of reasons which will be considered:

"(a) When the Court of Appeals has decided a question of substance, not theretofore determined by the Supreme Court, nor has decided it in a way probably not in accord with law or with the applica-ble decisions of the Supreme Court;

"(b) When the Court of Appeals has so far departed from the accepted and usual course of ju-dicial proceedings, or so far sanctioned such de-parture by the lower court, as to call for the exercise of the power of supervision."

Recalling Atty. Almacen's petition for review, we found, upon a thoroughgoing examination of the pleadings and records, that the Court of Appeals had fully and correctly considered the dismissal of his appeal in the light of the law and applicable decisions of this Court. Far from straying away from the "accepted and usual course of judicial

proceedings," it traced the procedural lines etched by this Court in a number of decisions. There was, therefore, no need for this Court to exercise its supervisory power.

As a law practitioner who was admitted to the Bar as far back as 1941, Atty. Almacen knew - or ought to have known - that for a motion for reconsideration to stay the running of the period of appeal, the movant must not only serve a copy of the motion upon the adverse party (which he did), but also notify the adverse party of the time and place of hearing (which admittedly he did not). This rule was unequivocally articulated in *Manila Surety & Fidelity vs. Batu Construction & Co.*, supra:

"The written notice referred to evidently is prescribed for motions in general by Rule 15, Sections 4 and 5 (formerly Rule 26), which provides that such notice shall state the time and place of hearing and shall be served upon all the parties concerned at least three days in advance. And according to Section 6 of the same Rule no motion shall be acted upon by the court without proof of such notice. Indeed it has been held that in such a case the motion is nothing but a useless piece of paper (*Philippine National Bank v. Damasco*, L-18638, Feb. 28, 1963; citing *Manakil v. Revilla*, 42 Phil. 81; *Roman Catholic Bishop of Lipa v. Municipality of Unisan*, 41 Phil. 866; and *Director of Lands vs. Sanz*, 45 Phil. 117). The reason is obvious: Unless the movant sets the time and place of hearing the Court would have no way to determine whether that party agrees to or objects to the motion, and if he objects, to hear him on his objection, since the Rules themselves do not fix any period within which he may file his reply or opposition."

If Atty. Almacen failed to move the appellate court to review the lower court's judgment, he has only himself to blame. His own negligence caused the forfeiture of the remedy of appeal, which, incidentally, is not a matter of right. To shift away from himself the consequences of his carelessness, he looked for a "whipping boy." But he made sure that he assumed the posture of a martyr, and, in offering to surrender his professional certificate, he took the liberty of vilifying this Court and inflicting his exacerbating rancor on the members thereof. It would thus appear that there is no justification for his scurrilous and scandalous outbursts.

Nonetheless we gave this unprecedented act of Atty. Almacen the most circumspect consideration. We know that it is natural for a lawyer to express his dissatisfaction each time he loses what he sanguinely believes to be a meritorious case. That is why lawyers are given wide latitude to differ with, and voice their disapproval of, not only the courts' rulings but also the manner in which they are handed down.

Moreover, every citizen has the right to comment upon and criticize the actuations of public officers. This right is not diminished by the fact that the criticism is aimed at a judicial authority,[4] or that it is articulated by a lawyer.[5] Such right is especially recognized where the criticism concerns a concluded litigation,[6] because then the court's actuations are thrown open to public consumption.[7] "Our decisions and all our official actions," said the Supreme Court of Nebraska,[8] "are public property, and the press and the people have the undoubted right to comment on them, criticize and censure them as they see fit. Judicial officers, like other public servants, must answer for their official actions before the chancery of public opinion."

The likely danger of confusing the fury of human reaction to an attack on one's integrity, competence and honesty, with "imminent danger to the administration of justice," is the reason why courts have been loath to inflict punishment on those who assail their actuations.[9] This danger lurks especially in such a case as this where those who sit as members of an entire Court are themselves collectively the aggrieved parties.

Courts thus treat with forbearance and restraint a lawyer who vigorously assails their actuations.[10] For courageous and fearless advocates are the strands that weave durability into the tapestry of justice. Hence, as citizen and officer of the court, every lawyer is expected not only to exercise the right, but also to consider it his duty to expose the shortcomings and indiscretions of courts and judges.[11]

Courts and judges are not sacrosanct.[12] They should and expect critical evaluation of their performance.[13] For like the executive and the legislative branches, the judiciary is rooted in the soil of democratic society, nourished by the periodic appraisal of the citizens whom it is expected to serve.

Well-recognized therefore is the right of a lawyer, both as an officer of the court and as a citizen, to criticize in properly respectful terms and through legitimate channels the acts of courts and judges. The reason is that

"An attorney does not surrender, in assuming the important place accorded to him in the administration of justice, his right as a citizen to criticize the decisions of the courts in a fair and respectful manner, and the independence of the bar, as well as of the judiciary, has always been encouraged by the courts." (In re Ades, 6 F. Supp. 487)

Criticism of the courts has, indeed, been an important part of the traditional work of the lawyer. In the prosecution of appeals, he points out the errors of lower courts. In articles written for law journals he dissects with detachment the doctrinal pronouncements of courts and fearlessly lays bare for all to see the flaws and inconsistencies of the doctrines (Hill v. Lyman, 126 NYS 2d. 286). As aptly stated by Chief Justice Sharswood in Ex Parte Steinman, 40 Am. Rep. 641:

"No class of the community ought to be allowed freer scope in the expression or publication of opinions as to the capacity, impartiality or integrity of judges than members of the bar. They have the best opportunities for observing and forming a correct judgment. They are in constant attendance on the courts. x x x To say that an attorney can only act or speak on this subject under liability to be called to account and to be deprived of his profession and livelihood, by the judge or judges whom he may consider it his duty to attack and expose, is a position too monstrous to be entertained. ..."

Hence, as a citizen and as officer of the court, a lawyer is expected not only to exercise the right, but also to consider it his duty to avail of such right. No law may abridge this right. Nor is he "professionally answerable for a scrutiny into the official conduct of the judges, which would not expose him to legal animadversion as a citizen." (Case of Austin, 28 Am. Dec. 657, 665).

"Above all others, the members of the bar have the best opportunity to become conversant with the character and efficiency of our judges. No class is less likely to abuse the privilege, as no other class has as great an interest in the preservation of an able and upright bench." (State Board of Examiners in Law v. Hart, 116 N.W. 212, 216)

To curtail the right of a lawyer to be critical of the foibles of courts and judges is to seal the lips of those in the best positions to give advice and who might consider it their duty to speak, disparagingly. "Under such a rule," so far as the bar is concerned, "the merits of a sitting judge may be rehearsed, but as to his demerits there must be profound silence." (State v. Circuit Court, 72 N.W.196)

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.

