

ALFONSO T. YUCHENGCO, PETITIONER, VS. COURT OF APPEALS, ROBERT COYIUTO, JR. AND JAIME LEDESMA, RESPONDENTS.

G.R. No. 139768. February 07, 2002

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us is the petition for certiorari under Rule 65 of the Rules of Court which seeks to nullify and set aside the Decision[1] of the Court of Appeals dated May 28, 1999 in CA-G.R. CR No. 21351 acquitting herein private respondents of the crime of libel and its Resolution[2] dated July 26, 1999.

The Information[3] in Criminal Case No. 93-10985 of the Regional trial Court (RTC) of Makati City, Branch 145, charging herein private respondents Robert Coyiuto; Jr. and Jaime Leeds of the crime of libel defined and penalized under Articles 353 and 355 of the Revised Penal Code reads:

That on or about the 23[rd] and 29[th] day of June 1993 in the Municipality of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and both of them mutually helping and aiding one another, with evident purpose of impeaching the virtue, honesty, integrity and reputation of the person of one ALFONSO YUCHENGCO, and with malicious intent of exposing him to public contempt and ridicule did then and there wilfully, unlawfully and feloniously compose, prepare, write, publish and cause to be composed, prepared, written and published in the 23[rd] day and 29[th] day of June, 1993 issue of the Philippine Daily Inquirer, a news daily of general and public circulation throughout the archipelago, printed and published in Metro Manila, an article, the contents of which are herein set forth in full:

Philippine Daily Inquirer Issue of June 23, 1993

“OPMC GADFLIES! WILL YOU TRUST THEM WITH YOUR PROXY VOTES?” [portraying a cartoon of complainant Yuchengco and others as gadflies surrounding a cake marked “OPMC” which OPMC management led by respondents Coyuito and Ledesma threatens to swat].

As registered in the records for the 1993 Annual Stockholder’s Meeting, these gadflies appear to hold the following stockholdings:

Mario Jalandoni 20,000 shares or P 1,100.00

Antonio Cope 100,000 shares or P5,500.00

Saklolo Leaño 100,000 shares or P5,500.00

Leonardo Siguion Reyna 100,000 shares or P5,500.00

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Combined together, these stockholdings add up to 320,000 shares only, equivalent to 0.0000034177272% of total outstanding shares of Oriental Petroleum and Minerals Corporation. At current market prices their combined

investments only amount to P17,600.00.

To add insult to injury, how did Mr. Jalandoni get his shares? And who is paying as well for the expensive advertisements against Management?

Inspite of this, they have come out strongly in the newspapers in varied degrees of vociferousness and antagonism, hurling simplistic and unfounded allegations against Management with which they hope to capture the sympathy of stockholders and the general investing public.

With the amount of money they have invested and is risking with us in OPMC as you now can see, will you still believe that all these supposed crusading deeds by them are for the best interest of the stockholders, the Company and for all concerned as they claim? Oh, come on!

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They are antagonistic stockholders out to takeover the company for a song with your support. They are nothing but CORPORATE RAIDERS! The ultimate Gadflies., nuisance and pestering stockholders.

Their ferocity and vociferousness against Management is just a smokescreen to cover up and legitimize the highly anomalous, immoral, irregular and illegal sale of OPMC shares held by PCGG to Rizal Commercial Banking Corporation (RCBC) of Alfonso Yuchengco.

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Don't believe therefore their blatant lies and seemingly vigilant talk. They are only hot air to mislead you. Their only concern is to trigger the illegal sale of OPMC shares to RCBC by creating popular pressure to make a call on the unpaid subscription on the last stock rights issue - an act that will only benefit them.

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“WHO ARE THEY IN THE PAST?”

Messrs. Mario Jalandoni, Antonio Cope and Saklolo Leaño, et. al., are mere pawns being pushed by RCBC of Alfonso Yuchengco and his chief lieutenant, Leonardo Siguion Reyna.

Mr. Yuchengco and Siguion Reyna had close personal and financial relationships with the Martial Law regime.

In the book, ‘Wrong Number’ author Ricardo Manapat said the group that bought out General Telephone and Electric (GTE), the American owners of the Philippine Long Distance Telephone Company (PLDT), in 1967 included Yuchengco and lawyer Siguion Reyna.

It was only after 10 years, or around 1977, that the details of the takeover became known, Manapat said. It was only when the United States Securities and Exchange Commission (SEC) charged the group members with violating US laws that the full story became available to the public.

The US SEC charged that the takeover of PLDT by the Filipino group involved secret commissions and kickbacks. Four people, including Yuchengco, were charged by the US authorities.

