



REPUBLIC OF THE PHILIPPINES
Supreme Court
Manila
EN BANC

G.R. No. 160261 November 10, 2003

ERNESTO B. FRANCISCO, JR., petitioner,
NAGMAMALASAKIT NA MGA MANANANGGOL NG MGA MANGGAGAWANG PILIPINO, INC., ITS OFFICERS AND MEMBERS, petitioner-in-intervention,
WORLD WAR II VETERANS LEGIONARIES OF THE PHILIPPINES, INC., petitioner-in-intervention,
vs.

THE HOUSE OF REPRESENTATIVES, REPRESENTED BY SPEAKER JOSE G. DE VENECIA, THE SENATE, REPRESENTED BY SENATE PRESIDENT FRANKLIN M. DRILON, REPRESENTATIVE GILBERTO C. TEODORO, JR. AND REPRESENTATIVE FELIX WILLIAM B. FUENTEBELLA, respondents.
JAIME N. SORIANO, respondent-in-Intervention,
SENATOR AQUILINO Q. PIMENTEL, respondent-in-intervention.

X-----X

G.R. No. 160262 November 10, 2003

SEDFREY M. CANDELARIA, CARLOS P. MEDINA, JR. AND HENEDINA RAZON-ABAD, petitioners,
ATTYS. ROMULO B. MACALINTAL AND PETE QUIRINO QUADRA, petitioners-in-intervention,
WORLD WAR II VETERANS LEGIONARIES OF THE PHILIPPINES, INC., petitioner-in-intervention,
vs.

THE HOUSE OF REPRESENTATIVES, THROUGH THE SPEAKER OR ACTING SPEAKER OR PRESIDING OFFICER, SPEAKER JOSE G. DE VENECIA, REPRESENTATIVE GILBERTO G. TEODORO, JR., REPRESENTATIVE FELIX WILLIAM B. FUENTEBELLA, THE SENATE OF THE PHILIPPINES, THROUGH ITS PRESIDENT, SENATE PRESIDENT FRANKLIN M. DRILON, respondents,
JAIME N. SORIANO, respondent-in-intervention,
SENATOR AQUILINO Q. PIMENTEL, respondent-in-intervention.

X-----X

G.R. No. 160263 November 10, 2003

ARTURO M. DE CASTRO AND SOLEDAD M. CAGAMPANG, petitioners,
WORLD WAR II VETERANS LEGIONARIES OF THE PHILIPPINES, INC., petitioners-in-intervention,
vs.

FRANKLIN M. DRILON, IN HIS CAPACITY AS SENATE PRESIDENT, AND JOSE G. DE VENECIA, JR., IN HIS CAPACITY AS SPEAKER OF THE HOUSE OF REPRESENTATIVES, respondents,
JAIME N. SORIANO, respondent-in-intervention,
SENATOR AQUILINO Q. PIMENTEL, respondent-in-intervention.

X-----X

G.R. No. 160277 November 10, 2003

FRANCISCO I. CHAVEZ, petitioner,
WORLD WAR II VETERANS LEGIONARIES OF THE PHILIPPINES, INC., petitioner-in-intervention,
vs.

**JOSE G. DE VENECIA, IN HIS CAPACITY AS SPEAKER OF THE HOUSE OF REPRESENTATIVES, FRANKLIN M. DRILON, IN HIS CAPACITY AS PRESIDENT OF THE SENATE OF THE REPUBLIC OF THE PHILIPPINES, GILBERT TEODORO, JR., FELIX WILLIAM FUENTEBELLA, JULIO LEDESMA IV, HENRY LANOT, KIM BERNARDO-LOKIN, MARCELINO LIBANAN, EMMYLOU TALIÑO-SANTOS, DOUGLAS CAGAS, SHERWIN GATCHALIAN, LUIS BERSAMIN, JR., NERISSA SOON-RUIZ, ERNESTO NIEVA, EDGAR ERICE, ISMAEL MATHAY, SAMUEL DANGWA, ALFREDO MARAÑON, JR., CECILIA CARREON-JALOSJOS, AGAPITO AQUINO, FAUSTO SEACHON, JR., GEORGILU YUMUL-HERMIDA, JOSE CARLOS LACSON, MANUEL ORTEGA, ULIRAN JUAQUIN, SORAYA JAAFAR, WILHELMINO SY-ALVARADO, CLAUDE BAUTISTA, DEL DE GUZMAN, ZENAIDA CRUZ-DUCUT, AUGUSTO BACULIO, FAUSTINO DY III, AUGUSTO SYJUCO, ROZZANO RUFINO BIAZON, LEOVIGILDO BANAAG, ERIC SINGSON, JACINTO PARAS, JOSE SOLIS, RENATO MATUBO, HERMINO TEVES, AMADO ESPINO, JR., EMILIO MACIAS, ARTHUR PINGOY, JR., FRANCIS NEPOMUCENO, CONRADO ESTRELLA III, ELIAS BULUT, JR., JURDIN ROMUALDO, JUAN PABLO BONDOC, GENEROSO TULAGAN, PERPETUO YLAGAN, MICHAEL DUAVIT, JOSEPH DURANO, JESLI LAPUS, CARLOS COJUANGCO, GIORGIDI AGGABAO, FRANCIS ESCUDERRO, RENE VELARDE, CELSO LOBREGAT, ALIPIO BADELLES, DIDAGEN DILANGALEN, ABRAHAM MITRA, JOSEPH SANTIAGO, DARLENE ANTONIO-CUSTODIO, ALETA SUAREZ, RODOLF PLAZA, JV BAUTISTA, GREGORIO IPONG, GILBERT REMULLA, ROLEX SUPICO, CELIA LAYUS, JUAN MIGUEL ZUBIRI, BENASING MACARAMBON, JR., JOSEFINA JOSON, MARK COJUANGCO, MAURICIO DOMOGAN, RONALDO ZAMORA, ANGELO MONTILLA, ROSELLER BARINAGA, JESNAR FALCON, REYLINA NICOLAS, RODOLFO ALBANO, JOAQUIN CHIPECO, JR., AND RUY ELIAS LOPEZ, respondents,
JAIME N. SORIANO, respondent-in-intervention,
SENATOR AQUILINO Q. PIMENTEL, respondent-in-intervention.**

X-----X

G.R. No. 160292 November 10, 2003

HERMINIO HARRY L. ROQUE, JR., JOEL RUIZ BUTUYAN, MA. CECILIA PAPA, NAPOLEON C. REYES, ANTONIO H. ABAD, JR., ALFREDO C. LIGON, JOAN P. SERRANO AND GARY S. MALLARI, petitioners, WORLD WAR II VETERANS LEGIONARIES OF THE PHILIPPINES, INC., petitioner-in-intervention,
 vs.

**HON. SPEAKER JOSE G. DE VENECIA, JR. AND ROBERTO P. NAZARENO, IN HIS CAPACITY AS SECRETARY GENERAL OF THE HOUSE OF REPRESENTATIVES, AND THE HOUSE OF REPRESENTATIVES, respondents,
 JAIME N. SORIANO, respondent-in-intervention,
 SENATOR AQUILINO Q. PIMENTEL, respondent-in-intervention.**

X-----X

G.R. No. 160295 November 10, 2003

SALACNIB F. BATERINA AND DEPUTY SPEAKER RAUL M. GONZALES, petitioners, WORLD WAR II VETERANS LEGIONARIES OF THE PHILIPPINES, INC., petitioner-in-intervention,

vs.

**THE HOUSE OF REPRESENTATIVES, THROUGH THE SPEAKER OR ACTING SPEAKER OR PRESIDING OFFICER, SPEAKER JOSE G. DE VENECIA, REPRESENTATIVE GILBERTO G. TEODORO, JR., REPRESENTATIVE FELIX WILLIAM B. FUENTEBELLA, THE SENATE OF THE PHILIPPINES, THROUGH ITS PRESIDENT, SENATE PRESIDENT FRANKLIN M. DRILON, respondents,
 JAIME N. SORIANO, respondent-in-intervention,
 SENATOR AQUILINO Q. PIMENTEL, respondent-in-intervention.**

X-----X

G.R. No. 160310 November 10, 2003

**LEONILO R. ALFONSO, PETER ALVAREZ, SAMUEL DOCTOR, MELVIN MATIBAG, RAMON MIQUIBAS, RODOLFO MAGSINO, EDUARDO MALASAGA, EDUARDO SARMIENTO, EDGARDO NAOE, LEONARDO GARCIA, EDGARD SMITH, EMETERIO MENDIOLA, MARIO TOREJA, GUILLERMO CASTASUS, NELSON A. LOYOLA, WILFREDO BELLO, JR., RONNIE TOQUILLO, KATE ANN VITAL, ANGELITA Q. GUZMAN, MONICO PABLES, JR., JAIME BOAQUINA, LITA A. AQUINO, MILA P. GABITO, JANETTE ARROYO, RIZALDY EMPIG, ERNA LAHUZ, HOMER CALIBAG, DR. BING ARCE, SIMEON ARCE, JR., EL DELLE ARCE, WILLIE RIVERO, DANTE DIAZ, ALBERTO BUENAVISTA, FAUSTO BUENAVISTA, EMILY SENERIS, ANNA CLARISSA LOYOLA, SALVACION LOYOLA, RAINIER QUIROLGICO, JOSEPH LEANDRO LOYOLA, ANTONIO LIBREA, FILEMON SIBULO, MANUEL D. COMIA, JULITO U. SOON, VIRGILIO LUSTRE, AND NOEL ISORENA, MAU RESTRIVERA, MAX VILLAESTER, AND EDILBERTO GALLOR, petitioners,
 WORLD WAR II VETERANS LEGIONARIES OF THE PHILIPPINES, INC., petitioner-in-intervention,**

vs.

THE HOUSE OF REPRESENTATIVES, REPRESENTED BY HON. SPEAKER JOSE C. DE VENECIA, JR., THE SENATE, REPRESENTED BY HON. SENATE PRESIDENT FRANKLIN DRILON, HON. FELIX FUENTEBELLA, ET AL., respondents.

X-----X

G.R. No. 160318 November 10, 2003

PUBLIC INTEREST CENTER, INC., CRISPIN T. REYES, petitioners,

vs.

HON. SPEAKER JOSE G. DE VENECIA, ALL MEMBERS, HOUSE OF REPRESENTATIVES, HON. SENATE PRESIDENT FRANKLIN M. DRILON, AND ALL MEMBERS, PHILIPPINE SENATE, respondents.

X-----X

G.R. No. 160342 November 10, 2003

ATTY. FERNANDO P.R. PERITO, IN HIS CAPACITY AS A MEMBER OF THE INTEGRATED BAR OF THE PHILIPPINES, MANILA III, AND ENGR. MAXIMO N. MENEZ JR., IN HIS CAPACITY AS A TAXPAYER AND MEMBER OF THE ENGINEERING PROFESSION, petitioners,

vs.

THE HOUSE OF REPRESENTATIVES REPRESENTED BY THE 83 HONORABLE MEMBERS OF THE HOUSE LED BY HON. REPRESENTATIVE WILLIAM FUENTEBELLA, respondents.

X-----X

G.R. No. 160343 November 10, 2003

INTEGRATED BAR OF THE PHILIPPINES, petitioner,

vs.

THE HOUSE OF REPRESENTATIVES, THROUGH THE SPEAKER OR ACTING SPEAKER OR PRESIDING OFFICER, SPEAKER JOSE G. DE VENECIA, REPRESENTATIVE GILBERTO G. TEODORO, JR., REPRESENTATIVE FELIX WILLIAM B. FUENTEBELLA, THE SENATE OF THE PHILIPPINES THROUGH ITS PRESIDENT, SENATE PRESIDENT FRANKLIN M. DRILON, respondents.

X-----X

G.R. No. 160360 November 10, 2003

CLARO B. FLORES, petitioner,

vs.

THE HOUSE OF REPRESENTATIVES THROUGH THE SPEAKER, AND THE SENATE OF THE PHILIPPINES, THROUGH THE SENATE PRESIDENT, respondents.

X-----X

G.R. No. 160365 November 10, 2003

U.P. LAW ALUMNI CEBU FOUNDATION, INC., GOERING G.C. PADERANGA, DANILO V. ORTIZ, GLORIA C. ESTENZO-RAMOS, LIZA D. CORRO, LUIS V. DIORES, SR., BENJAMIN S. RALLON, ROLANDO P. NONATO, DANTE T. RAMOS, ELSA R. DIVINAGRACIA, KAREN B. CAPARROS-ARQUILLANO, SYLVA G. AGUIRRE-PADERANGA, FOR THEMSELVES AND IN BEHALF OF OTHER CITIZENS OF THE REPUBLIC OF THE PHILIPPINES, petitioners,

vs.

THE HOUSE OF REPRESENTATIVES, SPEAKER JOSE G. DE VENECIA, THE SENATE OF THE PHILIPPINES, SENATE PRESIDENT FRANKLIN DRILON, HOUSE REPRESENTATIVES FELIX FUENTEBELLA AND GILBERTO TEODORO, BY THEMSELVES AND AS REPRESENTATIVES OF THE GROUP OF MORE THAN 80 HOUSE REPRESENTATIVES WHO SIGNED AND FILED THE IMPEACHMENT COMPLAINT AGAINST SUPREME COURT CHIEF JUSTICE HILARIO G. DAVIDE, JR. respondents.

X-----X

G.R. No. 160370 November 10, 2003

FR. RANHILIO CALLANGAN AQUINO, petitioner,

vs.

THE HONORABLE PRESIDENT OF THE SENATE, THE HONORABLE SPEAKER OF THE HOUSE OF REPRESENTATIVES, respondents.

X-----X

G.R. No. 160376 November 10, 2003

NILO A. MALANYAON, petitioner,
vs.

HON. FELIX WILLIAM FUENTEBELLA AND GILBERT TEODORO, IN REPRESENTATION OF THE 86 SIGNATORIES OF THE ARTICLES OF IMPEACHMENT AGAINST CHIEF JUSTICE HILARIO G. DAVIDE, JR. AND THE HOUSE OF REPRESENTATIVES, CONGRESS OF THE PHILIPPINES, REPRESENTED BY ITS SPEAKER, HON. JOSE G. DE VENECIA, respondents.

X-----X

G.R. No. 160392 November 10, 2003

VENICIO S. FLORES AND HECTOR L. HOFILÉÑA, petitioners,
vs.

THE HOUSE OF REPRESENTATIVES, THROUGH SPEAKER JOSE G. DE VENECIA, AND THE SENATE OF THE PHILIPPINES, THROUGH SENATE PRESIDENT FRANKLIN DRILON, respondents.

X-----X

G.R. No. 160397 November 10, 2003

IN THE MATTER OF THE IMPEACHMENT COMPLAINT AGAINST CHIEF JUSTICE HILARIO G. DAVIDE, JR., ATTY. DIOSCORO U. VALLEJOS, JR., petitioner.

X-----X

G.R. No. 160403 November 10, 2003

PHILIPPINE BAR ASSOCIATION, petitioner,
vs.

THE HOUSE OF REPRESENTATIVES, THROUGH THE SPEAKER OR PRESIDING OFFICER, HON. JOSE G. DE VENECIA, REPRESENTATIVE GILBERTO G. TEODORO, JR., REPRESENTATIVE FELIX WILLIAM B. FUENTEBELLA, THE SENATE OF THE PHILIPPINES, THROUGH SENATE PRESIDENT, HON. FRANKLIN DRILON, respondents.

X-----X

G.R. No. 160405 November 10, 2003

DEMOCRITO C. BARCENAS, PRESIDENT OF IBP, CEBU CITY CHAPTER, MANUEL M. MONZON, PRESIDING OF IBP, CEBU PROVINCE, VICTOR A. MAAMBONG, PROVINCIAL BOARD MEMBER, ADELINO B. SITTOY, DEAN OF THE COLLEGE OF LAW, UNIVERSITY OF CEBU, YOUNG LAWYERS ASSOCIATION OF CEBU, INC. [YLAC], REPRESENTED BY ATTY. MANUEL LEGASPI, CONFEDERATION OF ACCREDITED MEDIATORS OF THE PHILIPPINES, INC. [CAMP, INC], REPRESENTED BY RODERIC R. POCA, MANDAUE LAWYERS ASSOCIATION, [MANLAW], REPRESENTED BY FELIPE VELASQUEZ, FEDERACION INTERNACIONAL DE ABOGADOS [FIDA], REPRESENTED BY THELMA L. JORDAN, CARLOS G. CO, PRESIDENT OF CEBU CHAMBER OF COMMERCE AND INDUSTRY AND CEBU LADY LAWYERS ASSOCIATION, INC. [CELLA, INC.], MARIBELLE NAVARRO AND BERNARDITO FLORIDO, PAST PRESIDENT CEBU CHAMBER OF COMMERCE AND INTEGRATED BAR OF THE PHILIPPINES, CEBU CHAPTER, petitioners,

vs.

THE HOUSE OF REPRESENTATIVES, REPRESENTED BY REP. JOSE G. DE VENECIA, AS HOUSE SPEAKER AND THE SENATE, REPRESENTED BY SENATOR FRANKLIN DRILON, AS SENATE PRESIDENT, respondents.

CARPIO MORALES, J.:

There can be no constitutional crisis arising from a conflict, no matter how passionate and seemingly irreconcilable it may appear to be, over the determination by the independent branches of government of the nature, scope and extent of their respective constitutional powers where the Constitution itself provides for the means and bases for its resolution.

Our nation's history is replete with vivid illustrations of the often frictional, at times turbulent, dynamics of the relationship among these co-equal branches. This Court is confronted with one such today involving the legislature and the judiciary which has drawn legal luminaries to chart antipodal courses and not a few of our countrymen to vent cacophonous sentiments thereon.

There may indeed be some legitimacy to the characterization that the present controversy subject of the instant petitions – whether the filing of the second impeachment complaint against Chief Justice Hilario G. Davide, Jr. with the House of Representatives falls within the one year bar provided in the Constitution, and whether the resolution thereof is a political question – has resulted in a political crisis. Perhaps even more truth to the view that it was brought upon by a political crisis of conscience.

In any event, it is with the absolute certainty that our Constitution is sufficient to address all the issues which this controversy spawns that this Court unequivocally pronounces, at the first instance, that the feared resort to extra-constitutional methods of resolving it is neither necessary nor legally permissible. Both its resolution and protection of the public interest lie in adherence to, not departure from, the Constitution.

In passing over the complex issues arising from the controversy, this Court is ever mindful of the essential truth that the inviolate doctrine of separation of powers among the legislative, executive or judicial branches of government by no means prescribes for absolute autonomy in the discharge by each of that part of the governmental power assigned to it by the sovereign people.

At the same time, the corollary doctrine of checks and balances which has been carefully calibrated by the Constitution to temper the official acts of each of these three branches must be given effect without destroying their indispensable co-equality.

Taken together, these two fundamental doctrines of republican government, intended as they are to insure that governmental power is wielded only for the good of the people, mandate a relationship of interdependence and coordination among these branches where the delicate functions of enacting, interpreting and enforcing laws are harmonized to achieve a unity of governance, guided only by what is in the greater interest and well-being of the people. Verily, *salus populi est suprema lex*.

Article XI of our present 1987 Constitution provides:

ARTICLE XI

Accountability of Public Officers

SECTION 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.

SECTION 2. The President, the Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman may be removed from office, on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. All other public officers and employees may be removed from office as provided by law, but not by impeachment.

SECTION 3. (1) The House of Representatives shall have the **exclusive** power to **initiate** all cases of impeachment.

(2) A verified complaint for impeachment may be filed by any Member of the House of Representatives or by any citizen upon a resolution of endorsement by any Member thereof, which shall be included in the Order of Business within ten session days, and referred to the proper Committee within three session days thereafter. The Committee, after hearing, and by a majority vote of all its Members, shall submit its report to the House within sixty session days from such referral, together with the corresponding resolution. The resolution shall be calendared for consideration by the House within ten session days from receipt thereof.

(3) A vote of at least one-third of all the Members of the House shall be necessary either to affirm a favorable resolution with the Articles of Impeachment of the Committee, or override its contrary resolution. The vote of each Member shall be recorded.

(4) In case the verified complaint or resolution of impeachment is filed by at least one-third of all the Members of the House, the same shall constitute the Articles of Impeachment, and trial by the Senate shall forthwith proceed.

(5) **No** impeachment proceedings **shall** be **initiated** against the same official more than once within a period of one year.

(6) The Senate shall have the **sole** power to try and decide all cases of impeachment. When sitting for that purpose, the Senators shall be on oath or affirmation. When the President of the Philippines is on trial, the Chief Justice of the Supreme Court shall preside, but shall not vote. No person shall be convicted without the concurrence of two-thirds of all the Members of the Senate.