For, membership in the Bar imposes upon a person obligations and duties which are not mere flux and ferment. His investiture into the legal profession places upon his shoulders no burden more basic, more exacting and more imperative than that of respectful behavior toward the courts. He vows solemnly to conduct himself "with all good fidelity x x x to the courts;"[14] and the Rules of Court constantly remind him "to observe and maintain the respect due to courts of justice and judicial officers." [15] The first canon of legal ethics enjoins him "to maintain towards the courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for

the maintenance of its supreme importance.”

As Mr. Justice Field puts it:

“. . . the obligation which attorneys impliedly assume, if they do not by express declaration take upon themselves, when they are admitted to the Bar, is not merely to be obedient to the Constitution and laws, but to maintain at all times the respect due to courts of justice and judicial officers. This obligation is not discharged by merely observing the rules of courteous demeanor in open court, but includes abstaining out of court from all insulting language and offensive conduct toward judges personally for their judicial acts." (Bradley v. Fisher, 20 Law.4d. 647, 652)

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.

"The counsel in any case may or may not be an abler or more learned lawyer than the judge, and it may tax his patience and temper to submit to rulings which he regards as incorrect, but discipline and self-respect are as necessary to the orderly administration of justice as they are to the effectiveness of an army. The decisions of the judge must be obeyed, because he is the tribunal appointed to decide, and the bar should at all times be the foremost in rendering respectful submission." (In Re Scouten, 40 Atl. 481)

"We concede that a lawyer may think highly of his intellectual endowment. That is his privilege. And he may suffer frustration at what he feels is others' lack of it. That is his misfortune. Some such frame of mind, however, should not be allowed to harden into a belief that he may attack a court's decision in words calculated to justify the time-honored aphorism that courts are the temples of right." (Per Justice Sanchez in Rheem of the Philippines vs. Ferrer, L-22979, June 26, 1967)

In his relations with the courts, a lawyer may not divide his personality so as to be an attorney at one time and a mere citizen at another. Thus, statements made by an attorney in private conversations or communications^[16] or in the course of a political campaign,^[17] if couched in insulting language as to bring into scorn and disrepute the administration of justice, may subject the attorney to disciplinary action.

Of fundamental pertinence at this juncture is an examination of relevant parallel precedents.

1. Admitting that a "judge as a public official is neither sacrosanct nor immune to public criticism of his conduct in office," the Supreme Court of Florida in *State v. Calhoon*, 102 So. 2d 604, 608, nevertheless declared that "any conduct of a lawyer which brings into scorn and disrepute the administration of justice demands condemnation and the application of appropriate penalties," adding that:

"It would be contrary to every democratic theory to hold that a judge or a court is beyond bona fide comments and criticisms which do not exceed the bounds of decency and truth or which are not aimed at the destruction of public confidence in the judicial system as such. However, when the likely impairment of the administration of justice is the direct product of false and scandalous accusations then the rule is otherwise. "

2. In *In Re Glenn*, 130 N. W. 2d 672, an attorney was suspended for putting out and circulating a leaflet entitled "JUSTICE ??? IN OTUMWA," which accused a municipal judge of having committed judicial error, of being so prejudiced as to deny his clients a fair trial on appeal and of being subject to the control of a group of city officials. As a prefatory statement he wrote: "They say that Justice is BLIND, but it took Municipal Judge Willard to prove that it is also DEAF and DUMB!" The court did not hesitate to find that the leaflet went much further than the accused, as a lawyer, had a right to do.

"The entire publication evidences a desire on the part of the accused to belittle and besmirch the court and to bring it into disrepute with the general public."

3. In *In Re Humphrey*, 163 Pac. 60, the Supreme Court of California affirmed the two-year suspension of an attorney who published a circular assailing a judge who at that time was a candidate for re-election to a judicial office. The circular which referred to two decisions of the judge concluded with a statement that the judge "used his judicial office to enable said bank to keep that money." Said the court:

"We are aware that there is a line of authorities which place no limit to the criticism members of the bar may make regarding the capacity, impartiality, or integrity of the courts, even though it extends to the deliberate publication by the attorney capable of correct reasoning of baseless insinuations against the intelligence and integrity of the highest courts. See *State Board, etc. v. Hart*, 116 N. W. 212, 17 LRA (N. S.) 585, 15 Ann Cas 197 and note: *Ex Parte Steinman* 95 Pac. 220, 40 Am. Rep. 637. In the first case mentioned it was observed, for instance:

"It may be (although we do not so decide) that a libelous publication by an attorney, directed against a judicial officer, could be so vile and of such a nature as to justify the disbarment of its author.'

"Yet the false charges made by an attorney in that case were of graver character than those made by the respondent here. But, in our view, the better rule is that which requires of those who are permitted to enjoy the privilege of practicing law the strictest observance at all times of the principles of truth, honesty and fairness, especially in their criticism of the courts, to the end that the public confidence in the due administration of justice be upheld, and the dignity and usefulness of the courts be maintained. In *re Collins*, 81 Pac. 220."

4. In *People ex rel Chicago Bar Asso. v. Metzen*, 123 N. E. 734, an attorney, representing a woman who had been granted a divorce, attacked the judge who set aside the decree on bill of review. He wrote the judge a threatening letter and gave the press the story of a proposed libel suit against the judge and others. The letter began:

"Unless the record in *In re Petersen v. Petersen* is cleared up so that my name is protected from the libel, lies, and perjury committed in the cases involved, I shall be compelled to resort to such drastic action as the law allows and the case warrants."

Further, he said: "However let me assure you I do not intend to allow such dastardly work to go unchallenged," and said that he was engaged in dealing with men and not irresponsible political manikins or appearances of men. Ordering the attorney's disbarment, the Supreme Court of Illinois declared:

"x x x Judges are not exempt from just criticism, and whenever there is proper ground for serious complaint against a judge, it is the right and duty of a lawyer to submit his grievances to the proper authorities, but the public interest and the administration of the law demand that the courts should have the confidence and respect of the people. Unjust criticism, insulting language, and offensive conduct toward the judges personally by attorneys, who are officers of the court, which tend to bring the courts and the law into disrepute and to destroy public confidence in their integrity, cannot be permitted. The letter written to the judge was plainly an attempt to intimidate and influence him in the discharge of judicial functions, and the bringing of the unauthorized suit, together with the write-up in the Sunday papers, was intended and calculated to bring the court into disrepute with the public."

