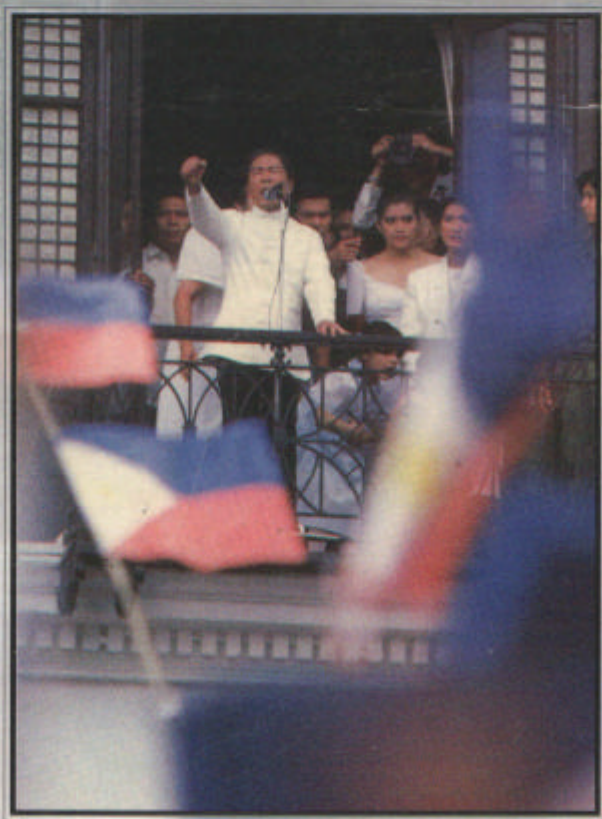


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PRESIDENTIAL PLUNDER



The Quest for the Marcos Ill-Gotten Wealth

JOVITO R. SALONGA

U.P. CENTER FOR LEADERSHIP, CITIZENSHIP AND DEMOCRACY & REGINA PUBLISHING CO.

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The cover picture, taken by Peter Charlesworth (published in *Bayan Ko! Images of the Philippine Revolt*), shows the last public appearance of President Ferdinand E. Marcos and family, at the Malacañang balcony, a few hours before they fled to exile in Hawaii on February 25, 1986.

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This book was launched in the *Kilosbayan House*, Metro Manila, on June 21, 2000. On July 25, there were no more available copies for sale and a second printing had to be ordered. This enabled the publishers to correct some errors in the first printing and transfer Chapter II—Some Highlights—to the end of the Epilogue, as suggested by a number of readers. Hence, there is a minor change in the paging and the numbering of the chapters.

*Dedicated to the youth of the nation with
the hope that they will never tire in the quest
for truth and justice*

Contents

Foreword	vii
Acknowledgment	xv
<i>Chapter I. By Way of Introduction</i>	1
<i>Chapter II. The Start of the Aquino Government</i>	13
<i>Chapter III. Laying the Foundation</i>	19
<i>Chapter IV. First Post-EDSA Journey to the U.S.</i>	35
<i>Chapter V. PCGG's First Case in New York</i>	43
<i>Chapter VI. The Marcos Swiss Deposits</i>	59
<i>Chapter VII. The De Guzman-Almonte Operation</i>	81
<i>Chapter VIII. In Defense of the PCGG</i>	99
<i>Chapter IX. The Deposition of the Marcos Couple</i>	113
and RP's Victory in New Jersey	
<i>Chapter X. October 1986 Trip to Europe and U.S.</i>	121
<i>Chapter XI. Cabinet Revamp</i>	131
<i>Chapter XII. A Sad Christmas</i>	141
<i>Chapter XIII. A Meaningful New Year</i>	151
<i>Chapter XIV. Ratification of the 1987 Constitution</i>	161
<i>Chapter XV. PCGG's Accomplishments: The Summing-Up</i>	167
<i>Chapter XVI. Epilogue</i>	185
<i>Chapter XVII. Some Highlights</i>	229
Photographs	267
Bibliography	275
Annexes	283
Index	397
About Dr. Jovito R. Salonga	424

Foreword

By JOSE V. ABUEVA

PRESIDENTIAL Plunder: The Quest for the Marcos Ill-Gotten Wealth is the second book of Dr. Jovito R. Salonga that I had the privilege to help edit and write a foreword for as a publication of the University of the Philippines. The first was *The Senate That Said No: A Four-Year Record of the First Post-EDSA Senate*, the memoir of his presidency of the Senate from mid-1987 to the end of 1991 and his bid for the presidency of the Republic in 1992.

For the most part, this second book is the author's memoir as the first chairman of the Presidential Commission for Good Government (PCGG), from February 28, 1986 to March 9, 1987. Fortunately, in the memoir Salonga has pursued the continuing saga of the PCGG's efforts to recover Ferdinand E. Marcos' fabulous stolen wealth over the next 13 years, until May 2000. Due to the collected evidence on the plunder and Marcos' systematic concealment of the rest of it, estimates of its totality vary from five to ten billion dollars. The wider context of the memoir includes the heavy burden and awesome challenges, as well as the successes and reversals, of the Aquino presidency in trying to rebuild and consolidate Philippine democracy and restart the economy after the euphoria of the EDSA Revolution had subsided.

Salonga's chairmanship of PCGG coincided with the first year of President Corazon C. Aquino's historic six-year presidency. During her watch, democracy was substantially restored and the economy recovered, after over 13 years of the Marcos dictatorship. This was achieved despite the six

coup attempts by rightist military rebels and Marcos loyalists to topple the government and set up another authoritarian regime.

Before her dramatic ascension to the presidency, Cory Aquino had become the widow of Senator Benigno “Ninoy” Aquino — Marcos’s charismatic arch critic who became a hero and martyr after he was assassinated by soldiers upon arrival at the Manila International Airport in 1983. Cory led the united opposition parties and popular movement in the campaign for and the presidential election of May 7, 1986. Marcos had himself proclaimed the winner in that scandalously fraudulent election. The upshot was mass indignation and unrest and a military mutiny headed by Defense Minister Juan Ponce Enrile and General Fidel V. Ramos. To protect the embattled rebels, tens of thousands of people rallied with them in the face of Marcos’ armed forces, for the end of the dictatorship. In the standoff they jointly and peacefully overthrew the dictatorship and forced the Marcoses to flee the country into exile in Hawaii. This would be known as the EDSA Revolution.

Salonga played a major role in the rebuilding of democratic institutions and the economy not only as PCGG chairman and a member of the Aquino cabinet. He quit this role to run for the Senate, topped the senatorial elections in May 1987 — for the third time in the nation’s history — and served as Senate president until December 1991. Learning the hard lessons of political history and his personal experience in recovering the Marcos loot, Senator Salonga would author the Code of Conduct and Ethical Standards for Public Officials and Employees (RA 6713) and the Anti-Plunder Act (RA 7080).

By definition the memoir is a first-hand account of the principal actor and witness in the unfolding story being told by its author. As the chairman of PCGG, Salonga had the advantage of his prestige as a principled senior political leader, his knowledge and expertise as a legal scholar and leading lawyer, his international connections in high places, his creativity and articulateness, and his tremendous capacity for work and skill as a writer. Thus, in the idealism and high hopes of the time, he was able to attract many other leaders, lawyers, and volunteers at home and abroad to join in the movement to recover the ill-gotten fortune of Marcos and his cronies.

Moreover, the government was lucky that Cory Aquino’s friends, Salonga, and PCGG would recover abundant documentary evidence of the

vast treasure and holdings that the dictator had illegally accumulated. There were boxes of authentic documents that the Marcoses left in Malacañang in their hasty flight to exile; more such documents that the U.S. government had impounded when the Marcoses came to Honolulu and then restored to the PCGG; and still more of the same that the scared cronies and associates would turn over to Salonga. The mass of solid evidence in the possession of PCGG formed the legal bases for the sequestration of hundreds of properties and assets of the Marcoses and their gradual recovery. Several partners and dummies of Marcos wanted to save themselves from prosecution as accomplices in the Marcos plunder. In addition, the sophisticated judicial systems of the United States and Switzerland, with their innovative concepts in response to the Marcos plunder, would come to the aid of the Philippines in recovering part of the stolen wealth.

As unraveled by Salonga and PCGG, the schemes and techniques of presidential plunder by Marcos are mind-boggling. They include creating monopolies in vital industries and placing them in the control of his cronies; awarding huge behest loans to his favorites; outright takeover of public or private enterprises for a minimal payment; direct raiding of the public treasury and government financial institutions; issuance of presidential decrees to enable his cronies to amass wealth for his joint benefit; kickbacks and commissions from businesses dealing with the government; use of shell corporations and dummy companies to launder money and invest them; skimming of foreign aid and other forms of assistance; and depositing money with the use of pseudonyms and numbered accounts in domestic and foreign banks to conceal its real ownership.

As it turned out in the investigations, Marcos had been building his fortune as early as 1968, in his first four-year term as President. In his inaugural on December 30, 1965, Marcos vowed: "This nation can be great again." And he outlined "the vision for greatness of our country." Set against this vision of national progress and effective leadership, he virtually admitted his own failure as the national leader by 1972, the third year of his second term. On September 21, he proclaimed martial law purportedly "to protect the Republic of the Philippines and our democracy" that were "imperiled by the danger of a violent overthrow, insurrection and rebellion" and "criminality and lawlessness...[and] anarchy" that had "paralyzed the functions of the national and local governments." (Proclamation No. 1081)

In fact, his second and final term as President would have ended in December 1973 under the 1935 Constitution. By imposing martial law and one-man rule, Marcos was able to extend his presidency indefinitely under the 1973 Constitution that was tailored to his desire. In light of the evidence of his systematic plunder of the nation's wealth during this indefinite hegemony as revealed in Salonga's memoir, it may be theorized that Marcos needed to destroy the democratic institutions of constitutional governance and the rule of law established for the public welfare and the common good — Congress, the judiciary, the free press and media, and the citizens' political rights and civil liberties — in order to indulge his unbridled dual passion for unlimited power and wealth. The state of the nation that he depicted merely rationalized his inner motives and overt actions.

Lord Acton is often quoted for his famous dictum: "Power corrupts, and absolute power corrupts absolutely." He saw corruption as the consequence of the exercise of power. But, in fact, not all leaders are corrupted by power. It appears that the corruption of Marcos preceded his achieving absolute power and motivated him into seeking it. This kind of behavior could be related to the political cynicism that makes some politicians assume that everyone has a price, and a person's loyalty or acquiescence can be bought at that price. Therefore, if you are exceptionally rich, you can gain power and indefinitely enlarge and perpetuate it. And if this were not enough, you can then use absolute power to force the people's submission and obedience to your will, with some degree of trade-off and incentives. You can also try to keep them ignorant of the real condition of the nation and the government, or fool them with lies and propaganda. Never mind morality, the human spirit, and social conscience.

Certainly, as an aggrandizing leader Marcos was not alone as he looked around the world. He surely knew personally Suharto of Indonesia and some Thai and Korean generals who became prime ministers through a coup d'etat and enriched themselves in office. In Iran was the Shah Pahlavi; in Uganda, Idi Amin; in Central Africa, Emperor Bokassa; in Panama, Noriega; in Haiti, Duvalier; in Nicaragua, Somoza. And several others. Further, Marcos calculated well that the U.S. Government, with its military bases and business interests in the Philippines, would continue to support him as an authoritarian leader in his fight against the Communists and his promised "reforms"— in the context of the Cold War.

The cumulative outcome and the costs of the Marcos dictatorship that added over 13 years to his seven years as a constitutional president are incalculable. However enormous, his plunder of the nation's wealth is only one of the costly consequences of his evil rule. During his two decades in power the Philippines fell far behind several neighboring countries in East Asia in the pursuit of development, and became "the basket case" in the region. Democracy was destroyed, the economy was in ruins, and the culture of corruption, violence and cynicism aggravated.

Thousands of Filipinos were killed, imprisoned, tortured, displaced from their homes and communities, or simply disappeared without a trace. Also with impunity, women were raped and degraded by the military, police, and other criminal elements. The Communist rebellion spread almost nationwide from just parts of Luzon. And secessionist Moro rebels fought the government in Mindanao. In the garrison state and its war zones human rights were thus regularly violated by the combatants on all sides of the conflict. Marcos' promise of a *Bagong Lipunan* ("New Society") of peace and development with freedom and equity could never happen.

In addition to the suffering and misery of so many, the nation lost a lot of time, priceless years, ultimately its scarcest, irretrievable resource. The hopes for the future of innumerable young men and women were crushed forever. The careers of some of the finest political leaders were aborted, while a number of unworthy politicians flourished as minions of the dictator and unrepentant officials and loyalists in the post-EDSA era.

By usurping governmental powers and abusing them, Ferdinand E. Marcos betrayed his public trust to defend the Constitution of the Republic. In fact, to reiterate, he destroyed the Republic of the Philippines as a representative democracy and replaced it with his dictatorial regime. This was backed by the military, his personal *Kilusang Bagong Lipunan* (New Society Party), and a pseudo, rubber-stamp national assembly (*Interim Batasang Pambansa*, then *Batasang Pambansa*). In a word, Marcos betrayed our country. Defying this manifest historical truth, his family wants him to be buried as a national hero in the *Libingan ng mga Bayani*. And were it not for the deafening public opposition to then president-elect Joseph Ejercito Estrada's proposal to grant the Marcoses their fervent wish, the heroes' memorial cemetery would have been desecrated.

Much has been achieved in the recovery of the Marcos ill-gotten wealth, especially as the outcome of the groundwork and successes of the initial

year of PCGG under Salonga's chairmanship. By May 2000, PCGG reported the recovery of 83.1 billion pesos in cash and property value, but due to poor public relations and reporting, the government and public had been kept ignorant about the cumulative outcome of PCGG's recovery effort.

From its second year, 1987, PCGG has suffered from lack of continuity in its leadership and management; some expedient deals with Marcos' cronies; presidential inaction on certain urgent issues; conflicts within the Commission and with other officials; the distractions and anomalies of managing the sequestered companies by PCGG agents and Commission members; the loss of morale and resignations of Commission members and staff; the secret compromise deals with the Marcoses under the Ramos and Estrada administrations; and the inefficiency and ineffectiveness of the judicial system where, too often, "due process" is used to defeat the ends of justice.

Some of the difficulties and compromises in the drawn out efforts to recover the Marcos ill-gotten wealth reflect the ambivalence, contradictions and corruption of self-serving leaders in resolving transcendent issues of public morality and private gain. As long as Filipinos as a nation, and especially their highest leaders, avoid resolving those issues in favor of basic moral principles, the national interest and the common good, and get away with it, no clear national standards of right and wrong can and will be established, consistently enforced and prevail. This is evident in regard to the issues of loyalty to the nation and collaboration with the enemy, whether Filipino or foreign; graft and corruption vs. honesty and integrity in public office; the inviolability of human rights and their violation and abuse by officials and functionaries; public accountability and non-accountability of government officials; civilian supremacy over the military; mutual accommodation and protection among members of the political elite; and so on.

Without public discernment and virtue in these aspects that would epitomize the community's high-minded sense of right and wrong, the Filipino nation cannot command honor, self-respect and credibility among its own citizens, much less in the international community. For this, Filipino leaders are much more to blame than the citizens, for it is the challenge and responsibility of leaders to lead and uplift the people toward a national

vision of the Good Society (*ang Magandang Lipunan*) and the desired future. Failure of Filipino political leadership is one of the best explanations for the country's persistent problems of poverty, injustice, ineffective governance, and corruption — and its continuing underdevelopment when compared to other countries since the end of World War II.

This is why our people must learn continually from study and reflection on our recent history and national development, such as this memoir by Salonga; from the research and discoveries of our scholars; from the teaching and guidance of our religious and lay leaders; and by our involvement in the work of various organizations in civil society. We should also learn from the example of more advanced and progressive nations. Our political leaders should not mistake their power for the needed knowledge and wisdom to make decisions affecting the nation. Much of that knowledge and wisdom can come from the people's practical experience and insights, and from their various roles, specialization and professional expertise. Good governance in a democracy requires the involvement and enlightened participation of all citizens, as much as the skills and probity of the leaders.

We should remember the deeds and wisdom of our earlier and more recent heroes and martyrs. For example, more than a hundred contemporary heroes and martyrs are memorialized in the *Bantayog ng mga Bayani* (Heroes' Memorial) for resisting the tyranny and corruption of Marcos and his authoritarian regime. We should raise our standards of political leadership and citizen participation in governance, as the *Kilosbayan* (People's Action) seeks to do, and foster the pursuit of justice and the protection of our human rights as the new *Bantay Katarungan* (Justice Watch) aims for. It is no accident that these three organizations in civil society are the initiatives of Jovito R. Salonga. He started *Bantayog* shortly after the EDSA Revolution in 1986, *Kilosbayan* after retiring from the government in 1992, and *Bantay* in 2000.

Finally, in thinking of our challenges and responsibilities as citizens and leaders, we might ponder these few words of two sages from the civilizations of India and China:

Earth provides enough to satisfy every man's need, but earth cannot provide enough for every man's greed. — Mahatma Gandhi.

Men should beware of coveting riches, for when riches come due to covetousness, heaven's calamities follow. — Chinese proverb.

And these words of Jesus Christ as He called on the people and his disciples to “take up your cross:”

*What good is it to gain the whole world but destroy yourself?
There is nothing you can give to recover your life.[For what shall it profit a man, if he gains the whole world, and lose his own soul?]*
— Mark 8:36-37.

Beverly Hills, Antipolo and Bali, Indonesia

May 25, 2000

Acknowledgment

MY debts are many but there is not enough space for all in this brief expression of gratitude.

From time to time, my wife Lydia and I would recall the names of friends from abroad who gave me their advice and came to help our country when we needed it most. Some of them are gone — real friends such as Morton Stavis, my “elder brother” and top lawyer from the Center for Constitutional Rights, who served our people *pro bono* with great skill, compassion and humility; Otto Kaufmann, my Yale Law School classmate who had just retired as the head of the Swiss Federal Supreme Court when the EDSA Revolution came and who gave us his advice through our mutual friend and classmate, Pieter Hoets; Prof. Myres McDougal of Yale Law School who served on our PCGG Advisory Committee and had been my mentor during my memorable studies in Yale in 1948-49 and my counselor during my years of exile in the United States; and Dr. Karl Carstens, my dear friend from Yale who became president of West Germany, and his wife Veronica, who opened their hearts and their home along the Rhine River when Lydia and I were in exile.

I am grateful to Ms. Severina Rivera, an able, dedicated Filipino-American lawyer from Washington, D.C., who became PCGG's chief legal officer in the United States during my one-year stint; and to Prof. Abram Chayes of Harvard Law School, the *de facto* head of the PCGG Advisory Committee, who was most helpful and kind. I can never thank enough my close friends in the United States, namely, ex-Congressman Raul Daza, Mr.

Rafael Fernando and Delegate Boni Gillego, who served with me in the first year of the PCGG.

I owe an unpayable debt of gratitude to my colleagues and co-workers in two organizations, all of whom prayed hard and worked unceasingly for my release from imprisonment in 1980, namely, the United Board for Christian Higher Education in Asia, then under the leadership of its chair, Dr. Nathan Pusey, former president of Harvard; and its Executive Director, Dr. Paul Lauby; the World Council of Churches and its Commission on International Affairs, led by Ninan Koshy, our friend from India. Nor can I possibly omit the names of my deceased friends, former Undersecretary of Defense Carmelo Barbero, Dr. Cirilo A. Rigos and Rev. Moley Familiaran, all of whom interceded for me. NCCP General Secretary La Verne Mercado and many evangelical leaders — bishops, pastors and lay persons in the Philippines — also petitioned for my release and I am thankful to them.

I am deeply grateful to Filipinos abroad who were with me in the unofficial quest for the Marcos ill-gotten wealth, among them, ex-Commodore Ramon Alcaraz, Dr. Ruben Mallari, Atty. Rey and Nina Mercado, Ted Padilla and many others.

In the writing of my memoir, it was my fortune to have received encouragement from my family and from numerous friends, including Professors Gary Hawes and David Wurfel, Prof. Belinda Aquino, Mr. Nick Joaquin, Mr. Billy Lacaba and his wife Wilma, my relatives Romeo Busuego, Jr. and Ms. Corinna Benipayo-Mojica, all of whom, after going over the manuscript and making some suggestions, felt that the same should be published.

Dr. Jose Abueva, former president and now professor *emeritus* of the University of the Philippines, was firm in his suggestion that, like my Senate book, this one should bear the imprimatur of our alma mater, particularly the U.P. Center for Leadership, Citizenship and Democracy. I readily agreed. I would like to acknowledge his indispensable assistance as editor and the support extended to me by Professor Ma. Oliva Z. Domingo, the Center's Managing Editor who also helped in editing the book, Mr. Garie G. Briones and Kristoffer B. Berse, research assistants, and Mr. Dominick N. Danao, cover and book designer.

I am indebted to a number of editors, journalists, commentators and columnists. In particular, Mr. Neal Cruz and Ms. Belinda O. Cunanan, have been supportive of my stand against any compromise settlement with

the Marcoses and the Romualdezes, the principals in the ill-gotten wealth cases, if compromise means exonerating them from any responsibility for the offenses they committed, in exchange for a substantial portion of the loot.

Above all, I am forever grateful to former Supreme Court Justice Cecilia Muñoz-Palma who, more than anyone, started it all.

My son Ed, and my dear friend and printer, Solomon Yuyitung, have been very generous with their time and support. Lastly, this work would not have seen the light of day were it not for the patience of my hard-working secretaries, Daday Gonzales and Cathy Abrazado.

However great my debt of gratitude to all of them and to many others whose names are not mentioned here, the shortcomings of this volume are mine alone.

JOVITO R. SALONGA

Pasig City

May 30, 2000

PRESIDENTIAL PLUNDER

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Ferdinand Marcos, with wife Imelda, moments after his oath-taking in Malacañang on February 25, 1986

“We practically own everything in the Philippines, from electricity, telecommunications, airline, banking, beer and tobacco, newspaper publishing, television stations, shipping, oil and mining, hotels and beach resorts, down to coconut milling, small farms, real estate and insurance.”

—IMELDA R. MARCOS

I

By Way of Introduction

THIS volume is but a part of a longer memoir which I have tentatively entitled, *A Journey of Struggle and Hope*. The whole memoir takes up my years of blissful innocence and adulthood, including a chronicle of some aspects of Philippine society and politics before the outbreak of the war on December 8, 1941, my incarceration during the Japanese occupation, my release from prison and involvement in some gripping events during the last two years of the war, the return of the Americans, my studies abroad and my life as a law teacher and practitioner. This, I suppose would have been the end of my story, had it not been for my entry into the fascinating but turbulent world of politics in 1960-61, the Plaza Miranda tragedy of August 1971 which brought me to the brink of death, the declaration of martial law in September 1972, our experiences during the Marcos dictatorship, my imprisonment and release, my return from self-exile one year before the snap elections and the EDSA Revolution of February 1986, my one-year stint as PCGG Chair (February 28, 1986-March 9, 1987) and my election for the third time as Senator (May 1987-1992). I wrote the Four Year Record of the Post-EDSA Senate, including its historic rejection of the RP-US Bases Treaty, in a volume which was published by the University of the Philippines Press in 1995, under the title, *The Senate That Said No*.

This work, entitled *Presidential Plunder: The Quest for the Marcos Ill-gotten Wealth*, had to be published in advance, partly due to its timeliness, and partly due to the desire of a good number of people, here and abroad, to find out how the quest for the Marcos ill-gotten wealth started and how

it was carried out. The Presidential Commission on Good Government (PCGG), which I was privileged to lead, started the official quest for the ill-gotten wealth of the dictator and his associates shortly after the assumption of the presidency by Ms. Corazon C. Aquino on February 25, 1986. Our hope in the PCGG was that at the end of her term in 1992, the search would end. It was a vain hope.

Nonetheless, a few years after my retirement from Government service, I was invited in February 1996 by concerned organizations in South Korea, led by the *People's Solidarity for Participatory Democracy* (PSPD), to speak in Seoul on "Recapturing the Ill-gotten Wealth of Dictators." When we arrived there, the papers were full of reports on the two past Korean presidents — Chun Doo Wan and Roh Tae Woh — who had been placed in detention. During the forum and in subsequent discussions, I was asked about the procedure we followed in claiming the Marcos wealth in Swiss banks. Similarly, a few months before the fall of President Suharto in May 1998, an eminent Indonesian professor, along with his companions, came to the *Kilosbayan* office to ask me how we in the Philippines began and carried out the search for the Marcos wealth. I told my interlocutors that after discovering and freezing the ill-gotten wealth, which I explained in detail, much of the success or failure of recovering the plundered wealth, whether here or abroad, would largely depend on the quality and integrity of the justice system. If courts of justice and Government prosecutors are inefficient, corrupt, or incompetent, the difficult task of recovery may be modified, set aside or reversed. Likewise, a change in the political leadership could make it easier for the successors or associates of the plunderer to reclaim a substantial portion of the ill-gotten wealth.

At the time of this writing, many cases involving the Marcos ill-gotten wealth, amounting to many billions of pesos, are still pending in the Sandiganbayan (Anti-Graft Court) and other courts. Mrs. Imelda Marcos, in her flamboyant way, revealed in an interview with the *Associated Press* and the *Agence France Presse* published in the local papers on March 27, 1998 that "there is more money that the government is not yet aware of, but for the time being I can admit that there is only \$800 million kept in various international banks." Why this revelation has not been pursued by the cash-strapped Estrada Administration is a question that deserves a good answer. Additionally, the Senate Blue-Ribbon Committee has been investi-

gating the existence of the \$13.2 billion Swiss bank account, supposedly placed in the name of one of the Marcos children.

Like the holocaust of Hitler's concentration camps and gas chambers which led to the extermination of six million Jews, the saga of the Marcos stolen wealth is apparently without end. Nor, for that matter, the gross violations of human rights committed during martial rule when thousands of people were tortured, summarily executed or "salvaged" by the Marcos military diehards, purportedly in the name of national security.

But two lessons should prove instructive to our people, despite the apparent lack of sensitivity to the demands of justice on the part of some high public officials. First, a ruler who exploits and abuses his people cannot escape the long arm of justice, as long as there are non-governmental and people's organizations, led by knowledgeable persons of principle and dedication, who remain vigilant. Second, like an individual who does not want to acknowledge the enormity of his wrongs, a nation that does not honestly face the past and come to terms with it, cannot live with a sense of honor and purpose in the present nor face the future with confidence.

The South Korean presidents mentioned earlier acknowledged their guilt, apologized and asked for the people's forgiveness even as they suffered imprisonment. Not in the case of the Marcoses, who express pride in what they had done in twenty years of power. All they want is a harmless amicable settlement that will, among other things, exonerate them, even as they split the loot with a cash-starved Government. The rationale on the part of the Ramos and the Estrada Administrations to enter into such a settlement with the Marcoses is almost the same — the long time that has elapsed since the EDSA event of 1986 and the incomplete, allegedly insignificant recovery of the ill-gotten wealth. Overlooked are two facts: (1) that the Marcoses, through their many lawyers, had used a series of dilatory tactics to thwart our recovery efforts, particularly in Switzerland; and (2) after the demise of the ousted dictator in September 1989, his surviving heirs returned only in late 1991 to enable the former First Lady and her son to run in the 1992 elections. Under Philippine law, no criminal charge could be prosecuted against them as long as they were abroad. They have to be physically present during the arraignment and the rendition of the judgment. This is not to justify the lack of zeal and the shabby preparation on the part of some Government prosecutors and lawyers handling anti-

graft cases. But for the most part, the long delay was not caused by the Government but by the Marcoses.

A relevant incident may be worth recalling. Around March 4, 1987 in Honolulu, a few days before my resignation from the PCGG, former President Marcos conferred with Mr. Rafael Fernando, the PCGG executive who flew from Los Angeles to Honolulu, at the request of a Marcos agent, for the purpose of exploring the possibility of a compromise settlement. In the course of their conversation, the former president told Mr. Fernando that he was apprehensive because he learned that "Salonga is vindictive due to what happened to him in Plaza Miranda." Mr. Fernando told the former president that his information was incorrect. It turned out that what the deposed dictator really wanted was "reconciliation" with the newly-installed Government without any fair and full disclosure of what he did during his years in power. Full disclosure, in the view of the ousted dictator, would amount to admitting his guilt. But as demonstrated in South Africa's Truth and Reconciliation Commission, true reconciliation cannot be achieved by denying the past. In my view, national reconciliation would be meaningless unless it is based on truth and justice. In any case, a word of comment on the Plaza Miranda bombing might be appropriate.

A brief historical background

I knew the deposed ruler several years before he took his oath as President of the Philippines on December 30, 1965. Both Mr. Marcos and I had been in the Liberal Party for a number of years, he as party president, and I as a congressman from the 2nd district of Rizal. But in 1964, then Senate President Ferdinand E. Marcos transferred to the Nacionalista Party and became its official candidate for president in the November 1965 elections against incumbent President Diosdado Macapagal. I was chosen one of the eight candidates for the Senate under the banner of the Liberal Party. In the course of that campaign, I was asked by high leaders of the Liberal Party (LP) to speak about Marcos' involvement in the Nalundasan murder case. This I refused to do since I had written a Law Review article when I was Dean of Law of Far Eastern University, in praise of Dr. Jose P. Laurel, who, among other things, penned the decision of the Supreme Court acquitting the young Marcos of murder. After the 1965 presidential elections which he won over former President Macapagal, President Marcos and I played golf, along with others, a number of times. This, despite the fact

that I had been elected Opposition senator in the 1965 elections. I had always believed that in a free, civilized society, persons holding contrary views can disagree without being disagreeable.

But one year and a half after Marcos assumed office, I noticed something unusual and disturbing. A group of old, misguided people, marching with what they believed to be "sacred bolos and amulets" under the banner of *Lapiang Malaya* (Free Party), were gunned down in cold blood in Pasay City by Philippine Constabulary troopers, using automatic weapons. Thirty three were killed and seventeen were wounded in the one-sided clash of May 21, 1967. Less than a year later, on March 19, 1968, some sixty Army recruits, mostly Muslims, were massacred by their superior officers in a training camp in Corregidor island. They had been recruited to infiltrate Sabah, find Filipino residents there and incite them to secede from Malaysia. Evidently the mass slaughter, otherwise known as the Jabidah massacre, was resorted to when President Marcos decided to conceal the real nature of their mission.

The first term of Marcos saw the emergence of relatives, cronies and close associates in key positions — in the Armed Forces, the public banking and financing institutions, important Government corporations and the Cabinet. Before the first term of four years was over, almost the entire Government apparatus, including the public treasury, had fallen under Marcos' complete control. Even the press was not spared: friendly reporters and journalists were placed on the payroll of Malacanang or of ranking Government officials.

When Marcos ran for reelection as president, it was assumed his unlimited funding would buy an unprecedented second four-year term. Political analysts were one in saying there would be no need for Marcos, a known *segurista* (one who always wants to be very sure), to make use of the Philippine Constabulary under one of his closest aides, Gen. Vicente Raval, or of the notorious private armies of his political lieutenants from Ilocos Norte in Northern Luzon to Sulu in Southern Mindanao. But they were proved wrong. The Marcos penchant for overkill prevailed. The 1969 presidential election was won on the basis of what independent Filipino reporters described as the three g's — *guns, goons and gold*. The international press, led by *Newsweek* and *Time*, condemned it as "the dirtiest," "the most violent" and "the most corrupt election in modern Filipino history."* Marcos

**Newsweek*, November 24, 1969, February 16, 1970; *Time*, February 16, 1970.

propagandists hailed his landslide majority of more than two million votes as the overwhelming expression of national will. But many people, including those who did not vote for Sergio Osmena, Jr., his opponent, were outraged and furious. They could not celebrate an electoral "triumph" that had been marred by shameless raids on the public treasury, amounting to almost a billion pesos, and tainted by wholesale frauds, including the printing and use of fake ballots and fake election returns.

The newly reelected president made a dramatic announcement on the eve of New Year, obviously to quell the growing public resentment at the way the election had been rigged and manipulated in many cities and provinces. Marcos, with great flourish, declared in a nation-wide radio-television hookup:

"I have given away all my worldly possessions to the Filipino people."

Many people who listened to him played up the words "I have given away" and wondered whether it was just another empty promise or an accomplished fact. Some read his announcement very closely, as published in the major national newspapers on January 1, 1970:

"I have therefore given away, by a general instrument of transfer, all my material possessions to the Filipino people through a foundation to be organized and to be known as Ferdinand E. Marcos Foundation.

"It is my wish that these properties will be used in advancing the cause of education, science, technology and the arts.

"This act I undertake of my own free will, knowing that having always been a simple man, my needs will always be less than the needs of many of our people, who have given me the highest honor within their gift, an honor shared by no other Filipino leader.

"Since about a year ago, I have asked some of my closest confidantes to study the mechanics of this decision. Today studies have been completed. And the foundation will now be formed to administer these properties and all funds that may be generated therefrom.

"My wife, Imelda, is in full agreement, and wholeheartedly supports me in this decision.

"Provisions will be made for my children so that they shall be assured of satisfactory education and be prepared to meet their lifetime duties and endeavors.

"For the moment, my most sincere hope is that this humble act shall set the example, and move to greater deeds of unselfishness and compas-

sion, many of our countrymen whose position in society gives them a stronger duty to minister to the needs of our less fortunate brothers and countrymen.”

A good number of those who read it concluded that it may have sounded on television and radio like a finished act, but what Marcos had published in the newspapers indicated that something yet had to be done — the organization of a foundation by persons close to Marcos himself who would faithfully carry out his wishes, in the fields of education, science, technology and the arts.

On January 22, 1970, the Ferdinand E. Marcos Foundation, Inc., was registered with the Securities and Exchange Commission. The names of the incorporators who were also the Trustees of the Foundation and their residences were listed as follows in the Articles of Incorporation, as filed with the SEC:

Juan Ponce Enrile	17 Cruzadas St. Urdaneta Village, Makati
Onofre D. Corpuz	7 Matiwasy St., U.P. Village, Quezon City
Geronimo Z. Velasco	1254 Acacia Road, Dasmarias Village
Cesar Virata	63 East Maya St. Quezon City
Cesar Zalamea	18 Asteroid, Bel Air, Makati, Rizal

Elected as Treasurer of the Foundation was Cezar Zalamea; the Foundation Secretary was Edgardo J. Angara, who acknowledged with his signature receipt of the Certificate of Registration issued by Securities and Exchange Commissioner Mariano G. Pineda.

No sum of money was stated in the Articles as the contribution of the first trustees of the Foundation. Nor is there any evidence to show that the Foundation at any time after the filing of its incorporation papers started disposing of the worldly possessions of President Marcos. Except for Zalamea, I happen to know all of them — they were public officials who had been close to Marcos. But I do not make any judgment on why they signed the Articles of Incorporation and the By-Laws. In fairness to them, they probably had no inkling, just like most people, that in January 1970, Marcos and his wife Imelda had already amassed a considerable sum of money in Swiss banks since March 20, 1968 — the date they began their incredible plunder by hiding their loot in Switzerland. Although I was in the Opposition, all I knew was that Marcos had some deposits in U.S.

banks. It was only after the EDSA Revolution that I found the truth about the enormous plunder, as narrated in this book.

In any case, the fraudulent, violent presidential election of 1969 brought to the fore the question of whether the system was so vicious and hopeless it should be cast overboard. The question was partly answered.

In a rash of demonstrations, marches and riots, particularly in the Greater Manila area, students, laborers, farmers, peasants and intellectuals found a common cause. The whole nation caught the mood of the time when they saw on their TV screens the newly reelected president and his wife being greeted with placards, posters, a coffin (symbolizing the death of democracy) and a cardboard crocodile (symbolizing greed), as they emerged from the Legislative Building, where he had just delivered his January 1970 State of the Nation address. The huge demonstration ended in a riot. Many students were wounded by the police.

Four days later, an angry group of around 4,000 students stormed the presidential palace, ramming a fire truck through the front gate. In what is now known as the Mendiola Massacre, named after the bridge near Malacanang, four students were killed and hundreds were injured in the eight-hour siege. More demonstrations, marches and riots rocked Manila and environs. Enraged students demanded the ouster of General Raval and Philippine National Bank president Roberto S. Benedicto, a Marcos close crony. Both resigned and were transferred to other key positions.

The demand for a new constitution that would permit the restructuring of society mounted. We in the Senate at that time finally yielded to public pressure, as did the House of Representatives, by authorizing the election in November 1970 of delegates to the Constitutional Convention, despite the fears of not a few people that the Convention itself might be manipulated by Marcos. The elections were held, as scheduled, and a number of men and women of competence, integrity and idealism, including my two law partners, Prof. Sedfrey A. Ordonez of Nueva Ecija and Dr. Pedro L. Yap of Cebu, and a few friends, such as Dr. Cicero Calderon of Silliman University, Father Pacifico Ortiz, S. J., of Ateneo and Dr. Cesar A. Espiritu, my colleague in teaching, won as delegates. The Constitutional Convention, otherwise known as "Concon," opened in 1971, amidst a welter of conflicting hopes and fears.

The Plaza Miranda bombing

Around the middle of 1971, Senator Gerry Roxas, the president of the Liberal Party, requested me to head the senatorial slate of the Party for the November 1971 elections. I tried to beg off. I told Gerry that as there were many good Liberals who had expressed the desire to run for the Senate, a good number of whom were incensed by the frauds and terrorism that characterized the 1969 elections, they should be given the chance. I thought I could just go back to law teaching and active practice. I could also begin revising my law books, which I had neglected. But Gerry wouldn't listen. He talked about the responsibility of the front-rank leaders of the Liberal Party to see to it that in a country in deep crisis, democracy was kept alive. In the end, I reluctantly yielded to his request.

I ran for reelection and, in the first phase of the campaign, was bombed by unknown persons during the LP Proclamation rally in Plaza Miranda on the evening of August 21, 1971. Marcos' own diary entry that night shows that he had been informed that both Sergio Osmeña, Jr. and I were in very grave condition. Shortly after I regained consciousness in the Manila Medical Center, I was interviewed by the media. I vividly recall saying that I had nothing but forgiveness for those who had something to do with the bombing. Although many people believed, and continue to believe up to now, that Marcos was the one who masterminded the bombing, I deliberately refrained from accusing him since I did not have any supporting evidence of his involvement. I had authored a book on Evidence used by lawyers and law students and felt I had to be very careful in making any charge of wrongdoing. After the EDSA Revolution, I repeatedly stated that in my considered view, based on my own study of the evidence, it was not Ferdinand E. Marcos, but someone else, who had masterminded the Plaza Miranda tragedy.

It would not be accurate, however, to say that I was completely unaware of the pre-martial law activities of the Marcoses in accumulating wealth beyond their legitimate income. In 1968, I exposed on the floor of the Senate two scandals in which President Marcos had a key role — (1) the Benguet-Bahamas deal which involved him and his close friends; and (2) the falsified resolution of the National Economic Council, which enabled him to unduly favor big Japanese trading companies. But I did not realize, until the Malacañang documents came into my possession after the Marcoses' hurried flight from the Palace in the evening of February 25,

1986, the last day of the EDSA Revolution, that the Marcoses had been secretly depositing enormous amounts of money in Swiss banks since March 1968, just two years after Mr. Marcos legitimately assumed power as president of the country and more than four years before the imposition of martial law. Following my release from imprisonment in Fort Bonifacio in November 1980, my wife and I left for the United States in March 1981 and lived in self-exile in Hawaii, in Connecticut and in California. Aside from what I knew about their peculiar activities in the Philippines, I read and analyzed reliable accounts of the investments of President and Mrs. Imelda Marcos in four huge buildings in Manhattan, New York City, and the Lindenmere estate in Long Island. I helped in organizing a small group of friends in the United States who studied and compared notes on the unusual accumulations of wealth by the Marcoses, here and abroad.

As was my wont since I entered public life in 1960, I have been keeping a diary of my daily activities. The entries in my diaries have been of great help to me in the writing of this particular volume.

There are many books, publications and accounts on the stolen wealth of Marcos. Indeed, no president in the history of the Philippines — from the times of Manuel L. Quezon, Sergio Osmeña Sr., Jose P. Laurel (during the Japanese occupation), Manuel A. Roxas, Elpidio Quirino, Ramon Magsaysay, Carlos P. Garcia, Diosadado Macapagal up to the exciting post-EDSA days of Corazon C. Aquino and Fidel V. Ramos — has ever inspired such a rich collection of books and reports on one person's incredible greed and plunder. Some of them are listed in the Bibliography. But this book may well be different in one respect.

Only those accounts that have probative value, in that they are supported by credible evidence admissible from the viewpoint of a neutral observer or an impartial court of justice, are considered to be part of the Marcos ill-gotten wealth. For example, the \$630 million Marcos Swiss deposits (including interest, as of May 2000) already remitted to the Philippines and subject to the final decision of Philippine courts, are undoubtedly part of the plundered wealth of the nation. The Swiss Federal Supreme Court, in its landmark decision of December 10, 1997, declared the Marcos Swiss deposits to be "criminally-acquired" and of "illegal provenance." Under Swiss and Philippine rules of Private International Law, the Swiss authorities had to defer to the final ruling of the appropriate Philippine court (the Sandiganbayan) since the crimes of malversation of

public funds, extortion, theft, or violations of the Anti-Graft Law, were committed in the Philippines, the *lex loci delicti*.

Although the Sandiganbayan has not yet rendered its decision on the forfeiture suit (CC 0141), there is more than enough evidence, in my view, to justify the inclusion of the Marcos Swiss deposits as the ill-gotten wealth of the deposed dictator. For the same reason, the ill-gotten wealth surrendered to the Government by a major Marcos crony, Jose Yao Campos, in the May 1986 Compromise Settlement he had entered into with the PCGG, now amounting to many billions of pesos, is considered in this book as part of the plundered wealth of Marcos.

But mere expressions of opinion, hearsay assertions and self-serving claims, such as the “more than 4,000 tons of gold,” supposedly belonging to Marcos before he became president, as revealed by Ms. Imelda Marcos in her “bombshell” revelations of December 1998, or the so-called Yamashita treasure, which exists only in the imagination of some Marcos apologists, fortune-hunting adventurers or tabloid journalists, are not counted in this work as part of the dictator’s ill-gotten wealth. Adherence to rules of fairness and reason may entail some delay but as I pointed out in a Commencement Address to the students of the U.P. College of Law in April 1995:

There are certain fundamental questions of right and wrong, including the crucial question of responsibility for the plunder of the nation’s wealth, that must be resolved by our people, no matter how long and how much it takes. These questions and their resolution define who we are as a people — our essential character, our integrity, our tenacity and courage, and our sense of right and wrong.

Despite its subtitle, this work is not just an account of a plunder that is unique and unprecedented in Philippine history. In a deeper sense, this volume is about the long, seemingly endless search for justice of our aggrieved, oppressed people.

II

The Start of the Aquino Government

Installation of the Aquino Government

At 9:30 in the morning of February 25, 1986, the last day of what is now known as the EDSA Revolution, hundreds of Opposition leaders in Metro Manila were assembled in the Kalayaan Hall of Club Filipino for the proclamation and inauguration of Corazon C. Aquino as president of the Philippines.

We who knew her deceased husband Ninoy since the mid-sixties and took up his defense before and after the imposition of martial law, sensed that at long last the long, dark night of oppression was over. I had been in the hall half an hour earlier. Senator Lorenzo "Tanny" M. Tañada, the "grand old man of the Opposition," was seated beside me. Both of us knew that a few kilometers away, Ferdinand E. Marcos and his wife Imelda were still in Malacañang, despite the wild rumors that they had already left the palace.

What we did not know was that the beleaguered, ailing Marcos had been in contact with a very influential friend in the United States in the wee hours of the morning. Between 2:45 to 3 a.m. in Manila, Marcos was able to talk by phone with Senator Paul Laxalt, Reagan's close ally, in Capitol Hill around the same time in the early afternoon in Washington, D.C. Laxalt was with Secretary of State George Schultz, Ambassador Philip Habib, and Undersecretary Michael Armacost, all of whom had been briefing U.S. senators on the crisis in Manila.

What Marcos really wanted to know from Laxalt was whether the messages received in Manila about a peaceful transition to a new govern-

ment expressed the views of President Reagan. The answer was apparently yes. The wily dictator suggested that perhaps a coalition government where he could serve as a counselor to Aquino might be worked out. Laxalt said he would check with President Reagan and then call Marcos.

But among the diplomats in conference at that point with American senators, Marcos' proposal for a coalition government was unacceptable. As to whether he could stay in the country, somewhere in the north, the consensus was that such an arrangement "would be up to Mrs. Aquino." Senator Laxalt quietly asked Armacost, who had been ambassador in Manila, what could be wrong with Marcos' proposal. Armacost replied that Marcos in his home province would be "a symbol for the disaffected elements of the military, and you would have a civil war."

It was around 5 o'clock in the morning in Manila when Laxalt called Marcos back. Again Marcos asked: "Did President Reagan want him to resign?" Laxalt said he could not answer for the president but power sharing would be impractical and undignified. Laxalt repeated Reagan's invitation to the Marcoses to move to the U.S. Then Marcos asked the crucial question — "What do you think I should do?" And Laxalt said: "Cut and cut cleanly. The time has come."

After a long pause, so long that Laxalt had to ask whether Marcos was still there, a weak, dispirited Marcos finally said: "I am very, very disappointed."¹

Around 10 o'clock, Justices Claudio Teehankee and Vicente Abad Santos, the two independent-minded members of the Supreme Court, arrived. They were seated beside me and Senator Tañada.

Teehankee, a bar topnotcher and at one time a partner in the law firm headed by Senator Lorenzo M. Tañada, had been a follower of Marcos before martial law, having been appointed Secretary of Justice and, a little later, Justice of the Supreme Court. I used to have my disagreements with him. But after the ratification cases which were decided in 1973, he became a principled dissenter and was bypassed several times by Marcos as chief justice. Abad Santos had been a respected dean of law in the University of the Philippines, was appointed Secretary of Justice, and then became a member of the high court. Although he was with the Marcos Administration at the start of martial rule, he was never a blind follower. These two

¹Raymond Bonner, *Waltzing with the Dictator* (NY: Times Books, 1987), pp. 439-440; and Sandra Burton, *Impossible Dream* (NY: Warner Books, 1989), pp. 403, 404.

justices would administer the oath of office to Cory and Doy respectively. It was expected that they would occupy the two highest positions in the judiciary.

A little later, Defense Minister Johnny Enrile and General Fidel Ramos arrived. The crowd clapped enthusiastically and were obviously grateful for their role in the EDSA event, which started as a mutiny and became a popular uprising.

Minutes later, Cory Aquino and Doy Laurel, came into the hall, amidst thundering applause. “*Coreee, Coreee, Coreee,*” the crowd chanted, as if it was campaign time again. Slowly, the two were able to reach their seats.

Dindong Teehankee asked me to find out whether Cory, who was seated nearby, had a prepared inaugural speech. I did and she replied — “*Wala akong handa.*” (I prepared nothing). Teehankee asked “How about Doy?” Doy answered — “Yes, I have. *Lagi tayong handa.*” (We are always prepared). Cory was requested to have someone prepare a short speech. After a few minutes, someone gave her what turned out to be her inaugural address.

The hall was full of people and media representatives were there in full force. The stage was now set for the reading of the proclamation asserting the right of the people to establish a government of their choice. Former Congressman Neptali Gonzales began reading the proclamation and names of Opposition personalities were announced, one by one, as the authors of the proclamation. A justice who had been close to Marcos since before martial rule and had been a devoted apologist in the high court during martial law was present and when his name was announced, thunderous boos were heard. He left the hall.

The new president stood up before Senior Justice Teehankee and then swore on a Bible held by Doña Aurora, Ninoy Aquino’s mother. Cory’s speech was short but contained an inadvertent error.

She declared: “It is fitting and proper that, as the rights and liberties of our people were taken away, at midnight twenty years ago, the people should firmly recover these lost rights and liberties in the full light of day. And now, I would like to appeal for national reconciliation, which is what Ninoy came back home for.”

Twenty years ago was not the year when martial law was proclaimed by Marcos. In 1966, Marcos became president after defeating incumbent president Diosdado Macapagal in a free, democratic election. But six years

later, in September 1972, Marcos declared martial law, curtailed the liberties of the people, shut down the media, abolished Congress, and crippled the judiciary — all with the backing of the military. In one stroke of the pen, darkness descended upon the whole nation — almost fourteen years earlier.

It was the turn of Doy to take his oath before Justice Abad Santos. The speech of Doy Laurel was longer. He knew it was a historic occasion and he came with his prepared speech.

Cory thereupon announced that Juan Ponce Enrile would be the Minister of National Defense and Fidel V. Ramos the new Chief of Staff of the Armed Forces. The people applauded.

Many people, witnessing the proceedings, did not seem to realize the precariousness of the new order. A unique revolutionary government, backed up by a disparate, unwieldy coalition but apparently committed to destroy the legacy of Marcos and restore the people's basic liberties and human rights, was now installed with Cory Cojuangco Aquino as the new president.

Post-inaugural celebration, the Marcos inaugural and flight

As the crowd began dispersing, my friends Dindong Teehankee, Manny Pelaez, and Tony Anton, my neighbor in Pansol, Laguna who was now with the management of Club Filipino, asked me and my son Steve to join them in celebrating the event. We had drinks and a hearty lunch. We exchanged views on what would happen in the next few days. After a few words of mutual best wishes and good luck, Steve and I went home.

It turned out that Marcos had also been inaugurated in Malacañang by Chief Justice Ramon Aquino. But Arturo Tolentino, his vice president, was nowhere to be found. Nor Prime Minister Cesar Virata. Marcos had been left alone by his close aides. Only Imelda and the children were around to keep him company inside the presidential palace. There were the usual loyalists around the Malacañang grounds. But it was a pathetic sight. The nation now had the unusual spectacle of two presidents trying to govern a bewildered people at the same time.

At 6 p.m. I spoke at the Ellinwood-Malate Church before an assembly of Church leaders. I reviewed the unexpected events of the last few days and the unbelievable might of a determined people who, although without arms, protected the military leaders who had defected from the dictator. It

was a historic role in reverse. I said public expectations were high and the new democratic government must try to solve many problems that cannot be solved immediately — among them unemployment, high prices, massive poverty and corruption.

I went home for dinner and in a short while a group of friends came — Father Bernas, Dr. Noel Soriano, Dr. Alran Bengzon, and Ching Escaler. We chatted about the prospects of the new government, little realizing that the Marcoses and their close associates were already preparing to leave Malacañang for Clark Field in Pampanga before proceeding to Hawaii.

After our visitors left, Lydia and I got the happy news that the Marcoses had fled and that a delirious crowd was converging on the Palace. At last, the corrupt and repressive dictatorship had come to an end. We were quite tired but thankful and happy. We had gone through so much during the Marcos years — persecution, near death, imprisonment and exile. After our night prayers, Lydia and I dozed off and, later, had a sound, restful sleep.

III

Laying the Foundation

How the PCGG was born

Around six in the morning of February 26, 1986, the first day of the Cory Aquino administration, BBC London called to find out the latest developments in the Philippines. I summed up the latest events as best I could. My dear friend Rafael Fernando from LA also called. He said the news there was heartening — Ferdinand and Imelda Marcos were on their way to Honolulu.

At 8:30 a.m., former Justice Cecilia “Celing” Palma, perhaps the closest adviser to the president at the time, came. She had a message from Cory. Could I possibly be in the new Government? I said yes, I would be honored. Celing asked where I would prefer to serve. Perhaps in the Department of Justice or in Foreign Affairs, I said. Celing remarked that Justice was probably committed. Foreign Affairs is also out — Doy Laurel would probably get that.

Having in mind what I had written in the LP Program of Government as one of the tasks of the new Government, namely, “Recovery of the ill-gotten wealth of Marcos and his cronies and subordinates,” I told Celing that this work would interest me. Celing left after saying she would get back to me.

At noontime, our daughter Patty called from Hawaii. The news was confirmed — the Marcoses were due to arrive there. Patty was very happy. She had suffered as much as we did, perhaps even more during the long dark years of martial rule.

In the early afternoon, Celing Palma called. I would be appointed Chairman of the Commission on Good Government, with cabinet rank. I didn't ask whose idea it was to give that particular name to the Commission. It sounded like the name of a congressional committee I had chaired in 1962-1965, after my election as congressman of the second district of Rizal. A little later, Cory announced to the media and to the nation her appointments: Vice President Laurel would serve as Minister of Foreign Affairs, Joker Arroyo as Executive Secretary, Jaime Ongpin as Minister of Finance, Neptali Gonzales as Minister of Justice, Ramon Mitra as Minister of Agriculture, Aquilino Pimentel, Jr. as Minister of Local Government, Rogaciano Mercado as Minister of Public Works, Augusto Sanchez as Minister of Labor, Ernesto Maceda as Minister of Natural Resources, among others.

Cory then said I would be the chair of the Presidential Commission on Good Government and concurrently Minister of Good Government, with cabinet rank. My task would be to recover the ill-gotten wealth of the dictator and his cronies and go after the violators of human rights. I couldn't sleep that night. The two-fold task struck me as too heavy; my original understanding with Celing Palma was limited to the recovery of the ill-gotten wealth. The next morning, I called some friends for advice, among them Father Bernas, Dr. Cirilo Rigos and Delegate Abraham Sarmiento. The latter said it would be a difficult, thankless task.

The next day (February 27), while still debating in my mind as to whether I should accept or not, Severina Rivera called me from Washington, D.C. Her voice was clear and she was obviously excited. She congratulated me for the appointment I had not yet accepted and said she had some important news for me — the four Manhattan buildings of the Marcoses, along with the Lindenmere estate in Long Island, New York, may be sold anytime now by the Bernstein brothers. She said we should go to court now and restrain the Bernsteins. I requested her to get in touch with some lawyers there and try to get a restraining order.

Severina replied: "I can do that but do we have the money for attorneys' fees? Lawyers here are paid by the hour." My answer was "no, our treasury is probably empty. But can you get lawyers who will serve our people without thought of compensation?" She said she would try.

Past midnight, Severina called. She said she had contacted some lawyers from the Center for Constitutional Rights in New York.

They would be willing to serve the Philippines *pro bono*. They would

work on the petition but they would need an appointment by telex or cable. I sent a cablegram of appointment right away, as soon as Severina said goodbye. Trying to go back to sleep at 2 a.m., I began to realize that midnight calls from abroad, due to the time differential, would probably be my lot from then on. In a way, Severina's call and my answers to her settled the question of my acceptance of Cory's appointment, at least with respect to the recovery of the ill-gotten wealth of the Marcoses and their associates.

The next day (February 28) I had calls from foreign correspondents, among them Pam Bolluck of *San Francisco Chronicle* and Seth Mydans of the *New York Times*. It occurred to me that recovering the Marcos ill-gotten wealth would probably be the hot news in the United States and other places at this point. But without solid evidence, where do we begin?

In the afternoon, I went to the Cojuangco Building in Makati and saw President Cory. I told her I couldn't accept the second part of the job she was assigning to me. Recovering the ill-gotten wealth would be a very difficult, back-breaking job in itself — going after human rights violators, most of whom were military officials, would be humanly impossible. She saw the point immediately. I suggested the creation of a Commission on Human Rights. She agreed but asked — "Who would head the Commission?" We thought of several names but finally agreed on Jose "Pepe" W. Diokno. I said I would contact him.

Then I told her about the New York properties and my appointment of the Center for Constitutional Rights as our American legal counsel *pro bono*. She nodded.

When I got home, I called Pepe Diokno by phone and informed him of Cory's desire. He said he was willing to head the Human Rights Commission but subject to certain conditions. We agreed he should discuss directly with Cory the conditions he had in mind.

After dinner that evening, Mr. Jose "Ping" de Jesus, the head of the Development Academy of the Philippines and his colleague, Nieve Rosete, came to my Pasig residence. They said they were aware of the fact that the Presidential Commission on Good Government had no regular office yet — could we consider part of the DAP Offices in Pasig as the Commission's temporary building? It was a very thoughtful gesture which touched me and Pedro L. Yap, my law partner and close friend, who was in my residence at the time. We visited the DAP quarters the next morning. The

building was new and the place they indicated for us seemed satisfactory in the meantime. We felt we could start working there beginning Monday, March 3 as it was imperative that we transfer elsewhere. My residence was swamped with people from morning to night.

In the meantime, I had had preliminary discussions with two persons of my confidence — Pedro “Pete” Yap, my closest friend since our days in the U.P. College of Law, and Ramon Diaz, an honest, able friend. Ramon was hesitant in the beginning, which was understandable. He had handled more important positions in the past, such as General Manager of the Government Service Insurance System (GSIS), then as Executive Secretary to President Macapagal and, after he lost in his Senate bid in 1965, as Chairman of the Board of the Bank of the Philippine Islands. In any case, both of them finally agreed to work with me in the Presidential Commission on Good Government, knowing the gravity of our responsibilities, on the one hand, and the high expectations of our people, on the other. Congressman Raul Daza also called from LA and wanted to find out what he could do to help. His initial desire was to be with the Commission on Audit but since Tito Guingona reportedly got it, he agreed to consider joining our Commission.

Around this time, I was also appointed by President Cory Aquino as chair of the Ad Hoc Committee on the Immediate Release of Political Detainees, with Pete Yap, Joker Arroyo and Rene Saguisag as members.

Our big break

On Saturday, March 1, an important event occurred. Pete Yap, Rene Saguisag and I had just finished our discussion with the military establishment, headed by Minister Enrile and General Fidel V. Ramos in Camp Aguinaldo, on the release of almost all political detainees (including, if I recall correctly, Jose Maria Sison and Dante Buscayno) when all of us, except Rene who had just left, received an urgent message from Minister Jaime Ongpin. He requested us to go to the house of a certain Dr. Lita Reyes in Dasmariñas Village. Some important documents and articles had just been deposited there. Pete Yap and I agreed to go and we proceeded there in my car. Enrile and Ramos went on their own.

It turned out that the Makati residence was owned by a businessman, Mr. Jose Reyes, a shipping executive, and his wife, Dr. Angelita Reyes, a skin specialist, a classmate and a dear friend of Cory. We saw Jimmy Ongpin

there. It was explained to us that the day before (February 28), Lita Reyes and her group, which included her patient, Tingting Cojuangco, had gone to the Palace, found various documents and articles there, and placed them in a number of suitcases and boxes which they now wanted to turn over to the Commission on Good Government, in the presence of Minister Enrile, General Ramos, and Minister Ongpin. I was agreeable, but since we had no office and no place for them yet, Jimmy Ongpin suggested that all the suitcases and boxes be brought to the Central Bank. I agreed to the proposal. Jimmy immediately arranged for an armored car from the Central Bank to bring all the materials there. Meanwhile, Minister Enrile and General Ramos left. Pete Yap and I followed the armored car to the Central Bank, as did Minister Ongpin. The suitcases and boxes were unloaded near the Office of the Governor of the Central Bank. Governor Jobo Fernandez, who must have been informed by Minister Ongpin, arrived from a golf game and, at our suggestion, all copying machines were assembled near his own Office.

The documents were photocopied for several days and nights on a non-stop basis, after which the originals and the duplicates were secured in several vaults, under the direction of Commissioner Yap and myself. Among the key documents that we found were the contracts signed on March 20 and 21, 1968 by Ferdinand E. Marcos and Imelda Romualdez Marcos, respectively, with Credit Suisse Bank, adopting the use of pseudonyms (William Saunders for Ferdinand and Jane Ryan for Imelda); and two trust instruments signed by Joseph Bernstein on a Manila Peninsula Hotel stationery, the first in favor of President Marcos with respect to all matters relating to the Lastura Corporation (involving the Crown Building on 5th Avenue in Manhattan, New York) and the second in favor of Beneficio Investment (pertaining to 40 Wall Street Building, also in New York). As regards the various articles of value, they were inventoried and then placed in the vault of the Central Bank, with the knowledge of Governor Fernandez.

Other documents and articles of value

Let me now digress and take up something that had been talked about in those days.

Some persons, not necessarily hostile to the new Administration, had repeatedly asserted that some valuables of Imelda Marcos had been taken

from the Palace shortly after the flight of the Marcoses. It might be good to point out that what we (Commissioner Pedro Yap and I of the PCGG) obtained from the Reyes' residence in Makati, in the presence of Enrile, Ramos, and Ongpin, on March 1, 1986, were the documents and articles turned over to us by Dr. Angelita Reyes and her husband, Mr. Jose Reyes, a complete inventory of which we left in the files of the Central Bank and the PCGG.

How about the documents and articles in Malacañang before the turnover to us on March 1? In giving a partial answer, several points must be considered. First, when the Marcoses and their retinue fled the Palace on the evening of February 25, 1986, they brought with them to Hawaii documents and articles of value, including boxes of Philippine currency. These fell into the hands of U.S. Customs authorities in Honolulu who inspected them. I understand a good number of papers and articles were released to the Marcoses, but others were seized, inventoried and placed in custody by the U.S. Customs authorities. Second, Mr. and Mrs. Marcos fled in a hurry in the evening of February 25 and left many documents and articles behind. A mob, as reported the next few days in reliable press accounts, surged into the Palace shortly after their departure and took some papers and articles. A little later, some persons, on behalf of the new President, and some military personnel, also came to the Palace and inspected the rooms, including the quarters of Ferdinand and Imelda Marcos.²

Third, Dr. Angelita Reyes told us that she, along with some people identified with Ms. Tingting Cojuangco, went to the Palace on the morning of February 28. What happened inside the Palace between February 28 up to the turnover to us of the documents and articles in the afternoon of March 1 is beyond the personal knowledge of then Commissioner Yap and myself, but probably within the personal knowledge of the members of this group.

The documents brought to Honolulu by the Marcoses

In the evening of Sunday (March 2, 1986) after the Luneta Thanksgiving Rally, Pete Yap and I went to the Quezon City residence of Cory, with a letter addressed to Ambassador Bosworth, to be signed by President Aquino, requesting the U.S. Government to take custody of all documents

²See Joker Arroyo's "Edsa Reflections," *Sunday Inquirer Magazine*, February 26, 1989, p. 5.

and assets brought to Honolulu by Mr. and Mrs. Marcos and their retinue which belong to the Philippine Government. Among those we found there conversing with Cory were Jimmy Ongpin, Joe Concepcion, and Cesar Buenaventura. Cory signed the letter I had drafted. Someone in Jimmy Ongpin's group volunteered to handcarry it to Steve Bosworth.

On March 4, I had a breakfast meeting with Ambassador Habib at the Makati residence of Ambassador Bosworth, I went there with Pete Yap and Raul Daza, who had just arrived from Los Angeles the day before.

Among the items we discussed was my letter to Steve Bosworth, stating the Government's claim on the assets and documents brought by the Marcoses to Honolulu. My friend John Maisto, who was then the head of the Philippine Desk in the State Department, was the one taking notes. Ambassador Habib said the matter would probably have to be litigated in U.S. courts. I did not agree insofar as the said documents were concerned. I said that on the basis of my own experience, this was not the way the U.S. Customs authorities handled my papers in March 1981, when I arrived in Honolulu several months after my release from military detention. My private papers, including letters and my diary entries, were seized, photocopied, and — according to the reports — eventually turned over by the U.S. authorities to the Marcos Government.

Arrival of Steve Solarz and the need to testify in NY

In the morning of March 6 (Thursday), Congressman Steve Solarz came to the house in the company of his staff members, including a knowledgeable lawyer. I noticed that Solarz had a television crew following him. My fellow commissioners and I talked with him and his aides about PCGG matters, mostly about the legal strategy we would adopt in New York courts. When Solarz was on his way out, he quietly asked me about any evidence we might have against Marcos and the Bernstein brothers. I brought him to my library and showed him two documents presumably signed by Joseph Bernstein, one of which specifically referred to Marcos as the beneficiary. I told him that I would testify in the New York court in a week or so and that I had been advised by our New York lawyers not to talk about these documents in the meanwhile. He promised he would not reveal the existence of these documents. I was quite surprised the next day when the papers headlined what Solarz said — “I have seen the smoking gun — a document signed by Joseph Bernstein.”

In the afternoon, I was in the Central Bank with Finance Secretary Jimmy Ongpin and CB Governor Jobo Fernandez. If I recall our conversation correctly, they stressed the need to stabilize the banking system. The Commission, they said, should be careful not to cause a run on the crony banks. They would rather appoint an Officer-in-charge (OIC) in a crony bank and Jobo would send a team of examiners in the Commission to help us with the documents we may wish to see. A little later, a certain Manny Zamora was introduced to me. He said, in answer to my question, that he knew Rolly Gapud, the financial executor of Marcos. I do not exactly recall whether it was at this time that Baby Lopa, a brother-in-law of Cory, vouched for Manny Zamora. He spoke of Manny and of his contribution to the Aquino campaign. I was to learn later that negotiations had in fact been going on with Manny Zamora, so he could take over the Security Bank, along with the members of his group.

In the evening I met a woman reporter of *People* magazine at the house of my niece, Erlinda Salonga Pastoral, in Pasig. She interviewed me at length for a feature story in this American popular weekly. It was while I was in the U.S. more than a week later that my attention was called to her magazine article, where she described me in very complimentary terms. Evidently, as may be gleaned from the article, she interviewed many people, here and abroad, who knew me.

In those early days, everything seemed rosy and full of promise. Public expectations were probably too high. What many people did not know was that the capability of the new Government was very limited and that Cory, who had no army of her own, was dependent on the military for her political survival.

From day to day, Filipinos arrived from the United States and other places — some to stay here for good, others to make all sorts of business deals, or to practise their chosen profession. I know some who went back to the United States, evidently disappointed with conditions here.

Meanwhile, Severina Rivera and our lawyers from the Center of Constitutional Rights kept calling up to make me promise I would leave for New York to testify. They wanted to make sure that the temporary restraining order (TRO) they had obtained against the Marcoses, their associates, and dummies from the New York Supreme Court could be converted into a writ of preliminary injunction. I agreed it was important that the four Manhattan buildings and the Lindenmere Estate in Long Island

be frozen indefinitely instead of being transferred by the Marcoses through their agents. I promised I would leave Manila on or around March 12. I didn't realize at the time that the issuance of the TRO, good for only twenty (20) days, but which was later extended with the agreement of counsel, involved a revolutionary concept of law. More of that later.

In the meantime, I contacted Minister Nene Pimentel of Local Government. I requested him not to appoint any OICs in the various towns in Rizal until my return from a short trip to the U.S. I was apprehensive he would be placed under tremendous pressure by Cory's close relatives to appoint only their own recommendees. Nene agreed to wait for my return so we could be given a fair shake.

Shortly before leaving, I had a one-on-one with President Cory. I explained to her what we planned to do abroad. Then I left a short note with her recommending my former law partner Pete Yap and former Concon delegate Abraham Sarmiento to the Supreme Court. She made no promise. She wished me good luck.

Options in dealing with the ill-gotten wealth and our basic strategy

We in the Commission now had thousands of documents and a sufficient number of volunteers, many of them fired by idealism, who wanted to help in recovering the ill-gotten wealth amassed by Marcos and his associates. But we still had to make an in-depth study of the options open to a revolutionary government in dealing with this important matter. Our responsibility was to devise a sound, reasonable formula for recovery, which would not only be fair and just but acceptable to foreign jurisdictions where a good part of the plundered wealth had been stashed away.

It was toward the end of February 1986 when we in the Commission discussed and reflected on these options, realizing that we would be assailed whatever our formula and strategy might be. I made use of some studies I had made while Lydia and I were in exile abroad in the first half of the 80s.

1. The first option was the one adopted by Mao Tse Tung and his fanatical followers in China — confiscate the wealth of “the enemies of the people,” most of whom were wealthy landlords and merchants, and line them up against the wall after a sham trial. Hundreds of thousands of people were killed in that bloody purge. For obvious reasons, we disre-

garded this option considering our culture as a people and the nature of the unwieldy coalition that was the direct result of the “EDSA Revolution.” Likewise, there were legal problems involved in confiscation, which would be impossible to resolve, particularly with respect to assets located in such places as the United States and Switzerland. One complication was the fact that we could not even get hold of the key personalities of the previous regime for the purpose of trying them. Most of them had left with the Marcoses and some were abroad at the time of the EDSA event.

2. The de Gaulle formula, as explained to me by the French Ambassador, was for the new government to confiscate and take over the enterprises and assets of French collaborators during the Nazi occupation of France. After the period of one year, no more confiscations were allowed. Some collaborators were executed, many were imprisoned.

In our case, outright confiscation of the plundered wealth was something we could not resort to in the Philippines, legally and physically. Likewise, many ill-gotten assets were located abroad, in such places as the United States and Switzerland, where outright confiscation would be viewed with disfavor. In fact, EO 1 and EO 2, which we drafted and spoke of “sequestration” and “freezing,” were assailed by the lawyers of the Marcos companies and dummies in our first case in New York as “confiscation decrees affecting property in the United States.” The U.S. Court of Appeals for the Second Circuit upheld both of them stating that “these two orders are not in and of themselves confiscation decrees.”

3. The option advocated by Ninoy Aquino when he came to my place in Encino, California to say goodbye before his last fatal journey was quite different. Ninoy thought he would be imprisoned upon arrival and in time demonstrations would be the order of the day. A beleaguered Marcos — his fraternity brother — would most probably send for him to ask what should be done. He would then tell Marcos — “Leave the country with your family, take out all your wealth and we’ll take care of the rest.” That formula could no longer apply, partly because of the assassination of Ninoy and partly because Marcos did not have to take out his ill-gotten wealth — much of it had already been concealed, deposited, or invested abroad.

4. The alternative advocated by the Marcos loyalists, as published in the crony media, was what may be described as the “forgive and forget” formula, supposedly in the name of “national reconciliation and unity.” The Government, they contended, should not resort to “acts of vindictive-

ness," otherwise the President, a devout Catholic, would be viewed as unChristian. In the Scriptures, however, forgiveness is extended to the sinner only after repentance and the restitution of what had been stolen or taken, as in the case of Zachheus (Luke 19: 1-9). In my view, national reconciliation without truth and justice would be a mockery.