In its complaint, the US SEC had also charged that the American owners of PLDT were forced by Philippine government officials at the highest levels to sell to the group that included Yuchengco.

A plan was therefore devised to transfer the controlling interests of GTE to the Philippine Telecommunications Investment Corp. (PTIC), a corporation which served as the holding company for the PLDT shares of Yuchengco, and the three others accused in the US SEC case, Manapat wrote.

Philippine Daily Inquirer Issue of June 29, 1993

WHAT'S THE REAL ISSUE IN OPMC?

TRYING TO COOK MANAGEMENT'S GOOSE TO COVER
UP THEIR DIRTY TRICKS.

Time and again, the RCBC-Yuchengco Group has resorted to evading the real issues that have to be resolved in OPMC, hurling cut-and-dried accusations against the management. This is a trick designed to avoid answering the legal and moral questions that have been raised against them on the rotten sweetheart deal they cooked up with the PCGG.

STOP DISHING THE DIRT!

IT'S THE PIEDRAS-RCBC-YUCHENGCO GROUP DEAL AND YOUR PAST, STUPID!!!

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WHO ARE FACING ANTI-GRAFT AND CORRUPTIONS CHARGES? A DEPOSITOR OF RCBC FILED RAPS WITH THE CENTRAL BANK AGAINST RCBC FOR UNSOUND AND UNSAFE BANKING PRACTICE FOR LENDING INTEREST-FREE AND WITH NO COLLATERAL P102 MILLION TO BANKROLL THE ILLEGAL PCGG-RCBC-YUCHENGCO GROUP DEAL. ALSO, THREE OTHER ANTI-GRAFT AND CORRUPTION CHARGES ARE PENDING BEFORE THE OMBUDSMAN AND THE SANDIGANBAYAN AGAINST THE ANOMALOUS PCGG-RCBC-YUCHENGCO GROUP DEAL WHICH INCLUDES FORMER PCGG OFFICIALS, MARIO JALANDONI AND DAVID CASTRO.

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RCBC-YUCHENGCO GROUP RESORTS TO SQUID TACTICS
TO CONFUSE THE PUBLIC:

1. ON THE 999 MILLION SHARES

Fr. Emeterio Barcelon has spoken that it is their family that bought the shares as restitutions from the old regime. This share purchase was approved by the highly respected former PCGG Chairman Jovito Salonga. Why not ask the former OPMC Director and EVP, Oscar Manuel? He has a very telling role on what really happened about the 999 Million shares.

and through the aforequoted defamatory imputations, had thus imputed against ALFONSO YUCHENGCO, the commission of a vice, defects and/or acts, condition, status or circumstances which have undermined his integrity and caused his dishonor and discredit, to the damage and prejudice of said Alfonso Yuchengco.

Contrary to law.

Upon being arraigned on March 23, 1995, the accused, assisted by counsel, separately entered the plea of "Not guilty" to the charge in the Information.

After trial, the Regional Trial Court of Makati City, Branch 145, rendered its Decision[4] on July 10, 1997 in Criminal Case No. 93-10985 finding both accused, herein private respondents Robert Coyiuto, Jr. and Jaime Ledesma, guilty of the crime of libel, the dispositive portion of which reads:

WHEREFORE, the Court finds the accused ROBERTO COYIUTO, JR., and JAIME LEDESMA to be GUILTY as charged with (sic) the offense of LIBEL.

Accordingly, accused Roberto Coyuito, Jr., is hereby sentenced to suffer imprisonment for a term not less than TWO (2) MONTHS and ONE (1) DAY of arresto mayor nor more than ONE (1) YEAR, EIGHT (8) MONTHS and TWENTY-ONE (21) DAYS of prision correccional, as well as the penalties accessory thereto.

Accused Jaime L. Ledesma is in turn sentenced to suffer imprisonment for a term of not less than FOUR (4) MONTHS and ONE (1) DAY of arresto mayor and not more than TWO (2) YEARS, FOUR (4) MONTHS and TEN (10) DAYS of prision correccional and the penalties accessory thereto.

Further, the accused are hereby ordered to pay the complainant, Alfonso Yuchengco, jointly and severally:

- The sum of ONE (1) PESO as nominal damages;
- The sum of ONE MILLION (1,000,000.00) PESOS as exemplary damages; and
- The sum of ONE MILLION (1,000,000.00) PESOS as reasonable attorney's fees.

SO ORDERED.