5. In a public speech, a Rhode Island lawyer accused the courts of the state of being influenced by corruption and greed, saying that the seats of the Supreme Court were bartered. It does not appear that the attorney had criticized any of the opinions or decisions of the Court. The lawyer was charged with unprofessional conduct, and was ordered suspended for a period of two years. The Court said:

"A calumny of that character, if believed, would tend to weaken the authority of the court against whose members it was made, bring its judgments into contempt, undermine its influence as an unbiased arbiter of the people's right, and interfere with the administration of justice. x x x

"Because a man is a member of the bar the court will not, under the guise of disciplinary proceedings, deprive

him of any part of that freedom of speech which he possesses as a citizen. The acts and decisions of the courts of this state, in cases that have reached final determination, are not exempt from fair and honest comment and criticism. It is only when an attorney transcends the limits of legitimate criticism that he will be held responsible for an abuse of his liberty of speech. We well understand that an independent bar, as well as independent court, is always a vigilant defender of civil rights." In *Re Troy*, 111 Atl. 723, 725.

6. In *In Re Rockmore*, 111 NYS 879, an attorney was suspended for six months for submitting to an appellate court an affidavit reflecting upon the judicial integrity of the court from which the appeal was taken. Such action, the Court said, constitutes unprofessional conduct justifying suspension from practice, notwithstanding that he fully retracted and withdrew the statements, and asserted that the affidavit was the result of an impulse caused by what he considered grave injustice. The Court said:

"We cannot shut our eyes to the fact that there is a growing habit in the profession of criticising the motives and integrity of judicial officers in the discharge of their duties, and thereby reflecting on the administration of justice and creating the impression that judicial action is influenced by corrupt or improper motives. Every attorney of this court, as well as every other citizen, has the right and it is his duty, to submit charges to the authorities in whom is vested the power to remove judicial officers for any conduct or act of a judicial officer that tends to show a violation of his duties, or would justify an inference that he is false to his trust, or has improperly administered the duties devolved upon him; and such charges to the tribunal, if based upon reasonable inferences, will be encouraged, and the person making them protected. x x x While we recognize the inherent right of an attorney in a case decided against him, or the right of the public generally, to criticize the decisions of the courts, or the reasons announced for them, the habit of criticising the motives of judicial officers in the performance of their official duties, when the proceeding is not against the officers whose acts or motives are criticised, tends to subvert the confidence of the community in the courts of justice and in the administration of justice; and when such charges are made by officers of the courts, who are bound by their duty to protect the administration of justice, the attorney making such charges is guilty of professional misconduct. "

7. In *In Re Mitchell*, 71 So. 467, a lawyer published this statement:

"I accepted the decision in this case, however, with patience, barring possible temporary observations more or less vituperative, and finally concluded, that, as my clients were foreigners, it might have been expecting too much to look for a decision in their favor against a widow residing here."

The Supreme Court of Alabama declared that:

"x x x the -expressions above set out, not only transcend the bounds of propriety and privileged criticism, but are an unwarranted attack, direct, or by insinuation and innuendo, upon the motives and integrity of this court, and make out a prima facie case of improper conduct upon the part of a lawyer who holds a license from this court and who is under oath to demean himself with all good fidelity to the court as well as to his client."

The charges, however, were dismissed after the attorney apologized to the Court.

8. In *State ex rel. Dabney v. Ereckenridge*, 258 Pac. 747, an attorney published in a newspaper an article in which he impugned the motives of the court and its members to try a case, charging the court of having arbitrarily and for a sinister purpose undertaken to suspend the writ of habeas corpus. The Court suspended the respondent for 30 days, saying that:

"The privileges which the law gives to members of the bar is one most subversive of the public good, if the conduct of such members does not measure up to the requirements of the law itself, as well as to the ethics of the profession. x x x

"The right of free speech and free discussion as to judicial determination is of prime importance under our

system and ideals of government. No right thinking man would concede for a moment that the best interest to private citizens, as well as to public officials, whether he labors in a judicial capacity or otherwise, would be served by denying this right of free speech to any individual. But such right does not have as its corollary that members of the bar who are sworn to act honestly and honorably both with their client and with the courts where justice is administered, if administered at all, could ever properly serve their client or the public good by de-signedly misstating facts or carelessly asserting the law. Truth and honesty of purpose by members of the bar in such discussion is necessary. The health of a municipality is none the less impaired by a polluted water supply than is the health of the thought of a community toward the judiciary by the filthy, wanton, and malignant misuse of members of the bar of the confidence the public, through its duly established courts, has reposed in them to deal with the affairs of the private individual, the protection of whose rights he lends his strength and money to maintain the judiciary. For such conduct on the part of the members of the bar the law itself demands retribution - not the court."

9. In *Bar Ass'n of San Francisco v. Philbrook* 170 Pac. 440, the filing of an affidavit by an attorney in a pending action using in respect to the several judges the terms "criminal, corrupt, and wicked conspiracies," "criminal confederates," "colossal and confident insolence," "criminal prosecution," "calculated brutality," "a corrupt deadfall," and similar phrases, was considered conduct unbecoming of a member of the bar, and the name of the erring lawyer was ordered stricken from the roll of attorneys.

10. In *State Board of Examiners v. Hart*, 116 N. W. 215, the erring attorney claimed that greater latitude should be allowed in case of criticism of cases finally adjudicated than in those pending. This lawyer wrote a personal letter to the Chief Justice of the Supreme Court of Minnesota impugning both the intelligence and the integrity of the said Chief Justice and his associates in the decisions of certain appeals in which he had been attorney for the defeated litigants. The letters were published in a newspaper. One of the letters contained this paragraph:

"You assigned it (the property involved) to one who has no better right to it than the burglar to his plunder. It seems like robbing a widow to reward a fraud, with the court acting as a fence, or umpire, watchful and vigilant that the widow got no undue advantage. ... The point is this: Is a proper motive for the decisions discoverable, short of assigning to the court emasculated intelligence, or a constipation of morals and faithlessness to duty? If the state bar association, or a committee chosen from its rank, or the faculty of the University Law School, aided by the researches of its hundreds of bright, active students, or if any member of the court, or any other person, can formulate a statement of a correct motive for the decision, which shall not require fumigation before it is stated, and quarantine after it is made, it will gratify every right-minded citizen of the state to read it."