5. My own formula is a refinement of what I had stated in the LP Vision and Program of Government (1985, p. 6). Instead of confiscation, our basic strategy would be as follows: the Government, in simple fairness to our people, will sequester the ill-gotten assets in the Philippines, that is, place them in the custody of the Government on the basis of *prima facie* evidence (that is, sufficient to establish the point in issue until rebutted), but subject to **final judicial determination of the ownership of said assets**. Sequestration would render it difficult for the Marcoses, or their cronies or associates, to transfer or dissipate the ill-gotten wealth and thereby undermine our newly restored democracy. Where the ill-gotten wealth is located abroad, we will ask for the freezing of the ill-gotten gains, in accordance with the *lex situs*, but insist that the question of violations of Philippine law should be decided according to our law and, if possible, by our own courts. This, of course, means that in the final analysis, the burden of success or failure in the quest for the ill-gotten wealth of the Marcoses, their cronies and associates, would rest on the nature and character of our system of justice. The inarticulate assumption is that our courts, prosecutors and assisting lawyers are competent, impartial, incorruptible and efficient. A biased, corrupt or inefficient system of justice can undo or reverse our best efforts in the PCGG.³

EOs 1 and 2 and techniques of illegal accumulation

In any case, we wrote this formula into every executive order we in the PCGG drafted for the signature of President Corazon Aquino.

Executive Order No. 1, signed by the President on February 28, 1986, formally created the PCGG, defined its central task: the recovery of the ill-gotten wealth of the former First Family, their subordinates and associates, including the takeover or sequestration of all business enterprises owned or

³Eventually, it was the Sandiganbayan (Anti-Graft Court) that bore the responsibility of trying and deciding the PCGG cases. Not too long after his appointment, a Sandiganbayan justice was caught in the act of receiving a bribe. He resigned immediately to avoid embarrassing publicity.

controlled by them. EO1 enumerated the powers of the PCGG to carry out its principal task. Recovery of the stolen wealth, not prosecution of the thieves and the plunderers, was our main responsibility. The task of prosecuting them was left to the prosecution arm of the Government. It was understood, however, that the PCGG would get and furnish the necessary evidence. The Order also named the first commissioners — Salonga, Pedro L. Yap, Ramon Diaz, Raul A. Daza, and Mary Concepcion Bautista. The last one was proposed by President Cory Aquino herself, at the suggestion of Justice Cecilia Muñoz-Palma. I knew MaryCon since 1949 when I was in active law practice and I was happy to include her.

“Ill-gotten wealth,” under Executive Order No. 2, includes assets and properties purportedly acquired, directly or indirectly, by former President Marcos, his immediate family, relatives and close associates, through improper or illegal use of government funds or properties; or their having taken undue advantage of their public office; or their use of powers, influence or relationships, “resulting in their unjust enrichment and causing grave damage and prejudice to the Filipino people and the Republic of the Philippines.”

In light of the evidence consisting of thousands of Malacañang documents, we confirmed what we had known before and during martial rule. Among the ways or techniques by which the illegal wealth was acquired and safeguarded were:

1. Creation of monopolies in certain vital industries and placing them under the control of cronies or associates of Marcos, such as sugar (under Roberto Benedicto) and coconut (under Eduardo Cojuangco);

2. Awarding of loans by Government banking or financing institutions to favored private individuals or associates, with little or no collateral, at the behest of Marcos or Mrs. Marcos;

3. Outright takeover by Marcos relatives or associates of large public or private enterprises with a nominal amount as consideration. The business and assets of National Shipyard and Engineering Company (NASSCO) and other related Government-owned or controlled entities were taken over in 1972-73 by a private corporation, known as BASECO, dominated by Marcos and Alfredo “Bejo” Romualdez. Shortly after the imposition of martial law, Eugenio Lopez, Jr., was imprisoned for alleged involvement in the attempted assassination of Marcos. For a very small downpayment of P10,000, his father, Eugenio Lopez, who was abroad when martial law

was declared, sold and transferred his total shareholding and control in MERALCO to Benjamin "Kokoy" Romualdez, Imelda's younger brother, on the reported assurance that his son would be released.

4. Direct raiding of the public treasury and Government financing institutions. Intelligence funds, e.g., were disbursed for the trips of Mrs. Imelda Marcos. The Central Bank and PNB, Manila and New York, were used for the private benefit of the Marcoses. Bank accounts were opened in Banque Paribas, Suisse, and called Intelligence Funds 1 and 2.

5. The issuance of presidential decrees and orders to favor certain individuals and enterprises to enable them to amass wealth for the joint benefit of said individuals and the Marcoses. The coconut levy imposed through a series of presidential decrees from 1973 to 1982, the Tourist Duty Free Shops (TDFS) run by Ms. Gleyce Tantoco, the Fortune Tobacco of Lucio Tan, and the cigarette filters of Herminio Disini, may be cited as good examples.

6. Kickbacks and commissions from firms or enterprises doing business in the Philippines. Former Minister of Public Highways Baltazar Aquino spoke, under oath, of how he deposited huge amounts of money for Marcos bank accounts abroad coming from reparations kickbacks.

7. Use of shell corporations and dummy companies to launder money and invest in real estate in such places as New York, California and Hawaii.

8. Skimming off foreign aid and other forms of international assistance. For example, the aid given to the Philippines in exchange for participation of the Philippine Civil Action Group (Philcag) in the Vietnam war was diverted, as exposed during the Symington hearings.

9. Depositing with the use of pseudonyms, numbered accounts and

⁴The documents from Malacañang show that, in the beginning, kickbacks from the Japanese reparations were stashed away into offshore accounts in the secret bank accounts of the Marcoses. A bagman, a retired general at the start, later a public works secretary (Baltazar Aquino), would take a plane to Hongkong, then proceed to one of two money changers to convert the money into US dollars, then deposit the newly-laundered cash in the Suisse Credit branch there. Later, the laundering technique became more sophisticated. The looted funds were first parked in the Bahamas or used to purchase U.S. Government securities before depositing them in the Marcos bank accounts. Finally, at the suggestion of the Swiss contacts of the Marcoses, numbered Swiss accounts were opened by Liechtenstein companies beneficially owned by the Marcoses using professional nominees of the Swiss banks (See Cesar Parlade, "The Plunder of the Economy and the Marcos Ill-Gotten Wealth," September 20, 1999).

code names, in various banks here and abroad, to conceal and preserve the ill-gotten wealth.⁴

Given the limited material resources of the Marcos couple before Ferdinand was elected president in November 1965, as shown in their income tax returns, one can readily appreciate the far-reaching implications of Imelda's revelation in December 1998: "We own virtually everything in the Philippines."⁵

We had our first executive order creating the PCGG and, by a stroke of fortune, we had the incriminating documents we needed, but we had no office, no personnel, no equipment, no funds, except the appropriation of P50 million which existed on paper. My residence in Pasig served as our temporary office, until we were able to use part of the DAP Building as our temporary quarters.

Establishing our priorities

In any case, we had to make sure we knew our priorities and keep them clearly in mind, since we would have very little funds at our disposal, anyway. On the other hand, among the many assets we wanted to recover as soon as possible were those situated in various places abroad. We had to make prudent use of whatever little resources we might have. Top priority, in my analysis, was the plundered wealth located abroad: first, because these assets were beyond our jurisdiction; and second, because they could be disposed of or concealed without any difficulty. Our next priority was the ill-gotten wealth in the Philippines, and these had to be classified further. Bank deposits, shares of stock, jewelry, cars, vessels, aircraft and other movables had to be sequestered right away. Lands, buildings, residences and the like could be attended to a little later.

We did not have any idea just how much wealth, consisting of bank deposits, shares of stock, jewelry and other movables were transferred here and abroad during the first four days of the EDSA Revolution and before we in the Commission could act effectively. In any case, we could not do so, unless we had *prima facie* evidence of wrongful acquisition. All we had in the

⁴Christine Herrera, "Imelda to File P500B Suit vs. Marcos Cronies," in Imelda vs. Cronies (SERIES) *Philippine Daily Inquirer*, December 5, 1998, p.1.

⁵I had organized a small group of friends during my exile in the U.S. (from March 1981 to January 1985) to study reports on the hidden wealth of the Marcoses. But we did not have the evidence that would be admissible in court. However, the reports were later confirmed by the

beginning were reports, mostly hearsay, which could not stand thorough scrutiny.⁶ But the turnover to us of the Malacañang documents on March 1, 1986, in the presence of Ongpin, Enrile and Ramos, among others, enabled us to go over the evidence of wrongful acquisition as carefully as we could and issue sequestration orders, with boldness and confidence. A little later, Mr. Steve Psinakis gave me a pile of folders on the ill-gotten wealth of some major associates and cronies of the Marcoses.

I took personal charge of our No. 1 priority — the ill-gotten assets abroad — during my one-year stint. In the beginning, Commissioners Yap and Diaz assisted me.

Malacañang documents which were turned over to the PCGG. This group of friends during martial rule included former Commodore Ramon Alcaraz, ex-Cong. Raul A. Daza, Mr. Rafael Fernando, Atty. Rey Mercado, ex-Delegate Bonifacio Gillego and Atty. Severina Rivera.

IV

First Post-EDSA Journey to the U.S.

Trip to U.S. on March 12

Pete Yap, Lydia, and I, accompanied by then Colonel Thelmo Y. Cunanan, the military aide assigned to me by Minister Enrile, were scheduled to leave for the United States on March 12, 1986, after our cabinet meeting. Immediately after the meeting, I asked President Aquino to sign Executive Order No. 2, which we had prepared at the suggestion of our American lawyers. This Order defines ill-gotten wealth, freezes all the assets and properties of the Marcoses and their dummies in the Philippines, prohibits them from transferring or disposing of them, and authorizes the PCGG to appeal to foreign governments to do the same.

I told the President we hoped to accomplish three limited objectives on this first trip: first, get hold of the documents brought to Honolulu by Marcos through negotiations with the State Department, not by means of a long, drawn-out litigation; second, acquire first-hand information on the suit filed by our New York lawyers covering the Marcos properties in New York and testify by deposition as requested by them; third, get more evidence about the Marcos properties in other places in the United States and hopefully, find out how we could lay the basis for filing our Government's claim to the bank deposits of the Marcoses in Switzerland.

Pete Yap and I made sure we brought with us the important documents we would need for these three objectives. Lydia had to accompany me, which had been my doctors' advice since the Plaza Miranda bombing

tragedy. Since then she has been my nurse, guide, personal secretary, traveling companion and wife.

I recall we were about ready to take off when, suddenly, Col. Cunanan's wife, the well-known journalist Belinda Cunanan, finally arrived to say goodbye. We had been chatting animatedly since we arrived and didn't realize that the good colonel must have been waiting for his wife all the time. *Talagang mahirap nga pala kung ang mag-asawa ay militar at peryodista! Madalas ay madalian!* (It's difficult where the husband is in the military and the wife is with the press. Often, everything is in a hurry.)

Honolulu, LA, and Frisco

We arrived in Honolulu via PAL for a brief stopover at 7:30 a.m. of the same day. On hand to meet us was our daughter Patty along with her family, Prof. Lindy Aquino of the Philippine Studies Center, University of Hawaii, and Center of Constitutional Rights (CCR) lawyer Mark Bernstein in Honolulu. There were many media representatives who surrounded us as soon as we alighted from the plane. I was asked by a TV newsman — "What are the plans of the Aquino Government vis-à-vis the Marcoses?" Weighing my words, I said that proceedings would be instituted against them in the Philippines where they would be given their day in court, with guaranty of due process. I had the feeling that the Marcoses or their representatives were probably listening to us only a few miles away.

Our relatives and friends in the Los Angeles area were there when we arrived at the LA Airport hours later. Apart from our two children — Rina and Ricky — our friends during our years in exile were there, among them, Rafael Fernando,⁷ Rudy Buendia, and Ted Padilla. Again, a big group of media people interviewed us. The same thing happened in San Francisco, where leaders of the anti-Marcos Movement, among them Dr. Ruben and Zeny Mallari, Steve and Prescy Psinakis, Orly Salonga and others met us. Again, media representatives wanted to find out what would happen to the ill-gotten wealth of the Marcoses. We went to bed past midnight after conferring with CCR lawyer Charles Grady and other Filipino lawyers.

⁷Fernando, was the manager of the coconut oil operations of UNICOM (sic) in Los Angeles during martial rule. When the hoarding and price-fixing operations became objectionable under U.S. anti-trust laws, the U.S. Judiciary Department began an investigation in 1979. Fernando cooperated and became a marked man in the Philippines. Marcos issued a presidential decree which made it a crime to testify before a U.S. grand jury or provide any subpoenaed documents. See Bonner, *Waltzing with the Dictator*, pp. 327-330.

Arrival in Washington

The next day we left for Washington, D.C. We immediately spotted Severina Rivera, our dear friend and co-worker since our first trip to the U.S. during the martial law years. I recall we used to lobby in Congress together, along with Lydia, and ask various solons and their staff members to support the stand of the Opposition in the Philippines. We were lonely, isolated figures at that time. Now, the presence of a big group of multinational media representatives at the Airport reminded us that the ill-gotten wealth of the Marcoses was no longer a Filipino or American issue — it had become a matter of deep, international concern. I do not recall now how long the interview was, but the next morning I was informed we had been on television for quite a long while. For the first time since we left Manila, Lydia and I enjoyed a very good sleep.

Meeting with friends; American media reports

The next morning, I called up my friend John Maisto, the head of the Philippine Desk in the State Department. Glad to know we had arrived, he arranged a meeting between us and Mr. John Monjo, who had been the Philippine desk officer during martial rule, and with whom we had a very useful conference regarding the pending cases filed by the Marcoses in Honolulu and New York. It turned out that the Marcoses had obtained a restraining order in Hawaii on the release of the documents; they also filed another suit in the Court of International Trade in New York, making it apparently impossible for us to get hold of the Marcos papers. We promptly entered into negotiations with the U.S. Government. We also met with Congressman Solarz, in the presence of many media representatives. He seemed very popular with media people.

The next morning (March 15), the *Washington Post* had an article on our mission and a picture of Congressman Solarz and myself shaking hands. We also read the other dailies to find out what was the press reaction toward the change of government in the Philippines and the search for the Marcos wealth. Americans who had been interviewed by the various papers were obviously happy over the developments in the Philippines, particularly the ouster of Marcos and the installation of the Aquino Government, but they were surprised and angry about the thousands of shoes found in Malacañang Palace. We noticed Filipinos in the United States had

apparently grown ten feet taller since the EDSA non-violent revolution which captured the admiration and respect of peoples everywhere.

We had a very fruitful conversation with Undersecretary Armacost, who agreed to issue a document from the State Department which would have a great bearing on the suits filed by the Marcoses in Honolulu and New York against U.S. customs authorities. In the afternoon, at the suggestion of our friend Boni Gillego, whom we had appointed PCGG Executive Director in the United States, we asked King Rodrigo, the new Consul General in New York, to provide ample space for the PCGG in the office of the Philippine Consulate. He readily agreed.

On March 16 (Sunday), *New York Times* published on its front page a very important, well-researched article on the global acquisitions of Marcos. This became a mine of information for us. On March 17, we learned we won the customs case filed by the Marcoses in New York, thanks to the intervention of our friends in the State Department.

The New York case and the revolutionary concept of law

In the evening, Mr. Morton Stavis, the President of the Center for Constitutional Rights and our lead counsel, arrived for our first in-depth discussion of the case he filed in the Supreme Court of New York on behalf of the Republic of the Philippines as the plaintiff. The principal defendants were former President Ferdinand E. Marcos and his wife Imelda Romualdez Marcos. Summons were served on them but I was made to understand they might not appear. Our complaint alleged that during Mr. Marcos' tenure, he and Mrs. Marcos wrongfully took funds belonging to the Republic of the Philippines. Part of the money so taken was used by Mr. and Mrs. Marcos to invest in valuable New York real properties in Manhattan and the Lindenmere estate in Long Island. We sought recovery of the properties by invoking the doctrine of constructive trust — that is, that the Marcoses were holding these properties in trust for the real owners, the Republic of the Philippines. The other defendants were the various corporations, several real estate holding companies, their principals and managers, who acted as nominees or dummies for Mr. and Mrs. Marcos, including the Bernsteins, Mrs. Gliceria Tantoco, and Mr. Antonio Floirendo.

In particular, the cases involved four buildings: the elegant Crown Building on 5th Avenue, the Herald Center on 6th Avenue, the tall building on No. 40 Wall Street, and the 200 Madison Avenue Building — about which

we had found many Malacañang documents. We brought a good number of these documents with us.

A graduate of Columbia Law School and a very able, experienced lawyer, Mr. Morton Stavis became famous in the handling of many important human rights cases. Pete Yap and I liked him immediately.

He explained to us how the complaint was drafted during that hectic week-end when Severina Rivera and I exchanged calls, after which Morton Stavis called me directly to get some information he needed. On the night of Sunday, March 2, 1986, the New York Supreme Court, through Justice Elliot Wilk, issued a temporary restraining order (TRO), good for 20 days only — something unheard of here. The Order sought to restrain and prevent the defendants from transferring or disposing of the properties in question. In issuing the TRO, the New York high court impliedly adopted a new revolutionary concept of law.

What was this revolutionary concept? As every lawyer knows, restraining orders, writs of injunction, attachments, and receiverships are merely subsidiary, ancillary remedies. This is so, because they are merely ancillary to a principal action that must have been filed in the same court, where the ancillary remedies are being sought. But there was no principal action in the New York case simply because shortly after the hurried flight of the dictator and his family on the evening of February 25, we did not have enough documentary evidence and, more importantly, the New York court was not the ultimate forum. We had to file the case in New York because the properties were located in New York and only the courts of New York, being the *lex situs*, could issue restraining orders or writs of preliminary injunction affecting those properties. Our lawyers, led by Morton Stavis, informed the court that the principal action would be filed in the Philippines later, since what had been violated was Philippine law and many acts of misappropriation, falsification, extortion, or bribery took place in the Philippines. In the meantime, it was a matter of crucial urgency that the New York court issue a restraining order or a writ of preliminary injunction, even without a principal action to make sure that the buildings and estate in New York are not disposed of or encumbered in the meanwhile. The court realized this was not an ordinary case to which traditional, ordinary rules should apply. This novel suit involved the acts of a dictator, his wife, and their associates who, as alleged in our complaint, acquired monies in violation of Philippine laws, invested the wealth of the nation in

valuable buildings in Manhattan and the Lindenmere estate in Long Island, and made use of dummies and shell corporations in the Netherlands Antilles, British Virgin Islands, and Panama to make sure they would not be found out. The New York court agreed that this was something novel and extraordinary and it was prepared to abandon in the meanwhile traditional rules, by issuing the restraining order — something unprecedented in the annals of American law and jurisprudence.

Meanwhile, the deposed dictator and his lawyers began their counter-offensive. They filed suits in Hawaii and New York for the recovery of documents and articles seized and impounded by Customs authorities in Honolulu.

The case which Morton Stavis had filed against the Marcoses with the New York Supreme Court was thereafter removed, on motion of defendants themselves, to the Federal District Court of New York, presided by the widely respected Judge Pierre Leval.

Shortly after our arrival in the United States on March 12, we were informed that the suits filed by the Marcoses against the U.S. Customs authorities would probably be dismissed, at the instance of the U.S. Department of Justice and the State Department, paving the way for the delivery to us of documents brought to Hawaii by the Marcoses. These, together with the Malacañang documents, would in time become our primary source of information.

Delivery of the Marcos Honolulu papers; the press conference

On the morning of March 18, my friend John Maisto called and asked me to get a taxi right away and be at the State Department for the delivery of the Honolulu documents. Pete Yap and I got a car from our Embassy and proceeded to the State Department. Undersecretary Michael Armacost, in the presence of John Mongo, John Maisto, and Elizabeth Verbille of the Department of Justice, delivered 2300 pages of documents to us — the “Marcos” Honolulu papers — with an accompanying diplomatic note.⁸ When we left the State Department, there were many media people wait-

⁸Undersecretary Armacost was the U.S. Ambassador to the Philippines in 1982. In 1984, he returned to the United States and became No. 3 in the U.S. State Department, then headed by Secretary of State George Schultz, who played a vital role in the downfall of Marcos. For an interesting account of Armacost's activities as Ambassador to the Philippines, see Bonner, *Waltzing with the Dictator*, pp. 330-338.

ing for us. Suddenly the Presidential Commission on Good Government became front-page news all over the United States and elsewhere. Shown on television the whole day was Col. Cunanan putting the big box of documents in the rear compartment of our car.

Pete Yap and I decided not to go back to the hotel; we anticipated there would be many press people waiting for us there. We decided to go to Virginia and examine the documents in the house of Dr. Mario Ordoñez, the brother of Sedfrey, my former law partner who had been appointed Solicitor-General. As soon as we arrived in the house of Dr. Ordoñez, we had to go over the documents one by one for the purpose of the big press conference scheduled at the Carnegie Endowment Building at 4:30 in the afternoon. Pete Yap and I hardly ate lunch. For almost three hours, we examined the documents, with the assistance of Mr. Morton Stavis and Sevie Rivera.

That press conference was the largest gathering of media people I had ever seen — around 400, so we were told. Questions flew thick and fast as soon as it opened — about the Westinghouse deal, the involvement of Japanese companies, the contributions by the Marcoses to U.S. political campaigns, the deposits in Swiss banks, and the extent of the Marcos plunder. I was quoted as having said that the amount of ill-gotten wealth accumulated over a period of 20 years “ranged from 5 to 10 billion dollars and even beyond that.”⁹ The figures I cited were based on U.S. intelligence reports I had just read.

Mr. Stavis thought that the press conference went very well. I found out later that it was shown live on television. From the press conference, we went to Steve Solarz’s office where he and his aides briefed us on the hearing scheduled by his Subcommittee on Asian and Pacific Affairs the next day.

We had dinner at the hotel, where we were reached by the assistant of Ted Koppel. I was dead tired and wanted to be excused but I was persuaded by my companions to appear on Koppel’s late show, “Nightline.” In the euphoria of those days, we did not mind losing sleep and also our privacy. Newsmen were calling up even in the wee hours of the morning.

⁹Russel Watson et al., “Hard Up in Hawaii,” *Newsweek*, March 31, 1986, pp. 6, 8.

V

PCGG's First Case in New York

Solarz's subcommittee hearing; our trip to New York

Before going to the hearing of Solarz's Subcommittee on March 19, I was requested to pass by Senator Ted Kennedy's office. The well-known senator asked me to hand over a letter of invitation to President Cory Aquino. Like Steve Solarz, the handsome senator recommended a friend as lawyer for Philippine cases. I said that our treasury was almost empty, we already had some lawyers representing us, but we would consider engaging lawyers' services on a contingency basis. "*Hindi ko alam na ganito pala ang mga pulitiko dito,*" (I didn't know politicians here are like this) I said to myself.

I was at the Solarz's Subcommittee session at exactly ten o'clock in the U.S. House of Representatives. There were many media people covering the session. I was asked by Congressman Solarz to make a brief statement, which I did as concisely as I could. I noticed that Senator Alan Cranston, whose face was familiar to many Filipinos, was a guest of the Committee. Incidentally, a document released to us by the State Department, purportedly executed by a certain "Mabuhay Corporation" in California, implicated Cranston, along with others, to whom financial contributions had allegedly been given. After my opening statement, questions were addressed to me by members of the Committee. I recall I was asked about the income of Marcos; I showed certified true copies of the income tax returns of Marcos before and after he became president. The great disparity between his income and his acquisition was obvious. I also showed a copy of a handwrit-

ten note coming from a former department secretary (Baltazar Aquino of the Department of Public Highways) to Marcos implicating the latter in deposits of commissions made by the cabinet member in the Hongkong branch of a Swiss bank, stating he would never "open my mouth even if it cause (sic) my life." I was asked about a document that implicated Republican as well as Democratic political personalities in the U.S. My answer was that under our rules of evidence, this kind of evidence would not be admissible (*inter alios acta*). When questions were asked about the trust relationship between the Bernstein brothers and Marcos, I begged off saying that I would reveal this very shortly in my testimony in New York, in keeping with the advice of our lawyers but that, subject to the permission of our lawyers, I would make available to his Committee copies of the documents he might need which we have. Congressman Steve Solarz promised to extend to us the help of his Committee and make available to us copies of the documents they had already received and may yet obtain in their hearings. I thanked him and the members of his Committee for their cooperation.

By early afternoon of March 19, we were at the La Guardia Airport where we were met by Consul-General King Rodrigo and Boni Gillego. Very thoughtfully, they registered us, in conformity with our wish, with a third-rate hotel (Wentworth at 59 West, 46th Street) near the Philippine Consulate Office. We wanted to convey the message to Filipinos in New York, that there would be no luxury or ostentation under the new democratic Government.

Mr. Morton Stavis, our *pro bono* counsel, was with us for dinner. In the United States, more than in the Philippines, the disposition of civil cases is speeded up through the liberal use of depositions and discovery. An expedited discovery had been ordered by the Federal Court and a schedule was set for the submission of proofs on the preliminary injunction hearing. I was scheduled beginning March 20. Now, Mr. Stavis took up the points he planned to ask in the hearing set for the next day.

My deposition in the Federal courthouse

There were many media people when we entered the Federal courthouse on March 20. But they had to leave the courtroom the moment I began my testimony. Mr. Stavis asked for my personal circumstances, my education, my occupation, and my role in the Philippines before and dur-

ing the Marcos years. All sorts of objections were interposed by the battery of lawyers present in representation of the defendants, their corporations' managers, and representatives, but Mr. Stavis handled them with ease and wit. When the questions involved, as they had to, the conflicts between Philippine law and American law, particularly New York Law, I felt quite confident — this was the subject I had been teaching for many years. The opposing lawyers found this out soon enough.

We adjourned for lunch and came back at 2 o'clock in the afternoon. I was asked to identify many documents in the handwriting of the Marcoses, Fe Roa Gimenez, and Vilma Bautista (Imelda's trusted aide, a former employee at the Philippine consulate and later at the Philippine Mission to the U.N., who happens to be my goddaughter from Montalban, Rizal). I was asked about the corporations supposedly owning the four Manhattan buildings. I answered the questions as best I could — I had been briefed on this matter by Rolando Gapud, the financial engineer of Marcos, who surfaced after the EDSA Revolution but went underground again. Before the adjournment, there was a lengthy argument between the lawyers that was left to be decided by the presiding judge. I would be cross-examined again by the opposing lawyers on Monday, March 24.

The stolen briefcase

Around 8 o'clock in the evening, we alighted from the car of the Philippine consulate and walked to a popular Korean restaurant (Oak Woo Lae) on 44th Street, near our hotel. As soon as we got in, we took off our topcoats. My companions began placing their briefcases and bags on a small table. Two or three men suddenly came in and said we had dropped our money on the floor, which one man picked up and gave to Lydia. But in an instant, these men suddenly walked away and disappeared. Pete Yap noticed that his briefcase was gone, and Lydia said her handbag was missing.

"Nandoon pa naman sa bag ko ang mga travelers checks at ang ating mga tiket," (And to think that my bag contains our traveller's checks and our tickets) said Lydia who was addressing me.

Luckily, my briefcase was safe, it was with Col. Cunanan who, after alighting from the car of the Philippine consulate, did not enter the Korean restaurant but walked to the adjoining Wentworth Hotel to check if there was any message for us. When he came back to the Korean restaurant with

my bag, I felt a little relieved. Some Filipinos who were in the restaurant contacted the police and the media and, after a few minutes, both were there. They immediately recognized me. Apparently my face had become familiar to the media people since our arrival. Although I made it a point to stress that it was Commissioner Pedro Yap's briefcase that had been snatched, on television late that night and in the next day's tabloids (but not in the regular broadsheets), it was Chairman Salonga of the Philippine Commission on Good Government who had lost his briefcase! What was even more sensational, the tabloids reported that the briefcase contained what might be irreplaceable documents about Marcos' stolen wealth. That was, of course, a lie, since we had several photocopies of every important document in our possession.¹⁰ In any case, I understand it was the sensational version of the news that had been flashed to the Philippines — "Salonga lost his briefcase to a thief in New York."

The next day (March 21) we flew back to Washington and conferred with State Department officials. They learned about the unfortunate incident and offered to help us, which we gladly accepted. I recall that, among other things, Undersecretary Armacost, who joined us later, expressed his concern about the new Freedom Constitution,¹¹ something we did not know anything about when we left Manila, and the emergence of a new revolutionary government, which was nothing new. Late in the afternoon we repaired to the office of Sevie Rivera in the Philippine Embassy. Sevie said Dr. John Maguire of Claremont Graduate School had been calling up. It turned out that my dear friend since we were together in the United Board in 1978 wanted me to speak before Claremont graduates and receive an honorary degree from that respected institution in May.

On March 22, we worked on the draft of an affidavit to be signed by a very close aide of Imelda. We got back to the Hotel almost midnight, tired but excited about our meaningful work. It is rare, I felt, that a public official gets involved in a job that brings real fulfillment. Recovering even a part of the plundered wealth of an impoverished nation, and helping teach the crucial lesson that public office is a public trust — all these gave me the sense of being used for a purpose bigger than myself.

I woke up the next morning (March 23) quite surprised to see that the *New York Times* had a feature article on its front page, with my picture,

¹⁰See p. 10, *supra*.

¹¹It was promulgated by President Aquino on March 25, 1986.

titled "Eye on Marcos Billions: Jovito Reyes Salonga," written by Jane Perlez.¹² Several passages in the news story were quite heart-warming. I must admit I felt good after reading it.

After breakfast, Lydia, Pete Yap, Col. Cunanan and I went to see for ourselves the four Manhattan buildings involved in the litigation — namely, the Herald Center on 6th Avenue, the Crown Building on 5th Avenue, the Madison Avenue Building, and the 40 Wall St. Building. The last one has an interesting sidelight. It was Bernstein who recounted how one evening in 1982 while they were in the former consular building at 15 E 66th Street — which became a converted Marcos townhouse in New York — Imelda and Ferdinand Marcos were urged by Glecly Tantoco to take a good look at this tallest building in downtown New York; they drove to 40 Wall Street, where Mrs. Marcos stood fascinated in front of her latest acquisition, saying it was a "nice" building and was apparently proud of it.

The Herald Center didn't look like a good buy, the Madison Avenue Building was quite ordinary, but Crown Building looked elegant and impressive especially at night.

Monday, March 24, was a long day for me. I continued my testimony under rigorous cross-examination by the lawyers of the Marcos corporations and dummies. Except for lunch break, the opposing lawyers gave me little rest. But I thought they put themselves in quite a quagmire. Evidently, I knew the buildings I was talking about. My deposition was finished at 9:45 p.m.

The documentary and testimonial evidence showed, among other things, that:

¹²Part of the text of Jane Perlez' story follows. "And so, as a new Manila Government, formed last month, it came as no surprise that the self-effacing lawyer and politician, described by his colleagues as possessing impeccable integrity, was appointed to head the commission investigating Marcos' billions. . . ."

"Rather than leave the Philippines immediately after the imposition of martial law and go into exile abroad, Mr. Salonga stayed at home, remaining as one of the opposition politicians who were often called upon by visiting Americans. But when Vice-President Walter F. Mondale asked to see the Senator in a visit to the Philippines in 1978, Mr. Salonga refused because the meeting place (Philippine Plaza Hotel) was in a hotel owned by Mr. Marcos' wife, Imelda.

"Both American and Philippine officials say Mr. Salonga is well-suited to his new mission of uncovering information about the Marcos wealth. Rep. Stephen J. Solarz, who accompanied Mr. Salonga on a tour of the opulent Marcos palace, said that as a lawyer Mr. Salonga understood the "daunting task" of returning the Marcos money to the Filipinos' public purse. "He is a very decent, thoughtful man, offended by the corruption, Mr. Solarz said."

1. Joseph Bernstein, along with his brother who had repeatedly denied knowing the Marcoses, had in fact executed a declaration of trust on April 5, 1982, saying he would execute the trust covering the New York real estate for the benefit of Ferdinand Marcos. This was what Solarz had referred to as the "smoking gun" evidence.

2. On the basis of his declared income over the years, the enormous wealth amassed by Marcos in New York alone was manifestly out of proportion to his lawful income, and constituted *prima facie* evidence of unexplained wealth under the Philippine Anti-Graft Law. One strong proof that the Marcoses' money was obtained illicitly is a memorandum dated March 25, 1983 from the president of the Philippine National Bank (PNB) the official depository of the Republic of the Philippines, requesting approval to charge temporarily against the Office of the President's accounts receivables several unliquidated advances from the bank's NY branch totalling almost \$10 million. The memorandum states that "disposition of the receivable will subsequently be made from the Philippine Intelligence Fund to be provided out of the PNB profits when the income or profit position of PNB can absorb it."

3. As early as March 1968, Marcos and his wife Imelda had been depositing in Swiss banks, under pseudonyms (William Saunders for Marcos and Jane Ryan for Imelda) in their own handwriting; eventually, they changed their code names from time to time.

4. To conceal their ill-gotten wealth, the Marcos couple and their financial managers resorted to various corporate devices. For example, in the case of the Crown Building on 5th Avenue, the property was purchased in September 1981 in the name of Lastura Corporation, a Netherlands Antilles corporation whose shares were owned by two Panamanian companies issuing bearer shares. Herald Center on 6th Avenue was purchased in February 1981 in the name of a British Virgin Island corporation named Voloby Ltd., with Joseph Bernstein acting as its sole director. The shares of Voloby were in turn held by three Panamanian corporations issuing bearer shares. What was known as 40 Wall Street Building was purchased in December 1982 in the name of a Netherlands Antilles corporation called Nyland Ltd. It is owned by three Panamanian corporations issuing bearer shares.

5. It was Joseph Bernstein who arranged for the purchase by the Tantoco interests of the Crown Building, the 40 Wall Street Building and the Her-

ald Center Building on 6th Avenue. We testified that Mrs. Gley Tantoco was a very close friend and business associate of the Marcoses.

6. In the fall of 1983 (which means after the assassination of Ninoy Aquino), 200 Madison Avenue Building was acquired in the name of Glockhurst Corporation, a Netherlands Antilles corporation.

7. Lindenmere Estate did not involve the Tantocos or Bernsteins. It was purchased in February 1981 in the name of Luna Development Corporation, then transferred to Anchor Holdings, a Netherlands Antilles Corporation. Anchor had one important director, Antonio Floirendo, a close friend and business associate of the Marcoses.

I was confident the TRO would be converted into a preliminary injunction. Morton Stavis, whom I now called "my elder brother," took all of us to dinner at the residence of Peter Weiss, one of the ranking officers of the Center for Constitutional Rights. There we met Mr. Ray Bonner (whose well-researched book *Waltzing with the Dictator*, would come out a little later), Jane Perlez, the New York Times writer about the Philippines, Ed Luidens, our dear friend from the National Council of Churches, and other well-known figures. It was a very distinguished and congenial company. We got back to our hotel past midnight.

PCGG's first mission to Switzerland

Commissioner Pedro Yap flew to Switzerland the next morning (March 25) to lay the ground for filing the Philippine claim on the Marcos deposits in Swiss banks. Pete didn't realize at the time he boarded the plane in New York that the Swiss government — already affected by the worldwide publicity on the Marcos ill-gotten wealth generated by our day-to-day revelations in the United States since mid-March — was already poised to impose a unilateral freeze on the Marcos deposits in Swiss banks. This freeze would have no precedent in Swiss history. In 1979, the new Iranian government had asked for the freezing of the assets of Shah Pahlive of Iran in Swiss banks. But this request was turned down by the Swiss Government. It advised the new Iranian government to take the case directly to the Swiss banks. Nothing came out of it. Without our previous knowledge, two important events benefitted us:

1. On March 21, 1986, the Swiss Banking Commission, in an unusual move, issued a public statement urging Swiss banks to watch carefully for deposits or withdrawals of funds that could be linked to former President

Marcos. The statement was intended to be a "reminder" to the banks that the Marcos case did not involve an ordinary customer.¹³ When I learned about this March 21 statement of the Swiss Banking Commission, I thought of what could have prompted the Swiss Commission to make this statement. I considered several possibilities. Was it because of the publicity given by the U.S. media on the enormous stolen wealth of the Marcoses since our arrival in the United States on March 12, particularly the big press conference in the Carnegie building where hundreds of reporters from all over the world were present? Was it because of our interviews with the *New York Times*, *Washington Post*, and other reputable publications, where we talked about the Marcos deposits in Swiss banks? Since Marcos and his wife Imelda knew they had left many valuable papers in the Palace, including the documents on their Swiss bank deposits, in their hurry to get out of Manila on February 25, was it possible that since their arrival in Hickam Airbase in Hawaii around February 26, they had been engaged in further concealing or moving their hidden wealth in Switzerland to other places?

2. On March 24, 1986, the Swiss Council of Ministers (Bundesrat) convened for an impromptu emergency meeting during the State dinner for the President of Finland. It turned out that the Swiss Finance Ministry had just been warned by officers of the Credit Suisse Bank that agents of the recently deposed President Ferdinand Marcos were attempting to transfer hundreds of millions of dollars out of Switzerland. A Filipino businessman (Michael U. de Guzman) presented two powers of attorney signed by Ferdinand and Imelda Marcos and attempted to withdraw \$213 million in cash, obviously without the knowledge of the new democratic Government under President Corazon Aquino. Huddled in a corner, the Bundesrat (a seven-member executive cabinet) announced a decision which stunned Swiss bankers and foreign clients around the globe. The Federal Council immediately ordered an emergency freeze on all assets held in Switzerland by Ferdinand Marcos, his family, and persons close to him, as authorized by Article 102.8 of the Swiss Constitution. This was an unprecedented event in Swiss banking history.

What the Marcoses were able to do with their Swiss deposits after arriving in Hawaii on February 26, 1986 and before the freeze order of March 24, 1986 — a period of almost one month — has been a big question mark

¹³*Asian Wall Street Journal*, March 26, 1986.

that remains a big mystery up to now, except for the Marcos family and their confederates.¹⁴

On March 25, 1986, Commissioner Pedro Yap flew to Switzerland from New York to see what could be done to safeguard our interest in Switzerland. The Malacañang and Honolulu documents in our possession, a number of which he brought with him, showed that the Marcoses had substantial deposits in Swiss banks.

After the arrival of Commissioner Yap in Switzerland, he got the pleasant surprise of his life — the Swiss Government, on its own initiative, had just issued a freeze order. He met his old friend Ambassador Hortencio Brillantes, the Philippine Permanent Representative to the U.N. agencies in Geneva, who briefed him on the latest developments in Switzerland. Yap requested Brillantes to arrange a meeting with Federal officials in Berne; he also called Charge d' affaires Luis Ascalon to attend said meeting with the Department of Justice and Police. In Berne, which was not too far, Pete Yap was given the following important information by the Swiss authorities: (1) the Federal Council's order was merely precautionary and temporary; (2) the Philippine Government must now make the next move; and (3) that a legal assistance request could be filed with the Swiss Government under the International Mutual Assistance Act in Criminal Matters (IMAC) which took effect only on January 1, 1983, in connection with any criminal investigation the Philippines may wish to initiate.

From various sources, we learned that there were hundreds of banks in Switzerland but the three largest banks are the Union Bank of Switzerland, the Swiss Banking Corporation, and the Credit Suisse. Under Swiss banking regulations and Federal Law, the administration and staff of all Swiss banks are bound by the strictest secrecy regarding all their dealings with their clients.

As stated earlier, to camouflage his deposits, Ferdinand Marcos, on March 20, 1968 — only two years and three months after he became president — entered into a contract for the opening of a current account and/or safe custody account with Credit Suisse, using a pseudonym "William Saunders." Similarly, on March 21, 1968, Mrs. Imelda Romualdez Marcos

¹⁴Ms. Imelda Marcos revealed in a talk with AP and AFP in Manila, as published by *Philippine Daily Inquirer* on March 27, 1998: "There is more money that the government is not yet aware of, but for the time being, I can admit that there is only \$800 million kept in various international banks, but I cannot reveal them."

entered into a contract with the Credit Suisse, using the pseudonym "Jane Ryan."

The initial deposits show that upon opening of these accounts, deposits in Swiss banks were made of checks from their Beverly Hills (California) account in the Security First National Bank, dated as early as 1967, just a little over a year after Marcos was first elected president. In the short span of two days (March 20 and 21, 1967), the couple opened four Swiss accounts, two under William Saunders and two under Jane Ryan amounting to 950,000 U.S. dollars.

One Malacañang document which aroused my curiosity shows Ferdinand E. Marcos writing different specimens of the "William Saunders" signature on his presidential letterhead, evidently practicing and familiarizing himself with the final written version of his new pseudonym. He abandoned this pseudonym a little later and used various code names, with instructions on the "authentication of cables." More sophisticated methods were used during martial rule in the effort to conceal the plundered wealth.

Meeting with the media in New York; visits of two Marcos associates and Pete Yap's report

March 25 was also a big day for me. Accompanied by my friend Pieter Hoets, my Dutch classmate in Yale who was now in active law practice in the New York-Connecticut area, I met the editorial staff of the *New York Times*, led by its editor-in-chief, Mr. A.B. Rosenthal, from 10:30 to noon-time.

I was asked searching questions about the enormous wealth of the Marcoses, how our Commission proposed to recover what we called their "ill-gotten wealth" and my assessment of the Aquino Government. I found my interlocutors to be very well-informed, perceptive and appreciative of what we had been doing since our Commission was established. They wished me good luck.

I had a very pleasant and useful lunch with Pieter Hoets at the Netherlands Club. We recalled our memorable days at the Yale Law School and talked about our professors, a number of whom had passed away and about how we and our classmates had fared in the meantime. Pieter had served as counsel for Coca-Cola in Europe; Karl Carstens, my dear friend in our class under Prof. McDougal, served as President of West Germany —

in fact, Lydia and I used to visit him from time to time during our four years in exile; Otto Kaufmann, our mutual friend and classmate, had just retired as Chief Justice of the Swiss Supreme Court. Pieter informed me he called up Otto shortly after our telephone conversation that morning when I asked him (Pieter) to accompany me to the office of the *New York Times*. He said that if I should need him, he was willing to serve as our liaison and coordinator with Swiss and other personalities in Europe.

At two o'clock in the afternoon, I conferred with the editors of *Time*. Again, the subject was the stolen wealth of the Marcoses and the ongoing litigations in New York and Hawaii.

One woman editor asked me the rhetorical question: "How do you explain the accumulation by Mrs. Marcos of thousands of shoes? She cannot possibly use them all!" I vividly recall my answer: "Your question is a theological question, but I am no theologian. I am just a simple country lawyer." They all laughed.

I left the two meetings with the impression that these weekly meetings of editors with whomsoever may be in the news at the time provide their editorial writers additional facts and new insights. At the same time, they give their invited guests a new outlook on the problems they happen to be handling.

As soon as I got back to the hotel, I called up Pete Yap in Geneva. He was happy about the freeze imposed by the Swiss Federal Council on the Marcos deposits. A little later, I learned from Commissioner Ramon Diaz who had gone to Vancouver that he met with Jose Yao Campos, a very close crony of Marcos. We agreed to meet in Los Angeles so he could tell us about the details of his talks with Campos.

In the afternoon of March 27, Pete arrived from Switzerland. He gave us a detailed briefing on the heart-warming news, including his meeting with our prospective Swiss lawyers who had been favorably indorsed by Minister Ascalon and retired Chief Justice Otto Kauffman.

We flew to LA, stayed in a hotel in San Fernando Valley, and had breakfast on Good Friday (March 28) with our dear friends in the resistance movement — Paeng Fernando, Ted Padilla, Atty. Rodil and others. Center for Constitutional Rights (CCR) Volunteer San Francisco lawyer, Charles Gary, joined us. We had a very fruitful exchange of views with Paeng Fernando, our PCGG anchor man in the West Coast, with Gary and our other volunteers in LA and San Francisco.

We had a quick lunch with the *LA Times* Editorial Board for background purposes. We met our dear friend during our days in exile, Dean Wylie, an editorial writer who had worked in the Bicol area with the Peace Corps in the Philippines.

After we got back to our hotel, Mr. Noble Soriano, a friend from Morong, Rizal, contacted me by phone and informed me that Eduardo "Danding" Cojuangco would like to talk with me. I said this would be no problem. Danding came and I listened to him with the least interruption. He justified his acts and told me about how he became close to the Marcoses. At the end of his explanation, I told him that I would appreciate getting his fair and full disclosure in writing about his ties with Marcos and of his alleged wealth so that the PCGG could verify the same and act on his case. He said he had a lawyer, Gaby Villarreal, who could submit such a disclosure to the Commission. He would contact Villarreal and instruct him to prepare it. Unfortunately, no such disclosure was submitted up to my last day in the PCGG on March 9, 1987. In the meantime, the PCGG sequestered the Cojuangco firms and companies, most, if not all, of which were involved in the coconut levy. The levy and the coconut monopoly were imposed by means of a series of presidential decrees issued by Marcos during martial rule.¹⁵

In any case, the next day, Ramon Diaz arrived from Vancouver and reported to us about his talks with Jose Yao Campos. After the list of properties, including land titles and shares of stock Campos was prepared to surrender to the Commission, I concluded that the prospects of reaching a compromise settlement with the first major crony of the Marcoses were quite bright.

The next one who came to see me was Geronimo "Ronnie" Velasco, a

¹⁵For a list of the "Cojuangco Companies," the orders of sequestration and the suits brought by the PCGG, as well as the enumeration of dummy owners and the admissions and confessions regarding the so-called "Cojuangco Companies," see the 1995 cases of *Republic v. Sandiganbayan et al.*, which were decided jointly in a Decision promulgated on January 23, 1995 en banc, GR No. 96073 (1995). For an analytical study of how the coconut and sugar monopolies were established and how the power of the State was used for personal political goals, see Gary Hawes, *The Philippine State and the Marcos Regime: The Politics of Export* (NY: Cornell University Press, 1987); Bonner, *Waltzing with the Dictator* pp. 326-330; see also Virgilio M. David, *20 Million Coconut Farmers are Victims of Levy Racket*, Rev. Ed., (Society of St. Paul); Manuel F. Martinez, *Footprints in the Wilderness: The Life and Times of Oscar F. Santos, former Chairman of Philippine Coconut Authority* (QC: Coconut Industry Reform Movement, Inc., 1997), pp. 151-164.

business executive and a friend who used to work and live in the Republic Glass compound in Pinagbuhatan, Pasig. Although he was reportedly close to Harry Stonehill, he helped me during my congressional campaign in 1961. We became *compadres*. A native of Tarlac, he knew the Aquinos and the Cojuangcos quite well. When Marcos came into power after the 1965 presidential election, I noticed he was becoming quite close to Marcos. I recall that when I saw him once in the golf course before the declaration of martial law, I warned him against being too closely identified with Marcos and his associates. I thought he would heed my advice. In any case, during martial rule, Marcos appointed him head of the PNOG and Minister of Energy. He was abroad when the Aquino Government was installed. Because of our close friendship, I inhibited myself from participating in PCGG deliberations whenever his name came up. This time, I listened to him for around an hour and then requested him to give the PCGG a fair and full disclosure of his relations with the Marcoses. He promised to do so.

We were scheduled to leave for Manila on Monday evening, March 31. We had breakfast with Paeng Fernando and Ted Padilla. A corporate executive in an American title insurance company in LA, Ted had a handsome salary but he was toying with the idea of coming to the Philippines and volunteering his services to the Commission. After some discussion, I felt this would be too much of a sacrifice for him and his family. From LA, I said he could just render voluntary services from time to time.

Looking back, I cannot help but recall that after the EDSA Revolution, we met so many people, in the Philippines and abroad, who thought nothing of giving up their jobs so they could render some kind of voluntary service to the new democratic government. As I write these lines, so many years after the event, I must admit I do not see enough evidence of this spirit of self-sacrifice these days. The sense of mission that was so contagious before and after the EDSA event seems to have vanished.

Preparing our Report to President Aquino

Shortly after breakfast, Pete Yap, Ramon Diaz, and I drafted a short report to the President on our first mission abroad. We knew that we had to do this while we had enough time in our hands. We anticipated that as soon as we arrive in Manila, we would be swamped with people and probably confronted by the voluminous papers waiting for us, which was exactly what happened.

Our Report, the original of which was submitted to President Aquino on the afternoon of our arrival on April 2, stated that the three limited, short-term objectives we had outlined to her shortly before our departure on March 12 had been accomplished: (1) we were able to get hold of the important documents brought to Hawaii by the Marcoses through negotiations with the State Department, and did not get bogged down in judicial proceedings had we followed the suggestion of Ambassador Habib when he was in Manila; (2) we acquired first-hand information about the suits we had authorized our lawyers to institute in New York with respect to the four Manhattan buildings and the Lindenmere Estate in Long Island; in fact, I testified and our counsel presented documentary and testimonial evidence supporting our injunction suit in New York; (3) we were able to get more evidence about the Marcos ill-gotten wealth from members of the various Filipino communities in the United States. Parenthetically, the State Department and the U.S. Congress, through the Solarz Committee, were informed about what we had done at the Philippine end to recover the Marcos ill-gotten wealth and in return we were able to obtain their pledge to assist us in this difficult but thankless task.

In fact, our Report said "suits similar to the one filed in New York have been filed by our lawyers in New Jersey and Texas. In New Jersey, Mr. Samuel Lambert, who held title to the Princeton property where the Marcos children used to live, and Mr. Tristan Beplat, a banker, who arranged for the purchase of the property, both testified that the Princeton property is actually owned by Marcos. Our lawyers are scheduled to move for a summary judgment." As will be revealed later, we recovered the whole amount for the new Government.

Partly due to the adverse publicity generated by our repeated revelation that the bulk of the Marcos assets were in Switzerland, based on the documents we had in our possession, and partly because of the arrival in Zurich of a Filipino banker who had attempted to withdraw the Marcos deposits from Credit Suisse Bank by means of the powers of attorney executed by Ferdinand Marcos and Imelda Romualdez Marcos in Hawaii — obviously without the knowledge of the Aquino Government — the Swiss Federal Council immediately ordered the freezing of the deposits of the Marcoses and their associates in Swiss banks.

Our Report also recounted a very important development: the filing of a billion-dollar civil suit in Texas against the Marcoses and their associates

by a group of prestigious lawyers, led by an authority on RICO suits, Professor Tigar of the University of Texas Law School, aided by the largest law firm there, Vinson and Elkins — without cost to the Philippine Government. It was the filing of this case that prompted one important crony of Marcos to contact the PCGG. Commissioner Ramon Diaz immediately flew to Vancouver on March 19, conferred with Mr. Jose Yao Campos who had been residing there long before the EDSA event, and obtained from him a statement describing in detail the properties wrongfully taken by the Marcos couple. Commissioner Diaz joined us in California, for briefing and consultation. He brought with him copies of close to 200 land titles which Campos was prepared to surrender to the Government.

VI

The Marcos Swiss Deposits

WE arrived in the early morning of April 2, 1986 and, after a brief press conference at the Manila International Airport, proceeded to our Pasig residence. It was good to be home again.

There was a delegation from Rizal waiting for me, led by the heads of the Liberal Party from various towns. Anger, dismay, and frustration were evident in their countenance. All provincial and municipal positions were filled up a few days before my arrival, without the knowledge of the LP leaders who had helped Cory during the snap election. This was contrary to my understanding with Nene Pimentel, the Minister for Local Government, who had promised not to make any appointments during my short trip to the U.S. Nene was to tell me later that he had been placed under tremendous pressure by Komong Sumulong and Ding Tanjuatco. I asked for an appointment with President Aquino to submit our report on our trip and, in case there should be a chance, to complain about this latest raw deal in the hands of her relatives.

After lunch and a brief rest, I went to Malacañang accompanied by Pete Yap, Ramon Diaz, and Raul Daza. She was very happy to see us. Cory asked me about the reported snatching of my briefcase, as reported in the local media. I smiled and said it was the briefcase of Commissioner Pete Yap and the handbag of Lydia that had been snatched, not mine. She asked Pete what happened and he related the incident. Amused by the whole thing, Cory said that the South Korean restaurant, Woo Lai Oak, where

the snatching happened, was one of Ninoy's (and her) favorite eating places in New York.

I submitted our written Report and told her about the delivery of the Marcos papers to us by the State Department, my testimony before the Solarz Committee, the hearing in the Federal court where I deposed, the trip of Pete Yap to Switzerland and the freeze of the Marcos deposits in Swiss banks, and the bright prospects of recovering the ill-gotten assets of Marcos in the possession of Jose Yao Campos as a result of Ramon Diaz's Vancouver visit. President Aquino said she was happy that in the first month of our existence, so much had been done by the PCGG. She had other visitors and I realized there was no chance to bring up the Rizal problem.

After we got out of her room, Joker Arroyo and Rene Saguisag took me aside and asked me whether I might consider a berth in the Supreme Court as Senior Justice, following Dindong Teehankee, who would be retiring in 1988. I said no, since I had recommended Pete Yap and Abe Sarmiento to the president. I remember telling them: "I cannot possibly compete with my own recommendees." Inside my car going home, the thought occurred to me that it could be a neat way of removing me from Rizal politics, perhaps at the suggestion of Cory's relatives.

The filing of our claim to the Swiss deposits

In the next few days, we drafted the Rules and Regulations of the Commission, as envisaged in Executive Order No. 1. We also strengthened our internal organization.

On April 4, Pieter Hoets, whom I had asked to coordinate and liaise with our Swiss contacts, arrived from Europe. He had a good talk with the three lawyers carefully considered and recommended to us by Otto Kauffman, our Yale classmate. All the three, in his opinion, were respected lawyers and two were distinguished members of Parliament. None of them was connected with big corporate law firms whose clients may be presumed to include the more well-known Swiss banks. The first one, Mr. Guy Fontanet, came from Geneve, the French section, a former high public official of the Police and a member of the Christian Democratic Party. A former Cabinet member, he specializes in criminal and sequestration law. The second, Mr. Moritz Leuenberger, a Social Democrat, came from the German section of Zurich, was the youngest, and had a very promising career in public service. The third, Dr. Sergio Salvioni, a Radical Democrat came

from Locarno, the Italian section, and was more fluent in English than the other two. He was known to be critical about the practices of Swiss banks.

Unlike in the U.S., there is no such thing as *pro bono* services in Switzerland. It was now time to pay their initial fee of \$150,000. I called Minister of Finance Jaime Ongpin and explained the need to remit the amount. Jimmy, helpful as ever, said that would be no problem. He promised to contact PNB President Ting Jayme and the amount would be remitted in no time. For Jimmy, there was no room for bureaucratic delay once the objective was clear.

The more important mission of Pieter was to convey to us the urgency of filing the Philippine government's claim to the Marcos deposits in accordance with the Swiss Law on International Mutual Legal Assistance (IMAC), and as recommended by our lawyers. He said tremendous pressure was being brought to bear by the influential Swiss banks on the Swiss Federal Council to lift the unprecedented freeze right away. Once lifted, the Marcos deposits would in all probability immediately disappear. The urgency of filing our claim, that is, by filing our request for mutual assistance in accordance with the IMAC, was confirmed by the Philippine Embassy in Berne. Pete Yap and I worked double-time on the claim, making use of all the valuable evidence in our possession (we were precluded at that point from relying on the evidence in the hands of Swiss banks); then we requested Sedfrey Ordoñez, in his capacity as Solicitor-General, to sign the formal request officially dated April 7 on behalf of the Philippines. Without the documents from Malacañang and those that had been brought by the Marcoses to Honolulu, copies of which were surrendered to us by the State Department, we could not have begun and completed our request.

Pieter Hoets left Manila for Switzerland on April 8, arrived in Geneva on April 9, conferred with our three lawyers who then submitted our formal request dated April 7 to the Swiss authorities the next day.

On April 16, Pete Yap left for Switzerland bringing with him some more important documents, enabling him and our Swiss lawyers to file a supplementary request dated April 18. This supplemental request, coursed through the Philippines Embassy upon instructions of the Solicitor-General, and filed with the Federal Department for Justice and Police, names "the following associates, partners and cronies" of Ferdinand E. Marcos and Imelda Romualdez Marcos: Edna Guiyab Camcam; Roman Cruz, Jr.; Andres Genito, Jr.; Gliceria Tantoco and Bienvenido Tantoco; Geronimo

Velasco; Fabian Ver; Lucio Tan; Ignacio Jimenez; Baltazar Aquino; Jose Yao Campos; Roberto S. Benedicto; Eduardo Cojuangco, Jr.; Rolando Gapud; Benjamin "Kokoy" Romualdez; Herminio Disini; Rodolfo Cuenca; Antonio Floirendo; Fe Roa Gimenez; and Alfredo "Bejo" Romualdez.

I do not recall now the exact date when I found that a very important contact man of the Marcoses in the Credit Swiss Bank, C. Walter Fessler, had been acting as the Honorary Consul of the Philippines in Zurich. He was one of the trustees of Marcos in the Swiss bank, the other two being C. Souviron and E. Scheller. Immediately, I called Deputy Foreign Minister Letty Shahani and requested that Fessler's authority be terminated immediately. She acceded to my request in April 1986.

Meantime, I reached an understanding with President Vicente "Ting" Jayme of the Philippine National Bank regarding very important documents we needed from the PNB Branch in New York. Morton Stavis and his staff of lawyers had underscored to me the need to get those documents at the earliest possible time so they could be submitted as part of our discovery to the Federal District Court in New York, before which our injunction suit had been pending. Our information was that both PNB Manila and PNB New York had been deeply involved in the remittances of huge public funds to pay for the New York buildings bought by the Marcoses, through their dummies and agents, particularly the Bernsteins and the Tantocos.

Report to the Cabinet

At the cabinet meeting called by the President on the morning of April 9, I was asked to make an oral report of our mission to the United States. In effect, this was a reiteration of the report I had submitted to her upon our team's arrival on April 2. After my report, several members, including Ministers Juan Ponce Enrile and Neptali Gonzales asked questions, and at least one, Minister Maceda, suggested that compromise settlements with the associates and cronies of Marcos be encouraged since litigation, in his experience in the U.S., would be slow and costly. I couldn't agree more, keeping in mind what my Spanish friend used to say: "The longest distance between two points is a case in court." But while I agreed with the general idea of compromising with cronies, subject to certain conditions, I did not reveal that one was already being negotiated under wraps with a very close Marcos associate, the one with Jose Yao Campos.

Our formula, I explained to the media after the cabinet meeting, was simple: (1) a fair and full disclosure, including an explanation of the nature and extent of the relationship with Marcos and/or Mrs. Marcos, and a summary of all the ill-gotten assets, including their fair market value and location; (2) an unequivocal offer of restitution to the new Government; and (3) a declaration of willingness to testify, if necessary, against them. In exchange, the Commission would extend, in accordance with Executive Order No. 1, immunity from suit, provided the disclosure is found to be true and correct.

Writs of sequestration; the Japanese request

From the time the PCGG was created, we had been quite busy; now we were up to our ears, since our arrival on April 2. Writs of sequestration had to be issued from day to day, following reports of massive transfers of funds by the former cronies and associates of Marcos. But we had to be careful that in each instance we had a *prima facie* case, that is, sufficient to establish the fact unless rebutted by better evidence. We had no doubt that the legality of our acts would be challenged in court. Indeed, cases had already been filed against the Commission by those adversely affected and highlighted by the crony press, such as the *Daily Express* owned by Roberto Benedicto. Some sectors of the media began calling me "Mister Sequestration."

In view of the many requests for sequestration and in the absence of a regular, dependable legal staff, Pete Yap and I had to go over the voluminous evidence in the isolation of my residence to make sure we did not miss anything of evidentiary value.

I also noticed that many Japanese officials and media representatives were visiting us from day to day, in the wake of the release by the Department of State of the Marcos documents impounded in Honolulu, some of which implicated Japanese firms. What they wanted to find out were the details of the involvement of a number of Japanese firms in the transactions of Marcos and his associates.

I vividly recall that around this time, President Cory called me to inform me that she had told the members of the Japanese Diet and the media interviewing her in the Palace that she would send me to Japan to testify before the Diet on the involvement of some Japanese firms in the Marcos hidden wealth. I said that her idea was good but that it would put her in

some difficulty — the ruling party in Japan, the LDP, would object to her announcement since there was a very close relationship between the Japanese Government and big business in that country, otherwise known as Japan, Inc. I added it was possible that the Diet members with her were those that belonged to the Socialist Party, led by Ms. Takeku Doi, who had visited me in my residence. They would be happy with her promise. My interpretation turned out to be correct. In a few days, Japanese Ambassador Sumiya, a very likeable envoy, came to me in a state of agitation. He showed me a message from the Japanese Government saying that my arrival in Japan to appear before the Imperial Diet, as published in the media, might cause an undue strain on the relations between the Philippines and Japan. President Aquino also called, quite worried about the complications. I told the President that an announcement should perhaps be made in the media saying that I would appear in any investigation in Japan if invited by the Japanese Diet. As the Diet was controlled by the LDP, there was no possibility I would be invited. That extricated the President from an unwieldy but unnecessary dilemma.

Chit Pedrosa's book; the arrival of PNB documents from NY

In mid-April, Chit Pedrosa, who had written a book before martial law about the true Imelda and became *persona non grata* to the Marcoses as a result, returned to the Philippines from London where she and her husband Bert had been residing. I recall that Lydia and I once visited them during a trip to London when we were still in exile. In any case, they now came to me with a request: could I give them access to the Malacañang documents so she could write a sequel to her book? I said yes provided they examine the documents in my residence, which they did day after day. Chit was able to write her book.

Meanwhile, PNB documents from New York arrived in Manila and Ting Jayme informed me they were now available. They were thoroughly and carefully reviewed by a legal team, which arrived in Manila, headed by Atty. Juan Saavedra, a very able graduate from Harvard Law School. He had been seconded by the New York law firm of White and Case to the Center for Constitutional Rights. This team of young, dedicated lawyers worked overnight and even during holidays to make sure that the PNB documents Morton Stavis needed to support our petition for preliminary injunction could be submitted immediately to the Federal District Court in

New York, presided by Judge Pierre Leval. Although the team of Juan Saavedra did their work without thought of any medal or reward, I felt that what they did deserved the highest commendation of our Government.

Revelations of former head of PNB New York; the case of Lucio Tan

Toward the end of April, I received an important call from a high-ranking official. The former head of PNB New York, Mr. Oscar Cariño, would like to see me. I said sure. Mr. Cariño came immediately and after the amenities, he made his revelations, with self-reproach and contrition, about how PNB New York was used by the Marcoses for their personal benefit, especially in the purchase of the Manhattan buildings. I called Juan Saavedra and our valuable co-worker, Vic Barrios, to formalize Cariño's revelations for submission to the Federal District Court of New York.

On April 29, Lucio Tan came to the house to give me a partial and preliminary draft of the fair and full disclosure of his relations with the Marcoses, which I had required him to submit, plus the restitution of the money he should now give back to the Government. I remember telling him, in the presence of his lawyer, I would not tolerate any attempt to influence, in any way or manner, any member of our Commission. I promised to study his draft and verify its contents.

Commissioner Doromal and the problem of fiscal agents

Having concluded his work in Switzerland, Pete Yap ended his work with the PCGG, arrived on May 2, and assumed his office as Senior Justice of the Supreme Court. I felt that this was what he really wanted — a task that would give him a lot of time for in-depth study and reflection. Dr. Quintin S. Doromal, former president of Silliman University, was sworn in and he immediately replaced Pete Yap as PCGG Commissioner. He took care of the administrative functions of the Commission, with special emphasis on the fiscal agents who were being subjected to criticisms by the media. King Doromal recruited Mel Morales, a former YMCA official and now with the College Assurance Plan (CAP), which seconded him to the PCGG. Mel took care of public relations and helped in repairing the image of our fiscal agents.

If I recall correctly, it was around this time when Finance Minister

Jimmy Ongpin and I discussed the question of whether the PCGG should have any participation in the management or administration of sequestered firms, including representation in their boards of directors.

Apart from the question of conflict of interest, I was concerned that in time this could become the major work of our PCGG personnel, to the neglect of our most important duty, namely, going after the ill-gotten wealth of the former president and his associates and cronies. I also noted that the work of our fiscal agents and representatives in the sequestered firms, for which some of them had not been properly equipped and trained, had become the focal point of media criticism. I agreed with Jimmy that this aspect of our work should be transferred to another agency. He promised to take this up with President Cory herself.¹⁶

I attended the wedding anniversary of ex-Senator and Mrs. Ambrosio Padilla on May 4 in their country residence in Antipolo.

Padi, who had been my mentor in U.P. and later a colleague in the Senate in 1966 up to the declaration of martial law, was all smiles. Chito Roque, his son-in-law, saw me and in the course of our conversation, revealed to me that around 2:30 a.m. in the early morning of February 26, seven or eight hours after the flight of the Marcoses from the Malacañang grounds, he and Joker Arroyo went to the bedroom of Ferdinand Marcos, where they saw a safe and a combination; in time they were able to open the safe and get a number of documents regarding the Swiss accounts, the San Miguel takeover, and the Marcos accounts in the Security Bank. He promised to give me the documents.

The next day, I gave two volumes of Westinghouse documents to my nephew, Presidential Spokesman Rene Saguisag, and then attended a Cabinet meeting. Rene was asked by President Aquino to take charge of the Westinghouse case involving the construction of the Bataan nuclear plant.

Another written disclosure was made by Lucio Tan in the early morning of May 10. Because of my impending trip, I asked my fellow commissioners to go over his disclosures to find out whether they may be considered fair and full.

We discussed the proposed purchase by the Soriano group of the 33

¹⁶Up to March 9, 1987, the date of my resignation from the PCGG, nothing was done about the problem. After my election to the Senate, I introduced a bill, the Ethical Standards Act, now enacted into law (RA 6713) which, in effect, prohibits the practice of commissioners accepting directorships in companies under their supervision.

million shares of San Miguel Corporation. According to reliable accounts, "the financing of the purchase will come from the sale by a San Miguel subsidiary of a profitable Hongkong company to Anheuser Busch for HK \$1 billion or roughly P2.6 billion. The Hongkong company, San Miguel Corp. HK Ltd., is reportedly owned by Neptunia Corporation to the extent of 80%. The Neptunia Corporation of Bahamas, whatever the cover-up may be, is reportedly owned in turn by San Miguel International, which is wholly owned by San Miguel Corporation (Manila)." If these are the facts, the proceeds from the proposed sale of the Hongkong subsidiary cannot and should not be used by the Soriano group to finance the purchase of the 33 million shares which had reportedly been sold to Mr. Eduardo "Danding" Cojuangco during martial law. The Commission discussed the proposal with Commissioner Ramon Diaz, the one in charge of San Miguel, now under the control of the government by virtue of our writ of sequestration. Ramon felt that in light of the facts, Andy Soriano was not playing fair and that if President Cory should sustain him in the scheduled meeting of May 12 in Malacañang, we should resign. I supported him without any reservation and requested Commissioner Raul Daza to prepare in advance our letters of resignation. He submitted a draft of a resignation letter, which I felt was not strong enough to convey our displeasure and our readiness to resign immediately, in the event Soriano were to be supported by the president. He changed the tenor of the letter and added the words "irrevocable resignation." We approved the new draft, without any dissent. We arrived in Malacañang in the morning of May 12 and saw there Chairman Sulit of the Securities and Exchange Commission, Andy Soriano of San Miguel, Secretary Jimmy Ongpin of Finance and Governor Jobo Fernandez of the Central Bank. Present were three commissioners of the PCGG, including myself. We found that the views of Ongpin and Fernandez coincided with ours and since Cory herself seemed to side with them, we felt quite satisfied. *I did not have to submit our strong letter of resignation.*

Honoring Pete Yap and my second trip to the U.S.

Before leaving on the 14th of May for the United States, we in the PCGG honored Pedro L. Yap, the new Senior Justice of the Supreme Court. He had been my best friend since our days in the U.P. He topped the bar examinations shortly after the war. A respected U.N. official in the career

service, he resigned and came back to join our law firm (with Sed Ordoñez and Marciano Sicut) at my invitation. He was elected delegate to the Concon from Cebu in 1970, chaired the Committee on Style, but was among the few who voted against — and refused to sign — the martial law Constitution of 1973. During martial rule, he lost his talented son, Manny Yap, who was “salvaged” by the military in February 1976. His grieving, disconsolate wife, Flora, left for LA. Pete stayed behind but continued to commute between Manila and LA. In 1980, I was imprisoned by Marcos and it was he and Sed Ordoñez who came to my defense. After the EDSA event and my appointment as PCGG Chair by Cory, Pete was the first one to assist me in organizing the Commission. Before we left on our first trip to the U.S. in 1986, I recommended him to Cory as Justice of the Supreme Court. “We are losing Dr. Yap as Commissioner,” I said in my remarks, “but our loss in the PCGG is the Supreme Court’s gain.” We also welcomed, his new replacement, King Doromal.

I was scheduled to deliver the commencement speech in Claremont Graduate School in Claremont, California in mid-May and then attend to a number of problems — the pending compromise settlement of Jose Yao Campos with the PCGG, exchange of information with State Department and lawyers of the Department of Justice, and the meeting with Morton Stavis, Peter Weiss and Professor Abram Chayes of Harvard Law School on Morton’s proposed procedure with respect to the venue of Marcos’ civil trial, the problem of the PCGG overseas staff and other matters.

I was nursing a heavy cold when we arrived in LA: my bronchial asthma was acting up again. I rested in the hotel for the next two days and delivered my commencement speech on the afternoon of May 15. My dear friend, Dr. John Maguire, and the Board of Trustees gave me an honorary doctorate degree which lifted my spirit. I was introduced to the chair of the Board, Ronald L. Olson, a distinguished lawyer from the well-known law firm of Munger, Tolles and Olson, with its main offices in LA. He would play a key role in handling our case against the Marcoses in California.

The next day, Jose Yao Campos and his brother-in-law came. I recall one of the things Campos said — he had gotten in touch with Marcos to tell him what he (Campos) was intending to do; Marcos was trying very hard to dissuade him from entering into a compromise agreement with the Government, but he told Marcos he was old and ailing and he wanted to come clean and tell the whole truth. My demand for an increase in the

down payment in cash had apparently been taken up with President Cory. She agreed with my demand which was P250, instead of P200 million, entirely apart from the approximately 200 land titles and many shares of stock which he would surrender to the Government, in accordance with the terms of the settlement. We were to meet again on the 29th of May.

I left instructions with Atty. Salvador Hizon in LA to make sure that all aspects of the forthcoming hearing in the Supreme Court in Manila involving the Tourist Duty Free Shops, owned by Imelda Marcos and Glecyc Tantoco, would be attended to by our Legal Department in the PCGG, in close coordination with Solicitor-General Sedfrey Ordoñez. "This will be our first major case and we cannot afford to lose it," I told Ador. He flew back to Manila.