On appeal, however, the Court of Appeals reversed the said decision of the trial court, upon its finding that the questioned publications are not libelous per se, the same being neither malicious nor defamatory. The dispositive portion of the assailed judgment acquitting both accused, reads:

WHEREFORE, premises considered, the decision, dated July 10, 1997, of the Regional Trial Court (Branch 145) in Makati City in Criminal Case No. 93-10985 is hereby REVERSED and SET ASIDE, this Court finding accused-appellants Robert Coyuito, Jr. and Jaime Ledesma NOT GUILTY of the offense charged- hence, acquitted. No pronouncement as to costs.

SO ORDERED.

The subsequent motion for reconsideration filed by the petitioner, Alfonso Yuchengco, was merely noted by the Court of Appeals in its Resolution of July 26, 1999 and thus, it is deemed denied even by the petitioner in the instant petition[5] which is anchored on the following grounds, to wit:

I

THE HONORABLE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN HOLDING THAT THE PUBLICATIONS WERE NOT LIBELOUS PER SE AND THAT PETITIONER FAILED TO PROVE MALICE.

II

THE HONORABLE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT FAILED TO CONSIDER THAT THE PETITIONER WAS NOT A CANDIDATE TO THE OPMC BOARD AND THAT THEREFORE THERE WAS NO REASON TO MALIGN PETITIONER.

Petitioner Alfonso Yuchengco alleges in essence that the contents of the two (2) published articles, subject of the Information, which branded and portrayed him as a "gadfly," a "corporate raider" and a "crony" of the late President Ferdinand E. Marcos were derogatory and libelous per se, hence, malice need not be proved since the same is presumed pursuant to Article 354 of the Revised Penal Code. Likewise, the derogatory publications cannot be considered as privileged communications as no public interest could be served by maligning him since he was neither a candidate nor did he campaign for any of the candidates in the June 29, 1993 elections for OPMC Board of Directors. In addition, the appellate court's adoption of the opinion of the Regional Trial Court of Makati, Branch 139, in its decision in Criminal Case Nos. 93-10988 and 93-10989 is highly irregular for the

reason that the latter is an inferior court and that the complainant in said criminal cases was Atty. Leonardo Siguion-Reyna, who was a candidate in the then forthcoming elections of the board of directors of the OPMC.[6]

On the other hand, respondents contend, in substance, that the instant petition merely raised possible errors of law and misappreciation of evidence committed by the respondent appellate court in acquitting them, which are outside the province of a petition for certiorari under Rule 65 of the Revised Rules of Court. Besides, the questioned decision of the Court of Appeals is in accordance with the evidence adduced by the parties to the case.[7]

For its part, the Office of the Solicitor General (OSG) filed a Manifestation[8] dated June 29, 1998, in lieu of Appellee's Brief, recommending that the assailed decision of respondent appellate court be upheld principally on the ground that the alleged guilt of the respondents was not proven beyond reasonable doubt.

We stress that a judgment of acquittal in criminal proceedings is final and unappealable whether it happens at the trial court level or before the Court of Appeals. This means that a review of alleged errors in the said judgment arising from misappreciation of facts and the evidence adduced cannot be made without trampling upon the right of the accused against double jeopardy which is firmly established in this jurisdiction.

The rule on double jeopardy, which basically means that no person shall be put on trial twice for the same offense, was introduced by the United States into the country through the Philippine Bill of 1902 and the Jones Law of 1916. It was later embodied in the 1935 and 1973 Philippine constitutions and the same was reproduced verbatim under Section 21, Article III of the 1987 Constitution,[9] thus:

SECTION 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

The Rules of Court on Criminal Procedure relative to double jeopardy strictly adheres to the above constitutional provision.[10] Rule 117, Section 7 thereof, provides:

SECTION 7. Former conviction or acquittal; double jeopardy.- When an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information.

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Thus, since the landmark case of *U.S. v. Kepner*,[11] this Court, in a string of cases,[12] consistently thwarted persistent attempts at reviewing judgments of acquittal in criminal cases in view of the rule on double jeopardy.

By way of exception, a judgment of acquittal in a criminal case may be assailed in a petition for certiorari under Rule 65 of the Rules of Court but only upon a clear showing by the petitioner that the lower court, in acquitting the accused, committed not merely reversible errors of judgment but also grave abuse of discretion amounting to lack or excess of jurisdiction or a denial of due process, thus rendering the assailed judgment void. In which event, the accused cannot be considered at risk of double jeopardy which has the following essential elements: 1) the accused is charged under a complaint or an information sufficient in form and substance to sustain a conviction; 2) the court has jurisdiction; 3) the accused has been arraigned and he has pleaded; and 4) he is convicted or acquitted, or the case is dismissed without his express consent.[13]

It is not disputed that herein private respondents were charged with the crime of libel upon a valid Information in Criminal Case No. 93-10985 before a competent court. After having been duly arraigned, trial on the merits ensued that led to their conviction by the trial court. On appeal, the judgment rendered by the trial court was reversed by the Court of Appeals. The petitioner in this petition now questions the jurisdiction of respondent appellate court for having allegedly committed grave abuse of discretion when it acquitted the private respondents.