The Supreme Court of Minnesota, in ordering the suspension of the attorney for six months, delivered its opinion as follows:

"The question remains whether the accused was guilty of professional misconduct in sending to the Chief Justice the letter addressed to him. This was done, as we have found, for the very purpose of insulting him and the other justices of this court; and the insult was so directed to the Chief Justice personally because of acts done by him and his associates in their official capacity. Such a communication, so made, could never subserve any good purpose. Its only effect in any case would be to gratify the spite of an angry attorney and humiliate the officers so assailed. It would not and could not ever enlighten the public in regard to their judicial capacity or integrity. Nor was it an exercise by the accused of any constitutional right, or of any privilege which any reputable attorney, uninfluenced by passion, could ever have any occasion or desire to assert. No judicial officer, with due regard to his position, can resent such an insult otherwise than by methods sanctioned by law; and for any words, oral or written, however abusive, vile, or indecent, addressed secretly to the judge alone, he can have no redress in any action triable by a jury. 'The sending of a libelous communication or libelous matter to the person defamed does not constitute an actionable publication.' 18 Am. & Eng. Enc. Law (2d Ed.) p. 1017. In these respects the sending by the accused of this letter to the Chief

Justice was wholly different from his other acts charged in the accusation, and, as we have said, wholly different principles are applicable thereto.

"The conduct of the accused was in every way discreditable; but so far as he exercised the rights of a citizen, guaranteed by the Constitution and sanctioned by considerations of public policy, to which reference has been made, he was immune, as we hold, from the penalty here sought to be enforced. To that extent his rights as a citizen were paramount to the obligation which he had assumed as an officer of this court. When, however, he proceeded and thus assailed the Chief Justice personally, he exercised no right which the court can recognize, but, on the contrary, willfully violated his obligation to maintain the respect due to courts and judicial officers. 'This obligation is not discharged by merely observing the rules of courteous demeanor in open court, but it includes abstaining out of court from all insulting language and offensive conduct toward the judges personally for their official acts.' *Bradley v. Fisher*, 13 Wall. (U. S.) 355, 20 L. Ed. 646. And there appears to be no distinction, as regards the principle involved, between the indignity of an assault by an attorney upon a judge, induced by his official act, and a personal insult for like cause by written or spoken words addressed to the judge in his chambers or at his home or elsewhere. Either act constitutes misconduct wholly different from criticism of judicial acts addressed or spoken to others. The distinction made is, we think, entirely logical and well sustained by authority. It was recognized in *Ex parte McLeod*, supra. While the court in that case, as has been shown, fully sustained the right of a citizen to criticize rulings of the court in actions which are ended, it held that one might be summarily punished for assaulting a judicial officer, in that case a commissioner of the court, for his rulings in a cause wholly concluded. 'Is it in the power of any person,' said the court, 'by insulting or assaulting the judge because of official acts, if only the assailant restrains his passion until the judge leaves the building, to compel the judge to forfeit either his own self-respect to the regard of the people by tame submission to the indignity, or else set in his own person the evil example of punishing the insult by taking the law in his own hands? * * No high-minded, manly man would hold judicial office under such conditions.'

"That a communication such as this, addressed to the judge personally, constitutes professional delinquency for which a professional punishment may be imposed, has been directly decided. 'An attorney who, after being defeated in a case, wrote a personal letter to the trial justice, complaining of his conduct and reflecting upon his integrity as a justice, is guilty of misconduct and will be disciplined by the court.' *Matter of Manheim*, 133 App. Div. 136, 99 N. Y. Supp. 87. The same is held in *Re Griffin* (City Ct.) 1 N. Y. 7 and in *Re Wilkes* (City Ct.) 3 N. Y. In the latter case it appeared that the accused attorney had addressed a sealed letter to a justice of the City Court of New York, in which it was stated, in reference to his decision: It is not law; neither is it common sense. The result is I have been robbed of 80.' And it was decided that, while such misconduct was not a contempt under the state, the matter should be 'called to the attention of the Supreme Court, which has power to discipline the attorney.' 'If, 'says the court, 'counsel learned in the law are permitted by writings leveled at the heads of judges, to charge them with ignorance, with unjust rulings, and with robbery, either as principals or accessories, it will not be long before the general public may feel that they may redress their fancied grievances in like manner, and thus the lot of a judge will be anything but a happy one, and the administration of justice will fall into bad repute.'

"The recent case of *Johnson v. State* (Ala.) 44 South. 671, was in this respect much the same as the case at bar. The accused, an attorney at law, wrote and mailed a letter to the circuit judge, which the latter received by due course of mail, at his home, while not holding court, and which referred in insulting terms to the conduct of the judge in a cause wherein the accused had been one of the attorneys. For this it was held that the attorney was rightly disbarred in having 'willfully failed to maintain respect due to him [the judge] as a judicial officer, and thereby breached his oath as an attorney.' As recognizing the same principle, and in support of its application to the facts of this case, we cite the following: *Ex parte Bradley*, 7 Wall (U. S.) 364, 19 L. Ed. 214; *Beene v. State*, 22 Ark. 149; *Commonwealth v. Dandridge*, 2 Va. Cas. 408; *People v. Green*, 7 Colo. 237, 244, 3 Pac. 65, 374, 49 Am. Rep. 351; *Smith's Appeal*, 179 Pa. 14, 36 Atl. 134; *Scouten's Appeal*, 186 Pa. 270, 40 Atl. 481.

"Our conclusion is that the charges against the accused have been so far sustained as to make it our duty to impose such a penalty as may be sufficient lesson to him and a suitable warning to others. ..."

11. In *Cobb v. United States*, 172 F. 641, the court affirmed a lawyer's suspension for 18 months for publishing a letter in a news-paper in which he accused a judge of being under the sinister in-fluence of a gang that had paralyzed him for two years.

12. In *In Re Graves*, 221 Pac. 411, the court held that an attorney's unjustifiable attack against the official acts and decisions of a judge constitutes "moral turpitude." There, the attorney was disbarred for criticising not only the judge, but his decisions in ge-neral, claiming that the judge was dishonest in reaching his decisions and unfair in his general conduct of a case.

13. In *In Re Doss*, 12 N. E. 2d 659, an attorney published newspaper articles after the trial of cases, criticising the court in intemperate language. The invariable effect of this sort of propaganda, said the court, is to breed disrespect for courts and bring the legal profession into disrepute with the public, for which rea-son the lawyer was disbarred.