We flew to Washington, D.C. on May 19. I had a very interesting conversation with Ambassador Emmanuel Pelaez shortly after our arrival. Before the EDSA event, Benjamin "Kokoy" Romualdez, the former Ambassador to Washington, had exerted tremendous pressure on Ernesto Pineda, the Philippine Consul General in New York, to sign the deed of sale covering the Townhouse on 66th E. Street in favor of Imelda Romualdez Marcos. The Townhouse is owned by the Philippine Government and had been used by Imelda for residence and entertainment, although she usually stayed in Waldorf Astoria. To the credit of Pineda, he refused. I thought it was quite naive for Kokoy Romualdez to think that merely getting a deed of sale signed by the Consul General could effectively transfer title to the said property from the Philippine Government to Imelda Marcos.

We had dinner in the Embassy residence of Manny and Edith Pelaez. Others present were Ambassador Rabe, Rene Saguisag, Boni Gillego and Sevie Rivera.

Understandably, Rene was more concerned with the Westinghouse case than with our problems in the PCGG. In the next few days, he had a series of meetings with our Embassy officials and with concerned officials in the State Department.

On May 20 and May 22, I had a meeting with Morton Stavis first and, a little later, with him and Peter Weiss. We all assumed that the New York District Court would, in a short while, issue its decision granting the writ of preliminary injunction to restrain the Marcoses and their associates from transferring or disposing of the New York properties belonging to the Republic of the Philippines — what would be our next step? As stated earlier,

it was quite unusual, indeed, revolutionary, for any American court to have issued a temporary restraining order without a principal complaint or action.

Now, Morton Stavis proposed something that was equally unprecedented. Since Marcos could not be expected to come back — indeed the Aquino Government did not want him to return for reasons of national security — and as the District Court of New York could not wait indefinitely for the trial of Marcos to be held in the Philippines, why not allow a Philippine court to hold hearings in Honolulu to give Marcos every chance to defend himself in the forfeiture suit or in any action for damages by the Philippine Government to recover the monies misappropriated or stolen by him? In the meeting of May 22, Prof. Abram Chayes of Harvard Law School supported the view that a Honolulu hearing where Marcos may be given every chance to be heard would be legally feasible. An international panel of experts should be convened to express an opinion on the question; should the opinion be in the affirmative, an executive agreement may be arranged between the United States and the Philippines.

In defense of our U.S. lawyers

My attention was called by Morton Stavis, our very able lawyer, to an article which appeared in the May 22, 1986 issue of the *New York Times*, entitled “Manila Panel Seeking Marcos Assets is Faulted by Some Over its Lawyers.” Without naming its sources, the article pointed out that the Philippine Government would do better if it were represented by lawyers other than those connected with the Center for Constitutional Rights. Our lawyers were “leftists” and should not be entrusted with the handling of the case against the Marcoses. I thought that the article was most unfair and that its editorial writer did not know the facts.

Promptly, I sent a letter dated May 24, 1986 to the Editor of the *New York Times*, stating that its readers were entitled to know the following pertinent facts:

1. In just a matter of hours after my appointment as Chairman of the Presidential Commission on Good Government, I received the news that certain Manhattan properties identified with Mr. and Mrs. Marcos might be transferred or sold. We needed lawyers who would represent us not only with vigor but would also show a dedication based on their recognition that the recoupment of the stolen wealth of the former dictator was part of

the reestablishment of democracy in the Philippines. Our treasury was bankrupt. On the recommendation of Ms. Severina Rivera, a Washington-based lawyer who became our legal coordinator in the United States, we asked the Center for Constitutional Rights to handle the case without fee and it agreed to do so. In our hour of urgent need, we had met a Good Samaritan.

2. Since we retained the Center, it has acted effectively and unstintingly. Having taught and practiced law for many years and written several law books, I must say I am impressed with the high degree of professionalism which characterized the Center's work. It obtained a restraining order in the first few days of handling the case and after two months obtained a preliminary injunction from U.S. District Judge Leval, who wrote a 28-page opinion supporting his ruling. I attribute those results in no small measure to the quality of the work done by the Center.

3. The Center has also assisted us in obtaining the services of other well-known law firms in other States, such as Sills Beck Cummins Zuckerman Radin Tischman & Epstein in New Jersey and by Professor Michael Tigar, J. Westbrook, and Vinson & Elkins in Texas, all of whom have coordinated closely with the Center and have also represented us on a *pro bono* basis. They have done superb work and my country is indeed fortunate to have them as part of our legal team.

4. I am not unacquainted with attacks on lawyers because they have the courage to represent unpopular causes or clients. In my country I represented Senator Benigno Aquino, our martyr, who was charged by the Marcos Government as a communist and jailed for seven years. I too was dubbed a leftist for representing Senator Aquino and for handling human rights cases. In fact, all lawyers who handled human rights cases in the Philippines, some of whom are now in President Aquino's Cabinet, were dubbed leftists on that account. I am not concerned that the Center has championed unpopular cases in the courts. My only concern is the quality of the job it is doing in our country. On that score, I am pleased and my country is deeply grateful.

5. We in the Philippines have a tremendous respect for the legal system in the U.S. and in fact modeled our own legal procedures after yours. We felt very comfortable in bringing our cases to your courts. I personally do not for a moment believe that your courts would deal less favorably with us because our lawyers may have represented some leftists in other cases.

You do not give your legal system much credit when you print anonymous suggestions to the contrary.

To my pleasant surprise, the *New York Times* printed my letter immediately after receiving it. Several years later, Mr. Morton Stavis perished in an unfortunate accident and Severina Rivera sent me a *Times* clipping which recounted the fact that my "elder brother" Morton had been a lawyer of Martin Luther King, Jr. This was something I did not know and Morton, a very humble man, never told me about it.

Meanwhile, we held useful meetings in Washington with our Overseas Staff in the U.S., attended by Boni Gillego, Sevie Rivera, Rafael Fernando and volunteer lawyers from Washington and New York.

I held a one-on-one with Cong. Solarz for purposes of information and exchange. I was given copies of the Bernstein checks amounting to \$30 million, coming from the Securities Bank, PNB, and Royal Traders Bank. All these would be useful in the case against the Marcoses. I met Juan Saavedra on May 26. He gave us copies of the affidavits and documents from the Securities Bank.

Victory in our injunction suit against the Marcoses

There was great rejoicing in our group when we received an official copy of the 28-page decision of Judge Pierre Leval granting the writ of preliminary injunction. I had spent so many days and nights in Manila preparing for my testimony in the Federal courthouse.

My testimony was sustained and the mass of evidence Morton Stavis presented with such skill and mastery was weighed and upheld. The Federal District Court concluded that "considering all the proofs and circumstances, the Republic of the Philippines has demonstrated entitlement to a preliminary injunction."

The Marcoses did not appear and the other defendants did not submit any proof in opposition to our evidence. They merely relied on certain legal defenses, such as the act of state doctrine, the immunity of President Marcos under Philippine law, and the doctrine of *forum non conveniens*, that is, that there was a more convenient forum where the Marcos litigation could have been held, not in New York.

The Federal District Court held that the Act of State doctrine "does not generally protect foreign officials from personal acts of conversion" and that it was precisely "the foreign government (under President Aquino)

that sought adjudication in American courts.” “It is sufficient to state,” said the Court, “that Mr. Marcos has not appeared in this action and none of the appearing defendants is entitled to raise either defense in his behalf.” Regarding the question of *forum non conveniens*, the Court held that while it is true that “much of the evidence is found to be in the Philippines, the action focuses on New York properties,” and “numerous financial documents are in New York.” In short, New York was a convenient forum.

From the layman’s point of view, the meaning of the decision by the well-respected judge was that the New York properties — the four Manhattan buildings and the Lindenmere Estate in Long Island — could not be transferred or encumbered by the Marcoses and their associates, for as long as the writ was good. The ruling would be appealed without doubt but I was convinced it would be upheld on appeal.

We flew to San Francisco on May 26 and met with Dr. Ruben Mallari, one of the staunchest leaders of the resistance movement during the martial law years. A graduate of U.P. medicine and a well-known practitioner, he also took care of my medical problems during my years in exile. Now, he was urging us not to forget the men and women who had given their lives for the cause “without seeing the dawn.”

In Metro Manila, we had been laying the groundwork for the organization of a memorial in honor of the nation’s martyrs, first called *Alay ng Bayan* but now superseded by the *Bantayog ng mga Bayani Foundation*. I also met a number of our volunteer lawyers for the PCGG.

The next day, I left for LA and had a useful meeting there with Rafael Fernando, our man for the West Coast, and Atty. Ron Olson who would probably be our lead counsel in the area. I asked him (Olson) to help us computerize the Malacañang documents and other important documents in our possession. He agreed. I checked in at a hotel in San Fernando Valley.

The case of the Tourist Duty Free Shops (TDFS) against the PCGG

It was on the 27th of May when I received the good news from Manila that we had won the case filed by Ms. Glecly Tantoco of the Tourist Duty Free Shops (TDFS) with the Supreme Court, questioning the right of PCGG to sequester TDFS’ assets, facilities and funds. The petition also questioned the order of the Commission to the effect that TDFS must refrain from

entering into new transactions or making disbursements of funds except in the ordinary course of business. I had discussed this case with Solicitor-General Ordoñez before I left Manila. For the first time, our right to issue a sequestration order was squarely put in issue before the Supreme Court. Fortunately, we had the "smoking gun evidence" in our possession, including letters and reports from Ms. Gley Tanco to Imelda Marcos, confirming that the business was actually owned by the former First Lady, either solely or in partnership with the Tanco family.

The facts show that TDFS was incorporated by obscure persons with a small paid-up capital of only P250,000. In 1975, it was given by Ferdinand Marcos a special permit to operate duty-free shops and the exclusive franchise to operate for 25 years under a presidential decree (PD 1193) with special privileges, including duty and tax-free importations, store spaces at international airports and in hotels and commercial centers, all for a so-called "franchise tax" of 7 percent of its net sales. Of the 7 percent, only 2 percent would go to the Government and the balance of 5 percent to three private foundations identified with Mrs. Imelda Marcos. After several years of operation, the business became very profitable and in 1983, the capitalization of TDFS reached the amount of P80 million with the Tanco children ostensibly holding more than 98 percent of the shares of stock. Ms. Gley Tanco was the one running the affairs of TDFS although she was not even a stockholder of record. She had written several letters to Imelda saying that the profits of the business exceeded their expectations. In their petition, the Tancos asked the Supreme Court to issue a temporary restraining order. Solicitor-General Ordoñez, who knew the Tanco family very well, argued the case for the PCGG, fully armed with the "smoking gun evidence" which could not be disputed by the opposing counsel.

After the hearing, the Court unanimously held in a Resolution dated May 27, 1986 that—

"Under the foregoing circumstances, the Court finds no basis for the issuance of a restraining order against the enforcement of the Commission's sequestration order as well as its order to conduct an audit and inventory of petitioner's (TDFS') goods in all its warehouses and stores. The Commission's order authorizing the Philippine Tourism Authority to conduct an audit and inventory of petitioner's goods likewise stands and no temporary restraining order will issue against the same.... It is understood that no new contracts or transactions may be entered into by petitioner."

Heard earlier, but not as important, was the petition of Roman Cruz, Jr., former head of the GSIS, against the PCGG, assailing the right of the latter to sequester or take possession of his assets, real or personal, or search his residence or office for records and other papers. Also impugned was the immunity of the Commission from civil action and its members and staff from testifying or producing evidence in any proceeding concerning matters within its official cognizance, as found in Section 4 of EO No. 1. The hearing on May 22, 1986, however, was limited to the question of whether a temporary restraining order should issue as prayed for. It was not for the purpose of deciding the merits of the petition.

It turned out that the PCGG had not actually sequestered or taken possession of Roman Cruz's assets; it merely (1) froze his bank deposits on account of reasonable belief that he had helped the Marcoses plunder the government institution (the GSIS), which he had once headed; and (2) put a six-month hold on his departure from Philippine jurisdiction. The PCGG stated that on his representation, he was allowed monthly withdrawals of P30,000. Since he did not ask for relief from the hold-departure order of six months, the Supreme Court denied the motion for a TRO, stating that in its view, there was no undue injury to petitioner Cruz.

Compromise settlement with Jose Yao Campos; departure for Manila

In the early morning of May 29, I drafted the Compromise Settlement with Jose Yao Campos, making sure that the conditions we had imposed were faithfully complied with. I called Prof. Tigar in Texas and checked the details with Commissioner Ramon Diaz in Metro Manila. Jose Yao Campos and his brother-in-law, a certain Mr. Dee, arrived around nine a.m. I explained the draft and after a few suggested modifications, the Compromise Settlement was signed. In my estimate, this compromise with a Marcos associate would be among the biggest in terms of money equivalent. Immediately, I sent a copy to Manila for the ratification of the whole Commission.

We took the plane for home that same evening. I noticed among my fellow passengers was Ms. Ming Ramos, a lady of culture and simplicity. We talked a little and boarded the plane. When we arrived in the early morning of May 31, I saw General Fidel Ramos waiting for her. Lydia, Pete

Yap, Ramon Diaz, Ador Hizon, Ikeng Santos and others were also there waiting for us.

In early June 1986, we transferred the PCGG offices from the DAP to the Philcomcen Building. Now we had a more spacious place. More offices could be provided for our officers and employees.

The case of 10,000 human rights victims

While waiting for a chance to make my report to President Aquino on my trip, Jose Mari Velez, the former Concon delegate and newscaster, and one Mr. Robert Swift came to see me. Joe Mari used to cover us in the Senate. He was known as an anti-Marcos delegate during the 1971 Constitutional Convention. Incarcerated, he was one among a few delegates who voted against and refused to sign the Marcos martial law Constitution of 1973. He suffered for his convictions. Mr. Swift was introduced to me as a Philadelphia lawyer. They saw me in connection with the damage suits against the Marcoses for the summary executions and acts of torture inflicted by the military on many human rights victims during the Marcos rule. I had nothing but sympathy for their cause. Emmanuel Yap, the talented son of Pete Yap, my former law partner and a Concon delegate to the 1971 Convention, was "salvaged" and could no longer be located by his parents. Eventually, his grieving mother, Flora Yap, decided to live in the United States. Pete Yap was appointed PCGG commissioner, then Senior Justice of the Supreme Court and became Chief Justice a little later.

I didn't realize at the time that this American lawyer from Pennsylvania would initiate something unheard of — the institution of a class suit for around 10,000 human rights victims in the Philippines, something unprecedented in the annals of American or Philippine jurisprudence. The tort suit was instituted in Hawaii where the Marcoses were residing at the time. Joe Mari Velez passed away a few years after the EDSA Revolution and the installation of Cory Aquino as president; Marcos died in 1989, and the Estate of Marcos was substituted as defendant. Robert Swift, along with other lawyers, who represented some plaintiffs, carried on and prosecuted the case against the Marcoses to a successful conclusion in 1995, winning a jury verdict of almost two billion dollars against the Marcos Estate. In time, the victims, through their counsel, were able to get an injunction from a District Court to prevent the Swiss banks from transferring the Marcos deposits in favor of claimants such as the Philippines, but this was

declared null and void on appeal by the banks. In its landmark decision of December 10, 1997 in favor of the Philippine Government, the Swiss Federal Supreme Court ordered that the Marcos deposits (amounting to around \$540 million at the time) be placed in escrow with the Philippine National Bank in the Philippines, even before final judgment of the Sandiganbayan against the Marcoses. Although the decision said that the human rights victims have no priority rights with respect to the assets of Marcos in Switzerland since "there is no connection between the crimes which caused the Marcos assets in Switzerland to be frozen in 1986 and the claims of the human rights victims," nevertheless the Swiss Supreme Court encouraged, but did not require, the Government to use the seized assets in whole or in part to indemnify the victims of human rights violations.

Up to now, however, many Marcos loyalists cannot understand how American courts could validly assume jurisdiction over the case which was filed against the Marcoses in Hawaii in 1986; apparently, they believe that only a Philippine court could adjudicate said case. It might help to point out that in tort, what is in issue is the civil liability of the defendant, not his criminal liability. Tort liability has a double purpose — to deter other wrongdoers and to compensate for the damage caused to the victim of the injury. On the other hand, criminal liability arising from an offense can only be tried and adjudged in the place where the crime was allegedly committed. In case of tort liability, the suit can be filed in any place where the tortfeasor may be found so he can be subjected to the jurisdiction of the Court. In the suit against Marcos, the basis of jurisdiction went beyond this rule on tort liability. It was based on an old, obscure legislation of the first U.S. Congress passed in 1789, otherwise known as the Alien Tort Act, which provides: "The U.S. district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States." The plaintiffs in the Marcos case invoked this Act and argued that Marcos was liable for acts of torture committed in violation of international law or law of nations. The Federal District Court of Hawaii sustained them and its decision was upheld on appeal. However, the question of damages is something else. The nature and extent of liability will be governed by the law of the place where the tort was committed, which means Philippine law.

In any event, what makes the Marcos case unique is that as many as 10,000 alleged victims of torture and summary execution were allowed by

an American court to sue as a class, perhaps the first time in the history of world jurisprudence. Whether in an appropriate proceeding our Supreme Court will sanction this procedure is open to question.

Report to President Cory

I made an oral report of my trip to President Cory Aquino on June 5. Among other things, I explained the terms of the Compromise Settlement of the Government with Jose Yao Campos, a leading business associate and crony of Marcos. She appeared satisfied. I also informed her about the formation of a panel of international law experts to advise us on many aspects of our work, especially with reference to the Marcos cases in the United States and Switzerland. These experts, coming from the international law associations and prestigious universities, would serve without compensation. The whole idea came from Ms. Severina Rivera, the Filipino-American lawyer who had been of great assistance to us since the beginning. The names of the experts would be released in the near future, but two were sure to be in: Myres McDougal of Yale Law School, my former professor, and Prof. Abram Chayes of Harvard Law School.

I was invited to the meeting of the new AFP Anti-Graft Board in Camp Aguinaldo on June 6, with General Ramos as the host. The officers comprising the Board looked impressive. I wished them good luck and extended the good offices of the PCGG to the new Board.

News of the decision of Federal Judge Harold Fong of Hawaii, ordering the U.S. Customs Service to return to deposed President Marcos millions of dollars in money, jewelry and other belongings his party carried to exile in Hawaii, came through the wire services and was published in the local media. The judge was quoted as saying that the property was not confiscated in connection with any investigations into potential violations of U.S. law. The Aquino Government had claimed in March that the money and property, valued around \$7 million, was stolen. It released a customs inventory of goods it said accompanied Marcos, his wife Imelda and an 89-member entourage when they left the Philippines at the end of Marcos' 20-year rule. In Manila, a PCGG Commissioner (Diaz) said the decision was a disappointment and that it would seek a reconsideration. He said the Commission considered this money and property as part of "between \$5 billion and \$10 billion" that Marcos, his family and friends had stolen from the country.

At the same time, a U.S. Department of Justice official was quoted by the *Washington Post* as saying that it would appeal the ruling.

In Honolulu, President Marcos said he was "very, very happy about the court's decision" and his spokesman made the comment that "the decision embraces what Marcos has been saying all along — that he believes in the American system of justice."

VII

The de Guzman-Almonte Operation

The first Post-EDSA Independence Day celebration

The first Independence Day celebration under the new Government was scheduled on June 12, 1986. Now there was a sense of pride in calling ourselves Filipinos.

I went to the June 12 reception in Malacañang and had lunch there. Like the others, I proceeded to the Luneta after the Palace luncheon and joined our small group, the PCGG, which, at that time, had only a few hundred employees. We hoisted a banner saying "*Ninakaw na Yaman, Ibalik sa Bayan.*" The huge crowd gave a deafening applause when we marched in front of the President and many people seated in the grandstand joined the ovation. The next day, President Cory Aquino saw me in the Office of the Executive Secretary and, addressing me, said in Filipino: "*Popular pala ang PCGG kahit na walang tigil ang atake sa diaryo.*" (So, the PCGG is popular in spite of the unceasing attacks in the press).

Indeed, we were popular with independent-minded people. In fact, we drew more than moral support from persons who really cared.

Two examples may be cited. We needed someone of moral integrity and competence to take charge of our fiscal agents and public relations, Mel Morales, now seconded to the PCGG by the College Assurance Plan (CAP), was placed in charge of supervisory teams.

Likewise, Dean Custodio Parlade, my former law partner who became Vice President of Atlantic Gulf and Pacific Commercial Company, had recently been seconded to us by our friend Bert Villanueva, the head of the firm. This undoubtedly strengthened our legal department. Solicitor-Gen-

eral Ordoñez and Asst. Sol. Gen. Ed Montenegro — the latter was holding office in the PCGG — had not lost any PCGG case in the Supreme Court since we started because of able support from those who were familiar with the facts and the governing law.

Because PCGG during my first six months was always in the news — whether good, bad, or indifferent — I found it difficult to refuse invitations from friends, especially from those who wanted to know more about PCGG, even though they represented associations that had no direct relation with the work we were doing. I would spend much time preparing speeches for special occasions. On June 13, for example, I spoke at the testimonial dinner of Sigma Rho in honor of our fraternity brothers in Government. Most of our brothers, a good number of whom had been in law practice, were now holding important positions in Government. Hence there was no problem at all.

But on June 14, I was the speaker at the Golden Anniversary of the Manila Dental Society; and on June 15, I was the Guest of Honor at the Charter Presentation of the Philippine Dental Association at the Manila Garden Hotel Ballroom. I was pleasantly surprised when I found out that dentists were just as interested as other concerned citizens in the progress of our work in the Commission. They wanted to know how they could be of help. But at this rate, I told myself, there would be little else I could do except prepare speeches and handle routine matters in the office. But this wouldn't do, since we had to decide important sequestration cases, on top of cases that required much study and deliberation — such as the cases involving San Miguel and UCPB, the PLDT, ABS-CBN, Meralco and others, each one of which involved hundreds of millions of pesos.

Visit of Mike de Guzman

Around mid-June 1986, Commissioner Raul Daza informed me that he had a meeting with former Congressman Jose “Peping” Cojuangco (then a private individual) and a certain businessman-banker who impressed upon him the need to go to Switzerland right away to recover the assets belonging to one of the associates or cronies of Marcos. This could be done, he said, by requesting, on behalf of the PCGG and the new Government, the lifting of the freeze on the bank deposit of an unidentified Marcos crony or associate. I was not inclined to let Commissioner Daza go, because of many problems confronting PCGG at the time.

On June 22, 1986, during my 66th birthday celebration which fell on a Sunday, a certain Mike de Guzman — who had been introduced by a relative to me in 1984 “as the banker of General Fabian Ver and a *compadre* of Irwin Ver” — came to my residence in Pasig. In the presence of two friends who greeted me on that day (PCGG Commissioner Ramon Diaz and Justice Pedro Yap), de Guzman urged me to allow Commissioner Raul Daza to go with him to Switzerland.

The proposal of de Guzman and my letter of introduction to Mr. Ascalon of our Embassy in Berne

Mike de Guzman said there was a trustee of one of the frozen accounts of Marcos in Switzerland who was willing to turn over to the new Government the Marcos deposits of around \$50 million to \$100 million in Swiss banks. He did not identify the trustee. In exchange, the trustee must be paid 20 percent of the amount, as consideration, plus a small escrow fee (1/4 of 1 percent) for his Vienna bank where the Marcos deposits would be transferred, after which the Government could get hold of the Marcos ill-gotten wealth in Switzerland. To accomplish this, the PCGG must ask for the “unfreezing” of the particular account covered by the trust. Commissioner Daza would represent the PCGG and leave with him right away “since the transaction must be accomplished within 24 hours.”

His presentation was suave and smooth. I asked de Guzman to excuse me as I wanted to confer with Diaz and Yap outside my library. The two did not seem to trust Mike de Guzman. Commissioner Diaz said he did not know de Guzman and the commission he was asking for the trustee was too big, considering that we were prepared to give only 1 percent of whatever amount our three Swiss lawyers could recover. Pete Yap said there was no assurance that once the Marcos deposits were transferred to the Vienna bank of de Guzman, he would turn over the money to the Aquino Government. Without knowing the truth or untruth of Mike de Guzman’s assertion but at the same time giving him some leeway, I thought of introducing him to our charge d’affaires in our Philippine Embassy in Berne. So when we got back to the library, I told Mike de Guzman that Commissioner Daza could not go with him to Switzerland since I needed him here, but I would introduce him to Luis Ascalon, the official in charge of the Embassy in Berne, so “you can discuss alternative strategies of recovering

the Marcos deposits in Switzerland." He did not object to my proposal. Hence, I took the liberty of writing the following note:

June 22, 1986

Dear Luis:

This will introduce to you—

Mr. Michael C. U. de Guzman

Philippine passport no. B0267314 issued November 22, 1984 whose signature appears on this introduction after my signature.

Mr. de Guzman desires to meet with you and jointly in consultation with our lawyers there discuss specific alternative strategies to recover the assets of Mr. Marcos and his cronies in Swiss banks.

I told him his proposal must first be approved by you and our lawyers there. Should you give me the green light, I will send Commissioner Raul Daza to whom the proposal was first presented by Mr. de Guzman. I want to be sure that the proposal is legally and morally defensible.

Kindly introduce him to our lawyers and kindly be present at their meetings.

Warmest regards and kindest thoughts.

Sincerely,

(Sgd.) Jovito R. Salonga

Here is Mr. M.C. U. de Guzman's signature — (Sgd.) M.C. U. de Guzman

Rush trip of Mike de Guzman and Almonte to Switzerland

Unbeknownst to me, Mike de Guzman and General Jose Almonte, who was then Asst. Chief of Staff for Civil and Military Operations, flew to Switzerland and went to the Philippine Embassy in Berne, with my letter of introduction, as stated in the account of Ambassador Ascalon in his fax to me much later. He (Ascalon) was asked by them to arrange a meeting with Dr. Salvioni, one of our three Swiss lawyers. But before the meeting, de

Guzman asked Ascalon, then our chargé d'affaires, not to reveal his true identity to the lawyers. In fact, he (de Guzman) volunteered to introduce himself to Dr. Salvioni as "the assistant of Almonte." In turn, Almonte identified himself to Salvioni as "the chief of the military staff that organized the people power revolution with the mission to recover the money." Here is the verbatim account of Ascalon:

"During the meeting, he (de Guzman) was bathed in mystery. His questions and statements were hypothetical or suppositions (sic). Suppose, de Guzman said, Marcos executes a power of attorney authorizing the delivery of his bank assets to the Philippine Government, could the Swiss banks refuse to comply? Would the Federal police authorities lift the freeze with the consent of the Philippine Government by virtue of such authority from Marcos? After getting Dr. Salvioni to answer some of his questions, de Guzman, according to the police authorities, tried *again* to withdraw and transfer the assets from a Marcos account with Swiss Credit Bank to his Export Finanzierungs Bank in Vienna to be credited to Trust Account No. 302-07070050-85."

The word *again* requires a parenthetical explanation.

Concealment and misrepresentation

By his own account made later under oath before the House Special Committee on Public Accountability on July 10, 1989, when de Guzman came to my residence in Pasig on June 22, 1986, he had already been to Honolulu three months before to see former President and Mrs. Marcos. Through the intercession of Col. Irwin Ver, his *compadre*, he was able to see the latter's father, General Fabian Ver, probably the closest aide to Marcos for many, many years. He told General Ver that the Swiss Government would probably freeze the deposits of the former president and that they should act fast by giving him the authority to transfer and withdraw their Swiss bank deposits. General Ver felt it was not proper for him to bring up the matter to Marcos, but de Guzman persuaded the general to at least tell Mrs. Marcos that he was in Honolulu and that he wanted to see them about some news regarding their Swiss deposits. On March 20, 1986, de Guzman received a call from Col. Ver that Mr. and Mrs. Marcos had agreed to see him in their quarters in Hickam Airbase. How he was able to convince them to give him their letters of authority to withdraw their Swiss bank deposits on March 21, 1986 — the same date (with allowance for the

time differential) when the Swiss Banking Commission issued a public statement urging Swiss banks "to watch carefully any deposits or withdrawals of funds that could be linked with former President Marcos"— is most interesting.

"As I entered the house," testified de Guzman, "I saw Mrs. Marcos sitting in the sofa of the small living room conversing with Governor and Mrs. Ariyoshi of Hawaii. I was introduced briefly to the governor and his wife and I was asked to sit by the dining table across the living room. I also saw Ms. (Fe Roa) Gimenez who was known to me as the personal secretary of Mrs. Marcos.

"A few minutes later, Mr. Marcos came out of his room and we were joined by Mrs. Marcos as the governor and his wife had left. Col. Ver left the house and waited outside the house.

"Mr. Marcos appeared very weak and it was Mrs. Marcos who opened the discussion by asking me what news I had to tell them. Mr. Marcos as I recall told Ms. Gimenez to increase the volume of the television across the room and cautioned me to speak very softly, motioning that the room could be bugged.

"I then started by informing them that I had strong reasons to believe that the Swiss banks and the Swiss government will take measures to freeze their deposits. At that point, Mrs. Marcos asked Ms. Gimenez about the status of her talks with their Swiss contact and Ms. Gimenez replied that the Swiss contact would take care of protecting and moving the documents and re-documenting them. Mrs. Marcos then confirmed to me that several records about their deposits were left in the Philippines. It was at that moment that I realized that what I was told in Lebanon about the movement of accounts were indeed happening already.

"I told them that was not the time to fully trust the Swiss banks and further described to them the conditions if the deposits were frozen as I briefly related to them what was earlier told to me in Lebanon about the status of some frozen deposits of the Shah of Iran. I told them that I offered them an alternative that they could consider given the situation at hand at that time. I recommended to them that if they wished they could give me the authority to see their bankers and I will have the deposits transferred to my bank in Vienna."

The account of Mike de Guzman does not say why it would be much safer to transfer the Marcos deposits in Austria than to leave them in Swit-

zerland. Apart from the fact that de Guzman enjoyed the confidence of Col. Irwin Ver, his *compadre*, and of the latter's father, General Fabian Ver, was Austrian law more protective than Swiss law? This was not recounted in the testimony of de Guzman, who owned and controlled a bank in Vienna, Austria. But the fact of the matter is that after the fall of Suharto in May 1998, the Suharto family was advised by their bankers to transfer their enormous Swiss deposits (estimated at nine billion U.S. dollars) to Austria, where they are now kept in a nominee bank account. Under Austrian law, the said account may not be frozen, much less recovered, by the new government in Indonesia.¹⁷

As we shall see, the Marcoses were obviously convinced by the presentation of Mike de Guzman. An hour later, according to the latter's testimony, Ferdinand Jr. "Bongbong" arrived and Mike was asked to again brief him about what had been talked earlier. To quote de Guzman:

"Further discussion followed and thereafter Marcos told Bongbong to check with their contact man in Switzerland. At that point I was asked to leave the room and I joined Col. Ver who was outside waiting.

"By about 10:00 p.m., Bongbong came out of the house and asked me to join him in the car he was using (a grey Toyota Corolla) while Col. Ver was asked to remain in the area and to wait for our return."

The two went to the Airport by car. The distance between Hickam Airbase and the Honolulu International Airport is not too far. Having stayed in Oahu, Hawaii during my years in exile, I know the International Airport can be reached by car from Hickam in around 10 to 15 minutes more or less.

Continued Mike de Guzman: "Bongbong drove to the Honolulu International Airport to look for a public pay phone. After parking the car, I followed Bongbong to one of the pay phones at the Airport and while I maintained a distance from where he was, I could still hear that he placed a long-distance call as he asked the operator to charge the call to a Honolulu phone number. I also noticed that he was talking to a person who at that time I assumed to be their Swiss contact or banker. At one point I heard Bongbong mention the country of Panama and I heard him say that they could not leave the United States nor could anyone of them go and

¹⁷See John Colmey and David Liebhold, "Suharto Inc.: The Family Firm (A Special Report)," *Time*, May 24, 1999, pp. 16-28.

meet in Panama. Thereafter Bongbong hung up the phone and we went back to Hickam."

Note that 11 p.m. in Honolulu on March 21, 1986 would be around 10 a.m. in Switzerland on March 22. This time differential should be taken into account in determining what date it was in Honolulu and why the warning was issued by the Swiss Banking Commission on March 21, 1986.

"Bongbong," said Mike de Guzman under oath, "proceeded to the house while I again waited outside with Col. Ver. After about an hour Bongbong came out of the house and again asked me to join him to the Airport. As he placed the second call, the telephone operator refused to honor the Honolulu telephone number to which he was charging the call. That situation got Bongbong very concerned as it appeared very unusual for the operator to refuse to place a call again to this Swiss contact for fear of being monitored by the U.S. authorities.

"We then returned to the house and a few minutes after Bongbong arrived he called Col. Ver and me to come into the house. He asked Col. Ver to help him carry a bag outside. At that point Mrs. Marcos gave me a small note with the name "Palmy Foundation" and she told me that I should not let Mr. Marcos, Bongbong nor any members of her family know about that account. She then handed over a small plastic bag which she said contained travelers checks and told me to hold the checks until further notice. Mr. Marcos was no longer in the living room at that time. Mrs. Marcos then said that Bongbong will just coordinate with me.

"We left Hickam past midnight already and Bongbong decided to bring me back to the hotel so he would know where I stayed in case he needed to see me. While in the car, I told Bongbong that I would have to leave within the next 24 hours regardless of whether I have to go back to Vienna or proceed to Switzerland. I told him they should make their decision within these 24 hours."

Mike de Guzman said it was already past 1:00 a.m. when he arrived at the hotel. He and Mr. Dagher, his companion from Lebanon, assessed the situation. They concluded he had already convinced Mrs. Marcos, since she had already given the name of her foundation (Palmy) but they still did not know who her Swiss contact was.

Continuing, De Guzman testified: "I opened the plastic bag, which was handed over to me by Mrs. Marcos and counted the travelers cheques. They were in denominations of \$1,000 each and totaled \$300,000.00. By

about lunchtime, I received a call from Col. Ver informing me that Bongbong would be seeing me later in the evening. He also asked me to come over to his apartment as General Ver had also wanted to see me before my departure. I met General Ver that afternoon. He talked with me alone in one of the rooms and gave me a check which he said was given by Lucio Tan. It was an Allied Bank Hongkong Cashier's Cheque (paid to cash) for \$150,000 drawn against their New York Bank. He asked me if I could do something to have the check cleared and to send them the money later.¹⁸

"I had this check included in the deposit of the travelers' checks earlier handed over by Mrs. Marcos and had the same wire-transferred to Vienna."

Mike de Guzman continued his narration: "I had to go back immediately to the hotel because I was told that Bongbong was on his way to see me. Bongbong had with him the two (2) letters of authority (signed by his parents) which he turned over to me.... He then used the telephone in our hotel to call the Swiss contact and as per our agreement, our names were not to be given. He only gave my Austrian Driver's license number because Mr. Dagher and I did not want the Swiss contact to be alerted as to who I am upon entering Switzerland, since I could be easily monitored through the Swiss Immigration. Bongbong then contacted the Swiss contact and advised him to expect the arrival of an individual bearing the license number given. Thereafter, he gave us the phone number of the Swiss contact named Ernest Scheller. He left and told me that he will try to see me later that night or early the next day or send me a note for further instructions before our departure."

The two letters of authority (sometimes referred to as powers of attorney) from Ferdinand and Imelda Romualdez Marcos were phrased in identical language. The letters instructed the Swiss banks to —

"Please hold all our securities and cash at the disposal of Michael de Guzman who will present this letter to you in person. He will identify himself by presenting his passport."

Armed with these letters of authority, Mike de Guzman went twice to the Swiss Credit Bank in Zurich — the first time on or around March 26, 1986 and the second time on May 7, 1986. On each occasion, he tried to withdraw, on behalf of Ferdinand Marcos and Imelda Marcos, their depos-

¹⁸See Mr. de Guzman's statement, pp. 26-27, Chavez Committee Report, p. 6.

its in that bank. On each attempt, de Guzman failed because of the freeze order issued by the Swiss Government.

In other words, Mike de Guzman deliberately concealed these facts and misrepresented the true situation when he saw me in my residence on June 22, 1986, in the presence of Commissioner Ramon Diaz and Justice Pedro Yap. Nor did he tell me about his June 16, 1986 agreement with Mr. Jose "Peping" Cojuangco on the 20 percent commission he was asking for. Had de Guzman informed me about the above facts, I would not have given him a letter of introduction to Mr. Ascalon, the Philippine diplomatic official in Switzerland.

In any case, according to de Guzman's sworn statement, after their failure to withdraw the Marcos deposits, he and Almonte returned to Manila from Switzerland, briefed Peping Cojuangco on June 29, 1986, after which it was decided to consult Mr. Pedro Cojuangco on "whether the matter should be brought to the attention of President Aquino." After Mr. Pedro Cojuangco was briefed on the operation, it was decided that the matter be brought to the President, and a briefing for the President was reportedly made on July 1, 1986. It was apparently decided that Solicitor-General Ordoñez, the legal representative of the Government and a person who had been close to the Cojuangcos, would be asked to join Almonte and de Guzman in the operation to recover the Marcos deposits. But Ordoñez was abroad at the time.

SG Ordoñez arrives from Canada and leaves for Switzerland the next day with de Guzman and Almonte

Solicitor-General Ordoñez arrived from Canada in the evening of July 2, 1986, and from the Airport, he was brought by one Carroscoso, then in charge of the MIA, to the house of Peping Cojuangco, where he met de Guzman and Almonte. After talking to the three, Ordoñez reportedly gave the opinion that the project was viable and that it would not affect the operations being undertaken by the PCGG. They decided to execute the operation not later than July 4, 1986.

On July 3, I went to the Meralco Lighthouse for a luncheon meeting with an American friend, Charlie Salmon, who had been with the U.S. Embassy during martial law. Solicitor-General Ordoñez, whom I had called earlier, arrived and came to our table. He told me he had just arrived from Canada the night before and that he would be leaving for Switzerland that

very same afternoon (July 3) in connection with the operation of Mike de Guzman. I was quite irked; in fact I expressed my displeasure to Sed, since his trip to Switzerland to carry out de Guzman's operation was being undertaken without the knowledge and consent of the PCGG, of which I was supposed to be the head. After all, it was PCGG, with Sed's knowledge and participation, that had instituted the claim against the Marcoses and their cronies, then filed with the Swiss Government the petition for legal assistance on criminal matters under IMAC, and obtained the regular freeze on the Marcos deposits in Swiss banks. Sed told me he would pass by Malacañang for instructions from the President. That ended our conversation. I was to learn later that Sed Ordoñez was not able to talk to President Aquino for instructions. Nevertheless, he left for Switzerland on July 3, 1986, in the company of Almonte and de Guzman.

Mr. Ascalon's statement gives us a clear account of what happened, having been present at all important meetings of Almonte and de Guzman with the Swiss authorities.¹⁹ He says that in the Swiss legal assistance system, the Solicitor-General is considered the principal authority to represent the Government and prosecute its claims. All pleadings and memoranda are generally signed by him. On instructions of Solicitor-General Ordoñez, a meeting was set on July 4, 1986 at a conference hall of the Federal Police in Berne to discuss with the Justice and Police officials and with our three Swiss lawyers the proposal of Mr. de Guzman. Almonte, de Guzman, Ascalon and Pieter Hoets, who had just arrived from the U.S., were present.

De Guzman shows his powers of attorney from the Marcoses and explains how he hoodwinked them

It was at this meeting where Mr. de Guzman revealed the details of his proposal. The powers of attorney (letters of authority) which he had obtained from ex-Pres. Marcos and Mrs. Marcos in Hickam Base, Hawaii, on March 21, 1986, were by him shown for the first time to those present, except Almonte. Incidentally, even Solicitor-General Ordoñez had no previous knowledge of the fact. Mr. de Guzman then asked if it would be possible to withdraw and transfer the assets of the Marcoses by virtue of his powers of attorney.

According to Ascalon, the police officials replied that if the Philippine

¹⁹See 17-page statement of Ambassador Luis Ascalon, May 7, 1991.

government agrees and there are no objections from the Marcoses or their lawyers after they have been properly notified, the funds could be withdrawn and transferred. However, one of the Police officials confided to Mr. Ascalon that he could not understand why Marcos would not object since he would surely be informed by his lawyers unless there was a "secret deal" with the Philippine Government. Anyway, he said, this was a matter for the Philippines to decide and the Solicitor General was the competent person to do so.

Mr. de Guzman then narrated how he was able to convince and hoodwink the former president and his wife into executing the powers of attorney in his favor.

On the same day which was a Friday, the Philippine Embassy transmitted to the Office of the Federal Police a letter signed by the Solicitor General dated 4 July 1986 requesting the transfer of the assets of eleven (11) foundations to the Export Finanzierungs Bank, Vienna, Austria, for credit to account no. 302-07070050-85 of the Republic of the Philippines.

On 5 July 1986, Solicitor-General Ordoñez, accompanied by General Almonte, left Switzerland for Vienna to await the transfer of the funds there.

Ascalon's call to Manila; PCGG meets and warns Pres. Cory

In the afternoon of Monday, July 7, 1986, in Manila (early morning of the same day in Switzerland), a worried Luis Ascalon, the chargé d' affaires of the Philippine Embassy in Berne, called me to tell me that Solicitor-General Ordoñez had requested for the "unfreezing" of the Marcos Swiss deposits. When I asked who the principal was, he said it was "former President Marcos and Mrs. Marcos." The amount involved in the request was \$213 million.

Immediately, I called Commissioners Ramon Diaz, Raul Daza, and Quintin Doromal to a very confidential meeting (Comm. Mary C. Bautista was out) and informed them of the developments. All of us were agreed that Mike de Guzman had misled us into believing that (1) the principal was not Mr. Marcos but a Marcos trustee or associate; (2) the trustee was a Swiss national; (3) that the 20 percent commission would go to the trustee, not to de Guzman and company; and (4) that all he (de Guzman) would earn from the transaction was an escrow fee of 1/4 of one percent for his

Vienna bank. At the time, we did not know yet that when he came to my Pasig residence on June 22, 1986, Mike de Guzman had been with Marcos and Mrs. Marcos on March 21, 1986 in Hawaii and had, in fact, obtained two letters of authority from the couple to withdraw cash and securities from the Swiss banks — something he did not reveal to us. When he went to Switzerland on the 24th of March to make use of the powers of attorney just given to him on March 21 by Ferdinand and Imelda Marcos, de Guzman was on his own — he could not have represented the Aquino Government. Nor did de Guzman represent the Philippine Government in any way or manner when he presented himself again to the Swiss Credit Bank on May 7, presumably in the belief that the unilateral freeze had been lifted and that we in the PCGG had not exerted efforts to regularize it. Mike de Guzman failed on both occasions to withdraw the Marcos deposits due to the unilateral freeze imposed by the Swiss Federal Council in the first instance, and the regular freeze imposed by the said Council in the second instance. The latter was the result of the request filed with the Swiss Government by the PCGG on behalf of the Philippines, in accordance with the requirements of the IMAC. He turned around only after repeated failure and he deliberately misrepresented the facts when on June 22, 1986, he came to me and made his glib presentation, in the presence of Commissioner Diaz and Justice Yap.

On behalf of the Commission, I handcarried a letter to the President saying that “we in the Commission have very deep reservations about the whole procedure, especially because the principals involved here are Mr. and Mrs. Marcos — something we did not know when the Solicitor General left on July 3. The practical, legal, and moral implications of this development are far-reaching, even if the amount is eventually transferred to our Government.

“But if, for any reason, the Aquino Government and our people should become the victim of a gigantic swindle, the consequences would be incredibly devastating.”

In the meantime, on the same day (June 7) things were happening in Switzerland and Austria. Dr. Lionel Frei, Chief of the International Legal Assistance Department of the Federal Office for Police Matters, forwarded, without any objection, the request of Solicitor-General Ordoñez to Dr. Bruno Tinkler, District Attorney of Zurich.

SG Ordoñez' unease in Vienna

In Vienna, however, on the same date (July 7), Solicitor-General Ordoñez called Mr. Ascalon by phone and informed him that he was unhappy over the situation there. Although he and General Almonte signed an application form to open an account, no account was in fact actually opened or existed in the name of the Republic of the Philippines of which he (Ordoñez) had control. Ordoñez couldn't register his signature which would have made him the legal representative of the Philippine Government. Sed Ordoñez had seen the two companies of de Guzman — there was just one employee at the same address. The whole outfit was just a "hole in the wall." He also informed Ascalon of the presence of a Lebanese national who gave allusions to a Lebanese underground and said that the lives of those involved in the recovery efforts were in danger. In turn, Ascalon informed Ordoñez that de Guzman had been talking with the Federal Police authorities and filing papers directly with them; the Swiss officials had to remind Ascalon about the proper procedure.

In Zurich, Dr. Koeflerli, head of the Legal Assistance Department of the Zurich District Attorney's Office, issued an order dated 8 July 1986 authorizing and requesting Swiss Credit Bank and Fides Trust Co. to transfer the deposited and administered assets of Ferdinand and Imelda Marcos with them as well as the assets, if any, of the eleven (11) foundations of the Marcoses.

Meantime, Dr. Salvioni was worried after receiving information on de Guzman's bank in Vienna. He told Ascalon that de Guzman's bank was floundering and on the verge of bankruptcy. He transmitted the same information to Solicitor-General Ordoñez in Vienna. Before the latter left for Manila on the 8th of July, he told Mr. Ascalon that after an evaluation of the situation, he had decided to abort the operation. But the Swiss lawyers had recommended not to stop or cancel the transfer but only to change the depository of the funds from de Guzman's bank to an account of the Philippine Government in the same Swiss Credit Bank in Zurich. Ordoñez asked Ascalon for his opinion and the latter replied that he fully supported

²⁰The Filipino diplomatic official was more far-sighted and accurate than he might have thought. Had the Marcos Swiss deposits been transferred to a nominee bank account in Austria, it would have been impossible, under the law of Austria, for the Philippines to recover the said deposits. See the account of the strategy resorted to by the Suharto family after the fall of Indonesian president Suharto in May 1998, Colmey and Liebhold, "Suharto Inc.: The Family Firm (A Special Report)," *Time*, pp.16-28.

the recommendation considering the available information and the risk involved in case of transfer of funds to Vienna, Austria.²⁰

On the 9th of July, Dr. Salvioni, upon instructions of Solicitor-General Ordoñez, sent a telex to the District Attorney of Zurich requesting a change of the depository of the funds from de Guzman's bank in Vienna to an account in the name of the Republic of the Philippines in the same bank.

In his order of 10 July 1986, the Office of the District Attorney modified its order dated 8 July 1986, pursuant to instructions of the authorized lawyers of the Philippine Government changing the depository of the funds to be transferred. The instruction was later confirmed by Solicitor-General Ordoñez on July 14, 1986.

On 11 July 1986, Mr. Marcos sent a fax to Mr. Bruno de Preux, one of his lawyers in Geneva, denying that he had ever granted authority or power to Mr. de Guzman to make a compromise agreement with the Philippine Government and if ever such document was being used, the same was being withdrawn by him and declared null and void.

Mr. de Preux immediately furnished the Swiss Credit Bank, the Office of the District Attorney in Zurich and the Federal Police in Berne with copies of Mr. Marcos' revocation of his powers of attorney in favor of Mr. de Guzman.

After receipt of such revocation, the assets were refrozen.²¹

Salvioni's assessment and recommendation

How did Dr. Salvioni, the most proficient in English of our three Swiss lawyers and a man well-known for his integrity and competence, evaluate the situation after Solicitor-General Ordoñez left Berne for Vienna on July 5? How did he advise Solicitor-General Ordoñez and Chargé d'affaires Ascalon? Why did Marcos say that the power of attorney he had given to de Guzman was fake? During the Big Bird controversy, chiefly the handiwork of Mike de Guzman and General Almonte in July 1989, Dr. Sergio Salvioni issued a Statement dated July 20, 1989 which discusses these matters.

It should be recalled that on July 4, 1986, de Guzman proposed to file a request signed by Solicitor-General Ordoñez in the name of the Philippine Government, asking the Swiss Credit Bank and Fides Trust to transfer all the amount existing on the accounts of 11 foundations to the same

²¹See pp. 6-10 of Ambassador Ascalon's Report.

Export Finangsierungs Bank in Vienna, in account No. 302-07070050-85 (the same number used by de Guzman when he used the powers of attorney executed on March 21, 1986 by Ferdinand and Imelda Marcos on at least two occasions when he acted in Zurich for the Marcos couple — on March 24, 1986 and May 6, 1986). He failed to withdraw the Marcos deposits in both instances due to the freeze imposed by the Swiss government. This time the request was signed by Solicitor-General Ordoñez and filed with the Federal Office for Police Matters. The District Attorney of Zurich agreed with the payment “for the Philippine Government” on July 8.

But the Swiss lawyers and Mr. Ascalon were very worried about this situation. If the money were out of Switzerland, the Philippine Government would be in no position to recover it. The situation was in the hands and control of de Guzman, who was acting in accordance with Marcos’ approval.

Salvioni asked for information about the Export Finangsierungs Bank in Vienna. The President of the supervisory board was Donato L. Guzman. Among others, Alejandro Melchor, former executive secretary of Ferdinand Marcos, was a member. Another member was Dr. Walter Konrad of Vienna, who has been a business partner of Herminio Disini since 1978.

The financial situation of de Guzman’s Bank seemed to be critical. The Austrian authority had withdrawn the bank authorization because it did not have the necessary funds.

“The legal responsibility of this operation,” said Dr. Salvioni, “was placed on our professional knowledge and conscience. So we decided on what we thought and sincerely believed was best for the Philippine Government and we advised Solicitor-General Ordoñez accordingly.... We suggested to him to just change the destination of the funds. Instead of Vienna, he ordered to transfer the money to an account of the Philippine Government to be opened in the same Swiss Credit Bank in Zurich.”

The revised order was faxed to the Swiss Credit Bank on July 9th. Before executing the order, the Bank apparently called Marcos in Honolulu asking if they would do it. Marcos reacted immediately with a telefax saying that the power of attorney was a fake, that he didn’t authorize de Guzman and that his only representatives in Switzerland were his lawyers Bruno de Preux and the latter’s colleague Nancoz.

“It was of course a lie,” wrote Salvioni. “But this indicates that Marcos

agreed with the previous order to transfer the money to the (Bank of de Guzman) in Vienna. Marcos is not so stupid to have easily let go \$213 million of his frozen deposits. He is experienced in this kind of operation. It is safe to presume that he had made sure he was fully informed of what was going on and he organized the operation which would ensure he would ultimately be the beneficiary of the transfer."

Solicitor-General Ordoñez left Vienna without saying anything to de Guzman, as he was beginning to realize the disastrous consequences of the operation which was being manipulated by de Guzman. "The change of instructions by Mr. Ordoñez," said Dr. Salvioni, "saved the Philippines from the biggest sting in (sic) the century."

Salvioni and the other lawyers made the following summing up: (a) Marcos never intended to pay out any money to the Philippine Government; (b) Marcos agreed with the transfer which de Guzman attempted to accomplish when he went to the Swiss Credit Bank on March 24 and later on May 6, provided the transfer was made to the Vienna Bank of de Guzman; (c) Marcos stopped the transfer as soon as he was informed that the destination was changed from Vienna to a Philippine Government account in Credit Suisse in Zurich.

My own analysis

My own analysis is that regardless of what Mike de Guzman did with the two powers of attorney he had obtained from the Marcos couple, he would be double-crossing someone had he been able to withdraw the deposits of Marcos. Due to the precarious condition of his bank in Vienna, Austria, which was on the verge of bankruptcy in early 1986, there were at least two options open to de Guzman before June 1986: one was to comply with de Guzman's commitment to the Marcoses by turning over the money to the couple, minus his commission; and the other was to double-cross Marcos and retain the money for himself and his group.

After de Guzman, with the help of Almonte, contacted the Aquino Government in June 1986, there were at least three options open to de Guzman and his group: (a) double-cross the Aquino Government and remit the money to the Marcos couple, minus their commission; (b) double-cross the Marcos couple and turn over the money to the Aquino Government, minus their commission of 20 percent of \$213 million or \$40 million; (c) double-cross both the Marcos couple and the Aquino Govern-

ment and retain all the money for himself and his group. Each option was dishonorable. And there were no other options possible. Incidentally, by Mike de Guzman's own sworn declaration, he in effect swindled Mrs. Imelda Marcos and Gen. Fabian Ver when he pocketed the \$300,000 (in traveller's checks) entrusted to him by the former First Lady and the \$150,000 cashier's check entrusted to him by the former chief of staff.

On July 11, 1986, I wrote a nine-page letter to President Corazon C. Aquino, summarizing for the record all the documented facts of the Mike de Guzman-Jose Almonte operation. This letter bears the concurrence of Deputy Minister Ramon Diaz, Commissioners Raul Daza, and Quintin Doromal and the signature of confirmation of Solicitor-General Sedfrey Ordoñez. The last part of this letter may be worth quoting:

"Assuming this to be the case (meaning that the amount of \$213 million does not go to Mr. and Mrs. Marcos due to the timely intervention of Dr. Salvioni), may I suggest that we take the only course that is right and honorable: the legal, moral course, which was what we had been doing until the Solicitor-General got what he described as his 'instructions' — without our knowledge — upon arrival from Canada on the night of July 2. The legal course may take a little more time, but it will probably ensure not only the recovery of the wealth that belongs to our people but also of something that will increase our stature before ourselves and the rest of the world: our self-respect, which no amount of money can ever buy."

There was no such thing as the "Big Bird Operation" in July 1986 — that was a term used three years later by de Guzman and Almonte to describe their failed operation of July 1986, which they claimed had been "aborted" by Salonga and Ordoñez. More of that later.

VIII

In Defense of the PCGG

The Tolentino caper of July 6, 1986 against the Aquino Government

I was invited by Brother Eddie Villanueva to speak on Sunday, July 6, 1986, to the "Jesus is Lord Fellowship" congregation which used to meet in the premises of the Araullo High School on Taft Avenue. I arrived there in the late afternoon. I had known Brother Eddie since the Marcos years but I didn't realize how much his group had grown since my imprisonment in 1980 and my years in exile abroad.

After his kind introduction, I began addressing the big crowd of people who seemed very receptive. Suddenly, we heard a commotion, but I managed to finish my speech. It was only after I finished my address when I learned that Marcos' vice-presidential candidate Arturo M. Tolentino had occupied the Manila Hotel with a throng of civilian supporters and some 300 soldiers. The purpose, so I was told, was to enable him to take his oath of office as Acting President of the Philippines, in the absence of Ferdinand Marcos who, he asserted, had authorized him to act in his absence. He actually took his oath before former Justice Serafin Cuevas of the Supreme Court. What was Tolentino's basis?

Tolentino, a professor in several law schools and an authority on civil law, had been a Nacionalista congressman representing Manila in the late 40s and was elected senator in the 1957 elections. In fact, after my election to the Senate in November 1965, he was chosen by the Nacionalista senators comprising the majority as Senate president. He had fought Marcos

for the presidential nomination in the 1964 Nacionalista Convention, but like the others — such as Gil Puyat, Fernando Lopez, and Emmanuel Pelaez — he lost. Marcos was elected president of the country in 1965, and Tolentino, who campaigned for Marcos, became Senate president. Because of the subservience of the Senate to Marcos, the Liberals, who were in the minority, combined with a group of independent-minded Nacionalistas, composed of Gil Puyat, Jose W. Diokno, Eva Kalaw, and Rodolfo Ganzon, to oust Tolentino and install Gil Puyat as Senate president. They succeeded. Puyat became Senate head, with the support of the Liberals who gained control of important committees. After the 1969 elections, which witnessed the defeat of the Liberals and the reelection victory of Marcos, the Senate fell under the complete control of the Nacionalistas who, however, retained Puyat as Senate chief. Until martial law was imposed, Puyat was the Senate president; Tolentino, also a leading member of the Senate, cooperated with both Marcos and Puyat. During martial rule, Tolentino fell out of grace many times because of his criticisms of Marcos' policies. In the 1984 Batasang Pambansa elections, he was the only KBL member who won a seat in Manila, having projected himself as "a KBL with a conscience." He was appointed Minister of Foreign Affairs but was sacked a few months later due to his pointed criticism of a policy of Marcos.

In the snap presidential election of February 7, 1986, Marcos needed a vice-presidential candidate with the independent image of Tolentino and Imelda needed someone of his age (75) who would not be too much of a threat to her should she run for president in the 1992 presidential election. By official count of the Commission on Elections, Marcos and Tolentino won and dutifully they were proclaimed by the Batasang Pambansa, over the vigorous dissent of the Opposition. But EDSA intervened and Marcos had to flee; Tolentino stayed behind:

On April 21, 1986, Marcos wrote a letter in his own handwriting and official stationery to "Vice President Tolentino," saying: "I authorize Vice President-elect Arturo Tolentino to act as the President of the Philippines as the only legitimate head of the only legitimate government in the Philippines until such time as I return to the Philippines."

On July 6, having taken his oath as president, Tolentino constituted his cabinet and appointed Juan Ponce Enrile as concurrent Prime Minister and Minister of National Defense under the Marcos 1973 Constitution. The soldiers — believed to be former members of Marcos' Presidential Security

Command and other units loyal to Marcos — barricaded the hotel, while civilian loyalists helped themselves to the hotel, food and liquor. With the self-styled acting president were Rear Admiral Brillante Ochoco, former flag officer in command of the Navy, and Brigadier Generals Jose M. Zumel, Antonio Palafox, Jaime Echevarria, and Isidro de Guzman. Also seen with the gathering, according to the media, were Colonels Rolando Abadilla, Rodolfo Aguinaldo, Reynaldo Cabauatan and Jose Mendoza.

The loyalist soldiers in full battle gear had commandeered military trucks, waved their loyalist banners and entered Manila, from a nearby province in broad daylight. How they were able to enter Manila without any resistance by the police and the security troops guarding the national capital, was quite puzzling.

Meantime, in Cagayan de Oro, President Cory Aquino gave the Marcos loyalists, holed up at the Manila Hotel, twenty-four hours to give themselves up and “stop this propaganda gimmick.”

Some people suspected some kind of a collusion between the military establishment supposedly under Cory and the Marcos loyalists among the military. Thousands of pro-Aquino supporters wanted to encircle the hotel, cut off the electricity and the water, mount a siege and prevent the entry of food. But Minister Enrile ordered them to disperse, thus avoiding a confrontation between the two groups. He said “the 180 or so officers and soldiers who are still holed up in the upper floors of the hotel are ready to rejoin the AFP.” No criminal charges would be filed against them “if they give up within the 24-hour limit set by President Aquino.”

Former Senator Tolentino, on the other hand, claimed that he had been pressured by the supporters of deposed ruler Ferdinand Marcos to take the oath of office. “I had no role in planning this,” he said. He told newsmen he was willing to negotiate with the Government but “no Aquino government officials had offered to talk to him.”²²

In time, the Marcos loyalists surrendered. Most of them were members of the “Guardians,” a military fraternity. A good number of those who joined the Tolentino caper claimed they were merely following the orders of their superiors in the defense ministry. The soldiers who were involved got off with the ridiculous penalty of thirty push-ups.

We had our cabinet meeting on Wednesday, July 9. It was a tense meet-

²²*Philippine Daily Inquirer*, July 8, 1998.

ing, with verbal fireworks by Executive Secretary Joker Arroyo against Enrile and by Ramos against the others. I suggested that a probe be conducted so we could first ascertain the facts before making any conclusions. Minister Alran Bengzon was requested by President Aquino to head the investigation committee. In my own view, the Tolentino caper could be the beginning of more serious attempts to topple the Aquino Government.

Call for the abolition of the PCGG

Meanwhile, I noticed that there had been a concerted drive in the media against the PCGG, particularly with respect to the sequestration of firms and enterprises identified with the Marcoses or their cronies and the activities of the Commission's fiscal agents. The crony press, led by the *Daily Express*, was particularly vicious in its language. Marcos' *Kilusang Bagong Lipunan* (KBL) demanded the abolition of PCGG "before it wrecks the national economy and becomes the principal instrument to deliver the people into the waiting arms of the Communists." Even supposedly responsible members of the independent media were quite critical. Some members of the business community, who had been supportive in the beginning, now condemned sequestration as a "violation of the right to private property and due process, without previous notice and hearing." Some members of the 50-member Constitutional Commission who had been meeting since the first days of June 1986, such as Father Joaquin Bernas, S.J., Commissioners Felicitas Aquino and Blas Ople, called for the abolition of the PCGG. In particular, Father Bernas, the president of Ateneo University, described the activities of PCGG as "Marcosian backsliding... let us not constitutionalize the term 'sequestration', let us not dignify it, let us not lead the PCGG into temptation." But without the power to sequester, how much ill-gotten wealth could the PCGG possibly recover? It might, in my view, be better to just dissolve it.

I was asked by the Constitutional Commission to present the side of the PCGG before the Committee on Transitory Provisions, headed by Delegate Jose Suarez. I went there, along with Commissioners Ramon Diaz and Raul Daza. Those who had been against the PCGG since the beginning, for example, some lawyers of the Marcos cronies and business associates, were also there. Among the commissioners who were present during the hearing were Justice Cecilia Muñoz-Palma, the president of the Commission, Father Bernas, Commissioners Ople and Jose Nolleco.

I brought with me photocopies of some important Malacañang documents containing the signatures of Ferdinand E. Marcos and Imelda Romualdez Marcos. Commissioner Blas Ople was seated beside me. When I was given the chance to make my presentation, I took advantage of his presence by talking about the thousands of documents that had fallen into our possession and the incredible plunder of an entire nation, which began shortly after Marcos assumed the presidency on December 30, 1965. It was entirely domestic in the beginning but in March 1968, I said, the Marcoses salted away dollars with the use of code names in the banks of Switzerland — a country known for its tight secrecy laws, the most favored place at the time for the world's most corrupt rulers and dictators. Ferdinand Marcos used the pseudonym William Saunders and Imelda Marcos used the pseudonym Jane Ryan. I showed the photocopy of a contract entered into between the Suisse Credit Bank and Ferdinand E. Marcos, with the latter's false name, William Saunders, and another copy of a Contract between Suisse Credit Bank and Imelda Romualdez Marcos, with her fictitious name Jane Ryan. The agreement, dated March 20, 1968 and March 21, 1968 respectively, provided that their deposits would henceforth be made with the use of said code names, as authorized under their genuine names and signatures. I asked Commissioner Ople whether he recognized the genuine signatures of Ferdinand E. Marcos and Imelda Romualdez Marcos. He looked closely at the documents and, after a while, nodded his head.

I said that fortunately for the Philippines, when a Marcos agent, a Filipino banker, went to Switzerland on March 24, 1986 and presented himself to the Suisse Credit Bank, with the letter of authority signed by Ferdinand and Imelda Marcos, to enable said agent to withdraw the Marcos deposits, the bank official excused himself and tipped off the Swiss Government. A few hours later, the Swiss Federal Council, without any previous notice and hearing, imposed a freeze on all the Marcos deposits not only in the Suisse Credit Bank but on other Swiss banking institutions that had any Marcos deposits.

Earlier, shortly after the EDSA Revolution and the installation of the Aquino Government, on the *ex parte* petition of our New York lawyers for a restraining order against the Marcoses and their agents and dummies to prevent them from transferring or encumbering four big Marcos buildings in Manhattan and an estate in Long Island, the New York Supreme Court,

realizing the urgency of our petition, issued, without benefit of any previous notice and hearing, a temporary restraining order, which had now become a preliminary injunction. Why, I asked the commissioners present at the hearing, “why should the Swiss and American authorities continue to impose a freeze for the benefit of the Filipino people, without previous notice to Mr. Marcos, if we ourselves here seem to have second thoughts about freezing the assets of Marcos and his cronies here? Why should they stick their necks out for the Filipino people, when we are apparently losing the courage to do that?”

I said that “if any sequestration order was issued unjustly, let us know. We do not pretend to be infallible. If any of our agents has committed any abuses or excesses, let us know and give us the supporting evidence. *Kahit na si Kristo, hindi napigilan ang kanyang mga disipulo — may isang nagtaksil. At kahit na ang lider nila na si San Pedro ay nagkasala din.* (Even Christ was not able to control his disciples — one became a traitor. And even Peter, their leader, denied Jesus). There are hundreds of volunteers here and abroad, some of them the finest men and women I know, in the fields of banking, technology, law and other disciplines who should not be smeared, partly because they helped us solve some of the mysteries of the ill-gotten wealth and partly because — out of the generosity of their spirit — they offered their services without any thought of compensation.”

I also explained to the commissioners that legally, it is not true that before any property can be frozen or sequestered, there must first be a hearing. In taxation law and practice, the Government can place under constructive distraint the property of a delinquent taxpayer or any taxpayer who is hiding or concealing his property, without need for a previous notice or hearing.

I cited the example of the four big buildings in Manhattan to show that traditional legal measures and legalisms could not apply to this kind of plunder. I said: “No building was registered in the name of Mr. or Mrs. Marcos. They and their cronies and associates were not that stupid. So what did they do? The elegant Crown Building in Manhattan is purportedly owned (at that time, to be more precise) by a corporation in Netherlands Antilles, and in turn this corporation is owned by three Panamanian corporations with bearer shares — which means that these shares are transferrable without need of registration. Whoever is the bearer of these shares is the owner. The New York Supreme Court did not allow these corporate

devices to cripple us in our people's search for justice. It gave us the restraining order without previous notice or hearing."

I appealed to the Commissioners with these words: "Let us not betray our people's faith in us. For if we do, a dictator will come again some day, in the name of national security and stability and do what Marcos did, since after all, Marcos and his associates here and abroad shall have demonstrated for all the world to see that crime pays."

I recall that a well-known lawyer of a close crony of the Marcoses spoke after me on the case he was handling but did not refute the points I took up in my presentation.

After the hearing, I was told by a number of friends among the Commissioners that the majority would probably sustain us in our stand, as a matter of principle. In fact, Article XVIII, section 25 of the final draft of the Constitution which was submitted to the people for ratification on February 2, 1987 provided that "The authority to issue sequestration or freeze orders... shall remain operative for not more than 18 months after the ratification of this Constitution. However, in the national interest, as certified by the President, the Congress may extend said period."

Hongkong meeting with Marcos associates

We had just won the sequestration case filed by the Tourist Duty Free Shops (TDFS) in the Supreme Court when we received word from Benny and Glecly Tantoco, our friends since the 1950s, that they wanted to meet with us for a proposed settlement. We were open to that possibility, for a number of reasons. One was what the witty Rafael Anton, my Spanish friend and my Pansol neighbor, used to say: "Where no fundamental principle is involved, remember that the longest distance between two points is a case in court." Two, because of what I had said to the members of the Constitutional Commission:

"Some of the cronies of Marcos are on the point of unloading their ill-gotten wealth and negotiations are now proceeding to accomplish that end. But continuous adverse publicity against the PCGG could dissuade them from continuing their negotiations with us. What is the point, indeed, in negotiating? They can just sit tight and wait, hold on to their ill-gotten wealth, and the time may come, when in the name of the Constitution and due process, their so-called property rights will be legitimized by our lack of political will."

Three, the fact that we had already reached with Jose Yao Campos, a Marcos crony, what we considered to be a good example of a compromise settlement, without sacrifice of principle. We were now desirous of having another one.

The Tantocos had resisted our efforts to enforce our sequestration order, first by means of physical force, but when that did not prevail, they went to the Supreme Court. Solicitor-General Ordoñez presented, during the argument before the Supreme Court, an important document from our Malacañang collection — a confidential letter written by Glecyc Tantoco to Imelda Marcos which admitted that TDFS was actually owned by Imelda and Glecyc, not by the Government, and that the business was flourishing. Which was why the Supreme Court, without much ado, unanimously maintained the sequestration order of the PCGG.

Now the Tantocos wanted to talk with us. Accompanied by my aide, Atty. Salvador Hizon, the Solicitor-General and I flew to Hongkong in the morning of July 21. They had just arrived from Rome, where they were now residing. Benny had been appointed ambassador by Marcos but he was not retained by the Aquino Government. The meeting began auspiciously enough since we knew one another from way back. The Tantocos had been doing very well in their Rustan Department Store long before Marcos ran for president in 1965 under the Nacionalista Party. The Tantocos actively supported Marcos and became very close friends. Glecyc had been one of the blue ladies of Imelda. I campaigned against Marcos and ran under the Liberal Party but, despite our political differences with the Tantocos, we remained friends. It was only after the imposition of martial law that we were really drawn apart.

Our first meeting was held inside a room in the Mandarin Hotel around 3 o'clock in the afternoon of July 21. The meeting lasted for almost four hours. The Tantocos said they wanted to talk only with me and Solicitor-General Ordoñez. I had hoped that the Tantocos would be as open as Jose Yao Campos. It turned out what they wanted was "immunity" to enable them, so they said, to help us in our work. I said that was not possible. Immunity could only be extended after full and fair disclosure and full restitution of the ill-gotten wealth. The only ill-gotten wealth Glecyc agreed to acknowledge was the Makiki Heights property being occupied at that time by the Marcoses in Honolulu. It was she who organized the shell company, a Panamanian corporation, which held title to that property

located at 2338 Makiki Heights Drive, which the Tantocos purchased for \$717,000 on or around July 14, 1977. Glecy readily stated that this property was no longer her property, since at one time it attracted the attention of Imelda Marcos, who was then in Honolulu. Imelda, according to Glecy, said "*Gusto ko ito. Akin na ito.*" (I like this, this is mine).

We had brought with us a number of incriminating documents from our Malacañang collection but Glecy would not go beyond the Makiki Heights property, despite what we said — to tell the whole truth, which would be good for them in the end and, at the same time, help our people. What I wanted was a full, not a partial, disclosure. In our breakfast meeting the next day with Glecy and Benny Tantoco in the same room of the Mandarin Hotel, I told them the PCGG would lay claim to the Makiki Heights property, for the benefit of our people. She did not express any concern that she was losing a property which was apparently hers. Since we said we could not give them immunity on the basis of a partial disclosure, they said they would have no recourse but go back to Rome and seek political asylum. Our talk was cordial but the Tantocos would not budge. Glecy, I concluded, was a tough customer. We left for Manila on July 22.

Visit of de Guzman and Almonte

A few days later, Mike de Guzman and Gen. Jose Almonte came to me at the house of my niece in Capitol 8, Pasig — which was near our residence — and narrated to me in detail the events that took place around July 3, 1986 when they left for Switzerland in the company of Solicitor-General Ordoñez. They told me they failed, due to subsequent events, to withdraw the Marcos deposits. I listened to them with full concentration, even as they omitted mentioning Mike's earlier visits with the Marcoses in Hickam Base in March 1986 and the very precarious condition of de Guzman's bank in Vienna, Austria. I did not tell them about their omissions, not wishing to argue with them. In any case, in their presence, I called Dr. Salvioni by overseas phone to tell him about the visit of Gen. Almonte and Mike de Guzman. If I recall correctly, Salvioni suggested that the two execute an affidavit, reciting all the relevant events, which could then be submitted to the Swiss authorities when they leave for Switzerland again. I transmitted his suggestion to my two visitors.