(7) Judgment in cases of impeachment shall not extend further than removal from office and disqualification to hold any office under the Republic of the Philippines, but the party convicted shall nevertheless be liable and subject to prosecution, trial, and punishment according to law.

(8) The Congress shall promulgate its rules on impeachment to effectively carry out the purpose of this section. (Emphasis and underscoring supplied)

Following the above-quoted Section 8 of Article XI of the Constitution, the 12th Congress of the House of Representatives adopted and approved the Rules of Procedure in Impeachment Proceedings (House Impeachment Rules) on November 28, 2001, superseding the previous House Impeachment Rules¹ approved by the 11th Congress. The **relevant** distinctions between these two Congresses' House Impeachment Rules are shown in the following tabulation:

11TH CONGRESS RULES

RULE II

INITIATING IMPEACHMENT

Section 2. *Mode of Initiating Impeachment.* – Impeachment shall be initiated only by a verified complaint for impeachment filed by any Member of the House of Representatives or by any citizen upon a resolution of endorsement by any Member thereof or by a verified complaint or resolution of impeachment filed by at least one-third (1/3) of all the Members of the House.

12TH CONGRESS NEW RULES

RULE V

BAR AGAINST INITIATION OF IMPEACHMENT PROCEEDINGS AGAINST THE SAME OFFICIAL

Section 16. – *Impeachment Proceedings Deemed Initiated.* – In cases where a Member of the House files a verified complaint of impeachment or a citizen files a verified complaint that is endorsed by a Member of the House through a resolution of endorsement against an impeachable officer, impeachment proceedings against such official are deemed initiated on the day the Committee on Justice finds that the verified complaint and/or resolution against such official, as the case may be, is sufficient in substance, or on the date the House votes to overturn or affirm the finding of the said Committee that the verified complaint and/or resolution, as the case may be, is not sufficient in substance.

In cases where a verified complaint or a resolution of impeachment is filed or endorsed, as the case may be, by at least one-third (1/3) of the Members of the House, **impeachment proceedings are deemed initiated at the time of the filing of such verified complaint or resolution of impeachment with the Secretary General.**

RULE V

BAR AGAINST IMPEACHMENT

Section 17. *Bar Against Initiation Of Impeachment Proceedings.* – Within a period of one (1) year

Section 14. Scope of Bar. – No impeachment proceedings shall be initiated against the same official more than once within the period of one (1) year.

from the date impeachment proceedings are deemed initiated as provided in Section 16 hereof, no impeachment proceedings, as such, can be initiated against the same official. (*Italics in the original; emphasis and underscoring supplied*)

On July 22, 2002, the House of Representatives adopted a Resolution,² sponsored by Representative Felix William D. Fuentebella, which directed the Committee on Justice "to conduct an investigation, in aid of legislation, on the manner of disbursements and expenditures by the Chief Justice of the Supreme Court of the Judiciary Development Fund (JDF)."³

On June 2, 2003, former President Joseph E. Estrada filed an impeachment complaint⁴ (first impeachment complaint) against Chief Justice Hilario G. Davide Jr. and seven Associate Justices⁵ of this Court for "culpable violation of the Constitution, betrayal of the public trust and other high crimes."⁶ The complaint was endorsed by Representatives Rolex T. Suplico, Ronaldo B. Zamora and Didagen Piang Dilangalen,⁷ and was referred to the House Committee on Justice on August 5, 2003⁸ in accordance with Section 3(2) of Article XI of the Constitution which reads:

Section 3(2) A verified complaint for impeachment may be filed by any Member of the House of Representatives or by any citizen upon a resolution of endorsement by any Member thereof, which shall be included in the Order of Business within ten session days, and referred to the proper Committee within three session days thereafter. The Committee, after hearing, and by a majority vote of all its Members, shall submit its report to the House within sixty session days from such referral, together with the corresponding resolution. The resolution shall be calendared for consideration by the House within ten session days from receipt thereof.

The House Committee on Justice ruled on October 13, 2003 that the first impeachment complaint was "sufficient in form,"⁹ but voted to dismiss the same on October 22, 2003 for being insufficient in substance.¹⁰ To date, the Committee Report to this effect has not yet been sent to the House in plenary in accordance with the said Section 3(2) of Article XI of the Constitution.

Four months and three weeks since the filing on June 2, 2003 of the first complaint or on October 23, 2003, a day after the House Committee on Justice voted to dismiss it, the second impeachment complaint¹¹ was filed with the Secretary General of the House¹² by Representatives Gilberto C. Teodoro, Jr. (First District, Tarlac) and Felix William B. Fuentebella (Third District, Camarines Sur) against Chief Justice Hilario G. Davide, Jr., founded on the alleged results of the legislative inquiry initiated by above-mentioned House Resolution. This second impeachment complaint was accompanied by a "Resolution of Endorsement/Impeachment" signed by at least one-third (1/3) of all the Members of the House of Representatives.¹³

Thus arose the instant petitions against the House of Representatives, *et. al.*, most of which petitions contend that the filing of the second impeachment complaint is unconstitutional as it violates the provision of Section 5 of Article XI of the Constitution that "[n]o impeachment proceedings shall be initiated against the same official more than once within a period of one year."

In **G.R. No. 160261**, petitioner Atty. Ernesto B. Francisco, Jr., alleging that he has a duty as a member of the Integrated Bar of the Philippines to use all available legal remedies to stop an unconstitutional impeachment, that the issues raised in his petition for Certiorari, Prohibition and Mandamus are of transcendental importance, and that he "himself was a victim of the capricious and arbitrary changes in the Rules of Procedure in Impeachment Proceedings introduced by the 12th Congress,"¹⁴ posits that his right to bring an impeachment complaint against then Ombudsman Aniano Desierto had been violated due to the capricious and arbitrary changes in the House Impeachment Rules adopted and approved on November 28, 2001 by the House of Representatives and prays that (1) Rule V, Sections 16 and 17 and Rule III, Sections 5, 6, 7, 8, and 9 thereof be declared unconstitutional; (2) this Court issue a writ of mandamus directing respondents House of Representatives *et. al.* to comply with Article IX, Section 3 (2), (3) and (5) of the Constitution, to return the second impeachment complaint and/or strike it off the records of the House of Representatives, and to promulgate rules which are consistent with the Constitution; and (3) this Court permanently enjoin respondent House of Representatives from proceeding with the second impeachment complaint.

In **G.R. No. 160262**, petitioners Sedfrey M. Candelaria, *et. al.*, as citizens and taxpayers, alleging that the issues of the case are of transcendental importance, pray, in their petition for Certiorari/Prohibition, the issuance of a writ "perpetually" prohibiting respondent House of Representatives from filing any Articles of Impeachment against the

Chief Justice with the Senate; and for the issuance of a writ "perpetually" prohibiting respondents Senate and Senate President Franklin Drilon from accepting any Articles of Impeachment against the Chief Justice or, in the event that the Senate has accepted the same, from proceeding with the impeachment trial.

In **G.R. No. 160263**, petitioners Arturo M. de Castro and Soledad Cagampang, as citizens, taxpayers, lawyers and members of the Integrated Bar of the Philippines, alleging that their petition for Prohibition involves public interest as it involves the use of public funds necessary to conduct the impeachment trial on the second impeachment complaint, pray for the issuance of a writ of prohibition enjoining Congress from conducting further proceedings on said second impeachment complaint.

In **G.R. No. 160277**, petitioner Francisco I. Chavez, alleging that this Court has recognized that he has *locus standi* to bring petitions of this nature in the cases of *Chavez v. PCGG*¹⁵ and *Chavez v. PEA-Amari Coastal Bay Development Corporation*,¹⁶ prays in his petition for Injunction that the second impeachment complaint be declared unconstitutional.

In **G.R. No. 160292**, petitioners Atty. Harry L. Roque, *et. al.*, as taxpayers and members of the legal profession, pray in their petition for Prohibition for an order prohibiting respondent House of Representatives from drafting, adopting, approving and transmitting to the Senate the second impeachment complaint, and respondents De Venecia and Nazareno from transmitting the Articles of Impeachment to the Senate.

In **G.R. No. 160295**, petitioners Representatives Salacnib F. Bateria and Deputy Speaker Raul M. Gonzalez, alleging that, as members of the House of Representatives, they have a legal interest in ensuring that only constitutional impeachment proceedings are initiated, pray in their petition for Certiorari/Prohibition that the second impeachment complaint and any act proceeding therefrom be declared null and void.

In **G.R. No. 160310**, petitioners Leonilo R. Alfonso *et al.*, claiming that they have a right to be protected against all forms of senseless spending of taxpayers' money and that they have an obligation to protect the Supreme Court, the Chief Justice, and the integrity of the Judiciary, allege in their petition for Certiorari and Prohibition that it is instituted as "a class suit" and pray that (1) the House Resolution endorsing the second impeachment complaint as well as all issuances emanating therefrom be declared null and void; and (2) this Court enjoin the Senate and the Senate President from taking cognizance of, hearing, trying and deciding the second impeachment complaint, and issue a writ of prohibition commanding the Senate, its prosecutors and agents to desist from conducting any proceedings or to act on the impeachment complaint.

In **G.R. No. 160318**, petitioner Public Interest Center, Inc., whose members are citizens and taxpayers, and its co-petitioner Crispin T. Reyes, a citizen, taxpayer and a member of the Philippine Bar, both allege in their petition, which does not state what its nature is, that the filing of the second impeachment complaint involves paramount public interest and pray that Sections 16 and 17 of the House Impeachment Rules and the second impeachment complaint/Articles of Impeachment be declared null and void.

In **G.R. No. 160342**, petitioner Atty. Fernando P. R. Perito, as a citizen and a member of the Philippine Bar Association and of the Integrated Bar of the Philippines, and petitioner Engr. Maximo N. Menez, Jr., as a taxpayer, pray in their petition for the issuance of a Temporary Restraining Order and Permanent Injunction to enjoin the House of Representatives from proceeding with the second impeachment complaint.

In **G.R. No. 160343**, petitioner Integrated Bar of the Philippines, alleging that it is mandated by the Code of Professional Responsibility to uphold the Constitution, prays in its petition for Certiorari and Prohibition that Sections 16 and 17 of Rule V and Sections 5, 6, 7, 8, 9 of Rule III of the House Impeachment Rules be declared unconstitutional and that the House of Representatives be permanently enjoined from proceeding with the second impeachment complaint.

In **G.R. No. 160360**, petitioner-taxpayer Atty. Claro Flores prays in his petition for Certiorari and Prohibition that the House Impeachment Rules be declared unconstitutional.

In **G.R. No. 160365**, petitioners U.P. Law Alumni Cebu Foundation Inc., *et. al.*, in their petition for Prohibition and Injunction which they claim is a class suit filed in behalf of all citizens, citing *Oposa v. Factoran*¹⁷ which was filed in behalf of succeeding generations of Filipinos, pray for the issuance of a writ prohibiting respondents House of Representatives and the Senate from conducting further proceedings on the second impeachment complaint and that this Court declare as unconstitutional the second impeachment complaint and the acts of respondent House of Representatives in interfering with the fiscal matters of the Judiciary.

In **G.R. No. 160370**, petitioner-taxpayer Father Ranhilio Callangan Aquino, alleging that the issues in his petition for Prohibition are of national and transcendental significance and that as an official of the Philippine Judicial Academy, he has a direct and substantial interest in the unhampered operation of the Supreme Court and its officials in discharging their duties in accordance with the Constitution, prays for the issuance of a writ prohibiting the House of

Representatives from transmitting the Articles of Impeachment to the Senate and the Senate from receiving the same or giving the impeachment complaint due course.

In **G.R. No. 160376**, petitioner Nilo A. Malanyaon, as a taxpayer, alleges in his petition for Prohibition that respondents Fuentebella and Teodoro at the time they filed the second impeachment complaint, were "absolutely without any legal power to do so, as they acted without jurisdiction as far as the Articles of Impeachment assail the alleged abuse of powers of the Chief Justice to disburse the (JDF)."

In **G.R. No. 160392**, petitioners Attorneys Venicio S. Flores and Hector L. Hofileña, alleging that as professors of law they have an abiding interest in the subject matter of their petition for Certiorari and Prohibition as it pertains to a constitutional issue "which they are trying to inculcate in the minds of their students," pray that the House of Representatives be enjoined from endorsing and the Senate from trying the Articles of Impeachment and that the second impeachment complaint be declared null and void.

In **G.R. No. 160397**, petitioner Atty. Dioscoro Vallejos, Jr., without alleging his *locus standi*, but alleging that the second impeachment complaint is founded on the issue of whether or not the Judicial Development Fund (JDF) was spent in accordance with law and that the House of Representatives does not have exclusive jurisdiction in the examination and audit thereof, prays in his petition "To Declare Complaint Null and Void for Lack of Cause of Action and Jurisdiction" that the second impeachment complaint be declared null and void.

In **G.R. No. 160403**, petitioner Philippine Bar Association, alleging that the issues raised in the filing of the second impeachment complaint involve matters of transcendental importance, prays in its petition for Certiorari/Prohibition that (1) the second impeachment complaint and all proceedings arising therefrom be declared null and void; (2) respondent House of Representatives be prohibited from transmitting the Articles of Impeachment to the Senate; and (3) respondent Senate be prohibited from accepting the Articles of Impeachment and from conducting any proceedings thereon.

In **G.R. No. 160405**, petitioners Democrit C. Barcenas *et. al.*, as citizens and taxpayers, pray in their petition for Certiorari/Prohibition that (1) the second impeachment complaint as well as the resolution of endorsement and impeachment by the respondent House of Representatives be declared null and void and (2) respondents Senate and Senate President Franklin Drilon be prohibited from accepting any Articles of Impeachment against the Chief Justice or, in the event that they have accepted the same, that they be prohibited from proceeding with the impeachment trial.

Petitions bearing docket numbers G.R. Nos. 160261, 160262 and 160263, the first three of the eighteen which were filed before this Court,¹⁸ prayed for the issuance of a Temporary Restraining Order and/or preliminary injunction to prevent the House of Representatives from transmitting the Articles of Impeachment arising from the second impeachment complaint to the Senate. Petition bearing docket number G.R. No. 160261 likewise prayed for the declaration of the November 28, 2001 House Impeachment Rules as null and void for being unconstitutional.

Petitions bearing docket numbers G.R. Nos. 160277, 160292 and 160295, which were filed on October 28, 2003, sought similar relief. In addition, petition bearing docket number G.R. No. 160292 alleged that House Resolution No. 260 (calling for a legislative inquiry into the administration by the Chief Justice of the JDF) infringes on the constitutional doctrine of separation of powers and is a direct violation of the constitutional principle of fiscal autonomy of the judiciary.

On October 28, 2003, during the plenary session of the House of Representatives, a motion was put forth that the second impeachment complaint be formally transmitted to the Senate, but it was not carried because the House of Representatives adjourned for lack of quorum,¹⁹ and as reflected above, to date, the Articles of Impeachment have yet to be forwarded to the Senate.

Before acting on the petitions with prayers for temporary restraining order and/or writ of preliminary injunction which were filed on or before October 28, 2003, Justices Puno and Vitug offered to recuse themselves, but the Court rejected their offer. Justice Panganiban inhibited himself, but the Court directed him to participate.

Without necessarily giving the petitions due course, this Court in its Resolution of October 28, 2003, resolved to (a) consolidate the petitions; (b) require respondent House of Representatives and the Senate, as well as the Solicitor General, to comment on the petitions not later than 4:30 p.m. of November 3, 2003; (c) set the petitions for oral arguments on November 5, 2003, at 10:00 a.m.; and (d) appointed distinguished legal experts as *amici curiae*.²⁰ In addition, this Court called on petitioners and respondents to maintain the status quo, enjoining all the parties and others acting for and in their behalf to refrain from committing acts that would render the petitions moot.

Also on October 28, 2003, when respondent House of Representatives through Speaker Jose C. De Venecia, Jr. and/or its co-respondents, by way of special appearance, submitted a Manifestation asserting that this Court has no jurisdiction to hear, much less prohibit or enjoin the House of Representatives, which is an independent and co-equal branch of government under the Constitution, from the performance of its constitutionally mandated duty to

initiate impeachment cases. On even date, Senator Aquilino Q. Pimentel, Jr., in his own behalf, filed a Motion to Intervene (*Ex Abudante Cautela*)²¹ and Comment, praying that "the consolidated petitions be dismissed for lack of jurisdiction of the Court over the issues affecting the impeachment proceedings and that the sole power, authority and jurisdiction of the Senate as the impeachment court to try and decide impeachment cases, including the one where the Chief Justice is the respondent, be recognized and upheld pursuant to the provisions of Article XI of the Constitution."²²

Acting on the other petitions which were subsequently filed, this Court resolved to (a) consolidate them with the earlier consolidated petitions; (b) require respondents to file their comment not later than 4:30 p.m. of November 3, 2003; and (c) include them for oral arguments on November 5, 2003.

On October 29, 2003, the Senate of the Philippines, through Senate President Franklin M. Drilon, filed a Manifestation stating that insofar as it is concerned, the petitions are plainly premature and have no basis in law or in fact, adding that as of the time of the filing of the petitions, no justiciable issue was presented before it since (1) its constitutional duty to constitute itself as an impeachment court commences only upon its receipt of the Articles of Impeachment, which it had not, and (2) the principal issues raised by the petitions pertain exclusively to the proceedings in the House of Representatives.

On October 30, 2003, Atty. Jaime Soriano filed a "Petition for Leave to Intervene" in G.R. Nos. 160261, 160262, 160263, 160277, 160292, and 160295, questioning the *status quo* Resolution issued by this Court on October 28, 2003 on the ground that it would unnecessarily put Congress and this Court in a "constitutional deadlock" and praying for the dismissal of all the petitions as the matter in question is not yet ripe for judicial determination.

On November 3, 2003, Attorneys Romulo B. Macalintal and Pete Quirino Quadra filed in G.R. No. 160262 a "Motion for Leave of Court to Intervene and to Admit the Herein Incorporated Petition in Intervention."

On November 4, 2003, *Nagmamalasakit na mga Manananggol ng mga Manggagawang Pilipino, Inc.* filed a Motion for Intervention in G.R. No. 160261. On November 5, 2003, World War II Veterans Legionnaires of the Philippines, Inc. also filed a "Petition-in-Intervention with Leave to Intervene" in G.R. Nos. 160261, 160262, 160263, 160277, 160292, 160295, and 160310.

The motions for intervention were granted and both Senator Pimentel's Comment and Attorneys Macalintal and Quadra's Petition in Intervention were admitted.

On November 5-6, 2003, this Court heard the views of the *amici curiae* and the arguments of petitioners, intervenors Senator Pimentel and Attorney Makalintal, and Solicitor General Alfredo Benipayo on the principal issues outlined in an Advisory issued by this Court on November 3, 2003, to wit:

Whether the certiorari jurisdiction of the Supreme Court may be invoked; who can invoke it; on what issues and at what time; and whether it should be exercised by this Court at this time.

In discussing these issues, the following may be taken up:

- a) *locus standi* of petitioners;
- b) ripeness (prematurity; mootness);
- c) political question/justiciability;
- d) House's "exclusive" power to initiate all cases of impeachment;
- e) Senate's "sole" power to try and decide all cases of impeachment;
- f) constitutionality of the House Rules on Impeachment *vis-a-vis* Section 3(5) of Article XI of the Constitution; and
- g) judicial restraint (*Italics in the original*)

In resolving the intricate conflux of preliminary and substantive issues arising from the instant petitions as well as the myriad arguments and opinions presented for and against the grant of the reliefs prayed for, this Court has sifted and determined them to be as follows: (1) the threshold and novel issue of whether or not the power of judicial review extends to those arising from impeachment proceedings; (2) whether or not the essential pre-requisites for the exercise of the power of judicial review have been fulfilled; and (3) the substantive issues yet remaining. These matters shall now be discussed *in seriatim*.

Judicial Review

As reflected above, petitioners plead for this Court to exercise the power of judicial review to determine the validity of the second impeachment complaint.