We note, however, that the allegations of the petitioner in his petition for certiorari merely raised possible errors in the appreciation of evidence purportedly committed by the respondent appellate court. The issues on whether or not the published articles, subject of the Information in Criminal Case No. 93-10985, are libelous per se or privileged communication involve questions of fact which require evaluation of the evidence adduced by the parties.

Factual matters cannot be inquired into by this Court in a certiorari proceeding. We can no longer be tasked to go over the proofs presented by the parties and analyze, assess and weigh them again to ascertain if the trial court and the appellate court were correct in according superior credit to this or that piece of evidence of one party or the other.[14] The sole office of a writ of certiorari is the correction of errors of jurisdiction including the commission of grave abuse of discretion amounting to lack of jurisdiction, and does not include the review of public respondent's evaluation of the evidence and the factual findings based thereon.[15] We reiterated the said principle in the case of *People v. Court of Appeals and Maquiling*,[16] to wit:

It is quite obvious from the foregoing allegations that petitioner imputed grave abuse of discretion to Respondent Court because of the latter's supposed misappreciation and wrongful assessment of factual evidence. However, as earlier stressed, the present recourse is a petition for certiorari under Rule 65. It is a fundamental aphorism in law that a review of facts and evidence is not the province of the extraordinary remedy of certiorari, which is extra ordinem beyond the ambit of appeal. Stated otherwise, factual matters cannot normally be inquired into by the Supreme Court in a certiorari proceeding. This Court cannot be tasked to go over the proofs presented by the parties and analyze, assess and weigh them again, in order to ascertain if the trial and the appellate courts were correct in according superior credit to this or that piece of evidence of one party or the other.

Besides, a mistake in the judgment acquitting the accused of the crime charged occasioned by misappreciation of evidence or errors of law does not necessarily nullify the decision. What may vitiate a decision are jurisdictional errors arising from the court's commission of grave abuse of discretion or denial of due process.[17] In which event, the factual circumstances constituting grave abuse of discretion or denial of due process must be shown as patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.[18]

However, the petitioner failed to cite any circumstance clearly indicative of grave abuse of discretion on the part of the respondent appellate court such as, for instance, the assailed judgment's alleged lack of basis in law or supporting evidence. Petitioner also failed to show that the state was deprived of a fair opportunity to prosecute and prove its case[19] or the occurrence of mistrial[20] resulting in a denial of due process, thus rendering the assailed judgment void.

Aside from the aforecited factual issues, the petition alleged that respondent Court of Appeals adopted in its assailed decision the opinion of the Regional Trial Court of Makati, Branch 139, in Criminal Case Nos. 93-10988 and 93-10989, which is not quite correct. The Court of Appeals merely adverted to the decision of the trial court in the said cases initiated by Atty. Leonardo Siguion-Reyna against herein private respondents involving the

article published in the Inquirer on June 23, 1993, subject of the Information, insofar as the term “gadfly” was pronounced therein as not libelous per se.

Parenthetically, the challenged decision of respondent Court of Appeals in this case is based on its own independent appreciation of the evidence and the pertinent laws including the recommendation of the Office of the Solicitor General for the acquittal of herein private respondents of the crime of libel on the ground of reasonable doubt, to wit:

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Under Article 354(1) of the Revised Penal Code, malice is not presumed and must therefore be proved where the alleged libelous communication is qualifiedly privileged. In such instance, the burden of proof to establish malice on the part of the accused is on the plaintiff or the prosecution xxx. The prosecution failed to discharge such onus probandi. To be more specific, no culpability could be imputed to the accused-appellants for the alleged offending publication without doing violence to the precept of privileged communication implicit in the freedom of the press.

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The alleged libelous articles were published as an offshoot of the corporate struggle for control of the management of Oriental Petroleum and Minerals Corporation (OPMC).

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The existence of actual government investment in OPMC imbued the aforementioned corporate struggle with significant public interest that can be best protected if such controversy is made transparent for public opinion. It need not be gainsaid that a desire to generate public opinion against a particular transaction on a matter of public interest is not only a social duty but a right protected by the Constitution.