Refusal to accept the Marcoses; our contract on attorney's fees

Toward the last week of July, we received the news that Spain, Indonesia and Singapore had refused to accept Ferdinand and Imelda Marcos. However, Panama, which once took in the Shah of Iran, accepted Marcos, then changed its mind as the Marcoses reportedly prepared to board a plane in Hawaii. As an Opposition leader in Panama put it, the people of Panama did not want to take in "any more political garbage."

On July 29, Lydia and I received the sad news that her eldest brother, Dr. Salvador Busuego, who had served our family as our heart doctor and took special care of me after the Plaza Miranda bombing, passed away in Kentucky. Lydia and I had visited him and Ate Cely in several places in the United States since they migrated to the United States during the latter part of martial rule. I noticed that his condition had deteriorated after the cancer operation on his leg. Now we would miss him sorely.

In early August 1986, Pieter Hoets arrived from the United States, after having stayed for some time in Europe. He briefed me on the developments regarding our request for legal assistance in Switzerland. Like Luis Ascalon of our Embassy in Berne, he was quite optimistic although the lawyers of the Marcoses were vigorously opposing our documented claim that the Marcos deposits came from illegal origins. I brought Pieter to Midsayap, Cotabato and General Santos City in Mindanao, where I had several speaking engagements, so he might have an idea of the life and the culture of our people in Southern Philippines. When we got back we formalized our verbal agreement months earlier regarding the attorneys' fees of our Swiss lawyers — an hourly fee of \$150 for actual services rendered and a contingent fee of one percent (1%) in case of success, from which the fees already paid would be subtracted. Pieter's fee for all his efforts of coordination would be ten percent of one percent. I signed the contract on behalf of the PCGG on August 18, and this was ratified by the entire Commission. Incidentally, the one percent (1%) contingent fee in case of success was in marked contrast with the 20 percent commission agreed upon between Mike de Guzman, General Almonte and former Congressman Peping Cojuangco, Jr., as testified to by both de Guzman and Almonte before a congressional committee. How Peping Cojuangco, brother of President Aquino and a private individual at that time, could have entered into that "gentlemen's agreement" on behalf of the Aquino Government, with-

out anything more than a verbal understanding between the three of them, has never been explained.

August 1986 speeches

Even as the Commission continued issuing sequestration orders based on *prima facie* evidence, the crony newspapers and the supporters of the Marcoses in the broadcast media intensified their propaganda offensive against the PCGG for its alleged violations of their right to due process. I realized that if we did not answer and refute their allegations, we might lose the kind of public support we had during the first months of the Aquino Government.

On August 14, I spoke before the Manila Rotary Club. To enliven their meeting and make them aware of what we in the Commission had been doing, I told them about a lady who posed a question that almost floored me.

“For the sake of good government,” she asked us, “what can you in the PCGG do to bring back my husband to me? You see, my husband is a government employee, and he has been at large for sometime.”

My answer was that we in the PCGG were principally concerned with the recovery of ill-gotten wealth, not the recovery of missing persons.

“But, said the lady, “you don’t understand, my husband is now somebody’s ill-gotten wealth!”

The audience roared. Then I continued:

“On August 21 — a week from this Rotary event — the nation will pause and honor a man who returned to suffer with his people and try to persuade Mr. Marcos into restoring our lost freedoms. Ninoy Aquino was brutally assassinated, he did not even make it to his old isolation cell in Fort Bonifacio, but because of that cold-blooded murder, the Philippines was never the same again. Now we are told by the Marcoses and their cronies that under the Cory Aquino Government, their lives, liberties and properties are being violated, without due process of law. But none of them have been imprisoned so far. Their only complaint is that their deposits, shares of stock, luxurious mansions and office buildings have been frozen or sequestered by the PCGG, awaiting final disposition by the courts of justice.

“But what they do not seem to realize is that no asset can be sequestered without *prima facie* evidence of illegal acquisition.”

One point I stressed toward the end of my speech was that as important as the recovery of the ill-gotten wealth is “the recovery of our honor, our moral values, our sense of integrity as a people.” Our other task under EO 1 was “to adopt concrete measures so what happened under Marcos will not happen again.” I said that we have asked a distinguished group of academicians, law practitioners and civic leaders to help us draft a Code of Ethical Standards in Government, with particular emphasis on conflict of interest and the need for a fair and full disclosure of financial interests and business connections before and during assumption of public office.

Parenthetically, I filed, with several co-authors, the proposed Code of Ethical Standards when I was elected to the Senate in the May 1987 elections. The Code was passed by the Senate, then by the House with few modifications. It was approved by President Corazon C. Aquino and is now RA 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees.

I was invited to speak by the Foreign Correspondents Association of the Philippines on August 19, 1986, in commemoration of the assassination of Ninoy Aquino on August 21, 1983. I took advantage of this occasion to speak of his supreme sacrifice, the hidden wealth of the Marcoses and our efforts to recover their ill-gotten wealth. I posed the question — what impelled Ninoy Aquino to return knowing that the Marcoses abhorred the idea of his coming back? I recalled that Ninoy passed by my little apartment in Encino, California before embarking on his last journey to Manila. He felt he had done all he could by testifying before U.S. congressional committees, conferring with high American officials and speaking before various audiences. But evidently, Washington was not inclined to listen to him. His interview with *Mother Jones* magazine, shortly before his assassination, contained the following questions and answers:

Q. What kind of reception do you get in Washington?

A. (Laughing) I argue myself blue in the face.

Q. Is Uncle Sam listening to the plight of the Filipinos?

A. That's the sad part. And I think they are not listening because we are so low in their priorities.... Unless the Philippines is burning, we will not catch his (Reagan's) attention.

Ninoy, I said, “was involved in some kind of self-contradiction. He went home without any assurance of U.S. mediation which he told *Mother*

Jones was necessary before Marcos would consent to sit down and negotiate with the moderate opposition. He failed to reckon that dictators violate human rights and commit incredible acts of barbarism not because they and their associates do not know any better — but precisely because they know only too well that doing so is the only way for them to remain in power. In that sense, Ninoy underestimated the dark mystery of evil in the heart of man. In the interview, Ninoy said he did not want to be president of the nation after Marcos, since the problems of the nation would be formidable and staggering. The paradox, of course, is that what he did not want for himself was what history placed on the shoulders of his widow: the burden and the glory of the presidency immediately following Marcos.”

Ninoy Aquino used to say that, given the chance, he would try to persuade the Marcoses to leave voluntarily and bring out their ill-gotten wealth with them; what he did not know was that they had already stashed much of their ill-gotten wealth abroad. “Today,” I said, “the Marcos cronies and business associates tell us that going after their wealth is against the very idea of national reconciliation. What they forget is that justice should be the basis of reconciliation, otherwise reconciliation without the element of justice would be meaningless.”

On August 25, I delivered a more thorough and analytical speech — the Gregorio Araneta Memorial Lecture at the Ateneo Law School, on “The Practical and Legal Aspects of the Recovery of Ill-Gotten Wealth.” Here, I dealt with the mass of evidence in our hands, namely, the thousands of Malacañang documents that fell into our possession and the Marcos documents in Honolulu that were turned over to us. I made an analysis of the first case that we filed in New York against the Marcoses and their associates, involving the four buildings in Manhattan and the Lindenmere Estate in Long Island, including the favorable decision of the Federal District Court which upheld the temporary restraining order and issued the writ of preliminary injunction preventing them from disposing of said properties. I discussed the case of the Tourist Duty Free Shops (TDFS) against the PCGG, which questioned the power of the Commission to issue the order of sequestration but which was upheld by the Supreme Court on the ground that there was *prima facie* evidence in issuing the same. Finally, I took up the practical aspects of issuing writs of sequestration. This lecture was published by Ateneo Law School and read by many lawyers, including Justices

of the Supreme Court. I recall it was cited by then Chief Justice Claudio Teehankee in his concurring opinion in the BASECO case against the PCGG.²³

Offer to Resign from the PCGG

On the eve of the Liberal Party Executive Committee meeting on August 31, I saw President Cory Aquino and, in a simple letter I handed to her, offered to resign my position as PCGG Chairman. I felt that I had not done justice to my position as Liberal Party President because of my responsibilities as head of the PCGG. Party members from various provinces had been complaining of discrimination in the hands of persons known to be close to the President. Cory's reaction was immediate — she turned down my offer to resign, saying "PCGG will collapse if you quit."

She made me understand that my responsibilities as chair of PCGG were, at this point in time, more important than my obligations to the Liberal Party. She said something that made me think. She said she thought there were enough people she could rely on in terms of honesty and moral integrity, but after a few months in office, she found out she could rely only on a few. She asked me to please reconsider my position. I kept quiet.

At the meeting of the Executive Committee the next day, which was attended by former President Macapagal and other officers, I submitted my Report on the progress of the Liberal Party since my arrival from exile in January 1985. I said I wished we could have done more. I spoke of my offer to resign from the PCGG only the day before due to my increasing responsibilities to the Party. But this was immediately rejected by President Cory Aquino. I said I was prepared to resign as Party head in favor of any officer or member who could take over. But the Executive Committee would not consider this alternative.

A Steering Committee to help the Party President was proposed and approved and I was empowered to appoint the chair. I appointed Mrs. Judy A. Roxas, the widow of LP President Gerry Roxas, to head the Steering Committee. The appointment was accepted and unanimously approved by the body.

²³*Bataan Shipyard & Engineering Co., Inc. v. PCGG*, GR No. 75885, May 27, 1987.

IX

The Depositions of the Marcos Couple and RP's Victory in New Jersey

Diane Sawyer's 60 Minutes; Testimony of the Marcoses in Honolulu

On September 2, 1986, I was in Malacañang for the oath-taking of Ms. Tarhata Lucman — the widow of former Congressman Rashid Lucman — as Governor of Lanao del Sur. Like our friend Rashid, she was one of our most prominent LP leaders from Muslim Mindanao. For some reason I cannot now recall, her oath-taking was postponed by the President. In any case, President Cory saw me and introduced me to one of her visitors, Ms. Diane Sawyer, a familiar television personality whom Lydia and I used to watch almost every morning during our exile abroad. Ms. Sawyer said she would like to see me at the earliest opportunity as she expected to interview the Marcoses in Hawaii sometime during the month. I said I would be available at home after breakfast the next day.

Around 8 o'clock in the morning the next day, she was in my residence in Pasig. She planned to interview former President and Mrs. Marcos in "Sixty Minutes," a one-hour talk show. She wanted to get hold of some important documents signed by either or both, and she would like to show them to the couple during the interview. Among other things, I mentioned the contracts Ferdinand Marcos had signed in March 1968 with Credit Suisse Bank for the use of pseudonyms or false names in making deposits in said Bank. I said these documents had been kept in Malacañang and fell

into our hands, along with thousands of confidential documents, on March 1, 1986. In the contract of March 20, the one who signed the document was Ferdinand E. Marcos — he also signed the pseudonym William Saunders; in the contract of March 21, the same thing was done by Imelda, using her genuine name and signature and her new pseudonym Jane Ryan. At Ms. Sawyer's request, I gave her a copy of each of the documents she requested. After talking about other incidents during the Marcos years, Ms. Sawyer and her companion left.

In the latter part of September, I learned from a friend that in Diane Sawyer's interview with Ferdinand and Imelda Marcos on "Sixty Minutes," which was broadcast in the United States around September 21, the two claimed that the documents shown to them were fake and that their signatures were forgeries. Likewise, the Marcoses denied many of the things I had told Ms. Sawyer.

I alerted our lawyers in Los Angeles, Attys. Ronald L. Olson and Richard B. Kendall, so they could put the Marcoses under oath in Honolulu and give them a chance to repeat the same denials under oath in advance of the trial in the RICO civil case we had filed against the Marcoses on June 16, 1986 with the U.S. District Court, Central District Court of California.²⁴ In that case, our lawyers filed a petition for preliminary injunction and, specifically, for the issuance of a world-wide freeze order on all the assets of the Marcoses who, because of their physical presence in the U.S., were under the jurisdiction of the California Court. Our lawyers argued that a freeze was necessary in order not to render worthless any money judgment that may be obtained against them. In preparation for this case, I had asked several of my trusted assistants to bring to the law office of Munger, Tolles and Olson the voluminous Malacañang documents, as well as other documents we had, for encoding and classification.*

We figured that the Marcos couple would be in a dilemma. If they were to deny under oath the authenticity of the documents, they would be

²⁴*Republic of the Philippines v. Ferdinand E. Marcos, Imelda R. Marcos, et al.*, CV 86-3859-MRP (GX).

*In a letter dated April 4, 2000, addressed to the author, the law firm of Munger, Tolles & Olson stated: "This will confirm that, at your request, our office copied, created a computer-based log of, and maintained copies of the various Malacañang Palace documents (as well as documents from other locations) that we provided by the Presidential Commission on Good Government... We have continued to maintain copies of the documents in storage at our California storage facility."

liable for perjury. We in the PCGG were sure these documents were genuine, not only because of the place where the Marcoses had kept the documents but also because we knew and were familiar with the signatures of the Marcos couple. On the other hand, if they were to affirm the authenticity of said documents, something which was remote, their assertion would constitute an express admission of their having deposited ill-gotten wealth in the Swiss banks. Should they refuse to answer on the ground of self-incrimination, one could safely conclude that the documents, which they had denounced as forgeries, were authentic. Our speculation was that both Ferdinand and Imelda Marcos would choose to remain silent by invoking the 5th Amendment. It would be up to the proper court to decide whether they had the right to remain silent.

The deposition would also give the ousted president and the former First Lady an opportunity to answer some questions with respect to the Security Bank and Trust Company in Manila and the California Overseas Bank in San Francisco, both of which were owned and controlled by the Marcoses. Our lawyers would have the chance to ask them about the deposits they had allegedly maintained and the various accounts they were supposed to control in various banks in the United States, Switzerland, Japan and other places, and about their relations to a number of cronies and trusted subordinates such as Vilma Bautista and Fe Roa Gimenez. I requested Severina Rivera from Washington and Atty. Salvador Hizon, head of the Legal Division of PCGG, to be present during the deposition to assist Attys. Olson and Kendall.

The first day of the deposition was September 30, with Ferdinand E. Marcos as the witness. When Marcos was asked whether he was familiar with the Security Bank and Trust Company, Marcos had a long-winded, kilometric explanation for refusing to answer any question. He rationalized his answer to remain silent. The gist of his justification was that the proceeding was merely part of a political plan to prosecute him since anything he would say would be used in a criminal case filed against him by the revolutionary government in the Philippines. Later he was asked whether he knew Rolando Gapud; on the admonition of his counsel, he merely claimed the right against self-incrimination and the right to remain silent on the same ground. He was asked: "Mr. Marcos, you have maintained accounts in Swiss banks in Switzerland, have you not?" Marcos made the same claim and asserted the same right to remain silent. Then he was asked:

"Among the accounts that you have controlled in Swiss banks have been those under alias names "William Saunders" and "Gene (sic) Ryan," correct?" Marcos: "Same response. I claim the right against self-incrimination and the right to remain silent." So it went on and on — he was asked about other transactions, about names of various subordinates and business associates. As the lawyers completed the court-ordered deposition, reported the *Manila Chronicle*,²⁵ Marcos blew up. He attacked the government of President Aquino. He called the questioning "outrageous." Several times, he told the lawyers that he was convinced that Mrs. Aquino's top priority "is to put him in jail." Except for a few items, he maintained the same excuse until the latter part when he was given the chance to give any statement he might wish to make. He said he felt he was being degraded and humiliated. But when he was asked for the basis, he sought refuge again in the 5th amendment. All in all, Marcos invoked the right to remain silent 197 times.

The presence of Mrs. Marcos was sought and she was produced the next day. Virtually the same questions were asked and, on the admonition of counsel, she too refused to incriminate herself, except that she cried and cried. Mrs. Marcos did not speak of forgeries any more — she merely claimed the right to remain silent. I felt that if the Marcos couple were sure that the Malacañang documents where their signatures appeared had been forged, they would have spoken up and condemned their signatures as forgeries under oath. Like her husband, Imelda asserted the right to remain silent more than 200 times. Her deposition took six hours.

In any case, the question of whether the Marcoses had validly claimed the right against self-incrimination by invoking the 5th amendment was to be placed before the Federal Court in the Central District Court of California. The right is usually invoked in a criminal proceeding, not in a civil proceeding, such as the one we filed in California where the Marcoses deposed. If the claim was correct, that would be the end of it. But if the assertion of the privilege was not valid, they would be compelled to answer the questions they had refused to answer. We did not have to wait too long. The California District Court held that the assertion of the privilege by the Marcoses was erroneous.

²⁵Mark Fineman, "Marcos Declares He is Sane, But Disclaims Knowledge About Many Things," *Manila Chronicle*, October 7, 1986, p. 13.

We learned later that the Marcoses appealed the ruling to the Circuit Court of Appeals. On October 21, I received the good news from our LA lawyers — the 5th amendment claim of Ferdinand and Imelda Marcos was denied by the Circuit Court of Appeals of California. The Marcoses would probably appeal to the U.S. Supreme Court by certiorari. But I had no doubt they would lose again. The probability was that they would be compelled to answer the questions they had refused to answer.

Mike de Guzman and the unnecessary journey of September 1986 to Switzerland

In the meantime, I sent a letter dated September 10, 1986 to President Cory Aquino, through the kindness of Executive Secretary Joker Arroyo, informing her that (1) "Solicitor-General Ordoñez passed by the house last night to inform me that he was leaving for Switzerland today"; (2) that at my suggestion, we called Minister Ascalon in Berne to find out the exact status of the case; (3) that he informed us that there would be no delivery of the Swiss deposits in Credit Suisse and Fides (covered by Mike de Guzman's authority from Marcos who had disauthorized him) until all sorts of procedural questions being raised by the lawyers of Marcos are ruled upon by the Swiss judges of instruction; (4) there seems to be no possibility of getting the delivery in the immediate future of the \$213 million or a part thereof, and that the President should know this, "because it is obvious that five persons are being sent to Switzerland on the promise or assumption that there will be an immediate delivery. This seems a remote possibility. However, miracles happen and I hope and pray this will be one. If not, I think we should reexamine the whole strategy of sending the Solicitor General (this is the 4th time) on the basis of a 20% agreement of Mike de G with Peping C which will be very difficult to justify to our people, considering all the surrounding circumstances, including the non-delivery of the deposits despite the long lapse of time (since March, in the case of Mike, and since July 4, in the case of Sed O and company) and the very minimal contingency fee of 1% which we give to our Swiss lawyers, in addition to (sic) the retainer fee of \$150 per hour for actual services rendered."

As will be discussed very shortly, President Aquino left for a state visit to the United States. A day or two before her return to Manila, I addressed a letter to her, through Executive Secretary Joker Arroyo, dated September

24. The letter congratulated the President for her well-applauded speech in the U.S. Congress, then informed her about the following note which I wrote to Joker while Vice President Doy Laurel was presiding at the Cabinet meeting:

“I just received a long telex from Dr. Salvioni, one of our Swiss lawyers.

“It is a report on what Mike de G and Gen. Almonte did in the absence of Sedfrey O who arrived more than a week ago — which, in the view of our lawyers and the Swiss authorities, could prejudice our entire claim.

“I think Mike de G and Al are in a great hurry to get even \$10 million and they are going over the heads of our Swiss lawyers and our Embassy (Minister Ascalon). I will write a letter to the President completely distancing PCGG from these efforts and from the side agreement (the 20% commission) to which we are not privy.

JRS”

In a separate letter to the President around the same date, I wrote:

“It has been a very long time since we were told we could get \$213 million in a matter of days. In view of the sweeping authority the President gave on September 9 in favor of Sedfrey, Mike de Guzman and Joe Almonte — an authority I did not know until Sedfrey gave me a copy of it only recently — covering ‘all funds, securities and valuable items in deposit with any bank in Switzerland and Liechtenstein,’ which was clearly a mistake, Sed and I believe that this authority should be formally and immediately revoked. Likewise, inasmuch as so much time has already elapsed since Mike’s side agreement (on the commission) was entered into with Peping (Cojuangco), without our previous knowledge, we believe it is time to say, in fairness to our people — to whom this wealth belongs — that this agreement has already expired. We recommend that this be done as soon as possible, especially because (1) there is a danger of prejudicing the whole claim of the government; and (2) the agreement may no longer be morally defensible.”

Unprecedented triumph in New Jersey

On Saturday, September 13, Boni Gillego called to give me a most welcome piece of news — we won the case in New Jersey against the Marcoses, their children and associates. Our lawyers had filed a Motion for Summary

Judgment and this was granted. The Superior Court of New Jersey ordered the transfer to the Philippine Government of two residential properties (bought by Marcos and used by the Marcos children) at 2659 Princeton Pike near Princeton University, and the latter's bank account in New Jersey amounting to around P40 million. The total amount was not substantial but the implication of the decision was quite historic: this was the first time in American history that a dictator of another country was made to realize that he cannot plunder his country's wealth, invest part of the proceeds in the United States and get away with it.

Lydia and I drove to Pansol for a much-needed rest. That same afternoon, President Aquino and Rene Saguisag, who were scheduled to leave for the United States two days later (September 15), called me. They located me in Pansol, Laguna and warmly congratulated me for our victory in New Jersey. I thanked the president and wished her bon voyage on her state visit to the United States. I also wished Rene good luck.

A day after the President's departure, I was invited by Ms. Betty Go Belmonte, the owner of *Philippine Star*, to speak before the Sigma Delta Chi, the same sorority which had launched the candidacy of Cory Aquino in the snap election campaign of 1985. I took advantage of our victory in New Jersey, which was on the front page of all the dailies, to talk about its implications and what we in the PCGG had been doing during the last six months. During the open forum, I was asked by a woman activist — who had been persecuted and had to escape to the United States after the 1978 Batasan election where she was a candidate — why we in the PCGG had not gone after Minister Juan Ponce Enrile. I said we had not found any evidence against him that would stand up in court, whether in the Malacañang documents or in the other documents we now have in our possession, "but if anyone here can give us any admissible evidence against him, we will not hesitate to do our duty."

Reaction to the President's speech before the U.S. Congress

The general reaction to the speech of President Cory Aquino before the joint session of Congress on September 18, 1986 was quite positive. She spoke of how she left America in grief in 1983 to bury her husband, Ninoy Aquino, and how the task had fallen on her to continue his fight by offering the democratic alternative to the Filipino people. The burden of her speech was that for democracy to flourish, the Philippines must be able to

sustain economic growth, which was greatly hampered by the insurgency problem and by a staggering foreign debt. As I listened to her speech, I noticed, however, that her recognition of the foreign debt of the Philippines was without any qualification, something which I thought could lead to some difficulties later. In her speech, she said:

“Finally, may I turn to that other slavery: our \$26 billion foreign debt. I have said that we shall honor it.”

U.S. and Philippine media headlined that portion of her speech. One paper said: “Cory says we’ll pay our debts.”

I felt it might have been better, owing to her immense popularity in the United States at the time, to recognize our foreign debt, subject to certain reasonable exceptions, such as unjust and illegal foreign loans, including the Eximbank loan for the Bataan nuclear plant. In any case, there was a glowing sense of pride among many of our people who listened to her.

During the President’s stay in New York, I was informed by Rene Saguisag, the presidential spokesman, that our New York and New Jersey lawyers, headed by Morton Stavis, who had been serving our country *pro bono*, called on her. It was a very cordial meeting. Those who handled the case against the Marcoses in New Jersey delivered to her the check representing the fruit of our victory, minus some necessary expenses.

After delivering a number of speeches to various groups and associations in the United States, the president headed for home on September 25.

The case of Baby Lopa

Toward the end of September, 1986, Baby Lopa, the brother-in-law of the President, came to the Commission to resolve the problem of the companies he had purchased from Benjamin “Kokoy” Romualdez while the EDSA Revolution was going on. I felt I would be less than impartial in resolving the question as Baby Lopa used to come to our residence on behalf of Ninoy, his brother-in-law (*bilas*) when he was in prison in Fort Bonifacio and after the latter had left for the United States in May 1980. Moreover, I was preparing to leave for Europe and did not have the time to attend to his problem. I called Deputy Minister Ramon Diaz and assigned the case to him, saying that in my opinion, the basis of any settlement should be fair market value. Baby did not interpose any objection.

X

October 1986 Trip to Europe and U.S.

October 1986 trip to Switzerland and Italy

I saw President Aquino in Malacañang on October 3. I was leaving for Switzerland the next day and wanted to find out whether she had any instructions. She appeared sick, perhaps due to her demanding schedule in the United States. I told her I would fly to New York after my meetings with Minister Luis Ascalon, our Swiss lawyers and some Swiss officials. She wanted me to tell the Swiss Government about our deep concern for a certain Hans Kunzli who had been kidnapped in the South and the efforts of the Government in rescuing him from his captors.

We left in the afternoon of October 4 (a Saturday) and arrived in Zurich on the evening of the next day. Minister Luis Ascalon met us at the Airport, then brought us to the Bellevue Hotel. We were so tired we skipped dinner and slept.

The next day I conferred with our Swiss lawyers, in the presence of Minister Ascalon. They gave me an initial progress report on our claim, expressing optimism despite the technical issues and dilatory tactics of the many Swiss lawyers of the Marcoses. We left for Geneva in the evening as I wanted to join my former colleagues in the Churches' Commission on International Affairs. They were now celebrating the 40th anniversary of the Commission, of which I had been a member, and had asked me to deliver the main speech on Wednesday, October 8.

After a sumptuous lunch in a Chinese restaurant, Lydia and I, along with Luis Ascalon, drove to the residence of my former Yale classmate, retired Chief Justice Otto Kaufmann, near Lausanne. Otto had given us

valuable advice in hiring the services of our Swiss lawyers. We recalled our happy days in New Haven a few years after World War II and what we did after we got back to our respective countries. Both of us taught law in the beginning but while he joined the judiciary, I entered the turbulent world of politics. With respect to our claim to the Marcos deposits, I thanked him for his valuable advice in engaging the services of our Swiss lawyers. He said we should expect the Swiss banks to defend their clients, right or wrong, and resist our request for legal assistance up to the very last. But he was confident we would prevail in the end. All in all, it was a very pleasant conversation we had with Otto and his wife.

We returned to our hotel in Geneva. After dinner, we got a call from Manila, saying that we won the voting in the Constitutional Commission. PCGG's power to sequester was explicitly recognized and would remain operative for not more than 18 months after the ratification of the new Constitution. However, Congress may extend said period in the national interest, as certified by the President. It was explained to me that with respect to sequestration orders which had already been issued, corresponding judicial action should be filed within six months from ratification. But in reference to orders of sequestration issued after the ratification of the new Constitution, the judicial action must be filed within six months after issuance. I was gratified that our power to sequester was sustained but I did not realize immediately that the six-month deadline for filing the judicial action would prove very difficult for those who would succeed us in the PCGG.

I was among very dear friends when I delivered my speech on October 8, 1986 before the World Council of Churches on the occasion of the 40th Anniversary of the Churches' Commission on International Affairs. I had been a Commissioner of the CCIA since 1977 up to the years I was in exile in the United States (1981-1984) following my release from imprisonment in the Philippines. In fact, the high officials of the World Council of Churches had interceded for my release when I was arrested and detained by Marcos in the latter part of 1980. Their cables and petitions addressed to Marcos, along with telegrams from member churches coming from various places in Europe, America and Asia, led to my release before the end of the year. Now in Geneva, I spoke about the events in the Philippines that they must have wanted to know more about — the people power revolution of February 22-25, 1986, the new democratic Government under President Cory

Aquino and how it came to power, the plunder of the nation's wealth which we had uncovered in the PCGG and our hopes and expectations for the future. My former colleagues gave us a warm reception.

The next day I paid a call on Minister of Justice Elizabeth Kopp, a beautiful, distinguished lady of culture and grace who told me she was in the Philippines in October 1983, when the situation in the Philippines was quite uncertain owing to Aquino's assassination. She remembered the demonstrations and the sharp drop in the value of the peso. I conveyed to her the deep concern of President Aquino about the kidnapped Swiss, Hans Kunzli, who had been missing in Mindanao and assured her that all efforts would be exerted to obtain his release. The gracious minister asked me to convey her best wishes to President Aquino.

I had lunch with our Swiss lawyers and a couple of Swiss authorities. I was assured that the death of President Marcos, when it happens, would have no effect on our claim. One jurist rendered the opinion that under the IMAC, we do not need any final judgment in the criminal case against Marcos in the Philippines in order to get the money, "but the moment Swiss authorities decide to give legal assistance we can have the money transferred to the Philippines." Actually, it took many years and an amendment of IMAC for the Swiss Supreme Court on December 10, 1997 to order the transfer of the Marcos Swiss deposits to the Philippines, subject to certain conditions.

A little past noon, we took a plane for Rome. We were greeted upon arrival at the Airport by Tommy Concepcion, a brother of Commissioner Mary Concepcion. He brought us to the Hotel Regency. Ambassador Howard Dee called after we came in. He said we would have dinner the next day with Cardinal Sin.

After breakfast the next day, we had a meeting with Glecy Tantoco. Present were Ambassador Howard Dee, Naida Tantoco and PCGG officer Enrique Santos, who had been with our foreign service in various places in Europe before martial rule. Glecy told us that her husband, Ambassador Benny Tantoco, was sick. She was not willing to make a written statement but "if Imelda says that the Makiki residence is mine (Glecy's), then I will tell the truth." She said she was not prepared to volunteer the truth in writing.

A very tough customer, indeed, I told myself.

We enjoyed our dinner and interesting conversation with Cardinal Sin

and Ambassador Howard Dee. That more than made up for our failure to get Gley to tell us the whole truth about her involvement with Imelda Marcos. I recall that when Lydia and I were in exile in California in the early 80s, we talked with Cardinal Sin several times in the residence of his close relatives in LA.

Third Post-EDSA Journey to the U.S.

On October 12, a Sunday, we flew to New York, where we arrived at 2 p.m. We stayed at Roosevelt Hotel. Lydia and I used to stay in this Hotel whenever we were in New York to attend the meetings of the United Board for Christian Higher Education during our years in exile.

The next day, I was furnished by someone, probably an employee connected with Morton Stavis' Office, a list of the mortgage obligations pertaining to the NY buildings of the Marcoses. In my 1986 Diary, I made the following notes:

City Bank \$40 million Wall St.; Sec. Pacific \$47 million Crown Bldg., \$30 million Herald Center; Teachers' Retirement \$12 million.

Assuming these figures were correct, two questions occurred to me at that time: with a mortgage debt of almost \$130 million, how much could we really get out of these buildings? On the other hand, in our litigation over these buildings, is money all that matters?

In the afternoon, I had an initial meeting with Keith Highet, one of our respected PCGG advisers (he was at the time the President of the American Society of International Law) at his Park Avenue Office. The other advisers — eminent professors from various universities — came. Our lawyers were also there. We had a very fruitful conference in terms of coordinating our pleadings and trial strategies in New York, California, Philippines, and Switzerland, to make sure that whatever judgments are obtained in one jurisdiction are recognized and enforced in other jurisdictions. We discussed the need to meet the requirements of due process and comply with various international conventions.

On October 15, while I was in my hotel, Dr. Salvioni, one of our Swiss lawyers, called. He said Swiss lawyer Bruno De Preux was with Marcos in Honolulu to urge him to enter into a settlement with us.

I went to Princeton Club for a meeting with former CIA head William

Colby, whom I had met in George Araneta's residence in Quezon City. After a few amenities, I asked Mr. Colby to help us in penetrating Japan, Inc., particularly Japanese banks and Japanese multinationals who had been doing business with a Marcos loyalist, former Philippine Ambassador Benedicto, so we could have an idea of Marcos' wealth in Japan. He agreed to do so. I also requested him to help us in such places as Grand Cayman, the Bahamas Islands, Netherlands Antilles and Panama. However, I did not receive any encouraging message from Mr. Colby up to March 9, 1987, the date of my resignation from the PCGG. Later, I read a news item about a fatal accident in which he was reportedly involved.

On October 16, we flew to Washington. We met with our lawyer Sevie Rivera regarding the New York case and a little later with Ambassador Pelaez. In the afternoon, I conferred with Congressmen Stephen Solarz and Leach and their knowledgeable aide, Stanley Roth, with respect to the evidence of the Marcos remittances to New York and Swiss banks from December 1985 to early 1986.

We went back to NY in the afternoon and spent the evening in a sort of reunion with friends who had been with us in the resistance movement during our years in exile — Paeng Fernando and Ikeng Santos, Willy Crucillo and Dr. Orly Apiado. During our years in exile in California, Paeng and Ikeng in LA (along with Cong. Raul Daza and Commodore Ramon Alcaraz, the head of the LP chapter in LA) had strengthened our resolve to keep on fighting against formidable odds; Willy Crucillo had offered the hospitality of his home every time we were in New York and Orly Apiado had been the doctor taking care of our medical needs. All of them were loyal to the cause.

On October 17, I had breakfast with Morton Stavis, who gave me his report on his conversations with Joseph Bernstein on the New York properties of the Marcoses. I sent a telex to Pres. Aquino and Executive Secretary Joker Arroyo regarding the status of the settlement negotiations with Bernstein.

We took a plane for LA, arriving there in the evening. Our children — Ed, Ricky and Rina — and our other friends were there to greet us. Lydia and I stayed in a hotel in the San Fernando Valley so we could be close to our children living in Encino.

On October 18, I called Morton so he could update me on the developments in New York. He said the Bernsteins were dealing with Marcos

directly, and Petersen — the representative of Kashoggi, the supposed transferee of the Marcos properties — was trying to make a deal with Glecy Tantoco. Morton told me about the latest fantasy of Marcos — \$45 million by way of settlement for all US properties or a 50-50 split on Manhattan properties. I said no. We had dinner at the house of Paeng Fernando in Pasadena.

On October 20, Monday, Mr. Peterson, who flew from New York, came. He talked about the settlement and made an offer of \$5 million for the NY properties, which I rejected outright. He increased it to \$6 million, which I also turned down. Then I sent a telex to Executive Secretary Joker Arroyo regarding the negotiations with Peterson and Bernstein. He called the next day to tell me that the President was in favor of the Bernstein formula, as outlined in our telex of October 17.

I sent a power of attorney to Dr. F. Mosing of Austria, care of Pieter Hoets, authorizing the former to represent the PCGG in negotiating with Austrian banks. Mosing, a Yale Law School graduate and a good friend of Pieter, acted immediately but reported that Austrian banks were extremely difficult to penetrate, unlike Swiss banks. Pieter Hoets relayed the message to me. Looking back, from the viewpoint of Marcos, Mike de Guzman was correct in convincing the ousted dictator in March 1986 to transfer his Swiss bank deposits to the former's bank in Vienna, Austria. Benefiting from the experience of Marcos, Suharto — Indonesia's long-serving president who was ousted from office through people power in May 1998 — transferred, on the advice of his bankers and lawyers, his huge deposits from a bank in Switzerland to another in Austria, "now considered a safer haven for hush-hush deposits," as revealed by an investigating team of *Time*, aided by the findings of the U.S Treasury.²⁶

In the afternoon of October 21, we went to San Francisco with Paeng Fernando. We had dinner with Dr. Ruben and Zeny Mallari and my former FEU law students, Rey Mercado and his wife Niña. Ruben was the one who came to Manila shortly after the EDSA event and suggested the idea of building a memorial to honor those who had given their lives during the long, dark night of martial law and dictatorial rule. After dinner, I was requested to speak about the *Bantayog ng mga Bayani* before another group

²⁶Colmey and Liebhold, "Suharto Inc.: The Family Firm (A Special Report)," *Time*, May 24, 1999, pp. 16-28.

of Filipinos, including Ted Laguatan, Lupita Aquino Kashiwahara and other friends. I said we intend to pursue the plan of honoring the nation's martyrs as soon as possible. I said "we will not stop until our dream of putting up a memorial becomes a reality."

On October 22, I called Prof. Myres S. McDougal, one of our PCGG advisers who had been my mentor at Yale Law School, to wish him a Happy Birthday. Despite his age, he continues his writing and teaching. He was happy his students from the Philippines still remember him.

Sevie Rivera informed me that the PCGG Advisory Committee — led by Prof. Abram Chayes of Harvard, Prof. McDougal of Yale, Mr. Keith Hight, along with our New York lawyers, headed by Morton Stavis — would probably meet with Dean Custodio Parlade, in New York early next month. Parlade, one of my ablest students who worked as an associate in our law firm shortly after his graduation and became VP of AG & P, was now the head of PCGG's Legal Division.

Arrival in Manila and my report to President Cory

We left for LA, where we rested a little. The next morning, we passed by Honolulu, where we saw our daughter Patty and her husband Dan. We arrived in Manila on Friday, October 24, after an absence of 20 days.

The next day, October 25 (a Saturday) a group of friends, including Senior Justice Yap, Commissioner Ramon Diaz, Ging Parlade, King and Pearl Doromal, Judge and Mrs. Montenegro, Commissioners Mary C. Bautista and Raul Daza, came to greet us. They updated us on the latest developments, some of which, such as the alleged threats of the camp of Johnny Enrile, were disturbing.

I requested Commissioner Ramon Diaz and Ador Hizon to verify from the Central Bank the information I obtained in Washington and New York on the \$93 million remittances from Manila to banks in New York and Switzerland from December 1985 to February 19, 1986.

On October 27 (Monday) I wrote and then sent a five-page letter containing my Report on the results of my trip to President Cory Aquino. The highlights:

"1. Switzerland — We obtained a favorable decision in Zurich regarding our request for mutual assistance, but this will surely be appealed. Our Swiss lawyers are optimistic.

"There are 4 cantons involved — Zurich (which is the center of most

of the deposits), Geneva, Fribourg, and Lucerne. It is Geneva that has not yet rendered any initial decision, but I understand that Marcos' lawyer, Mr. De Preux, went to Honolulu last week to persuade Marcos to enter into a general settlement with us.

"The Swiss officials of the Department of Justice and Police have warned us not to repeat the mistake committed by the Philippine delegation (that is, Almonte and de Guzman) several times, namely, to virtually abandon the Philippine request for legal assistance on *criminal matters* which had been proceeding smoothly since April. The delegation you appointed relied instead on an authority given by Mr. Marcos which he formally repudiated last July 11. This could give rise to a *civil claim*, which could delay our recovery beyond 6 years. The implications of this warning are obvious: the authority given by the President to Mike and Joe should be revoked, the sooner the better. Another mistake could prove irremediable.

"The Swiss officials directly in charge of our request were very sympathetic. Predictably, it is the banks involved that are resisting our request, but as my former classmate (retired Chief Justice Otto Kaufmann), whom we visited, said: 'They will not abandon their client until the last shot is fired.' I have never been more optimistic than now, but this time we should never initiate any move without previous consultation with our lawyers, who know their business, and with the Swiss Federal authorities.

"2. New York — On October 15, I met with Peterson and his lawyer, in the presence of Mr. Stavis. Peterson did not want us to audit the 'threshold' amount of \$220 million, which he claims to be the total legitimate obligations of the 4 Manhattan buildings. He also did not want to give any adequate security to us (such as a second mortgage of the buildings). We broke off the negotiations. On the other hand, Joseph Bernstein gave a new offer, the gist of which I reported to you, a standstill of litigation for around 7 to 8 months during which he will seek a refinancing of the properties to his company for \$275 million; in case of sale at \$275 million (the threshold amount is \$200 million), the excess of \$75 million will be divided on a 75-25 basis — 75% to our government and 25% to the off-shore corporations; in case he does not get the refinancing he needs, there will be no sale to his company, and we'll get 75% ownership of the buildings, subject only to the legitimate obligations that are verifiable. We can then sell the buildings at the best available price.

"If the negotiations do not succeed, we will, apart from the contem-

plated receivership proceedings in New York, probably file a civil suit in the Philippines for constructive trust of all the properties of the Marcoses in the Philippines and abroad (except Switzerland) and later amend our pleading by invoking the forfeiture law (RA 1379).²⁷ Because of the complex legal issues in this strategy — which is unprecedented in international law — I was invited to the initial lawyers' meeting which was held in the office of Mr. Keith Highet (President of the American Society of International Law) on October 14. Our discussion was very fruitful in terms of an over-all coordination of the proceedings in Switzerland, New York, California and the Philippines. We will get all the international law experts and the trial lawyers to a second meeting in New York in the first week of November. The purpose is to make sure that the pleadings we file in the Philippines and the judgments we obtain conform to the requirements of due process and international law and thereby insure enforcement in the US and other countries where FM has properties. We will send Dean Custodio Parlade, the head of our legal team, to New York very shortly. Our California lawyers will also attend the meeting.

“3. California — The RICO suit we filed in California has yielded enormous dividends: (1) the freezing of the properties in dispute in California and Hawaii; (2) the taking of the depositions of Marcos and Imelda Marcos in Honolulu last September 30 and October 1 has favorably affected the proceedings in Switzerland. The answers of Marcos last September 30 to the effect that he would not answer the questions of our lawyers because his answer might incriminate him since “there are criminal proceedings pending against him in the Philippines” helped our request for legal assistance in Switzerland. His Swiss lawyers had been arguing in various cantons that there is no criminal case against Marcos in the Philippines and, therefore, our request for assistance in criminal matters should be denied. But Marcos' answers flatly repudiated the claim of his Swiss lawyers.

“(The denial of) Marcos' invocation of the 5th amendment opens up two possibilities: he may be compelled to answer the questions he had refused to answer; or alternatively, he may be precluded from presenting any

²⁷Under this law, when a public officer or employee acquires an amount of property manifestly out of proportion to his salary and other lawful income, said property shall be presumed to be unlawfully acquired.

evidence in the California RICO suit. Since this is a federal suit, this can involve any property of FM in the US.”

Lucio Tan's settlement offer; the report on the last dollar remittances of the Marcoses

In the morning of October 28, I had breakfast with Phil Kaplan of the U.S. Embassy. Afterwards, I went to the Office and presided at the Commission meeting. In the afternoon, Lucio Tan came and offered P500 million by way of settlement, on an installment basis of P100 million every year. This offer, way below what had been recommended by Commissioner Ramon Diaz, the one in charge, would probably be rejected by Malacañang. Nevertheless, I told Tan and his lawyer who accompanied him that I would transmit the offer to President Aquino. My guess was correct. It was turned down.

Ramon Diaz came with the information from the Central Bank on the \$93 million remittances (NY & Switzerland). I sent a letter to Dr. Salvioni, care of Minister Luis Ascalon of the Philippine Embassy in Berne, which summed up the report of the Central Bank of the Philippines and the information I received from Mr. Richard Kendall, our California lawyer, which came from his source at the Inspector General's Office investigating U.S. Aid funds: (1) the disbursements (on December 27 and 31, 1985 and January 15, 17, and 29, 1986) came from the Central Bank account at the Federal Reserve Bank in New York, not from Central Bank in Manila; (2) these disbursements occurred at a time when the Central Bank account at the Federal Reserve Bank received around \$45 million in U.S. Economic Support Funds. Hence, a substantial portion represents the use of U.S. Aid dollars; (3) the list represents only a small portion of similar transfers to Switzerland; (4) We should get information from Switzerland with respect to these transactions, through our request for International Mutual Assistance in Criminal Matters (IMAC).

The media reported that on October 30, Judge Fong who had ruled in favor of Marcos, was reversed by the Circuit Court of Appeals. We foresaw the reversal although it had no effect on the civil proceedings in New York, which we had won months earlier.

XI

Cabinet Revamp

The strained relations between Cory and Enrile

Since our arrival, we had been repeatedly told by our friends about the growing tension between the camp of Minister of Defense Enrile and the followers of President Cory Aquino, who was now busy preparing for her coming trip to Japan. Apparently, when we were away, Johnny Enrile had delivered speeches critical of the Aquino Administration and of the peace talks with NPA leaders. There were coup rumors that had become worse since our arrival. It was not certain where General Ramos stood. Should he and his men join Enrile and his followers, the stability of the Aquino Government would be imperilled without doubt.

I had had no difficulty with Johnny, my fraternity brother, even though the activities of the PCGG adversely affected enterprises with which he was connected. Once it became necessary to talk to him frankly about his position in the United Coconut Planters Bank (UCPB) as Chairman of the Board, I told him that his chairmanship of a private bank simultaneously with his position as Minister of National Defense was untenable — no Secretary of Defense in the U.S. would at the same time be Board Chairman of a private bank. He made no comment; he resigned during a tumultuous meeting of the shareholders in early July. Nevertheless, it seemed to me that Cory was not comfortable with Enrile. The implications of an Enrile-Ramos combination would be horrifying, indeed.

November 1, a Saturday, was All Saints Day. I recall that exactly six years earlier (1980), my grandson JE was born in the Manila Medical Cen-

ter, where I had been in detention by the military. I was told by Captain Grant that General Ver had ordered, despite my severe bronchial asthma, that I be transferred to the Fort Bonifacio prison. I requested that I be allowed to see Girlie, my daughter-in-law who had just given birth and, if possible, my grandson. My request was granted. Afterwards, I was brought immediately to the Maximum Security Unit in Fort Bonifacio, in the company of Lydia and my allergy doctor. I was detained in the same room where Ninoy Aquino had spent seven years and seven months of his memorable life. Lydia was allowed to take care of me. How time flies, I mused to myself. Now, Marcos is in Hawaii and Ver is unheard from.

Lydia and I went to our little place in Pansol and had lunch with our dear friends Tony Anton and his wife Pomping. After an afternoon swim in our small warm spring pool, we left for Parañaque, where we visited the graves of my in-laws at the Loyola Memorial (Tatay, Nanay, Kuya Badong and Dolly). Then we went to the Pasig Municipal cemetery to visit the tombs of my parents, my brothers and in-laws.

A number of generals took their oath at the Palace on November 5. I asked myself the question — who of them would be loyal to the President in the event of a coup? We held a cabinet meeting after the oath-taking.

Two days later, I went to Makati for the taping of Art Borjal's talk show "No Holds Barred." This must have been arranged by Betty Go Belmonte who wanted an objective presentation of the facts about the PCGG. Both of us felt that, oftentimes, it was the version of the cronies that was published without any rebuttal from the PCGG. I found Art to be fair.

On Sunday, November 9, we flew to Nueva Vizcaya by helicopter at 7:30 a.m. We arrived in Bayombong at 9:15, and drove to Solano where I spoke at the United Methodist Church during their morning worship service. An open forum was held after lunch. We went to the residence of Pepe and Betty Calderon, where I was asked to speak before a group of leaders. We left for Manila at 3 p.m. and arrived in Pasig an hour later.

Cory's trip to Japan

Monday, November 10, was the scheduled trip of President Cory Aquino to Japan.²⁸ At 7 a.m. I was at the Airport. Before her arrival, I could sense

²⁸"But before her departure," writes Sandra Burton in her book *Impossible Dream*, "she threatened to call her supporters into the streets in a second display of People Power, if necessary

something unusual in the Airport. Groups of military officers were huddled together, whispering to one another, even as the Palace boys were obviously suspicious of what was going on among the uniformed officers. When Cory came, she approached us and shook our hands. We wished her bon voyage and good luck on her mission to Japan.

In the early afternoon, Commissioner Raul Daza presided at the preliminary investigation of *People vs. Marcos et al.*, C.C. 001. Assistant Solicitor General Montenegro submitted the so-called Japanese evidence at the hearing. There were Japanese correspondents who attended the hearing. Raul, who was to tell me later that he had gone to bed in the wee hours of the morning trying to verify the rumors of a coup, was quite sleepy and did not realize the importance of the documents being presented by Ed Montenegro.

The next day (November 11), I was at the house of my niece Erlinda Salonga Pastoral in Capitol 8 (Pasig), when I got an urgent call from Joker. He said I should call President Cory in Tokyo on a very important matter. I called the president by dialing the number given to me by Joker. She asked about the hearing where documents implicating big Japanese firms had been presented, according to the Japanese media. I said that the hearing officer in the case against Marcos was Commissioner Raul Daza. Although she was trying to control her temper, it was obvious she was very angry with Raul Daza, due to the wrong timing.

On November 12, the hearing in the case of *People vs. Marcos* was postponed.

President Cory arrived in the late afternoon of November 13. I was there at the airport when in an unusual arrival speech, she scored Raul, without mentioning his name, for embarrassing her in the presence of her Japanese hosts. Ironically, Tessie Daza (Raul's wife) was a member of Cory's entourage. I wondered whether Tessie knew it was her husband who was under attack. In any case, when Cory went down and saw me, she said she wanted me to bring Raul Daza and Ed Montenegro to Malacañang the next day.

to prevent a military move during her absence. In an effort to defuse an incipient crisis, General Ramos urged disgruntled officers to present their grievances to the president in writing and to give her an appropriate time after her trip to respond. That action, one reform officer would later admit, effectively saved Cory from overthrow by allowing cooler heads in the military to prevail. Between Nov. 8 and 10, General Ramos agreed with Minister Enrile that a military action might have to be undertaken to restore military influence over the peace process, but he asked for 60 days." On p. 419.

But that evening, a very disturbing piece of news was broadcast: Rolando Olalia, a well-known labor leader and his companion (Alay-ay) were abducted in Pasig and killed in Antipolo. The suspicion was that they had been liquidated by operatives of the Reform the Armed Forces Movement (RAM).

Around 10 a.m. of the next day, I brought Raul and Ed Montenegro to Malacañang, but President Cory told me she could not meet them due to Olalia's murder. A Cabinet meeting was called to discuss, among other things, the implications of Olalia's assassination.

I was made to understand that a few days before his murder, Olalia had announced that the KMU of which he was the president would call a general strike in support of Cory Aquino "against an ultra-right coup."

On November 17, I visited Pepe Diokno in his Quezon City home. His face was bloated. I could no longer talk to him. This was not the Pepe I used to know during our days in the Senate. He was obviously very ill. I was told by someone in the household that he was sometimes in pain, which was probably an understatement.

Our Hongkong trip

I attended the cabinet meeting in the morning of November 19. The murder of Olalia and its consequences took up much of our time. After lunch, Ador Hizon and I drove to the Airport and left for Hongkong at 4 p.m. We checked in at the International House YMCA HK. We met Jose Yao Campos at 8 p.m. and asked him searching questions about recent developments.

Early the next day, I typed the summary of the evidence against Roberto S. Benedicto, one of the closest associates of Marcos. We had adjoining law offices in the Regina Building many years ago, when Ferdinand Marcos was a congressman. It was Benedicto who introduced me to Eugenio Lopez, Sr. in the early 50s. During the Marcos years, he was appointed head of the PNB, then he became the sugar czar, and a little later, he was appointed Ambassador to Japan.

Atty. Eli Reyes, Benedicto's counsel, called. We met at the Shangrila Hotel. Present were Bobby Benedicto, Eli Reyes and Ador Hizon. I had with me the "Summary of RSB's Admissions & Denials" — his deposits in Swiss Credit (\$20 million); Swiss Banking Corp (\$6 million); Controlling Interest in Traders Royal Bank, and media enterprises, including *Daily Ex-*

press, television and radio stations. We had a very frank meeting. But he was not prepared to give a fair and full disclosure. His loyalty to Marcos, his former classmate and fraternity brod in the U.P., was quite obvious. The question has often occurred to me why Bobby Benedicto, whose family had more material wealth and stature than the family of Ferdinand Marcos before the Second World War, allowed himself to be used by the Marcos couple since they came into power following the presidential elections of 1965 — to the great prejudice of the Lopezes, who had been close friends of the Benedicto family.

The next day, November 21, the HK Standard had a news item — “Switzerland declares FM, family and associates *persona non grata*, refuses to accept them.”

We went to the office of Tony Amador, our friend in HK. Tony Floirendo and his brother-in-law, former Minister Rodolfo del Rosario, were already there. Tony was evasive in the beginning; but when confronted with the incriminating evidence, he admitted that the amounts of \$600,000, \$2 million and \$4 million, had been given by him on different occasions to George Hamilton, supposedly as “loans.” “*Inutos ni Imelda*” (Order of Imelda), he said. He admitted that some corporations bearing the names of Ancor, Calno, Kuodo and Camelton were his corporations. I told him it would be better for him to make a fair and full disclosure. I gave him my address. He asked for a little more time.

We went to the Hongkong Airport and took the PAL around 7 p.m.

At 8:30 a.m. of Saturday, November 22, Lydia and I were at the wedding of our nephew, Fernie Pablo, the son of her sister Lulu and Atty. Guillermo Pablo, Jr., after which I went to the Central UM Church in Manila. I was asked to speak on “Christian Laity in Nation-Building.”

Enrile's resignation and the Cabinet revamp

At 1 p.m. I had lunch with Joker Arroyo in Malacañang. He said he would resign if Johnnie Enrile and Eddie Ramos were to resign with him. He seemed sure that the two would be together. I sensed that something unusual was about to happen.

We went to the Domestic Airport around 3:00 p.m. We saw LP leaders Lorenzo Reyes of Tawi-tawi and Julie Yee of General Santos City, apparently waiting for something. It was Julie who told me that the Batasan would be convened and there would be a confrontation. Otherwise, a coup

may occur. We left for Bacolod at 5:50 p.m. After our arrival, we went to West Negros College for my speaking engagement on the new draft of the Constitution. Brother Rolly Dizon of La Salle Bacolod was one of the guests.

The next day, November 23, was a Sunday. It was Julie Yap calling from Manila. She said there was an urgent call for a cabinet meeting. At 9 a.m. I spoke at the Thanksgiving Service of Cosmopolitan Evangelical Church in Bacolod. After the service, we learned over the radio that President Cory made a decision to relieve Enrile of his position as Defense Secretary. Eddie Ramos took the side of Cory and parted ways with Enrile. In fact, according to the broadcast in Bacolod, General Ramos had instructed the soldiers to ignore any orders coming from Enrile. If true, I mused, the Government would probably endure.

We left for Manila in the early afternoon. Upon arrival, the broadcast media reported the big news: "Cory Sacks Enrile, Asks for Resignation of other Cabinet members, Ramos is Key Figure". I immediately typed a short letter of resignation to President Cory Aquino which began with the short sentence: "I consider myself as having resigned as PCGG Chairman as of the end of this day." This must have been my third letter of resignation to the president. I excused myself from another engagement as sponsor for the inauguration of a garment factory of a relative.

My diary for the week contains the following notation under "Memoranda: Nov 15 — I was told that General Ramos, with 4 Service chiefs, 7 generals and 2 deputies submitted a 10-pt. Petition to Cory, including a Cabinet revamp, weeding out corruption in government, replacing unpopular OICs, and ways to fight insurgency."

Ms. Sandra Burton's detailed version in her book, *Impossible Dream*, was obviously based on an interview with Cory and others. She wrote that when the president arrived home from Tokyo, Ramos forwarded her a respectful but pointed 'bill of particulars' calling for replacement of certain ministers judged to be excessively left-leaning or corrupt; restoration of a central role to the military in drafting the strategy to be used against the Communists, and the setting of deadlines for cease-fire talks with the rebels. With coup rumors by now accepted as facts by coffee shop habitués and headline writers, Aquino treaded cautiously. First she met privately with each of the service commanders to try to gauge the depth of their discontent and to discuss what should be done. Then on November 21, she summoned General Ramos for a long meeting. Cory told Sandra she had never

been as frank as that Friday night. From the outset, it was easier for Cory to relate to General Ramos, unlike Enrile. The president and Ramos apparently agreed on measures to pacify the military and bring an end to the infighting so the government could speak with one voice as it prepared to begin peace talks with the rebels.

"The following evening," Sandra continues, "Ramos acted on the pretext that Enrile was planning to lead a group of former pro-Marcos assemblymen to occupy the National Assembly and declare the Aquino government illegitimate. He set up roadblocks around the National Assembly building in a remote area of the capital and ordered the troops to ignore any commands that might be issued by Enrile. In fact, no coup was under way that evening. General Ramos had simply chosen to call the bluff of Enrile and his boys by preempting their oft-threatened coup before it materialized." It was not a coup in the sense of men taking up arms against the government, although Enrile's men had threatened to destabilize it, said General Eduardo Ermita. The high visibility of those troops was enough to convince the newly liberated press to make Enrile's purported coup a reality in the next morning's headlines. By then Aquino had called an emergency cabinet meeting for the purpose of requesting the resignations of all her cabinet members. She would accept five: four of the names that had been in the military's "hit list" and Enrile. Apparently, Enrile had been summoned earlier. She told him: "Johnny, I cannot continue to work like this, where everything I do is being dictated by these boys." Enrile resigned and it was immediately accepted.²⁹

The acceptance of the resignations of Ernie Maceda (Environment and Natural Resources) and Roning Mercado (Public Works) came on November 28; that of Pimentel (Local Government) and Sanchez (Labor) was deferred a little later, at their own request. I was told that accepting Nene Pimentel's resignation was the most painful one for Cory.

On Monday, November 24, I sent my brief resignation letter to President Aquino with a covering note to Joker, which reads in part: "It would be good for the president to start anew. Since I have regarded myself as having no vested right to the position I hold, I am enclosing my letter of resignation."

Then I called Rene Saguisag, who said "until accepted, please hold over." Around 9 a.m. of November 25, Solicitor-General Sedfrey Ordoñez

²⁹Burton, *Impossible Dream*, pp. 419-420.

called informing me that there was a Supreme Court hearing on the Holiday Inn case. I wished him good luck, knowing we could depend on him and Ed Montenegro as well as on the PCGG legal team we had sent to give them all the necessary support. At 10 a.m. we had a meeting of the whole Commission. I announced my resignation and reviewed all the events leading to that development. We also took up the matter of registering all our writs of sequestration.

Victory in New York appeal; news items from Switzerland

The next day, the media announced the welcome news: we won in the New York injunction case, involving the four Manhattan buildings and the Lindenmere Estate, where I had testified last March, shortly after the EDSA event. The decision of the Court of Appeals for the 2nd Circuit was unanimous. We held a press conference the next day so the media would have a better understanding of the facts, the issues involved and the decision.

On November 29, the morning papers,³⁰ quoted the AP report of November 28 from Berne, saying that Marcos crony, Herminio Disini, was intercepted in Switzerland by the police.

I spoke after lunch at the meeting of the Legal Management Council of the Philippines on the "Role of Lawyers in the Concealment of the Ill-gotten Wealth," the thesis of which was that the Marcoses and their cronies could not have accumulated so much ill-gotten wealth, without the knowing participation of lawyers who did not give any importance to the moral and ethical implications of their acts, especially in a poor country like the Philippines. Some of my friends in the legal profession, a good number of whom had obtained their law degrees in the U.P., must have felt the sting of my speech.

The evening news was that Maceda and Roning Mercado were out. Replacing Mercado was a friend, Vicente "Ting" Jayme, a person of unsullied reputation.

On November 29, the papers published a news item with the headline "Swiss Bankers Keep Silent on Marcos Assets" datelined Bonn, Nov. 28.³¹ After confirming the news that Marcos and family who had been planning

³⁰See for example, Raul Marcelo, "Disini Intercepted in Switzerland," *Manila Chronicle*, November 29, 1986, p. 1.

³¹See for example, "Swiss Police Intercepted Disini," *Manila Bulletin*, November 29, 1986, p. 1.

to come to Switzerland were declared *persona non grata* and were barred from entering the country, I was quoted as saying that the estimated amount of deposits was from \$5 to 10 billion. It also said that the Swiss Government's freeze made earlier was scored by critics and bankers in that country.³²

Preparing for the first civil suit vs. the Marcoses; appointment of Rafael Fernando

We had a meeting of all the PCGG Commissioners in the morning of December 2, where we discussed, among other things, the need to file a civil action here against the Marcoses before the end of the year, in coordination with the pending suits in New York and California. In charge of the preparation of the action was Atty. Custodio Parlade. After the meeting, I had lunch with Central Bank Governor Jose B. Fernandez, to prepare him for his appearance in the forthcoming hearings in Honolulu where he expected to be asked about the money taken by the Marcoses from the Central Bank before they fled on the 25th of February 1986.

We had two welcome guests on December 3 who had just arrived from Boston — Dr. Felipe Tolentino, my eye doctor, and his wife, also a medical doctor. Both finished medicine in the U.P. Dr. Tolentino teaches at Harvard Medical School and is a partner of Retina Associates in Boston. He it was who persuaded Marcos, also his patient, to allow me to extend my stay in the United States in the early 80s due to my medical problems. I used to tell him, every time I visited him in his clinic during my years in exile (March 1981-January 1985), about the excesses of the Marcoses — their ill-gotten wealth and their human rights violations. He listened but, for ethical reasons, was non-committal at that time.

On December 4, I appointed Mr. Rafael Fernando Executive Director of our PCGG Operations in the United States vice Boni Gillego, who indicated his desire to return to the Philippines. I commended Boni for a job well done and wished him all the best. Paeng Fernando, whose character on the basis of my personal knowledge is beyond reproach and whose

³²Coincidentally, I flew to Legaspi City on November 29, 1986 for the Bicol Regional Meeting with Lydia and Ador. After my speech, a good number of people took their oath of affiliation with the Liberal Party. We flew back to Manila in the afternoon.

The next day (Nov. 30), Lydia and I went to the Tondo Iemelif Cathedral for the morning worship service to honor the "Heroes of the Faith." As was his wont, Bishop George Castro referred to my deceased father, who had been a Iemelif pastor, as one of their honorees.

sacrifice for the cause has not been sufficiently appreciated, was then based in Los Angeles. I asked him to always keep in touch with Ms. Severina Rivera, our PCGG Legal Coordinator in the United States. Incidentally, Paeng Fernando, who became my Chief of Staff in the Senate from 1987 to 1992, would be the object of a completely baseless smear by Ricardo Manapat in his 1991 book, *Smarter than Others*. Paeng Fernando filed a libel case against Manapat, who was reported to be under the protection of General Jose Almonte. But summons could not be served by the sheriff on Manapat.

On December 5, I called Ms. Sevie Rivera to apprise her of the appointment of Mr. Rafael Fernando. She reported on the legal fight between Peterson and the Bernstein brothers. As expected, Glecya Tantoco took the side of Peterson, the representative of Kashoggi. Sevie also reported on the fruitful meeting of our panel of international law experts with Atty. Parlade in NY. She said Parlade should be on the way home to prepare the pleadings to be filed in Sandiganbayan before the end of 1986.

In Malacañang, we held our first Cabinet meeting since the revamp last month. I was asked by President Aquino to give the opening prayer.³³

³³On December 7, Lydia and I attended the Sunday worship service at Cosmopolitan Church. After fellowship with the members, we went to Diko Ben's place in Pasig for lunch. It was the birthday celebration of his wife, my Inso Elong, and we had a lively conversation with the two and their children. Afterwards, Lydia and I went to Makati and picked up Dr. and Mrs. Mallari, our very dear friends from the San Francisco area in California, at the Mandarin Hotel. We had dinner with them.

XII

A Sad Christmas

The reconveyance suit against the Marcoses

In the second week of December, I took up with President Cory and Joker Arroyo the civil case for reconveyance and damages we were scheduled to file before the end of the year against the Marcoses in the Sandiganbayan. This case, I told them, "is intimately tied up with the injunction case we had won in New York. Without this case, our victory in New York would be meaningless." The violations committed by the Marcoses against Philippine law, particularly RA 1379, the Forfeiture Act, in relation to RA 3019 (Anti-Graft Law), should be proved under Philippine law. The civil judgment obtained here, arising from their civil liability for offenses committed here in the Philippines, may be recognized and enforced in New York, where the Marcos properties are located. We in the PCGG were coordinating our moves here with our lawyers in New York, California and Switzerland and with the PCGG Advisory Committee, composed of American experts in public and private international law, all of whom had been serving us without any compensation. If we succeed in this complicated litigation, this could establish a precedent both in the United States and the Philippines and for a number of other countries which had been under dictatorial rule.

I also sent copies of the income tax returns of the Marcoses to our Swiss lawyers pursuant to their request.

Meanwhile, I was asked by Mrs. Cecilia Lagman, a trustee of the *Bantayog ng mga Bayani Foundation*, to speak on December 8 to the rela-

tives and friends of those who had disappeared under martial rule. Her son, Hermon Lagman, was one of them. Along with other parents and relatives of those who had been "salvaged" by the military during the Marcos regime, they organized an association called "FIND," the equivalent of the "Desaperecidos" in Argentina and Chile. I was glad to comply with their request. Senior Justice Pedro Yap and I had spent a lot of time since February 1976 to locate their talented son, Manny Yap, who was graduated with high honors from Ateneo. Manny was picked up by the military on Valentine's Day in 1976 and, according to very confidential reports, brought to a so-called safehouse, where he was brutally tortured. Pete and I had visited high military officials and although they promised to help we heard nothing more from them. Flora, his grieving wife, migrated to LA and in time established a business there. After Pete's stint as PCGG Commissioner and then in the Supreme Court, where he served as Senior Justice in the second half of 1986, he was appointed Chief Justice in 1988, and served for several months as such. After Pete's retirement, he joined Flora and their other children in the United States. In 1998, Pete suffered a massive stroke while visiting with his daughter in New York. After his condition became a little more stable, he was brought to LA, where he is under the care of his wife Flora.

On December 10, 1986, in spite of a bad cold, I drafted a letter to President Cory, which stressed three things:

1. We had just won our NY case on appeal, which means that "neither Marcos nor his corporate fronts and dummies can dispose of the 4 buildings in (Manhattan) New York and the Lindenmere Estate in Long Island. But we are required under the decision to file the civil case against Marcos and company in the Philippines at the earliest possible time.

"Our proceedings in Sandiganbayan should give both sides speedy but not hasty justice. I would like to discuss this with you in detail.

2. I have just received word from Minister Ascalon and our Swiss lawyers that Marcos, Mrs. Marcos and their business associates have filed appeals in Switzerland, in various cantons. We won the cases in Zurich, Fribourg and Lausanne. To avoid any complication, may I repeat for the nth time that we formally revoke the authority the President had given to Mike de Guzman and Joe Almonte.

3. We plan to conduct a second auction either in California or New York to generate enough income with which to pay attorneys' fees in Cali-

fornia and Switzerland. Only our NY lawyers are helping us free of cost." I asked the President to give her approval.

I went to Malacañang and gave the original of the letter to Executive Secretary Arroyo during the cabinet meeting. After reading it, he said he would show it to President Aquino. We had a photo-session of the new Cabinet.

On December 10, Bobby Ongpin came. Among other things, he said Marcos met Adnar Kashoggi for the first time in Brunei on Jan 23, 1984, the Independence Day of Brunei. He was introduced to Marcos by Enrique Zobel.

On December 13, a Saturday, we received five pages of telefax from Mr. Kendall, one of our California lawyers, who took charge of encoding, sorting out and classifying the Malacañang and Marcos Honolulu documents. The five pages contained a summary of the participation and involvement of Marcos crony, former Ambassador Roberto S. Benedicto.

The next day, we had an afternoon meeting of the *Bantayog ng mga Bayani Foundation* at the house of Abe Sarmiento, whose son, Ditto, the U.P. Collegian editor, had been imprisoned during martial rule for his trenchant, stinging editorials. Due to his asthmatic condition, he had a very difficult time in prison and died shortly after his release. Bantayog now had a set of officers, led by Doña Aurora Aquino, the mother of Ninoy, as Honorary Chair of the Board of Trustees. I was elected Chair. We appointed a Committee in charge of research and documentation.

Meeting with two Marcos associates in HK: Floirendo and Benedicto

On December 15, I flew to Hongkong with Ador Hizon, the head of PCGG Operations. Arriving at 10 a.m., we checked in at the old Ambassador Hotel in Kowloon, where I took a good rest, due to a worsening cold. At one p.m. we went to the office of Atty. Amador, a friend to whom I had been introduced by Raul Manglapus in 1984. It was in his office where we scheduled a meeting with Tony Floirendo and his brother-in-law (former Minister Rodolfo del Rosario). According to our records, on August 27, 1986, Mr. Floirendo had sent a letter to Commissioner Mary Concepcion Bautista offering a compromise in the sum of P70 million pesos in exchange for the settlement of all sequestration proceedings instituted against him by the PCGG. He asked for authority to sell or encumber Lindenmere Estate

in NY to raise the P70 million pesos. He reiterated this offer to me at this particular meeting. My diary notes of this meeting show that I immediately rejected Tony's offer of P70 million by way of compromise settlement, in light of the incriminating documents we had in our possession. I mentioned the gist of these documents. He and his brother-in-law were probably stunned. They said they would get in touch with me, after conferring with their lawyers.

At 2:30 of the same day, Atty. Eli Reyes, a friend from Manila, fetched us. We had merienda with him and his client, Bobby Benedicto, a friend who must have considered me an adversary after my Senate exposé of the Benguet-Bahamas deal in 1968. Benedicto's assistants and friends referred to him by his initials — RSB. My notes show that during the merienda, we reviewed the facts as recounted in our first Hongkong meeting on November 20, 1986. Some slight modifications were suggested by RSB.

I tackled the COB (California Overseas Bank) question frontally. Bobby would not concede Marcos' ownership of the bank, which was understandable, given his long and close relationship with Ferdinand Marcos, since before the Pacific War. On the basis of the Malacañang documents we had in our possession, Marcos was the real owner of the COB. We suspended our ticklish discussion.

Ador and I had dinner with Attys. Eli Reyes and Mike Gonzales, a law partner of Bobby Benedicto. Ms. Suzette Periquet, a former secretary of Bobby, was with them. Then we — Eli, Mike and myself — drafted the compromise settlement on the media (TV, radio and print) as agreed to between me and Bobby — 2/3 of the directors on the various Boards would be nominated by the Government and 1/3 by Benedicto, pending the outcome of the litigation in Sandiganbayan.

During one pause, I asked the three representatives of Bobby, "Why can't RSB sign a one-paragraph admission on the California Overseas Bank, such as 'COB was formed at the request of President Ferdinand Marcos and had been funded by Swiss bank accounts?'" They said they would take it up with RSB. After finishing our work, Ador and I went back to our hotel and slept.

After breakfast the next day, I received a call from Atty. Eli Reyes. He said RSB did not want to agree to our proposal to include COB in the agreement, but he was agreeable to the compromise settlement on the media. Eli Reyes would be given by Benedicto the authority to sign *pendente*

lite the compromise agreement — 2/3 of each Board would be nominated by the Government and 1/3 to be appointed by RSB. That was what we came for, I told myself, although I was more interested in reaching a tentative compromise on the COB. I told Eli — “That will be OK in the meantime.”

Ador and I went to the Airport for our return trip to Manila. We arrived in the early afternoon. I went to bed to take a rest. Raul Daza called regarding what happened to Jimmy Ferrer, the Minister of Local Government. He was killed by an unknown assailant.