This Court's power of judicial review is conferred on the judicial branch of the government in Section 1, Article VIII of our present 1987 Constitution:

SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and **to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government.** (Emphasis supplied)

Such power of judicial review was early on exhaustively expounded upon by Justice Jose P. Laurel in the definitive 1936 case of *Angara v. Electoral Commission*²³ after the effectivity of the 1935 Constitution whose provisions, unlike the present Constitution, did not contain the present provision in Article VIII, Section 1, par. 2 on what judicial power includes. Thus, Justice Laurel discoursed:

x x x In times of social disquietude or political excitement, the great landmarks of the Constitution are apt to be forgotten or marred, if not entirely obliterated. **In cases of conflict, the judicial department is the only constitutional organ which can be called upon to determine the proper allocation of powers between the several departments and among the integral or constituent units thereof.**

As any human production, our Constitution is of course lacking perfection and perfectibility, but as much as it was within the power of our people, acting through their delegates to so provide, that instrument which is the expression of their sovereignty however limited, has established a republican government intended to operate and function as a harmonious whole, under a system of checks and balances, and subject to specific limitations and restrictions provided in the said instrument. **The Constitution sets forth in no uncertain language the restrictions and limitations upon governmental powers and agencies. If these restrictions and limitations are transcended it would be inconceivable if the Constitution had not provided for a mechanism by which to direct the course of government along constitutional channels,** for then the distribution of powers would be mere verbiage, the bill of rights mere expressions of sentiment, and the principles of good government mere political apothegms. Certainly, the limitations and restrictions embodied in our Constitution are real as they should be in any living constitution. In the United States where no express constitutional grant is found in their constitution, **the possession of this moderating power of the courts,** not to speak of its historical origin and development there, has been set at rest by popular acquiescence for a period of more than one and a half centuries. In our case, this moderating power is **granted, if not expressly, by clear implication from section 2 of article VIII of our Constitution.**

The Constitution is a definition of the powers of government. **Who is to determine the nature, scope and extent of such powers? The Constitution itself has provided for the instrumentality of the judiciary as the rational way. And when the judiciary mediates to allocate constitutional boundaries, it** does not assert any superiority over the other departments; it does not in reality nullify or invalidate an act of the legislature, but **only asserts the solemn and sacred obligation assigned to it by the Constitution to determine conflicting claims of authority under the Constitution and to establish for the parties in an actual controversy the rights which that instrument secures and guarantees to them. This is in truth all that is involved in what is termed "judicial supremacy" which properly is the power of judicial review under the Constitution.** Even then, this power of judicial review is limited to actual cases and controversies to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented. Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities. Narrowed as its function is in this manner, the judiciary does not pass upon questions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the government.²⁴ (Italics in the original; emphasis and underscoring supplied)

As pointed out by Justice Laurel, this "moderating power" to "determine the proper allocation of powers" of the different branches of government and "to direct the course of government along constitutional channels" **is inherent in all courts**²⁵ **as a necessary consequence of the judicial power itself, which is** "the power of the court to settle actual controversies involving rights which are legally demandable and enforceable."²⁶

Thus, even in the United States where the power of judicial review is not explicitly conferred upon the courts by its Constitution, such power has "been set at rest by popular acquiescence for a period of more than one and a half

centuries." To be sure, it was in the 1803 leading case of *Marbury v. Madison*²⁷ that the power of judicial review was first articulated by Chief Justice Marshall, to wit:

It is also not entirely unworthy of observation, that in declaring what shall be the supreme law of the land, the constitution itself is first mentioned; and not the laws of the United States generally, but those only which shall be made in pursuance of the constitution, have that rank.

Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument.²⁸ (Italics in the original; emphasis supplied)

In our own jurisdiction, as early as 1902, decades before its express grant in the 1935 Constitution, the power of judicial review was exercised by our courts to invalidate constitutionally infirm acts.²⁹ And as pointed out by noted political law professor and former Supreme Court Justice Vicente V. Mendoza,³⁰ the executive and legislative branches of our government in fact effectively acknowledged this power of judicial review in Article 7 of the Civil Code, to wit:

Article 7. Laws are repealed only by subsequent ones, and their violation or non-observance shall not be excused by disuse, or custom or practice to the contrary.

When the courts declare a law to be inconsistent with the Constitution, the former shall be void and the latter shall govern.

Administrative or executive acts, orders and regulations shall be valid only when they are not contrary to the laws or the Constitution. (Emphasis supplied)

As indicated in *Angara v. Electoral Commission*,³¹ judicial review is indeed an integral component of the delicate system of checks and balances which, together with the corollary principle of separation of powers, forms the bedrock of our republican form of government and insures that its vast powers are utilized only for the benefit of the people for which it serves.

The separation of powers is a fundamental principle in our system of government. It obtains not through express provision but by actual division in our Constitution. Each department of the government has exclusive cognizance of matters within its jurisdiction, and is supreme within its own sphere. But it does not follow from the fact that the three powers are to be kept separate and distinct that the Constitution intended them to be absolutely unrestrained and independent of each other. **The Constitution has provided for an elaborate system of checks and balances to secure coordination in the workings of the various departments of the government. x x x And the judiciary in turn, with the Supreme Court as the final arbiter, effectively checks the other departments in the exercise of its power to determine the law, and hence to declare executive and legislative acts void if violative of the Constitution.**³² (Emphasis and underscoring supplied)

In the scholarly estimation of former Supreme Court Justice Florentino Feliciano, "x x x judicial review is essential for the maintenance and enforcement of the separation of powers and the balancing of powers among the three great departments of government through the definition and maintenance of the boundaries of authority and control between them."³³ To him, "[j]udicial review is the chief, indeed the only, medium of participation – or instrument of intervention – of the judiciary in that balancing operation."³⁴

To ensure the potency of the power of judicial review to curb grave abuse of discretion by **"any branch or instrumentalities of government,"** the afore-quoted Section 1, Article VIII of the Constitution engraves, for the first time into its history, into block letter law the so-called "expanded *certiorari* jurisdiction" of this Court, the nature of and rationale for which are mirrored in the following excerpt from the sponsorship speech of its proponent, former Chief Justice Constitutional Commissioner Roberto Concepcion:

x x x

The first section starts with a sentence copied from former Constitutions. It says:

The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

I suppose nobody can question it.

The next provision is new in our constitutional law. I will read it first and explain.

Judicial power includes the duty of courts of justice to settle actual controversies involving rights which are legally demandable and enforceable and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part or instrumentality of the government.

Fellow Members of this Commission, **this is actually a product of our experience during martial law.** As a matter of fact, it has some antecedents in the past, but **the role of the judiciary during the deposed regime was marred considerably by the circumstance that in a number of cases against the government, which then had no legal defense at all, the solicitor general set up the defense of political questions and got away with it.** As a consequence, certain principles concerning particularly the writ of habeas corpus, that is, the authority of courts to order the release of political detainees, and other matters related to the operation and effect of martial law failed because the government set up the defense of political question. And the Supreme Court said: "Well, since it is political, we have no authority to pass upon it." **The Committee on the Judiciary feels that this was not a proper solution of the questions involved. It did not merely request an encroachment upon the rights of the people, but it, in effect, encouraged further violations thereof during the martial law regime.** x x x

x x x

Briefly stated, courts of justice determine the limits of power of the agencies and offices of the government as well as those of its officers. In other words, the judiciary is the final arbiter on the question whether or not a branch of government or any of its officials has acted without jurisdiction or in excess of jurisdiction, or so capriciously as to constitute an abuse of discretion amounting to excess of jurisdiction or lack of jurisdiction. This is not only a judicial power but a duty to pass judgment on matters of this nature.

This is the background of paragraph 2 of Section 1, which means that **the courts cannot hereafter evade the duty to settle matters of this nature, by claiming that such matters constitute a political question.**³⁵ (Italics in the original; emphasis and underscoring supplied)

To determine the merits of the issues raised in the instant petitions, this Court must necessarily turn to the Constitution itself which employs the well-settled principles of constitutional construction.

First, *verba legis*, that is, wherever possible, the words used in the Constitution must be given their ordinary meaning except where technical terms are employed. Thus, in *J.M. Tuason & Co., Inc. v. Land Tenure Administration*,³⁶ this Court, speaking through Chief Justice Enrique Fernando, declared:

We look to the language of the document itself in our search for its meaning. We do not of course stop there, but that is where we begin. It is to be assumed that the words in which constitutional provisions are couched express the objective sought to be attained. They are to be given their ordinary meaning except where technical terms are employed in which case the significance thus attached to them prevails. As the Constitution is not primarily a lawyer's document, it being essential for the rule of law to obtain that it should ever be present in the people's consciousness, its language as much as possible should be understood in the sense they have in common use. **What it says according to the text of the provision to be construed compels acceptance** and negates the power of the courts to alter it, based on the postulate that the framers and the people mean what they say. Thus these are the cases where the need for construction is reduced to a minimum.³⁷ (Emphasis and underscoring supplied)

Second, where there is ambiguity, *ratio legis est anima*. The words of the Constitution should be interpreted in accordance with the intent of its framers. And so did this Court apply this principle in *Civil Liberties Union v. Executive Secretary*³⁸ in this wise:

A foolproof yardstick in constitutional construction is the intention underlying the provision under consideration. Thus, it has been held that the Court in construing a Constitution should bear in mind the object sought to be accomplished by its adoption, and the evils, if any, sought to be prevented or remedied. A doubtful provision will be examined in the light of the history of the times, and the condition and circumstances under which the Constitution was framed. **The object is to ascertain the reason which induced the framers of the Constitution to enact the particular provision and the purpose sought to be accomplished thereby, in order to construe the whole as to make the words consonant to that reason and calculated to effect that purpose.**³⁹ (Emphasis and underscoring supplied)

As it did in *Nitafan v. Commissioner on Internal Revenue*⁴⁰ where, speaking through Madame Justice Amuerfina A. Melencio-Herrera, it declared:

x x x **The ascertainment of that intent is but in keeping with the fundamental principle of constitutional construction that the intent of the framers of the organic law and of the people adopting it should be given effect.** The primary task in constitutional construction is to ascertain and thereafter assure the

realization of the purpose of the framers and of the people in the adoption of the Constitution. **It may also be safely assumed that the people in ratifying the Constitution were guided mainly by the explanation offered by the framers.**⁴¹ (Emphasis and underscoring supplied)

Finally, *ut magis valeat quam pereat*. The Constitution is to be interpreted as a whole. Thus, in *Chiongbian v. De Leon*,⁴² this Court, through Chief Justice Manuel Moran declared:

x x x [T]he members of the Constitutional Convention could not have dedicated a provision of our Constitution merely for the benefit of one person without considering that it could also affect others. When they adopted subsection 2, they permitted, if not willed, that said provision should function to the full extent of its substance and its terms, not by itself alone, but in conjunction with all other provisions of that great document.⁴³ (Emphasis and underscoring supplied)

Likewise, still in *Civil Liberties Union v. Executive Secretary*,⁴⁴ this Court affirmed that:

It is a well-established rule in constitutional construction that no one provision of the Constitution is to be separated from all the others, to be considered alone, but that all the provisions bearing upon a particular subject are to be brought into view and to be so interpreted as to effectuate the great purposes of the instrument. Sections bearing on a particular subject should be considered and interpreted together as to effectuate the whole purpose of the Constitution and one section is not to be allowed to defeat another, if by any reasonable construction, the two can be made to stand together.

In other words, the court must harmonize them, if practicable, and must lean in favor of a construction which will render every word operative, rather than one which may make the words idle and nugatory.⁴⁵ (Emphasis supplied)

If, however, the plain meaning of the word is not found to be clear, resort to other aids is available. In still the same case of *Civil Liberties Union v. Executive Secretary*, this Court expounded:

While it is permissible in this jurisdiction to consult the **debates and proceedings** of the constitutional convention in order to arrive at the reason and purpose of the resulting Constitution, **resort thereto may be had only when other guides fail as said proceedings are powerless to vary the terms of the Constitution when the meaning is clear.** Debates in the constitutional convention "are of value as showing the views of the individual members, and as indicating the reasons for their votes, but they give us no light as to the views of the large majority who did not talk, much less of the mass of our fellow citizens whose votes at the polls gave that instrument the force of fundamental law. **We think it safer to construe the constitution from what appears upon its face." The proper interpretation therefore depends more on how it was understood by the people adopting it than in the framers's understanding thereof.**⁴⁶ (Emphasis and underscoring supplied)

It is in the context of the foregoing backdrop of constitutional refinement and jurisprudential application of the power of judicial review that respondents Speaker De Venecia, *et. al.* and intervenor Senator Pimentel raise the novel argument that the Constitution has excluded impeachment proceedings from the coverage of judicial review.

Briefly stated, it is the position of respondents Speaker De Venecia *et. al.* that impeachment is a political action which cannot assume a judicial character. Hence, any question, issue or incident arising at any stage of the impeachment proceeding is beyond the reach of judicial review.⁴⁷

For his part, intervenor Senator Pimentel contends that the Senate's "sole power to try" impeachment cases⁴⁸ (1) entirely excludes the application of judicial review over it; and (2) necessarily includes the Senate's power to determine constitutional questions relative to impeachment proceedings.⁴⁹

In furthering their arguments on the proposition that impeachment proceedings are outside the scope of judicial review, respondents Speaker De Venecia, *et. al.* and intervenor Senator Pimentel rely heavily on American authorities, principally the majority opinion in the case of *Nixon v. United States*.⁵⁰ Thus, they contend that the exercise of judicial review over impeachment proceedings is inappropriate since it runs counter to the framers' decision to allocate to different fora the powers to try impeachments and to try crimes; it disturbs the system of checks and balances, under which impeachment is the only legislative check on the judiciary; and it would create a lack of finality and difficulty in fashioning relief.⁵¹ Respondents likewise point to deliberations on the US Constitution to show the intent to isolate judicial power of review in cases of impeachment.

Respondents' and intervenors' reliance upon American jurisprudence, the American Constitution and American authorities **cannot** be credited to support the proposition that the Senate's "sole power to try and decide impeachment cases," as provided for under Art. XI, Sec. 3(6) of the Constitution, is a textually demonstrable

constitutional commitment of all issues pertaining to impeachment to the legislature, to the total exclusion of the power of judicial review to check and restrain any grave abuse of the impeachment process. Nor can it reasonably support the interpretation that it necessarily confers upon the Senate the inherently judicial power to determine constitutional questions incident to impeachment proceedings.

Said American jurisprudence and authorities, much less the American Constitution, are of dubious application for these are no longer controlling within our jurisdiction and have only limited persuasive merit insofar as Philippine constitutional law is concerned. As held in the case of *Garcia vs. COMELEC*,⁵² "[i]n resolving constitutional disputes, [this Court] should not be beguiled by foreign jurisprudence some of which are hardly applicable because they have been dictated by different constitutional settings and needs."⁵³ Indeed, although the Philippine Constitution can trace its origins to that of the United States, their paths of development have long since diverged. In the colorful words of Father Bernas, "[w]e have cut the umbilical cord."

The major difference between the judicial power of the Philippine Supreme Court and that of the U.S. Supreme Court is that while the power of judicial review is only *impliedly* granted to the U.S. Supreme Court and is discretionary in nature, that granted to the Philippine Supreme Court and lower courts, *as expressly provided for in the Constitution*, is not just a power but also a **duty**, and it was **given an expanded definition** to include the power to correct any grave abuse of discretion on the part of any government branch or instrumentality.

There are also glaring distinctions between the U.S. Constitution and the Philippine Constitution with respect to the power of the House of Representatives over impeachment proceedings. While the U.S. Constitution bestows sole power of impeachment to the House of Representatives without limitation,⁵⁴ our Constitution, though vesting in the House of Representatives the exclusive power to initiate impeachment cases,⁵⁵ provides for several limitations to the exercise of such power as embodied in Section 3(2), (3), (4) and (5), Article XI thereof. These limitations include the manner of filing, required vote to impeach, and the one year bar on the impeachment of one and the same official.

Respondents are also of the view that judicial review of impeachments undermines their finality and may also lead to conflicts between Congress and the judiciary. Thus, they call upon this Court to exercise judicial statesmanship on the principle that "whenever possible, the Court should defer to the judgment of the people expressed legislatively, recognizing full well the perils of judicial willfulness and pride."⁵⁶

But did not the people also express their will when they instituted the above-mentioned safeguards in the Constitution? This shows that the Constitution did not intend to leave the matter of impeachment to the sole discretion of Congress. Instead, it provided for certain well-defined limits, or in the language of *Baker v. Carr*,⁵⁷ "judicially discoverable standards" for determining the validity of the exercise of such discretion, through the power of judicial review.

The cases of *Romulo v. Yniguez*⁵⁸ and *Alejandro v. Quezon*,⁵⁹ cited by respondents in support of the argument that the impeachment power is beyond the scope of judicial review, are not in point. These cases concern the denial of petitions for writs of mandamus to compel the legislature to perform non-ministerial acts, and do not concern the exercise of the power of judicial review.

There is indeed a plethora of cases in which this Court exercised the power of judicial review over congressional action. Thus, in *Santiago v. Guingona, Jr.*,⁶⁰ this Court ruled that it is well within the power and jurisdiction of the Court to inquire whether the Senate or its officials committed a violation of the Constitution or grave abuse of discretion in the exercise of their functions and prerogatives. In *Tanada v. Angara*,⁶¹ in seeking to nullify an act of the Philippine Senate on the ground that it contravened the Constitution, it held that the petition raises a justiciable controversy and that when an action of the legislative branch is seriously alleged to have infringed the Constitution, it becomes not only the right but in fact the duty of the judiciary to settle the dispute. In *Bondoc v. Pineda*,⁶² this Court declared null and void a resolution of the House of Representatives withdrawing the nomination, and rescinding the election, of a congressman as a member of the House Electoral Tribunal for being violative of Section 17, Article VI of the Constitution. In *Coseteng v. Mitra*,⁶³ it held that the resolution of whether the House representation in the Commission on Appointments was based on proportional representation of the political parties as provided in Section 18, Article VI of the Constitution is subject to judicial review. In *Daza v. Singson*,⁶⁴ it held that the act of the House of Representatives in removing the petitioner from the Commission on Appointments is subject to judicial review. In *Tanada v. Cuenco*,⁶⁵ it held that although under the Constitution, the legislative power is vested exclusively in Congress, this does not detract from the power of the courts to pass upon the constitutionality of acts of Congress. In *Angara v. Electoral Commission*,⁶⁶ it ruled that confirmation by the National Assembly of the election of any member, irrespective of whether his election is contested, is not essential before such member-elect may discharge the duties and enjoy the privileges of a member of the National Assembly.

Finally, there exists no constitutional basis for the contention that the exercise of judicial review over impeachment proceedings would upset the system of checks and balances. Verily, the Constitution is to be interpreted as a whole and "one section is not to be allowed to defeat another."⁶⁷ Both are integral components of the calibrated system of independence and interdependence that insures that no branch of government act beyond the powers assigned to it by the Constitution.

Essential Requisites for Judicial Review

As clearly stated in *Angara v. Electoral Commission*, the courts' power of judicial review, like almost all powers conferred by the Constitution, is subject to several limitations, namely: (1) an actual case or controversy calling for the exercise of judicial power; (2) the person challenging the act must have "standing" to challenge; he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement; (3) the question of constitutionality must be raised at the earliest possible opportunity; and (4) the issue of constitutionality must be the very *lis mota* of the case.

x x x Even then, this power of judicial review is limited to actual cases and controversies to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented. Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities. Narrowed as its function is in this manner, the judiciary does not pass upon questions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the government.⁶⁸ (Italics in the original)

Standing

Locus standi or legal standing or has been defined as a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged. The gist of the question of standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.⁶⁹

Intervenor Soriano, in praying for the dismissal of the petitions, contends that petitioners do not have standing since only the Chief Justice has sustained and will sustain direct personal injury. *Amicus curiae* former Justice Minister and Solicitor General Estelito Mendoza similarly contends.

Upon the other hand, the Solicitor General asserts that petitioners have standing since this Court had, in the past, accorded standing to taxpayers, voters, concerned citizens, legislators in cases involving paramount public interest⁷⁰ and transcendental importance,⁷¹ and that procedural matters are subordinate to the need to determine whether or not the other branches of the government have kept themselves within the limits of the Constitution and the laws and that they have not abused the discretion given to them.⁷² *Amicus curiae* Dean Raul Pangalangan of the U.P. College of Law is of the same opinion, citing transcendental importance and the well-entrenched rule exception that, when the real party in interest is unable to vindicate his rights by seeking the same remedies, as in the case of the Chief Justice who, for ethical reasons, cannot himself invoke the jurisdiction of this Court, the courts will grant petitioners standing.

There is, however, a difference between the rule on real-party-in-interest and the rule on standing, for the former is a concept of civil procedure⁷³ while the latter has constitutional underpinnings.⁷⁴ In view of the arguments set forth regarding standing, it behooves the Court to reiterate the ruling in *Kilosbayan, Inc. v. Morato*⁷⁵ to clarify what is meant by locus standi and to distinguish it from real party-in-interest.