14. In *State v. Grimes*, 354 Pac. 2d 108, an attorney, dis-satisfied with the loss of a case, prepared over a period of years vicious attacks on jurists. The Oklahoma Supreme Court declared that his acts involved such gross moral turpitude as to make him unfit as a member of the bar. His disbarment was ordered, even though he expressed an intention to resign from the bar.

The teaching derived from the above disquisition and im-pressive affluence of judicial pronouncements is indubitable: Post-litigation utterances or publications, made by lawyers, critical of the courts and their judicial actuations, whether amounting to a crime or not, which transcend the permissible bounds of fair com-ment and legitimate criticism and thereby tend to bring the into disrepute or to subvert public confidence in their integrity and in the orderly administration of justice, constitute grave professional misconduct which may be visited with disbarment or other lesser appropriate disciplinary sanctions by the Supreme Court in the exer-cise of the prerogatives inherent in it as the duly constituted guar-dian of the morals and ethics of the legal fraternity.

Of course, rarely have we wielded our disciplinary powers in the face of unwarranted outbursts of counsel such as those cata-logged in the above-cited jurisprudence. Cases of comparable na-ture have generally been disposed of under the power of courts to punish for contempt which, although resting on different bases and calculated to attain a different end, nevertheless illustrates that universal abhorrence of such condemnable practices.

A perusal of the more representative of these instances may afford enlightenment.

1. In *Salcedo vs. Hernandez*, 61 Phil. 724, where counsel branded the denial of his motion for reconsideration as "absolutely erroneous and constituting an outrage to the rights of the petitioner Felipe Salcedo and a mockery of the popular will expressed at the polls," this Court, although conceding that

"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 cap-able, 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 requires. The reason for this is that respect for the courts guarantees the sta-bility of their institution. Without such guaranty, said institution would be resting on a very shaky foundation."

found counsel guilty of contempt inasmuch as, in its opinion, the statements made disclosed

"x x x an inexcusable disrespect of the autho-ry 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 pow-er and mocked and

flouted the rights of Attorney Vi-cente J. Francisco's client x x x."

2. In *In re Sotto*, 82 Phil. 595, counsel, a senator and the author of the Press Freedom Law, reacting to the imprisonment for contempt of one Angel Parazo, who, invoking said law, refused to divulge the source of a news item carried in his paper, caused to be published in a local newspaper a statement expressing his re-gret "that our High Tribunal has not only erroneously interpreted said law, but it is once more putting in evidence the incompetency or narrow mindedness of the majority of its members," and his belief that "In the wake of so many blunders and injustices deliberately committed during these last years, x x x the only remedy to put an end to so much evil, is to change the members of the Supreme Court," which tribunal he denounced as "a constant peril to liberty and democracy" and "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." He there also announced that one of the first measures he would introduce in then forthcoming session of Congress would have for its object the complete reorganization of the Supreme Court. Finding him in contempt, despite his avowals of good faith and his invocation of the guarantee of free speech, this Court declared:

"But in the above-quoted written statement which he caused to be published in the press, the respondent does not merely criticize or comment on the decision of the Parazo case, which was then and still is pending consideration by this Court upon petition of Angel Parazo. He not only intends to intimidate the members of this Court with the presentation of a bill in the next Congress, of which he is one of the members, reorganizing the Supreme Court and reducing the number of Justices from eleven, so as to change the members of this Court which decided the Parazo case, who according to his statement, are incompetent and narrow minded, in order to influence the final decision of said case by this Court, and thus embarrass or obstruct the administration of justice. But the respondent also attacks the honesty and integrity of this Court for the apparent purpose of bringing the Justices of this Court into disrepute and degrading the administration of justice x x x.

"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 many 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 or degrade the administration of justice by this Court. The Supreme Court of the Philippines 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 own 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."

Significantly, too, the Court therein hastened to emphasize that

"x x x an attorney as an officer of the court is under special obligation to be respectful in his conduct and communication to the courts; he may be removed from office or stricken from the roll of attorneys as being guilty of flagrant misconduct (17 L.R.A. [N. S.], 586, 594)."

3. In *Rheem of the Philippines vs. Ferrer: In re Proceedings against Alfonso Ponce Enrile, et al.*, supra, where counsel charged this Court with having "repeatedly fallen" into the pitfall of blindly adhering to its previous "erroneous" pronouncements, "in disregard of the law on jurisdiction" of the Court of Industrial Relations, our

condemnation of counsel's misconduct was unequivocal. Articulating the sentiments of the Court, Mr. Justice Sanchez stressed:

"As we look back at the language (heretofore quoted) employed in the motion for reconsideration, implications there are which inescapably arrest attention. It speaks of one pitfall into which this Court has repeatedly fallen whenever the jurisdiction of the Court of Industrial Relations comes into question. That pitfall is the tendency of this Court to rely on its own pronouncements in disregard of the law on jurisdiction. It makes a sweeping charge that the decisions of this Court, blindly adhere to earlier rulings without as much as making 'any reference to and analysis of the pertinent statute governing the jurisdiction of the industrial court. The plain import of all these is that this Court is so patently inept that in determining the jurisdiction of the industrial court, it has committed error and continuously repeated that error to the point of perpetuation. It pictures this Court as one which refuses to hew to the line drawn by the law on jurisdictional boundaries. Implicit in the quoted statements is that the pronouncements of this Court on the jurisdiction of the industrial court are not entitled to respect. Those statements detract much from the dignity of and respect due this Court: They bring into question the capability of the members - and some former members - of this Court to render justice. The second paragraph quoted yields a tone of sarcasm which counsel labelled as 'so-called' the 'rule against splitting of jurisdiction.'"

Similar thoughts and sentiments have been expressed in other cases^[18] which, in the interest of brevity, need not now be reviewed in detail.

Of course, a common denominator underlies the aforesaid cases - all of them involved contumacious statements made in pleadings filed pending litigation. So that, in line with the doctrinal rule that the protective mantle of contempt may ordinarily be invoked only against scurrilous remarks or malicious innuendoes while a court mulls over a pending case and not after the conclusion thereof,^[19] Atty. Almacen would now seek to sidestep the thrust of a contempt charge by his studied emphasis that the remarks for which he is now called upon to account were made only after this Court had written *finis* to his appeal. This is of no moment.