Since I arrived, I found myself besieged by LP leaders from the provinces. All expected that the new Constitution would be ratified, which meant that regular elections would be held from the lowest to the highest positions in the Government, except President Aquino and Vice President Laurel.

I had lunch with Ambassador Pelaez, who had just arrived from Washington D.C. on December 19. He briefed me on the latest developments in the Washington-New York area, since we last met in his residence in Washington. He was very supportive of what we were doing and had words of high praise for Sevie Rivera.

Around this time, a very able young man, Mr. Cesar Parlade, the son of Dean Custodio Parlade, was seconded to the PCGG by the accounting firm of SGV & Associates. He became our financial and accounting consultant. He would be of great help in analyzing and interpreting the voluminous documents on the stolen wealth of the Marcoses and their cronies. Many of these documents were incomprehensible to others.

Conference with Cory on the Marcoses, the settlement with Benedicto and the need to revoke the authority of Almonte and de Guzman

In the afternoon, I saw President Cory and took up with her the implications of filing the civil case for reconveyance and damages against the Marcoses in the Sandiganbayan. We intend to make use of the Forfeiture Act (RA 1379) under which any property acquired by a public official manifestly out of proportion to his salary and other legitimate income would be presumed to have been unlawfully acquired. I said Marcos might send word he would like to come back and defend himself — something for which we should be ready. I was for his return so he could prepare for his

defense but under such conditions as would safeguard the security of the new democratic Government. Considering the overwhelming evidence against the Marcoses, I was confident that a free, responsible media would clearly be in our favor in the reporting of the news about the trial. This would weaken Marcos beyond repair more than anything the new AFP would do. In the end, truth would be our best security against Marcos and his followers. Cory did not say a word.

I apprised her about the compromise settlement with Bobby Benedicto and its effect on the *Daily Express* and the various TV and radio stations which had been under the control of Benedicto and Marcos during martial rule. She was obviously pleased with this part of my report. But when I took up the favorable developments in the various cantons in Switzerland and the urgency of revoking the authority she had given to Mike de Guzman and Almonte, as otherwise the consequences would be disastrous, I did not notice any positive reaction. She just kept quiet, as if I had not said anything. I went home quite unhappy. I felt I should see Jimmy Ongpin and tell him I was prepared to resign irrevocably.

From Malacañang, I went to our PCGG Christmas Party at Philcomcen building, with MaryCon, in charge. But although I was smiling on the outside, I did not have the joy of Christmas in my heart and mind. From the Christmas party I went to the Manila International Airport to meet Ricky and Eddie who were scheduled to arrive via NWA at 9 p.m. They arrived on time and for a while I was quite cheerful. I was thankful that very soon, our children would all be in our Pasig home for Christmas.

On Sunday, December 21, 1986, we had a full schedule. At 6:30 a.m. Lydia and I met our daughter Patty, her husband Dan and their children at the MIA. From the Airport, we immediately repaired to our Pasig residence where we had a happy breakfast reunion. Only Rina, our youngest daughter from Claremont, California, was not yet in.

I went to the Rizal High School building at 10 a.m. for our Golden Jubilee and Class Reunion. "It's been 50 years since we finished high school in 1936," someone reminded us. But no one needed to be reminded — it was as if 50 years ago was only yesterday. I saw my classmates — Mario and Poñing Marcos, Ben Miranda, Ester Anastacio Reyes, Leon Tongohan, Librada Gloria Villareal, Rene Gomez and many others. So many had died during the war and now we who survived it all had all sorts of reminiscences and stories. We had a sumptuous lunch, then speeches, jokes and

games. High school days were probably the most memorable days of our youth. In 1999, more than 2/3 of my high school classmates since our 1986 reunion would pass away. Of the names just mentioned, only Poñing Marcos is still around today.

A confidential chat with Jimmy Ongpin; our Christmas celebration

I went home at 4 p.m. and then thought of sharing my thoughts and problems with Jimmy Ongpin, who had seen me in New York in 1984, at the request of Cory. After my homecoming in January 1985, we would see each other every week in the Convenors' Group where we made plans to fight Marcos in any electoral contest. After Cory finally announced she would run for the snap presidential election of February 7, 1986, he worked very hard to raise campaign funds for Cory. I felt he would probably be among the closest to the president; he would surely understand what I felt.

I called him and told him I would be at his residence. Around half an hour later, I was with him. I unburdened myself to him and told him about our difficulty in convincing Cory to revoke the authority of Mike de Guzman and Joe Almonte, despite my letters to her, signed by my fellow Commissioners and, at times, with Solicitor-General Ordoñez. I explained the dangers and the disastrous consequences of what would happen even if de Guzman and Almonte were to succeed in getting the money.

I told him I was seriously thinking of leaving the Government for good by submitting my irrevocable resignation to Cory. He listened to me patiently. To my surprise, Jimmy said he has his own gripes, presumably — although he did not specify anyone — against Executive Secretary Joker Arroyo. He said he had long wanted to talk with Cory, “with our hair down.” In any case, he said he would see what he could do.

Lydia and I went to Pansol to relax. I swam and then slept, after our evening prayers. The next morning, we left for Pasig.

On December 22, Monday, I didn't go to the Cabinet meeting scheduled at 10 a.m. After the meeting, Jimmy Ongpin called. He said Cory would call for Solicitor-General Sedfrey Ordoñez, Central Bank Governor Jobo Fernandez and me. I waited for her call the whole day, but no call from Cory came.

I attended the *Bantayog ng mga Bayani* meeting at the Chronicle Building. We discussed our activities on Rizal Day, December 30, including a

call on President Aquino in the morning and a *Bantayog* celebration in the evening.

Two days before Christmas (December 23) I had breakfast at Club Filipino with U.P. President Ed Angara and Sally Perez. I sensed that Ed Angara wanted to run, probably for a seat in the Senate. Afterwards, I had a meeting with Atty. Angel Cruz, the lawyer for Rolando Gapud, the financial executor of Marcos.

In the early morning of December 24, Lydia and I went to the Airport quite early to meet our youngest child Rina, who was scheduled to arrive at 5:45 a.m. Rina was all smiles when we saw her. Now our happiness is almost complete, I told Lydia. We went home immediately after clearing with Immigration and Customs authorities, who were very helpful. We advised her to rest as soon as we reached our residence.

At 12 noon, Minister Luis Ascalon, who had just arrived from Switzerland, came. We had him for lunch. He said he had just come from Malacañang and had a good conversation with President Cory. It seems the president might have realized that something must be done as soon as possible with reference to the authority she had given to Almonte and de Guzman.

At 5 p.m. we had our family reunion. All the Busuegos and Benipayos were also there. Lydia and I didn't have this kind of Christmas in the United States during our years in exile.

On Christmas day, the first thing we did was open the gifts with the children. All the children and almost all the grandchildren were present (except Nicki and Marina, Eddie's kids). After breakfast, we had our family picture-taking in the garden. This was the picture Lydia and I would use for our Golden Wedding Anniversary program on February 14, 1998.

We went to Ellinwood-Malate Church for the Christmas worship service, where Pastor Rigos preached. After the service, we motored to Pansol, where we had lunch with the whole family. The grown-ups and the children had a good swim in our warm spring pool. Then we went back to Pasig in the afternoon. After an hour or so of rest, we proceeded to the Salonga Reunion at Benjie and Annie's residence in the Corinthian Gardens. All the children and almost all the grandchildren of the whole clan were there. We went home past midnight, happy but sleepy and tired.

The next day, December 26, Lydia went up to Baguio with Rina and

Eddie, Patty and Dan, and their kids. Now, it was quiet in the house and I was able to read and study.

On Saturday, December 27, after attending a morning wedding where I was a sponsor, I sat down with Dean Ging Parlade to help draft the civil complaint for reconveyance against the Marcoses based on the theory of constructive trust, to make sure that any judgment here would be recognized in New York and other places. We were determined to file it before the end of the year. Of course, we would invoke the Forfeiture Act in our pleadings and during the trial.³⁴

On December 28, Sunday, the *Panorama Magazine (Manila Bulletin)* published a complimentary article about me.³⁵ I appreciated the tribute, although I thought it was quite extravagant. We went to Church, then to Pansol, where we swam. I called Morton Stavis in New York and told him about our draft of the complaint. He made some suggestions in our draft.

The first civil case in the Sandiganbayan against the Marcoses

On Monday, December 29, I called Solicitor-General Ordoñez and then Executive Secretary Joker Arroyo to inform them we would be filing the civil case against the Marcoses very shortly. I also expressed to Joker my apprehension regarding what one pro-Marcos Sandiganbayan justice, who should have never been appointed by President Aquino, might do if the case should go to his division. After this conversation, we filed the case in the Sandiganbayan. A press conference was called at 3 p.m. at the PCGG Offices to announce this event.

In the morning of Rizal Day, December 30, the officers and members of the *Bantayog ng mga Bayani Foundation* paid a call on President Cory Aquino. She gave us a very cordial reception and donated her one-month salary to start the ball rolling for donations to the *Bantayog*. Among the members she singled out in her reception was Mrs. Josefa Jopson, the mother of Edgar Jopson, the well-known student leader from Ateneo and U.P. who was captured, then tortured in prison, was able to escape and later killed

³⁴At five p.m. of December 27, I went to the wedding anniversary of Mr. and Mrs. Eulogio Eusebio at Ellinwood Malate Church. The couple had been dear friends of my parents and of our whole family.

³⁵"She (Pres. Cory Aquino) created also a Presidential Commission on Good Government (PCGG) headed by the most incorruptible figure you can find in Philippine politics, former Senator Jovito Salonga."

by the military in Davao. From Malacañang, we all had lunch at the historic Club Filipino. In the evening, we held the *Bantayog* celebration, with patriotic speeches and songs. Among those who attended the celebration were Chief Justice Claudio Teehankee, Justice JBL Reyes, Concom President Cecilia Muñoz-Palma and Mrs. Rolando Olalia.

On December 31, I called Severina Rivera. She said both *Washington Post* and *New York Times* published the news story on our complaint. I requested Atty. Parlade to send a complete copy by fax of our complaint against the Marcoses to Mr. Morton Stavis and make sure our legal moves in New York and the Philippines were well-coordinated.

XIII

A Meaningful New Year

New Year 1987

As we waited for the end of an eventful year, I tried to shrug off my deep disappointment with President Cory for not taking seriously my repeated recommendation for her to cancel the authority she had given to Mike de Guzman and Joe Almonte. It was bad enough for her to bypass the PCGG, her own creation, but for her to expose the whole Government to the risk of possible upheaval due to an inept decision made it quite difficult for me to enjoy this one season of grace. I was torn between the desire, on the one hand, to do my very best for the Commission in the coming days, and my dismay, on the other, at the seeming unwillingness of the president to realize the far-reaching consequences of her decision. But Luis Ascalon, I surmised, could be right about Cory now. Lydia and I prayed for guidance and went to sleep.

At 10: 30 a.m. of December 31, the family went to Pansol for a little relaxation. We had lunch with Tony Anton, played billiards with him and other friends. Then we repaired to our little country home nearby for a well-needed rest. In the afternoon, I swam and relaxed in our warm spring pool.

In my diary on this last day of the year, the following notation may be found:

Salary of FM according to the budget

1966-76—P60,000 per annum or P660,000.

1977-85—P100,000 per annum or P900,000.

How, I asked myself, could Marcos lawfully accumulate properties worth more than a billion dollars?

New Year's eve was a time for reflection. We prayed and meditated, despite the ear-splitting boom of firecrackers. I do not recall what time it was when I wrote the following: "We look back and we give thanks to the Lord for all the events and blessings of the past. We look forward with faith and hope to a new year that could be just as exciting and challenging. We place everything in God's hands."

On January 2, 1987, we were at the PCGG Offices with Commissioner Doromal and Atty. Eli Reyes, who was representing Bobby Benedicto, to attend to the implementation of our Compromise Agreement on the media companies pending litigation. We approved the agreement to implement. Atty. Mike Gonzales, a law partner of Bobby Benedicto, joined us at 3 p.m. It was a cordial meeting.

I recall that Bobby Benedicto's representatives on the Board, including Atty. Eli Reyes, a partner in the Enrile law office, were the ones who wanted *Daily Express* to cease operating due to the fact that it was no longer viable. Benedicto's own accountants and lawyers summed up the facts. There were few subscriptions that had been renewed, street sales were very minimal, ads were almost zero and the paper could not even pay the salaries and wages of its employees. Hence, on the initiative and at the insistence of Bobby Benedicto himself and his own representatives, *Daily Express* was closed and its assets had to be sold. Curiously, we in the PCGG were hit by several columnists, including a friend, Mr. Renato Constantino, for allegedly violating the "freedom of the press." A suit was even filed in the Supreme Court against our Commission. But as the facts show that the closure of the paper was an economic decision by Benedicto himself and his representatives, the suit was promptly dismissed. The inclination of some zealous guardians of the right to a free press to deplore alleged violations of the constitutional guaranty of free press, without first verifying the facts, baffled and saddened me.

Minister Ascalon's urgent recommendation to President Aquino

In the morning of the next day, Minister Luis Ascalon recounted to me his urgent recommendation to President Cory Aquino to revoke the authority of Mike de Guzman and General Almonte. He said that when he saw Cory, the latter was worried about my reaction although she report-

edly said that “he (Jovy) smiled when he was here on the 30th” (Rizal Day with the *Bantayog ng mga Bayani Foundation* members). Luis was requested to write a formal letter to President Corazon Aquino.

In the evening of January 4, a Sunday, we attended a Palace reception for Steve Solarz, a friend of our people.

The next two days, we called a meeting of the new Board members of *Daily Express* and notified Alex Lacson, John Osmeña, Lorna Yap, among others, and the new directors of Channel 13.

On Wednesday, an important event happened. In a letter addressed to President Cory Aquino dated January 5, 1987, Ambassador Ascalon, who must have been promoted, formally recommended the immediate revocation of the authority granted to Mike de Guzman and General Jose Almonte. The ambassador, who must have been promoted recently, gave me a copy of his letter. Here is what he wrote in part:

“I am more than ever convinced that the risk is too great, that there is a clear and present danger in postponing the revocation of these powers (of attorney given by President Aquino on August 10 and September 9, 1986 to Mr. Mike de Guzman and General Jose Almonte).

“When Mike de Guzman, accompanied by Mr. Almonte and the Solicitor General first met with Swiss authorities and our lawyers in Berne last June, he led us all to believe that the information Mr. de Guzman gave to the Swiss authorities regarding the \$213 million account of Mr. Marcos was allegedly furnished by organized underground elements operating in Europe.

“Mrs. President, I cannot overemphasize the explosive and devastating consequences (of this revelation).... Needless to say, our hope of recovering Mr. Marcos’ millions in Switzerland would most likely go down to (sic) the drain. And if this should be known publicly in the Philippines, together with the supposed understanding on the 20% for Mr. De Guzman and Co., I shudder to think what the consequences would be for our Government here and abroad.

“I recall that your Excellency said in our conversation that ‘a commitment is a commitment.’ Although I was not privy to any agreement made with Mr. De Guzman, I was given to understand by Solicitor-General Ordoñez and Secretary Arroyo in our last meeting of January 2, 1987 that it was premised on his commitment to deliver within 24 to 48 hours the goods on his own efforts.... Having failed to make the delivery, I believe

the Philippine Government has now been legally and morally released from its part of the bargain. I therefore reiterate my recommendation for the immediate revocation of the authority granted to Mr. Mike de Guzman and General Jose Almonte.”

Although urgent, it took almost a month before President Aquino finally revoked the authority she had given to de Guzman and Almonte.³⁶

Meanwhile, media reports indicated that the draft of the new Constitution would be approved by the people in a plebiscite scheduled on February 2. Many political groups would be very active in the campaign for the Senate and the House of Representatives. President Aquino presided at the meeting. Vice President Doy Laurel represented the Unido. I represented the Liberal Party. Both Doy and I were for maintaining the separate identities of our respective parties, without prejudice to a coalition. A coalition under the Lakas ng Bayan or Laban seemed to be the prevailing consensus.

The detailed statement of Rolly Gapud, Marcos' executor

The next day (January 13), I left for Hongkong accompanied by Ador Hizon, for the purpose of getting a very important statement from Mr. Rolando Gapud, Marcos' financial consultant and executor. Ador and I arrived in Hongkong at 10 a.m. and checked in at the Ambassador Hotel.

At 2:30 p.m. Rolly Gapud (who had seen me shortly after the EDSA Revolution and briefed me on the acquisition of the New York properties by the Marcoses, thereby enabling me to testify in New York in March 1986) came to our hotel with his counsel, Atty. Angel C. Cruz, an old friend of mine in the teaching of law. Mr. Gapud agreed to give a detailed statement on his role and activities and on the various holdings of the Marcoses, their associates and cronies. I brought up some points, which he

³⁶Almonte and de Guzman brought the matter to the House of Representatives for investigation in 1989. It was investigated by a Special Committee of the House, headed by Congressman Victorico Chavez. The investigation started on July 10, 1989. In 1991, before Congress adjourned, it rendered a Report which blamed PCGG Chair Salonga and Solicitor-General Ordoñez for “the derailment of the recovery process under Operation Big Bird.” However, it was not submitted to the House for debate and possible approval, partly due to the alleged intervention of Speaker Mitra, an avowed candidate for president, who did not want it debated, and partly because it contained some embarrassing facts and damaging admissions. See Appendix, *infra*.

The editorial of one daily (“Laughing Off Big Bird,” *Philippine Daily Globe*, May 10, 1991, p. 1.), described the House Committee investigation as “the continuation of an old scam. It is also the most galling example of crime masquerading as justice and calling the just to account.”

helped clarify. We recessed at 5:30 p.m. and they agreed to come back after dinner. In the meanwhile, I prepared a tentative draft of his statement, subject to further amendment or corrections on their part. They came back at the appointed time and we went over the draft in detail. We finished around 11 p.m. and agreed to meet the next day.

At five a.m. of Jan. 14, I began checking my notes and typing in my hotel room the affidavit of Gapud, based on what we had agreed the night before. After breakfast at 7 o'clock with Ador, I worked the whole morning in the privacy of my room. At 12 noon, as agreed, Angel Cruz and Rolly Gapud came. The latter suggested a few minor corrections which I adopted and at two o'clock in the afternoon, we finished his eight-page formal statement.

Here is a summary of his interesting and useful account, which became the basis of his perpetuated testimony much later:

Rolando Gapud was born in 1942 in Pagsanjan, Laguna; finished AB in Math in Ateneo, enrolled in MIT in 1962 and finished his MS in '64; married to Nenita Petines (CPA-Harvard-Radcliffe Program in Business Administration '63). He worked with Mr. Sixto Roxas at PCDP, was an analyst in Bancom, became VP in Bancom, where he provided financial consultancy services to JY Campos of United Laboratories.

Introduced by JY Campos to Marcos in 1973-74, Gapud said he had been inaccurately described as "a financial adviser of Marcos"; in truth he was the financial executor, not the financial adviser, of Marcos. He wanted us to note the distinction: he merely carried out the wishes of the former president, he did not offer advice or give his counsel. He had been asked by Marcos to audit companies under the supervision and ownership of the following: Pablo Roman (Republic Bank, etc.) Roberto Sabido, Frankie Teodoro, Luis Yulo, Trinidad Enriquez (Sulo Group, Puerto Azul, Silahis, Phillipine Village Hotel) and General Eulogio Balao.

He submitted to PCGG, through Commissioner Raul Daza, a brief description of the businesses of the associates and relatives of Marcos, (Annex "A" of his statement), which mentions the following: G. Araneta, Campos, Cojuangco (the major companies under Danding Cojuangco are San Miguel Corp., Cocobank, Unicom, UCPL Assurance Corp; the persons with more intimate knowledge are Atty. Jose Concepcion, Narciso Pineda, Danilo Ursua, and Jesus Pineda, Jr.) R.M. Cuenca, Benedicto, Lucio Tan, Floirendo, Sabido, Luis Yulo, Raymundo Feliciano, G. Tanseco, Enriquez/

Panlilio, Nieto, Tantoco, Roman, Disini, Alfonso Lim, Menzi/Yap, R. Nubla, Romualdez, M. Elizalde, H. Poblador, Ilusorio, E. Balao, A. Fonacier, F.R. Cuevas, Anthony Lee, Ismael Mathay, Jr. and J. Marcelo, Jr.

In 1980, he became the President and Chief Executive Officer of the Security Bank and Trust Co. Instructions came to him either through Ms. Fe R. Gimenez or given to him directly by FM or IRM, after being asked by Mrs. Gimenez to go to Malacañang.

He gave a detailed discussion of the background of Lucio Tan and Marcos, *Bulletin Today*, Ralph Nubla, Philcomsat, Oriental Petroleum, Balabac Oil, and other sources of illegal funds.

“As far as I can remember,” declared Rolly Gapud, “there was only one instance of what I can describe as a legitimate earning of Mr. Marcos, namely, the retirement benefits of Mr. Marcos coming from the Government Service Insurance System (GSIS), but this was a very small, insignificant amount — around P100,000 — or the equivalent of about \$5,000 which was given to him, through the Security Bank, when he reached the age of 65.

“Also, Security Bank used to receive wire transfers from many sources abroad, involving enormous sums of money, which were credited to the trust accounts and savings accounts of Mr. Marcos.”

“On the basis of my own personal knowledge, Mr. Marcos acquired controlling interest of at least 51% in the SBTC, through Master Assets, Gainful Assets, and other nominees, after which, as his financial executor, I began establishing numbered accounts at SBTC to enable Mr. Marcos to move his gains from the above-mentioned sources to offshore investments, and also to facilitate his banking transactions within the Philippines.”

At this point, Gapud revealed how he arranged for the acquisition of Marcos' controlling interest in the Bank by negotiating with the group of Mr. Ramon Sy, Philip Ang and Dewey Dee. It was Jose Yao Campos who had to buy their shares, through Gapud.

The Statement enumerates Marcos' trust accounts (all beginning with Numbers 77) which were opened in November 1980, per instructions of Marcos. It cites Marcos' three Savings accounts (beginning with numbers 27) which were opened in December 1985 or January 1986, as recounted by Evelyn Singson. “I was the one who ordered them to be opened, for the benefit of Mr. Marcos. The aggregate balances were approximately P250 million.” According to the Statement, “the trust accounts of Mr. Marcos...

were run on a very confidential basis, and except for me, no one in the bank knows to whom they belong or where the disbursements go or in whose favor they were made." There were very heavy withdrawals during the election period (1985-1986) and subject to verification of records in the SBTC, "said withdrawals amounted to hundreds of millions of pesos." Gapud's statement specifically refers to the New York properties, the corporate devices resorted to and carried out by the Bernsteins and Gliceria Tantoco, who made use of the Netherlands Antilles corporations "whose shareholders are Panamanian companies," up to the February 1986 Revolution; "the bearer shares were in the hands of Mrs. Gliceria Tantoco, the front and agent of Mr. and Mrs. Marcos."

Gapud was instructed by the Marcos couple to make an evaluation of the NY apartments; he was also instructed by Mrs. Marcos to patch up the quarrel or misunderstanding between the Bernsteins and Mrs. Tantoco; he went to NY in 1984 and 1985. In the autumn of 1984, Gapud met with Mrs. Tantoco and the Bernsteins regarding the shortage of funds to develop the Wall Street building.

The Statement denies the assertion of Bernstein that Gapud was the one who dictated over the phone the declaration of trust executed by Bernstein on the April 4, 1982 stationery of Peninsula Hotel. But what the Bernsteins said before the Solarz committee, as reported in the papers, was true — they acted for and in behalf of Mr. and Mrs. Marcos, "the real beneficial owners of the NY properties." The Bernsteins wanted to buy these properties from the Marcoses for around \$235 million, more or less; the message was transmitted to Marcos. But up to the outbreak of the EDSA Revolution on February 22, 1986, no agreement had been reached between the Bernsteins and the Marcoses.

The Statement speaks of Adnan Kashoggi and how Gapud met him. The Philippine Government, through Roberto Ongpin, then Minister of Trade, entered into a joint venture with Kashoggi's company, Triad Asia. Later, a litigation was instituted by the Government due to the refusal of Kashoggi to return the amount invested by the Government in said joint venture. Up to the Revolution of February 22, 1986, Kashoggi had nothing to do with the NY properties of the Marcoses.

With reference to the Lindenmere Estate, Gapud's impression is that the Estate "is owned by Mrs. Marcos, although it is the Ancor holdings of Mr. Antonio Floirendo that holds itself out as owner of the property. I

would not have been sent by Mrs. Marcos (in 1984-85) to settle the suit of Mr. Camacho and Mr. Figueroa against Mrs. Marcos for services rendered by them with respect to the 66 East Townhouse (formerly Philippine Consulate Bldg.) and the Lindenmere Estate if it were Mr. Floirendo who actually owns the property.”

The Statement refers to A. Floirendo and the sugar refinery business (Revere), in which Marcos had a substantial interest. Irwin Jay Robinson a senior partner of the law firm of Rosenman, Colin, Freund and Cohen, became a director of Redwood Bank, partly due to Gapud. Redwood Bank was purchased by the SBTC Group led by Mr. Ramon Siy.

Gapud, in his Statement, recalls the opening of the Marcos numbered “77” accounts with Security Bank & Trust Co. (SBTC) where huge sums of money were deposited from various sources and later transferred/remitted to U.S. and other places for investment and other purposes. A U.S. dollar account, “SBTC Acct. No. 7700,” Philippine Pesos Acct. “SBTC Trust Acct. No. 7710” and Savings Acct. were opened by Chartered Bank HK Trustee Ltd. as evidenced by the Deeds of Trust entered by Chartered Bank HK and SBTC. Opening of these accounts was instructed by Jose Y. Campos in accordance with terms of the “Discretionary Settlement” dated November 21, 1980 where beneficial owners are Ferdinand E. Marcos and Imelda R. Marcos.

The following documents contain Gapud’s signatures:

a. Deeds of Trust entered into between SBTC and Chartered Bank Hongkong Trustee Ltd. — Dec. 2, 1981; b. Chartered Bank HK Trustee Ltd. Letter to SBTC — Nov 26, 1981; c. Bueno Total Investment Co. c/o Chartered Bank Bldg — March 22, 1980 (letter to SBTC). Gapud affirms his signature in said documents.

Gapud said he was “prepared to elaborate, if necessary, and execute such documents as may be needed. In preparing and executing this document, he was assisted by his counsel, Atty. Angel Cruz,” who also signed the document on January 14, 1987 in Hongkong.

At 2:30 we all went to the Philippine consulate, where Consul General Reyes authenticated the document. At 4:30 we left for the airport, checked in and took the 6:40 flight for Manila. We came home satisfied that we had obtained the most important sworn statement we needed in the criminal prosecution of the Marcoses and their cronies.

The next day, we sent copies of the Gapud sworn statement to Atty.

Parlade and Asst. Solicitor-General Ed Montenegro, and by special delivery to our lawyers in New York, headed by Mr. Morton Stavis, and to Attys. Ron Olson and Richard Kendall in LA.

In the next few days, from January 15 to January 20, my diary shows that in addition to PCGG problems, I met with many people on political matters, including Butz Aquino, Raul Manglapus, Nene Pimentel and Noel Soriano. My aide and I went to various provinces to talk to LP leaders from Rizal, Pangasinan, La Union, Ilocos Norte, and Abra.

On January 21, we had a Cabinet meeting in Malacañang, after which I had a long-distance phone conversation with Morton Stavis. He said there would be no deal with Kashoggi, represented by the wily Peterson, and my answer was "Good!" He then discussed a proposal which might enable us, through Edward Gordon, a leading real estate firm in New York, to get back as soon as possible, the money invested by the Marcoses in the Manhattan properties, without waiting for the outcome of the litigation against the Marcoses in Sandiganbayan. If these properties are sold for \$300 million, our Government should get a net amount of around \$70 to 80 million, after paying off the mortgage liens and the claims of other creditors. I requested Morton to send the details of the proposal by the fastest means. He sent me a long telex, the contents of which I transmitted to President Cory on the same date.

XIV

Ratification of the 1987 Constitution

The bloody Mendiola incident of January 22

With the coming of the New Year, the militant *Kilusan ng Magbubukid sa Pilipinas* (KMP) "The Peasant Movement of the Philippines," under the leadership of Jaime Tadeo, became restive and suspicious at the buck-passing between President Cory Aquino and the Constitutional Commission (ConCom). Despite a 30-0 committee vote for comprehensive land reform, the plenary session of the Concom left to the future Congress the decision on the three most sensitive issues of agrarian reform — coverage, retention limit (for landowners) and the question of compensation.

The KMP brought its minimum program of agrarian reform to the attention of the Ministry of Agrarian Reform. The movement had hoped that President Cory could do something to carry out her promise of genuine land reform, despite the indecision of the Concom. Apparently, nothing more than a few inconclusive dialogues were held. The KMP suspected that what the Government was actually waiting for was the approval of the charter and the election of a landlord-dominated Congress. In mid-January 1987, the KMP barricaded the offices of the Ministry of Agrarian Reform, headed by Heherson Alvarez. Following an exchange of invectives between Tadeo and Minister Alvarez, around 15,000 peasants marched on Mendiola Street in the direction of Malacañang on January 22. They were met by some 500 policemen, backed by a contingent of fully armed marines. In the course of the brief scuffle which ensued, the police reportedly opened fire, killing 19 persons.

President Aquino convened an emergency meeting of the Cabinet. An investigating committee was immediately formed to ascertain the responsibility for the tragedy. She also ordered immediate action on the minimum demands of the peasants.

The media reports the next day were bad for the Administration, I thought. Some dailies spoke of the incident as the "Mendiola massacre," recalling the first Mendiola massacre of January 1970, when demonstrating students were killed by the military. This time, some human rights groups, whose hopes for social justice had been dashed by the tragic event, confronted President Cory. The latter asked them to understand her delicate position as arbiter between the military and the various groups asking for redress of long-standing grievances.

"I still think," said Cory, who almost broke down, "that I am the only one who can handle the situation."

According to Cory's appointments secretary, Ms. Ching Escaler, who described this encounter as the "lowest point" in her presidency, "there was silence in the room when she finished speaking."

Many of her old friends in the room concluded, with no little sadness, that Cory had become a prisoner of the military.³⁷

On Saturday, January 24, we participated in a "Grand Rally" for the proposed Constitution, following the morning wedding of Mito Pablo, the son of my sister-in-law Lulu. I was one of the wedding sponsors.

The aborted coup of January 27, 1987

On January 27, a Marcos-directed coup, apparently his "last hurrah," was mounted by the same characters who had planned and carried out the Manila Hotel fiasco of July 6, 1986, except that this time the objective was to derail the February 2 plebiscite. Anticipating that a free, credible plebiscite to ratify the new Constitution would remove any legal basis for claiming that he was the president of the Philippines, Marcos, on the basis of trustworthy evidence, instructed his followers to thwart the process. For her part, Mrs. Imelda Marcos reportedly went on a shopping spree in Honolulu and bought combat boots and jungle uniforms. A small contingent tried to capture Villamor Airbase (headquarters of the Philippine Air Force) simultaneously with Sangley Point (headquarters of the Philippine Navy).

³⁷Burton, *Impossible Dream*, p. 422.

In both attempts, the Marcos loyalists were easily repulsed. At 11 a.m., the Aquino Government said it was in full control of the situation.

A little more dramatic was the early morning takeover of Channel 7 by Colonel Oscar Canlas, who neglected to bring a crew of his own. President Aquino said those holding out in the television station would be crushed by military means. But General Ramos resorted to negotiations with the self-righteous Canlas, whom he praised for his supposed idealism. Canlas spurned Ramos, who then ordered the tear-gassing of the compound. But some 80 PMA graduates, led by Col. "Gringo" Honasan, warned Ramos not to employ force against Canlas and his men. Ramos resumed negotiations and the clumsy coup, as choreographed by Marcos — who had already chartered a jumbo jet to bring him back from Hawaii to the Philippines — was foiled.

In the evening of January 27, I had dinner with the officials of the National Council for Churches (USA), led by Dr. and Mrs. Browner and a dear friend, Ed Luidens. I accompanied the delegation to President Cory the next morning at 9 o'clock. After the delegation left, the President presided at our Cabinet meeting, where the events of the preceding days were reviewed and discussed. We also took up the forthcoming plebiscite.

We left for Baguio on January 29, in the company of Dr. Cirilo Rigos and former Concon Delegate Abraham Sarmiento. We had a dialogue with Baguio leaders at 10 a.m. and participated in an Open Forum on the draft Constitution after lunch, following the speeches of my two companions. We went back to Manila afterwards.

In the afternoon of January 31, we went to the Luneta Rally on the proposed Constitution. Later in the evening, I spoke on the draft Constitution at the affair of the Kalinga Apayao Bodong Students Association which was held in St. Joseph College Gymnasium in Quezon City.

The ratification of the 1987 Constitution

February 2nd — the big day for the ratification of the proposed Constitution — arrived at last.

I had no illusions about the draft. I thought it was too long. Some of its provisions could have been improved, for example, those pertaining to State Policies, the Commission on Elections, and the Office of the Ombudsman. There was too much buck-passing to Congress, instead of making a decision, as in the definition of "political dynasties." What, I asked

some people, was the purpose of prohibiting political dynasties, which was necessary, but without defining the term? Up to now, Congress, some of whose members made several attempts to “guarantee equal access to opportunities for public service,” has not even agreed on the definition. Still it was good to allow the people to have a say on what they thought of the draft Constitution, although I doubted whether many understood the full import of its provisions. The aborted coup, in my analysis, would probably induce many people to vote for the proposed Constitution, for the sake of “political stability.”

At 7:30 a.m., Prof. Abram Chayes of Harvard Law School arrived. We had a good conversation about our student days in Cambridge, around the same time when I was there. He thought we could have been together in the big class in Conflict of Laws (1947-48) under Professor Paul Freund. I expressed our deep appreciation for Prof. Chayes’ lead role in our PCGG Advisory Group of international law experts. As he wanted to see for himself how a plebiscite was conducted here and how our people would vote, I requested a couple of friends to accompany him wherever he wanted to go so he could witness the voting in various polling places in Pasig and other places in Metro Manila.

Lydia and I voted in Pasig. With Ador Hizon and Ging Parlade, we had lunch with Prof. Chayes. After lunch, he went around various places in Manila itself. We had dinner with him at Club Filipino, in the company of Commissioner Ramon Diaz and others. After an interesting conversation on the draft Constitution and the significance of the electoral exercise, we went to La Salle Greenhills, and watched the coming in of reports and returns from Metro Manila and other places. Prof. Chayes was impressed with the orderly, peaceful conduct of the plebiscite.

The newspapers the next day reported a heavy turnout, without any commotion or public disturbance. We had a PCGG Commission meeting at 10 a.m.

On February 4, all news reports from various places pointed to the overwhelming approval of the proposed Constitution, probably by around 70 percent to 80 percent of those who voted. This, in the opinion of many observers, should stabilize the political and social situation. We had a buoyant, upbeat Cabinet meeting at 10 a.m.

At 3 p.m., Prof. Abram Chayes, whom I introduced, delivered a very instructive lecture in the U.P. College of Law on “The Recovery of the Ill-

Gotten Wealth.” Many students and some professors were present. Prof. Chayes outlined the difficulties we encountered in the recovery of the Marcos plundered wealth and outlined what could be the international law of the future with specific reference to the stolen wealth of dictators and despots.

Political meetings and PCGG matters

With the ratification of the Constitution, my time was now divided between PCGG matters and political conferences. In the evening of February 5, Butz Aquino and Raul Manglapus — both of whom were deeply involved in the anti-Marcos struggle here and abroad — came to the house. I had no doubt they would both run for the Senate and win. On Sunday, February 8, Letty Shahani invited me for breakfast at her residence. She, too, was interested in a Senate berth. With her impressive credentials, I told her she would probably be chosen by President Aquino.

A meeting in Malacañang was called on February 9 by the President. Representatives of four political parties were invited. Vice President Laurel represented the Unido, other persons represented the PDP-Laban, Neptali Gonzales and others represented Lakas. Raul Daza and I, among others, represented the Liberal Party. After some discussion, there was a consensus that each party would retain its identity but under a coalition umbrella. Then at dinner, I had a meeting at Club Filipino with the other members of the coalition, where probable candidates for the Senate were present.

We had a Commission meeting at the PCGG offices on February 10, with Commissioner Ramon Diaz, my able deputy, taking on more than the usual load. After a luncheon engagement with Justice Celina Palma, Butz Aquino and Raul Manglapus, I went back to the PCGG Offices to take up other matters in our agenda.

In the evening, I conferred with Vice President Doy Laurel at the residence of Mrs. Judy Roxas on our participation in the coming elections.

The next day was a memorable day for me. Exactly 43 years ago, on February 11, 1943, I was released by the Japanese military from imprisonment in Muntinlupa. My diary entry on February 11, 1986, merely noted that unforgettable period in my life, when I thought I would spend “15 years of hard labor in prison” — as stated in the sentence of the Japanese Military Tribunal. But on the 1943 Foundation Day of Japan (*Kigen Setsu*), which is held every year in Japan on February 11, the Japanese Imperial Forces decided to follow the tradition of releasing some prisoners. It was

my fortune to have been selected for release, without serving the rest of my sentence. *Talagang marunong at may awa ang Diyos!* (God is truly wise and merciful).

I went to Malacañang, for the Cabinet meeting. The 1987 Constitution was proclaimed in force and in effect as of February 2. In the evening I had another conference with Vice President Laurel, on our respective lineup for the Senate.

After our Commission meeting on February 12, where we discussed the transfer of some surrendered lands in Laguna to the Ministry of Agrarian Reform, I had a luncheon meeting with Swiss Ambassador Koler and Ambassador Luis Ascalon regarding the status and progress of our claim to the Marcos deposits in Switzerland. At two o'clock, I signed the agreement for the transfer of the surrendered lands in Laguna to the Ministry of Agrarian Reform, headed by Minister Heherson Alvarez. An hour later, I was in conference with Neptali Gonzales, Raul Manglapus and Butz Aquino — all of whom would be running for the Senate in the May elections.

On Saturday, February 14, Lydia made sure that our 38th wedding anniversary would be celebrated very quietly. Only our children and grandchildren were present. No outsiders were invited. I was glad to be alone with them on this special occasion.

The next day, I had dinner with Morton Stavis, who had just arrived from New York. We talked about the negotiations for settlement of the New York litigation with the Bernsteins and other parties. In the morning of February 16, I accompanied him to Malacañang where we conferred with President Aquino on the prospects of settlement. In the afternoon, I was in Malacañang again with President Aquino, this time with Deputy Minister Ramon Diaz, my recommendee to head the PCGG, should I be selected to run for the Senate.

We had our Commission meeting, with Mr. Morton Stavis, in the morning of the next day (February 17) to take up in detail the negotiations for settlement of our suit in New York and its implications on our complaint in the Sandiganbayan.

On February 19, on the occasion of the 41st Anniversary of Liberation Day in Pasig, I was requested to speak during the celebration. It was a nostalgic event for me.

XV

PCGG's Accomplishments:

The Summing Up

Cory's senatorial candidates and PCGG's first anniversary

On February 20, President Cory Aquino announced her choice of the twenty-four senatorial candidates of *Laban*: Alvarez, Angara, Aquino, Defensor, Gonzales, Guingona, Herrera, Laurel, Lina, Maceda, Manglapus, Mercado, Osmeña, Paterno, Pimentel, Rasul, Romulo, Saguisag, Salonga, Sanchez, Shahani, Tamano, Tañada, Ziga. There were four LPs in the senatorial slate — John Osmeña, Rene Saguisag, Vic Ziga and myself. I had expected Raul Daza to be chosen but at the last minute, his name was dropped by the President for some reason I could not understand.

In any case, all of the four were elected to the Senate during the May 11, 1987 elections. Raul Daza also won as Congressman in Northern Samar and continued as the Secretary General of the Liberal Party.

After Cory's announcement, I went to the Pio del Pilar Foundation Day of our school in Makati. It was founded 40 years earlier (February 1947) by my brother Isayas. It had made its mark as a private high school for the poor and the lower middle class in Makati and suburbs.

We had a meeting of the twenty-four senatorial candidates and President Aquino in Malacañang on February 23. Paul Aquino, the younger brother of Ninoy, was asked to serve as the Campaign Manager of the *Lakas ng Bansa* coalition, otherwise known as *Laban*, its acronym. We

discussed the details of the campaign and the need for coordination between and among the candidates and their respective teams.

Since our names were announced as senatorial candidates, my political schedule became quite heavy. I had to go on with my remaining work in the PCGG and at the same time meet with my fellow candidates, confer with various groups coming from the provinces and go to various places to meet prospective candidates of the Liberal Party for Congress.

On Saturday, February 28, the first anniversary of PCGG was held at Club Filipino. I was the main speaker. I knew that in a few days, I would have to resign and start my formal campaign for the Senate. I expressed my deep appreciation for the loyalty and sense of dedication of our employees, our staff members and my fellow commissioners who did their very best to meet the high, oftentimes unrealistic, expectations of our people. At the same time, the Commission had to cope with the carping of the media. I said that much remains to be done but I was confident that PCGG would continue and probably do better under the capable leadership of Commissioner Ramon Diaz, who would in all probability be the next chair.

After my speech, we left for the airport and took a flight for Hongkong where we were scheduled to meet for the second time with Mr. Antonio Floirendo, a Marcos associate.

Compromise settlement with Antonio Floirendo

Inside the plane, I reviewed my notes of our previous meeting last December 15 and the incriminating documents we had against him. In rejecting his offer to settle for P70 million, I had told him about the gist of these documents and why it was necessary for him to give us a fair and full disclosure, as a precondition to a compromise settlement of the case.

This time, Tony Floirendo was accompanied by his brother-in-law, former Minister Rodolfo del Rosario, and their lawyer, Atty. Francis Jardeleza.

In light of the evidence in the hands of the Government, which was shown to him, Mr. Floirendo, after conferring with his two companions, agreed to make a fair and full disclosure and to testify to the truth of such disclosure before any appropriate court. We also took up the offer of Mr. Floirendo to surrender the title to the Lindenmere Estate in addition to P70 million pesos. I said this would not be enough. He must also surrender the Olympic Towers Apartments in New York and the Makiki Heights resi-

dence in Honolulu. We suspended the session for the following day to give him enough time to think about what I said.

On March 1, Mr. Floirendo finally agreed. He signed a Statement containing the "fair, complete and truthful disclosures" discussed the day before, with the following undertaking: transfer clean titles to Lindenmere Estate, to Apts. 43 D and 43 E Olympic Towers on 5th Avenue, New York, and to the property situated at 2443 Makiki Heights Drive, Honolulu, Hawaii in favor of the Government of the Philippines. He offered to pay the amount of P70 million in two installments, the first installment of P35 million upon the execution of the Compromise Agreement, and the second installment of P35 million within one year thereafter. Floirendo gave a power of attorney to Mr. Rodolfo del Rosario to negotiate and sign the Compromise Agreement with the PCGG.

After our arrival in Manila, we drafted the Compromise Agreement as agreed upon in Hongkong. We asked for the approval of the Office of the President. Executive Secretary Joker Arroyo suggested that the P70 million be paid immediately in cash. I communicated this to Mr. Rodolfo del Rosario. Having cleared the matter with his principal, who was then abroad, he agreed and the Compromise Agreement, as drafted, was amended to incorporate the change. On March 5, 1987, the Compromise Agreement was signed by the parties and approved by the Commission en banc. The P70 million was delivered, the sequestration and freeze orders were lifted, and in due time the clean titles to the U.S. properties were delivered to the Government. At that time, the total settlement amounted to P250 million pesos. The Third Division of the Sandiganbayan, on joint motion of the parties, ordered the dismissal of the case against Mr. Floirendo on September 10, 1987.

Departure of Pepe Diokno

Meanwhile, Jose W. Diokno, a good friend and a worthy hero of the resistance movement, passed away. My fellow senators who had been very active in the struggle against the dictator, had left one by one — Gerry Roxas, then Ninoy Aquino, Sergio Osmeña and now Pepe Diokno. At my suggestion, he had been appointed by President Cory Aquino, to chair the Commission on Human Rights, but his illness, which we had underestimated, prevented him from taking a very active part during the last few months of his life. Necrological services were held on March 3 at Mt. Carmel

Church in Quezon City. I could not help but pause and reflect for a while on life's mystery and meaning. Why, I asked myself, am I still alive? I was almost dead when I was brought to the hospital in a state of complete shock on the night of August 21, 1971. Almost all my doctors who saw me on that night thought I had no chance to live. But I survived. Why?

Retired Justice JBL Reyes had been acting as Chair of the Commission on Human Rights for some time but he was also sickly. In time, Mary Concepcion Bautista, our colleague in the PCGG, would be appointed Chair of the said commission.

I received an urgent message from Mr. Rafael Fernando, our PCGG Executive Director in the U.S., on March 3, 1987 saying that the ousted dictator would like to see me personally for a compromise settlement, as relayed to him by Dr. Rolando Atiga, one of the physicians of former President Marcos. I advised Paeng Fernando to immediately proceed to Honolulu and find out from Marcos whether he was in earnest about a just compromise settlement. If so, I told Paeng, "the first requisite is for FM to make a fair and full disclosure of his assets." I would be ready to quit the campaign altogether, which would begin on March 9, if the answer was yes. I would be ready to fly to Hawaii and see Marcos right away. I had known Marcos even before my candidacy for Congress in 1961. Over the years, I got to know him better, both as a politician and as a fellow human being. We had talked about politics and played golf a number of times. I prayed for him when I was imprisoned in 1980.

A little later, I received the Report of Paeng Fernando on his trip to Honolulu, accompanied by Dr. Atiga, who described himself "as one of those in the Marcos camp who realize that the fight is now over and it is time to reconcile with Mrs. Aquino."

They arrived in Honolulu at 10:20 p.m. of March 4, Honolulu time, and proceeded by taxi to the Makiki Heights home of the Marcoses, getting there around 10:45 p.m. Fernando and Dr. Atiga were ushered in through the front door by two civilian guards and led to a small study to await former President Marcos (FM). He came at around 11:20 p.m. on his own without assistance, accompanied by an aide who then closed the door behind him, so that there were only three of them in the room. According to the verbatim Report of Paeng Fernando:

"Atiga introduced me as the PCGG Executive Director for the U.S. and as such had the authority to come and talk with him. FM asked me if

I will report directly to Madame Cory; my answer was my reporting relationship is with my direct superior, Minister Salonga, who I believe will report this meeting with him (Marcos) to President Aquino. FM was cordial and we exchanged amenities.

"I then told FM I did not come with anything but a pair of ears to listen to what he had to say and to convey the same as faithfully as possible to Minister Salonga and President Aquino. He then said he was apprehensive of Salonga because he heard he is vindictive because of what happened to him at Plaza Miranda, and claimed that Victor Corpus already pointed to the real perpetrators. I said that his information is wrong, that Mr. Salonga has long forgiven those who committed the crime and that he will find Salonga very fair and reasonable.

"Atiga switched the subject to reconciliation and said the atmosphere seems to favor a possible meeting of the minds. I said that Manila's definition of reconciliation with justice begins with a fair and full disclosure of assets. FM then laughed and said he could not possibly give a full disclosure because that would be tantamount to admitting guilt when he is not guilty of any wrongdoing. He said there could not be any talk of compromise arrangements similar to (Jose Yao) Campos but what he really wants is a one-on-one meeting with President Aquino. He was also concerned that even with a settlement, it would be without prejudice and the government could pick up the cases again.

"The main points of his wide-ranging comments and views on reconciliation are:

"1. No full disclosure; no talk of compromise settlement.

"2. Steps to reconciliation would call for (a) Withdrawal of all cases now on appeal before U.S. courts; (b) Withdrawal of the RICO cases; (c) RP working to dismiss the Greenberg Grand Jury, on the ground that the GAO Report has already cleared them of irregularities; (d) RP working for the dropping of cases in Geneva since there is no criminal case. (He said the William Saunders/Jane Ryan and other documents alleged to have been taken from Malacañang are "forgeries.")

"3. After all the above items have been attended to, the following steps should be taken:

a. Arrange for FM to go to the Philippines to defend himself in court. The BASECO subpoena which he claims was served on him recently could be the legal basis for his return. Stated that this would be favorable

to Pres. Aquino as a recognition of every Filipino's right to go home and as a demonstration of her policy of generosity to her former enemies. He then stated that this will meet with opposition by Pres. Aquino's own people like Joker Arroyo.

"b. In the Philippines, have a one-on-one talk with Pres. Aquino; decide what role he could play to help the government achieve unity and fight the communists. Must be given personal protection. Could stay in Manila or Fort Bonifacio, where he could be under surveillance of the government to assure them that he is not doing anything to undermine or destabilize the government.

"c. Stop general harassment and drop cases/sequestration of alleged cronies' properties.

"d. Delay March 8 deadline for filing of candidacies for Congress and postpone congressional elections to a later date, since the planned elections will lead to bloodshed particularly from the communists; suggested he must go home before the elections. Top priority for him.

"(At this point, IRM came into the study and joined in the conversation, starting off with '*Maawa naman kayo sa mga anak at mga apo ko* — this existence is worse than death' but FM cut her short and told her — 'Mommy, this is not the time.')

"e. Determine what is the ultimate solution, i.e., what happens to FM over the long term.

"FM then went on repeating himself, even commenting on Rafael Salas' death, saying Salas claimed a lot of successes which were not really his own. I then said we would like to be excused and go to our hotel since he was already tired. We agreed that we will not make any public pronouncements about this meeting."

Then Paeng Fernando enclosed his Report on Imelda's visit of March 3, 1987.

"At approximately 11 a.m. as I was getting ready to leave for the airport, Atiga received a call from IRM who asked if she could see me at my hotel room. She came at 11:25 and talked with me, with Atiga present. Her two companions stayed in Atiga's room.

"IRM came with copies of the *Star News*, a mainland tabloid, and showed me an article on her which quoted excerpts from Chit Pedrosa's article which touched on her virginity and love life and which she found utterly degrading — she started crying. She then repeated her statement the

previous night that their existence in Honolulu was worse than death; she would not want to leave her ashes there; hates the Americans who hijacked them to Guam instead of taking them to Laoag. Started to explain why the Philippines is important to the East and West and drew a couple of pages of diagrams illustrating why (I found this extremely amusing).

"Then suddenly breaking into tears again, she said it was so merciless that she could not even see Imee, Tommy and their two boys. She showed me a picture taken in a La Paz (Bolivia) restaurant. She said the two boys are suffering from congenital heart problems and they cannot stand the high altitude at La Paz, Bolivia where they have been living a life of nomads since moving from Morocco, Spain and Portugal.

"Said she was worried about Irene and Bongbong, who are in the Amworld case, although they have not committed any crime. Talked about her usual theme of love, beauty, God, the Heart Center and Ninoy Aquino. Said she did not get him shot and then gave me a copy of Ninoy's letter to Dr. Aventura dated May 9, 1980.

"Said they have already spent millions of dollars for American lawyers who then talked to Philippine Government's lawyers to prolong the cases so they can make more money. Asked why we cannot get together so we do not have to spend the money on lawyers and instead spend it for the Filipino people. Said they were given credit for \$10 million for lawyers' fees by a friend. Considers the U.S. State and Justice Departments as enemies.

"Then, in a different and determined tone, said she will get out of Hawaii, even if she has to leave Andy and go back to the Philippines before the elections. Would rather be jailed and shot than stay in Hawaii. Also said that Salonga is vindictive because he was crippled in the bombing, 'but we cannot be blamed for that.'

"Complained about the deposition on Wednesday and Thursday (3/4 and 3/5) on the Domingo case, which took place even though FM had fever and asthma.

"Asked me to try to help them go back to the Philippines, otherwise 'we will be forced to act radically, if nothing happens.'"

After I received this report from Rafael Fernando, I realized that what the Marcoses wanted, after their attempted coup in January to thwart the holding of the plebiscite on February 2 had been foiled, was "reconciliation" without any attempt to come to terms with the enormity of the

wrongs they had committed while in power. What was important for them was to save face, not to lose it. The idea of telling the truth for the sake of justice and mercy seemed alien to them. Marcos' desire to defer the elections was a serious misreading of the situation and was in line with his wish to try to achieve what they could not accomplish with their clumsy coup of January 27. I concluded that there was no point in entering into any so-called reconciliation talks with Marcos.

I filed my certificate of candidacy on March 6, 1987 and had a press conference on March 7 (Saturday) regarding the Floirendo Compromise Settlement. I resigned as PCGG Chairman on March 9 and witnessed the oath-taking in the Palace of my successor, former Deputy Chairman Ramon Diaz.

PCGG Accomplishments during my one-year stint (February 28, 1986 to March 9, 1987)

A. On the recovery of the ill-gotten wealth located abroad, which was my main responsibility:

(1) Our first concrete recovery through a completed litigation was in New Jersey, which was accomplished within six (6) months after the EDSA revolution. On September 12, 1986, the Superior Court of New Jersey rendered a final judgment, based on our motion for summary judgment. The Marcoses had been duly notified of the proceedings but the evidence against them was so overwhelming they chose not to put up any fight. It was proved that the funds used for purchasing properties in the U.S. came from the Philippine National Bank in New York, and were channeled through a network of Marcos nominees, including a trusted Marcos dummy who was working with the Philippine Mission to the U.N. We were able to recover a bank account and two residences used by the Marcos children at Princeton Pike and Cherry Hill. The money proceeds amounted to around \$1.5 million, delivered to President Aquino on September 22, 1986 (during her state visit to the U.S.) by our New Jersey lawyers who served *pro bono*. The decision is significant in that it was the first case in U.S. history where a country of a deposed dictator was able to recover part of the plundered wealth of the nation.

(2) A few days after my appointment as PCGG Chairman, we filed an injunction suit against the Marcoses, their dummies and associates in New York to prevent the sale or transfer of the four Marcos buildings in Man-

hattan and the Lindenmere Estate in Long Island, New York. The Supreme Court of New York issued a temporary restraining order (TRO). By agreement of the parties, the case was eventually transferred to the Federal District Court of New York, which decided, after hearing, to issue a writ of injunction in May 1986.

As a result of the injunction suit, Mr. Antonio Floirendo, a Marcos associate, complied with our conditions, and entered into a Compromise Settlement with the PCGG by transferring to the Government the Lindenmere Estate in Long Island, the Olympic Towers condominiums on 5th Avenue in Manhattan, and the Makiki Heights Mansion in Honolulu plus a cash amount of P70 million pesos. This Compromise Settlement was approved by President Corazon C. Aquino. On joint motion of the Government, on the one hand, and Floirendo and Ancor Holdings, NV, on the other, the 3rd Division of Sandiganbayan ordered, on September 16, 1987, that they (Floirendo and Ancor Holdings) be dropped from Civil Case 001 — *Republic of the Philippines v. Marcos et al.*

(3) Almost unpublished is the fact that in 1986, a Filipino-American lawyer, Atty. Jose Lauchengco of LA, donated his legal services to the PCGG, and was able to get a TRO from the California court. In due time we were able to recover a deposit of less than \$1 million in the name of Mrs. Imelda Marcos in the Lloyds Bank of California — a deposit which the former First Lady must have forgotten due to its relative insignificance.

(4) In Switzerland, the unprecedented unilateral freeze imposed on the Marcos deposits by the Swiss Federal Council on March 25, 1986, came under heavy attack by the Swiss banks. The Philippines, through the Solicitor General, filed RP's formal claim to the Marcos deposits in accordance with the recently enacted Swiss Law on International Mutual Legal Assistance (IMAC) The PCGG, backed up by Malacañang documents, filed the Request for Legal Assistance with the Swiss authorities on April 10, 1986. A Supplementary Request was made on April 16, 1986, making use of more incriminating documents we found against the Marcoses. Thus, the unilateral freeze became a regular freeze, in accordance with the IMAC, on or around May 29 1986. Hearings were held by magistrates of instruction in several cantons.

In the meantime, I resigned as PCGG Chair on March 9, 1986, to run for the Senate. I was elected senator on May 11, 1987 and became Senate president on July 27, 1987.

After my resignation from PCGG, the following events took place on the basis of documented facts:

Appeals were filed by the Marcoses from adverse rulings by the cantonal magistrates, through a battery of Swiss lawyers numbering more than 35. Finally, in December 1990, the Swiss Federal Court held that in principle, the request of the Philippines was granted, but transmission of the assets to the Philippines (amounting at that time to \$356 million) "is deferred until an executory decision of the Philippine court legally competent in criminal matters concerning their restitution or their confiscation is presented. But the proceeding for this purpose must be instituted within one year from the decision of the Federal Court."

Pursuant to the decision of the Swiss Federal (Supreme) Court, the secret bank documents found in the Swiss banks were handed over to the Philippine Embassy in Berne on January 18, 1991. PCGG Commissioner Art Defensor arrived in Switzerland in due time to collect the documents, which were kept in more than twenty (20) boxes. The documents were to be used as evidence in the proceedings before the Sandiganbayan, as required under Article 74 of IMAC. Actually, these documents were the photocopies of the bank accounts and each and every copy was authenticated by the investigating magistrate. Thus, it was Peter Cosandey, the Zurich District Attorney, who authenticated the signatures of Ferdinand E. Marcos and Imelda Romualdez Marcos on a good number of documents which bore their genuine signatures.

On December 17, 1991, Solicitor-General Chavez filed what is now known as the forfeiture suit against the Marcoses under RA 1379. Obviously, the salaries and other lawful income of Ferdinand Marcos, as well as the salaries and other lawful income of his wife Imelda Romualdez Marcos, from the time they came into public office until they were ousted from Malacanang on February 25, 1986, all in all amounting to P16.4 million, cannot possibly account for the enormous wealth they had accumulated in Swiss banks since they began making their hidden deposit from March 1968 onward, by means of various schemes and devices.³⁸

On December 10, 1997 the Swiss Federal Supreme Court held in a

³⁸On March 29, 1995, the IMAC was amended by the Swiss legislature, which in effect provides that no criminal judgment is necessary: even a judgment in a civil case would be enough but there should be a judgment in favor of the State. Accordingly, the Philippine request for legal assistance was amended to conform to the IMAC as amended.

landmark decision that the Marcos Swiss deposits had an “illegal provenance” and since they had been “criminally-acquired,” the total amount of \$570 million, which included interest earnings at the time, could be transferred to the Philippines (PNB) in escrow to await judgment of the Sandiganbayan. The whole amount at the time of this writing is now more than \$630 million (as of May 2000).

B. On the recovery of the ill-gotten wealth located in the Philippines:

(1) Shortly after the assumption of the presidency by Ms. Corazon C. Aquino, PCGG filed the first anti-racketeering suit in Texas against the Marcoses and a major crony, Jose Yao Campos, who was then residing in Vancouver. As a result of the filing of the suit, Campos, who was reportedly ailing, informed us of his desire to enter into a Compromise Settlement. We imposed two conditions: (a) a fair and full disclosure of his connections with the Marcoses and the ill-gotten assets in his possession; (b) full restitution of all the properties held by him or entrusted to him by Marcos. After our verification of his disclosure, he delivered to the PCGG the cash amount of P250 million pesos and surrendered 197 certificates of title covering vast tracts of land in Metro Manila, Rizal, Laguna, Cavite, Bataan and Baguio City — amounting to many billions of pesos, some of which are still undisposed of by the Government today. The lands in Laguna province (202 IRC titles, with a total area of 13,997,529 sq. meters) were transferred to the Department of Agrarian Reform, for the benefit of the small farmers. In addition, Campos also surrendered certificates of stock in 27 corporations, likewise amounting to many billions of pesos. The Compromise Agreement was approved by President Aquino in May 1986 and was upheld by the Supreme Court in Republic of the Philippines and Jose D. Campos, Jr. v. Sandiganbayan, GR No. 84895, May 4, 1989.

(2) According to the records of the PCGG, most of the known properties of the Marcoses, their cronies and associates which they had left behind when they fled to Hawaii on February 25, 1986, were sequestered by the PCGG on the basis of *prima facie* evidence of their illegal acquisition. As of January 14, 1987 — almost two months before I resigned from the PCGG — the latter, according to the records of the Commission, had issued sequestration orders involving or affecting 260 companies, owned directly or indirectly by the Marcoses, through their cronies and associates.

Many people did not realize how much had been accomplished by the

PCGG through sequestration until Mrs. Imelda Marcos came out with a series of “bombshell” revelations as published from day to day in the December 1998 issues of *Philippine Daily Inquirer* (December 5, 6, 7, 8, and 9). Without realizing its far-reaching implications, Mrs. Marcos declared:

“We practically own everything in the Philippines, from electricity, telecommunications, airlines, banking, beer and tobacco, newspaper publishing, television stations, shipping, oil, mining, hotels and health resorts, down to coconut mills, small firearms, real estate and insurance.”³⁹

Ms. Imelda Marcos said she would reclaim an estimated 500 billion pesos (around \$13 billion in 1999), now in the hands of the Marcos cronies. The prominent Marcos cronies, whom she called “trustees,” were, by her own account, merely holding many of the *sequestered* properties for and in the name of her husband, Ferdinand E. Marcos. This was precisely what the PCGG had maintained since 1986, except that the Marcoses are not the real owners — it is the Filipino people. Among the trustees she named were Lucio Tan, Eduardo “Danding” Cojuangco, the late Ramon Cojuangco and his son, Antonio “Tonyboy” Cojuangco, Imelda Cojuangco, Herminio Disini, Rolando Gapud, Jose Yao Campos, Roberto Benedicto and many others.

Among the corporations belonging to the Marcos family, Mrs. Imelda Marcos claimed, are the biggest in the country, such as Philippine Long Distance Company (PLDT), San Miguel Corporation (SMC), Philippine Airlines (PAL), Fortune Tobacco, Allied Banking, United Coconut Planters Bank, Manila Electric Company (MERALCO), *Manila Bulletin*, and many others. She said that these companies, which had been entrusted by the Marcos family to the cronies, were sequestered by the PCGG. Hence, the Marcos lawyers were ready for the “biggest litigation ever in Philippine history.” She actually began by claiming in the Sandiganbayan, through the Enrile law offices, the PLDT and other properties surrendered to the PCGG by Jose Yao Campos.

The Imelda revelations, stripped of some portions which were exaggerated to show that Ferdinand Marcos was very rich to start with, may con-

³⁹This amount does not include the more than \$630 million (as of May 2000) remitted by the Swiss authorities to the Philippines from the Marcos deposits in Switzerland, which the Swiss Supreme Court had described as “criminally-acquired” in its Decision of December 10, 1997. The ultimate disposition of the whole amount will depend on the forfeiture suit and other cases still pending in the Sandiganbayan.

stitute the best admission of the fact that the Marcoses had plundered the wealth of the nation.

Under Section 26 of the Transitory Provisions (Article XVIII) of the 1987 Constitution, the authority to issue sequestration or freeze orders "shall remain operative for not more than eighteen months after the ratification of the Constitution" on February 2, 1987. Regarding sequestration or freeze orders issued before the ratification, "the corresponding judicial action shall be filed within six months from its ratification." The Constitutional Commission, as pointed out by Chief Justice Claudio Teehankee, in his separate opinion in the *BASECO* case,⁴⁰ did not seem to realize the immensity of the task it had placed on the PCGG, considering the many years of accumulation on the part of the Marcoses and their associates who, with the advice of their lawyers and accountants, had resorted to all sorts of devices to conceal their ill-gotten wealth, and, by way of contrast, the very limited time given to the Commission to prepare the cases for filing with the Sandiganbayan. "The PCGG," said the Chief Justice, "has not really been given much time, considering the magnitude of its tasks. It is entitled to some forbearance, in availing of the maximum time granted it for the filing of the corresponding judicial action with the Sandiganbayan." It became the heavy responsibility of new PCGG Chairman Ramon Diaz and his fellow commissioners to comply, which they did, with the mandatory requirement of Section 26. The burden of responsibility has thus shifted to the prosecutors and the Sandiganbayan which comprise our system of criminal justice in the Philippines. The PCGG, however, is expected to furnish the prosecutors the evidence they need to prosecute the pending cases to completion.

In the Gregorio Araneta Lecture I delivered in the Ateneo Law School on August 25, 1986, I said: "If we succeed in recovering not all (since this is impossible) but a substantial part of the ill-gotten wealth here and in various countries of the world — something the revolutionary governments of China, Ethiopia, Iran and Nicaragua were not able to accomplish at all with respect to properties outside their territorial boundaries — the Presidential Commission on Good Government, which has undertaken the difficult and thankless task of trying to undo what has been done so secretly and effectively during the last twenty years, shall have more than justified its existence."

⁴⁰*BASECO v. PCGG et al.*, GR No. 75885, May 27, 1987.

In *PCGG v. Peña*,⁴¹ Chief Justice Teehankee made the following unsolicited observation:

“Despite all the complexities and difficulties, the original Commission created under Executive Order 1 headed by its first chairman, now Senate President Jovito R. Salonga, and composed of Hon. Ramon Diaz, the incumbent chairman, now Associate Justice Pedro L. Yap of this Court, Hon. Raul Daza, now a ranking member of the House of Representatives, and Hon. Mary Concepcion Bautista, now chairman of the Human Rights Commission, and the present Commission headed by Chairman Ramon Diaz have produced unprecedented positive results for which they fully deserve the inadequately expressed (at times) appreciation and gratitude of the entire nation.”

The recovery of the ill-gotten wealth was, of course, the first and main task of the PCGG, as stated in EO 1.

The adoption of safeguards

But just as important perhaps is the other task entrusted to the Commission:

“The adoption of safeguards to ensure that the above practices shall not be repeated in any manner under the new government and the institution of adequate measures to prevent the occurrence of corruption.”

After the elections of 1987, Congress convened. One of the first measures I filed in the Senate, in the form of a bill, was the Ethical Standards Act, which was immediately referred to the Committee on Ethics, headed by Senator Rene A. V. Saguisag, a co-author and sponsor of the measure. In its final form, as approved by both houses of Congress, it was renamed the Code of Conduct and Ethical Standards for Public Officials and Employees (RA 6713).

The policy of the Code is to promote a high standard of ethics in public service. Because of the ambiguity of the term “conflict of interest” found in the Constitution, the Code specifically prohibits certain acts and transactions of public officials and employees.⁴²

⁴¹GR 77663, April 12, 1988.

⁴²For example, they shall not have any financial or material interest in any transaction requiring the approval of their office; they cannot own, control, manage or accept employment as officer, employee, consultant, counsel, broker, agent, trustee or nominee in any private enterprise regulated, supervised or licensed by their office unless expressly allowed by law; they shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or anything of

I also authored Senate Bill No. 733, the Anti-Plunder Act, which became RA 7080. It was co-authored by five senators and sponsored by Senator Wigberto Tañada, as Chairman of the Committee on Revision of Codes and Laws. What impelled me to file the measure was the fact that plunder or wholesale larceny and pillage was not punished in our statute books. The crimes of malversation of public funds, falsification, theft, extortion, and bribery under the Revised Penal Code were clearly inadequate to cope with the magnitude of corruption and thievery which we in the PCGG had uncovered during the Marcos years. The government found it necessary to file around 80 separate complaints against the Marcoses and their co-conspirators, for various offenses. For that reason, the overall conspiracy had to be cut up into simple criminal charges as required under the law.

Under Section 2 of the Anti-Plunder Act, "any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts in the aggregate or total amount of at least seventy-five million pesos (P75,000,000) shall be guilty of the crime of plunder and shall be punished by life imprisonment with perpetual absolute disqualification from holding any public office. Any person who participated with the said public officer in the commission of plunder shall likewise be punished. The court shall declare any and all ill-gotten wealth forfeited in favor of the State."

In line with the 1987 Constitution, Section 6 provides that the crime of plunder shall prescribe in 20 years but "the right of the State to recover property unlawfully acquired by public officers from them or from their nominees or transferees shall not be barred by prescription, laches, or estoppel."

The Death Penalty Law (RA 6579) enacted in 1993 reduced the amount from P75 million to P50 million and increased the penalty from life imprisonment to death.

When the secret Marcos-PCGG compromise deal of December 28, 1993

monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office. Penal sanctions are provided under the Code. A system of incentives or rewards — something novel in our legal system — is found in the Code to motivate and inspire those in the public service to uphold the highest standards of ethics.

came to light with the filing in the Sandiganbayan by a Marcos lawyer of a petition for its approval on April 5, 1995, I took the opportunity to make a point-by-point analysis of the provisions of the agreement in a Commencement Speech I delivered before the graduates of the U.P. College of Law on April 19, 1995. Due to its indefensible defects, I predicted that “any deal with the Marcoses, for the purpose of dividing the loot in exchange for dropping all the criminal cases against them, will probably be declared void by the Supreme Court for being contrary to law, morals, and public policy.” That prediction came true more than four years later. On December 9, 1998, the Supreme Court declared the compromise agreement null and void.⁴³ In any case, I made a constructive proposal in my 1995 U.P. speech, which has become even more relevant in light of the said Supreme Court decision and the repeated attempts of President Estrada and the Marcos family to strike a deal, however unacceptable it may be to many thinking people who have not lost their moral sense.

In my constructive proposal, which I now paraphrase in view of current developments, the following points were made:

(1) that both sides — the Marcoses and the Government — would do well not to enter into any compromise. It would deprive the Marcos family of the rare chance to lawfully assert and prove their innocence on the merits, if only to refute the widespread belief, made popular by the Guinness Book of Records, that former President Marcos was “the biggest thief in the world.”

On the side of Government, which made very serious charges against the Marcoses, there should be no compromise. There are two things that a Government cannot compromise without damaging itself beyond repair—truth and justice. Any attempt at reconciliation and unity, without resolving the question of responsibility for the plunder of the nation’s wealth, would betray all that EDSA means and all the sacrifices of our martyrs and heroes during the Marcos years. Our high officials need to be reminded that violations of the Anti-Graft Law, malversation, falsification, extortion and bribery, are not subject to compromise.

(2) The excuse that the defendants are well-funded and that their lawyers are smarter than Government lawyers, a good number of whom supposedly come to court ill-equipped, ill-prepared, and ill-motivated, even if

⁴³*Chavez v. PCGG*, GR No. 130716, December 9, 1998.

true in some cases, is a brazen insult and, even if partly true, should not remain unchallenged. The Government has much more resources and many able lawyers of probity in the Office of the Solicitor-General and in various agencies whose services it can harness. If necessary, it can always tap the services of lawyers in the private sector who are known for their unimpeachable competence, integrity, and dedication.