The difference between the rule on standing and real party in interest has been noted by authorities thus: "It is important to note . . . that standing because of its constitutional and public policy underpinnings, is very different from questions relating to whether a particular plaintiff is the real party in interest or has capacity to sue. Although all three requirements are directed towards ensuring that only certain parties can maintain an action, standing restrictions require a partial consideration of the merits, as well as broader policy concerns relating to the proper role of the judiciary in certain areas.

Standing is a special concern in constitutional law because in some cases suits are brought not by parties who have been personally injured by the operation of a law or by official action taken, but by concerned citizens, taxpayers or voters who actually sue in the public interest. Hence the question in standing is whether such parties have "alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions."

X X X

On the other hand, the question as to "real party in interest" is whether he is "the party who would be benefited or injured by the judgment, or the 'party entitled to the avails of the suit.'"⁷⁶ (Citations omitted)

While rights personal to the Chief Justice may have been injured by the alleged unconstitutional acts of the House of Representatives, none of the petitioners before us asserts a violation of the personal rights of the Chief Justice. On the contrary, they invariably invoke the vindication of their own rights – as taxpayers; members of Congress; citizens, individually or in a class suit; and members of the bar and of the legal profession – which were supposedly violated by the alleged unconstitutional acts of the House of Representatives.

In a long line of cases, however, concerned citizens, taxpayers and legislators when specific requirements have been met have been given standing by this Court.

When suing as a *citizen*, the interest of the petitioner assailing the constitutionality of a statute must be direct and personal. He must be able to show, not only that the law or any government act is invalid, but also that he sustained or is in imminent danger of sustaining some direct injury as a result of its enforcement, and not merely that he suffers thereby in some indefinite way. It must appear that the person complaining has been or is about to be denied some right or privilege to which he is lawfully entitled or that he is about to be subjected to some burdens or penalties by reason of the statute or act complained of.⁷⁷ In fine, when the proceeding involves the assertion of a public right,⁷⁸ the mere fact that he is a citizen satisfies the requirement of personal interest.

In the case of a *taxpayer*, he is allowed to sue where there is a claim that public funds are illegally disbursed, or that public money is being deflected to any improper purpose, or that there is a wastage of public funds through the enforcement of an invalid or unconstitutional law.⁷⁹ Before he can invoke the power of judicial review, however, he must specifically prove that he has sufficient interest in preventing the illegal expenditure of money raised by taxation and that he would sustain a direct injury as a result of the enforcement of the questioned statute or contract. It is not sufficient that he has merely a general interest common to all members of the public.⁸⁰

At all events, courts are vested with discretion as to whether or not a taxpayer's suit should be entertained.⁸¹ This Court opts to grant standing to most of the petitioners, given their allegation that any impending transmittal to the Senate of the Articles of Impeachment and the ensuing trial of the Chief Justice will necessarily involve the expenditure of public funds.

As for a *legislator*, he is allowed to sue to question the validity of any official action which he claims infringes his prerogatives as a legislator.⁸² Indeed, a member of the House of Representatives has standing to maintain inviolate the prerogatives, powers and privileges vested by the Constitution in his office.⁸³

While an association has legal personality to represent its members,⁸⁴ especially when it is composed of substantial taxpayers and the outcome will affect their vital interests,⁸⁵ the mere invocation by the *Integrated Bar of the Philippines or any member of the legal profession* of the duty to preserve the rule of law and nothing more, although undoubtedly true, does not suffice to clothe it with standing. Its interest is too general. It is shared by other groups and the whole citizenry. However, a reading of the petitions shows that it has advanced constitutional issues which deserve the attention of this Court in view of their seriousness, novelty and weight as precedents.⁸⁶ It, therefore, behooves this Court to relax the rules on standing and to resolve the issues presented by it.

In the same vein, when dealing with *class suits* filed in behalf of all citizens, persons intervening must be sufficiently numerous to fully protect the interests of all concerned⁸⁷ to enable the court to deal properly with all interests involved in the suit,⁸⁸ for a judgment in a class suit, whether favorable or unfavorable to the class, is, under the *res judicata* principle, binding on all members of the class whether or not they were before the court.⁸⁹ Where it clearly appears that not all interests can be sufficiently represented as shown by the divergent issues raised in the numerous petitions before this Court, G.R. No. 160365 as a class suit ought to fail. Since petitioners additionally allege standing as citizens and taxpayers, however, their petition will stand.

The *Philippine Bar Association*, in G.R. No. 160403, invokes the sole ground of transcendental importance, while Atty. Dioscoro U. Vallejos, in G.R. No. 160397, is mum on his standing.

There being no doctrinal definition of transcendental importance, the following instructive determinants formulated by former Supreme Court Justice Florentino P. Feliciano are instructive: (1) the character of the funds or other assets involved in the case; (2) the presence of a clear case of disregard of a constitutional or statutory prohibition by the public respondent agency or instrumentality of the government; and (3) the lack of any other party with a more direct and specific interest in raising the questions being raised.⁹⁰ Applying these determinants, this Court is satisfied that the issues raised herein are indeed of transcendental importance.

In not a few cases, this Court has in fact adopted a liberal attitude on the *locus standi* of a petitioner where the petitioner is able to craft an issue of transcendental significance to the people, as when the issues raised are of paramount importance to the public.⁹¹ Such liberality does not, however, mean that the requirement that a party should have an interest in the matter is totally eliminated. A party must, at the very least, still plead the existence of such interest, it not being one of which courts can take judicial notice. In petitioner Vallejos' case, he failed to allege any interest in the case. He does not thus have standing.

With respect to the motions for intervention, Rule 19, Section 2 of the Rules of Court requires an intervenor to possess a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof. While intervention is not a matter of right, it may be permitted by the courts when the applicant shows facts which satisfy the requirements of the law authorizing intervention.⁹²

In Intervenor Attorneys Romulo Macalintal and Pete Quirino Quadra's case, they seek to join petitioners Candelaria, *et. al.* in G.R. No. 160262. Since, save for one additional issue, they raise the same issues and the same standing, and no objection on the part of petitioners Candelaria, *et. al.* has been interposed, this Court as earlier stated, granted the Motion for Leave of Court to Intervene and Petition-in-Intervention.

Nagmamalasakit na mga Manananggol ng mga Manggagawang Pilipino, Inc., *et. al.* sought to join petitioner Francisco in G.R. No. 160261. Invoking their right as citizens to intervene, alleging that "they will suffer if this insidious scheme of the minority members of the House of Representatives is successful," this Court found the requisites for intervention had been complied with.

Alleging that the issues raised in the petitions in G.R. Nos. 160261, 160262, 160263, 160277, 160292, 160295, and 160310 were of transcendental importance, World War II Veterans Legionnaires of the Philippines, Inc. filed a "Petition-in-Intervention with Leave to Intervene" to raise the additional issue of whether or not the second impeachment complaint against the Chief Justice is valid and based on any of the grounds prescribed by the Constitution.

Finding that Nagmamalasakit na mga Manananggol ng mga Manggagawang Pilipino, Inc., *et al.* and World War II Veterans Legionnaires of the Philippines, Inc. possess a legal interest in the matter in litigation the respective motions to intervene were hereby granted.

Senator Aquilino Pimentel, on the other hand, sought to intervene for the limited purpose of making of record and arguing a point of view that differs with Senate President Drilon's. He alleges that submitting to this Court's jurisdiction as the Senate President does will undermine the independence of the Senate which will sit as an impeachment court once the Articles of Impeachment are transmitted to it from the House of Representatives. Clearly, Senator Pimentel possesses a legal interest in the matter in litigation, he being a member of Congress against which the herein petitions are directed. For this reason, and to fully ventilate all substantial issues relating to the matter at hand, his Motion to Intervene was granted and he was, as earlier stated, allowed to argue.

Lastly, as to Jaime N. Soriano's motion to intervene, the same must be denied for, while he asserts an interest as a taxpayer, he failed to meet the standing requirement for bringing taxpayer's suits as set forth in *Dumlao v. Comelec*,⁹³ to wit:

x x x While, concededly, the elections to be held involve the expenditure of public moneys, nowhere in their Petition do said petitioners allege that their tax money is "being extracted and spent in violation of specific constitutional protection against abuses of legislative power," or that there is a misapplication of such funds by respondent COMELEC, or that public money is being deflected to any improper purpose. Neither do petitioners seek to restrain respondent from wasting public funds through the enforcement of an invalid or unconstitutional law.⁹⁴ (Citations omitted)

In praying for the dismissal of the petitions, Soriano failed even to allege that the act of petitioners will result in illegal disbursement of public funds or in public money being deflected to any improper purpose. Additionally, his mere interest as a member of the Bar does not suffice to clothe him with standing.

Ripeness and Prematurity

In *Tan v. Macapagal*,⁹⁵ this Court, through Chief Justice Fernando, held that for a case to be considered ripe for adjudication, "it is a prerequisite that something had by then been accomplished or performed by either branch before a court may come into the picture."⁹⁶ Only then may the courts pass on the validity of what was done, if and when the latter is challenged in an appropriate legal proceeding.

The instant petitions raise in the main the issue of the validity of the filing of the second impeachment complaint against the Chief Justice in accordance with the House Impeachment Rules adopted by the 12th Congress, the constitutionality of which is questioned. The questioned acts having been carried out, i.e., the second impeachment

complaint had been filed with the House of Representatives and the 2001 Rules have already been promulgated and enforced, the prerequisite that the alleged unconstitutional act should be accomplished and performed before suit, as *Tan v. Macapagal* holds, has been complied with.

Related to the issue of ripeness is the question of whether the instant petitions are premature. *Amicus curiae* former Senate President Jovito R. Salonga opines that there may be no urgent need for this Court to render a decision at this time, it being the final arbiter on questions of constitutionality anyway. He thus recommends that all remedies in the House and Senate should first be exhausted.

Taking a similar stand is Dean Raul Pangalangan of the U.P. College of Law who suggests to this Court to take judicial notice of on-going attempts to encourage signatories to the second impeachment complaint to withdraw their signatures and opines that the House Impeachment Rules provide for an opportunity for members to raise constitutional questions themselves when the Articles of Impeachment are presented on a motion to transmit to the same to the Senate. The dean maintains that even assuming that the Articles are transmitted to the Senate, the Chief Justice can raise the issue of their constitutional infirmity by way of a motion to dismiss.

The dean's position does not persuade. First, the withdrawal by the Representatives of their signatures would not, by itself, cure the House Impeachment Rules of their constitutional infirmity. Neither would such a withdrawal, by itself, obliterate the questioned second impeachment complaint since it would only place it under the ambit of Sections 3(2) and (3) of Article XI of the Constitution⁹⁷ and, therefore, petitioners would continue to suffer their injuries.

Second and most importantly, the futility of seeking remedies from either or both Houses of Congress before coming to this Court is shown by the fact that, as previously discussed, neither the House of Representatives nor the Senate is clothed with the power to rule with definitiveness on the issue of constitutionality, whether concerning impeachment proceedings or otherwise, as said power is exclusively vested in the judiciary by the earlier quoted Section I, Article VIII of the Constitution. Remedy cannot be sought from a body which is bereft of power to grant it.

Justiciability

In the leading case of *Tanada v. Cuenco*,⁹⁸ Chief Justice Roberto Concepcion defined the term "political question," viz:

[T]he term "political question" connotes, in legal parlance, what it means in ordinary parlance, namely, a question of policy. In other words, in the language of *Corpus Juris Secundum*, it refers to "those questions which, under the Constitution, are to be *decided by the people* in their sovereign capacity, or in regard to which *full discretionary authority* has been delegated to the Legislature or executive branch of the Government." It is concerned with issues dependent upon the *wisdom*, not legality, of a particular measure.⁹⁹ (Italics in the original)

Prior to the 1973 Constitution, without consistency and seemingly without any rhyme or reason, this Court vacillated on its stance of taking cognizance of cases which involved political questions. In some cases, this Court hid behind the cover of the political question doctrine and refused to exercise its power of judicial review.¹⁰⁰ In other cases, however, despite the seeming political nature of the therein issues involved, this Court assumed jurisdiction whenever it found constitutionally imposed limits on powers or functions conferred upon political bodies.¹⁰¹ Even in the landmark 1988 case of *Javellana v. Executive Secretary*¹⁰² which raised the issue of whether the 1973 Constitution was ratified, hence, in force, this Court shunted the political question doctrine and took cognizance thereof. Ratification by the people of a Constitution is a political question, it being a question decided by the people in their sovereign capacity.

The frequency with which this Court invoked the political question doctrine to refuse to take jurisdiction over certain cases during the Marcos regime motivated Chief Justice Concepcion, when he became a Constitutional Commissioner, to clarify this Court's power of judicial review and its application on issues involving political questions, viz:

MR. CONCEPCION. Thank you, Mr. Presiding Officer.

I will speak on the judiciary. Practically, everybody has made, I suppose, the usual comment that the judiciary is the weakest among the three major branches of the service. Since the legislature holds the purse and the executive the sword, the judiciary has nothing with which to enforce its decisions or commands except the power of reason and appeal to conscience which, after all, reflects the will of God, and is the most powerful of all other powers without exception. x x x And so, with the body's indulgence, I will proceed to read the provisions drafted by the Committee on the Judiciary.

The first section starts with a sentence copied from former Constitutions. It says:

The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

I suppose nobody can question it.

The next provision is new in our constitutional law. I will read it first and explain.

Judicial power includes the duty of courts of justice to settle actual controversies involving rights which are legally demandable and enforceable and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part or instrumentality of the government.

Fellow Members of this Commission, this is actually a product of our experience during martial law. As a matter of fact, it has some antecedents in the past, but the **role of the judiciary during the deposed regime was marred considerably by the circumstance that in a number of cases against the government, which then had no legal defense at all, the solicitor general set up the defense of political questions and got away with it. As a consequence, certain principles concerning particularly the writ of *habeas corpus*, that is, the authority of courts to order the release of political detainees, and other matters related to the operation and effect of martial law failed because the government set up the defense of political question.** And the Supreme Court said: "Well, since it is political, we have no authority to pass upon it." **The Committee on the Judiciary feels that this was not a proper solution of the questions involved. It did not merely request an encroachment upon the rights of the people, but it, in effect, encouraged further violations thereof during the martial law regime.** I am sure the members of the Bar are familiar with this situation. But for the benefit of the Members of the Commission who are not lawyers, allow me to explain. I will start with a decision of the Supreme Court in 1973 on the case of *Javellana vs. the Secretary of Justice*, if I am not mistaken. Martial law was announced on September 22, although the proclamation was dated September 21. The obvious reason for the delay in its publication was that the administration had apprehended and detained prominent newsmen on September 21. So that when martial law was announced on September 22, the media hardly published anything about it. In fact, the media could not publish any story not only because our main writers were already incarcerated, but also because those who succeeded them in their jobs were under mortal threat of being the object of wrath of the ruling party. The 1971 Constitutional Convention had begun on June 1, 1971 and by September 21 or 22 had not finished the Constitution; it had barely agreed in the fundamentals of the Constitution. I forgot to say that upon the proclamation of martial law, some delegates to that 1971 Constitutional Convention, dozens of them, were picked up. One of them was our very own colleague, Commissioner Calderon. So, the unfinished draft of the Constitution was taken over by representatives of Malacañang. In 17 days, they finished what the delegates to the 1971 Constitutional Convention had been unable to accomplish for about 14 months. The draft of the 1973 Constitution was presented to the President around December 1, 1972, whereupon the President issued a decree calling a plebiscite which suspended the operation of some provisions in the martial law decree which prohibited discussions, much less public discussions of certain matters of public concern. The purpose was presumably to allow a free discussion on the draft of the Constitution on which a plebiscite was to be held sometime in January 1973. If I may use a word famous by our colleague, Commissioner Ople, during the interregnum, however, the draft of the Constitution was analyzed and criticized with such a telling effect that Malacañang felt the danger of its approval. So, the President suspended indefinitely the holding of the plebiscite and announced that he would consult the people in a referendum to be held from January 10 to January 15. But the questions to be submitted in the referendum were not announced until the eve of its scheduled beginning, under the supposed supervision not of the Commission on Elections, but of what was then designated as "citizens assemblies or barangays." Thus the barangays came into existence. The questions to be propounded were released with proposed answers thereto, suggesting that it was unnecessary to hold a plebiscite because the answers given in the referendum should be regarded as the votes cast in the plebiscite. Thereupon, a motion was filed with the Supreme Court praying that the holding of the referendum be suspended. When the motion was being heard before the Supreme Court, the Minister of Justice delivered to the Court a proclamation of the President declaring that the new Constitution was already in force because the overwhelming majority of the votes cast in the referendum favored the Constitution. Immediately after the departure of the Minister of Justice, I proceeded to the session room where the case was being heard. I then informed the Court and the parties the presidential proclamation declaring that the 1973 Constitution had been ratified by the people and is now in force.

A number of other cases were filed to declare the presidential proclamation null and void. The main defense put up by the government was that the issue was a political question and that the court had no jurisdiction to entertain the case.

x x x

The government said that in a referendum held from January 10 to January 15, the vast majority ratified the draft of the Constitution. Note that all members of the Supreme Court were residents of Manila, but none of them had been notified of any referendum in their respective places of residence, much less did they participate in the alleged referendum. None of them saw any referendum proceeding.

In the Philippines, even local gossips spread like wild fire. So, a majority of the members of the Court felt that there had been no referendum.

Second, a referendum cannot substitute for a plebiscite. **There is a big difference between a referendum and a plebiscite. But another group of justices upheld the defense that the issue was a political question. Whereupon, they dismissed the case. This is not the only major case in which the plea of "political question" was set up. There have been a number of other cases in the past.**

x x x **The defense of the political question was rejected because the issue was clearly justiciable.**

x x x

x x x When your Committee on the Judiciary began to perform its functions, it faced the following questions: What is judicial power? What is a political question?

The Supreme Court, like all other courts, has one main function: to settle actual controversies involving conflicts of rights which are demandable and enforceable. There are rights which are guaranteed by law but cannot be enforced by a judiciary party. In a decided case, a husband complained that his wife was unwilling to perform her duties as a wife. The Court said: "We can tell your wife what her duties as such are and that she is bound to comply with them, but we cannot force her physically to discharge her main marital duty to her husband. There are some rights guaranteed by law, but they are so personal that to enforce them by actual compulsion would be highly derogatory to human dignity."

This is why the first part of the second paragraph of Section I provides that:

Judicial power includes the duty of courts to settle actual controversies involving rights which are legally demandable or enforceable . . .

The courts, therefore, cannot entertain, much less decide, hypothetical questions. **In a presidential system of government, the Supreme Court has, also another important function. The powers of government are generally considered divided into three branches: the Legislative, the Executive and the Judiciary. Each one is supreme within its own sphere and independent of the others. Because of that supremacy power to determine whether a given law is valid or not is vested in courts of justice.**

Briefly stated, courts of justice determine the limits of power of the agencies and offices of the government as well as those of its officers. In other words, the judiciary is the final arbiter on the question whether or not a branch of government or any of its officials has acted without jurisdiction or in excess of jurisdiction, or so capriciously as to constitute an abuse of discretion amounting to excess of jurisdiction or lack of jurisdiction. This is not only a judicial power but a duty to pass judgment on matters of this nature.

This is the background of paragraph 2 of Section 1, which means that the courts cannot hereafter evade the duty to settle matters of this nature, by claiming that such matters constitute a political question.

I have made these extended remarks to the end that the Commissioners may have an initial food for thought on the subject of the judiciary.¹⁰³ (Italics in the original; emphasis supplied)

During the deliberations of the Constitutional Commission, Chief Justice Concepcion further clarified the concept of judicial power, thus:

MR. NOLLEDO. The Gentleman used the term "judicial power" but judicial power is not vested in the Supreme Court alone but also in other lower courts as may be created by law.

MR. CONCEPCION. Yes.

MR. NOLLEDO. And so, is this only an example?

MR. CONCEPCION. No, I know this is not. The Gentleman seems to identify political questions with jurisdictional questions. But there is a difference.

MR. NOLLEDO. Because of the expression "judicial power"?

MR. CONCEPCION. No. Judicial power, as I said, refers to ordinary cases but where there is a question as to whether the government had authority or had abused its authority to the extent of lacking jurisdiction or excess of jurisdiction, that is not a political question. Therefore, the court has the duty to decide.

X X X

FR. BERNAS. Ultimately, therefore, it will always have to be decided by the Supreme Court according to the new numerical need for votes.

On another point, **is it the intention of Section 1 to do away with the political question doctrine?**

MR. CONCEPCION. No.