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[T]he appellants were not harbingers of doom who opened Pandora’s box in order to promote their selfish ends. Rather, the *raison d’être* which propelled them to sound the clarion call for vigilance was succinctly stated as follows:

“The overriding intent of the publications was to criticize the highly irregular sale of government assets, which was performed by and between public officials, supposedly in the exercise of their public duties, and a large, nationwide bank, and to remind the OPMC stockholders of these very important facts.”

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We hasten to add that We were also persuaded by the posture adopted by the Solicitor General who “after a conscientious study of the instant case,” recommended “the acquittal of appellants on the ground that their alleged crime was not proven beyond reasonable doubt.”

To be sure, the Solicitor General represents the People of the Philippines on appeal. Nevertheless, it is not unusual for the Solicitor General to take a position adverse to the People or the prosecution. The reason, as explained by the Supreme Court xxx, is that as the lawyer of the government, its agencies and instrumentalities, the Solicitor General has the duty to “see to it that the best interest of the government is upheld within the limits set by law xxx. It is incumbent upon him to present to the court what he considers would legally uphold the best interest of the government although it may run counter to a client’s position.”[21] xxx

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In any event, we find that the appellate court committed no grave abuse of discretion amounting to lack or excess

of jurisdiction in rendering its assailed decision in the case at bar. All the evidence adduced and the issues and arguments raised by the parties in their respective pleadings were exhaustively and correctly addressed by the appellate court in its 54-page assailed decision. Consequently, the said judgment of the Court of Appeals acquitting herein private respondents of the crime of libel in Criminal Case No. 93-10985 may not be reviewed, much less reversed, without violating their constitutional right against double jeopardy as enshrined in Section 21, Article III of the 1987 Constitution.[22]

In view of all the foregoing, it is our considered opinion and we hold that the instant petition is not meritorious, and that the same should be dismissed.

WHEREFORE, the instant petition for certiorari is hereby DISMISSED. No pronouncement as to costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and Buena, JJ., concur.
Quisumbing, J., abroad, on official leave.

[1] Penned by Associate Justice Ramon Mabutas, Jr. and concurred in by Associate Justices Hilarion L. Aquino and Teodoro P. Regino; Annex “A”, Rollo, pp. 38-92.

[2] Annex “F”, Rollo, p. 150.

[3] Annex “B”, Rollo, pp. 93-97.

[4] Annex “C”, Rollo, pp. 98-130.

[5] Rollo, pp. 4-37.

[6] Petition, *supra*; Reply to Comment; Rollo, pp. 240-247.

[7] Comment, Rollo, pp. 227-238.

[8] Rollo, pp. 185-222.

[9] *People v. Velasco*, 340 SCRA 207, 233-235 (2000).

[10] *Id.*, 237.

[11] *Phil.*, 669 (1904); 195 US 100.

[12] *People v. Bringas*, 70 *Phil.* 528 (1940); *People v. Hernandez* 94 *Phil.* 49, 51-52 (1953); *People v. Ang Cho Kio*, 95 *Phil.* 475, 479 (1954); *People v. Pomeroy, et al.*, 97 *Phil.* 927, 940 (1955); *People v. Montemayor*, 26 SCRA 687, 691 (1969); *City Fiscal of Cebu v. Kintanar*, 32 SCRA 601, 602 (1970); *Republic v. Court of Appeals*, 202 *Phil.* 83, 114 (1982); *Heirs of Tito Rillorta v. Firme*, 157 SCRA 518, 522 (1988).

[13] *People v. Tampal*, 244 SCRA 202, 208 (1995); *Paulin v. Gimenez*, 217 SCRA 386, 389 (1993); *Gorion v. Regional Trial Court of Cebu*, Br. 17, 213 SCRA 138, 148 (1992); *People v. Bocar*, 138 SCRA 166, 171 (1985).

[14] *Alicbusan v. CA*, 269 SCRA 336, 341 (1997).

[15] *Building Care Corp. v. NLRC*, 268 SCRA 666, 675 (1997); *Chua v. CA*, 271 SCRA 546, 553-554 (1997); *Lalican v. Vergara*, 276 SCRA 518, 528-529 (1997).

[16] 308 SCRA 687, 700-701 (1999).

[17] *People v. Court of Appeals and Maquiling*, supra.

[18] *Lalican v. Vergara*, supra, p. 528; *Commissioner of Internal Revenue v. Court of Appeals*, 257 SCRA 200, 209 (1996).

[19] *Paulin v. Gimenez*, supra; *Gorion v. Regional Trial Court of Cebu*, supra; *People v. Bocar*, supra.

[20] *Galman v. Sandiganbayan*, 144 SCRA 43 (1986).

[21] Decision, Rollo, pp. 68, 77, 78, 86.

[22] See Note No. 9.

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