(3) A special team of the ablest prosecutors available should be formed to concentrate on the cases — and only on the cases — of the Marcoses and the Romualdezes. After so much delay, all efforts should now be exerted to steer these cases to a definitive conclusion, one way or the other. Even if this should take a long time, one point bears repeating: there are certain fundamental questions of right and wrong, including the crucial question of responsibility for the plunder of the nation's wealth, that must be resolved by our people, no matter how long and how much it takes. These questions and their resolution define who we are as a people — our essential character, our integrity, our tenacity and courage, and our sense of right and wrong.

XVI

Epilogue

FORMER President Marcos passed away in Hawaii in September 1989. Mrs. Marcos and her children arrived in Manila toward the end of 1991, among other things to run for high office — the presidency, in the case of Imelda, and a seat in Congress representing Ilocos Norte, in the case of Ferdinand Marcos, Jr. Many asked the question — why have they not been prosecuted and tried under Philippine law all these years? The evident answer: during their whole stay abroad, none of the Marcoses could be prosecuted here. Philippine law requires the physical presence of the accused for purposes of arraignment and the rendition of the judgment.

Having been drafted by President Aquino to run for the Senate, I resigned from the PCGG on March 9, 1987, one year after my stint as Chair of the Commission. I recommended my deputy, Commissioner Ramon Diaz — an able, incorruptible public official — to succeed me as PCGG Chairman. He was promptly appointed by President Cory as PCGG Chair on March 9, 1987.

Resigning with me around the same time was Commissioner Raul A. Daza, who ran for the position of congressman in Northern Samar. He won. He continued as the Secretary General of the Liberal Party.

Much earlier, Commissioner Pedro L. Yap, my former law partner, had resigned due to his appointment as Senior Justice of the Supreme Court. He would eventually become Chief Justice in April, 1988. A few months after Ramon Diaz became PCGG Chairman, Commissioner Mary Concepcion also resigned to accept the position of Chairman of the Com-

mission on Human Rights. Hence, of the initial PCGG commissioners who had been appointed by President Corazon Aquino in February and March 1986 — namely, Salonga, Yap, Diaz, Daza, and Concepcion — only Ramon Diaz remained and in fact served as Chairman up to early 1989.

PCGG under Chairman Ramon Diaz

I had no difficulty with my colleagues in the Commission, partly because of the high sense of mission that united us and partly because I was the one who had recommended them to President Aquino, except in the case of Ms. Mary Concepcion Bautista, who was recommended to her by former Justice Cecilia Muñoz-Palma. Even then, Ms. Bautista was not appointed until I was consulted by the President to make sure I was agreeable to MaryCon's appointment. I knew her quite well and I agreed heartily.

In the case of the commissioners appointed by President Aquino to replace us, Chairman Diaz had apparently no intervention or participation — they were appointed by Malacañang, without benefit of any consultation with him. This would prove difficult to Chairman Diaz and his successors. At least one PCGG commissioner considered the Solicitor-General as his virtual superior whose clearance was necessary before bringing a matter to Chairman Diaz or to the whole Commission for approval.

During my stewardship, Solicitor-General Sedfrey Ordoñez, who had been my law partner for many years, and all the PCGG commissioners had a very cordial and productive relationship, which was an indispensable requisite to the success of the PCGG. The most important aspect of our work, during my time, was investigation and litigation, here and abroad. Coordination with the Office of the Solicitor General (OSG), who handles the cases of the Government, was not only desirable but essential. Solicitor-General Ordoñez requested his No. 2 man in the OSG, former Asst. Solicitor-General Eduardo Montenegro, to hold office in the PCGG to make sure that every case brought to court by or against the Commission was handled properly, in light of the relevant facts and the applicable law. We did not lose a single case during my one-year term. In March 1987, President Aquino relieved Sedfrey Ordoñez as Solicitor-General and appointed him Secretary of Justice, replacing former Justice Secretary Neptali A. Gonzales who, like me, ran for the Senate. Atty. Francisco Chavez was appointed Solicitor-General to take Ordoñez' place.

Chairman Diaz and Solicitor-General Chavez, who succeeded Ordoñez, were off to a good start. Eyewitnesses described Chavez as deferential in the beginning. He would call the Chairman "Don Ramon."

At that time, Chairman Diaz and Solicitor-General Chavez had to work double-time and in close coordination due to the rigid constitutional requirement found in Section 26 of the Transitory Provisions of the 1987 Constitution, namely, that for sequestration orders "issued before the ratification of the Constitution (on February 2, 1987) *the corresponding judicial action or proceeding shall be filed within six (6) months from its ratification*; for those issued after such ratification, the corresponding judicial action or proceeding shall be commenced within six (6) months after its issuance." As noted earlier, Chief Justice Teehankee, in his concurring opinion in the Baseco case,⁴⁴ aptly pointed out, with specific reference to the sixth-month deadline, that "the PCGG has not really been given much time, considering the magnitude of its tasks."

In the midst of his many problems in the PCGG, Chairman Diaz came to my Senate office asking me to kindly persuade President Aquino to agree to the immediate sale of the Manhattan buildings for around \$70 to \$80 million, net to the Philippine Government, as strongly recommended by our New York lawyers. Otherwise, the mortgage creditors might succeed in their desire to sell the four buildings at public auction and, if that should happen, very little would be left to the Government. Judge Pierre Leval of the Federal Court in New York had been wondering why the reconveyance case (involving the four Manhattan buildings) which the PCGG had filed against the Marcoses in the Sandiganbayan around the end of December 1986 was not moving at all. The respected American judge could not understand why such a case, with all the documentary evidence in the hands of the PCGG, should take so long to be heard and decided by a Philippine court. In the injunction suit where I had testified in March 1986, I made it a point to stress to the Federal District Court that Philippine rules of procedure were similar to U.S. procedural rules. Obviously, Judge Leval was not familiar with the slow-motion, time-consuming ways of our judicial system, with all the dilatory tactics of the defense, sometimes with the conformity of the lawyers representing the Government. In any case, to go around this intractable problem, Chairman Diaz repeatedly urged President Aquino, orally and in writ-

⁴⁴*Bataan Shipyard and Engineering Company v. PCGG*, GR 75885, May 27, 1987.

ing, to approve his recommendation to sell the Manhattan properties at once, to avoid foreclosures by the creditor banks. At the request of Chairman Diaz, I sent a letter to President Cory asking her to kindly act on the urgent request, with a gentle reminder that we might waste so much effort and lose so much money due to our continuing inaction. I sent my letter through President's liaison officer in the Senate, Ms. Flery Romero, to make sure that it would be delivered right away to the President. For some reason I cannot understand, no action was taken by the Office of the President on the urgent request of Chairman Diaz. Later, during the time of PCGG Chairmen Caparas (1989-1990) and his successor, David Castro (1990-1992), the District Court of New York, already annoyed by the inexplicable delay in the handling of the reconveyance case against the Marcoses in the Sandiganbayan, disapproved the PCGG contract with a prospective buyer (the Morris-Bailey group), as a result of which creditor banks were able to foreclose the Manhattan properties. The bank loans had to be paid first, and the Philippines, according to Chairman Castro's Report,⁴⁵ only received \$5 million. What a waste of effort, time and money! I felt very sad, having spent so much time preparing for PCGG's first case in New York.

As stated earlier, much of the time of Chairman Diaz was taken up by the hundreds of sequestration orders we had to issue in 1986, when I was PCGG Chair. These orders were issued with deliberate speed because many cronies wanted to leave the country or dispose of their assets, here and abroad, shortly after the creation of the PCGG. We had to act fast on the basis of what appeared to us as *prima facie* evidence. But filing a judicial action, as required by the February 1987 Constitution, needed more than that — evidence had to be firmed up, witnesses had to be interviewed, more documents had to be collected and oral statements had to be put in writing under oath to make sure that the affiants would not waver without committing perjury. All this required time, and six months was much too short to file judicial proceedings in hundreds of sequestration cases.

There was another task which unnecessarily occupied the time and attention of the PCGG — the administration and management, whether

⁴⁵David Castro, "The Presidential Commission on Good Government: A Self-Assessment," in *The Post-EDSA Constitutional Commission*, p. 135, eds. Jose V. Abueva and Emerlinda Roman, Quezon City, University of the Philippines Press, 1999.

in whole or in part, of companies affected by its sequestration orders. PCGG's primary function of recovering the loot through litigation was being overshadowed and adulterated by this secondary function which, in many cases, tarnished the reputation and integrity of the whole Commission.

It was my belief, even during my time when this secondary function was becoming a problem, that another agency, with the proper managerial expertise and personnel, should have been created by the Office of the President for this purpose. But nothing of that sort was done. Fiscal agents and persons appointed as directors for sequestered firms, including some PCGG commissioners after my resignation as chairman, found this secondary function more to their liking. And whoever was president was apparently tempted to take advantage of this defect for their own purposes. Many of President Estrada's appointees as directors of corporations affected by sequestration orders are better known for their kinship or for other skills. Some are obviously tainted by what the Constitution and the Code of Conduct and Ethical Standards for Public Officers and Employees (RA 6713) describe as "conflict of interest."

In any case, a controversy was the last thing PCGG Chairman Diaz and Solicitor-General Francisco Chavez needed at the time. But both were strong-willed and one misunderstanding led to another until a full-blown controversy led to bitter accusations and counter-accusations which rocked the PCGG from which it has not fully recovered.

The dispute, which had to do with the reported lifting of the sequestration of a firm known as "American Inter-Fashion" spilled over to other incidents, demoralized its employees and adversely affected PCGG's work and activities. The effect on the PCGG mission here was horrible. Abroad, it was a near-disaster. PCGG began losing ill-gotten wealth cases in various courts. Solicitor-General Chavez filed a case against Chairman Diaz with the Ombudsman and with the Senate Blue Ribbon Committee, headed by Senator Guingona. On the other hand, Chairman Diaz filed a disbarment proceeding against the Solicitor-General, informing the Supreme Court that Chavez had committed a serious misrepresentation when he filed a pleading with the Supreme Court regarding the alleged lifting of a sequestration order which had not been lifted in fact. This controversy which delighted the media became a mini-civil war which should have been straightened out and settled right away.

The Blue Ribbon Committee and the Ombudsman conducted joint hearings on the charges of Solicitor-General Chavez against the PCGG and its Chairman, Ramon Diaz. As the evidence was either weak or insufficient, the Blue Ribbon Committee and Deputy Ombudsman Colayco absolved Diaz but the bitter fight between the two continued. President Cory Aquino found herself in a terrible dilemma. Eventually, she persuaded Chairman Diaz, who had taken a leave after filing his irrevocable resignation, to accept an appointment as Ambassador to Canada. But the damage to the Commission had become almost irreparable. Staff members and employees lost their sense of mission. I recall what one key PCGG official would tell me later: "*Nang umalis si Chairman Diaz, nawalan na kami ng gana.*" (When Chairman Diaz left, we lost our zeal).

The media, already critical, regarded the PCGG with deep suspicion. A good number of Marcos cronies, instead of cooperating with the PCGG, preferred to work against it, or at least wait for the expected collapse of the controversial Commission. Some judges who owed favors to Marcos usually berated the PCGG, its investigators, lawyers and personnel; they also criticized in open court the Government lawyers and prosecutors for their alleged acts of inefficiency and incompetence. In fairness, some criticisms might well be justified.

PCGG under Chairmen Adolfo Azcuna and Mateo Caparas

President Cory Aquino finally realized that the feud between Diaz and Chavez had to be resolved, if only to save the one agency from which so much had been expected by the people. Placed in temporary charge of the PCGG was Chairman Adolfo Azcuna, a Palace aide and a former delegate to the Constitutional Commission. Azcuna saw a demoralized, conflict-ridden agency trying to do its best under very difficult circumstances. He did not escape media criticism for his connections with a major Marcos crony. He stayed in the PCGG for only two months — from July 1 to August 31, 1989.

President Aquino was able to persuade Atty. Mateo Caparas, a labor lawyer and a well-known Rotarian, to accept the position of PCGG Chairman, hoping that he could revitalize the PCGG and stay as chair for a longer time. Chairman Caparas had a good start. He purged a number of fiscal agents known or perceived to be incompetent or corrupt, something for which he was widely praised. But the pressure of his responsibilities as

president of Rotary International made it difficult for him to give his full time and attention to the work of the PCGG. During one of his long trips abroad, a compromise settlement with Congressman Jose de Venecia was "effectively railroaded," as one PCGG official described it. Acting Chairman Augusto Villarin notified Mr. Cesar Parlade, the head of the Research Group, and Atty. Esteban Coñejos of the Legal Department — both of whom had served the PCGG with distinction — that a formal hearing on the Landoil case would take place in the afternoon. Both had to scramble furiously to prepare for the hurried hearing. To their utter amazement, representatives from the OSG and the entire Landoil Board of Directors were present in the same meeting. I understand that after the hearing, Commissioner Villarin pulled out a draft compromise settlement for the signatures by all parties represented. Parlade objected as some of the questions posed by his Research Group had not been addressed. De Venecia promised to produce documents that would address the questions raised. Villarin accepted his representations. The signing, which should have been deferred, proceeded. Upon the return of Chairman Caparas from abroad, the facts about the De Venecia Compromise Settlement were brought to his attention. Parlade submitted his resignation in disgust. Shortly thereafter, Commissioner Villarin was purged and Cesar Parlade was appointed commissioner in his place.

Because of his absences due to his Rotary engagements, Caparas found it difficult to attend to the bickering and intrigues in the Commission. The PCGG lost the *pro bono* services of its prestigious International Advisory Board, which was created in 1986 to advise the Commission on international matters. It also lost important cases here and abroad, most notably the RICO-Anti-Racketeering suit filed in New York by U.S. District Attorney Rudolph Guiliani, now Mayor of New York City, against Mrs. Imelda R. Marcos. PCGG did not file that case, it was Guiliani himself who decided to file it. But PCGG was asked to assist the Federal authorities in securing witnesses from the Philippines.

Here is the account of Commissioner David Castro:

"In the prosecution, the District Attorney of New York, Mr. Charles LaBella concentrated his efforts on the preparation of the RICO case against former President Marcos. Months and months of work were made by LaBella's group in the Philippines, assisted by the Research Department of the PCGG. Appropriate compromises and immunity agreements were en-

tered into by the PCGG just to get the testimony of the witnesses required by Mr. LaBella. In spite of all the preparation, the outcome has been devastating and adverse to the Republic of the Philippines.”

I recall that Presiding Judge Keenan made the remark, which apparently influenced the jury, that the offenses were committed in the Philippines; Mrs. Marcos should be tried there.⁴⁶

In any case, the acquittal of Mrs. Marcos demoralized the PCGG. Some very valuable personnel resigned and a number of witnesses dropped off for a host of reasons, one of which was that the promised immunity from suit in exchange for testifying did not come.

Chairman Caparas entered into several compromise settlements, such as the one with his friend, Ambassador Roberto S. Benedicto. According to an eyewitness, then Ambassador to Switzerland Luis Ascalon had been informed by the Swiss Police Department that it was in possession of Swiss bank documents involving Roberto Benedicto. But this information, and the documentary evidence that could have been obtained, did not merit the attention of Caparas. In fact, as part of a side agreement between Caparas and Benedicto, the same documents from the Swiss Police were sealed in the Central Bank of Berne. In a Report to the Commission, a respected PCGG analyst stated that the whole premise of the Compromise Agreement was “seriously wrong.” Nevertheless, the flawed compromise was approved by Caparas, by the PCGG and, later, by the Sandiganbayan. Chairman Caparas resigned at the end of 1990, after one year of service. The Compromise Agreement was later questioned by Senator Guingona in the Supreme Court.⁴⁷

But the protest of Guingona, who did not have all the facts, came too late. The Supreme Court upheld the Compromise Agreement, apparently unaware of its serious flaw. In any case, Chairman Caparas resigned at the end of 1990, after one year of service.

PCGG under Chairman David Castro

Eventually, President Aquino tapped the services of an insider, PCGG

⁴⁶More than 300,000 documents were formally presented in evidence by prosecutors Charles LaBella and Debra Livingston. Mrs. Marcos was acquitted, according to the account of one juror, because the jury was admittedly influenced by the statement of Judge Keenan: “What is an American court — what am I doing here trying a case involving theft of money in the Philippines? Mrs. Aquino can enforce her own laws in the Philippines.”

⁴⁷*Guingona v. . CGG*, GR No. 96087, 1992.

Commissioner David Castro, who had joined the Commission in October 1988 and served under Chairmen Diaz and Caparas. Chairman David Castro began by aggressively pursuing the Sandiganbayan cases started by Chairman Ramon Diaz. He served for over one year and a half — from October 1990 to June 30, 1992, the date when the new president, Fidel V. Ramos, took his oath of office.

In 1998, Chairman David Castro submitted a report of his PCGG accomplishments to the U.P. College of Public Administration, entitled “Self-Assessment,” which should be viewed in light of the following: (1) the unilateral withdrawal of Solicitor-General Francisco Chavez as PCGG counsel, virtually forcing Chairman Castro to rely on private lawyers — the Shamrock group — to handle PCGG cases, whose attorneys’ fees had to be paid for by the Commission; (2) a free media that by and large was quite unsympathetic, if not hostile, to the PCGG under his chairmanship; (3) and his preoccupation with the 350 tons of Marcos gold allegedly stored by orders of Marcos in a vault at Kloten Airport in Zurich. This last one had been characterized by his critics as a “delusion,” I am not prepared to completely dismiss the assertions of Chairman Castro, knowing as I do that the Marcoses did raid the Central Bank and other Government financing institutions. However, I also know that some claims about the Marcos gold during my time were exaggerated and, in some cases, preposterous. One claim, such as the one of Mrs. Imelda Marcos in December 1998 where she said her husband had 4,000 tons of gold, surpassed the total amount of gold in Fort Knox! It would be good to know what happened to the claim filed abroad by Chairman Castro with “the Bank managing the account,” to quote his Self-Assessment, and the “appropriate administrative proceedings” he said he had instituted for the recovery of the “Philippine-owned 350 tons of gold.”

Based on newspaper accounts, a certain Reiner Jacobi, who was apparently engaged in intelligence work, was hired by PCGG Chairman Castro and was almost arrested by the Swiss authorities for doing something prohibited under Swiss law.

As Chairman Castro wrote, it was his unrelenting campaign to recover these gold bars for the Philippine government “which created the greatest crisis” of his chairmanship. By his own account, it was his discovery of these gold bars and related bank accounts amounting to almost five (5) billion dollars that led officers of banks and Swiss authorities to initiate

steps to cause his resignation on July 30 1991 from the PCGG. Apparently, President Aquino did not yield to such maneuvers.⁴⁸

According to the narration of Chairman Castro, his house was burned down, he received a threatening letter with a bullet inside and, in addition, the media had been most unfair to him. In some instances, the last grievance could well be true.

Toward the end of his term on June 30, 1992, Chairman Castro, on the basis of signed documents which were shown to me several years ago, reportedly entered into a Compromise Settlement dated June 26, 1992 with the Marcos family. The Settlement exonerated the Marcos family from culpability and rewarded them with a return not only of their many houses but their personal properties which, in my view, were more valuable than the other assets which would go to the Government as its share in the Settlement. These personal properties would obviously include the enormous deposits of the Marcoses in foreign banking institutions more than \$630 million of which is now supposedly in escrow, their shares of stock in hundreds of corporations, here and abroad, and their fabulous jewelry, paintings and art collections, inter alia.

Fortunately, President Cory Aquino did not affix her signature to that Settlement, and left the decision to the incoming president, Fidel V. Ramos. Chairman Castro's own self-assessment is apparently incompatible with the documents shown to me, complete with signatures of the parties, including Mrs. Marcos and Chairman Castro. How I wish the documents were not genuine. For I am against any Compromise Settlement with the

⁴⁸The "legal problem or constraint" pointed out by Chairman Castro in his self-assessment is that past PCGG lawyers "sued the 400 individuals (i.e., Marcos cronies or associates) but none of the corporate assets (sic) of these individuals were impleaded. The omission made by former PCGG lawyers resulted in the application of a provision in the 1987 Constitution which provides (sic) that if no case is filed against a crony or associate within six months from the time of the ratification of the constitution, then the sequestration on the particular asset or entity will be deemed lifted." I do not know whether this was an "omission" of the PCGG lawyers or of the Office of the Solicitor General, or of both, during the time of Chairman Diaz, when all these cases had to be filed. What I do know is that the Supreme Court, in a landmark decision promulgated on January 23, 1995 (*Republic v. Sandiganbayan*, GR 96073 and other cases), held that this was no mistake at all. Chief Justice Narvasa who penned the decision said, in part:

"Section 26, Article XVIII of the Constitution does not, by its terms or any fair interpretation thereof, require that corporations or business enterprises alleged to be repositories of 'ill gotten wealth', as the term is used in said provision, be actually and formally impleaded in the actions for the recovery thereof, in order to maintain in effect existing sequestrations thereof."

Marcoses which would split the loot between the Government and the Marcos family and free them from any kind of criminal liability.

PCGG during the Ramos Administration

This brings us to the recovery of the ill-gotten wealth under the Administration of President Fidel V. Ramos, which began on June 30, 1992 and ended six years later. Incidentally, both Ms. Imelda Marcos and I lost in the 1992 presidential contest. But Ferdinand “Bongbong” Marcos, Jr. was elected congressman of the second district of Ilocos Norte. Shortly after his inauguration, Ramos appointed former Concon delegate Magtanggol Gunigundo as PCGG Chairman, the only one who held that position during the Ramos Administration.

There is a brief summary of the accomplishments of the PCGG during the Ramos Administration, as viewed by Atty. Antonio Carpio, former legal adviser of President Ramos. In his *Manila Times* column of July 16, 1998, entitled “PCGG’s Track Record,” Carpio wrote, in part:

“Based on official government records, the monetary recovery of PCGG from ill-gotten wealth for the period of 1992-1994 alone was P18.886 billion. The amount was physically turned over by the PCGG to the National Treasury. For the same period 1992-1994, the total operation budget of PCGG, inclusive of lawyer’s fees, was P222.23 million. The net recovery of PCGG during the short period was a cool P18.643 billion.

“In 1995, the PCGG turned over to the National Treasury in cold cash P700 million. In 1996, the PCGG remitted to the National Treasury another P460 million in cash.”

What was not mentioned by the former Presidential Legal Counsel was that the bulk of the amounts mentioned came from the properties surrendered to the PCGG by Jose Yao Campos in 1986 and converted into money (or “monetized,” as President Ramos termed it) from 1992-1996.

According to Carpio, “in late 1997 and early 1998, the PCGG won its biggest case against the Marcoses when the Swiss Supreme Court ordered the return of US \$570 million in Marcos deposits to the Philippines. At the current rate of P42 to US \$1, this amounts to P23.94 billion.” The amount, including interest, is more than \$630 million, as of May 2000.

Be it noted that the claim to the Marcos Swiss deposits was filed by the PCGG and the Solicitor-General in April-May 1986, in accordance with the IMAC, on the basis of the Malacañang documents which came into

my possession on March 1, 1986. What was remitted to the Philippines "in escrow" by the Swiss Government as a result of the December 1997 decision of the Swiss Supreme Court is still being litigated in the Sandiganbayan, in the forfeiture suit filed by Solicitor-General Francisco Chavez in December 1991, during the last year of the Aquino Administration. Once there is a final decision in favor of the Republic of the Philippines, the entire amount in escrow would be considered public funds. An "escrow" was entered into in 1995 at a time when neither entity possessed any escrow funds. As will be explained shortly, I expressed the opinion that the supposed escrow in the Philippine National Bank is spurious and illusory.

What can be considered a complete and real accomplishment of the Ramos Administration is the "fail-safe strategy" devised by the then Presidential Legal Counsel Antonio Carpio to insure the recovery of the Swiss deposits of the Marcoses in the remote event that the Government loses the forfeiture suit in the Sandiganbayan. The strategy consists in the enforcement by the Bureau of Internal Revenue of the notices of levy against the Marcoses for the payment of 23.47 billion pesos in deficiency income and estate taxes. The deficiency taxes earn 20 percent interest per annum until fully paid. The rationale for the deficiency tax assessment, as explained by former presidential legal counsel Carpio, is that all Marcos assets, whether sequestered by the PCGG, surrendered by cronies, or under litigation abroad, should be subject to back income taxes. Upon the death of Marcos, the same assets should be subject to estate taxes. In *Marcos v. Court of Appeals*, decided on June 5, 1997, the Supreme Court affirmed the validity of the P23.47 billion tax assessment. On September 29, 1997, the Supreme Court denied the motion for reconsideration filed by the Marcos heirs. Under the Rules of Court, the decision affirming the P23.437 billion tax assessment must be considered final and executory. Unfazed, Ferdinand Marcos, Jr. and his mother filed a second motion for reconsideration. On March 1, 1999, the Supreme Court upheld with finality the P23.437 billion tax assessment against the Marcos estate, even as it defended the Government's seizure of thirty parcels of land owned by the Marcoses to serve as their partial payment for their inheritance tax.

In any case, what stands out as the big blunder of the PCGG, led by Gunigundo, and for which President Ramos might have been impeached,

was the secret Compromise Agreement he entered into with the Marcoses on December 28, 1993.⁴⁹

By way of background, in his State of the Nation Address before Congress on July 27, 1993, President Ramos proposed the idea of entering into compromises on the ill-gotten wealth, "subject to guidelines that may be established by Congress." That proposal, which was greeted with approval by many congressmen, triggered the formation of *Kilosbayan*, a cause-oriented group which I helped organize, composed of ministers and lay leaders from various churches. *Kilosbayan* sent an Open Letter to President Ramos, dated August 2, 1993, stating that it was uncompromisingly opposed to his proposal, evidently designed to favor the Marcoses and the Romualdezes in the many pending criminal cases against them. None of them, it was pointed out, have shown any sign of contrition or repentance for the offenses they had committed during the Marcos years. "Not only have they repeatedly asserted their innocence — they are apparently proud of what they had done," we in *Kilosbayan* stressed in our Open Letter. In light of this arrogant attitude, we urged President Ramos to work for "speedy justice so that the innocent may be absolved and the guilty may be convicted." In our view, a compromise deal, without contrition and full restitution, would establish a bad precedent. Public officials would be tempted to accept bribes, demand kickbacks or raid the public treasury in the expectation that should they get caught, they could go scot-free by just splitting their loot with the government. Small-time thieves and crooks, already in jail, could invoke the Marcos precedent and demand their release by simply offering to share their take. No impartial system of justice can thrive under such circumstances. We said that with respect to the Marcos accomplices and accessories, justice may be tempered with mercy in the event they offer to return the ill-gotten wealth and manifest their willingness to testify against the Marcoses and the Romualdezes, the principals in the Anti-Graft cases.

Because of the widespread publicity given by the media to the said Open Letter, President Ramos invited the leaders of *Kilosbayan* to a dialogue in Malacañang on August 15, 1993. After almost four hours of friendly but incisive debate between *Kilosbayan* leaders and PCGG Chair Gunigundo, who was assisted by Executive Secretary Guingona, the Presi-

⁴⁹See Antonio Carpio, "Impeachable Act," *Manila Times*, July 13, 1998.

dent announced his decision: “No compromise with the Marcoses on their criminal liability.” This was published in the print and broadcast media for several days.

On September 24, 1993, Mrs. Imelda Marcos was convicted by the Sandiganbayan for violation of the Anti-Graft Law (RA 3019) and sentenced to a long prison term of 18 to 24 years, for the lease of a valuable property of the Light Rail Transit Authority which had been considered grossly disadvantageous to the Government. She had been a chair of both entities, the lessor and the lessee. In other words, she was on both sides of the transaction — on one side, as a high public official and chairperson of the LTA, a government entity, and on the other side, as the head of the private firm renting the property.

The secret compromise deal of the Marcoses and Gunigundo; other secret deals

It turned out that after the conviction of Mrs. Marcos, secret negotiations for a compromise deal were conducted by the Marcoses and PCGG Chairman Gunigundo, culminating in a Compromise Agreement signed on December 28, 1993 — only four months after the *Kilosbayan* dialogue with Ramos. The signatories were Mrs. Imelda Marcos and her two children, Imee and Irene, on the one hand, and PCGG Chairman Magtanggol Gunigundo, on the other. Another Compromise Agreement was secretly entered into between Gunigundo and Ferdinand Marcos, Jr. on July 4, 1994, obviously with the knowledge of President Ramos, who had signed a Special Power of Attorney in favor of Gunigundo, also on July 4.

The secret compromise deal came to light on April 5, 1995 with the filing in the Sandiganbayan of a petition for its approval by Atty. Simeon Mesina, a Marcos lawyer and attorney-in-fact.

On April 19, 1995, in a Commencement Address to the 1995 Graduates of the U.P. College of Law, I discussed the secret Marcos-PCGG Compromise deal under which the Marcos deposits in Swiss banks (amounting at that time to around \$500 million, including interest) would be divided between the Government (75 percent) and the Marcoses (to the extent of 25 percent), in exchange for the dropping of all criminal and civil cases against the latter and the exemption of the Marcoses from tax liability with respect to the assets to be retained by them. I said that such an Agreement, which I took up paragraph by paragraph, would “probably be de-

clared void by the Supreme Court for being contrary to law, morals and public policy." Indeed, on December 9, 1998, the Supreme Court, in the case of *Chavez v. PCGG*,⁵⁰ declared that the December 28, 1993 Compromise deal between PCGG Chairman Gunigundo and the Marcoses was null and void, on at least four grounds:

1. The questioned Agreements grant criminal immunity to the Marcoses. But, said the Court, criminal immunity cannot be granted to the Marcoses, who are the principal defendants in the spate of ill-gotten wealth cases now pending before the Sandiganbayan.

2. The Agreement exempts the properties to be retained by the Marcos heirs from all forms of taxes. This is a clear violation of the Constitution, since the power to tax and to grant tax exemptions is vested in Congress alone (Sec. 28, par. 4, Article VI). The PCGG has absolutely no power to grant tax exemptions. Even Congress cannot do so if the Marcos heirs are favored, as this will constitute class legislation, in violation of the rule that "taxation shall be uniform and equitable." (Sec. 28, (1) Art. VI).

3. Under the Agreement, the Government, through the PCGG, binds itself to cause the dismissal of all cases against the Marcos heirs, pending before the Sandiganbayan and other courts. This is a direct encroachment on judicial powers, particularly in regard to criminal jurisdiction. Once a case is filed before a court of competent jurisdiction, the matter of its dismissal or pursuance lies within the full discretion and control of the judge.

4. The Agreement provides that the Government waives all claims and counterclaims, whether past, present, or future, matured or inchoate, against the Marcoses. This all-encompassing stipulation is contrary to law. Under Art. 1171 of the Civil Code, an action for future fraud may not be waived. Moreover, it is a virtual warrant for all public officials to amass public funds illegally, since there is an open option to compromise their liability in exchange only for a portion of their ill-gotten wealth.

In the *Kilosbayan* dialogue with President Ramos and PCGG Chairman Gunigundo, what struck me was the statement of the latter that, because of their resources, the Marcoses and their cronies can hire the best lawyers and prevail in the cases filed against them, implying that Government lawyers were no match to them. Up to now, it is not unusual to read press reports about Sandiganbayan and Supreme Court justices reprimanding Government lawyers and prosecutors because they come to court ill-

⁵⁰GR No. 130716, prom. December 9, 1998.

equipped and ill-prepared. In my U.P. graduation address, I said that as Government lawyers and prosecutors seem to be overworked and ill-prepared, the Ramos Administration would do well to immediately reinforce the prosecution arm of the Government by tapping the services of exemplary lawyers of integrity, competence and dedication from the private sector to form a special team of prosecutors which should concentrate on the cases, and only on the cases, against the Marcoses and the Romualdezes. The team should be headed by an experienced lawyer of irreproachable character and idealism. A realistic deadline should be set for the completion of their task.

Unfortunately, the Ramos Administration did not revitalize its prosecution services but entered into the December 28, 1993 flawed compromise deal with the Marcoses.

Parenthetically, Ferdinand Marcos, Jr. ran for the Senate in the 1995 elections. He lost — he failed to make it among the first twelve. In the 1998 elections, he went back to Ilocos Norte and won the gubernatorial contest. Ms. Imelda Marcos also ran for president in 1998 but realizing she had no chance, she withdrew her bid and expressed her support for Estrada.

In any case, there are two other compromise deals entered into by former Chairman Gunigundo which have been under heavy criticism — one, the compromise agreement in the Argana case, which was annulled by the Third Division of the Sandiganbayan on April 11, 2000, and two, the compromise arrangement between the former PCGG chair and Mr. Potenciano Ilusorio, a former Marcos crony, now the subject of a certiorari petition in the Supreme Court. In rescinding the compromise agreement between the PCGG and the heirs of former Mayor Maximino Argana of Muntinlupa, Presiding Justice Cipriano del Rosario, speaking for the Court, declared: that the agreement “is no compromise but a virtual sellout.” The facts show that the land-sharing scheme — 75 percent for the Government and 25 percent for the Argana heirs—was only in terms of area. In terms of market value, the 361. 002 hectares going to the Government in the remote towns of Laguna had an approximate value of 3.62 million pesos, whereas the 119. 86 hectares of urban land located in Muntinlupa and San Pedro, Laguna, which had been assigned to the Argana heirs, had an approximate value of 2.4 billion pesos. The Anti-Graft court gave credence to the argument of the Office of the Solicitor General that the sharing scheme “is an attempt to cheat the Government.”

In the Ilusorio deal, the question placed before the Supreme Court is whether shares of stock of private corporations *already surrendered* to the Government in 1986 by a Marcos crony (Jose Yao Campos) as a result of the first PCGG compromise with a crony, approved by President Aquino and by the Supreme Court, and have thus become the property of the Filipino people, could still be the subject of a subsequent compromise agreement between the PCGG and Mr. Potenciano Ilusorio. The Solicitor-General as well as the counsel for the two affected firms allege that the deal involves a substantial amount of money, around 120 million pesos, and that in obtaining executive approval of the compromise agreement, former PCGG Chairman Gunigundo concealed the fact that he had been the lawyer for the Multinational Bancorporation, an Ilusorio-owned firm. If true, the facts would not only render the deal untenable but also involve serious questions of conflict of interest and breach of legal ethics.

It should be noted that the flawed compromise deal between Gunigundo and the Marcoses, dated December 28, 1993, enabled the latter to delay the disposition of the forfeiture suit as well as the prosecution of all criminal and civil cases against them. The Marcoses claimed that the compromise settlement was valid and binding, hence the cases against them should be deferred indefinitely until there was a final ruling on its validity. Fortunately, the Supreme Court made that final ruling on December 9, 1998.

In two columns in the *Manila Times*, former Presidential Legal Adviser Antonio Carpio,⁵¹ revealed that the Marcos-Gunigundo compromise deal of December 1993 had never been authorized by former President Ramos. Gunigundo, wrote Carpio, signed it without the knowledge of the other PCGG commissioners. He charged that Gunigundo did not even consult the Executive Secretary, the Secretary of Justice, the Solicitor-General, or the Chief Presidential Legal Counsel. As President Ramos' Legal Adviser, Carpio opposed it because it was clearly illegal and would lead to the president's impeachment.

What is perplexing is that despite the lack of consultation, Ramos did not dismiss Gunigundo. Toward the latter part of 1998, a trusted friend sent me a copy of a document signed by President Ramos on March 8, 1994 and attested by Chief Presidential Counsel Antonio Carpio on the

⁵¹"Tales from the PCGG," *Manila Times*, November 3, 1998 and *Kilosbayan Magazine*, November 1998, p. 38; "Impeachable Act," *Manila Times*, July 13, 1998, p. 7 and *Kilosbayan Magazine*, August 1998, p. 36.

same date — that is, less than three months after the secret compromise deal of December 28, 1993 — confirming “the authority of PCGG Chairman Gunigundo to conclude, sign, execute and deliver, on behalf of the Philippine Government:

“(1) an amicable settlement with Mrs. Imelda R. Marcos and/or the children of the late Ferdinand E. Marcos involving the bank accounts of Ferdinand E. Marcos and/or Imelda R. Marcos (whether in their names or in the names of their nominees and/or foundations in various Swiss banks;

“(2) a withdrawal of the Philippine Government’s request for International mutual legal assistance on criminal matters (IMAC) with the Swiss authorities.

I could not believe my eyes. If this document had been presented to the Swiss authorities after it was signed by Ramos and honored by them since not only his signature but the official seal of the Republic of the Philippines had been affixed thereon, we could have irretrievably lost the Government’s claim we had filed with the Swiss authorities in 1986 — which was precisely based on our request for mutual legal assistance under the IMAC. The effect on President Ramos himself and his Administration might have been disastrous. To quote the words of Atty. Carpio in a similar context, it could lead to the impeachment of President Ramos. Incidentally, this document contradicts and belies the assertion of the former Presidential Legal Counsel that the Marcos-Gunigundo Compromise Agreement of December 28, 1993 had never been authorized by President Ramos. When the secret compromise deal of December 28, 1993 and July 4, 1994 became a matter of public knowledge on April 5, 1995 — as a result of the filing of a petition with the Sandiganbayan for its approval by a Marcos lawyer — President Ramos immediately reacted, presumably on the suggestion of his legal counsel, and issued a press release on April 6, 1995, asserting that — “I have not authorized PCGG Chairman Magtanggol Gunigundo to approve the Compromise Agreements of December 28, 1993 or any agreement at all with the Marcoses and would have disapproved them had they been submitted to me.” This, however, squarely contradicts the “full power and authority” President Ramos himself had given to Chairman Gunigundo on March 8, 1994, namely, to enter into any amicable settlement with the Marcoses involving their Swiss bank accounts and withdraw the Philippine Government’s request for international mutual legal

assistance (IMAC) with the Swiss authorities. Be it noted that the March 8, 1994 authority given by Ramos to Gunigundo says:

“CHAIRMAN MAGTANGGOL C. GUNIGUNDO is further granted full power and authority to do and perform every act and thing which may be requisite or proper for the accomplishment of the special power herein granted, as fully to all intents and purposes as I, the President of the Philippines, might and could do, if acting personally, and hereby ratifying and confirming all that he shall lawfully do or cause to be done by virtue of these presents.”

Of course, as of April 6, 1994 when President Ramos issued his press statement, the authority he had given to Gunigundo could be considered as having been revoked and cancelled.

Fortunately, the Philippines won in the Swiss Supreme Court on December 10, 1997 on the basis of the IMAC request and a year later, our Supreme Court acted in time on the petition of former Solicitor-General Francisco Chavez. In fact, it was only after the December 9, 1998 decision of the Supreme Court nullifying the December 1993 compromise deal between the Marcoses and Chairman Gunigundo — more than five (5) months after Ramos gracefully withdrew and President Estrada assumed power — that the cases against the Marcoses began moving again.

PCGG under President Estrada; appointment of Chairman de Guzman

Unable to “bury the past” by the simple but absurd expedient of burying the remains of Marcos in the *Libingan ng mga Bayani*, President Joseph Estrada, who was inaugurated on June 30, 1998, began repeating what he had been saying during the presidential campaign — the need for the Government to enter into a compromise settlement with the Marcos family. After all, the new president declared, “nothing had been accomplished by the PCGG,” despite the big amount of attorneys’ fees supposedly paid to foreign lawyers. He repeated his vow — PCGG would be abolished in less than one year. Litigation, he and his aides said, is “fruitless and expensive,” “what is needed is money for the poor.” President Estrada who had praised ignorance as a virtue during his campaign, promptly demonstrated what he meant.

Estrada appointed Regional Trial Court (RTC) Judge Felix de Guzman as the new PCGG Chairman. Very few people knew him or his track record

in the judiciary. He is said to be known to Eduardo “Danding” Cojuangco and his counsel, former Solicitor-General Estelito Mendoza, who was de Guzman’s superior in the Office of the Solicitor General during the Marcos years. More ominously, Mendoza has been the chief counsel of Mrs. Imelda Marcos and Mr. Eduardo “Danding” Cojuangco.⁵²

As soon as they were sworn into office, the new PCGG Chairman and the new Executive Secretary, Ronaldo Zamora — the ex-Presidential Legal Counsel of the Marcoses and a former Assistant Executive Secretary during the Marcos years — repeatedly stressed that the Estrada Government would seek settlements with the Marcoses and their cronies and associates “to end years of fruitless efforts to recover their alleged ill-gotten wealth and taxes.”⁵³

“The PCGG will not be adversarial this time,” the new PCGG Chairman said, obviously assuring the Marcoses and their cronies that the new leadership in the Commission would be very different from all the previous ones. He would explore the possibility of compromise settlements in all pending cases, apparently without any distinction between criminal or civil cases. PCGG Chairman de Guzman said he hoped the Marcoses would have a “reciprocal attitude” and agree to settle to “abbreviate proceedings.” He invoked the severity of the currency and financial crises as additional justification for entering into compromise settlements. He said he would sell sequestered assets as his first priority, not knowing that sequestered assets could not be sold right away without the previous approval of the Sandiganbayan. For his part, Executive Secretary Zamora said the government “would resort to a settlement if we cannot use any other way” and also in cases where “years have dragged on.” He seemed not to know that this second class of cases would include all the cases against the Marcoses. In any case, Zamora added: “This is not a question of whether we are open or not to an amicable settlement with a particular individual. It is whether we see that as an efficient way of disposing of these particular cases.” He said he would not settle “for less than 75-25,” as if he was prepared to face a tough bargaining session with his former patrons in Malacañang. “The matter of dividing the ill-gotten wealth with the

⁵²See Donna S. Cueto, “What is going on at the PCGG?,” *Philippine Daily Inquirer*, July 8, 1998, p.1

⁵³“Is this the kind of PCGG we have now?” [The President’s Page], *Kilosbayan Magazine*, July 1998, pp. 5, 44.

Marcoses,” said Zamoña, “is a matter of urgency, since the Government is short of cash.”

Asked by a number of reporters what I thought of these headline stories, I released a press statement which said, in part:

“It appears that the first item on the Estrada agenda is not for the poor and the weak but to return the sequestered ill-gotten wealth to the Marcoses, their cronies and associates. Only last March 23, 1998, the Supreme Court issued an order (TRO) in the case of Chavez v. PCGG, GR 130716, “*enjoining the PCGG, its agents and representatives from entering into or executing any agreement with the heirs of former President Marcos concerning their ill-gotten wealth.*” Apparently, both Executive Secretary Zamora and the new PCGG Chairman are not aware of this obstacle.

“If the present officials of the PCGG cannot carry out the mandate of the law (E.O. No. 1) to recover the ill-gotten wealth of the Marcoses, their cronies and associates, the least they should do is resign until the PCGG is legally dissolved and a new agency is created by law for the specific purpose of dividing the loot and returning part of the sequestered ill-gotten wealth to the Marcoses, their cronies and associates.”

The *Daily Inquirer* the next day (July 11, 1998) had the following banner headline on its front page: “Deal with Marcoses Illegal, says Salonga.”

I could not understand, I pointed out, why Chairman Felix de Guzman acted as if he was a beggar pleading for the chance to enter into a compromise settlement with the Marcoses. He was perhaps unaware that at the time he assumed the chairmanship of the PCGG in July 1998, both Ms. Imelda Marcos and Congressman Ferdinand “Bongbong” Marcos had been convicted and sentenced to imprisonment, the first for violating the Anti-Graft Law, and the second for tax evasion. On January 29, 1998, the long stiff sentence imposed upon her by the Sandiganbayan in September 1993 was shortened by the Supreme Court to a prison term of 9 to 12 years only and that this was still pending reconsideration in the Supreme Court — which would in a few months (October 6, 1998) acquit her in a very questionable *ponencia* authored by Justice Fidel Purisima for a divided court.⁵⁴

⁵⁴See Belinda Olivares Cunanan, “No Supreme Court Justice Wanted to Pen Decision on Imelda,” *Philippine Daily Inquirer*, October 8, 1998, p. 9; Max Soliven, “Playing with Fire at a Time We Don’t Need More Strife and Violence,” *Philippine Star*, October 14, 1998, p. 10; Isagani Cruz, “A Decrepit Citadel,” *Philippine Daily Inquirer*, October 18, 1998, p. 8; Neal Cruz, “You be the Judge; Imelda Graft Case Explained,” *Philippine Daily Inquirer*, October 14, 1998, p. 9; Donna S. Cueto, “Salonga: Wrong Case Used to Acquit Imelda,” *Philippine Daily Inquirer*, October 10, 1998, p. 1. See November 1998 issue of *Kilosbayan Magazine* where these articles appear.

As for Ferdinand "Bongbong" Marcos, Jr., he was convicted by the RTC of Quezon City for tax evasion and sentenced on July 27, 1995 to a prison term of three years and twelve months. According to the court's finding, "Bongbong" Marcos did not file his income tax returns during all the years he was in power in Ilocos Norte during martial law. This case is pending appeal in the Supreme Court.

Nor should PCGG Chair de Guzman apologize for the many "fruitless efforts" to recover the ill-gotten wealth, as I wrote in the July 1998 issue of *Kilosbayan Magazine* and reproduced by some newspaper columnists. If de Guzman had bothered to sit down and study the basic documents during the first year of the PCGG, he would have found the following:

1. In the first week of the PCGG in 1986, the PCGG was able to prevent and restrain the Marcoses from disposing of their ill-gotten properties in New York, consisting of four big office buildings in Manhattan and a big estate in Long Island, amounting to hundreds of millions of dollars;

2. In April-May 1986, PCGG filed with the Swiss Government the Philippine claim to the Marcos deposits in Swiss banks, a claim backed up by Malacañang documents in our possession, thereby regularizing an unprecedented freeze order imposed by the Swiss Banking Commission on March 24, 1986;

3. Because of the cases filed by PCGG in Texas against Marcos and Jose Yao Campos, the latter came forward and on May 28-29, 1986, he surrendered to the PCGG around 197 land titles in the Philippines and shares of stock in a good number of Philippine corporations, with a money equivalent amounting to many billions of pesos, in addition to a cash amount of P250 million pesos;

4. In September 1986, the Philippines, through the PCGG, obtained a summary judgment against the Marcoses in New Jersey for the recovery of a bank deposit and the two Marcos residences being used by the Marcos children near Princeton University. It was the first time a U.S. court promulgated a final judgment against a dictator of a foreign country;

5. Before the end of 1986, PCGG sequestered and froze in the Philippines all the known properties and assets of the Marcoses, their cronies and associates, by virtue of 260 writs of sequestration issued by the Commission from March to December 1986. All in all, these properties amounted to around 500 billion pesos, according to the subsequent revelation of Mrs. Imelda Marcos in December 1998;

6. Likewise, before the end of 1986, PCGG won the injunction suit against the Marcoses in the Federal Court of New York, then in the Second Circuit Court of Appeals and finally in the U.S. Supreme Court where the Marcoses and their dummies filed a certiorari proceeding, which was promptly denied. In California, where we filed a RICO suit against the Marcoses in the Federal Court, Judge Mariana Pfaelzer issued a worldwide freeze order against all the assets of the Marcoses to prevent their transfer or dissipation. The Marcoses appealed to the Ninth Circuit Court of Appeals, which eventually affirmed the worldwide freeze order of Judge Pfaelzer;

7. In early March 1987, on the eve of my resignation from the Commission, Antonio Floirendo, a close associate of the Marcoses, entered into a compromise settlement with the PCGG by virtue of which he surrendered to the Government the Lindenmere Estate in Long Island, the Olympic Towers apartments in New York and the Makiki Heights mansion in Honolulu, in addition to a cash amount of P70 million. This was approved by the Sandiganbayan.

The documented claim that we filed in Switzerland has borne fruit. On December 10, 1997, the Swiss Supreme Court, in a landmark decision, held that the Marcos deposits were "criminally-acquired monies" on the basis of evidence of their "illegal origin." The court ordered that they be returned to the Philippines in an escrow account, to await the final decision of the Sandiganbayan. There is no more need for a final judgment of criminal conviction against the Marcoses in the Philippines. Even a civil proceeding and a final judgment in favor of the Republic will suffice. It was a landmark decision because the Philippines was the first country in the world that won its case against a dictator who had been backed up by the powerful Swiss banks. Significantly, the incriminating documents covering these deposits had been turned over to our Government, for our use in the suits against the Marcoses. The total amount "in escrow" with the PNB, including interest, has gone up to more than \$630 million as of May 2000.

Apparently, my open, well-publicized reminder to the two high officials in the Estrada Government (Executive Secretary Zamora and PCGG Chair de Guzman) regarding the pendency of a TRO from the Supreme Court, dissuaded them from carrying out their announced desire to enter into a compromise agreement with the Marcoses.

The dismissal of de Guzman and the choice of Elma as PCGG Chairman

Four months after the appointment of de Guzman as PCGG Chair, he was abruptly dismissed by President Estrada, without any previous notice or formality, for having ordered the lifting of the 11-year freeze order of the PCGG on the P200-million bank account of a Menzi holding company, without first consulting the other PCGG commissioners. The ousted de Guzman cried foul and blamed his abrupt dismissal on his fellow commissioners whom he suspected of ganging up on him, because he had “denied their anomalous requests, including P400,000 in confidential fund for each of the four and several directorships in sequestered companies.” The other commissioners replied, stating that de Guzman himself sat in the board of two big corporations affected by sequestration orders — United Coconut Planters Bank and the PLDT. The commissioners traded charges, not realizing that what they were all doing — sitting in the boards of firms affected by PCGG sequestration orders and getting handsome compensation and other perks and privileges for doing so, involved them in a prohibited conflict of interest, in violation of RA 6713 — the Code of Conduct and Ethical Standards for Public Officials and Employees.

On October 30, 1998 President Estrada appointed ex-Justice Magdangal Elma, a former Malacañang official during President Cory Aquino’s time, as PCGG Chairman. Elma graduated with honors from the U.P. College of Law and received his LL.M. degree from Yale Law School. He was a former justice of the Court of Appeals. Later, he served as President Aquino’s Presidential Assistant for Legal and Judicial affairs, with cabinet rank.

I took the liberty of giving the new PCGG Chairman Elma, a former partner of a dear friend, the following unsolicited advice: (1) to be ready to resign from the PCGG any time, given President Estrada’s inclination to favor the Marcoses and their cronies and associates; (2) to avoid all conflicts of interest, whether actual or potential; and (3) to concentrate on the litigation and investigation functions of the PCGG, instead of frittering away valuable time by accepting directorships in sequestered corporations.

A little later, President Estrada appointed Elma his presidential legal counsel, in addition to the PCGG chairmanship, drawing criticism from a number of observers, led by former Supreme Court Justice Isagani Cruz, who argued that such an arrangement was unconstitutional. A Supreme

Court ruling in an appropriate proceeding should settle this question. Apart from the legal problem, Elma's dual function has resulted in some untenable situations.

The so-called escrow with the PNB

Although high public officials repeatedly refer to the Marcos Swiss bank deposits as having been placed in escrow with the Philippine National Bank, pursuant to the December 1997 decision of the Swiss Federal Supreme Court, their statements as to how the escrow was constituted, who were the parties to the agreement, and why former Finance Secretary Edgardo Espiritu wanted the escrow agreements to be amended, were conflicting and confusing.

Around early December 1998, I requested President Benjamin Palma Gil of the Philippine National Bank to kindly furnish me copies of the so-called escrow agreements. On December 17, I received a curt refusal from Palma Gil stating he could not give them to me without the conformity of the PCGG, due to the law on the secrecy of bank deposits. I thought this refusal was the height of absurdity — I was talking about the escrow agreements which involved the plundered wealth of our people, not the bank deposits of any private individual.

I thought of suing the PNB but before doing so, I complained by phone to PNB Chairman (former Senator) Edgardo Angara. The result was immediate: I received copies of the escrow agreements, with a covering letter that said they were giving me the copies pursuant to the advice of Chairman Elma of the PCGG, the other party to the escrow agreements.

After a careful reading of the five (5) "escrow agreements," between the PCGG and the PNB, all of them dated August 14, 1995, that is to say, two years before the decision of the Swiss Supreme Court, I noticed several defects. All of them had identical contents, except that each one was in the name of a foreign foundation — Aguamina, Avertina, Palmy, Vibur and Maler — all of them being Marcos foundations, according to the Malacañang documents which we had obtained since early 1986. I concluded — and wrote PCGG Chairman Elma — that, in my view, the so-called escrow agreements were "spurious, illusory and incomplete."

For the benefit of the uninitiated, an *escrow* is defined in the laws of the U.S., Switzerland and the Philippines, as "a legal document, money, stock, or other property *delivered* by the grantor, promisor, or obligor into

the hands of a *third person*, usually a bank, to be *held by the latter* until the *happening of a contingency* or performance of a condition, and then by him delivered to the grantee, promisee, or obligee. In simple language, for an escrow agreement to be valid: (1) there must be a deposit of funds, stock or personal property; (2) by a person or institution which could make the deposit, by virtue of its possession or control of said funds, stock, or property; (3) with a third person, oftentimes a bank, to be held by the latter; (4) until the happening of a condition or contingency, when the thing deposited must be delivered to the rightful claimant or a person entitled to the funds or property deposited.

In two letters I sent to Chairman Elma, I maintained that the escrow agreements in question were spurious because the PCGG, which is a claimant to the Marcos Swiss deposits, cannot — like the Marcoses who are also claimants — validly enter into an escrow agreement with the PNB. How can a claimant be the source of the funds it does not yet have? This would be a double-deck absurdity as it would make a claimant, not in control of the funds, the source of the escrow deposit. Nor can the PCGG legally enter into an escrow agreement, without *making an actual escrow deposit of funds or property over which it had possession or control at the time of the escrow*. An escrow without any escrow deposit is a contradiction in terms. Moreover the foundations named separately in the five escrow agreements as if they had any right to the Swiss deposits, were characterized by the Swiss Supreme Court in its December 1997 decision as mere dummies of Marcos and cannot be treated as if they were independent entities.

Why incomplete? Because the first section of each escrow agreement merely *predicts and anticipates the delivery of certain funds without saying how much* and without reference to any decision or order of the Swiss Federal Supreme Court, the highest judicial authority in Switzerland. The so-called escrow agreement, which is spurious at worst, and incomplete at best, makes sense only if we consider the contract nothing more than a pre-escrow agreement, to establish the framework of a future escrow agreement, in anticipation of the Swiss Supreme Court decision. In fact, no representative of the Swiss Government, not even Peter Cosandey, the examining magistrate and Zurich's District Attorney at the time, was a signatory to the escrow agreement. Who or what entity, then, may be considered bound by such an unusual "escrow agreement" without any deposit

of funds or property in the PNB, and without any party that purports to have possession or control of the same?

In my first letter of January 17, 1999, I requested Chairman Elma to cause the overhaul or revamp of these palpably defective escrow agreements which, like the December 1993 compromise deal between Gunigundo and the Marcoses, had been entered into in complete secrecy. To my disappointment, Chairman Elma, from whom I had expected so much, wrote a 16-page answer dated January 31, 1999, which merely quoted the Order of Zurich District Attorney Peter Cosandey, the appeals of the Marcoses and their foundations, the important decisions (1990, 1997 and 1998) of the Swiss Supreme Court, the diplomatic notes from the Philippine Embassy in Berne, with a conclusion which reads like the dispositive portion of a decision from the Supreme Court, the only original contribution of the PCGG Chairman:

“CONSIDERING the foregoing and the present state of events, the Commission submits that there is no substantial reason “to revamp” the existing escrow agreements. The above-enumerated decisions of the Swiss Federal Supreme Court and the actions pursuant thereto show that said escrow agreements are not ‘spurious and illusory.’”

Be it noted that the question of the validity of the escrow agreements was not the issue before the Federal Supreme Court. The principal issue before the Federal Supreme Court was whether the Marcos Swiss deposits had been criminally acquired and if so, whether there must be a final judgment of criminal conviction in the Philippines before the Marcos Swiss deposits can be remitted to the Philippines by way of an anticipatory restitution, in the context of Sec. 74a amendment to the IMAC. In fact, in the Order of Cosandey, quoted by Chairman Elma on p. 3 of his answer, “It will be up to the Philippine court and authorities to settle all eventual disputes arising out of the (escrow) agreement.” And in the December 10, 1997 decision of the Swiss Supreme Court, quoted on p. 7 of Elma’s answer, the highest Swiss Federal Court noted that “*it was up to the Philippine courts and authorities, if need be, to solve any disputes arising from the (escrow) agreement.*” Thus, it was rather strange that while the Swiss Supreme Court and District Attorney Cosandey tell us that any dispute arising out of the escrow agreement should be resolved by Philippine courts and authorities — a logical consequence of the rule in Private International Law, namely, that an agreement shall be governed by the law of the place

where it was made or by the law that has the most substantial connection with the contract — Elma would have us believe, contrary to what he himself quoted in his own answer, that the question of whether the agreement was spurious and illusory had already been settled by the Swiss Supreme Court! In any case, the Swiss Supreme Court held there was no need for any final judgment of criminal conviction in the Philippines.

Why, it may be asked, did Elma not try to persuade, as I publicly suggested, Zurich District Attorney Cosandey, who was in the Philippines at the time, to help us remedy the defective escrow agreements in the interest of our people, by affixing his signature, as representative of the Swiss Government, to a revised version of the escrow agreements? After all, it is the Swiss authorities who are actually in control of the funds pertaining to the Marcos Swiss deposits. No actual transfer of funds from the Swiss banks to the PNB has ever taken place; only the records of the investments of the Marcos fraudulent foundations are being sent from time to time to the PNB.

In fact, Sandiganbayan Presiding Justice Francis Garchitorena had previously expressed his doubts about the said escrow agreements. He said that the amounts supposedly in escrow “are not stated anywhere in the agreements” and the agreements are “not with any Swiss entity or authority in control of said funds.”⁵⁵

As Zurich District Attorney Peter Cosandey was in Malacañang in January, 1999, for some purpose that was not revealed, I publicly suggested that for the sake of our aggrieved people, the defects in the escrow can be remedied by asking the Swiss Government or its representative, Peter Cosandey, to sign a revised version of the escrow agreements in question. Among other things, I said there should be no reference to the Marcos foundations which are not independent legal entities. My suggestion was published in the dailies. Presumably, some media representatives covering the presidential palace read what the printed media had reported. They asked President Estrada, in an ambush interview in Malacañang, what his reaction was “to the statement of Senator Salonga that the escrow agreements covering the Swiss deposits amounting to \$580 million were spurious and his suggestion that as the foundations in question were mere dummies, the escrow agreements be replaced to strengthen the Government’s

⁵⁵See column of Belinda Olivares Cunanan, “Sandiganbayan also puzzled about Escrow Agreements,” *Philippine Daily Inquirer*, January 30, 1999, p. 7.

claim.” Thinking that I had personally criticized him, President Estrada reportedly said: “Up to now, I have no knowledge of any escrow or what they claim are foundations that we put up. I don’t know what Senator Salonga is talking about.” In Filipino, the president said Salonga must be senile (*ulyanin*) or out of his mind.

Ordinarily, I would not have minded what President Estrada said but many persons felt offended. They said it was unfair that the president should take my prudent suggestion as a personal affront. One visiting professor from the United States called and told my wife, since I was out at the time, that I should do something right away, otherwise what I said about the defective escrow might become a joke. So, I composed something and sent my answer to two dailies. It appeared the next day on the front page of both papers, accompanied by a cartoon depicting the bemoustached Estrada with his huge pompadour. He called me “senile” and with a big smile, I answered the president “Better to be senile than to be ignorant.” Actually, the papers reported what I had sent as my answer:

“I am surprised that President Estrada insulted me for making a common-sense suggestion. Contrary to what he claims, I have not accused him of putting up any foundations, unless he wants to be identified with the fraudulent Marcos foundations. He might have confused escrow with his escort service in Malacañang or mistook the foundations with the foundation Erap knows so well — the facial cosmetic applied to the skin as the first layer of the heavy make-up of movie actors and actresses.

“As long as my suggestions are for the people’s benefit, I do not mind being described by the President as ‘senile’ It is better to be senile than for an official to be hopelessly ignorant — that is, not to know that he does not know.”

After my answer was published, I received a good number of calls from friends, including several high public officials, who felt it was time for someone to tell Estrada he did not know what he was talking about. In fairness to the President, he did not answer back.

I did not know that before Peter Cosandey went to Malacañang in January 1999, he had already decided to quit his position as Zurich District Attorney of Zurich, and join a private multinational giant, the KMG, a well-known company in Switzerland and the rest of Europe.* Appar-

*In fact, Cosandey had already resigned and was no longer with the Swiss Government,

ently, Cosandey would be working, among other things, on the bank deposits in Swiss banks of various international personalities.

It turned out that one good reason why PCGG Chairman Elma could not give me a better answer than the one he wrote on January 31, 1999 on the defects of the escrow agreements was that he had been sent to Hawaii by President Estrada the previous month, that is, around mid-December 1998 to agree and submit to the Hawaii Court the undertaking — as Elma himself admitted later — “to release, assign and waive PCGG’s right to \$150 million” of the Marcos Swiss deposits supposedly in escrow with the PNB, as stipulated in the Compromise Agreement of December 19, 1998. He signed and submitted to the Court the undertaking to remit the \$150 million, but subject to the approval of the proper Philippines courts, because, in his own words, “he sympathized with President Estrada’s vow to help the human rights victims.” Apart from signing and submitting to the Hawaii Court this undertaking, Elma was also asked to sign the Compromise Agreement itself, as Chairman of the PCGG. At this point, he reportedly hesitated and balked.

When the Compromise Agreement was revealed publicly in the Philippines on or around February 26, 1999, allegedly containing a stipulation that the Marcoses, including the late president, “have never been charged civilly or criminally with any human rights violation anywhere in the world,” virtually all who learned about it, including lawmakers and human rights victims, condemned it as a brazen lie and denounced the compromise agreement. On March 2, 1999, PCGG Chairman Elma issued a press statement saying he did not sign the Compromise Agreement because he found some provisions to be “dubious, unreasonable and legally untenable.” Which provokes the question — why did he sign and submit the undertaking to remit \$150 million in accordance with, and as required by, the said Compromise Agreement?

The Compromise Agreement of December 19, 1998

The parties to the agreement, the full text of which was published in the March 1999 issue of *Kilobayan Magazine*⁵⁶ are the lead counsel for the

according to Chairman Elma, when I visited the latter on June 7, 2000. What, then, was the purpose of his visit with President Estrada?

⁵⁶“Full Text of Compromise Agreement,” *Kilobayan Magazine*, March 1999, pp. 8-11.

plaintiffs, Robert Swift, who signed on behalf of the 9,539 human rights claimants, the attorneys for the Marcoses, namely, James Linn and John Bartko, and the Republic of the Philippines, represented by the Chairman of the PCGG.

Under paragraph 1.1 “The Republic wishes to compensate Filipino human rights claimants from the Escrow, satisfy a condition of the Escrow and facilitate a settlement of this litigation.”

Under paragraph 2.1, “The Republic shall cause Philippine National Bank to transfer U.S. \$150 million by wire from the Escrow to the Plaintiffs Settlement Fund at a bank to be designated by the Court within 10 days after preliminary approval of this Agreement by the Court.”

Under paragraph 3.5, “Counsel for the plaintiff class shall receive, as compensation for all services performed, a Court award of fees and expenses for work the Court determines to be reasonably necessary and appropriate.”

Under paragraph 5.2, which is probably the most controversial stipulation, “Imelda R. Marcos has never been charged civilly or criminally with a Human Rights violation anywhere in the world including the Philippines, but is released fully by this paragraph. Ferdinand R. Marcos has never been charged civilly or criminally with a Human Rights violation anywhere in the world, including the Philippines, but is released fully by this paragraph. Imee Marcos-Manotoc (with the exception of *Trajano v. Imee Marcos-Manotoc*, HV Civ.) has never been charged civilly or criminally with a Human Rights violation anywhere in the world, including the Philippines, but is released fully by this paragraph, including Trajano. Irene Marcos-Araneta has never been charged civilly or criminally with a Human Rights violation anywhere in the world, including the Philippines, but is released fully by this paragraph. The late Ferdinand E. Marcos was never charged with a Human Rights violation civilly or criminally in the Philippines. His estate is released fully by this paragraph.”

Under paragraph 6.3, “The Chairman of the PCGG represents that he is authorized to enter into this Agreement on behalf of the PCGG and the Republic of the Philippines.”

Under paragraph 7.2, “The Republic submits to the jurisdiction of the Court for the sole and limited purpose of effecting this settlement.”

Before the terms of the compromise settlement could be published here, I publicly objected to the statement of Mr. Robert Swift that “it would be

left to the U.S. Court to distribute the \$150 million." I posed the questions which the local media published: "Did the Philippine Government and the human rights victims agree to the stipulation? Or the Sandiganbayan, where the forfeiture suit has been pending? If there is no such agreement, by virtue of what law and by what authority can the American court impose that condition? Under our Comprehensive Agrarian Reform Law, the proceeds from the ill-gotten wealth should go to agrarian reform, for the benefit of our farmers. Since this law has not been amended, how can it be violated and subverted with apparent immunity?"⁵⁷ On the basis of the statements of the Marcoses and Malacañang officials, I said that the \$150 million settlement, once approved and carried out, will be merely a prelude to a bigger settlement, the so-called compromise global deal, favored by the Marcoses and by President Estrada, that is, covering all assets of the Marcoses, here and abroad, and all cases against the Marcoses, whether criminal or civil.

As stated earlier, PCGG Chairman Elma, after signing and submitting the deed of undertaking to the Hawaii Court, as instructed by President Estrada, nevertheless inserted a crucial qualification — "subject to the approval of the proper Philippine courts." I was to know much later that the undertaking had been agreed upon by the PCGG, through Chairman Magdangal Elma, the PNB, through its senior vice-president and trust officer Jose Ferro and *five Swiss-based Marcos foundations represented by lawyer Patrick Foetish* (italics supplied). No wonder, I told myself, Elma had no choice but to uphold the escrow agreements I had questioned, partly because the escrow agreements pertained to each of the five Marcos foundations which he had already recognized as independent legal entities, contrary to the Swiss Supreme Court Decisions of December 10 and December 19, 1997 which had characterized them as mere dummies of Marcos and without any bona fide rights under the law.

With reference to the Compromise Agreement of December 19, 1998, Elma had some doubts and did not sign it, because he found, according to his press statement of March 2, 1999, "some provisions to be dubious, unreasonable and legally untenable." However we may disagree with him on some other aspects of his PCGG stewardship, the conditional undertak-

⁵⁷See, e.g., Ms. Belinda Cunanan's column, "Human Rights Victims Settlement Raises Many Questions," *Philippine Daily Inquirer*, March 1, 1999, p. 9.

ing that he submitted and his unwillingness to sign the Compromise Agreement of December 19, 1998 saved him and our country in the end.

A press dispatch from Hawaii announced that U.S. District Judge Manuel Real had tentatively approved the compromise agreement on Wednesday, February 23, 1999, and that a final hearing on the settlement would be held in Honolulu on April 14, 1999.

Adverse reaction

The adverse reaction to the press reports about the controversial provision which states that the Marcoses have "never been charged civilly or criminally anywhere in the world," was almost unanimous.

Former senator and human rights lawyer Rene Saguisag, in his column, wrote: "In Seattle and Honolulu, they (referring to the Marcoses) were established to be world-class human rights violators... MABINI, which I chair, therefore rejects the claim that the Marcos spouses have never been charged with many human-rights violations, especially because the Marcoses know they had to pay millions of dollars to the families of salvaged victims Silme Domingo and Gene Viernes. Any settlement with the Marcoses must be an honorable one and should not be as if we would do anything for money." Rene's prediction was accurate: "The 'done deal' may hardly stand a chance of popular acceptance and judicial approval."⁵⁸

Senate Majority Floor Leader Franklin Drilon was quoted in a news story as saying: "This is unacceptable (referring to the controversial paragraph). It is a travesty of justice. It negates the very spirit and purpose of the agreement, which is to give justice to the victims of human rights abuses during the dark years of martial law. It transformed the deal into a simple financial transaction."⁵⁹ In the same news story, former political detainee and now lawmaker Loretta Ann Rosales referred to the \$150 million settlement as "a bribe." She said: "I am calling it a bribe because they are trying to buy us off by getting us to sign a covenant that they have not committed any human rights violation anywhere in the world. That's going against our own class suit. That's a stupid insertion and distortion of the facts." Likewise, Maria Hilao-Enriquez, a torture victim and Selda secretary general, slammed the deal as a "sell-out." She was quoted in the same news

⁵⁸ Rene Saguisag, "Is There a Done Deal?," *Today*, February 26, 1999, p. 6.

⁵⁹ *Philippine Daily Inquirer*, February 28, 1999.

story as saying: "Besides not apologizing for the atrocities suffered by the victims during martial law, the agreement would absolve the Marcoses and grant them immunity from future suits." In Davao City, Nenita Labial, the head of the *Samahan ng mga Detainees para sa Amnestiya in Southern Mindanao*, said: "Our primordial interest is justice, not money."

On April 9, 1999, five days before the hearing in Hawaii, I issued a statement, on behalf of the families of two well-known human rights victims — student leaders Edgar Jopson and Emmanuel Yap, who had been killed by the military, the first in Davao, and the second in Metro Manila, where he was "salvaged." The Jopsons did not like what was going on in Hawaii, as reported in the papers, particularly the refusal of Judge Real to delete the objectionable paragraph. He was reported to have said that the paragraph "doesn't mean anything to the human rights victims and their families." Hence, I said that if Judge Real was correctly quoted, "he is wrong, legally and morally. The objectionable paragraph is a shameless falsehood. Judge Real should realize that the EDSA Revolution which toppled the Marcos dictatorship on February 25, 1986, was the direct result of the people's revulsion against the twin evils of the Marcos regime — the brazen violations of basic human rights and the wanton plunder of the nation's wealth. It is the height of absurdity that the Marcoses are able to make use of a part of the ill-gotten wealth secretly deposited in Swiss banks, now amounting to \$590 million, supposedly in escrow in the PNB, to bribe the human rights victims, many of whom are poor, so they would agree to a brazen falsification of history. The families of Jopson and Yap don't want any cent from the \$150 million settlement. They cannot agree to their own degradation."

In the hearing of April 14, 1999, Judge Real reportedly ordered the transfer of the \$150 million, tax-free, by May 10, 1999, to the first Hawaiian Bank in Honolulu. How this district judge, sitting in Honolulu, could possibly issue an order to the Philippine Government, as if we were still an American colony or dependency, amused me.

On April 26, 1999, the Solicitor-General, in representation of the PCGG, filed with the Sandiganbayan a Motion for the Approval of the Undertaking. Human rights victims, represented by Atty. Romeo Capulong, filed their Opposition. Former Secretary Sedfrey Ordoñez and I filed our Opposition on behalf of *Kilosbayan* and the human rights victims we rep-

resented — the Jopsons, the Yaps and the “Light a Fire” group of Eduardo Olaguer, a well-known political detainee.