FR. BERNAS. It is not.

MR. CONCEPCION. No, because whenever there is an abuse of discretion, amounting to a lack of jurisdiction. . .

FR. BERNAS. So, I am satisfied with the answer that it is not intended to do away with the political question doctrine.

MR. CONCEPCION. No, certainly not.

When this provision was originally drafted, it sought to define what is judicial power. But the Gentleman will notice it says, "judicial power includes" and the reason being that the definition that we might make may not cover all possible areas.

FR. BERNAS. So, this is not an attempt to solve the problems arising from the political question doctrine.

MR. CONCEPCION. It definitely does not eliminate the fact that truly political questions are beyond the pale of judicial power.¹⁰⁴ (Emphasis supplied)

From the foregoing record of the proceedings of the 1986 Constitutional Commission, it is clear that judicial power is not only a power; it is also a duty, a **duty** which cannot be abdicated by the mere specter of this creature called the political question doctrine. Chief Justice Concepcion hastened to clarify, however, that Section 1, Article VIII was not intended to do away with "truly political questions." From this clarification it is gathered that there are two species of political questions: (1) "truly political questions" and (2) those which "are not truly political questions."

Truly political questions are thus beyond judicial review, the reason for respect of the doctrine of separation of powers to be maintained. On the other hand, by virtue of Section 1, Article VIII of the Constitution, courts can review questions which are not truly political in nature.

As pointed out by amicus curiae former dean Pacifico Agabin of the UP College of Law, this Court has in fact in a number of cases taken jurisdiction over questions which are not truly political following the effectivity of the present Constitution.

In *Marcos v. Manglapus*,¹⁰⁵ this Court, speaking through Madame Justice Irene Cortes, held:

The present Constitution limits resort to the political question doctrine and broadens the scope of judicial inquiry into areas which the Court, under previous constitutions, would have normally left to the political departments to decide.¹⁰⁶ x x x

In *Bengzon v. Senate Blue Ribbon Committee*,¹⁰⁷ through Justice Teodoro Padilla, this Court declared:

The "allocation of constitutional boundaries" is a task that this Court must perform under the Constitution. Moreover, as held in a recent case, **"(t)he political question doctrine neither interposes an obstacle to judicial determination of the rival claims. The jurisdiction to delimit constitutional boundaries has been given to this Court. It cannot abdicate that obligation mandated by the 1987 Constitution, although said provision by no means does away with the applicability of the principle in appropriate cases."**¹⁰⁸ (Emphasis and underscoring supplied)

And in *Daza v. Singson*,¹⁰⁹ speaking through Justice Isagani Cruz, this Court ruled:

In the case now before us, the jurisdictional objection becomes even less tenable and decisive. The reason is that, even if we were to assume that the issue presented before us was political in nature, we would still not be precluded from resolving it under the **expanded** jurisdiction conferred upon us that now covers, in proper cases, even the political question.¹¹⁰ x x x (Emphasis and underscoring supplied.)

Section 1, Article VIII, of the Court does not define what are justiciable political questions and non-justiciable political questions, however. Identification of these two species of political questions may be problematic. There has been no

clear standard. The American case of *Baker v. Carr*¹¹¹ attempts to provide some:

x x x Prominent on the surface of any case held to involve a political question is found a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for non-judicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for questioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question.¹¹²
(Underscoring supplied)

Of these standards, the more reliable have been the first three: (1) a textually demonstrable constitutional commitment of the issue to a coordinate political department; (2) the lack of judicially discoverable and manageable standards for resolving it; and (3) the impossibility of deciding without an initial policy determination of a kind clearly for non-judicial discretion. These standards are not separate and distinct concepts but are interrelated to each in that the presence of one strengthens the conclusion that the others are also present.

The problem in applying the foregoing standards is that the American concept of judicial review is radically different from our current concept, for Section 1, Article VIII of the Constitution provides our courts with far less discretion in determining whether they should pass upon a constitutional issue.

In our jurisdiction, the determination of a truly political question from a non-justiciable political question lies in the answer to the question of whether there are constitutionally imposed limits on powers or functions conferred upon political bodies. If there are, then our courts are duty-bound to examine whether the branch or instrumentality of the government properly acted within such limits. This Court shall thus now apply this standard to the present controversy.

These petitions raise five substantial issues:

- I. Whether the offenses alleged in the Second impeachment complaint constitute valid impeachable offenses under the Constitution.
- II. Whether the second impeachment complaint was filed in accordance with Section 3(4), Article XI of the Constitution.
- III. Whether the legislative inquiry by the House Committee on Justice into the Judicial Development Fund is an unconstitutional infringement of the constitutionally mandated fiscal autonomy of the judiciary.
- IV. Whether Sections 15 and 16 of Rule V of the Rules on Impeachment adopted by the 12th Congress are unconstitutional for violating the provisions of Section 3, Article XI of the Constitution.
- V. Whether the second impeachment complaint is barred under Section 3(5) of Article XI of the Constitution.

The first issue goes into the merits of the second impeachment complaint over which this Court has no jurisdiction. More importantly, any discussion of this issue would require this Court to make a determination of what constitutes an impeachable offense. Such a determination is a purely political question which the Constitution has left to the sound discretion of the legislation. Such an intent is clear from the deliberations of the Constitutional Commission.¹¹³

Although Section 2 of Article XI of the Constitution enumerates six grounds for impeachment, two of these, namely, other high crimes and betrayal of public trust, elude a precise definition. In fact, an examination of the records of the 1986 Constitutional Commission shows that the framers could find no better way to approximate the boundaries of betrayal of public trust and other high crimes than by alluding to both positive and negative examples of both, without arriving at their clear cut definition or even a standard therefor.¹¹⁴ Clearly, the issue calls upon this court to decide a non-justiciable political question which is beyond the scope of its judicial power under Section 1, Article VIII.

Lis Mota

It is a well-settled maxim of adjudication that an issue assailing the constitutionality of a governmental act should be avoided whenever possible. Thus, in the case of *Sotto v. Commission on Elections*,¹¹⁵ this Court held:

x x x It is a well-established rule that a court should not pass upon a constitutional question and decide a law to be unconstitutional or invalid, unless such question is raised by the parties and that when it is raised, **if the record also presents some other ground upon which the court may rest its judgment, that course will**

be adopted and the constitutional question will be left for consideration until a case arises in which a decision upon such question will be unavoidable.¹¹⁶ [Emphasis and underscoring supplied]

The same principle was applied in *Luz Farms v. Secretary of Agrarian Reform*,¹¹⁷ where this Court invalidated Sections 13 and 32 of Republic Act No. 6657 for being confiscatory and violative of due process, to wit:

It has been established that **this Court will assume jurisdiction over a constitutional question only if it is shown that the essential requisites of a judicial inquiry into such a question are first satisfied.** Thus, there must be an actual case or controversy involving a conflict of legal rights susceptible of judicial determination, the constitutional question must have been opportunely raised by the proper party, and **the resolution of the question is unavoidably necessary to the decision of the case itself.**¹¹⁸ [Emphasis supplied]

Succinctly put, courts will not touch the issue of constitutionality unless it is truly unavoidable and is the very *lis mota* or *crux* of the controversy.

As noted earlier, the instant consolidated petitions, while all seeking the invalidity of the second impeachment complaint, collectively raise several constitutional issues upon which the outcome of this controversy could possibly be made to rest. In determining whether one, some or all of the remaining substantial issues should be passed upon, this Court is guided by the related canon of adjudication that **"the court should not form a rule of constitutional law broader than is required by the precise facts to which it is applied."**¹¹⁹

In G.R. No. 160310, petitioners Leonilo R. Alfonso, *et al.* argue that, among other reasons, the second impeachment complaint is invalid since it directly resulted from a Resolution¹²⁰ calling for a legislative inquiry into the JDF, which Resolution and legislative inquiry petitioners claim to likewise be unconstitutional for being: (a) a violation of the rules and jurisprudence on investigations in aid of legislation; (b) an open breach of the doctrine of separation of powers; (c) a violation of the constitutionally mandated fiscal autonomy of the judiciary; and (d) an assault on the independence of the judiciary.¹²¹

Without going into the merits of petitioners Alfonso, *et al.*'s claims, it is the studied opinion of this Court that the issue of the constitutionality of the said Resolution and resulting legislative inquiry is too far removed from the issue of the validity of the second impeachment complaint. Moreover, the resolution of said issue would, in the Court's opinion, require it to form a rule of constitutional law touching on the separate and distinct matter of legislative inquiries in general, which would thus be broader than is required by the facts of these consolidated cases. This opinion is further strengthened by the fact that said petitioners have raised other grounds in support of their petition which would not be adversely affected by the Court's ruling.

En passant, this Court notes that a standard for the conduct of legislative inquiries has already been enunciated by this Court in *Bengzon, Jr. v. Senate Blue Ribbon Commtee*,¹²² viz:

The 1987 Constitution expressly recognizes the power of both houses of Congress to conduct inquiries in aid of legislation. Thus, Section 21, Article VI thereof provides:

The Senate or the House of Representatives or any of its respective committees may conduct inquiries in aid of legislation in accordance with its duly published rules of procedure. The rights of persons appearing in or affected by such inquiries shall be respected.

The power of both houses of Congress to conduct inquiries in aid of legislation is not, therefore absolute or unlimited. Its exercise is circumscribed by the afore-quoted provision of the Constitution. Thus, as provided therein, the investigation must be "in aid of legislation in accordance with its duly published rules of procedure" and that "the rights of persons appearing in or affected by such inquiries shall be respected." It follows then that the right rights of persons under the Bill of Rights must be respected, including the right to due process and the right not be compelled to testify against one's self.¹²³

In G.R. No. 160262, intervenors Romulo B. Macalintal and Pete Quirino Quadra, while joining the original petition of petitioners Candelaria, *et al.*, introduce the new argument that since the second impeachment complaint was verified and filed only by Representatives Gilberto Teodoro, Jr. and Felix William Fuentesbella, the same does not fall under the provisions of Section 3 (4), Article XI of the Constitution which reads:

Section 3(4) In case the verified complaint or resolution of impeachment is filed by at least one-third of all the Members of the House, the same shall constitute the Articles of Impeachment, and trial by the Senate shall forthwith proceed.

They assert that while at least 81 members of the House of Representatives signed a Resolution of Endorsement/Impeachment, the same did not satisfy the requisites for the application of the afore-mentioned

section in that the "verified complaint or resolution of impeachment" was not filed "by at least one-third of all the Members of the House." With the exception of Representatives Teodoro and Fuentebella, the signatories to said Resolution are alleged to have verified the same merely as a "Resolution of Endorsement." Intervenors point to the "Verification" of the Resolution of Endorsement which states that:

"We are the proponents/sponsors of the Resolution of Endorsement of the abovementioned Complaint of Representatives Gilberto Teodoro and Felix William B. Fuentebella x x x"¹²⁴

Intervenors Macalintal and Quadra further claim that what the Constitution requires in order for said second impeachment complaint to automatically become the Articles of Impeachment and for trial in the Senate to begin "forthwith," is that the verified complaint be "filed," not merely endorsed, by at least one-third of the Members of the House of Representatives. Not having complied with this requirement, they concede that the second impeachment complaint should have been calendared and referred to the House Committee on Justice under Section 3(2), Article XI of the Constitution, viz:

Section 3(2) A verified complaint for impeachment may be filed by any Member of the House of Representatives or by any citizen upon a resolution of endorsement by any Member thereof, which shall be included in the Order of Business within ten session days, and referred to the proper Committee within three session days thereafter. The Committee, after hearing, and by a majority vote of all its Members, shall submit its report to the House within sixty session days from such referral, together with the corresponding resolution. The resolution shall be calendared for consideration by the House within ten session days from receipt thereof.

Intervenors' foregoing position is echoed by Justice Maambong who opined that for Section 3 (4), Article XI of the Constitution to apply, there should be 76 or more representatives who signed and verified the second impeachment complaint as complainants, signed and verified the signatories to a resolution of impeachment. Justice Maambong likewise asserted that the Resolution of Endorsement/Impeachment signed by at least one-third of the members of the House of Representatives as endorsers is not the resolution of impeachment contemplated by the Constitution, such resolution of endorsement being necessary only from at least one Member whenever a citizen files a verified impeachment complaint.

While the foregoing issue, as argued by intervenors Macalintal and Quadra, does indeed limit the scope of the constitutional issues to the provisions on impeachment, more compelling considerations militate against its adoption as the *lis mota* or *crux* of the present controversy. Chief among this is the fact that only Attorneys Macalintal and Quadra, intervenors in G.R. No. 160262, have raised this issue as a ground for invalidating the second impeachment complaint. Thus, to adopt this additional ground as the basis for deciding the instant consolidated petitions would not only render for naught the efforts of the original petitioners in G.R. No. 160262, but the efforts presented by the other petitioners as well.

Again, the decision to discard the resolution of this issue as unnecessary for the determination of the instant cases is made easier by the fact that said intervenors Macalintal and Quadra have joined in the petition of Candelaria, *et. al.*, adopting the latter's arguments and issues as their own. Consequently, they are not unduly prejudiced by this Court's decision.

In sum, this Court holds that the two remaining issues, inextricably linked as they are, constitute the very *lis mota* of the instant controversy: (1) whether Sections 15 and 16 of Rule V of the House Impeachment Rules adopted by the 12th Congress are unconstitutional for violating the provisions of Section 3, Article XI of the Constitution; and (2) whether, as a result thereof, the second impeachment complaint is barred under Section 3(5) of Article XI of the Constitution.

Judicial Restraint

Senator Pimentel urges this Court to exercise judicial restraint on the ground that the Senate, sitting as an impeachment court, has the sole power to try and decide all cases of impeachment. Again, this Court reiterates that the power of judicial review includes the power of review over justiciable issues in impeachment proceedings.

On the other hand, respondents Speaker De Venecia *et. al.* argue that "[t]here is a moral compulsion for the Court to not assume jurisdiction over the impeachment because all the Members thereof are subject to impeachment."¹²⁵ But this argument is very much like saying the Legislature has a moral compulsion not to pass laws with penalty clauses because Members of the House of Representatives are subject to them.

The exercise of judicial restraint over justiciable issues is not an option before this Court. Adjudication may not be declined, because this Court is not legally disqualified. Nor can jurisdiction be renounced as there is no other tribunal to which the controversy may be referred."¹²⁶ Otherwise, this Court would be shirking from its duty vested under Art. VIII, Sec. 1(2) of the Constitution. More than being clothed with authority thus, this Court is duty-bound to take cognizance of the instant petitions.¹²⁷ In the august words of *amicus curiae* Father Bernas, "jurisdiction is not

just a power; it is a solemn duty which may not be renounced. To renounce it, even if it is vexatious, would be a dereliction of duty."

Even in cases where it is an interested party, the Court under our system of government cannot inhibit itself and must rule upon the challenge because no other office has the authority to do so.¹²⁸ On the occasion that this Court had been an interested party to the controversy before it, it has acted upon the matter "not with officiousness but in the discharge of an unavoidable duty and, as always, with detachment and fairness."¹²⁹ After all, "by [his] appointment to the office, the public has laid on [a member of the judiciary] their confidence that [he] is mentally and morally fit to pass upon the merits of their varied contentions. For this reason, they expect [him] to be fearless in [his] pursuit to render justice, to be unafraid to displease any person, interest or power and to be equipped with a moral fiber strong enough to resist the temptations lurking in [his] office."¹³⁰

The duty to exercise the power of adjudication regardless of interest had already been settled in the case of *Abbas v. Senate Electoral Tribunal*.¹³¹ In that case, the petitioners filed with the respondent Senate Electoral Tribunal a Motion for Disqualification or Inhibition of the Senators-Members thereof from the hearing and resolution of SET Case No. 002-87 on the ground that all of them were interested parties to said case as respondents therein. This would have reduced the Tribunal's membership to only its three Justices-Members whose disqualification was not sought, leaving them to decide the matter. This Court held:

Where, as here, a situation is created which precludes the substitution of any Senator sitting in the Tribunal by any of his other colleagues in the Senate without inviting the same objections to the substitute's competence, the proposed mass disqualification, if sanctioned and ordered, would leave the Tribunal no alternative but to abandon a duty that no other court or body can perform, but which it cannot lawfully discharge if shorn of the participation of its entire membership of Senators.

To our mind, this is the overriding consideration — that the Tribunal be not prevented from discharging a duty which it alone has the power to perform, the performance of which is in the highest public interest as evidenced by its being expressly imposed by no less than the fundamental law.

It is aptly noted in the first of the questioned Resolutions that the framers of the Constitution could not have been unaware of the possibility of an election contest that would involve all Senators—elect, six of whom would inevitably have to sit in judgment thereon. Indeed, such possibility might surface again in the wake of the 1992 elections when once more, but for the last time, all 24 seats in the Senate will be at stake. Yet the Constitution provides no scheme or mode for settling such unusual situations or for the substitution of Senators designated to the Tribunal whose disqualification may be sought. Litigants in such situations must simply place their trust and hopes of vindication in the fairness and sense of justice of the Members of the Tribunal. Justices and Senators, singly and collectively.

Let us not be misunderstood as saying that no Senator-Member of the Senate Electoral Tribunal may inhibit or disqualify himself from sitting in judgment on any case before said Tribunal. Every *Member* of the Tribunal may, as his conscience dictates, refrain from participating in the resolution of a case where he sincerely feels that his personal interests or biases would stand in the way of an objective and impartial judgment. What we are merely saying is that in the light of the Constitution, the Senate Electoral Tribunal cannot legally function as such, absent its entire membership of Senators and that no amendment of its Rules can confer on the three Justices-Members alone the power of valid adjudication of a senatorial election contest.

More recently in the case of *Estrada v. Desierto*,¹³² it was held that:

Moreover, to disqualify any of the members of the Court, particularly a majority of them, is nothing short of *pro tanto* depriving the Court itself of its jurisdiction as established by the fundamental law. Disqualification of a judge is a deprivation of his judicial power. And if that judge is the one designated by the Constitution to exercise the jurisdiction of his court, as is the case with the Justices of this Court, the deprivation of his or their judicial power is equivalent to the deprivation of the judicial power of the court itself. It affects the very heart of judicial independence. The proposed mass disqualification, if sanctioned and ordered, would leave the Court no alternative but to abandon a duty which it cannot lawfully discharge if shorn of the participation of its entire membership of Justices.¹³³ (*Italics in the original*)

Besides, there are specific safeguards already laid down by the Court when it exercises its power of judicial review.

In *Demetria v. Alba*,¹³⁴ this Court, through Justice Marcelo Fernan cited the "seven pillars" of limitations of the power of judicial review, enunciated by US Supreme Court Justice Brandeis in *Ashwander v. TVA*¹³⁵ as follows:

1. The Court will not pass upon the constitutionality of legislation in a friendly, non-adversary proceeding, declining because to decide such questions 'is legitimate only in the last resort, and as a necessity in the determination of real, earnest and vital controversy between individuals. It never was the thought that, by

means of a friendly suit, a party beaten in the legislature could transfer to the courts an inquiry as to the constitutionality of the legislative act.'

2. The Court will not 'anticipate a question of constitutional law in advance of the necessity of deciding it.' . . . 'It is not the habit of the Court to decide questions of a constitutional nature unless absolutely necessary to a decision of the case.'

3. The Court will not 'formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied.'

4. The Court will not pass upon a constitutional question although properly presented by the record, if there is also present some other ground upon which the case may be disposed of. This rule has found most varied application. Thus, if a case can be decided on either of two grounds, one involving a constitutional question, the other a question of statutory construction or general law, the Court will decide only the latter. Appeals from the highest court of a state challenging its decision of a question under the Federal Constitution are frequently dismissed because the judgment can be sustained on an independent state ground.

5. The Court will not pass upon the validity of a statute upon complaint of one who fails to show that he is injured by its operation. Among the many applications of this rule, none is more striking than the denial of the right of challenge to one who lacks a personal or property right. Thus, the challenge by a public official interested only in the performance of his official duty will not be entertained . . . In *Fairchild v. Hughes*, the Court affirmed the dismissal of a suit brought by a citizen who sought to have the Nineteenth Amendment declared unconstitutional. In *Massachusetts v. Mellon*, the challenge of the federal Maternity Act was not entertained although made by the Commonwealth on behalf of all its citizens.

6. The Court will not pass upon the constitutionality of a statute at the instance of one who has availed himself of its benefits.

7. When the validity of an act of the Congress is drawn in question, and even if a serious doubt of constitutionality is raised, it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided (citations omitted).