The rule that bars contempt after a judicial proceeding has terminated has lost much of its vitality. For sometime, this was the prevailing view in this jurisdiction. The first stir for a modification thereof, however, came when, in *People vs. Alarcon*,^[20] the then Chief Justice Manuel V. Moran dissented with the holding of the majority, speaking thru Justice Jose P. Laurel, which upheld the rule above-adverted to. A complete disengagement from the settled rule was later to be made in *In re Brillantes*,^[21] a contempt proceeding, where the editor of the *Manila Guardian* was adjudged in contempt for publishing an editorial which asserted that the 1944 Bar examinations were conducted in a farcical manner after the question of the validity of the said examinations had been resolved and the case closed. Virtually, this was an adoption of the view expressed by Chief Justice Moran in his dissent in *Alarcon* to the effect that there may still be contempt by publication even after a case has been terminated. Said Chief Justice Moran in *Alarcon*:

"A publication which tends to impede, obstruct, embarrass or influence the courts in administering justice in a pending suit or proceeding, constitutes criminal contempt which is summarily punishable by courts. A publication which tends to degrade the courts and to destroy public confidence in them or that which tends to bring them in any way into disrepute, constitutes likewise criminal contempt, and is equally punishable by courts. What is sought, in the first kind of contempt, to be shielded against the influence of newspaper comments, is the all-important duty of the courts to administer justice in the decision of a pending case. In the second kind of contempt, the punitive hand of justice is extended to vindicate the courts from any act or conduct calculated to bring them into disfavor or to destroy public confidence in them. In the first there is no contempt where there is no action pending, as there is no decision which might in any way be influenced by the newspaper publication. In the second, the contempt exists, with or without a pending case, as what is sought to be protected is the court itself and its dignity. Courts would lose their utility if public confidence in

them is destroyed."

Accordingly, no comfort is afforded Atty. Almacen by the circumstance that his statements and actuations now under consideration were made only after the judgment in his client's appeal had attained finality. He could much be liable for contempt therefor as if it had been perpetrated during the pendency of the said appeal.

More than this, however, consideration of whether or not he could be held liable for contempt for such post-litigation utterances and actuations, is here immaterial. By the tenor of our Resolution of November 17, 1967, we have confronted the situation here presented solely in so far as it concerns Atty. Almacen's professional identity, his sworn duty as a lawyer and his fitness as an officer of this Court, in the exercise of the disciplinary power inherent in our authority and duty to safeguard the morals and ethics of the legal profession and to preserve its ranks from the intrusions of unprincipled and unworthy disciples of the noblest of callings. In this inquiry, the pendency or non-pendency of a case in court is altogether of no consequence. The sole objective of this proceeding is to preserve the purity of the legal profession, by removing or suspending a member whose misconduct has proved himself unfit to continue to be entrusted with the duties and responsibilities belonging to the office of an attorney.

Undoubtedly, this is well within our authority to do. By constitutional mandate,[22] ours is the solemn duty, amongst others, to determine the rules for admission to the practice of law. Inherent in this prerogative is the corresponding authority to discipline and exclude from the practice of law those who have proved themselves unworthy of continued membership in the Bar. Thus -

"The power to discipline attorneys, who are officers of the court, is an inherent and incidental power in courts of record, and one which is essential to an orderly discharge of judicial functions. To deny its existence is equivalent to a declaration that the conduct of attorneys towards courts and clients is not subject to restraint. Such a view is without support in any respectable authority, and cannot be tolerated. Any court having the right to admit attorneys to practice - and in this state that power is vested in this court - has the inherent right, in the exercise of a sound judicial discretion, to exclude them from practice." [23]

This, because the admission of a lawyer to the practice of law is a representation to all that he is worthy of their confidence and respect. So much so that -

"x x x whenever it is made to appear to the court that an attorney is no longer worthy of the trust and confidence of the public and of the courts, it becomes, not only the right, but the duty, of the court which made him one of its officers, and gave him the privilege of ministering within its bar, to withdraw the privilege. Therefore it is almost universally held that both the admission and disbarment of attorneys are judicial acts, and that one is admitted to the bar and exercises his functions as an attorney, not as a matter of right, but as a privilege conditioned on his own behavior and the exercise of a just and sound judicial discretion." [24]

Indeed, in this jurisdiction, that power to remove or suspend has risen above being a mere inherent or incidental power. It has been elevated to an express mandate by the Rules of Court.[25]

Our authority and duty in the premises being unmistakable, we now proceed to make an assessment of whether or not the utterances and actuations of Atty. Almacen here in question are properly the object of disciplinary sanctions.

The proffered surrender of his lawyer's certificate is, of course, purely potestative on Atty. Almacen's part. Unorthodox though it may seem, no statute, no law stands in its way. Beyond making the mere offer, however, he went farther. In haughty and coarse language, he actually availed of the said move as a vehicle for his vicious tirade against this Court. The integrated entirety of his petition bristles with vile insults all calculated to drive home his contempt for and disrespect to the Court and its members. Picturing his client as "a sacrificial victim at

the altar of hypocrisy," he categorically denounces the justice administered by this Court to be not only blind "but also deaf and dumb." With unmitigated acerbity, he virtually rakes this Court and its members with verbal talons, imputing to the Court the perpetration of "silent in-justices" and "short-cut justice" while at the same time branding its members as "calloused to pleas of justice." And, true to his announced threat to argue the cause of his client "in the people's forum," he caused the publication in the papers of an account of his actuations, in a calculated effort to startle the public, stir up public indignation and disrespect toward the Court. Called upon to make an explanation, he expressed no regret, offered no apology. Instead, with characteristic arrogance, he rehashed and reiterated his vituperative attacks and, alluding to the Scriptures, virtually tarred and feathered the Court and its members as in-veterate hypocrites incapable of administering justice and unworthy to impose disciplinary sanctions upon him.

The virulence so blatantly evident in Atty. Almacen's petition, answer and oral argumentation speaks for itself. The vicious language used and the scurrilous innuendoes they carried far transcend the permissible bounds of legitimate criticism. They could never serve any purpose but to gratify the spite of an irate attorney, attract public attention to himself and, more important of all, bring this Court and its members into disrepute and destroy public confidence in them to the detriment of the orderly administration of justice. Odium of this character and texture presents no redeeming feature, and completely negates any pretense of passionate commitment to the truth. It is not a whit less than a classic example of gross misconduct, gross violation of the lawyer's oath and gross transgression of the Canons of Legal Ethics. As such, it cannot be allowed to go unrebuked. The way for the exertion of our disciplinary powers is thus laid clear, and the need therefor is unavoidable.