Meantime, on April 29, 1999, Judge Manuel Real approved the Compromise Agreement of December 19, 1998, even without the signature of Chairman Elma. Presumably, the Deed of Undertaking submitted by Elma was considered sufficient.

In his State of the Nation Address on July 26, 1999, President Estrada pushed, once again, for a compromise settlement with the Marcoses, saying Filipinos risked getting “nothing from years of litigation” over the Marcos estate. He said: “We can persist in the pursuit of an ideal solution that is likely to lead to nothing or we can settle for a practical solution that can result in something. Twelve years is enough time to know the difference between the ideal and the feasible.” Moral values and principles lead to nothing, Erap might have said, but dividing the loot with the Marcoses is more practical, indeed.

The next day, July 27, 1999, the Sandiganbayan, through Presiding Justice Francis Garchitorena, ruled that the \$150 million Compromise Agreement was illegal. To begin with, said the Presiding Justice, litigation is still ongoing as to whether the \$150 million was indeed ill-gotten. The logic of the PCGG is obviously askew. It contends that the amount is not yet covered by any existing law or regulation, since the government has not yet won the forfeiture case, even if it believes that it forms part of the ill-gotten wealth. “The sum of \$150 million is not covered by existing law,” said Garchitorena, “because it is not yet ‘recovered ill-gotten wealth.’ Then it does not yet belong to the government; if so, it cannot yet seek to dispose of it. So what is the PCGG doing here?” On the other hand, the Government wants to award the victims “what could be money of the Republic; yet it is disposing of this sum in a manner contrary to what the law provides with respect to recovered ill-gotten wealth, namely, for the funding of the Comprehensive Agrarian Reform.” Furthermore, the resolution penned by the Presiding Justice and concurred in by Associate Justices Catalino Castañeda and Gregory Ong, cited a bigger obstacle: “the Republic cannot compensate its own citizens for the grave injury done to them, and then release from any liability the one or the ones liable for that grave injury.” The Sandiganbayan said that the settlement amount was only about 7.5 percent of the \$2 billion in total damages awarded by the Hawaii court, and that about \$40 million of the \$150

million would be deducted as lawyers' fees. The court noted that "none of the Marcoses is living in any demonstrable degree of poverty," and that there was no evidence that they did not have funds to satisfy the \$2 billion award.

I read the ably-written Resolution very closely and concluded there was no way the Estrada Government can have it modified or reversed — whether in the Supreme Court or in the court of public opinion.

The PCGG, through the Solicitor-General, filed a motion for reconsideration with the Sandiganbayan, arguing that the payment of martial law victims with money from the Marcos funds in escrow "is a foreign-policy decision and cannot be questioned by the courts." It also contended that the government is "obliged to compensate the victims under the decisions of the Federal Supreme Court." In a 19-page Resolution penned by Presiding Justice Garchitorena, the Sandiganbayan disposed of the strained, untenable arguments. "Not only is a foreign policy initiative absent in this instance," said the Presiding Justice, "but such a release of funds for such a purpose would be actually against the law." As for the supposed obligation of the Government to compensate the human rights victims out of the Marcos Swiss deposits, the Sandiganbayan said the decisions of the Swiss Federal Supreme Court "merely stated that the Philippines should make available to these victims the facilities in the country's judicial system to seek redress from those who are properly chargeable for wrongs done to them by or during the martial law regime. Clearly, there is no obligation on the part of the government.... The Republic's persistence in this view is not supported by its own citations of jurisprudence."⁶⁰

Absolutely correct, except that if the human rights victims or their families were to resort to the country's slow-moving judicial system, as was recently done for them by the Commission on Human Rights, many years, perhaps several decades, would elapse before they can get the kind of justice they seek. By then, only their grandchildren will probably be around to witness the event. In one article,⁶¹ I advanced a solution that President Estrada can easily forge with the cooperation of Mrs. Marcos. Since the latter has revealed in an interview with the *Associated Press* and the *Agence*

⁶⁰The PCGG has recently announced it will not file an appeal from the Sandiganbayan Resolution.

⁶¹"A litmus test for the new president and the Marcos family," *Kilosbayan Magazine*, August 1998, pp. 6-7.

⁶²"Imelda Bares \$8 B in Secret Accounts," *Philippine Daily Inquirer*, March 27, 1998, p.1+.

*France Press*⁶² that “I have more than \$800 million deposited in various banks abroad, which the Government is not yet aware of,” given the rapport between the two and the avowed desire of the former First Lady to help President Estrada, it should not be very difficult for the latter to persuade her to part with \$150 million for the sake of the poor human rights victims. But if, for any reason, Mrs. Imelda Marcos does not want any subtraction from the enormous wealth she and her children were able to conceal all these years, there is another solution which is within reach anytime:⁶³ President Estrada can easily persuade his partymates who dominate both houses of Congress, to pass an amendment to the Comprehensive Agrarian Law, to enable the human rights victims to directly share with the farmers part of the proceeds of the ill-gotten wealth of the Marcoses, their associates and cronies.

The Senate Blue Ribbon Committee has been investigating for months the alleged \$13.2 billion deposit of Ms. Irene Marcos Araneta in the Union Bank of Switzerland, but on the basis of the documents sent to me by the PCGG, its existence may be uncertain, to say the least.

Amount of total recoveries of the PCGG from February 28, 1986 to May 2000 — P83.13 billion or almost U.S.\$2 billion

Fourteen years having elapsed since the creation of the PCGG, a fair question has been asked by many people: how much of the Marcos ill-gotten wealth has the PCGG recovered, whether in terms of cash or properties? The need to answer this question becomes crucial, since only a few persons seem to know the correct answer. Unfortunately, President Estrada does not know; or worse, refuses to know. Even before he assumed the presidency, he had been peddling the myth that “nothing has been recovered by the PCGG,” evidently in the desire to convince the nation that it would be better to reach a compromise agreement with the Marcoses than incur more litigation expenses and pay what he described as “huge” attorneys’ fees. In Chapter XVI, we discussed the concrete accomplishments of the PCGG during my one-year stint — from February 28, 1986 to March 9, 1987, the date when I resigned from the Commission to campaign for the Senate. But a one-year report does not suffice. Nor does it put the inquiring mind at ease. I realize that from the viewpoint of many people,

⁶³“The Human Rights Victims, the Marcoses and the \$570 M in Escrow with PNB,” President’s Page [Column], *Kilosbayan Magazine*, October 1998, pp. 6-8.

the more important question today is the total amount recovered by the PCGG since it was created in early 1986 up to the end of May 2000, which coincides with the publication of this book.

Here is a brief summary of how much was recovered by the PCGG from the Marcos ill-gotten wealth as of May 31, 2000, on the basis of the data sent to the author on June 7, 2000 by PCGG Chairman Magdangal Elma and Commissioner Jorge V. Sarmiento, following my visit with them in their offices:

I. Total Cash Recoveries, including cash remitted to the Comprehensive Agrarian Reform Program (CARP)	P25,744,902,839
II. Estimated value of Surrendered Assets not yet converted into cash	29,856,439,860
III. Estimated value of surrendered agricultural lands turned over to the Department of Agrarian Reform (DAR)	
a. J.Y. Campos (IRC) Property 1,650 hectares@P85,000 a hectare	140,250,000
b. Busali Farm and Benedicto Property 1,996 hectares@P45,000 a hectare	<u>89,820,000</u>
Récoveries in Philippine pesos	55,831,412,699
IV. Escrow account of Marcos Swiss Deposits (Estimated value as of May 31, 2000)	\$630,000,000
V. Other escrow crony accounts:	
a. Romuladez, Benjamin/Juliet	4,796,732
b. Roman Cruz	309,214
c. Geronimo Velasco	7,000,000
d. Herminio Disini	1,000,000
e. Ignacio/Fe Gimenez	<u>7,000,000</u>
Recoveries in U.S. dollars	\$650,105,946
Equivalent in Philippine pesos (P42=\$1)	<u>27,304,444,973</u>
GRAND TOTAL AS OF MAY 31, 2000	P83,135,857,672
	(or almost U.S.\$2billion)
EXPENSES FROM MARCH 1986 TO MAY 2000	P688,680,000

This amount, P83.13 billion, which is not insignificant, does not include the Marcos wealth claimed by Mrs. Imelda Marcos in her “bombshell” revelations, as published in the *Philippine Daily Inquirer* issues of December 5,6,7,8 and 9, 1988. She said her husband had entrusted their wealth to their “trustees,” among them, Lucio Tan, Eduardo “Danding” Cojuangco, the late Ramon Cojuangco and his son, Antonio “Tony Boy” Cojuangco, Imelda Cojuangco, Herminio Disini, Rolando Gapud, Jose Yao Campos, Roberto Benedicto, and many others. By her own account, these trustees were merely holding the “sequestered properties” for and in the name of her husband, Ferdinand E. Marcos. Among the corporations supposedly belonging to the Marcoses are the biggest companies in the country, such as the Philippine Long Distance Telephone, San Miguel Corporation, Philippine Airlines, Fortune Tobacco, Allied Banking, United Coconut Planters Bank, Meralco, *Manila Bulletin*, and many others.

PCGG records show that as of January 14, 1987, virtually all of the wealth claimed by Mrs. Marcos, allegedly amounting to around 500 billion pesos, had been sequestered during my one-year assignment, subject to final judicial determination of their ownership. The cases involving the Marcoses and their cronies or “trustees” were filed by the PCGG with the Sandiganbayan in 1987, conformably with Section 26 Article XVII of the 1987 Constitution, and most of these cases have been pending there since then. Mrs. Marcos, through her lawyers, filed a cross-claim in the PCGG case involving the PLDT (Ramon Cojuangco) shares. Likewise, Mrs. Marcos’ daughter, Irene Marcos Araneta, initiated a litigation against Roberto Benedicto, shortly before his death on May 15, 2000, claiming ownership of various assets Benedicto had turned over to Philippine Government, in accordance with the Compromise Agreement he had signed with the PCGG. In all the PCGG cases pending with the Sandiganbayan, the Government maintains that the sequestered assets belong to our people, not the Marcoses. The Sandiganbayan, in my view, should dispose of these long-pending cases at the earliest possible time, in the interest of speedy justice and long-term stability.

Also not included in the above amount of P83.13 billion is the \$800 million revealed by Mrs. Imelda Marcos in her March 27, 1998 interview with the *Associated Press* and the *Agence France Presse*, which was published in the local dailies on March 27, 1998. In that interview, the former First Lady said “there is more money that the government is not yet aware

of, but for the time being, I can admit that there is only \$800 million kept in various international banks." It is now time for the PCGG, under Chairman Elma, to follow up this undeniable admission with resourcefulness, determination and vigor. Also there are other places in the world today where the PCGG can take advantage of the world-wide pressure on banks and other financial institutions to open up their secret records in the interest of transparency and simple justice.⁶⁴

Whether the Senate Blue Ribbon Committee, headed by Senator Aquilino Pimentel, will succeed in the recovery of some more ill-gotten wealth, through the power to conduct legislative investigations, remains to be seen. Our hope is that he and his Committee will succeed.

Two recent events

In the meantime, two recent events are worth noting. One is the return on April 27, 2000 of former Governor and Ambassador Benjamin "Kokoy" Romualdez, the brother of Mrs. Marcos, who fled with the Marcoses on February 25, 1986. There are 27 criminal and civil cases filed by the PCGG which are now pending against him — 24 criminal cases filed with the Ombudsman and three civil cases filed with the Sandiganbayan, including a P102-billion civil suit arising from allegations that he illegally acquired shares of stock from major companies such as Meralco, Philippine Journalists, Inc., Mantrasco and its affiliates, Benguet Consolidated Mining, PCI Bank, Philippines Shell Corp., Aviles Realty Company, Trans-Middle East Philippine Equities, Inc., and Universal Broadcasting Corporation. Among other things, Romualdez is known to have engineered the Marcos-Romualdez takeover of Meralco from the late Eugenio Lopez, Sr., who was abroad when martial law was declared. The latter's son, Eugenio "Geny"

⁶⁴On July 29, 2000, *Philippine Star* published on page 1 an AFP dispatch from Hongkong stating that Mrs. Imelda Marcos "hired a gang of bounty hunters to help recover billions of dollars stashed in Hongkong and China. Marcos signed documents authorizing Hongkong businesswoman Chuk Oifong, 51, and three associates to help withdraw more than \$2.6 billion, the *South China Morning Post* reported. The plan fell through after corruption investigators swooped as the gang plotted to pay off bank officials in order to withdraw the hidden cash. The four appeared at a preliminary hearing at Eastern Magistrates Court Thursday charged with attempting to bribe Hongkong and Shanghai Banking Corporation (HSBC) employees. No pleas were taken and the case was adjourned until August 31." A similar front page item appeared in *Manila Times* on the same date, under the headline "Imelda plot to recover loot bared."

Lopez, Jr., was arrested and detained in October 1972 together with Serge Osmeña III — the son of presidential candidate Serging Osmeña — supposedly for alleged complicity in a plot to assassinate Marcos. No one who knew Geny Lopez, who was neither involved nor interested in politics, believed the charge against him.

Meeting with Kokoy Romualdez in Honolulu, Eugenio Lopez, Sr., sold and transferred the family's shareholdings in Meralco to the newly organized "Meralco Foundation," controlled by Marcos and Romualdez, for a ridiculous down payment of \$1,500 on the alleged assurance that Geny, his son, would be released. The takeover of Meralco, worth around \$400 million at the time, "remains unprecedented" — in the words of one analyst — "in the history of the Marcos-Romualdez plunder." Later, the printing facilities of the Lopez's *Manila Chronicle* were "leased" to the *Times Journal* of Kokoy Romualdez. In March 1974, the prostate cancer of Eugenio Lopez, Sr., a resident of San Francisco, California, had become terminal. His doctors gave him only a few months to live. In April, he and his wife Nitang came to Manila to see Ms. Imelda Marcos about the release of their son Geny. Unable to see her, they returned to San Francisco empty-handed. In early 1975, on the urging of his son Geny, who had written his old man a pathetic letter, Mr. Lopez decided to fight back. He exposed the extortion activities of the Marcos-Romualdez combine. The most damning account was published in *Pageant Magazine*, a supplement to more than 100 newspapers in the United States. The exposé was titled "Extortion in High Places." Lopez was quoted as having said: "Enough is enough. I refuse to be blackmailed further. The Marcos and Romualdez families have bled me dry."

After the death of his old man, Geny Lopez and his companion Serge Osmeña (who later became a senator) carried out a daring escape from Fort Bonifacio in September 1977.

In spite of his meager qualifications, Leyte Governor Benjamin Romualdez was appointed Ambassador to Beijing, then to Washington, D.C. Under martial rule, he controlled such periodicals as *Times Journal*, *Times-Mirror* and *People's Journal*. Shortly after Kokoy's arrival, Ombudsman Aniano Desierto said he would personally prosecute the behest loan cases against former Governor and Ambassador Benjamin Romualdez, who may run for Mayor of Tacloban City in the 2001 elections.

Unlike Romualdez whose arrival was a surprise, the local media had

been publishing news stories about former Ambassador Roberto "Bobby" Benedicto, the former sugar czar, who had been ailing for sometime. He expired on May 15, 2000 in a medical center in Bacolod City, Occidental Negros. He was a very close friend and a loyal ally of Marcos, his U.P. classmate and fraternity brother. Unlike Romualdez, he made an effort to atone for what he did during the Marcos years. But like Romualdez, he benefited from the dismantling and partitioning of the Lopez business empire during martial rule.

In my second meeting with Benedicto in Hongkong in mid-December 1986, he surrendered to the PCGG the control of the radio-TV stations owned by ABS-CBN, the facilities of which he had taken over after the declaration of martial law. During our meeting, Bobby Benedicto expressed the desire to close the *Daily Express*, which had been losing heavily since the EDSA event. But despite my prodding and the many incriminating documents against him and Marcos, Benedicto refused to talk to me about the California Overseas Bank, which was in fact owned and controlled by Marcos. Now, in a masterpiece of irony, the Marcos estate reportedly sued the ailing Benedicto a day before his death for turning over his ill-gotten wealth to the Government. Marcos' youngest daughter, Ms. Irene Marcos-Araneta was quoted as having said: "What Benedicto gave to the Government were assets that belonged to the Marcoses." Thus, the daughter has followed the footsteps of her mother who filed a claim in 1999 against the PLDT shares held by the late Ramon Cojuangco and Imelda Cojuangco, maintaining that these shares really belonged to the Marcoses, not to the trustees or cronies of the former president. It remains to be seen whether the Marcoses will go after Lucio Tan and Eduardo "Danding" Cojuangco, as Ms. Imelda Marcos threatened to do when she exposed them in her "bombshell" revelations of December 1998 as mere trustees of her deceased husband. The two Marcos associates happen to be among the biggest contributors in the 1998 presidential campaign and are reputed to be the most influential friends of President Estrada.

The internecine feud and our best wishes

The conflict between the Marcoses and their former cronies promises to be bloody. Let us hope that this internecine feud will eventually lead to the whole truth about the plunder of the nation's wealth. The evidence based on the income tax returns of the Marcoses from 1949 to 1984 shows

that their total lawful income was only 16.4 million pesos. How former President Marcos was able to amass so much wealth, which may amount to around five to ten billion dollars must be explained. Recovering the ill-gotten wealth is the task of the PCGG, with the valuable assistance of prosecutors and lawyers.

On March 2000, Solicitor-General Ricardo Galvez filed a Motion for Summary Judgment with the Sandiganbayan, in the desire to bring the forfeiture suit, which has been pending there since December 1991, to a decisive end. The formal offer of evidence, consisting of voluminous exhibits, had been made some four years ago, according to former Solicitor-General Francisco Chavez. He should know — it was he who filed the forfeiture proceedings in December 1991, after receiving the incriminating documents from the Swiss authorities. The Swiss Federal Supreme Court has already decided in the landmark case of December 10, 1997 that the Marcos Swiss deposits had been “criminally acquired” and had an “illegal provenance.” Under Swiss law and Philippine law, it is the Philippine courts that will render the final judgment in the forfeiture case, since the Philippines is the place where the offenses were committed. According to the Swiss Supreme Court decision, there is no need for a final judgment against Marcos in a criminal case; even a judgment in favor of the Republic in a civil case will be sufficient, as long as the requirements of due process are observed. Whatever the decision of the Sandiganbayan on the forfeiture suit may be, it will surely be appealed to the Supreme Court.

The forfeiture suit is only one case, however. There are many other cases against the Marcoses, the Romualdezes, and their many associates and cronies. The infighting that has already started between the Marcoses and their former associates and cronies will not only test the loyalty of the president to his favored friends, a number of whom are at war with the Marcoses — it will also test the mettle of PCGG Chairman Elma. As the President’s legal adviser, who reportedly aspires to occupy a seat in the Supreme Court, Elma should appear as following the instructions of President Estrada, even when, to quote his own words with respect to the controversial provisions of the \$150 million compromise settlement, they are “dubious, unreasonable and legally untenable.”

President Estrada is about to complete two years of his six-year term on June 30, 2000. If it is premature and unfair to pass final judgment on Joseph Estrada as the country’s president, it may be even more precipitate

to make a definitive assessment of Magdangal Elma's performance since he shall have completed only a little more than a year and a half as head of the PCGG on June 30, 2000. Despite President Estrada's inclination to favor the Marcoses and some cronies and in spite of Chairman Elma's alleged indifference now to the small employee force in the PCGG — a weakness he can easily overcome if he is to energize them by sharing with them his goals and expectations — his showing so far gives us ample reason to expect that the task of recovering the Marcos ill-gotten wealth will move forward, hopefully with a renewed sense of mission. In Chairman Elma's delicate balancing act, he will surely need public support and encouragement, along with our best wishes.

XVII

Some Highlights

The following excerpts, selected by Jose V. Abueva, underscore the main points in the quest for the Marcos ill-gotten wealth. Together they serve as a quick summary of the whole book.

Options in dealing with the ill-gotten wealth and our basic strategy

We in the Commission now had thousands of documents and a sufficient number of volunteers, many of them fired by idealism, who wanted to help in recovering the ill-gotten wealth amassed by Marcos and his associates. But we still had to make an in-depth study of the options open to a revolutionary government in dealing with this important matter. Our responsibility was to devise a sound, reasonable formula for recovery, which would not only be fair and just but acceptable to foreign jurisdictions where a good part of the plundered wealth had been stashed away.

It was toward the end of February 1986 when we in the Commission discussed and reflected on these options, realizing that we would be assailed whatever our formula and strategy might be. I made use of some studies I had made while Lydia and I were in exile abroad in the first half of the 80s.

1. The first option was the one adopted by Mao Tse Tung and his fanatical followers in China — confiscate the wealth of “the enemies of the people,” most of whom were wealthy landlords and merchants, and line them up against the wall after a sham trial. Hundreds of thousands of

people were killed in that bloody purge. For obvious reasons, we disregarded this option considering our culture as a people and the nature of the unwieldy coalition that was the direct result of the “EDSA Revolution.” Likewise, there were legal problems involved in confiscation, which would be impossible to resolve, particularly with respect to assets located in such places as the United States and Switzerland. One complication was the fact that we could not even get hold of the key personalities of the previous regime for the purpose of trying them. Most of them had left with the Marcoses and some were abroad at the time of the EDSA event.

2. The de Gaulle formula, as explained to me by the French Ambassador, was for the new government to confiscate and take over the enterprises and assets of French collaborators during the Nazi occupation of France. After the period of one year, no more confiscations were allowed. Some collaborators were executed, many were imprisoned.

In our case, outright confiscation of the plundered wealth was something we could not resort to in the Philippines, legally and physically. Likewise, many ill-gotten assets were located abroad, in such places as the United States and Switzerland, where outright confiscation would be viewed with disfavor. In fact, EO 1 and EO 2, which we drafted and spoke of “sequestration” and “freezing,” were assailed by the lawyers of the Marcos companies and dummies in our first case in New York as “confiscation decrees affecting property in the United States.” The U.S. Court of Appeals for the Second Circuit upheld both of them stating that “these two orders are not in and of themselves confiscation decrees.”

3. The option advocated by Ninoy Aquino when he came to my place in Encino, California to say goodbye before his last fatal journey was quite different. Ninoy thought he would be imprisoned upon arrival and in time demonstrations would be the order of the day. A beleaguered Marcos — his fraternity brother — would most probably send for him to ask what should be done. He would then tell Marcos — “Leave the country with your family, take out all your wealth and we’ll take care of the rest.” That formula could no longer apply, partly because of the assassination of Ninoy and partly because Marcos did not have to take out his ill-gotten wealth — much of it had already been concealed, deposited, or invested abroad.

4. The alternative advocated by the Marcos loyalists, as published in the crony media, was what may be described as the “forgive and forget” formula, supposedly in the name of “national reconciliation and unity.”

The Government, they contended, should not resort to "acts of vindictiveness," otherwise the President, a devout Catholic, would be viewed as unChristian. In the Scriptures, however, forgiveness is extended to the sinner only after repentance and the restitution of what had been stolen or taken, as in the case of Zachheus (Luke 19: 1-9). In my view, national reconciliation without truth and justice would be a mockery.

5. My own formula is a refinement of what I had stated in the LP Vision and Program of Government (1985, p. 6). Instead of confiscation, our basic strategy would be as follows: the Government, in simple fairness to our people, will sequester the ill-gotten assets in the Philippines, that is, place them in the custody of the Government on the basis of *prima facie* evidence (that is, sufficient to establish the point in issue until rebutted), but subject to **final judicial determination of the ownership of said assets**. Sequestration would render it difficult for the Marcoses, or their cronies or associates, to transfer or dissipate the ill-gotten wealth and thereby undermine our newly restored democracy. Where the ill-gotten wealth is located abroad, we will ask for the freezing of the ill-gotten gains, in accordance with the *lex situs*, but insist that the question of violations of Philippine law should be decided according to our law and, if possible, by our own courts. This, of course, means that in the final analysis, the burden of success or failure in the quest for the ill-gotten wealth of the Marcoses, their cronies and associates, would rest on the nature and character of our system of justice. The inarticulate assumption is that our courts, prosecutors and lawyers are competent, impartial, incorruptible and efficient. A biased, corrupt or inefficient system of justice can undo or reverse our best efforts in the PCGG.

The Task of PCGG

Executive Order No. 1, signed by President Aquino on February 28, 1986, formally created the PCGG, defined its central task: the recovery of the ill-gotten wealth of the former Marcos First Family, their subordinates and associates, including the takeover or sequestration of all business enterprises owned or controlled by them. EO1 enumerated the powers of the PCGG to carry out its principal task. Recovery of the stolen wealth, not prosecution of the thieves and the plunderers, was our main responsibility. The task of prosecuting them was left to the prosecution arm of the Gov-

ernment. It was understood, however, that the PCGG would get and furnish the necessary evidence.

Techniques of Presidential Plunder

“Ill-gotten wealth,” under Executive Order No. 2, includes assets and properties purportedly acquired, directly or indirectly, by former President Marcos, his immediate family, relatives and close associates, through improper or illegal use of government funds or properties; or their having taken undue advantage of their public office; or their use of powers, influence or relationships, “resulting in their unjust enrichment and causing grave damage and prejudice to the Filipino people and the Republic of the Philippines.”

In light of the evidence consisting of thousands of Malacañang documents, we confirmed what we had known before and during martial rule. Among the ways or techniques by which the illegal wealth was acquired and safeguarded were:

1. Creation of monopolies in certain vital industries and placing them under the control of cronies or associates of Marcos, such as sugar (under Roberto Benedicto) and coconut (under Eduardo Cojuangco);

2. Awarding of loans by Government banking or financing institutions to favored private individuals or associates, with little or no collateral, at the behest of Marcos or Mrs. Marcos;

3. Outright takeover by Marcos relatives or associates of large public or private enterprises with a nominal amount as consideration. The business and assets of National Shipyard and Engineering Company (NASSCO) and other related Government-owned or controlled entities were taken over in 1972-73 by a private corporation, known as BASECO, dominated by Marcos and Alfredo “Bejo” Romualdez. Shortly after the imposition of martial law, Eugenio Lopez, Jr., was imprisoned for alleged involvement in the attempted assassination of Marcos. For a very small downpayment of 10,000 pesos, his father, Eugenio Lopez, who was abroad when martial law was declared, sold and transferred his total shareholding and control in MERALCO to Benjamin “Kokoy” Romualdez, Imelda’s younger brother, on the reported assurance that his son would be released.

4. Direct raiding of the public treasury and Government financing institutions. Intelligence funds, e.g., were disbursed for the trips of Mrs. Imelda Marcos. The Central Bank and PNB, Manila and New York, were used for

the private benefit of the Marcoses. Bank accounts were opened in Banque Paribas, Suisse, and called Intelligence Funds 1 and 2.

5. The issuance of presidential decrees and orders to favor certain individuals and enterprises to enable them to amass wealth for the joint benefit of said individuals and the Marcoses. The coconut levy imposed through a series of presidential decrees from 1973 to 1982, the Tourist Duty Free Shops (TDFS) run by Ms. Gleyce Tantoco, the Fortune Tobacco of Lucio Tan, and the cigarette filters of Herminio Disini, may be cited as good examples.

6. Kickbacks and commissions from firms or enterprises doing business in the Philippines. Former Minister of Public Highways Baltazar Aquino spoke, under oath, of how he deposited huge amounts of money for Marcos bank accounts abroad coming from reparations kickbacks.

7. Use of shell corporations and dummy companies to launder money and invest in real estate in such places as New York, California and Hawaii.

8. Skimming off foreign aid and other forms of international assistance. For example, the aid given to the Philippines in exchange for participation of the Philippine Civil Action Group (Philcag) in the Vietnam war was diverted, as exposed during the Symington hearings.

9. Depositing with the use of pseudonyms, numbered accounts and code names, in various banks here and abroad, to conceal and preserve the ill-gotten wealth.

Given the limited material resources of the Marcos couple before Ferdinand was elected president in November 1965, as shown in their income tax returns, one can readily appreciate the far-reaching implications of Imelda's revelation in December 1998: "We own virtually everything in the Philippines."

Imelda: "We own practically everything in the Philippines...."

Many people did not realize how much had been accomplished by the PCGG through sequestration until Mrs. Imelda Marcos came out with a series of "bombshell" revelations as published from day to day in the December 1998 issues of *Philippine Daily Inquirer* (December 5, 6, 7, 8, and 9.) Without realizing its far-reaching implications, Mrs. Marcos declared:

We practically own everything in the Philippines, from electricity, telecommunications, airlines, banking, beer and tobacco, newspaper publishing, tele-

vision stations, shipping, oil, mining, hotels and health resorts, down to coconut mills, small firearms, real estate and insurance.

Ms. Imelda Marcos said she would reclaim an estimated 500 billion pesos (around \$13 billion in 1999), now in the hands of the Marcos cronies. The prominent Marcos cronies, whom she called "trustees," were, by her own account, merely holding many of the *sequestered* properties for and in the name of her husband, Ferdinand E. Marcos. This was precisely what the PCGG had maintained since 1986, except that the Marcoses are not the real owners — it is the Filipino people. Among the trustees she named were Lucio Tan, Eduardo "Danding" Cojuangco, the late Ramon Cojuangco and his son, Antonio "Tonyboy" Cojuangco, Imelda Cojuangco, Herminio Disini, Rolando Gapud, Jose Yao Campos, Roberto Benedicto and many others.

Among the corporations belonging to the Marcos family, Mrs. Imelda Marcos claimed, are the biggest in the country, such as Philippine Long Distance Company (PLDT), San Miguel Corporation (SMC), Philippine Airlines (PAL), Fortune Tobacco, Allied Banking, United Coconut Planters Bank, Manila Electric Company (MERALCO), Manila Bulletin, and many others. She said that these companies, which had been entrusted by the Marcos family to the cronies, were sequestered by the PCGG. Hence, the Marcos lawyers were ready for the "biggest litigation ever in Philippine history." She actually began by claiming in the Sandiganbayan, through the Enrile law offices, the PLDT and other properties surrendered to the PCGG by Jose Yao Campos.

The Imelda revelations, stripped of some portions which were exaggerated to show that Ferdinand Marcos was very rich to start with, may constitute the best admission of the fact that the Marcoses had plundered the wealth of the nation.

Mrs. Marcos' Shoes

At two o'clock in the afternoon, March 25, I conferred with the editors of *Time* magazine. Again, the subject was the stolen wealth of the Marcoses and the ongoing litigations in New York and Hawaii.

One woman editor asked me the rhetorical question: "How do you explain the accumulation by Mrs. Marcos of thousands of shoes? She cannot possibly use them all!" I vividly recall my answer: "Your question is a

theological question, but I am no theologian. I am just a simple country lawyer." They all laughed.

The Marcos Cronies

On April 16, PCGG Commissioner Pete Yap left for Switzerland bringing with him some more important documents, enabling him and our Swiss lawyers to file a supplementary request dated April 18, 1986. This supplementary request, coursed through the Philippine Embassy upon instructions of the Solicitor General, and filed with the Federal Department for Justice and Police, names "the following associates, partners and cronies" of Ferdinand E. Marcos and Imelda Romualdez Marcos: Edna Guiyab Camcam; Roman Cruz, Jr.; Andres Genito, Jr.; Gliceria Tantoco and Bienvenido Tantoco; Geronimo Velasco; Fabian Ver; Lucio Tan; Ignacio Jimenez; Baltazar Aquino; Jose Yao Campos; Roberto S. Benedicto; Eduardo Cojuangco, Jr.; Rolando Gapud; Benjamin "Kokoy" Romualdez; Herminio Disini; Rodolfo Cuenca; Antonio Floirendo; Fe Roa Jimenez; and Alfredo "Bejo" Romualdez.xxx

Our information was that both PNB Manila and PNB New York had been deeply involved in the remittances of huge public funds to pay for the New York buildings bought by the Marcoses, through their dummies and agents, particularly the Bernsteins and the Tantocos.

Disclosure and Immunity of Cronies

Our formula, I explained to the media after the Cabinet meeting, was simple: (1) a fair and full disclosure, including an explanation of the nature and extent of the relationship with Marcos and/or Mrs. Marcos, and a summary of all the ill-gotten assets, including their fair market value and location; (2) an unequivocal offer of restitution to the new Government; and (3) a declaration of willingness to testify, if necessary, against them. In exchange, the Commission would extend, in accordance with Executive Order No. 1, immunity from suit, provided the disclosure is found to be true and correct.

Revelations of Oscar Cariño

Toward the end of April, 1986, I received an important call from a high-ranking official. The former head of PNB New York, Mr. Oscar Cariño, would like to see me. I said sure. Mr. Cariño came immediately and after

the amenities, he made his revelations, with self-reproach and contrition, about how PNB New York was used by the Marcoses for their personal benefit, especially in the purchase of the Manhattan buildings. I called Juan Saavedra and our valuable co-worker, Vic Barrios, to formalize Cariño's revelations for submission to the Federal District Court of New York.

The Tourist Duty Free Shops

For the first time, our right to issue a sequestration order was squarely put in issue before the Supreme Court. Fortunately, we had the "smoking gun evidence" in our possession, including letters and reports from Ms. Gley Tantoco to Imelda Marcos, confirming that the business was actually owned by the former First Lady, either solely or in partnership with the Tantoco family.

Does Crime Pay?

I appealed to the Commissioners with these words: "Let us not betray our people's faith in us. For if we do, a dictator will come again some day, in the name of national security and stability and do what Marcos did, since after all, Marcos and his associates here and abroad shall have demonstrated for all the world to see that crime pays."

Refusal to accept the Marcoses

Toward the last week of July, 1986, we received the news that Spain, Indonesia and Singapore had refused to accept Ferdinand and Imelda Marcos. However, Panama, which once took in the Shah of Iran, accepted Marcos, then changed its mind as the Marcoses reportedly prepared to board a plane in Hawaii. As an Opposition leader in Panama put it, the people of Panama did not want to take in "any more political garbage."

Recovery of Our Honor

"On August 21, 1986 the nation will pause and honor a man who returned to suffer with his people and try to persuade Mr. Marcos into restoring our lost freedoms. Ninoy Aquino was brutally assassinated, he did not even make it to his old isolation cell in Fort Bonifacio, but because of that cold-blooded murder, the Philippines was never the same again. Now we are told by the Marcoses and their cronies that under the Cory Aquino Government, their lives, liberties and properties are being violated,

without due process of law. But none of them have been imprisoned so far. Their only complaint is that their deposits, shares of stock, luxurious mansions and office buildings have been frozen or sequestered by the PCGG, awaiting final disposition by the courts of justice.

“But what they do not seem to realize is that no asset can be sequestered without *prima facie* evidence of illegal acquisition.”

One point I stressed toward the end of my speech was that as important as the recovery of the ill-gotten wealth is “the recovery of our honor, our moral values, our sense of integrity as a people.” Our other task under EO 1 was “to adopt concrete measures so what happened under Marcos will not happen again.”

Deposition of the Marcoses in Honolulu (September 1986)

We figured that the Marcos couple would be in a dilemma. If they were to deny under oath the authenticity of the documents, they would be liable for perjury. We in the PCGG were sure these documents were genuine, not only because of the place where the Marcoses had kept the documents but also because we knew and were familiar with the signatures of the Marcos couple. On the other hand, if they were to affirm the authenticity of said documents, something which was remote, their assertion would constitute an express admission of their having deposited ill-gotten wealth in the Swiss banks. Should they refuse to answer on the ground of self-incrimination, one could safely conclude that the documents, which they had denounced as forgeries, were authentic. Our speculation was that both Ferdinand and Imelda Marcos would choose to remain silent by invoking the Fifth Amendment. It would be up to the proper court to decide whether they had the right to remain silent.xxx

The first day of the deposition was September 30, with Ferdinand E. Marcos as the witness. When Marcos was asked whether he was familiar with the Security Bank and Trust Company, Marcos had a long-winded, kilometric explanation for refusing to answer any question. He rationalized his answer to remain silent. The gist of his justification was that the proceeding was merely part of a political plan to prosecute him since anything he would say would be used in a criminal case filed against him by the revolutionary government in the Philippines. Later he was asked whether he knew Rolando Gapud; on the admonition of his counsel, he merely claimed the right against self-incrimination and the right to remain silent

on the same ground. He was asked: "Mr. Marcos, you have maintained accounts in Swiss banks in Switzerland, have you not?" Marcos made the same claim and asserted the same right to remain silent. Then he was asked: "Among the accounts that you have controlled in Swiss banks have been those under alias names "William Saunders" and "Gene (sic) Ryan", correct?" Marcos: "Same response. I claim the right against self-incrimination and the right to remain silent." So it went on and on — he was asked about other transactions, about names of various subordinates and business associates. As the lawyers completed the court-ordered deposition, reported the *Manila Chronicle*, Marcos blew up. He attacked the government of President Aquino. He called the questioning "outrageous." Several times, he told the lawyers that he was convinced that Mrs. Aquino's top priority "is to put him in jail." Except for a few items, he maintained the same excuse until the latter part when he was given the chance to give any statement he might wish to make. He said he felt he was being degraded and humiliated. But when he was asked for the basis, he sought refuge again in the 5th amendment. All in all, Marcos invoked the right to remain silent 197 times.

The presence of Mrs. Marcos was sought and she was produced the next day. Virtually the same questions were asked and, on the admonition of counsel, she too refused to incriminate herself, except that she cried and cried. Mrs. Marcos did not speak of forgeries any more — she merely claimed the right to remain silent. I felt that if the Marcos couple were sure that the Malacañang documents where their signatures appeared had been forged, they would have spoken up and condemned their signatures as forgeries under oath. Like her husband, Imelda asserted the right to remain silent more than 200 times. Her deposition took six hours.

Unprecedented Triumph in New Jersey

On Saturday, September 13, Boni Gillego called to give me a most welcome piece of news — we won the case in New Jersey against the Marcoses, their children and associates. Our lawyers had filed a Motion for Summary Judgment and this was granted. The Superior Court of New Jersey ordered the transfer to the Philippine Government of two residential properties (bought by Marcos and used by the Marcos children) at 2659 Princeton Pike near Princeton University, and the latter's bank account in New Jersey amounting to around P40 million. The total amount was not

substantial but the implication of the decision was quite historic: this was the first time in American history that a dictator of another country was made to realize that he cannot plunder his country's wealth, invest part of the proceeds in the United States and get away with it.

Roberto Benedicto

Atty. Eli Reyes, Benedicto's counsel, called. We met at the Shangrila Hotel. Present were Bobby Benedicto, Eli Reyes and Ador Hizon. I had with me the "Summary of RSB's Admissions & Denials" — his deposits in Swiss Credit (\$20 million); Swiss Banking Corp (\$6 million); Controlling Interest in Traders Royal Bank, and media enterprises, including *Daily Express*, television and radio stations. We had a very frank meeting. But he was not prepared to give a fair and full disclosure. His loyalty to Marcos, his former classmate and fraternity brod in the U.P., was quite obvious. The question has often occurred to me why Bobby Benedicto, whose family had more material wealth and stature than the family of Ferdinand Marcos before the Second World War, allowed himself to be used by the Marcos couple since they came into power following the presidential elections of 1965 — to the great prejudice of the Lopezes, who had been close friends of the Benedicto family.

Marcoses and Cronies *Persona Non Grata* in Switzerland

The next day, November 21, the HK Standard had a news item — "Switzerland declares FM, family and associates *persona non grata*, refuses to accept them."

Antonio Floirendo

We went to the office of Tony Amador, our friend in HK. Tony Floirendo and his brother-in-law, former Minister Rodolfo del Rosario, were already there. Tony was evasive in the beginning; but when confronted with the incriminating evidence, he admitted that the amounts of \$600,000, \$2 million and \$4 million, had been given by him on different occasions to George Hamilton, supposedly as "loans." "*Inutos ni Imelda*" (Order of Imelda), he said. He admitted that some corporations bearing the names of Ancor, Calno, Kuodo and Camelton were his corporations. I told him it would be better for him to make a fair and full disclosure. I gave him my address. He asked for a little more time.

Lawyers and the Concealment of the Ill-Gotten Wealth

I spoke after lunch at the meeting of the Legal Management Council of the Philippines on the "Role of Lawyers in the Concealment of the Ill-gotten Wealth," the thesis of which was that the Marcoses and their cronies could not have accumulated so much ill-gotten wealth, without the knowing participation of lawyers who did not give any importance to the moral and ethical implications of their acts, especially in a poor country like the Philippines. Some of my friends in the legal profession, a good number of whom had obtained their law degrees in the U.P., must have felt the sting of my speech.

New Year 1987

As we waited for the end of an eventful year, I tried to shrug off my deep disappointment with President Cory for not taking seriously my repeated recommendation for her to cancel the authority she had given to Mike de Guzman and Joe Almonte to recover part of the Marcos' bank deposits in Switzerland. It was bad enough for her to bypass the PCGG, her own creation, but for her to expose the whole Government to the risk of possible upheaval due to an inept decision made it quite difficult for me to enjoy this one season of grace. I was torn between the desire, on the one hand, to do my very best for the Commission in the coming days, and my dismay, on the other, at the seeming unwillingness of the president to realize the far-reaching consequences of her decision. But Luis Ascalon, I told myself, could be right about Cory now. Lydia and I prayed for guidance and went to sleep.

[Jose "Peping" Cojuangco, President Aquino's brother was behind this operation. De Guzman had earlier made a deal with the Marcoses in Honolulu to transfer the deposits to de Guzman's bank in Vienna. But Switzerland had frozen the Marcos deposits, and Marcos disauthorized de Guzman.]

Closure of the *Daily Express*

I recall that Bobby Benedicto's representatives on the Board, including Atty. Eli Reyes, a partner in the Enrile law office, were the ones who wanted *Daily Express* to cease operating due to the fact that it was no longer viable. Hence, on the initiative and at the insistence of Bobby Benedicto himself and his own representatives, *Daily Express* was closed and its assets

had to be sold. Curiously, we in the PCGG were hit by several columnists, including a friend, Mr. Renato Constantino, for allegedly violating the "freedom of the press." A suit was even filed in the Supreme Court against our Commission. But as the facts show that the closure of the paper was an economic decision by Benedicto himself and his representatives, the suit was promptly dismissed. The inclination of some zealous guardians of the right to a free press to deplore alleged violations of the constitutional guaranty of free press, without first verifying the facts, baffled and saddened me.

Rolly Gapud, Marcos' Executor

The next day (January 13, 1987), I left for Hongkong accompanied by Ador Hizon, for the purpose of getting a very important statement from Mr. Rolando Gapud, Marcos' financial consultant and executor.

Mr. Gapud agreed to give a detailed statement on his role and activities and on the various holdings of the Marcoses, their associates and cronies. I brought up some points, which he helped clarify.

At five a.m. of Jan. 14, I began checking my notes and typing in my hotel room the affidavit of Gapud, based on what we had agreed the night before. After breakfast at 7 o'clock with Ador, I worked the whole morning in the privacy of my room. At 12 noon, as agreed, Angel Cruz and Rolly Gapud came. The latter suggested a few minor corrections which I adopted and at two o'clock in the afternoon, we finished his eight-page formal statement.

Introduced by JY Campos to Marcos in 1973-74, Gapud said he had been inaccurately described as "a financial adviser of Marcos"; in truth he was the financial executor, not the financial adviser, of Marcos. He wanted us to note the distinction: he merely carried out the wishes of the former president, he did not offer advice or give his counsel. He had been asked by Marcos to audit companies under the supervision and ownership of the following: Pablo Roman (Republic Bank, etc.) Roberto Sabido, Frankie Teodoro, Luis Yulo, Trinidad Enriquez (Sulo Group, Puerto Azul, Silahis, Phil. Village Hotel) and General Eulogio Balao.

He submitted to PCGG, through Commissioner Raul Daza, a brief description of the businesses of the associates and relatives of Marcos, (Annex "A" of his statement), which mentions the following: G. Araneta, Campos, Cojuangco (the major companies under Danding Cojuangco are

San Miguel Corp., Cocobank, Unicom, UCPL Assurance Corp; the persons with more intimate knowledge are Atty. Jose Concepcion, Narciso Pineda, Danilo Ursua, and Jesus Pineda, Jr.) R.M. Cuenca, Benedicto, Lucio Tan, Floirendo, Sabido, Luis Yulo, Raymundo Feliciano, G. Tanseco, Enriquez/Panlilio, Nieto, Tantoco, Roman, Disini, Alfonso Lim, Menzi/Yap, R. Nubla, Romualdez, M. Elizalde, H. Poblador, Ilusorio, E. Balao, A. Fonacier, F.R. Cuevas, Anthony Lee, Ismael Mathay, Jr. and J. Marcelo, Jr.

In 1980, Gapud became the President and Chief Executive Officer of the Security Bank and Trust Co. Instructions came to him either through Ms. Fe R. Gimenez or given to him directly by FM or IRM, after being asked by Mrs. Gimenez to go to Malacañang.

He gave a detailed discussion of the relations between Lucio Tan and Marcos, *Bulletin Today*, Ralph Nubla but in smaller amounts, Philcomsat, Oriental Petroleum, Balabac Oil, and other sources of illegal funds.

“As far as I can remember,” declared Rolly Gapud, “there was only one instance of what I can describe as a legitimate earning of Mr. Marcos, namely, the retirement benefits of Mr. Marcos coming from the Government Service Insurance System (GSIS), but this was a very small, insignificant amount — around P100,000 — or the equivalent of about \$5,000 which was given to him, through the Security Bank, when he reached the age of 65.

“Also, Security Bank used to receive wire transfers from many sources abroad, involving enormous sums of money, which were credited to the trust accounts and savings accounts of Mr. Marcos.”

“On the basis of my own personal knowledge, Mr. Marcos acquired controlling interest of at least 51% in the SBTC, through Master Assets, Gainful Assets, and other nominees, after which, as his financial executor, I began establishing numbered accounts at SBTC to enable Mr. Marcos to move his gains from the above-mentioned sources to offshore investments, and also to facilitate his banking transactions within the Philippines.”

At this point, Gapud revealed how he arranged for the acquisition of Marcos' controlling interest in the Bank by negotiating with the group of Mr. Ramon Sy, Philip Ang and Dewey Dee. It was Jose Yao Campos who had to buy their shares, through Gapud.

The Statement enumerates Marcos' trust accounts (all beginning with Numbers 77) which were opened in November 1980, per instructions of Marcos. It cites Marcos' three Savings accounts (beginning with numbers

27) which were opened in December 1985 or January 1986, as recounted by Evelyn Singson. "I was the one who ordered them to be opened, for the benefit of Mr. Marcos. The aggregate balances were approximately P250 million." According to the Statement, "the trust accounts of Mr. Marcos... were run on a very confidential basis, and except for me, no one in the bank knows to whom they belong or where the disbursements go or in whose favor they were made." There were very heavy withdrawals during the election period (1985-1986) and subject to verification of records in the SBTC, "said withdrawals amounted to hundreds of millions of pesos." Gapud's statement specifically refers to the New York properties, the corporate devices resorted to and carried out by the Bernsteins and Gliceria Tantoco, who made use of the Netherlands Antilles corporations "whose shareholders are Panamanian companies," up to the February 1986 Revolution; "the bearer shares were in the hands of Mrs. Gliceria Tantoco, the front and agent of Mr. and Mrs. Marcos."

Marcos' Terms for Reconciliation with RP Government

I received an urgent message from Mr. Rafael Fernando, our PCGG Executive Director in the U.S., on March 3, 1987 saying that the ousted dictator would like to see me personally for a compromise settlement, as relayed to him by Dr. Rolando Atiga, one of the physicians of former President Marcos. I advised Paeng Fernando to immediately proceed to Honolulu and find out from Marcos whether he was in earnest about a just compromise settlement. If so, I told Paeng, "the first requisite is for FM to make a fair and full disclosure of his assets." I would be ready to quit the senatorial campaign altogether, which would begin on March 9, if the answer was yes. I would be ready to fly to Hawaii and see Marcos right away. I had known Marcos even before my candidacy for Congress in 1961. Over the years, I got to know him better, both as a politician and as a fellow human being. We had talked about politics and played golf a number of times. I prayed for him when I was imprisoned in 1980.

A little later, I received the Report of Paeng Fernando on his trip to Honolulu, accompanied by Dr. Atiga, who described himself "as one of those in the Marcos camp who realize that the fight is now over and it is time to reconcile with Mrs. Aquino."

According to the verbatim Report of Paeng Fernando:

"Atiga introduced me as the PCGG Executive Director for the U.S.

and as such had the authority to come and talk with him. FM asked me if I will report directly to Madame Cory; my answer was my reporting relationship is with my direct superior, Minister Salonga, who I believe will report this meeting with him (Marcos) to Pres. Aquino. FM was cordial and we exchanged amenities.

"I then told FM I did not come with anything but a pair of ears to listen to what he had to say and to convey the same as faithfully as possible to Minister Salonga and Pres. Aquino. He then said he was apprehensive of Salonga because he heard he is vindictive because of what happened to him at Plaza Miranda, and claimed that Victor Corpus already pointed to the real perpetrators. I said that his information is wrong, that Mr. Salonga has long forgiven those who committed the crime and that he will find Salonga very fair and reasonable.

"Atiga switched the subject to reconciliation and said the atmosphere seems to favor a possible meeting of the minds. I said that Manila's definition of reconciliation with justice begins with a fair and full disclosure of assets. FM then laughed and said he could not possibly give a full disclosure because that would be tantamount to admitting guilt when he is not guilty of any wrongdoing. He said there could not be any talk of compromise arrangements similar to (Jose Yao) Campos but what he really wants is a one-to-one meeting with President Aquino. He was also concerned that even with a settlement, it would be without prejudice and the government could pick up the cases again.

"The main points of his wide-ranging comments and views on reconciliation are:

1. No full disclosure; no talk of compromise settlement.
2. Steps to reconciliation would call for — (a) Withdrawal of all cases now on appeal before US courts; (b) Withdrawal of the RICO cases; (c) RP working to dismiss the Greenberg Grand Jury, on the ground that the GAO Report has already cleared them of irregularities; (d) RP working for the dropping of cases in Geneva since there is no criminal case. (He said the William Saunders/Jane Ryan and other documents alleged to have been taken from Malacañang are "forgeries").
3. After all the above items have been attended to, the following steps should be taken:
 - a. Arrange for FM to go to the Philippines to defend himself in court. The BASECO subpoena which he claims was served on him recently could

be the legal basis for his return. Stated that this would be favorable to Pres. Aquino as a recognition of every Filipino's right to go home and as a demonstration of her policy of generosity to her former enemies. He then stated that this will meet with opposition by Pres. Aquino's own people like Joker Arroyo.

b. In the Philippines, have a one-on-one talk with Pres. Aquino; decide what role he could play to help the government achieve unity and fight the communists. Must be given personal protection. Could stay in Manila or Fort Bonifacio, where he could be under surveillance of the government to assure them that he is not doing anything to undermine or destabilize the government.

c. Stop general harassment and drop cases/sequestration of alleged cronies' properties.

d. Delay March 8 deadline for filing of candidacies for Congress and postpone congressional elections to a later date, since the planned elections will lead to bloodshed particularly from the communists; suggested he must go home before the elections. Top priority for him.

(At this point, IRM [Mrs. Marcos] came into the study and joined in the conversation, starting off with "*Maawa naman kayo sa mga anak at mga apo ko* — this existence is worse than death" but FM cut her short and told her — "Mommy, this is not the time.")

e. Determine what is the ultimate solution, i.e., what happens to FM over the long term.

FM then went on repeating himself, even commenting on Rafael Salas' death, saying Salas claimed a lot of successes which were not really his own. I then said we would like to be excused and go to our hotel since he was already tired. We agreed that we will not make any public pronouncements about this meeting.

Then Paeng Fernando enclosed his Report on Imelda's visit of March 3, 1987.xxx

After I received this report from Rafael Fernando, I realized that what the Marcoses wanted, after their attempted coup in January, 1987, to thwart the holding of the plebiscite on February 2 had been foiled, was "reconciliation" without any attempt to come to terms with the enormity of the wrongs they had committed while in power. What was important for them was to save face, not to lose it. The idea of telling the truth for the sake of justice and mercy seemed alien to them. Marcos' desire to defer the first

post-EDSA congressional and local elections was a serious misreading of the situation and was in line with his wish to try to achieve what they could not accomplish with their clumsy coup of January 27. I concluded that there was no point in entering into any so-called reconciliation talks with Marcos.

The Marcos Swiss Deposits

On December 10, 1997 the Swiss Federal Supreme Court held in a landmark decision that the Marcos Swiss deposits had an "illegal provenance" and since they had been "criminally-acquired," the total amount of \$570 million, which included interest earnings at the time, could be transferred to the Philippines (PNB) in escrow to await judgment of the Sandiganbayan. The whole amount at the time of this writing is now more than \$630 million (as of May 2000).

On the Recovery of the Ill-Gotten Wealth in the Philippines

(1) Shortly after the assumption of the presidency by Ms. Corazon C. Aquino, PCGG filed the first anti-racketeering suit in Texas against the Marcoses and a major crony, Jose Yao Campos, who was then residing in Vancouver. As a result of the filing of the suit, Campos, who was reportedly ailing, informed us of his desire to enter into a Compromise Settlement. We imposed two conditions: (a) a fair and full disclosure of his connections with the Marcoses and the ill-gotten assets in his possession; (b) full restitution of all the properties held by him or entrusted to him by Marcos. After our verification of his disclosure, he delivered to the PCGG the cash amount of P250 million pesos and surrendered 197 certificates of title covering vast tracts of land in Metro Manila, Rizal, Laguna, Cavite, Bataan and Baguio City — amounting to many billions of pesos, some of which are still undisposed of by the Government today. The lands in Laguna province (202 IRC titles, with a total area of 13,997,529 sq. meters) were transferred to the Department of Agrarian Reform, for the benefit of the small farmers. In addition, Campos also surrendered certificates of stock in 27 corporations, likewise amounting to many billions of pesos. The Compromise Agreement was approved by President Aquino in May 1986 and was upheld by the Supreme Court in Republic of the Philippines and Jose D. Campos, Jr. v. Sandiganbayan, GR No. 84895, May 4, 1989.

(2) According to the records of the PCGG, most of the known proper-

ties of the Marcoses, their cronies and associates which they had left behind when they fled to Hawaii on February 25, 1986, were sequestered by the PCGG on the basis of prima facie evidence of their illegal acquisition. As of January 14, 1987 — almost two months before I resigned from the PCGG — the latter, according to the records of the Commission, had issued sequestration orders involving or affecting 260 companies, owned directly or indirectly by the Marcoses, through their cronies and associates.

Chief Justice Teehankee on PCGG under Salonga

In *PCGG v. Peña*, Chief Justice Teehankee made the following unsolicited observation:

“Despite all the complexities and difficulties, the original Commission created under Executive Order 1 headed by its first chairman, now Senate President Jovito R. Salonga, and composed of Hon. Ramon Diaz, the incumbent chairman, now Associate Justice Pedro L. Yap of this Court, Hon. Raul Daza, now a ranking member of the House of Representatives, and Hon. Mary Concepcion Bautista, now chairman of the Human Rights Commission, and the present Commission headed by Chairman Ramon Diaz have produced unprecedented positive results for which they fully deserve the inadequately expressed (at times) appreciation and gratitude of the entire nation.”

Government Code of Conduct and Ethical Standards (RA 6713)

After the elections of 1987, Congress convened. One of the first measures I filed in the Senate, in the form of a bill, was the Ethical Standards Act, which was immediately referred to the Committee on Ethics, headed by Senator Rene A. V. Saguisag, a co-author and sponsor of the measure. In its final form, as approved by both houses of Congress, it was renamed the Code of Conduct and Ethical Standards for Public Officials and Employees (RA 6713).

The policy of the Code is to promote a high standard of ethics in public service. Because of the ambiguity of the term “conflict of interest” found in the Constitution, the Code specifically prohibits certain acts and transactions of public officials and employees.

Plunder Defined: The Anti-Plunder Act (RA 7080)

I also authored S. No. 733, the Anti-Plunder Act, which became RA

7080. It was co-authored by five senators and sponsored by Senator Wigberto Tañada, as Chairman of the Committee on Revision of Codes and Laws. What impelled me to file the measure was the fact that plunder or wholesale larceny and pillage was not punished in our statute books. The crimes of malversation of public funds, falsification, theft, extortion, and bribery under the Revised Penal Code were clearly inadequate to cope with the magnitude of corruption and thievery which we in the PCGG had uncovered during the Marcos years. The government found it necessary to file around 80 separate complaints against the Marcoses and their co-conspirators, for various offenses. For that reason, the overall conspiracy had to be cut up into simple criminal charges as required under the law.

Under Section 2 of the Anti-Plunder Act, "any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts in the aggregate or total amount of at least Seventy-five million pesos (P75,000,000) shall be guilty of the crime of plunder and shall be punished by life imprisonment with perpetual absolute disqualification from holding any public office. Any person who participated with the said public officer in the commission of plunder shall likewise be punished. The court shall declare any and all ill-gotten wealth forfeited in favor of the State."

In line with the 1987 Constitution, Section 6 provides that the crime of plunder shall prescribe in 20 years but "the right of the State to recover property unlawfully acquired by public officers from them or from their nominees or transferees shall not be barred by prescription, laches, or estoppel."

The Death Penalty Law (RA 6579) enacted in 1993 reduced the amount from P75 million to P50 million and increased the penalty from life imprisonment to death.

The Secret Marcos-PCGG Compromise in 1993

When the secret Marcos-PCGG compromise deal of December 28, 1993 came to light with the filing in the Sandiganbayan by a Marcos lawyer of a petition for its approval on April 5, 1995, I took the opportunity to make a point-by-point analysis of the provisions of the agreement in a Commencement Speech I delivered before the graduates of the U.P. College

of Law on April 19, 1995. Due to its indefensible defects, I predicted that “any deal with the Marcoses, for the purpose of dividing the loot in exchange for dropping all the criminal cases against them, will probably be declared void by the Supreme Court for being contrary to law, morals, and public policy.” That prediction came true more than four years later. On December 9, 1998, the Supreme Court declared the compromise agreement null and void. In any case, I made a constructive proposal in my 1995 U.P. speech, which has become even more relevant in light of the said Supreme Court decision and the repeated attempts of President Estrada and the Marcos family to strike a deal, however unacceptable it may be to many thinking people who have not lost their moral sense.

In my constructive proposal, which I now paraphrase in view of current developments, the following points were made:

(1) that both sides — the Marcoses and the Government — would do well not to enter into any compromise. It would deprive the Marcos family of the rare chance to lawfully assert and prove their innocence on the merits, if only to refute the widespread belief, made popular by the Guinness Book of Records, that former President Marcos was “the biggest thief in the world.”

On the side of Government, which made very serious charges against the Marcoses, there should be no compromise. There are two things that a Government cannot compromise without damaging itself beyond repair — truth and justice. Any attempt at reconciliation and unity, without resolving the question of responsibility for the plunder of the nation’s wealth, would betray all that EDSA means and all the sacrifices of our martyrs and heroes during the Marcos years. Our high officials need to be reminded that violations of the Anti-Graft Law, malversation, falsification, extortion and bribery, are not subject to compromise.

(2) The excuse that the defendants are well-funded and that their lawyers are smarter than Government lawyers, a good number of whom supposedly come to court ill-equipped, ill-prepared, and ill-motivated, even if true in some cases, is a brazen insult and, even if partly true, should not remain unchallenged. The Government has much more resources and many able lawyers of probity in the OSG and in various agencies whose services it can harness. If necessary, it can always tap the services of lawyers in the private sector who are known for their unimpeachable competence, integrity, and dedication.

(3) A special team of the ablest prosecutors available should be formed to concentrate on the cases — and only on the cases — of the Marcoses and the Romualdezes. After so much delay, all efforts should now be exerted to steer these cases to a definitive conclusion, one way or the other.

Even if this should take a long time, one point bears repeating: there are certain fundamental questions of right and wrong, including the crucial question of responsibility for the plunder of the nation's wealth, that must be resolved by our people, no matter how long and how much it takes. These questions and their resolution define who we are as a people — our essential character, our integrity, our tenacity and courage, and our sense of right and wrong.

Accomplishments of the PCGG under Chairman Salonga (February 28, 1986-March 9, 1987)

[These are too important to summarize here. The reader is referred to Chapter XVI.]

Delay in the Sale of the New York Buildings

In the midst of his many problems in the PCGG, Chairman Diaz came to my Senate office asking me to kindly persuade President Aquino to agree to the immediate sale of the Manhattan buildings for around \$70 to \$80 million, net to the Philippine Government, as strongly recommended by our New York lawyers. Otherwise, the mortgage creditors might succeed in their desire to sell the four buildings at public auction and, if that should happen, very little would be left to the Government.xxx

For some reason I cannot understand, no action was taken by the Office of the President on the urgent request of Chairman Diaz. Later, during the time of PCGG Chairmen Caparas (1989-1990) and his successor, David Castro (1990-1992), the District Court of New York, already annoyed by the inexplicable delay in the handling of the reconveyance case against the Marcoses in the Sandiganbayan, disapproved the PCGG contract with a prospective buyer (the Morris-Bailey group), as a result of which creditor banks were able to foreclose the Manhattan properties. The bank loans had to be paid first, and the Philippines, according to Chairman Castro's Report, only received \$5 million. What a waste of effort, time and money! I felt very sad, having spent so much time preparing for PCGG's first case in New York.

Managing the Sequestered Companies

It was my belief, even during my time when this secondary function was becoming a problem, that another agency, with the proper managerial expertise and personnel, should have been created by the Office of the President for this purpose. But nothing of that sort was done. Fiscal agents and persons appointed as directors for sequestered firms, including some PCGG commissioners after my resignation as chairman, found this secondary function more to their liking. And whoever was president was apparently tempted to take advantage of this defect for their own purposes. Many of President Estrada's appointees as directors of corporations affected by sequestration orders are better known for their kinship or for other skills. Some are obviously tainted by what the Constitution and the Code of Conduct and Ethical Standards for Public Officers and Employees (RA 6713) describe as "conflict of interest."

Chairman Diaz vs. Solicitor General Chavez

In any case, a controversy was the last thing PCGG Chairman Diaz and Solicitor General Francisco Chavez needed at the time. But both were strong-willed and one misunderstanding led to another until a full-blown controversy led to bitter accusations and counter-accusations which rocked the PCGG from which it has not fully recovered.

PCGG during the Ramos Administration

This brings us to the recovery of the ill-gotten wealth under the Administration of President Fidel V. Ramos, which began on June 30, 1992 and ended six years later. Shortly after his inauguration, Ramos appointed former Concon delegate Magtanggol Gunigundo as PCGG Chairman, the only one who held that position during the Ramos Administration.

There is a brief summary of the accomplishments of the PCGG during the Ramos Administration, as viewed by Atty. Antonio Carpio, former legal adviser of President Ramos. In his *Manila Times* column of July 16, 1998, entitled "PCGG's Track Record," Carpio wrote, in part:

Based on official government records, the monetary recovery of PCGG from ill-gotten wealth for the period of 1992-1994 alone was P18.886 billion. The amount was physically turned over by the PCGG to the National Treasury. For the same period 1992-1994, the total operation bud-

get of PCGG, inclusive of lawyer's fees, was P222.23 million. The net recovery of PCGG during the short period was a cool P18.643 billion.

In 1995, the PCGG turned over to the National Treasury in cold cash P700 million. In 1996, the PCGG remitted to the National Treasury another P460 million in cash.

What was not mentioned by the former Presidential Legal Counsel was that the bulk of the amounts mentioned came from the properties surrendered to the PCGG by Jose Yao Campos in 1986 and converted into money (or "monetized," as President Ramos termed it) from 1992-1996.

According to Carpio, "in late 1997 and early 1998, the PCGG won its biggest case against the Marcoses when the Swiss Supreme Court ordered the return of US \$570 million in Marcos deposits to the Philippines. At the current rate of P42 to US \$1, this amounts to P23.94 billion." The amount, including interest, is more than \$630 million, as of May 2000.

Be it noted that the claim to the Marcos Swiss deposits was filed by the PCGG and the Solicitor-General in April-May 1986, in accordance with the IMAC, on the basis of the Malacañang documents which came into my possession on March 1, 1986. What was remitted to the Philippines "in escrow" by the Swiss Government as a result of the December 1997 decision of the Swiss Supreme Court is still being litigated in the Sandiganbayan, in the forfeiture suit filed by Solicitor General Francisco Chavez in December 1991, during the last year of the Aquino Administration.

Complete and Real Accomplishment of Ramos Administration

What can be considered a complete and real accomplishment of the Ramos Administration is the "fail-safe strategy" devised by the then Presidential Legal Counsel Antonio Carpio to insure the recovery of the Swiss deposits of the Marcoses in the remote event that the Government loses the forfeiture suit in the Sandiganbayan. The strategy consists in the enforcement by the Bureau of Internal Revenue of the notices of levy against the Marcoses for the payment of 23.47 billion pesos in deficiency income and estate taxes. The deficiency taxes earn 20 percent interest per annum until fully paid. The rationale for the deficiency tax assessment, as explained by former presidential legal counsel Carpio, is that all Marcos assets, whether sequestered by the PCGG, surrendered by cronies, or under litigation abroad, should be subject to back income taxes. Upon the death of Marcos, the

same assets should be subject to estate taxes. In *Marcos v. Court of Appeals*, decided on June 5, 1997, the Supreme Court affirmed the validity of the P23.47 billion tax assessment. On September 29, 1997, the Supreme Court denied the motion for reconsideration filed by the Marcos heirs. Under the Rules of Court, the decision affirming the P23.437 billion tax assessment must be considered final and executory. Unfazed, Ferdinand Marcos, Jr. and his mother filed a second motion for reconsideration. On March 1, 1999, the Supreme Court upheld with finality the P23.437 billion tax assessment against the Marcos estate, even as it defended the Government's seizure of thirty parcels of land owned by the Marcoses to serve as their partial payment for their inheritance tax.

Secret Compromise Agreement

In any case, what stands out as the big blunder of the PCGG, led by Gunigundo, and for which President Ramos might have been impeached, was the secret Compromise Agreement he entered into with the Marcoses on December 28, 1993.

By way of background, in his State of the Nation Address before Congress on July 27, 1993, President Ramos proposed the idea of entering into compromises on the ill-gotten wealth, "subject to guidelines that may be established by Congress." That proposal, which was greeted with approval by many congressmen, triggered the formation of *Kilosbayan*, a cause-oriented group which I helped organize, composed of ministers and lay leaders from various churches. *Kilosbayan* sent an Open Letter to President Ramos, dated August 2, 1993, stating that it was uncompromisingly opposed to his proposal, evidently designed to favor the Marcoses and the Romualdez in the many pending criminal cases against them. None of them, it was pointed out, have shown any sign of contrition or repentance for the offenses they had committed during the Marcos years. "Not only have they repeatedly asserted their innocence — they are apparently proud of what they had done," we in *Kilosbayan* stressed in our Open Letter. In light of this arrogant attitude, we urged President Ramos to work for "speedy justice so that the innocent may be absolved and the guilty may be convicted." In our view, a compromise deal, without contrition and full restitution, would establish a bad precedent. Public officials would be tempted to accept bribes, demand kickbacks or raid the public treasury in the expectation that should they get caught, they could go scot-free by just

splitting their loot with the government. Small-time thieves and crooks, already in jail, could invoke the Marcos precedent and demand their release by simply offering to share their take. No impartial system of justice can thrive under such circumstances. We said that with respect to the Marcos accomplices and accessories, justice may be tempered with mercy in the event they offer to return the ill-gotten wealth and manifest their willingness to testify against the Marcoses and the Romualdezes, the principals in the Anti-Graft cases.

Conviction of Mrs. Marcos and Compromise Deals

On September 24, 1993, Mrs. Imelda Marcos was convicted by the Sandiganbayan for violation of the Anti-Graft Law (RA 3019) and sentenced to a long prison term of 18 to 24 years, for the lease of a valuable property of the Light Rail Transit Authority which had been considered grossly disadvantageous to the Government. She had been a chair of both entities, the lessor and the lessee. In other words, she was on both sides of the transaction — on one side, as a high public official and chairperson of the LTA, a government entity, and on the other side, as the head of the private firm renting the property.

It turned out that after the conviction of Mrs. Marcos, secret negotiations for a compromise deal were conducted by the Marcoses and PCGG Chairman Gunigundo, culminating in a Compromise Agreement signed on December 28, 1993 — only four months after the *Kilosbayan* dialogue with Ramos. The signatories were Mrs. Imelda Marcos and her two children, Imee and Irene, on the one hand, and PCGG Chairman Magtanggol Gunigundo, on the other. Another Compromise Agreement was secretly entered into between Gunigundo and Ferdinand Marcos, Jr. on July 4, 1994, obviously with the knowledge of President Ramos, who had signed a Special Power of Attorney in favor of Gunigundo, also on July 4.

The secret compromise deal came to light on April 5, 1995 with the filing in the Sandiganbayan of a petition for its approval by Atty. Simeon Mesina, a Marcos lawyer and attorney-in-fact.^{xxx}

I said that such an Agreement, which I took up paragraph by paragraph, would “probably be declared void by the Supreme Court for being contrary to law, morals and public policy.” Indeed, on December 9, 1998, the Supreme Court, in the case of *Chavez v. PCGG*, declared that the

December 28, 1993 Compromise deal between PCGG Chairman Gunigundo and the Marcoses was null and void, on at least four grounds:

1. The questioned Agreements grant criminal immunity to the Marcoses. But, said the Court, criminal immunity cannot be granted to the Marcoses, who are the principal defendants in the spate of ill-gotten wealth cases now pending before the Sandiganbayan.

2. The Agreement exempts the properties to be retained by the Marcos heirs from all forms of taxes. This is a clear violation of the Constitution, since the power to tax and to grant tax exemptions is vested in Congress alone (Sec. 28, par.4, Article VI). The PCGG has absolutely no power to grant tax exemptions. Even Congress cannot do so if the Marcos heirs are favored, as this will constitute class legislation, in violation of the rule that "taxation shall be uniform and equitable." (Sec. 28, (1) Art. VI).

3. Under the Agreement, the Government, through the PCGG, binds itself to cause the dismissal of all cases against the Marcos heirs, pending before the Sandiganbayan and other courts. This is a direct encroachment on judicial powers, particularly in regard to criminal jurisdiction. Once a case is filed before a court of competent jurisdiction, the matter of its dismissal or pursuance lies within the full discretion and control of the judge.