The foregoing "pillars" of limitation of judicial review, summarized in *Ashwander v. TVA* from different decisions of the United States Supreme Court, can be encapsulated into the following categories:

1. that there be absolute necessity of deciding a case
2. that rules of constitutional law shall be formulated only as required by the facts of the case
3. that judgment may not be sustained on some other ground
4. that there be actual injury sustained by the party by reason of the operation of the statute
5. that the parties are not in *estoppel*
6. that the Court upholds the presumption of constitutionality.

As stated previously, parallel guidelines have been adopted by this Court in the exercise of judicial review:

1. actual case or controversy calling for the exercise of judicial power
2. the person challenging the act must have "standing" to challenge; he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement
3. the question of constitutionality must be raised at the earliest possible opportunity
4. the issue of constitutionality must be the very *lis mota* of the case.¹³⁶

Respondents Speaker de Venecia, *et. al.* raise another argument for judicial restraint the possibility that "judicial review of impeachments might also lead to embarrassing conflicts between the Congress and the [J]udiciary." They stress the need to avoid the appearance of impropriety or conflicts of interest in judicial hearings, and the scenario that it would be confusing and humiliating and risk serious political instability at home and abroad if the judiciary countermanded the vote of Congress to remove an impeachable official.¹³⁷ Intervenor Soriano echoes this argument by alleging that failure of this Court to enforce its Resolution against Congress would result in the diminution of its judicial authority and erode public confidence and faith in the judiciary.

Such an argument, however, is specious, to say the least. As correctly stated by the Solicitor General, the possibility of the occurrence of a constitutional crisis is not a reason for this Court to refrain from upholding the Constitution in

all impeachment cases. Justices cannot abandon their constitutional duties just because their action may start, if not precipitate, a crisis.

Justice Feliciano warned against the dangers when this Court refuses to act.

x x x Frequently, the fight over a controversial legislative or executive act is not regarded as settled until the Supreme Court has passed upon the constitutionality of the act involved, the judgment has not only juridical effects but also political consequences. Those political consequences may follow even where the Court fails to grant the petitioner's prayer to nullify an act for lack of the necessary number of votes. Frequently, failure to act explicitly, one way or the other, itself constitutes a decision for the respondent and validation, or at least quasi-validation, follows." ¹³⁸

Thus, in *Javellana v. Executive Secretary* ¹³⁹ where this Court was split and "in the end there were not enough votes either to grant the petitions, or to sustain respondent's claims," ¹⁴⁰ the pre-existing constitutional order was disrupted which paved the way for the establishment of the martial law regime.

Such an argument by respondents and intervenor also presumes that the coordinate branches of the government would behave in a lawless manner and not do their duty under the law to uphold the Constitution and obey the laws of the land. Yet there is no reason to believe that any of the branches of government will behave in a precipitate manner and risk social upheaval, violence, chaos and anarchy by encouraging disrespect for the fundamental law of the land.

Substituting the word public officers for judges, this Court is well guided by the doctrine in *People v. Veneracion*, to wit: ¹⁴¹

Obedience to the rule of law forms the bedrock of our system of justice. If [public officers], under the guise of religious or political beliefs were allowed to roam unrestricted beyond boundaries within which they are required by law to exercise the duties of their office, then law becomes meaningless. A government of laws, not of men excludes the exercise of broad discretionary powers by those acting under its authority. Under this system, [public officers] are guided by the Rule of Law, and ought "to protect and enforce it without fear or favor," resist encroachments by governments, political parties, or even the interference of their own personal beliefs. ¹⁴²

Constitutionality of the Rules of Procedure for Impeachment Proceedings adopted by the 12th Congress

Respondent House of Representatives, through Speaker De Venecia, argues that Sections 16 and 17 of Rule V of the House Impeachment Rules do not violate Section 3 (5) of Article XI of our present Constitution, contending that the term "initiate" does not mean "to file;" that Section 3 (1) is clear in that it is the House of Representatives, as a collective body, which has the exclusive power to initiate all cases of impeachment; that initiate could not possibly mean "to file" because filing can, as Section 3 (2), Article XI of the Constitution provides, only be accomplished in 3 ways, to wit: (1) by a verified complaint for impeachment by any member of the House of Representatives; or (2) by any citizen upon a resolution of endorsement by any member; or (3) by at least 1/3 of all the members of the House. Respondent House of Representatives concludes that the one year bar prohibiting the initiation of impeachment proceedings against the same officials could not have been violated as the impeachment complaint against Chief Justice Davide and seven Associate Justices had not been initiated as the House of Representatives, acting as the collective body, has yet to act on it.

The resolution of this issue thus hinges on the interpretation of the term "initiate." Resort to statutory construction is, therefore, in order.

That the sponsor of the provision of Section 3(5) of the Constitution, Commissioner Florenz Regalado, who eventually became an Associate Justice of this Court, agreed on the meaning of "initiate" as "to file," as proffered and explained by Constitutional Commissioner Maambong during the Constitutional Commission proceedings, which he (Commissioner Regalado) as *amicus curiae* affirmed during the oral arguments on the instant petitions held on November 5, 2003 at which he added that the act of "initiating" included the act of taking initial action on the complaint, dissipates any doubt that indeed the word "initiate" as it twice appears in Article XI (3) and (5) of the Constitution means to file the complaint and take initial action on it.

"Initiate" of course is understood by ordinary men to mean, as dictionaries do, to begin, to commence, or set going. As Webster's Third New International Dictionary of the English Language concisely puts it, it means "to perform or facilitate the first action," which jibes with Justice Regalado's position, and that of Father Bernas, who elucidated during the oral arguments of the instant petitions on November 5, 2003 in this wise:

Briefly then, an impeachment proceeding is not a single act. It is a complex of acts consisting of a beginning, a middle and an end. The end is the transmittal of the articles of impeachment to the Senate. The middle consists of those deliberative moments leading to the formulation of the articles of impeachment. The beginning or the initiation is the filing of the complaint and its referral to the Committee on Justice.

Finally, it should be noted that the House Rule relied upon by Representatives Cojuangco and Fuentebella says that impeachment is "**deemed initiated**" when the Justice Committee votes in favor of impeachment or when the House reverses a contrary vote of the Committee. Note that the Rule does not say "impeachment proceedings" are initiated but rather are "deemed initiated." The language is recognition that initiation happened earlier, but by legal fiction there is an attempt to postpone it to a time after actual initiation. (Emphasis and underscoring supplied)

As stated earlier, one of the means of interpreting the Constitution is looking into the intent of the law. Fortunately, the intent of the framers of the 1987 Constitution can be gleaned from its records:

MR. MAAMBONG. With reference to Section 3, regarding the procedure and the substantive provisions on impeachment, I understand there have been many proposals and, I think, these would need some time for Committee action.

However, I would just like to indicate that I submitted to the Committee a resolution on impeachment proceedings, copies of which have been furnished the Members of this body. This is borne out of my experience as a member of the Committee on Justice, Human Rights and Good Government which took charge of the last impeachment resolution filed before the First Batasang Pambansa. **For the information of the Committee, the resolution covers several steps in the impeachment proceedings starting with initiation, action of the Speaker committee action, calendaring of report, voting on the report, transmittal referral to the Senate, trial and judgment by the Senate.**

X X X

MR. MAAMBONG. Mr. Presiding Officer, I am not moving for a reconsideration of the approval of the amendment submitted by Commissioner Regalado, but I will just make of record my thinking that we do not really initiate the filing of the Articles of Impeachment on the floor. **The procedure, as I have pointed out earlier, was that the initiation starts with the filing of the complaint. And what is actually done on the floor is that the committee resolution containing the Articles of Impeachment is the one approved by the body.**

As the phraseology now runs, which may be corrected by the Committee on Style, it appears that the initiation starts on the floor. If we only have time, I could cite examples in the case of the impeachment proceedings of President Richard Nixon wherein the Committee on the Judiciary submitted the recommendation, the resolution, and the Articles of Impeachment to the body, and it was the body who approved the resolution. **It is not the body which initiates it. It only approves or disapproves the resolution.** So, on that score, probably the Committee on Style could help in rearranging these words because we have to be very technical about this. I have been bringing with me *The Rules of the House of Representatives* of the U.S. Congress. The Senate Rules are with me. The proceedings on the case of Richard Nixon are with me. I have submitted my proposal, but the Committee has already decided. Nevertheless, I just want to indicate this on record.

X X X

MR. MAAMBONG. I would just like to move for a reconsideration of the approval of Section 3 (3). My reconsideration will not at all affect the substance, but it is only in keeping with the exact formulation of the Rules of the House of Representatives of the United States regarding impeachment.

I am proposing, Madam President, without doing damage to any of this provision, that on page 2, Section 3 (3), from lines 17 to 18, **we delete the words which read: "to initiate impeachment proceedings"** and the comma (,) and insert on line 19 after the word "resolution" the phrase WITH THE ARTICLES, and then capitalize the letter "i" in "impeachment" and replace the word "by" with OF, so that the whole section will now read: "A vote of at least one-third of all the Members of the House shall be necessary either to affirm a resolution WITH THE ARTICLES of Impeachment OF the Committee or to override its contrary resolution. The vote of each Member shall be recorded."

I already mentioned earlier yesterday that the initiation, as far as the House of Representatives of the United States is concerned, **really starts from the filing of the verified complaint** and every resolution to impeach always carries with it the Articles of Impeachment. As a matter of fact, the words "Articles of Impeachment" are mentioned on line 25 in the case of the direct filing of a verified complaint of one-third of all the Members of the House. I will mention again, Madam President, that my amendment will not vary the substance in any way. It is only in keeping with the uniform procedure of the House of Representatives of the

United States Congress. Thank you, Madam President.¹⁴³ (Italics in the original; emphasis and underscoring supplied)

This amendment proposed by Commissioner Maambong was clarified and accepted by the Committee on the Accountability of Public Officers.¹⁴⁴

It is thus clear that the framers intended "initiation" to start with the filing of the complaint. In his *amicus curiae* brief, Commissioner Maambong explained that "the obvious reason in deleting the phrase **"to initiate impeachment proceedings"** as contained in the text of the provision of Section 3 (3) was **to settle and make it understood once and for all that the initiation of impeachment proceedings starts with the filing of the complaint**, and the vote of one-third of the House in a resolution of impeachment **does not initiate** the impeachment proceedings **which was already initiated by the filing of a verified complaint under Section 3, paragraph (2), Article XI of the Constitution.**"¹⁴⁵

Amicus curiae Constitutional Commissioner Regalado is of the same view as is Father Bernas, who was also a member of the 1986 Constitutional Commission, that the word "initiate" as used in Article XI, Section 3(5) means to file, both adding, however, that the filing must be accompanied by an action to set the complaint moving.

During the oral arguments before this Court, Father Bernas clarified that the word "initiate," appearing in the constitutional provision on impeachment, viz:

Section 3 (1) The House of Representatives shall have the exclusive power to initiate all cases of impeachment.

x x x

(5) No impeachment proceedings shall be initiated against the same official more than once within a period of one year, (Emphasis supplied)

refers to two objects, "impeachment case" and "impeachment proceeding."

Father Bernas explains that in these two provisions, the common verb is "to initiate." The object in the first sentence is "impeachment case." The object in the second sentence is "impeachment proceeding." Following the principle of *reddendo singula sinuulis*, the term "cases" must be distinguished from the term "proceedings." An impeachment case is the legal controversy that must be decided by the Senate. Above-quoted first provision provides that the House, by a vote of one-third of all its members, can bring a case to the Senate. It is in that sense that the House has "exclusive power" to initiate all cases of impeachment. No other body can do it. However, before a decision is made to initiate a case in the Senate, a "proceeding" must be followed to arrive at a conclusion. A proceeding must be "initiated." To initiate, which comes from the Latin word *initium*, means to begin. On the other hand, proceeding is a progressive noun. It has a beginning, a middle, and an end. It takes place not in the Senate but in the House and consists of several steps: (1) there is the filing of a verified complaint either by a Member of the House of Representatives or by a private citizen endorsed by a Member of the House of the Representatives; (2) there is the processing of this complaint by the proper Committee which may either reject the complaint or uphold it; (3) whether the resolution of the Committee rejects or upholds the complaint, the resolution must be forwarded to the House for further processing; and (4) there is the processing of the same complaint by the House of Representatives which either affirms a favorable resolution of the Committee or overrides a contrary resolution by a vote of one-third of all the members. If at least one third of all the Members upholds the complaint, Articles of Impeachment are prepared and transmitted to the Senate. It is at this point that the House "initiates an impeachment case." It is at this point that an impeachable public official is successfully impeached. That is, he or she is successfully charged with an impeachment "case" before the Senate as impeachment court.

Father Bernas further explains: The "impeachment proceeding" is not initiated when the complaint is transmitted to the Senate for trial because that is the end of the House proceeding and the beginning of another proceeding, namely the trial. Neither is the "impeachment proceeding" initiated when the House deliberates on the resolution passed on to it by the Committee, because something prior to that has already been done. The action of the House is already a further step in the proceeding, not its initiation or beginning. Rather, the proceeding is initiated or begins, when a verified complaint is filed and referred to the Committee on Justice for action. This is the initiating step which triggers the series of steps that follow.

The framers of the Constitution also understood initiation in its ordinary meaning. Thus when a proposal reached the floor proposing that "A vote of at least one-third of all the Members of the House shall be necessary... to *initiate impeachment proceedings*," this was met by a proposal to delete the line on the ground that the vote of the House does not initiate impeachment proceeding but rather the filing of a complaint does.¹⁴⁶ Thus the line was deleted and is not found in the present Constitution.

Father Bernas concludes that when Section 3 (5) says, "No impeachment proceeding shall be initiated against the same official more than once within a period of one year," it means that no second verified complaint may be accepted and referred to the Committee on Justice for action. By his explanation, this interpretation is founded on the common understanding of the meaning of "to initiate" which means to begin. He reminds that the Constitution is ratified by the people, both ordinary and sophisticated, as they understand it; and that ordinary people read ordinary meaning into ordinary words and not abstruse meaning, they ratify words as they understand it and not as sophisticated lawyers confuse it.

To the argument that only the House of Representatives as a body can initiate impeachment proceedings because Section 3 (1) says "The House of Representatives shall have the exclusive power to initiate all cases of impeachment," This is a misreading of said provision and is contrary to the principle of *reddendo singula singulis* by equating "impeachment cases" with "impeachment proceeding."

From the records of the Constitutional Commission, to the *amicus curiae* briefs of two former Constitutional Commissioners, it is without a doubt that the term "to initiate" refers to the filing of the impeachment complaint coupled with Congress' taking initial action of said complaint.

Having concluded that the initiation takes place by the act of filing and referral or endorsement of the impeachment complaint to the House Committee on Justice or, by the filing by at least one-third of the members of the House of Representatives with the Secretary General of the House, the meaning of Section 3 (5) of Article XI becomes clear. Once an impeachment complaint has been initiated, another impeachment complaint may not be filed against the same official within a one year period.

Under Sections 16 and 17 of Rule V of the House Impeachment Rules, impeachment proceedings are deemed initiated (1) if there is a finding by the House Committee on Justice that the verified complaint and/or resolution is sufficient in substance, or (2) once the House itself affirms or overturns the finding of the Committee on Justice that the verified complaint and/or resolution is not sufficient in substance or (3) by the filing or endorsement before the Secretary-General of the House of Representatives of a verified complaint or a resolution of impeachment by at least 1/3 of the members of the House. These rules clearly contravene Section 3 (5) of Article XI since the rules give the term "initiate" a meaning different meaning from filing and referral.

In his *amicus curiae* brief, Justice Hugo Gutierrez posits that this Court could not use contemporaneous construction as an aid in the interpretation of Sec.3 (5) of Article XI, citing *Vera v. Avelino*¹⁴⁷ wherein this Court stated that "their personal opinions (referring to Justices who were delegates to the Constitution Convention) on the matter at issue expressed during this Court's our deliberations stand on a different footing from the properly recorded utterances of debates and proceedings." Further citing said case, he states that this Court likened the former members of the Constitutional Convention to actors who are so absorbed in their emotional roles that intelligent spectators may know more about the real meaning because of the latter's balanced perspectives and disinterestedness.¹⁴⁸

Justice Gutierrez's statements have no application in the present petitions. There are at present only two members of this Court who participated in the 1986 Constitutional Commission – Chief Justice Davide and Justice Adolf Azcuna. Chief Justice Davide has not taken part in these proceedings for obvious reasons. Moreover, this Court has not simply relied on the personal opinions now given by members of the Constitutional Commission, but has examined the records of the deliberations and proceedings thereof.

Respondent House of Representatives counters that under Section 3 (8) of Article XI, it is clear and unequivocal that it and only it has the power to make and interpret its rules governing impeachment. Its argument is premised on the assumption that Congress has absolute power to promulgate its rules. This assumption, however, is misplaced.

Section 3 (8) of Article XI provides that "The Congress shall promulgate its rules on impeachment to effectively carry out the purpose of this section." Clearly, its power to promulgate its rules on impeachment is limited by the phrase "to effectively carry out the purpose of this section." Hence, these rules cannot contravene the very purpose of the Constitution which said rules were intended to effectively carry out. Moreover, Section 3 of Article XI clearly provides for other specific limitations on its power to make rules, *viz*:

Section 3. (1) x x x

(2) A verified complaint for impeachment may be filed by any Member of the House of Representatives or by any citizen upon a resolution of endorsement by any Member thereof, which shall be included in the Order of Business within ten session days, and referred to the proper Committee within three session days thereafter. The Committee, after hearing, and by a majority vote of all its Members, shall submit its report to the House within sixty session days from such referral, together with the corresponding resolution. The resolution shall be calendared for consideration by the House within ten session days from receipt thereof.

(3) A vote of at least one-third of all the Members of the House shall be necessary to either affirm a favorable resolution with the Articles of Impeachment of the Committee, or override its contrary resolution. The vote of each Member shall be recorded.

(4) In case the verified complaint or resolution of impeachment is filed by at least one-third of all the Members of the House, the same shall constitute the Articles of Impeachment, and trial by the Senate shall forthwith proceed.

(5) No impeachment proceedings shall be initiated against the same official more than once within a period of one year.

It is basic that all rules must not contravene the Constitution which is the fundamental law. If as alleged Congress had absolute rule making power, then it would by necessary implication have the power to alter or amend the meaning of the Constitution without need of referendum.

In *Osmeña v. Pendatun*,¹⁴⁹ this Court held that it is within the province of either House of Congress to interpret its rules and that it was the best judge of what constituted "disorderly behavior" of its members. However, in *Paceta v. Secretary of the Commission on Appointments*,¹⁵⁰ Justice (later Chief Justice) Enrique Fernando, speaking for this Court and quoting Justice Brandeis in *United States v. Smith*,¹⁵¹ declared that where the construction to be given to a rule affects persons other than members of the Legislature, the question becomes judicial in nature. In *Arroyo v. De Venecia*,¹⁵² quoting *United States v. Ballin, Joseph & Co.*,¹⁵³ Justice Vicente Mendoza, speaking for this Court, held that while the Constitution empowers each house to determine its rules of proceedings, it may not by its rules ignore constitutional restraints or violate fundamental rights, and further that there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. It is only within these limitations that all matters of method are open to the determination of the Legislature. In the same case of *Arroyo v. De Venecia*, Justice Reynato S. Puno, in his Concurring and Dissenting Opinion, was even more emphatic as he stressed that in the Philippine setting there is even more reason for courts to inquire into the validity of the Rules of Congress, viz:

With due respect, I do not agree that the issues posed by the petitioner are non-justiciable. Nor do I agree that we will trivialize the principle of separation of power if we assume jurisdiction over the case at bar. Even in the United States, the principle of separation of power is no longer an impregnable impediment against the interposition of judicial power on cases involving breach of rules of procedure by legislators.

Rightly, the ponencia uses the 1891 case of *US v Ballin* (144 US 1) as a window to view the issues before the Court. It is in *Ballin* where the US Supreme Court first defined the boundaries of the power of the judiciary to review congressional rules. It held:

"x x x

"The Constitution, in the same section, provides, that each house may determine the rules of its proceedings." It appears that in pursuance of this authority the House had, prior to that day, passed this as one of its rules:

Rule XV

3. On the demand of any member, or at the suggestion of the Speaker, the names of members sufficient to make a quorum in the hall of the House who do not vote shall be noted by the clerk and recorded in the journal, and reported to the Speaker with the names of the members voting, and be counted and announced in determining the presence of a quorum to do business. (House Journal, 230, Feb. 14, 1890)

The action taken was in direct compliance with this rule. **The question, therefore, is as to the validity of this rule**, and not what methods the Speaker may of his own motion resort to for determining the presence of a quorum, nor what matters the Speaker or clerk may of their own volition place upon the journal. Neither do the advantages or disadvantages, the wisdom or folly, of such a rule present any matters for judicial consideration. *With the courts the question is only one of power. The Constitution empowers each house to determine its rules of proceedings. It may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceedings established by the rule and the result which is sought to be attained.* But within these limitations *all matters of method* are open to the determination of the House, and it is no impeachment of the rule to say that some other way would be better, more accurate, or even more just. It is no objection to the validity of a rule that a different one has been prescribed and in force for a length of time. The power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the House, and within the limitations suggested, absolute and beyond the challenge of any other body or tribunal."