We must once more stress our explicit disclaimer of immunity from criticism. Like any other Government entity in a viable democracy, the Court is not, and should not be, above criticism. But a critique of the Court must be intelligent and discriminating, fitting to its high function as the court of last resort. And more than this, valid and healthy criticism is by no means synonymous to obloquy, and requires detachment and disinterestedness, real qualities approached only through constant striving to attain them. Any criticism of the Court must possess the quality of judiciousness and must be informed by perspective and infused by philosophy.[26]

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.[27] Not being intended to inflict punishment, it is in no sense a criminal prosecution. Accordingly, there is neither a plaintiff nor a prosecutor therein. It may be initiated by the Court *motu proprio*. [28] 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 privileges 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.[29] 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 Court as a body is necessarily and inextricably as much so 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. Their distinct individualities are lost in the majesty of their office.[30] 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, nay, 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.[31] 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 that 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.

Last to engage our attention is the nature and extent of the sanctions that may be visited upon Atty. Almacen for his transgressions. As marked out by the Rules of Court, these may range from mere suspension to total removal or disbarment.[32] The discretion to assess under the circumstances the imposable sanction is, of course, primarily addressed to the sound discretion of the Court which, being neither arbitrary and despotic nor motivated by personal animosity or prejudice, should ever be controlled by the imperative need that the purity and independence of the Bar be scrupulously guarded and the dignity of and respect due to the Court be zealously maintained.

That the misconduct committed by Atty. Almacen is of considerable gravity cannot be overemphasized. However, heeding the stern injunction that disbarment should never be decreed where a lesser sanction would accomplish the end desired, and believing that it may not perhaps be futile to hope that in the sober light of some future day, Atty. Almacen will realize that abrasive language never fails to do disservice to an advocate and that in every effervescence of candor there is ample room for the added glow of respect, it is our view that suspension will suffice under the circumstances. His demonstrated persistence in his misconduct by neither manifesting repentance nor offering apology therefor leave us no way of determining how long that suspension should last and, accordingly, we are impelled to decree that the same should be indefinite. This, we are empowered to do not alone because jurisprudence grants us discretion on the matter[33] but also because, even without the comforting support of precedent, it is obvious that if we have authority to completely exclude a person from the practice of law, there is no reason why indefinite suspension, which is lesser in degree and effect, can be regarded as falling outside of the compass of that authority. The merit of this choice is best shown by the fact that it will then be left to Atty. Almacen to determine for himself how long or how short that suspension shall last. For, at any time after the suspension becomes effective he may prove to this Court that he is once again fit to resume the practice of law.

ACCORDINGLY, IT IS THE SENSE of the Court that Atty. Vicente Raul Almacen be, as he is hereby, suspended from the practice of law until further orders, the suspension to take effect immediately.

Let copies of this resolution be furnished the Secretary of Justice, the Solicitor General and the Court of Appeals for their information and guidance.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Sanchez, Teehankee, Barredo, and Villamor, JJ., concur. Fernando, J., no part.

[1] Docketed as Civil Case 8909 on September 17, 1965 in the Court of First Instance of Rizal.

[2] See e.g. "Mounting Discontent against the Supreme Court's Minute Resolution," 32 Lawyers J. p. 325; "Lack of Merit Resolutions are Obnoxious," 31 Lawyers J. p. 329.

[3] In the years 1966, 1967 and 1968, this Court rejected by minute resolutions 803, 682 and 848 petitions, respectively, and resolved by extended decisions or resolutions 584, 611 and 760 cases, respectively. For the period covering the first six months of the year 1969, this Court rejected by minute resolutions 445 petitions, and resolved by extended decisions or resolutions 279 cases.

[4] U.S. vs. Bustos, 37 Phil. 731 (1918); In re Gomez, 43 Phil. 376; Salcedo vs. Hernandez, 61 Phil. 736 (Malcolm, J., dissenting); Austria vs. Masaquel, G. R. L-22536, Aug. 31, 1967; Cabansag vs. Fernandez, et al., G.R. L-8974, Oct. 18, 1957.

[5] In re Gomez, supra.

[6] In re Gomez, supra; In re Lozano and Quevedo, 54 Phil. 801 (1930); In re Abistado, 57 Phil. 668 (1932); People vs. Alarcon; In re Contempt Proceedings, Mangahas, 69 Phil. 265 (1939). See Pennekamp v. State of Florida, 328 U. S. 331, 90 L. ed. 1295; In re Bozorth, 118 A. 2d 432; In re Jameson, 340 Pac. 2d 432 (1959); In re Pryor, 26 A.m. Rep. 474; Hill v. Lyman, 126 NYS 2d 286; Craig v. Hecht, 68 L. ed. 293 (Concurring opinion of Justice Taft).

[7] Strebel v. Figueras, 96 Phil. 321 (1954).

[8] State v. Bee Pub. Co. 83 N. W. 204, Sullivan, J. See also State ex rel Atty. Gen. v. Circuit Ct. 72 N.W. 193.

[9] In re Jameson, 340 Pac. 2d 432 (1959).

[10] U.S. vs. Bustos, 37 Phil. 731 (1918); In re Gomez, 43 Phil. 376; Cabansag v. Fernandez, L-18974, Oct. 18, 1957; Austria vs. Masaquel, L-22536, Aug. 31, 1967; Re Troy (1920), 111 Atl. 723; State ex rel. Atty. Gen. v. Circuit Ct. (1897), 65 Am. St. Rep. 90; Coons v. State, 134 N.E. 194; State vs. Sweetland, 54 N.W. 415; Hill vs. Lyman, 126 NYS 2d 286; Case of Austin, 28 Am. Dec. 657.

[11] State Board of Examiners v. Hart, 116 N.W. 212, 17 LRA (NS) 585; Re Pryor, 26 Am. Rep. 747; Ex Parte Steinman, 40 Am. Rep. 637; Case of Austin, 28 Am. Dec. 657; Brannon v. State, 29 So. 2d 918; Medgar Evers v. State; 131 So. 2d 653; Re Ades, 6 F 2d 467.

[12] "A judge as a public official," said Justice Thornal in State v. Calhoon, 102 So. 2d 604, "is neither sacrosanct, nor immune to public criticism of his conduct in office."

[13] In re Bozorth, 118 Atl. 432: "The harsh and sometimes unfounded criticism of the members of any of the three branches of our Government may be the unfortunate lot of public officials x x x, but it has always been deemed a basic principle that such comment may be made by the public x x x. Nor should the judicial branch x x x enjoy any more enviable condition than the other two branches."