***Ballin*, clearly confirmed the jurisdiction of courts to pass upon the validity of congressional rules, i.e., whether they are constitutional.** Rule XV was examined by the Court and it was found to satisfy the test: (1) that it did not ignore any constitutional restraint; (2) it did not violate any fundamental right; and (3) its method

had a reasonable relationship with the result sought to be attained. By examining Rule XV, the Court did not allow its jurisdiction to be defeated by the mere invocation of the principle of separation of powers.¹⁵⁴

X X X

In the *Philippine setting*, there is a *more compelling reason* for courts to categorically reject the political question defense when its interposition will cover up abuse of power. For section 1, Article VIII of our Constitution was *intentionally* cobbled to empower courts "x x x to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government." This power is new and was not granted to our courts in the 1935 and 1972 Constitutions. It was not also xeroxed from the US Constitution or any foreign state constitution. The CONCOM granted this enormous power to our courts in view of our experience under martial law where abusive exercises of state power were shielded from judicial scrutiny by the misuse of the political question doctrine. Led by the eminent former Chief Justice Roberto Concepcion, the CONCOM expanded and sharpened the checking powers of the judiciary vis-à-vis the Executive and the Legislative departments of government.¹⁵⁵

X X X

*The Constitution cannot be any clearer. What it granted to this Court is not a mere power which it can decline to exercise. Precisely to deter this disinclination, the Constitution imposed it as a duty of this Court to strike down any act of a branch or instrumentality of government or any of its officials done with grave abuse of discretion amounting to lack or excess of jurisdiction. Rightly or wrongly, the Constitution has elongated the checking powers of this Court against the other branches of government despite their more democratic character, the President and the legislators being elected by the people.*¹⁵⁶

X X X

The provision defining judicial power as including the 'duty of the courts of justice. . . to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government' constitutes the capstone of the efforts of the Constitutional Commission to upgrade the powers of this court vis-à-vis the other branches of government. This provision was dictated by our experience under martial law which taught us that a stronger and more independent judiciary is needed to abort abuses in government. x x x

X X X

In sum, I submit that in imposing to this Court the duty to annul acts of government committed with grave abuse of discretion, the new Constitution transformed this Court from passivity to activism. This transformation, dictated by our distinct experience as nation, is not merely evolutionary but revolutionary. *Under the 1935 and the 1973 Constitutions, this Court approached constitutional violations by initially determining what it cannot do; under the 1987 Constitution, there is a shift in stress – this Court is mandated to approach constitutional violations not by finding out what it should not do but what it must do.* The Court must discharge this solemn duty by not resuscitating a past that petrifies the present.

I urge my brethren in the Court to give due and serious consideration to this new constitutional provision as the case at bar once more calls us to define the parameters of our power to review violations of the rules of the House. **We will not be true to our trust as the last bulwark against government abuses if we refuse to exercise this new power or if we wield it with timidity. To be sure, it is this exceeding timidity to unsheathe the judicial sword that has increasingly emboldened other branches of government to denigrate, if not defy, orders of our courts.** In *Tolentino*, I endorsed the view of former Senator Salonga that this novel provision stretching the latitude of judicial power is distinctly Filipino and its interpretation should not be depreciated by undue reliance on inapplicable foreign jurisprudence. In resolving the case at bar, the lessons of our own history should provide us the light and not the experience of foreigners.¹⁵⁷ (Italics in the original emphasis and underscoring supplied)

Thus, the ruling in *Osmena v. Pendatun* is not applicable to the instant petitions. Here, the third parties alleging the violation of private rights and the Constitution are involved.

Neither may respondent House of Representatives' rely on *Nixon v. US*¹⁵⁸ as basis for arguing that this Court may not decide on the constitutionality of Sections 16 and 17 of the House Impeachment Rules. As already observed, the U.S. Federal Constitution simply provides that "the House of Representatives shall have the sole power of impeachment." It adds nothing more. It gives no clue whatsoever as to how this "sole power" is to be exercised. No limitation whatsoever is given. Thus, the US Supreme Court concluded that there was a textually demonstrable constitutional commitment of a constitutional power to the House of Representatives. This reasoning does not hold

with regard to impeachment power of the Philippine House of Representatives since our Constitution, as earlier enumerated, furnishes several provisions articulating how that "exclusive power" is to be exercised.

The provisions of Sections 16 and 17 of Rule V of the House Impeachment Rules which state that impeachment proceedings are deemed initiated (1) if there is a finding by the House Committee on Justice that the verified complaint and/or resolution is sufficient in substance, or (2) once the House itself affirms or overturns the finding of the Committee on Justice that the verified complaint and/or resolution is not sufficient in substance or (3) by the filing or endorsement before the Secretary-General of the House of Representatives of a verified complaint or a resolution of impeachment by at least 1/3 of the members of the House thus clearly contravene Section 3 (5) of Article XI as they give the term "initiate" a meaning different from "filing."

Validity of the Second Impeachment Complaint

Having concluded that the initiation takes place by the act of filing of the impeachment complaint and referral to the House Committee on Justice, the initial action taken thereon, the meaning of Section 3 (5) of Article XI becomes clear. Once an impeachment complaint has been initiated in the foregoing manner, another may not be filed against the same official within a one year period following Article XI, Section 3(5) of the Constitution.

In fine, considering that the first impeachment complaint, was filed by former President Estrada against Chief Justice Hilario G. Davide, Jr., along with seven associate justices of this Court, on June 2, 2003 and referred to the House Committee on Justice on August 5, 2003, the second impeachment complaint filed by Representatives Gilberto C. Teodoro, Jr. and Felix William Fuentebella against the Chief Justice on October 23, 2003 violates the constitutional prohibition against the initiation of impeachment proceedings against the same impeachable officer within a one-year period.

Conclusion

If there is anything constant about this country, it is that there is always a phenomenon that takes the center stage of our individual and collective consciousness as a people with our characteristic flair for human drama, conflict or tragedy. Of course this is not to demean the seriousness of the controversy over the Davide impeachment. For many of us, the past two weeks have proven to be an exasperating, mentally and emotionally exhausting experience. Both sides have fought bitterly a dialectical struggle to articulate what they respectively believe to be the correct position or view on the issues involved. Passions had ran high as demonstrators, whether for or against the impeachment of the Chief Justice, took to the streets armed with their familiar slogans and chants to air their voice on the matter. Various sectors of society - from the business, retired military, to the academe and denominations of faith – offered suggestions for a return to a state of normalcy in the official relations of the governmental branches affected to obviate any perceived resulting instability upon areas of national life.

Through all these and as early as the time when the Articles of Impeachment had been constituted, this Court was specifically asked, told, urged and argued to take no action of any kind and form with respect to the prosecution by the House of Representatives of the impeachment complaint against the subject respondent public official. When the present petitions were knocking so to speak at the doorsteps of this Court, the same clamor for non-interference was made through what are now the arguments of "lack of jurisdiction," "non-justiciability," and "judicial self-restraint" aimed at halting the Court from any move that may have a bearing on the impeachment proceedings.

This Court did not heed the call to adopt a hands-off stance as far as the question of the constitutionality of initiating the impeachment complaint against Chief Justice Davide is concerned. To reiterate what has been already explained, the Court found the existence in full of all the requisite conditions for its exercise of its constitutionally vested power and duty of judicial review over an issue whose resolution precisely called for the construction or interpretation of a provision of the fundamental law of the land. What lies in here is an issue of a genuine constitutional material which only this Court can properly and competently address and adjudicate in accordance with the clear-cut allocation of powers under our system of government. Face-to-face thus with a matter or problem that squarely falls under the Court's jurisdiction, no other course of action can be had but for it to pass upon that problem head on.

The claim, therefore, that this Court by judicially entangling itself with the process of impeachment has effectively set up a regime of judicial supremacy, is patently without basis in fact and in law.

This Court in the present petitions subjected to judicial scrutiny and resolved on the merits only the main issue of whether the impeachment proceedings initiated against the Chief Justice transgressed the constitutionally imposed one-year time bar rule. Beyond this, it did not go about assuming jurisdiction where it had none, nor indiscriminately turn justiciable issues out of decidedly political questions. Because it is not at all the business of this Court to assert judicial dominance over the other two great branches of the government. Rather, the *raison d'être* of the judiciary is to complement the discharge by the executive and legislative of their own powers to bring about ultimately the beneficent effects of having founded and ordered our society upon the rule of law.

It is suggested that by our taking cognizance of the issue of constitutionality of the impeachment proceedings against the Chief Justice, the members of this Court have actually closed ranks to protect a brethren. That the members' interests in ruling on said issue is as much at stake as is that of the Chief Justice. Nothing could be farther from the truth.

The institution that is the Supreme Court together with all other courts has long held and been entrusted with the judicial power to resolve conflicting legal rights regardless of the personalities involved in the suits or actions. This Court has dispensed justice over the course of time, unaffected by whomsoever stood to benefit or suffer therefrom, unafraid by whatever imputations or speculations could be made to it, so long as it rendered judgment according to the law and the facts. Why can it not now be trusted to wield judicial power in these petitions just because it is the highest ranking magistrate who is involved when it is an incontrovertible fact that the fundamental issue is not him but the validity of a government branch's official act as tested by the limits set by the Constitution? Of course, there are rules on the inhibition of any member of the judiciary from taking part in a case in specified instances. But to disqualify this entire institution now from the suit at bar is to regard the Supreme Court as likely incapable of impartiality when one of its members is a party to a case, which is simply a *non sequitur*.

No one is above the law or the Constitution. This is a basic precept in any legal system which recognizes equality of all men before the law as essential to the law's moral authority and that of its agents to secure respect for and obedience to its commands. Perhaps, there is no other government branch or instrumentality that is most zealous in protecting that principle of legal equality other than the Supreme Court which has discerned its real meaning and ramifications through its application to numerous cases especially of the high-profile kind in the annals of jurisprudence. The Chief Justice is not above the law and neither is any other member of this Court. But just because he is the Chief Justice does not imply that he gets to have less in law than anybody else. The law is solicitous of every individual's rights irrespective of his station in life.

The Filipino nation and its democratic institutions have no doubt been put to test once again by this impeachment case against Chief Justice Hilario Davide. Accordingly, this Court has resorted to no other than the Constitution in search for a solution to what many feared would ripen to a crisis in government. But though it is indeed immensely a blessing for this Court to have found answers in our bedrock of legal principles, it is equally important that it went through this crucible of a democratic process, if only to discover that it can resolve differences without the use of force and aggression upon each other.

WHEREFORE, Sections 16 and 17 of Rule V of the Rules of Procedure in Impeachment Proceedings which were approved by the House of Representatives on November 28, 2001 are unconstitutional. Consequently, the second impeachment complaint against Chief Justice Hilario G. Davide, Jr. which was filed by Representatives Gilberto C. Teodoro, Jr. and Felix William B. Fuentesbela with the Office of the Secretary General of the House of Representatives on October 23, 2003 is barred under paragraph 5, section 3 of Article XI of the Constitution.

SO ORDERED.

Bellosillo and Tinga, JJ., see separate opinion.

Puno, and Ynares-Santiago, J., see concurring and dissenting opinion.

Vitug, Panganiban, Sandoval-Gutierrez and Callejo, Sr., JJ., see separate concurring opinion.

Quisumbing, J., concurring separate opinion received.

Carpio, J., concur.

Austria-Martinez, J., concur in the majority opinion and in the separate opinion of J. Vitug.

Corona, J., will write a separate concurring opinion.

Azcuna, J., concur in the separate opinion.

Footnotes

¹ *Rollo*, G.R. No. 160261 at 180-182; Annex "H."

² Per Special Appearance with Manifestation of House Speaker Jose C. De Venecia, Jr. (*Rollo*, G.R. No. 160261 at 325-363) the pertinent House Resolution is HR No. 260, but no copy of the same was submitted before this Court.

³ *Id.* at 329. Created through PD No. 1949 (July 18, 1984), the JDF was established "to help ensure and guarantee the independence of the Judiciary as mandated by the Constitution and public policy and required by the impartial administration of justice" by creating a special fund to augment the allowances of the members and personnel of the Judiciary and to finance the acquisition, maintenance and repair of office equipment and facilities."

⁴ *Rollo*, G.R. No. 160261 at 120-139; Annex "E."

⁵ The initial complaint impleaded only Justices Artemio V. Panganiban, Josue N. Bellosillo, Reynato S. Puno, Antonio T. Carpio and Renato C. Corona, and was later amended to include Justices Jose C. Vitug, and Leonardo A. Quisumbing.

⁶ *Supra* note 4 at 123-124.

⁷ *Rollo*, G.R. No. 160403 at 48-53; Annex "A."

⁸ http://www.congress.gov.ph/search/bills/hist_show.php?bill_no=RPT9999

⁹ *Rollo*, G.R. No. 160262 at 8.

¹⁰ *Rollo*, G.R. No. 160295 at 11.

¹¹ *Rollo*, G.R. No. 160262 at 43-84; Annex "B."

¹² *Supra* note 2.

¹³ A perusal of the attachments submitted by the various petitioners reveals the following signatories to the second impeachment complaint and the accompanying Resolution/Endorsement. 1. Gilbert Teodoro, Jr., NPC, Tarlac (principal complainant) 2. Felix Fuentebella, NPC, Camarines Sur (second principal complainant) 3. Julio Ledesma, IV, NPC, Negros Occidental 4. Henry Lanot, NPC, Lone District of Pasig City 5. Kim Bernardo-Lokin, Party List-CIBAC 6. Marcelino Libanan, NPC, Lone District of Eastern Samar, (Chairman, House Committee on Justice) 7. Emmylou Talino-Santos, Independent, 1st District, North Cotabato 8. Douglas RA. Cagas, NPC, 1st District, Davao del Sur 9. Sherwin Gatchalian, NPC, 1st District, Valenzuela City 10. Luis Bersamin, Jr., PDSP-PPC, Lone District of Abra 11. Nerissa Soon-Ruiz Alayon, 6th District, Cebu 12. Ernesto Nieva, Lakas, 1st District, Manila 13. Edgar R. Erice, Lakas, 2nd District, Kalookan City 14. Ismael Mathay III, Independent, 2nd District, Quezon City 15. Samuel Dangwa, Reporma, Lone District of Benguet 16. Alfredo Marañon, Jr., NPC, 2nd District, Negros Occidental 17. Cecilia Jalosjos-Carreon, Reporma, 1st District, Zamboanga del Norte 18. Agapito A. Aquino, LDP, 2nd District, Makati City 19. Fausto L. Seachon, Jr., NPC, 3rd District, Masbate 20. Georgilu Yumul-Hermida, Pwersa ng Masa, 4th District, Quezon 21. Jose Carlos Lacson, Lakas, 3rd District, Negros Occidental 22. Manuel C. Ortega, NPC, 1st District, La Union 23. Ulihan Joaquin, NPC, 1st District, Laguna 24. Soraya C. Jaafar, Lakas, Lone District of Tawi-Tawi 25. Wilhelmino Sy-Alvarado, Lakas, 1st District, Bulacan 26. Claude P. Bautista, NPC, 2nd District, Davao Del Sur 27. Del De Guzman, Lakas, Lone District of Marikina City 28. Zeneida Cruz-Ducut, NPC, 2nd District, Pampanga 29. Augusto Baculio, Independent-LDP, 2nd District, Misamis Oriental 30. Faustino Dy III, NPC-Lakas, 3rd District, Isabela 31. Agosto Boboy Syjuco, Lakas, 2nd District, Iloilo 32. Rozzano Rufino B. Biazon, LDP, Lone District of Muntinlupa City 33. Leovigildo B. Banaag, NPC-Lakas, 1st District, Agusan del Norte 34. Eric Singson, LP, 2nd District, Ilocos Sur 35. Jacinto Paras, Lakas, 1st District, Negros Oriental 36. Jose Solis, Independent, 2nd District, Sorsogon 37. Renato B. Magtubo, Party List-Partido ng Manggagawa 38. Herminio G. Teves, Lakas, 3rd District, Negros Oriental 39. Amado T. Espino, Jr., Lakas, 2nd District, Pangasinan 40. Emilio Macias, NPC, 2nd District, Negros Oriental 41. Arthur Y. Pingoy, Jr., NPC, 2nd District, South Cotabato 42. Francis Nepomuceno, NPC, 1st District, Pampanga 43. Conrado M. Estrella III, NPC, 6th District, Pangasinan 44. Elias Bulut, Jr., NPC, Lone District of Apayao 45. Jurdin Jesus M. Romualdo, NPC, Lone District of Camiguin 46. Juan Pablo Bondoc, NPC, 4th District, Pampanga 47. Generoso DC. Tulagan, NPC, 3rd District, Pangasinan 48. Perpetuo Ylagan, Lakas, Lone District of Romblon 49. Michael Duavit, NPC, 1st District, Rizal 50. Joseph Ace H. Durano, NPC, 5th District, Cebu 51. Jesli Lopus, NPC, 3rd District, Tarlac 52. Carlos Q. Cojuangco, NPC, 4th District, Negros Occidental 53. Georgidi B. Aggabao, NPC, 4th District, Santiago, Isabela 54. Francis Escudero, NPC, 1st District, Sorsogon 55. Rene M. Velarde, Party List-Buhay 56. Celso L. Lobregat, LDP, Lone District of Zamboanga City 57. Alipio Cirilo V. Badelles, NPC, 1st District, Lanao del Norte 58. Didagen P. Dilangalen, Pwersa ng Masa, Lone District of Maguindanao 59. Abraham B. Mitra, LDP, 2nd District, Palawan 60. Joseph Santiago, NPC, Lone District of Catanduanes 61. Darlene Antonino-Custodio, NPC, 1st District of South Cotabato & General Santos City 62. Aleta C. Suarez, LP, 3rd District, Quezon 63. Rodolfo G. Plaza, NPC, Lone District of Agusan del Sur 64. JV Bautista, Party List-Sanlakas 65. Gregorio Ipong, NPC, 2nd District, North Cotabato 66. Gilbert C. Remulla, LDP, 2nd District, Cavite 67. Rolex T. Suplico, LDP, 5th District, Iloilo 68. Celia Layus, NPC, Cagayan 69. Juan Miguel Zubiri, Lakas, 3rd District, Bukidnon 70. Benasing Macarambon Jr., NPC, 2nd District, Lanao del Sur 71. Josefina Joson, NPC, Lone District of Nueva Ecija 72. Mark Cojuangco, NPC, 5th District, Pangasinan 73. Mauricio Domogan, Lakas, Lone District of Baguio City 74. Ronaldo B. Zamora, Pwersa ng Masa, Lone District of San Juan 75. Angelo O. Montilla, NPC, Lone District of Sultan Kudarat 76. Roseller L. Barinaga, NPC, 2nd District, Zamboanga del Norte 77. Jesnar R. Falcon, NPC, 2nd District, Surigao del Sur 78. Ruy Elias Lopez, NPC, 3rd District, Davao City.

¹⁴ *Rollo*, G.R. No. 160261 at 5. Petitioner had previously filed two separate impeachment complaints before the House of Representatives against Ombudsman Aniano Desierto.

¹⁵ 299 SCRA 744 (1998). In *Chavez v. PCGG*, petitioner Chavez argued that as a taxpayer and a citizen, he had the legal personality to file a petition demanding that the PCGG make public any and all negotiations and agreements pertaining to the PCGG's task of recovering the Marcoses' ill-gotten wealth. Petitioner Chavez further argued that the matter of recovering the ill-gotten wealth of the Marcoses is an issue of transcendental importance to the public. The Supreme Court, citing *Tañada v. Tuvera*, 136 SCRA 27 (1985), *Legaspi v. Civil Service Commission*, 150 SCRA 530 (1987) and *Albano v. Reyes*, 175 SCRA 264 (1989) ruled that petitioner had standing. The Court, however, went on to elaborate that in any event, the question on the standing of petitioner Chavez was rendered moot by the intervention of the Jopsons who are among the legitimate claimants to the Marcos wealth.

¹⁶ 384 SCRA 152 (2002). In *Chavez v. PEA-Amari Coastal Bay Development Corporation*, wherein the petition sought to compel the Public Estates Authority (PEA) to disclose all facts on its then on-going negotiations with Amari Coastal Development Corporation to reclaim portions of Manila Bay, the Supreme Court said that petitioner Chavez had the standing to bring a taxpayer's suit because the petition sought to compel PEA to comply with its constitutional duties.

¹⁷ 224 SCRA 792 (1993).

¹⁸ Subsequent petitions were filed before this Court seeking similar relief. Other than the petitions, this Court also received Motions for Intervention from among others, Sen. Aquilino Pimentel, Jr., and Special Appearances by House Speaker Jose C. de Venecia, Jr., and Senate President Franklin Drilon.

¹⁹ *Supra* note 2 at 10.

²⁰ Justice Florenz D. Regalado, Former Constitutional Commissioners Justice Regalado E. Maambong and Father Joaquin G. Bernas, SJ, Justice Hugo E. Gutierrez, Jr., Former Minister of Justice and Solicitor General Estelito P. Mendoza, Deans Pacifico Agabin and Raul C. Pangalangan, and Former Senate President Jovito R. Salonga,.

²¹ *Rollo*, G.R. No. 160261 at 275-292.

²² *Id.* at 292.

²³ 63 Phil 139 (1936).

²⁴ *Id.* at 157-159.

²⁵ *Vide Alejandrino v. Quezon*, 46 Phil 83 (1924); *Tañada v. Cuenco*, 103 Phil 1051 (1957); *Ynot v. Intermediate Appellate Court*, 148 SCRA 659, 665 (1987).

²⁶ Const., art. VIII, sec. 1.

²⁷ 5 US 137 (1803).

²⁸ *Id.* at 180.

²⁹ In *In re Prutch*, 1 Phil 132 (1902), this Court held that a statute allowing for imprisonment for non-payment of a debt was invalid. In *Casanovas v. Hord*, 8 Phil 125 (1907), this Court invalidated a statute imposing a tax on mining claims on the ground that a government grant stipulating that the payment of certain taxes by the grantee would be in lieu of other taxes was a contractual obligation which could not be impaired by subsequent legislation. In *Concepcion v. Paredes*, 42 Phil 599 (1921), Section 148 (2) of the Administrative Code, as amended, which provided that judges of the first instance with the same salaries would, by lot, exchange judicial districts every five years, was declared invalid for being a usurpation of the power of appointment vested in the Governor General. In *McDaniel v. Apacible*, 42 Phil 749 (1922), Act No. 2932, in so far as it declares open to lease lands containing petroleum which have been validly located and held, was declared invalid for being a deprivation of property without due process of law. In *U.S. v. Ang Tang Ho*, 43 Phil 1 (1922), Act No. 2868, in so far as it authorized the Governor-General to fix the price of rice by proclamation and to make the sale of rice in violation of such a proclamation a crime, was declared an invalid delegation of legislative power.

³⁰ *Vicente V. Mendoza*, *Sharing The Passion and Action of our Time* 62-53 (2003).

³¹ *Supra* note 23.

³² *Id.* at 156-157.

³³ Florentino P. Feliciano, *The Application of Law: Some Recurring Aspects Of The Process Of Judicial Review And Decision Making*, 37 AMJJUR 17, 24 (1992).

³⁴ *Ibid.*

³⁵ I Record of the Constitutional Commission 434-436 (1986).

³⁶ 31 SCRA 413 (1970)

³⁷ *Id.* at 422-423; *Vide Baranda v. Gustilo*, 165 SCRA 757, 770 (1988); *Luz Farms v. Secretary of the Department of Agrarian Reform*, 192 SCRA 51 (1990); *Ordillo v. Commission on Elections*, 192 SCRA 100 (1990).

³⁸ 194 SCRA 317 (1991).

³⁹ *Id.* at 325 citing *Maxwell v. Dow*, 176 US 581.

⁴⁰ 152 SCRA 284 (1987).

⁴¹ *Id.* at 291 citing *Gold Creek Mining v. Rodriguez*, 66 Phil 259 (1938), *J.M. Tuason & Co., Inc v. Land Tenure Administration*, *supra* note 36, and I Tañada and Fernando, *Constitution of the Philippines* 21 (Fourth Ed.).

⁴² 82 Phil 771 (1949).

⁴³ *Id.* at 775.

⁴⁴ *Supra* note 38.

⁴⁵ *Id.* at 330-331.

⁴⁶ *Id.* at 337-338 citing 16 CJS 2.31; *Commonwealth v. Ralph*, 111 Pa. 365, 3 Atl. 220 and *Household Finance Corporation v. Shaffner*, 203, SW 2d, 734, 356 Mo. 808.

⁴⁷ *Supra* note 2.

⁴⁸ *Citing* Section 3 (6), Article VIII of the Constitution provides:

(6) The Senate shall have the sole power to try and decide all cases of impeachment. When sitting for that purpose, the Senators shall be on oath or affirmation. When the President of the Philippines is on trial, the Chief Justice of the Supreme Court shall preside, but shall not vote. No person shall be convicted without the concurrence of two-thirds of all the Members of the Senate.

⁴⁹ *Supra* note 21.

⁵⁰ 506 U.S. 224 (1993).

⁵¹ *Supra* note 2 at 349-350 *citing Gerhard, Michael J.* *The Federal Impeachment Process: A Constitutional and Historical Analysis*, 1996, p. 119.

⁵² 227 SCRA 100 (1993).

⁵³ *Id.* at 112.

⁵⁴ US Constititon. Section 2. x x x The House of Representatives shall have the sole Power of Impeachment.

⁵⁵ 1987 Constitution, Article XI, Section 3 (1). The House of Representatives shall have the exclusive power to initiate all cases of impeachment.

⁵⁶ *Supra* note 2 at 355 *citing Agresto, The Supreme Court and Constitutional Democracy*, 1984, pp. 112-113.

- ⁵⁷ 369 U.S. 186 (1962).
- ⁵⁸ 141 SCRA 263 (1986).
- ⁵⁹ *Supra* note 25.
- ⁶⁰ 298 SCRA 756 (1998).
- ⁶¹ 272 SCRA 18 (1997).
- ⁶² 201 SCRA 792 (1991).
- ⁶³ 187 SCRA 377 (1990).
- ⁶⁴ 180 SCRA 496 (1989).
- ⁶⁵ *Supra* note 25.
- ⁶⁶ *Supra* note 23.
- ⁶⁷ *Civil Liberties Union v. Executive Secretary*, *supra* note 38 at 330-331.
- ⁶⁸ *Id.* at 158-159.
- ⁶⁹ *IBP v. Zamora*, 338 SCRA 81 (2000) *citing* *Joya v. PCGG*, 225 SCRA 568 (1993); *House International Building Tenants Association, Inc. v. Intermediate Appellate Court*, 151 SCRA 703 (1987); *Baker v. Carr*, *supra* note 57.
- ⁷⁰ *Citing Kilosbayan, Inc. v. Morato*, 250 SCRA 130 (1995).
- ⁷¹ *Citing Tatad v. Secretary of the Department of Energy*, 281 SCRA 330 (1997).
- ⁷² *Citing Kapatiran ng mga Naglilingkod sa Pamahalaan ng Pilipinas*, 163 SCRA 371, 378 (1988).
- ⁷³ Rule 3, Section 2. *Parties in interest*. — A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.
- ⁷⁴ *JG Summit Holdings, Inc. v. Court of Appeals*, 345 SCRA 143, 152 (2000).
- ⁷⁵ 246 SCRA 540 (1995).
- ⁷⁶ *Id.* at 562-564.
- ⁷⁷ *Agan v. PIATCO*, G.R. No. 155001, May 5, 2003 *citing* *BAYAN v. Zamora*, 342 SCRA 449, 562-563 (2000) and *Baker v. Carr*, *supra* note 57; *Vide Gonzales v. Narvasa*, 337 SCRA 733 (2000); *TELEBAP v. COMELEC*, 289 SCRA 337 (1998).
- ⁷⁸ *Chavez v. PCGG*, *supra* note 15.
- ⁷⁹ *Del Mar v. PAGCOR* 346 SCRA 485, 501 (2000) *citing* *Kilosbayan, Inc., et.al. v. Morato*, *supra* note 70; *Dumlao v. COMELEC*, 95 SCRA 392 (1980); *Sanidad v. Comelec*, 73 SCRA 333 (1976); *Philconsa v. Mathay*, 18 SCRA 300 (1966); *Pascual v. Secretary of Public Works*, 110 Phil 331 (1960); *Vide Gonzales v. Narvasa*, *supra* note 77; *Pelaez v. Auditor General*, 15 SCRA 569 (1965); *Philconsa v. Gimenez*, 15 SCRA 479 (1965); *Iloilo Palay & Corn Planters Association v. Feliciano*, 13 SCRA 377 (1965).
- ⁸⁰ *BAYAN v. Zamora*, *supra* note 77 *citing* *Bugnay v. Laron*, 176 SCRA 240, 251-252 (1989); *Vide Del Mar v. PAGCOR*, *supra* note 79; *Gonzales v. Narvasa*, *supra* note 77; *TELEBAP v. COMELEC*, *supra* note 77; *Kilosbayan, Inc. v. Morato*, *supra* note 70; *Joya v. PCGG*, *supra* note 69; *Dumlao v. COMELEC*, *supra* note 79; *Sanidad v. COMELEC*, *supra* note 79; *Philconsa v. Mathay*, *supra* note 79; *Pelaez v. Auditor General*, *supra* note 79; *Philconsa v. Gimenez*, *supra* note 79; *Iloilo Palay & Corn Planters Association v. Feliciano*, *supra* note 79; *Pascual v. Sec. of Public Works*, *supra* note 79.

- ⁸¹ *Gonzales v. Narvasa*, *supra* note 77 citing *Dumlao v. COMELEC*, *supra* note 79; *Sanidad v. COMELEC*, *supra* note 79; *Tan v. Macapagal*, 43 SCRA 677 (1972).
- ⁸² *Tatad v. Garcia, Jr.*, 243 SCRA 436 (1995); *Kilosbayan, Inc. v. Morato*, *supra* note 70 at 140-141 citing *Philconsa v. Enriquez*, 235 SCRA 506 (1994); *Guingona v. PCGG*, 207 SCRA 659 (1992); *Gonzales v. Macaraig*, 191 SCRA 452 (1990); *Tolentino v. COMELEC*, 41 SCRA 702 (1971).
- ⁸³ *Del Mar v. PAGCOR*, *supra* note 79 at 502-503 citing *Philconsa v. Mathay*, *supra* note 79.
- ⁸⁴ *Chinese Flour Importers Association v. Price Stabilization Board*, 89 Phil 439, 461 (1951) citing *Gallego et al. vs. Kapisanan Timbulan ng mga Manggagawa*, 46 Off. Gaz, 4245.
- ⁸⁵ *Philippine Constitution Association v. Gimenez*, *supra* note 79 citing *Gonzales v. Hechanova*, 118 Phil. 1065 (1963); *Pascual v. Secretary*, *supra* note 79.
- ⁸⁶ *Integrated Bar of the Philippines v. Zamora*, 338 SCRA 81 (2000).
- ⁸⁷ *MVRS Publications, Inc. v. Islamic Da'wah Council of the Philippines*, G.R. No. 135306, January 28, 2003, citing *Industrial Generating Co. v. Jenkins* 410 SW 2d 658; *Los Angeles County Winans*, 109 P 640; *Weberpals v. Jenny*, 133 NE 62.
- ⁸⁸ *Mathay v. Consolidated Bank and Trust Company*, 58 SCRA 559, 570-571 (1974), citing *Moore's Federal Practice* 2d ed., Vol. III, pages 3423-3424; 4 Federal Rules Service, pages 454-455; *Johnson, et al., vs. Riverland Levee Dist., et al.*, 117 2d 711, 715; *Borlasa v. Polistico*, 47 Phil. 345, 348 (1925).
- ⁸⁹ *MVRS Publications, Inc. v. Islamic Da'wah Council of the Philippines*, *supra* note 87, dissenting opinion of Justice Carpio; *Bulig-bulig Kita Kamag-Anak Assoc. v. Sulpicio Lines*, 173 SCRA 514, 514-515 (1989); *Re: Request of the Heirs of the Passengers of Doña Paz*, 159 SCRA 623, 627 (1988) citing *Moore*, *Federal Practice*, 2d ed., Vol. 3B, 23-257, 23-258; *Board of Optometry v. Colet*, 260 SCRA 88 (1996), citing *Section 12, Rule 3, Rules of Court*; *Mathay v. Consolidated Bank and Trust Co.*, *supra* note 88; *Oposa v. Factoran*, *supra* note 17.
- ⁹⁰ *Kilosbayan v. Guingona*, 232 SCRA 110 (1994).
- ⁹¹ *Kilosbayan, Inc. v. Morato*, *supra* note 70 citing *Civil Liberties Union v. Executive Secretary*, *supra* note 38; *Philconsa v. Gimenez*, *supra* note 79; *Iloilo Palay and Corn Planters Association v. Feliciano*, *supra* note 79; *Araneta v. Dinglasan*, 84 Phil. 368 (1949); vide *Tatad v. Secretary of the Department of Energy*, 281 SCRA 330 (1997); *Santiago v. COMELEC*, 270 SCRA 106 (1997); *KMU v. Garcia, Jr.*, 239 SCRA 386 (1994); *Joya v. PCGG*, 225 SCRA 368 (1993); *Carpio v. Executive Secretary*, 206 SCRA 290 (1992); *Osmeña v. COMELEC*, 199 SCRA 750 (1991); *Basco v. PAGCOR*, 197 SCRA 52 (1991); *Guingona v. Carague*, 196 SCRA 221 (1991); *Daza v. Singson*, *supra* note 64; *Dumlao v. COMELEC*, *supra* note 79.
- ⁹² *Firestone Ceramics, Inc. v. Court of Appeals*, 313 SCRA 522, 531 (1999) citing *Gibson vs. Revilla*, 92 SCRA 219; *Magsaysay-Labrador v. Court of Appeals*, 180 SCRA 266, 271 (1989).
- ⁹³ *Supra* note 79.
- ⁹⁴ *Id.* at 403.
- ⁹⁵ *Supra* note 81.
- ⁹⁶ *Id.* at 681.
- ⁹⁷ SECTION 3. x x x

(2) A verified complaint for impeachment may be filed by any Member of the House of Representatives or by any citizen upon a resolution of endorsement by any Member thereof, which shall be included in the Order of Business within ten session days, and referred to the proper Committee within three session days thereafter. The Committee, after hearing, and by a majority vote of all its Members, shall submit its report to the House within sixty session days from such referral, together with the corresponding resolution. The resolution shall be calendared for consideration by the House within ten session days from receipt thereof.

(3) A vote of at least one-third of all the Members of the House shall be necessary either to affirm a favorable resolution with the Articles of Impeachment of the Committee, or override its contrary resolution. The vote of each Member shall be recorded.

⁹⁸ *Supra* note 25.

⁹⁹ *Id.* at 1067.

¹⁰⁰ *Vide Barcelon v. Baker*, 5 Phil. 87 (1905); *Montenegro v. Castañeda*, 91 Phil. 882 (1952); *De la Llana v. COMELEC*, 80 SCRA 525 (1977).

¹⁰¹ *Vide Avelino v. Cuenco*, 83 Phil. 17 (1949); *Macias v. COMELEC*, 3 SCRA 1 (1961); *Cunanan v. Tan, Jr.*, 5 SCRA 1 (1962); *Gonzales v. COMELEC*, 21 SCRA 774 (1967); *Lansang v. Garcia*, 42 SCRA 448 (1971); *Tolentino v. COMELEC*, *supra* note 82.

¹⁰² 50 SCRA 30 (1973).

¹⁰³ Record of the Constitution Commission, Vol. 1, July 10, 1986 at 434-436.

¹⁰⁴ *Id.* at 439-443.

¹⁰⁵ 177 SCRA 668 (1989).

¹⁰⁶ *Id.* at 695.

¹⁰⁷ 203 SCRA 767 (1991).

¹⁰⁸ *Id.* at 776 *citing Gonzales v. Macaraig*, 191 SCRA 452, 463 (1990).

¹⁰⁹ *Supra* note 64.

¹¹⁰ *Id.* at 501.

¹¹¹ *Supra* note 57.

¹¹² *Id.* at 217.

¹¹³ 2 Record of the Constitutional Commission at 286.

¹¹⁴ *Id.* at 278, 316, 272, 283-284, 286.

¹¹⁵ 76 Phil 516 (1946).

¹¹⁶ *Id.* at 522.

¹¹⁷ *Supra* note 37.

¹¹⁸ *Id.* at 58 *citing Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, 175 SCRA 343 (1989).

¹¹⁹ *Vide concurring opinion of Justice Vicente Mendoza in Estrada v. Desierto*, 353 SCRA 452, 550 (2001); *Demetria v. Alba*, 148 SCRA 208, 210-211 (1987) *citing Ashwander v. TVA*, 297 U.S. 288 (1936).

¹²⁰ As adverted to earlier, neither a copy the Resolution nor a record of the hearings conducted by the House Committee on Justice pursuant to said Resolution was submitted to the Court by any of the parties.

¹²¹ *Rollo*, G.R. No. 160310 at 38.

¹²² *Supra* note 107.

¹²³ *Id.* at 777 (citations omitted).

¹²⁴ *Rollo*, G.R. No. 160262 at 73.

- ¹²⁵ *Supra* note 2 at 342.
- ¹²⁶ *Perfecto v. Meer*, 85 Phil 552, 553 (1950).
- ¹²⁷ *Estrada v. Desierto*, 356 SCRA 108, 155-156 (2001); *Vide Abbas v. Senate Electoral Tribunal*, 166 SCRA 651 (1988); *Vargas v. Rilloraza, et al.*, 80 Phil. 297, 315-316 (1948); *Planas v. COMELEC*, 49 SCRA 105 (1973), concurring opinion of J. Concepcion.
- ¹²⁸ *Philippine Judges Association v. Prado*, 227 SCRA 703, 705 (1993).
- ¹²⁹ *Ibid.*
- ¹³⁰ *Ramirez v. Corpuz-Macandog*, 144 SCRA 462, 477 (1986).
- ¹³¹ *Supra* note 127.
- ¹³² *Estrada v. Desierto*, *supra* note 127.
- ¹³³ *Id.* at 155-156 citing *Abbas, et al. v. Senate Electoral Tribunal*, *supra* note 127; *Vargas v. Rilloraza, et al.*, *supra* note 127.
- ¹³⁴ *Supra* note 119 at 210-211.
- ¹³⁵ *Supra* note 119.
- ¹³⁶ *Board of Optometry v. Colet*, 260 SCRA 88, 103 (1996); *Joya v. PCGG*, *supra* note 69 at 575; *Macasiano v. National Housing Authority*, 224 SCRA 236, 242 (1993); *Santos III v. Northwestern Airlines*, 210 SCRA 256, 261-262 (1992), *National Economic Protectionism Association v. Ongpin*, 171 SCRA 657, 665 (1989).
- ¹³⁷ *Supra* note 2 at 353.
- ¹³⁸ *Supra* note 33 at 32.
- ¹³⁹ *Supra* note 102.
- ¹⁴⁰ *Supra* note 33.
- ¹⁴¹ 249 SCRA 244, 251 (1995).
- ¹⁴² *Id.* at 251.
- ¹⁴³ 2 Records of the Constitutional Commission at 342-416.
- ¹⁴⁴ *Id.* at 416.
- ¹⁴⁵ Commissioner Maambong's Amicus Curiae Brief at 15.
- ¹⁴⁶ 2 Record of the Constitutional Commission at 375-376, 416
- ¹⁴⁷ 77 Phil. 192 (1946).
- ¹⁴⁸ Justice Hugo Guterrez's Amicus Curiae Brief at 7.
- ¹⁴⁹ 109 Phil. 863 (1960).
- ¹⁵⁰ 40 SCRA 58, 68 (1971).
- ¹⁵¹ 286 U.S. 6, 33 (1932).
- ¹⁵² 277 SCRA 268, 286 (1997).
- ¹⁵³ 144 U.S. 1 (1862).

¹⁵⁴ *Supra* note 152 at 304-306.

¹⁵⁵ *Id.* at 311.

¹⁵⁶ *Id.* at 313.

¹⁵⁷ *Supra* note 152 at 314-315.

¹⁵⁸ *Supra* note 50.

The Lawphil Project - Arellano Law Foundation

◀ BACK

▲ TOP