In Bridges v. California, 86 L. ed 192, Mr. Justice Black, speaking for the majority, said: "x x x an enforced silence, however, limited, solely in the name of preserving the dignity of the bench, would probably engender resentment, suspicion, and contempt much more than it would enhance respect." Mr. Justice Frankfurter, who wrote the minority opinion, said: "Judges as persons, or courts as institutions, are entitled to no greater immunity from criticism than other persons or institutions. Just because the holders of judicial office are identified with the interest of justice they may forget their common human frailties and fallibilities. There have sometimes been

martinets upon the bench as there have sometimes been wielders of authority who have used the paraphernalia of power in support of what they called their dignity. Therefore judges must be kept mindful of their limitations and of their ultimate public responsibility by a vigorous stream of criticism expressed with candor however blunt. 'A man cannot be summarily laid by the heels because his words may make public feeling more unfavorable in case the judge should be asked to act at some later date, any more than he can for exciting public feeling against a judge for what he already has done.' x x x Courts and judges must take their share of the gains and pains of discussion Which is unfettered except by laws of libel, by self-restraint, and by good taste. Winds of doctrine should freely blow for the promotion of good and the correction of evil. Nor should restrictions be permitted that cramp the feeling of freedom in the use of tongue or pen regardless of the temper of the truth of what may be uttered."

[14] Sec. 3, Rule 138.

[15] Sec. 20(b), Rule 138.

[16] See e.g. *Re Chopac*, 66 F. Supp., where an attorney was suspended for three years for writing a judge a letter in which he said that the judge in signing an order took "ad-vantage of your office to rule with passion and vehemence." Also *People v. Green*, 3 P. 65, where an attorney was disbarred for stopping a judge upon the street and address-ed abusive, insulting language to See also *Johnson v. State*, 44 So. 671; *In re McCowan*, 170 P. 1101; *State v. Calhoon*, 102, 2d 604; *Re Huppe*, 11 Pac. 2d 793; *State v. Rhodes*, 131 NW 2d 118; *Re Rogers*, 212 Pac. 1034; *In re Griffin*, 1 NYS 7; *In re Wilkes*, 3 NYS 753; *Re Manheim*, 99 NYS 87; *Re Greenfield*, 262 NYS 2d 349; *In re Klein*, 262 NYS 2d 416; *In re Smith*, 36 A 134.

[17] *In re Humphrey*, 163 P. 60; *In re Thatcher*, 89 N.E. 39; *In Snyder's Case*, 76 ALR 666; *Re Troy*, 111 A. 723; *State v. Sprigs*, 155 P. 2d 285.

[18] *Medina vs. Rivera*, 66 Phil. 151; *In the matter of the Intestate Estate of Rosario Olba*, Contempt proceedings against Antonio Franco, 67 Phil. 312, 315; *People vs. Carillo*, 77 Phil. 579; *People vs. Venturanza, et al.*, 85 Phil. 211, 214; *De Joya, et al. vs. CFI of Rizal*, 99 Phil. 907, 914; *Sison vs. Sandejas*, L-9270, April 29, 1959; *Paragas vs. Cruz*, L-24438, July 30, 1965; *Cornejo vs. Tan*, 85 Phil. 772, 775.

[19] *In re Gomez*, 43 Phil. 376; *In re Lozano*, 54 Phil. 801; *In re Abistado*, 57 Phil. 668; *People vs. Alarcon*, 69 Phil. 1965; *Cornejo vs. Tan*, 85 Phil. 772, 775. *State vs. Dist. Court*, 151 Pac. 2d 1002; *In re Shannon*, 27 Pac. 352; *State ex rel. Grice vs. Dist. Court*, 97 Pac. 1032; *Weston vs. Commonwealth*, 77 S. E. 2d 405; *State vs. Kaiser*, 13 P. 964; *State vs. Fee Pub. Co.* 83 N.W. 204; *Patterson vs. Colorado*, 51 L. ed. 879; *Re Hart*, 116 N.W. 212.

[20] 69 Phil. 265.

[21] 42 O.G. 59.

[22] Article VIII, Section 12, Constitution.

[23] *Re Simpson*, 83 N.W. 541.

[24] *Re Thatcher*, 89 N.E. 39, 84.

[25] Section 27, Rule 138, Rules of Court.

[26] See Norman Dorsen, *Frontiers of Civil Liberties*, pp. 60-61; Griswold, "Of Time and Attitudes," 74 *Harvard Law Review*, 81, 94; Paul A. Freund, *The Supreme Court of the United States* (1961) pp. 176-177; see also Freund, *On Law and Justice* (1968) ch. 4.

[27] *In re Montagne and Dominguez*, 3 Phil. 577; *De Durant*, 10 Ann. Cas. 1913, 1220.

[28] *State vs. Peck*, 91 Atl. 274; 286; *Fairfield County Bar vs. Tay-lor*, 22 Atl. 441.

[29] *Ex Parte Tyler*, 40 Pac. 33, 34; *Treadwell's case*, 7 Pac. 724; *Deles vs. Aragona*, March 28, 1969, 27 SCRA 634, 644, and the cases therein cited.

[30] *Sarcos vs. Castillo, et al.*, L-29755, January 21, 1969.

[31] Cf. *Radiowealth Inc. vs. Agregado*, 47 O.G., No. 12 (Supp.) pp.87, 89, citing *Cooley*, *Constitutional Limitations*, Vol. 2, p. 870; *Perfecto vs. Meer*, 85 Phil. 552, 553; *Ex parte Alabama State Bar Ass'n.*, 8 So. 768.

[32] Section 27, Rule 138, Rules of Court.

[33] *Melville vs. Wettengel*, 57 Pa. 2d 699; *People vs. Winogard*, 287 Pac. 864; *People vs. Kelley*, 285 Pac. 767; *People vs. Harris*, 112 N.E. 978; *People vs. Anderson*, 112 N.E. 273; *In re Gullickson*, 181 Atl. 716; *Haitmanek vs. Turano*, 158 A. 878; *Grimsell vs. Wilcox*, 98 A. 799; *States vs. Kern*, 233 N. W. 629; *In re Borchardt*, 192 N.E. 383; *State vs. Trapley*, 259 Pac. 783; *State vs. Jennings*, 159 S.E. 627; *In re Jacobson*, 126 S.E. 2d 346; *Mulvey vs. O'Niell*, 44 Atl. 2d 880; *State ex rel Oklahoma Bar Ass'n vs. Hatcher*, 209 Pac. 2d 873; *Cleveland Bar Ass'n vs. Wilkerson*, 156 N.E. 2d 136; *In re Eddy*, 292 N.Y.S. 619.

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