4. The Agreement provides that the Government waives all claims and counterclaims, whether past, present, or future, matured or inchoate, against the Marcoses. This all-encompassing stipulation is contrary to law. Under Art. 1171 of the Civil Code, an action for future fraud may not be waived. Moreover, it is a virtual warrant for all public officials to amass public funds illegally, since there is an open option to compromise their liability in exchange only for a portion of their ill-gotten wealth.

In the *Kilosbayan* dialogue with President Ramos and PCGG Chairman Gunigundo, what struck me was the statement of the latter that, because of their resources, the Marcoses and their cronies can hire the best lawyers and prevail in the cases filed against them, implying that Government lawyers were no match to them. Up to now, it is not unusual to read press reports about Sandiganbayan and Supreme Court justices reprimanding Government lawyers and prosecutors because they come to court ill-equipped and ill-prepared. In my U.P. graduation address, I said that as Government lawyers and prosecutors seem to be overworked and ill-prepared, the Ramos Administration would do well to immediately reinforce the prosecution arm of the Government by tapping the services of exem-

plary lawyers of integrity, competence and dedication from the private sector to form a special team of prosecutors which should concentrate on the cases, and only on the cases, against the Marcoses and the Romualdezes. The team should be headed by an experienced lawyer of irreproachable character and idealism. A realistic deadline should be set for the completion of their task.

Unfortunately, the Ramos Administration did not revitalize its prosecution services but entered into the December 28, 1993 flawed compromise deal with the Marcoses.

PCGG under President Estrada; appointment of Chairman de Guzman

Unable to “bury the past” by the simple but absurd expedient of burying the remains of Marcos in the *Libingan ng mga Bayani*, President Joseph Estrada, who was inaugurated on June 30, 1998, began repeating what he had been saying during the presidential campaign — the need for the Government to enter into a compromise settlement with the Marcos family. After all, the new president declared, “nothing had been accomplished by the PCGG,” despite the big amount of attorneys’ fees supposedly paid to foreign lawyers. He repeated his vow — PCGG would be abolished in less than one year. Litigation, he and his aides said, is “fruitless and expensive,” “what is needed is money for the poor.” President Estrada who had praised ignorance as a virtue during his campaign, promptly demonstrated what he meant.

PCGG Chairman de Guzman

Asked by a number of reporters what I thought of these headline stories, I released a press statement which said, in part:

“It appears that the first item on the Estrada agenda is not for the poor and the weak but to return the sequestered ill-gotten wealth to the Marcoses, their cronies and associates. Only last March 23, 1998, the Supreme Court issued an order (TRO) in the case of Chavez v. PCGG, GR 130716, “*enjoining the PCGG, its agents and representatives from entering into or executing any agreement with the heirs of former President Marcos concerning their ill-gotten wealth.*” Apparently, both Executive Secretary Zamora and the new PCGG Chairman are not aware of this obstacle.

“If the present officials of the PCGG cannot carry out the mandate of

the law (E.O. No. 1) to recover the ill-gotten wealth of the Marcoses, their cronies and associates, the least they should do is resign until the PCGG is legally dissolved and a new agency is created by law for the specific purpose of dividing the loot and returning part of the sequestered ill-gotten wealth to the Marcoses, their cronies and associates.”

The *Daily Inquirer* the next day (July 11, 1998) had the following banner headline on its front page: “Deal with Marcoses Illegal, says Salonga.”

I could not understand, I pointed out, why Chairman Felix de Guzman acted as if he was a beggar pleading for the chance to enter into a compromise settlement with the Marcoses. He was perhaps unaware that at the time he assumed the chairmanship of the PCGG in July 1998, both Ms. Imelda Marcos and Congressman Ferdinand “Bongbong” Marcos had been convicted and sentenced to imprisonment, the first for violating the Anti-Graft Law, and the second for tax evasion. On January 29, 1998, the long stiff sentence imposed upon her by the Sandiganbayan in September 1993 was shortened by the Supreme Court to a prison term of 9 to 12 years only and that this was still pending reconsideration in the Supreme Court — which would in a few months (October 6, 1998) acquit her in a very questionable *ponencia* authored by Justice Fidel Purisima for a divided court. As for Ferdinand “Bongbong” Marcos, Jr., he was convicted by the RTC of Quezon City for tax evasion and sentenced on July 27, 1995 to a prison term of three years and twelve months. According to the court’s finding, “Bongbong” Marcos did not file his income tax returns during all the years he was in power in Ilocos Norte during martial law. This case is pending appeal in the Supreme Court.

The Compromise Agreement of December 19, 1998

The parties to the agreement, the full text of which was published in the March 1999 issue of *Kilosbayan Magazine* are the lead counsel for the plaintiffs, Robert Swift, who signed on behalf of the 9,539 human rights claimants, the attorneys for the Marcoses, namely, James Linn and John Bartko, and the Republic of the Philippines, represented by the Chairman of the PCGG.

Under paragraph 1.1 “The Republic wishes to compensate Filipino human, rights claimants from the Escrow, satisfy a condition of the Escrow and facilitate a settlement of this litigation.”

Under paragraph 2.1, “The Republic shall cause Philippine National

Bank to transfer US \$150 million by wire from the Escrow to the Plaintiffs Settlement Fund at a bank to be designated by the Court within 10 days after preliminary approval of this Agreement by the Court.”

Under paragraph 3.5, “Counsel for the plaintiff class shall receive, as compensation for all services performed, a Court award of fees and expenses for work the Court determines to be reasonably necessary and appropriate.”

Under paragraph 5.2, which is probably the most controversial stipulation, “Imelda R. Marcos has never been charged civilly or criminally with a Human Rights violation anywhere in the world including the Philippines, but is released fully by this paragraph. Ferdinand R. Marcos has never been charged civilly or criminally with a Human Rights violation anywhere in the world, including the Philippines, but is released fully by this paragraph. Imee Marcos-Manotoc (with the exception of *Trajano v. Imee Marcos-Manotoc*, HV Civ.) has never been charged civilly or criminally with a Human Rights violation anywhere in the world, including the Philippines, but is released fully by this paragraph, including *Trajano*. Irene Marcos-Araneta has never been charged civilly or criminally with a Human Rights violation anywhere in the world, including the Philippines, but is released fully by this paragraph. The late Ferdinand E. Marcos was never charged with a Human Rights violation civilly or criminally in the Philippines. His estate is released fully by this paragraph.”

Under paragraph 6.3, “The Chairman of the PCGG represents that he is authorized to enter into this Agreement on behalf of the PCGG and the Republic of the Philippines.”

Under paragraph 7.2, “The Republic submits to the jurisdiction of the Court for the sole and limited purpose of effecting this settlement.”xxx

The adverse reaction to the press reports about the controversial provision which states that the Marcoses have “never been charged civilly or criminally anywhere in the world,” was almost unanimous.

Former senator and human rights lawyer Rene Saguisag, in his column, wrote: “In Seattle and Honolulu, they (referring to the Marcoses) were established to be world-class human rights violators... MABINI, which I chair, therefore rejects the claim that the Marcos spouses have never been charged with many human-rights violations, especially because the Marcoses know they had to pay millions of dollars to the families of salvaged victims Silme Domingo and Gene Viernes. Any settlement with the Marcoses

must be an honorable one and should not be as if we would do anything for money.” Rene’s prediction was accurate: “The ‘done deal’ may hardly stand a chance of popular acceptance and judicial approval.”

Sandiganbayan Declares Compromise Illegal

On April 26, 1999, the Solicitor-General, in representation of the PCGG, filed with the Sandiganbayan a Motion for the Approval of the Undertaking. Human rights victims, represented by Atty. Romeo Capulong, filed their Opposition. Former Secretary of Justice Sedfrey Ordoñez and I filed our Opposition as *Amici Curiae*, on behalf of *Kilosbayan* and the human rights victims we represented — the Jopsons, the Yaps and the group of Eduardo Olaguer, well-known political detainees.

Meantime, on April 29, 1999, Judge Manuel Real approved the Compromise Agreement of December 19, 1998, even without the signature of Chairman Elma. Presumably, the Deed of Undertaking submitted by Elma was considered sufficient.

In his State of the Nation Address on July 26, 1999, President Estrada pushed, once again, for a compromise settlement with the Marcoses, saying Filipinos risked getting “nothing from years of litigation” over the Marcos estate. He said: “We can persist in the pursuit of an ideal solution that is likely to lead to nothing or we can settle for a practical solution that can result in something. Twelve years is enough time to know the difference between the ideal and the feasible.” Moral values and principles lead to nothing, Erap might have said, but dividing the loot with the Marcoses is more practical, indeed.

The next day, July 27, 1999, the Sandiganbayan, through Presiding Justice Francis Garchitorena, ruled that the \$150 million Compromise Agreement was illegal. To begin with, said the Presiding Justice, litigation is still ongoing as to whether the \$150 million was indeed ill-gotten. The logic of the PCGG is obviously askew. It contends that the amount is not yet covered by any existing law or regulation, since the government has not yet won the forfeiture case, even if it believes that it forms part of the ill-gotten wealth. “The sum of \$150 million is not covered by existing law,” said Garchitorena, “because it is not yet ‘recovered ill-gotten wealth.’ Then it does not yet belong to the government; if so, it cannot yet seek to dispose of it. So what is the PCGG doing here?” On the other hand, the Government wants to award the victims “what could be money of the Republic;

yet it is disposing of this sum in a manner contrary to what the law provides with respect to recovered ill-gotten wealth, namely, for the funding of the Comprehensive Agrarian Reform.” Furthermore, the resolution penned by the Presiding Justice and concurred in by Associate Justices Catalino Castañeda and Gregory Ong — cited a bigger obstacle: “the Republic cannot compensate its own citizens for the grave injury done to them, and then release from any liability the one or the ones liable for that grave injury.” The Sandiganbayan said that the settlement amount was only about 7.5 percent of the \$2 billion in total damages awarded by the Hawaii court, and that about \$40 million of the \$150 million would be deducted as lawyers’ fees. The court noted that “none of the Marcoses is living in any demonstrable degree of poverty,” and that there was no evidence that they did not have funds to satisfy the \$2 billion award.

I read the ably-written Resolution very closely and concluded there was no way the Estrada Government can have it reversed — whether in the Supreme Court or in the court of public opinion.

Amount of total recoveries of the PCGG from February 28, 1986 to May 2000 — P83.13 billion or almost U.S.\$2 billion

Here is a brief summary of how much was recovered by the PCGG from the Marcos ill-gotten wealth as of May 31, 2000, on the basis of the data sent to the author on June 7, 2000 by PCGG Chairman Magdangal Elma and Commissioner Jorge V. Sarmiento, following my visit with them in their offices:

I. Total Cash Recoveries, including cash remitted to the Comprehensive Agrarian Reform Program (CARP)	P25,744,902,839
II. Estimated value of Surrendered Assets not yet converted into cash	29,856,439,860
III. Estimated value of surrendered agricultural lands turned over to the Department of Agrarian Reform (DAR)	
a. J.Y. Campos (IRC) Property 1,650 hectares@P85,000 a hectare	140,250,000
b. Busali Farm and Benedicto Property	

1,996 hectares@P45,000 a hectare	<u>89,820,000</u>
Recoveries in Philippine pesos	55,831,412,699
IV. Escrow account of Marcos Swiss Deposits (Estimated value as of May 31, 2000)	\$630,000,000
V. Other escrow crony accounts:	
a. Romuladez, Benjamin/Juliet	4,796,732
b. Roman Cruz	309,214
c. Geronimo Velasco	7,000,000
d. Herminio Disini	1,000,000
e. Ignacio/Fe Gimenez	<u>7,000,000</u>
Recoveries in U.S. dollars	\$650,105,946
Equivalent in Philippine pesos (P42=\$1)	<u>27,304,444,973</u>
GRAND TOTAL AS OF MAY 31, 2000	P83,135,857,672
	(or almost U.S.\$2billion)
EXPENSES FROM MARCH 1986 TO MAY 2000	P688,680,000

This amount, P83.13 billion, which is not insignificant, does not include the Marcos wealth claimed by Mrs. Imelda Marcos in her "bombshell" revelations, as published in the *Philippine Daily Inquirer* issues of December 5,6,7,8 and 9, 1988. She said her husband had entrusted their wealth to their "trustees," among them, Lucio Tan, Eduardo "Danding" Cojuangco, the late Ramon Cojuangco and his son, Antonio "Tony Boy" Cojuangco, Imelda Cojuangco, Herminio Disini, Rolando Gapud, Jose Yao Campos, Roberto Benedicto, and many others. By her own account, these trustees were merely holding the "sequestered properties" for and in the name of her husband, Ferdinand E. Marcos. Among the corporations supposedly belonging to the Marcoses are the biggest companies in the country, such as the Philippine Long Distance Telephone, San Miguel Corporation, Philippine Airlines, Fortune Tobacco, Allied Banking, United Coconut Planters Bank, Meralco, *Manila Bulletin*, and many others.

PCGG records show that as of January 14, 1987, virtually all of the wealth claimed by Mrs. Marcos, allegedly amounting to around 500 billion pesos, had been sequestered during my one-year assignment, subject to final judicial determination of their ownership.

Benjamin “Kokoy” Romualdez

In the meantime, two recent events are worth noting. One is the return on April 27, 2000 of former Governor and Ambassador Benjamin “Kokoy” Romualdez, who fled with the Marcoses on February 25, 1986. There are 27 criminal and civil cases filed by the PCGG which are now pending against him — 24 criminal cases filed with the Ombudsman and 3 civil cases filed with the Sandiganbayan, including a P102-billion civil suit arising from allegations that he illegally acquired shares of stock from major companies such as Meralco, Philippine Journalists, Inc., Mantrusco and its affiliates, Benguet Consolidated Mining, PCI Bank, Philippines Shell Corp., Aviles Realty Company, Trans-Middle East Philippine Equities, Inc., and Universal Broadcasting Corporation. Among other things, Romualdez is known to have engineered the Marcos-Romualdez takeover of Meralco from the late Eugenio Lopez, Sr., who was abroad when martial law was declared. The latter’s son, Eugenio “Geny” Lopez, Jr., was arrested and detained in October 1972 together with Serge Osmeña III — the son of presidential candidate Serging Osmeña — supposedly for alleged complicity in a plot to assassinate Marcos. No one who knew Geny Lopez believed the charge against him.

Meeting with Kokoy Romualdez in Honolulu, Eugenio Lopez, Sr. sold and transferred the family’s shareholdings in Meralco for a ridiculous down payment of \$1,500, on the alleged assurance that his son would be released. The takeover of Meralco, worth around \$400 million at the time, “remains unprecedented” — in the words of one account — “in the history of the Marcos-Romualdez plunder.” After the death of his old man, Geny Lopez and his companion Serge Osmeña (who later became a senator) carried out a daring escape from Fort Bonifacio in September 1977. In spite of his meager qualifications, Leyte Governor Benjamin Romualdez was appointed Ambassador to Beijing, then to Washington, D.C. Under martial rule, he controlled such periodicals as *Times Journal*, *Times-Mirror* and *People’s Journal*. Shortly after Kokoy’s arrival, Ombudsman Aniano Desierto said he would personally prosecute the behest loan cases against former Governor and Ambassador Benjamin Romualdez, who mayrun for Mayor of Tacloban in the 2001 elections.

Roberto “Bobby” Benedicto

Unlike Romualdez whose arrival was a surprise, the local media had

been publishing news stories about former Ambassador Roberto "Bobby" Benedicto, the former sugar czar, who had been ailing for sometime. He expired last May 15, 2000 in a medical center in Bacolod City, Occidental Negros. He was a very close friend and a loyal ally of Marcos, his U.P. classmate and fraternity brother. Unlike Romualdez, he made an effort to atone for what he did during the Marcos years. But like Romualdez, he benefited from the dismantling and partitioning of the Lopez business empire during martial rule.

In my second meeting with Benedicto in Hongkong in mid-December 1986, he surrendered to the PCGG the control of the radio-TV stations owned by ABS-CBN whose facilities he took over after the declaration of martial law. During our meeting, Bobby Benedicto expressed the desire to close the *Daily Express*, which had been losing heavily since the EDSA event. But despite my prodding and the many incriminating documents against him and Marcos, Benedicto refused to talk to me about the California Overseas Bank, which was in fact owned and controlled by Marcos. Now, in a masterpiece of irony, the Marcos estate reportedly sued the ailing Benedicto a day before his death for turning over his wealth to the Government. Marcos' youngest daughter, Ms. Irene Marcos-Araneta was quoted as having said: "What Benedicto gave to the Government were assets that belonged to the Marcoses." Thus, the daughter has followed the footsteps of her mother who filed a claim in 1999 against the PLDT shares held by the late Ramon Cojuangco and Imelda Cojuangco, maintaining that these shares really belonged to the Marcoses, not to the trustees or cronies of the former president. It remains to be seen whether the Marcoses will go after Lucio Tan and Eduardo "Danding" Cojuangco, as Ms. Imelda Marcos threatened to do when she exposed them in her "bombshell" revelations of December 1998 as mere trustees of her deceased husband.

Marcoses vs. Their Former Cronies and Associates

The conflict between the Marcoses and their former cronies promises to be bloody. Let us hope that this internecine feud will eventually lead to the whole truth about the plunder of the nation's wealth. The evidence based on the income tax returns of the Marcoses from 1949 to 1984 shows that their total lawful income was only 16.4 million pesos. How former President Marcos was able to amass so much wealth, which may amount to around five to ten billion dollars must be explained. Recovering the ill-

gotten wealth is the task of the PCGG, with the valuable assistance of prosecutors and lawyers.

Final Judgment on Forfeiture

Last March 2000, Solicitor-General Ricardo Galvez filed a Motion for Summary Judgment with the Sandiganbayan, in the desire to bring the forfeiture suit, which has been pending there since December 1991, to a decisive end. The formal offer of evidence, consisting of voluminous exhibits, had been made some four years ago, according to former Solicitor-General Francisco Chavez. He should know — it was he who filed the forfeiture proceedings after receiving the incriminating documents from the Swiss authorities. The Swiss Federal Supreme Court has already decided in the landmark case of December 10, 1997 that the Marcos Swiss deposits had been “criminally-acquired” and had an “illegal provenance.” Under Swiss law and Philippine law, it is the Philippine courts that will render the final judgment since the Philippines is the place where the offenses were committed. According to the Swiss Supreme Court decision, there is no need for a final judgment against Marcos in a criminal case; even a judgment in favor of the Republic in a civil case will be sufficient, as long as the requirements of due process are observed. Whatever the decision of the Sandiganbayan on the forfeiture suit may be, it will surely be appealed to the Supreme Court.

The forfeiture suit is only one case, however. There are many other cases against the Marcoses, the Romualdezes, and their many associates and cronies. The infighting that has already started between the Marcoses and their former associates and cronies will not only test the loyalty of the president to his favored friends, a number of whom are at war with the Marcoses — it will also test the mettle of PCGG Chairman Elma. As the President’s legal adviser, who reportedly aspires to occupy a seat in the Supreme Court, Elma should appear as following the instructions of President Estrada, even when, to quote his own words with respect to the controversial provisions of the \$150 million compromise settlement, they are “dubious, unreasonable and legally untenable.”

President Estrada is about to complete two years of his six-year term on June 30, 2000. If it is premature and unfair to pass final judgment on Joseph Estrada as the country’s president, it may be even more precipitate to make a definitive assessment of Magdangal Elma’s performance since he shall have

completed only a little more than a year and a half as head of the PCGG on June 30, 2000. Despite President Estrada's inclination to favor the Marcoses and some cronies and in spite of Chairman Elma's alleged indifference to the small employee force in the PCGG — a weakness he can easily overcome if he is to energize them by sharing with them his goals and expectations — his showing so far gives us ample reason to expect that the task of recovering the Marcos ill-gotten wealth will move forward, hopefully with a renewed sense of mission. In Chairman Elma's delicate balancing act, he will surely need public support and encouragement, along with our best wishes.

Photographs



Photo taken during the birthday party of then Senator Ferdinand E. Marcos on September 11, 1962. In the middle is Congressman Jovito Salonga flanked by Mrs. Imelda R. Marcos on the left and Senator Marcos on the right.

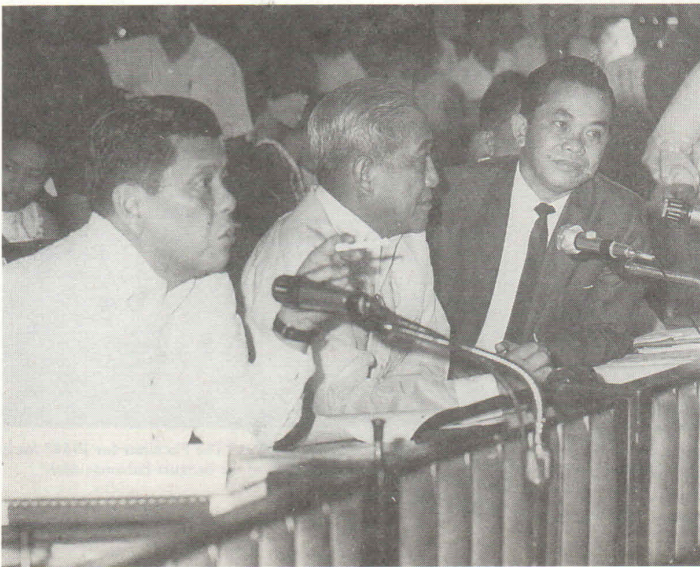


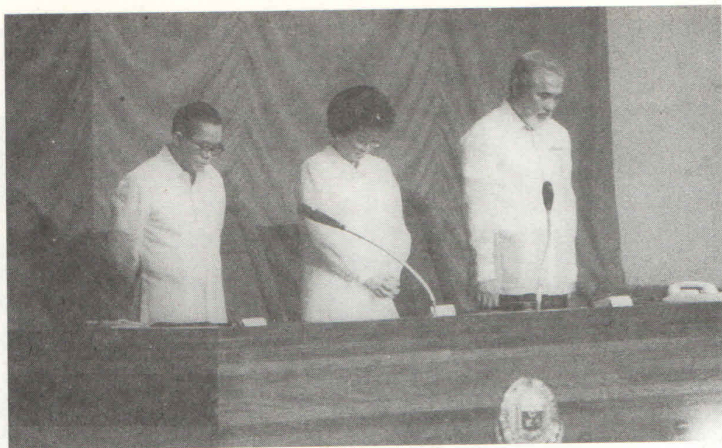
Photo shows Senator Lorenzo M. Tañada, Blue Ribbon Committee Chairman, flanked by Senators Jose W. Diokno and Salonga during the Blue Ribbon Committee investigation of the Benguet-Bahamas Deal, which Senator Salonga exposed in 1968. President Marcos and his cronies, known as X, Y and Z (Potenciano Ilusorio, Honorio Poblador and Jose Yao Campos), who owned many shares of stock of Benguet Mining Company, were charged with having manipulated the stock market here and abroad. Campos was the first Marcos crony to enter into a compromise settlement with the PCGG in May 1986.



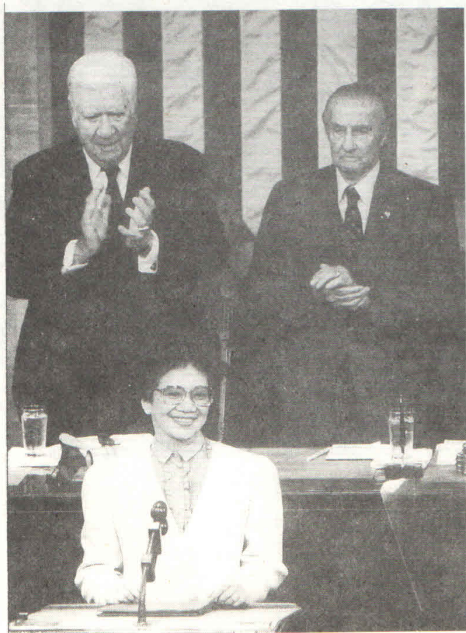
Senator Salonga on the cover of the *Philippines Free Press*, May 25, 1968 as "The Fiscalizer for 1968" for his exposé of the falsified National Economic Council Resolution and, later, of the Benguet-Bahamas deal.



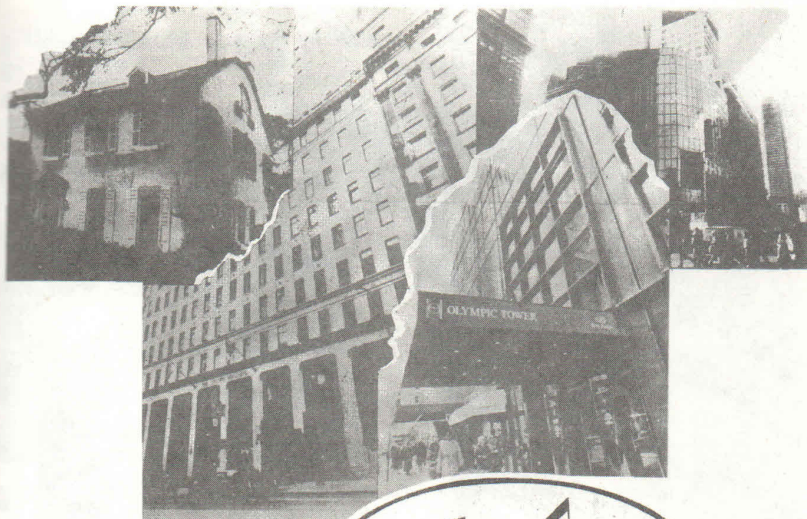
Photo taken during the turnover of Malacañang documents on March 1, 1986 by Mr. Jose and Dr. Lita Reyes to PCGG Chairman J. R. Salonga in the presence of General Fidel V. Ramos, Secretary of Defense Juan Ponce Enrile, Secretary of Finance Jaime V. Ongpin and PCGG Commissioner Pedro L. Yap. Photo taken by Col. Gregorio Honasan.



Joint Session of the Senate and House of the Representatives, July 27, 1987. In the middle is President Corazon C. Aquino before delivering her State of the Nation Address. Flanking her are Senate President Jovito R. Salonga on the left and Speaker Ramon V. Mitra on the right.



President Corazon C. Aquino being applauded in the joint session of the U.S. Congress on September 18, 1986, with House Speaker Thomas O'Neill on the left and President Pro-Tempore Strom Thurmond on the right.



SANG PAALAALA MULA SA:

- Asn. of Major Religious Superiors
- AKKAPKA
- AKMA
- ATOM (August Twenty-One Movement)
- AWARE
- BANDILA (Bansang Nagkaisa sa Diwa't Layunin)
- BAYAN (Bagong Alyansang Makabayan)
- BISIG
- BONIFACIO
- Women CWP (Concerned of the Phils.)
- DSKP
- DSUD
- FFW (Federation of Free Workers)
- FIDES
- GABRIELA
- GOMBURZA
- HALAMAN
- JESUIT VOLUNTEERS PHILS.
- KAKAMPI
- KALASAG
- KASAMA
- KASAPI
- KATIPUNAN
- KMK-PUP
- LMLC
- LMP



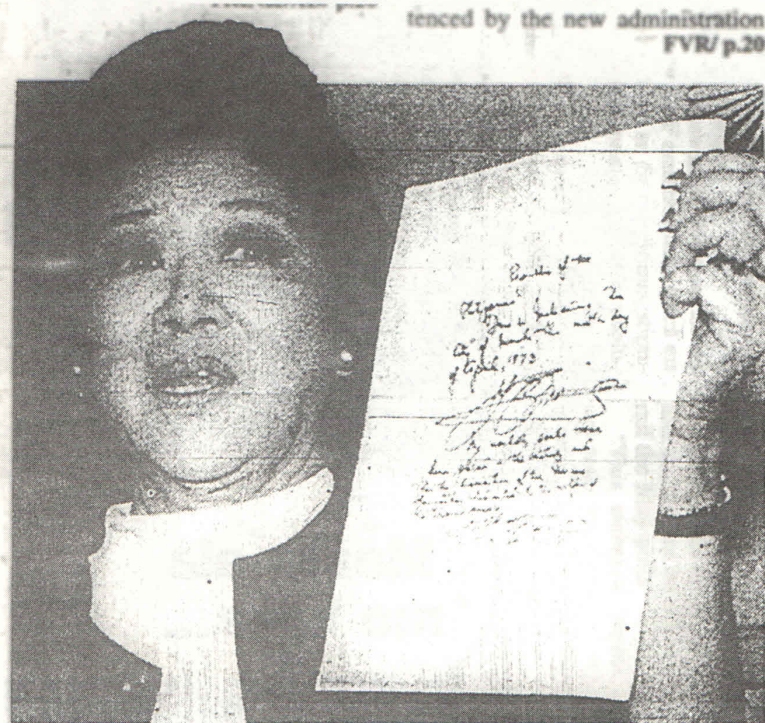
- MABINI
- MANINDIGAN
- MARIA
- NAGMANA
- National Coalition for Transparency
- NUCD
- PAKISAMA
- PAKSA-LUPA
- PANDAYAN
- PDP-MAKATI
- PDSP (Phil. Democratic Socialist Party)
- SAMAKA
- SANDATA
- SELDA
- SEPTEMBER 8 MOVEMENT
- SMA
- SPM
- SPIRIT OF MENDIOLA
- STC
- SUMAPI
- TABAK (Taong-Bayan sa Katarungan)
- TAMASA
- TERESANG MAKABAYAN
- TAMBULI
- WIN (Women in Nation-building)

NAKAW NA YAMAN, IBALIK SA BAYAN! MAMAMAYANG PINASLANG, BIGYANG KATARUNGAN!

*Caption: NAKAW NA YAMAN, IBALIK SA BAYAN! MAMAMAYANG PINASLANG, BIGYANG KATARUNGAN!
(Return to the people your stolen wealth! Give justice to the executed victims!)*

Reproduction of a "Reminder" from 51 civic and religious organizations published in the *Philippine Daily Inquirer*, November 25, 1991 shortly after Mrs. Imelda R. Marcos' return from abroad. On top is a montage of photographs of the buildings acquired by the Marcoses in New York during martial rule.

tenced by the new administration
FVR/p.20



“I AM not aware of the extent of my wealth. That’s how rich we are,” says Imelda Marcos, who shows a photocopy of her husband Ferdinand’s last will and testament. AP/BULLIT MARQUEZ

Imelda bares \$.8B in ‘secret accounts’

“There is more Marcos wealth that this government is not yet aware of, but for the time being, I can admit that there is only \$800 million kept in various international banks, but I cannot reveal them.”

“If you know how rich you are, you are not rich. But me, I am not aware of the extent of my wealth. That is how rich we are.”

Imelda R. Marcos

Philippine Daily Inquirer, March 27, 1998, p. 1.



Imelda R. Marcos, pianist Van Cliburn, George Hamilton, and guests in the New York Townhouse.



A painting of the "Filipino Royal Family" commissioned by Imelda R. Marcos. The painter was Ralph Wolfe Cowan, famous portraitist to Prince Rainer III and Princess Grace.



After his inauguration on February 25, 1986, President Marcos speaks to his supporters at the balcony of Malacañang. With him are Mrs. Marcos, and children Imee, Irene and Ferdinand, Jr. Hours later the Marcoses flew to their exile in Hawaii.

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Annex A

1962 Income Tax Return of Senator and Mrs. Ferdinand E. Marcos with accompanying balance sheet

This income tax return of then Senator and Mrs. Ferdinand Marcos which he signed on March 9, 1962 shows that the gross income of the Marcoses in 1961 amounted to P118,777.23, with a net income of only P76,853.20. The total salary he received as senator in 1961 was P7,200. The accompanying balance sheet as of December 31, 1961 shows that his assets (law books and miscellaneous assets) amounted to P40,000 and his capital was also P40,000 — all of which repudiate the post-EDSA claim of Mrs. Imelda Marcos that her husband was a multimillionaire long before he was elected president in November 1965.

Form No. 1041 (REVISED JAN. 1962)

INDIVIDUAL INCOME TAX RETURN FOR THE CALENDAR YEAR 1961

THE PENALTY for failure to file this return on or before April 15th is a fine not exceeding \$100 or imprisonment for not more than six months or both, and the tax is increased 25%. The penalty for a false or fraudulent return for a fine not exceeding \$1,000, or imprisonment for not more than one year, or both, and the tax is increased 50%. (Sections 11 and 11-C, Commonwealth Act No. 491.)

See INSTRUCTIONS on page 4

See duplicate copy filed by the Bureau of Internal Revenue

11272
1120472
613
5-15-62

Name: FERDINAND E. MARCOS Philippine
Address: 204 OTSERA ST., SAN JUAN, P.I.
1. Net income from Schedule K: 76,853.20
2. Less personal exemptions (unmarried, P1,000; married or head of family, P2,000)
A. Married 3,000.00
B. Name of husband or wife: IMELDA ROMULONES MARCOS
C. If head of family, name of dependent parent, child, brother or sister:
D. Names and dates of birth of dependent children:
James H. Marcos Nov. 12, 1955
Ferdinand E. Marcos Nov. 13, 1957
Imelda E. Marcos Sep. 16, 1960
3. Total amount of exemptions: 3,000.00
TOTAL AMOUNT OF EXEMPTIONS: 6,000.00
4. Amount of income subject to tax: 70,853.20
5. Amount of tax (Please see the table on page 2): 23,072.81
6. Less: Credit for taxes of foreign countries (Attach statement):
7. Balance of tax due
8. Interest
9. Composites
10. Total amount accessible: 23,072.81
11. Amount still due or refundable: 23,072.81
RESUME OF INCOME
Gross Income: P 118,777.23
Deductions: P 41,924.03
Net Income: P 76,853.20
Total above under "A": P 11,920.00
Total above under "B": P 95,950.00
Total above under "C":
Total above under "D":
Total above under "E":
Total above under "F":
Total above under "G":
Total above under "H":
TOTAL: P 118,777.23 P 41,924.03 P 76,853.20
NOT VALID AS A RECEIPT UNLESS IT BEARS THE IMPRINT OF THE CITY OF MANILA COLLECTION AGENT'S CASE REGISTER.
AR# B-2245896
April 13, 1962
disc - Am - MBK

SALVIONI E MACCARELLI COLLETTORI

AFFIDAVIT TO BE EXECUTED BY THE INDIVIDUAL MAKING THE RETURN

I swear (or affirm) that the foregoing return, to the best of my knowledge and belief, contains a true and complete statement of all taxable gains, profits, income, deductions and exemptions of Gen. & Mrs. Ferdinand E. Marcos (name of taxpayer), during the year 1961, in accordance with Commonwealth Act No. 466, as amended.

(Address of agent)
 Sworn to and subscribed before me this 9th day of January, 1962
 Licensed Certificate No. A-27801 D-278272
 Issued at: Davao
 Date issued: Jan. 27, 1962
 Alien Certificate of Registration No. _____
 Date of issue _____ (For alien taxpayer only)

Ferdinand E. Marcos
 (Signature of taxpayer or agent)
1962
 (Date of preparation of return)

[Signature]
 (Official capacity)

RATES OF TAX (EFFECTIVE JANUARY 1, 1959)

Not over P2,000	5% of the amount on Line 3
Over P2,000 but not over P4,000	P50 plus 6% of excess over P2,000
Over P4,000 but not over P6,000	P140 plus 8% of excess over P4,000
Over P6,000 but not over P8,000	P260 plus 10% of excess over P6,000
Over P8,000 but not over P10,000	P380 plus 12% of excess over P8,000
Over P10,000 but not over P12,000	P500 plus 14% of excess over P10,000
Over P12,000 but not over P14,000	P620 plus 16% of excess over P12,000
Over P14,000 but not over P16,000	P740 plus 18% of excess over P14,000
Over P16,000 but not over P18,000	P860 plus 20% of excess over P16,000
Over P18,000 but not over P20,000	P980 plus 22% of excess over P18,000
Over P20,000 but not over P22,000	P1,100 plus 24% of excess over P20,000
Over P22,000 but not over P24,000	P1,220 plus 26% of excess over P22,000
Over P24,000 but not over P26,000	P1,340 plus 28% of excess over P24,000
Over P26,000 but not over P28,000	P1,460 plus 30% of excess over P26,000
Over P28,000 but not over P30,000	P1,580 plus 32% of excess over P28,000
Over P30,000 but not over P32,000	P1,700 plus 34% of excess over P30,000
Over P32,000 but not over P34,000	P1,820 plus 36% of excess over P32,000
Over P34,000 but not over P36,000	P1,940 plus 38% of excess over P34,000
Over P36,000 but not over P38,000	P2,060 plus 40% of excess over P36,000
Over P38,000 but not over P40,000	P2,180 plus 42% of excess over P38,000
Over P40,000 but not over P42,000	P2,300 plus 44% of excess over P40,000
Over P42,000 but not over P44,000	P2,420 plus 46% of excess over P42,000
Over P44,000 but not over P46,000	P2,540 plus 48% of excess over P44,000
Over P46,000 but not over P48,000	P2,660 plus 50% of excess over P46,000
Over P48,000 but not over P50,000	P2,780 plus 52% of excess over P48,000
Over P50,000 but not over P52,000	P2,900 plus 54% of excess over P50,000
Over P52,000 but not over P54,000	P3,020 plus 56% of excess over P52,000
Over P54,000 but not over P56,000	P3,140 plus 58% of excess over P54,000
Over P56,000 but not over P58,000	P3,260 plus 60% of excess over P56,000
Over P58,000 but not over P60,000	P3,380 plus 62% of excess over P58,000
Over P60,000	P3,500 plus 64% of excess over P60,000

INSTRUCTIONS FOR FILING YOUR INCOME TAX RETURN

1. Who must file.—Every citizen of the Philippines whether residing at home or abroad and resident alien who had a gross income of P1,000 or more during the preceding year must file an income tax return on this form, or BIR Form No. 17.01A if his income consists of salaries or wages only. Every non-resident alien receiving income from Philippine sources regardless of the amount should also file this return. When an individual is unable to make his own return because of minority, illness or other disability, or absence from the Philippines, or incarceration, the return may be made for him by his representative but the authority therefor should be attached to the return. A couple (husband and wife) should always file a consolidated return containing the income of both spouses.

2. When and where to file.—File your return with the Commissioner of Internal Revenue, Manila, or any of the Regional Director or Provincial Revenue Officer or with the collector in charge of your province, city, or municipality. Returns are due on or before April 15 following the close of the calendar year unless the filing thereof is extended by the Commissioner of Internal Revenue. Extensions are granted in meritorious cases only and the tax due is subject to interest at 12% per annum for late payment.

3. Payment of income tax.—The total amount of income tax shall be paid at the time this return is filed but not later than April 15 following the close of the calendar year. When the tax due is in excess of P500.00, the taxpayer may elect to pay the tax in two equal installments, in which case, the first installment shall be paid upon filing or on or before April 15 and the second installment on or before July 15 following the close of the calendar year. You must compute the tax on the basis of the figures appearing in this return, based on the tax table. The tax so computed should be paid upon filing or on or before July 15, if it exceeds P500 and you elect to pay in installments.

4. Your exemptions.—The exemptions are as follows:

children living with and dependent upon him or her for their chief support where such brothers, sisters, or children are not more than 23 years of age, unmarried, and not gainfully employed or where such children though under 23 years old, are incapable of self-support because mentally or physically defective.

The additional exemption of P1,000.00 may be claimed for each legitimate, recognized natural, or adopted child wholly dependent upon and living with the taxpayer if such children are not more than 23 years of age, unmarried, and not gainfully employed, or incapable of self-support because mentally or physically defective. A nonresident alien is entitled to a personal exemption only if the income tax law of his country allows a similar exemption to a citizen of the Philippines and residing in such country but deriving income therefrom and provided further that he is a true and accurate return of his income from all sources within the Philippines.

5. Your deductions.—Unless you are a nonresident alien, you may elect the standard deduction which is an amount equal to 10% of your gross income but not to exceed P7,000. If you don't signify in this return your intention to elect the optional standard deduction, you shall be considered as having chosen the limited deductions. Such election made in the return is irrevocable for the taxable year covered by the return. Limited deductions must be proven, whereas the standard deduction is accepted without proof. (Please see Schedule 2.) If your previous return shows a net capital gain, said loss (in an amount not exceeding the net income (or said return) may be claimed in this return at its full in the role of extension of capital gains held for not more than 12 months.

6. Financial statements.—If your gross earnings, salaries, or output do not exceed P20,000.00, this return should be accompanied with the yearly statements of net worth and operations or balance sheet and profit and loss statements.

Form W-2 B.I.R.
Revised-Aug. 59

WITHHOLDING STATEMENT — 1961
Wages Paid and Income Tax Withheld

EMPLOYEE to whom paid: (Print name and full address)

MARCOS, Ferdinand

Total wages (before payroll deductions)
paid in 1961: ₱ 7,200.00

Income tax withheld
₱ None

EMPLOYER by whom paid: (Name and address)

SENATE

Legislative Bldg., Manila

Notice to employee
THIS STATEMENT IS IMPORTANT
It must be attached to your
annual income tax return at
the end of the year.

DO NOT LOSE THIS STATEMENT

TAXPAYER'S NAME AND ADDRESS		ASSESSMENT NUMBER	YEAR OF ACTION	YEAR OF RETURN	TYPE OF PAYMENT
MARCOS FERDINAND SENATE MANILA		11272		61	2
TAX PROPER	DISCOUNT	INTEREST	PENALTY	TAX CREDIT	TOTAL AMOUNT DUE
720200				1180034	1182578
DATE ISSUED		DUE DATE			
70262		071662			

RECEIVED PAYMENT

INV. No. 051912

OFFY TREASURER

IMPORTANT:

PRESENT THIS RECEIPT WHEN PAYING THE TAX.
RESERVE AND BRING THIS WITH YOU WHENEVER
MAKING INQUIRIES ON THE SUBJECT.

NOT VALID AS A RECEIPT UNLESS IT BEARS THE
PRINT OF THE CITY TREASURER'S CASH REGISTER.

FIRMINAND E. MARCOS

*Balance Sheet
As of December 31, 1961

ASSETS

Law Books & Miscellaneous Assets \$ 40,000.00

CAPITAL

Ferdinand E. Marcos, Capital, \$ 40,000.00

*As a practising lawyer

SCHEDULE "B" OTHER INCOME (INCLUDING INCOME FROM PARTNERSHIP AND FIDUCIARIES EXCEPT AS REPORTED UNDER "A" AND "C")

EXPLANATION OF OTHER INCOME	AMOUNT
Interest on bonds and other obligations of domestic and foreign corporations (except as entered under "C")	
Interest on notes, bonds, deposits, mortgages, and all other interest	
Net profits reported from fully registered corporations (specify name, address, and amount received from each corporation)	
NET OF FARM PRODUCTS	6,907.23
Total	\$ 6,907.23

SCHEDULE "D" EXPLANATION OF DEDUCTION FOR DEPRECIATION CLAIMED IN SCHEDULES "B," "C," AND "E"

1. Kind of Property or Depreciable Asset (or Virtual Investment)	2. Date Acquired	3. Cost or Other Basis (Do not include 10% or O/SAM before-hand interest)	4. Depreciation Allowed (See Instructions in Form 1041)	5. Residual Value (Cost less Depreciation Allowed to All Dates)	6. Rate of Depreciation (See Instructions in Form 1041)	7. Estimated Useful Life (in Years)	8. Depreciation Allowed for the Year	9. Accumulated Depreciation (Total)
CAR	1960	20,000.00			5%		2,000.00	

SCHEDULE "F" OPTIONAL STANDARD DEDUCTION

Do you elect the optional standard deduction in the amount of one thousand pesos (P1,000) or in an amount equal to ten (10) per centum of your gross income, whichever is the lesser? (Yes or No) Yes No If so fill the schedule below

Total Gross Income Optional Standard Deduction

SECTION D—DETAILS OF INCOME AND PRODUCTIONS

SCHEDULE 1—SALARIES, WAGES, ALLOWANCES, COMMISSIONS, BONUSES, FEES, PENSIONS AND DEDUCTIONS

Method of Income	From Whom Received	Tax Withholding	Amount	Insurance Deductions	Amount
Salary	Office of the Krwaidan	41,400	\$ 60,000.00	1. Term	2,210.00
				2. Investment	
				3. Loans	3,455.00
				4. Contributions	
				5. Other (List each)	
1. Total Gross Income			\$ 60,000.00	2. Total Deductions	5,665.00
2. Less Item 5			6,834.98		
3. Net Income			\$ 53,165.02		

SCHEDULE 2—INCOME FROM BUSINESS AND/OR PROFESSION (Receipts from Business Assets)

Trade Name	Nature of Business	Amount	Deductions	Amount
			1. Salaries, wages, commissions, etc.	
			2. Rent	
			3. Interest on indebtedness	
			4. Taxes and license (Federal, State, Local)	
			5. Repairs	
			6. Bad debts and losses	
			7. Depreciation (See Schedule D)	
			8. Securities (unless deducted on Schedule D)	1,600.00
			9. Other Expenses	12,000.00
1. Total receipts or sales during the year		\$ 200,000.00		
2. From production		200,000.00		
3. From business				
4. Less Cost of sales		3,000.00		
5. Gross income from sales		197,000.00		
6. Plus other receipts		2,000,000.00		
7. Total Gross Income		2,197,000.00		
8. Less item 9		188,000.00		
9. Net Income		2,009,000.00		

SCHEDULE 3—INCOME FROM AGRICULTURE

Income	Amount	Deductions	Amount
1. Total receipts or sales of crops		1. Labor (Hired etc.)	
2. Sale of livestock, poultry, etc.		2. Purchase of	
3. Other receipts		3. Rent	
4. Total Gross Income		4. Interest paid	
5. Less item 6		5. Depreciation (See Schedule D)	
6. Net Income from Agriculture		6. Taxes paid	
		7. Other deductions	
		8. Total Expenses	

SCHEDULE 4—GAINS AND LOSSES FROM SALES OR EXCHANGES OF CAPITAL ASSETS

1. Kind of Property (If temporary holding statement of commodity and is not above listed)	2. Date Acquired (Month, Day, Year)	3. Date Sold, Exchanged, etc. (Month, Day, Year)	4. Gross Sale Price (Less net cost)	5. Cost or Other Basis	6. Difference (If Sale plus Interest-Like Surrendered on Schedule 1, 2, 3)	7. Gain or Loss (Carry 4 from the sum of 6 minus 5 and 6)	8. Payable or Deductible	9. Amount
SHORT-TERM CAPITAL GAINS AND LOSSES—ASSETS HELD FOR NOT MORE THAN 12 MONTHS								
								100
								300
								100
								200
Total Net Short-Term Capital Gains or Losses								
LONG-TERM CAPITAL GAINS AND LOSSES—ASSETS HELD FOR MORE THAN 12 MONTHS								
								10
								10
								10
								10
Total Net Long-Term Capital Gains or Losses								
Total net short-term capital gain or loss								
Total net long-term capital gain or loss								
Net gain or loss from sale or exchange of capital assets during the year								
Net Capital Loss Carry-Over (This to be carried out item 6 preceding year)								
Net Capital Gains or Losses								

SCHEDULE 5—GAINS AND LOSSES FROM SALES OR EXCHANGES OF PROPERTY OTHER THAN CAPITAL ASSETS

1. Kind of Property	2. Date Acquired	3. Date Sold	4. Cost or Other Basis	5. Difference or Gain (If Sale plus Interest-Like Surrendered on Schedule 1, 2, 3)	6. Difference or Loss (If Sale plus Interest-Like Surrendered on Schedule 1, 2, 3)	7. Gain or Loss (Carry 5 from column 5 and 6 and 7)
---------------------	------------------	--------------	------------------------	--	--	---

ALL DEDUCTIONS CLAIMED MUST BE DULY SUPPORTED

IF APPLICABLE, SCHEDULE 47 APPLICABLE TO YOUR INCOME AND ENTER THE TOTAL IN SCHEDULE 2. IF APPLICABLE, SCHEDULE 48 APPLICABLE TO YOUR INCOME AND ENTER THE TOTAL IN SCHEDULE 2. PAGE OF THIS FORM IS NOT FINISHED. USE SEPARATE SHEETS.

Form W-4 (Revised June 66) WITHHOLDING STATEMENT—1966 WAGES PAID AND INCOME TAX WITHHELD		(ORIGINAL)
EMPLOYEE TO WHOM PAID (Print name and full address)		DO NOT LOSE THIS STATEMENT
FERDINAND E. NAJOS Malacañang, Manila		NOTICE TO EMPLOYER 1. Prepare this form in duplicate for each employee from whom tax has been withheld during the year. 2. Give both copies to the employee.
Total wages (before payroll deductions) paid in 1966	Income tax withheld	NOTICE TO EMPLOYEE This statement is important! It must be attached to your annual income tax return at the end of the year
7-60,000.00	9-11,000.00	
EMPLOYER BY WHOM PAID (Name and address)		
OFFICE OF THE PRESIDENT, Malacañang, Manila CERTIFIED COPY		
G-5713		BY APPOINTMENT, CHIEF ACCOUNTANT #116

Annex C

Contracts between William Saunders/Ferdinand E. Marcos and Jane Ryan/Imelda Marcos and the Swiss Credit Bank
These contracts signed by President Ferdinand E. Marcos and Mrs. Imelda Romualdez Marcos, dated March 20, 1968 and March 21, 1968 respectively, fell into the hands of PCGG Chairman Salonga on March 1, 1986, shortly after the EDSA Revolution. The contracts enabled President Marcos and Imelda to use false names (William Saunders and Jane Ryan) to stash away huge amounts of money in the Swiss Credit Bank just two years and three months after Marcos assumed the presidency on December 30, 1965.

SWISS CREDIT BANK
CREDIT SUISSE · SCHWEIZERISCHE KREDITANSTALT · CREDITO SVIZZERO
HEAD OFFICE IN ZURICH
ESTABLISHED 1856

CONTRACT

for the opening of a current account and / or safe custody account

Between

WILLIAM SAUNDERS (Paandongan)
FERDINAND E. MARCOS (True Name) Depositor(s)

hereinafter called "Depositor" and on the one side

SWISS CREDIT BANK

hereinafter called "Bank" on the other side
the following agreement has been concluded:

1. Current Account(s)

The Depositors remit to the Bank funds for credit to current account(s) to be opened in the name of

said account(s) to be subject to the terms and conditions communicated by latter.

2. Safe Custody Account

If the Depositors, at the appropriate time, deliver to the Bank securities or other valuables for safe custody, these items are to be placed into a safe custody account carried in the same name as the current account(s).

3. Accounting

In the absence of instructions to the contrary, transactions executed on behalf of the Depositors will be passed over the current account(s) referred to under cipher 1; the same account(s) to be credited also with the interest derived from securities lodged in safe custody, as well as with all remittances received in favour of the Depositors in other currencies, provided the contribution is possible.

4. More than one Depositor

In the case of two or more Depositors they enjoy the rights of joint creditors within the meaning of Art. 150 of the Swiss Federal Code of Obligations. Consequently, each Depositor is entitled individually and independently from the other(s).

- to dispose of the cash held in the current account(s) in whole or in part,
- to operate the safe custody account on his sole signature, namely to place securities and other valuables into, to withdraw all or part of the securities or other valuables from the safe custody account, to pledge these items, etc.

The right to act individually and independently will continue in the event of death, or loss of capacity to act of one of the Depositors. The Depositor surviving his obligations towards one of the Depositors, is legally released towards all of them.

Each Depositor may confer power of attorney on any third person or persons who will then be entitled to act as agent or agents for all Depositors.

Provided no other instructions are given, all remittances, securities or valuables received by the Bank in favour of one of the joint Depositors will be credited to the current account(s) or placed into the safe custody account referred to under, alphas 1 and 2.

In case the Depositors are husband and wife they authorize each other to dispose individually and without any restrictions of the cash funds in the current account(s), and/or of the securities or other valuables lodged in safe custody.

The wife, in particular, approves also all actions of her husband that exceed the ordinary administration of the matrimonial property.

5. Correspondence

The correspondence and statements pertaining to the current account(s) and/or safe custody account are

to be mailed regularly to the following address:
In a double envelope to: Antonio Martinez, PO Box 90 #539

to be retained by the Bank on behalf of the Depositors and, upon special request: quarterly half-yearly yearly to be mailed to:

The correspondence mailed and/or retained, by the Bank in accordance with the above instructions shall be deemed to have been duly delivered to the Depositors who assume full responsibility for any consequences and possible damages that might occur due to the mailing, and/or retaining, of the correspondence in the prescribed manner.

The Bank has no obligation whatsoever to take any action with regard to the administration of the holdings of the Depositors unless specific instructions are given to this effect by the latter.

Correspondence not collected by the postman will be destroyed by the bank 10 years after its date of issue.

6. "General Conditions" and "Regulations"

Moreover, all mutual rights and duties resulting from this Contract, as well as all questions regarding jurisdiction and the law applicable to this Contract, are subject to the Bank's

- "General Conditions"
- "Regulations for the safekeeping of securities and other valuables", together with the "Schedule of Safekeeping Fees",

as per printed copies attached, which form part of the present Contract.

7. Special Arrangements

5

This, 20th day of March 1968

SWISS CREDIT BANK The Depositor(s)
[Signature] *[Signature]*

Mark your instructions by



SWISS CREDIT BANK
 CRÉDIT SUISSE · SCHWEIZERISCHE KREDITANSTALT · CREDITO SVIZZERO
 HEAD OFFICE IN ZÜRICH
 ESTABLISHED 1826



CONTRACT

for the opening of a current account and / or safe custody account

Between
Jane Ryan (Prudoyan)
Donald Prudoyan (true name) Depositor(s)

hereinafter called "Depositors"

on the one side

and

SWISS CREDIT BANK

on the other side

hereinafter called "Bank"

the following agreement has been concluded:

1. Current Account(s)

The Depositors remit to the Bank funds for credit to current account(s) to be opened in the name of

said account(s) in its subject to the terms and conditions communicated by letter.

2. Safe Custody Account

If the Depositors, at the same time or later, deliver to the Bank securities or other valuables for safe custody, these items are to be placed into a safe custody account carried in the same name as the current account(s).

3. Accounting

In the absence of instructions to the contrary, transactions executed on behalf of the Depositors will be passed over the current account(s) referred to under cipher (i) the same account(s) to be credited also with the income derived from securities lodged in safe custody, as well as with all remittances received in favour of the Depositors in other currencies, provided the conversion is possible.

4. More than one Depositor

In the case of two or more Depositors they enjoy the rights of joint creditors within the meaning of Art. 180 of the Swiss Federal Code of Obligations.

Consequently, each Depositor is entitled, individually and independently from the other(s),

- a) to dispose of the cash funds in this current account(s) in whole or in part,
- b) to operate the safe custody account on his sole signature, namely to place securities and other valuables into, to withdraw all or part of the securities or other valuables from the safe custody account, to pledge these items, etc.

The right to act individually and independently will continue in the event of death, or loss of capacity to act of one of the Depositors. The Bank, when fulfilling its obligations towards one of the Depositors, is legally released towards all of them.

Each Depositor may confer power of attorney on any third person or persons who will then be entitled to act as agent or agents for all Depositors.

Provided no other instructions are given, all remittances, securities or valuables received by the Bank in favour of one of the Joint Depositors will be credited to the current account(s) or placed into the safe custody account referred to under clauses 1 and 2.

In case the Depositors are husband and wife they authorize each other to dispose individually and without any restrictions of the cash funds in the current account(s), and/or of the securities or other valuables lodged in safe custody.

The wife, in particular, approves also all actions of her husband that exceed the ordinary administration of the matrimonial property.

5. Correspondence

The correspondence and statements pertaining to the current account(s) and/or safe custody account are

to be mailed regularly to the following address:
In double envelope to: ANTONIO MARTINEZ, P.O. Box 4539, Havana

to be retained by the Bank on behalf of the Depositors and, upon special request

<input type="checkbox"/> quarterly	<input type="checkbox"/> half-yearly	<input type="checkbox"/> yearly
------------------------------------	--------------------------------------	---------------------------------

to be mailed to:

The correspondence mailed, and/or retained, by the Bank in accordance with the above instructions shall be deemed to have been duly delivered to the Depositors who assume full responsibility for any consequences and possible damages that might occur due to the mailing, and/or retaining, of the correspondence in the prescribed manner.

The Bank has no obligations whatsoever to take any action with regard to the administration of the holdings of the Depositors unless specific instructions are given to this effect by the latter.

Correspondence not collected by the customer will be destroyed by the bank 10 years after its date of issue.

6. "General Conditions" and "Regulations"

Moreover, all mutual rights and duties resulting from this Contract, as well as all questions regarding jurisdiction and the law applicable to this Contract, are subject to the Bank's


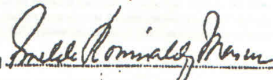
- "General Conditions"
- "Regulations for the safekeeping of securities and other valuables", together with the "Schedule of Safekeeping Fees",

as per printed copies attached, which form part of the present Contract.

7. Special Arrangements

Form # 5

with March 1968

_____, this _____ day of _____
 
 SWISS CREDIT BANK The Depositor(s)

Annex D

Declaration of Trust signed by Joseph E. Bernstein on April 4, 1982 in favor of Ferdinand E. Marcos

This declaration of trust was described by New York Congressman Stephen Solarz, head of the U.S. Congressional Investigative Committee, who arrived in Manila shortly after the EDSA Revolution, as the "smoking gun" evidence against the Bernsteins, the trustees of Marcos. The declaration was shown to Mr. Solarz by PCGG Chairman Salonga during the Congressman's visit in Pasig on March 6, 1986 — four years after the document was signed by Joseph E. Bernstein in the Manila Peninsula Hotel, that is, after the Marcoses acquired the elegant Crown Building on Fifth Avenue, New York. It says Bernstein will act for the benefit and in accordance with the instructions of President Marcos.

DECLARATION OF TRUST

April 4, 1982
Manila, P.I.

By this instrument, the undersigned hereby acknowledges that he shall act as a trustee for the benefit of President Ferdinand E. Marcos with respect to all matters relating to *Lactura Corporation N.V.*, a Netherlands Antilles corporation. In the event the undersigned is delegated any signatory powers or has delivered to him the shares of *Lactura Corporation N.V.*, the undersigned shall act with respect to such powers or with respect to such shares solely in the manner and pursuant to the instructions of President Marcos.

This instrument shall be valid and enforceable against the undersigned under the laws of the State of New York.

Joseph E. Bernstein

PRESIDENTIAL COMMISSION
IN GOV. GOVERNMENT
RECEIVED
APR 5 1982
MTC

Annex E

Check disbursements of Mrs. Imelda E. Marcos

STENO NOTEBOOK

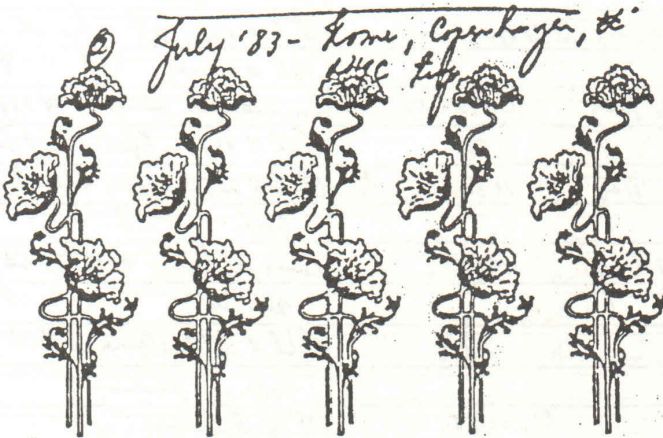
ONE DO BILLED • 6 1/2 • WHITE • 50 SHEETS

Net 2000-1

BOOK NO. _____ FROM _____ TO _____

CHECK DISBURSEMENTS

① MAY '83 - US TRIP



ADV-CO Shelton, Conn., CT 06484

		Bankers Trust -
1913		
2 May	\$ 3,293.-	Chk # 167 - reimbursement to Dulce for misc. exp.
9 May	5,936.07	Chk # 169 - Beverly & Walter Hotel bills
13 May	19,400.-	Chk # 170 - Maria Pia Leggi for Jans' orders of night gown, trunks, Hotel cloths & bed sheets.
14 May	1,304.-	Chk # 171 - Aut. telephone service - Boston trip
18 May	228,600.-	Chk # 173 - full payment of all account
20 May	34,882.50	Emmanuel Mangas # 3374
	10,340.-	Chk # 3379 - Walter's bed sheets
25 May	23,000.-	Chk # 3352 - Jany & Jany, Inc. book
27 May	19,750.-	Lawrence Ford - # 3347 - antique jewelry
	2,550.-	Chk # 3353 - Lawrence Ford - Faberge case
	<u>\$ 409,555.57</u>	Total

	\$ 409,555.57	Total brought forward
May 30-	43,970.-	# 3375 - jewelry - silver picture for frame & sterling service dishes.
	34,550.-	# 3377 - Lois Frichberg - antique jewelry
	200,000.-	# 3380 - J. P. Isolat - antique jewelry - partial
	100,000.-	# 3346 - Van Cleef & Gortals - workmanship or enamel - diamond & ruby bead necklace - partial
31-	200,000.-	# 174 - Fred Loughton - antique jewelry - partial
June 7-	45,950.-	# 3378 - Lois Frichberg - antique jewelry
15-	360,000.-	# 175 - Fred Loughton - antique jewelry - full payment
17-	200,000.-	# 3381 - J. P. Isolat - antique jewelry - partial
18-	75,000.-	# 3346 - Galleries Francois - pearl and ruby necklace, full
	\$ 1,668,425.57	Total

	\$ 1,668,425.57	Total brought forward
June 25-	104,000.-	Erinda H. Olsen # 3373 full payment for antique ribbon & 99 cards & dry envelope
30-	125,000.-	# 3387 - J. Skant - full payment
	20,000.-	# 3349 - Carter - diamond bracelet - full
	52,000.-	# 3351 - Erinda Olsen - reimbursement for lent-style earrings for Gary Winston
July 15-	109,000.-	Carter # 3349 - emerald & diamond bracelet - partial
30-	100,000.-	# 3350 - Carter - emerald & diamond bracelet - full.
Aug 25	11,516.80	# 3362 - Velma - FL's purchase
	42,246.35	# 3363 - Velma - dress purchase
	9,993.37	# 3364 - Velma - Chevy bill express
	5,790.-	# 3365 - Velma - Princeton express
	\$ 2,426,972.04	Total

	\$2,426,972.04	Total brought forward
May 25	43,591.67	# 3366 - Helma & Inesi shopping
27	69,409.17	# 3367 - Helma - 66% + Olympic etc. express
28	100,000. -	# 3368 - Lawrence Jeff - rose at her good rubber full payment -
June 20	100,000. -	# 3368 - Lot Fickzong - partial for canned rubber sheets. rubber - bal. 100,000. -
July 20	100,000	# 3369 - Sri Fickzong - full payment -
May 25	18,401.71	# 3372 - Weldorf - old acct
June 10	173,500. -	# 3393 - Hammer Jellies - partial - bal. 100,000. -
July 10	100,000. -	# 3395 - Hammer Jellies full payment
May 26	8,500. -	# La Vieille Russie - Fehy gold affixes - # 3396
June 2	47,451.25	# 3397 - Cartier, Inc.
15	48,925.39	# 3398 - Helma - mic. express
	\$3,316,751.23	Total

Chase Translation

May 25 - \$ 20,066.56

235 - Liberty House -
FL Shopping

June 20 - \$ 10,000. -

232 - P. S. Taylor, Inc. -
antique Worcester descent
service

to be reimbursed later by gift giver - Irene S. Day

Bankers Trust - Savings a/c # 09946091		
Remittances from Kelly Legend to		
ever post dated checks -		
1983		
5/23 -	\$ 250,000. -	\$ 158,738.14 - total disbursements remittances - 5/25-27
5/27 -	170,000. -	\$ 169,409.17 - total disbursements - 5/27-28
5/29 -	600,000. - <small>1,000,000</small>	\$ 577,920. - disbursements 5/30-31
5/27 -	100,000. -	\$ 80,975.86. additional disbursements 5/25-27
6/1 -	120,000. -	\$ 109,801.25 - total disburse- ments - 6/2-7/83
6/8 -	173,500. -	\$ 173,500. - check - due 6/10
	470,000. -	\$ 405,925.38 checks due 6/15
	200,000. -	\$ 200,000 " " 6/17
	75,000. -	\$ 75,000. - check due 6/18
	180,000. -	\$ 180,000 check due - 6/20
	104,000. -	\$ 104,000. " due 6/25
	52,620. -	\$ 52,620. - " " 6/23-
	377,000. -	\$ 377,000 " " 6/30

Typed Version of Imelda Marcos' Check Disbursements

Bankers Trust

1983

8 May	\$ 3,293.00	Check #167 - reimbursement to Dulce for misc. exp.
9 May	5,936.07	Check #169 - Beverly Hilton Hotel bills
13 May	19,400.00	Check #170 - Maria Ria Reggi for Irene's orders of nigh gowns, towels, table cloths, bed sheets
14 May	1,304.00	Check # 171 - Pub Limousine Service - Boston Trip
18 May	228,800.00	Check #173 - full payment of old account Emmanuel Ungaro # 3374
20 May	34,882.00	Check # 3379 - Pratesi bed sheets
	10,340.00	Check # 3352 - Jerry Alger, Inc. books
25 May	23,000.00	Lawrence Ford - #3374 - antique jewelry
27 May	19,750.00	Check #3353 - Lawrence Ford - Faberge case
	2,850.00	Total
	\$409,555.57	
<hr/>		
	\$409,555.57	Total brought forward
May 30	43,370.00	#3375 - Asprey Silver flatware for Inee and sterling service disks
	34,550.00	#3377 - Isi Fischzang - antique jewelry
	200,000.00	#3380 - G. Issert - antique jewelry - partial
	100,000.00	#3344 - Van Cleef & Arpels - workmanship in emerald and diamond and ruby beads - partial
31	200,000.00	#174 - Fred Leighton - antique jewelry - partial
June 7	45,950.00	#3378 - Isi Fischzang - antique jewelry
15	360,000.00	#175 - Fred Leighton - antique jewelry - full payment
17	200,000.00	#3381 - G. Issert - antique jewelry - partial
18	75,000.00	#3346 - Galleries Francais - south sea pearl necklace - full
	\$1,668,425.57	Total

	\$1,668,425.57	Total brought forward
June 25	104,000.00	Erlinda M. Oledan #3373 full payment for antique ribbon & 99 carats drop emerald
30	125,000.00	#3382 - G. Issert - full payment
	200,000.00	#3348 - Cartier - diamond bracelet - full
	52,000.00	#3351 - Erlinda Oledan - reimbursement for heart-shaped earrings from Harry Winston
July 15	108,000.00	Cartier #3349 - emerald and diamond bracelet - partial
30	100,000.00	#3350 - Cartier - emerald and diamond bracelet - full
May 25	11,516.80	#3362 - Vilma - FL's purchases
	42,246.35	#3363 - Vilma - Irene's purchases
	9,993.32	#3364 - Vilma - Cherry Hill expenses
	5,790.00	#3365 - Vilma - Princeton expenses
	\$2,426,972.04	Total
<hr/>		
	\$2,426,972.04	Total brought forward
May 25	43,591.67	#3366 - Vilma and Imce's shopping
27	69,409.17	#3367 - Vilma - 66th and Olympic & etc. expenses
28	100,000.00	#3361 - Lawrence Graff - rose at hexagonal necklace - full payment
June 20	180,000.00	#3368 - Isi Fischzang - for carved emerald beads necklace - Bal. 100,000.
July 20	100,000.00	#3369 - Isi Fischzang - full payment
May 25	18,401.71	#3392 - Waldorf - old a/c
June 10	173,500.00	#3393 - Hammer Galleries - partial - bal. 100,00.
July 10	100,000.00	#3395 - Hammer Galleries - full payment
May 26	8,500.00	A La Vielle Nussie - Fabergé gold cufflinks - #3396
June 2	47,451.25	#3397 - Cartier, Inc.
15	48,925.39	#3398 - Vilma - misc. expenses
	\$3,316,751.23	Total

	\$3,316,751.23	Total brought forward
June 2	16,400.00	Jan Skala #3399 - antique Fabergé items & etc.
July 25	1,000,000.00	#3401 - Mario Bellini - Michaelangelo painting partial payment - balance \$2.5 M
May 25	6,893.17	#3402 - Amb. Fernandez reimbursement of expenses
	40,000.00	#3403 - Amb A. Fernandez for medical expenses - c/o Dr. Aluigas
June 23	52,620.00	#3400 - J. Freeman and Son, Inc. silver items

Chase Manhattan

May 25	\$20,046.56	#235 - Liberty House - FL shopping
June 20*	10,000.00	#232 - S. Wyler, Inc. - antique Worcester dessert service

*to be reimbursed later by gift given — Irene's b-day

**Rome - Copenhagen - NYC
trip - 7/6 - /83**

— Bankers Trust —

July 8	\$2,800.00	Check #206 - Bulgari - watch
15	43,600.00	Check #208 - Mila Schon - full payment old balance
20	25,650.00	#209 - FL's new orders
	200,000.00	#210 - Renato Balestra - partial for old a/c
Oct. 15	1,000,000.00	Adriana Bellini - 2nd payment for Michaelangelo painting #203
Dec. 22	1,000,000.00	#204 - Adriana Bellini — 3rd payment for Michaelangelo painting
27	500,000.00	#205 - full payment for Michaelangelo painting - Adriana Bellini

Bankers Trust - Savings A/c # 09946091

Remittances from Rolly Gapud to cover post-dated checks —

1983

5/23	\$250,000.00	\$158,738.14 - total disbursements - 5/25 - 27
5/27	170,000.00	\$169,409.17 - total disbursements - 5/27 - 28
5/29	600,000.00	\$577,920 - disbursements 5/30 - 31
5/27	100,000.00	\$80,975.84 - additional disbursements 5/25 - 27
6/1	120,000.00	\$109,801.25 - total disbursements - 6/2 - 7/83
6/8	173,500.00	\$173,500. - check - due 6/10
	410,000.00	\$408,925.39 checks due 6/15
	200,000.00	\$200,000 checks due 6/17
	75,000.00	\$75,000. - check due 6/18
	180,000.00	180,000 check due - 6/20
	104,000.00	\$104,000 check due 6/25
	52,620.00	\$52,620. - check due 6/23
	377,000.00	\$377,000 check due 6/30

Annex F

Articles accompanying Marcos Party upon arrival in Honolulu, Hawaii on February 26, 1986

U.S. Customs Service, March 10, 1986

Bag Tax # Description	Item Number		Nomenclature
375854 - Brown alligator bag w/ black cover			
	1	\$ 44,410.00	1 ea. diamond-studded hair comb
	2	18,835.00	1 ea. gold crown w/ diamonds & 22 mabe pearls & cultured pearls
	3	376,990.00	1 ea. necklace w/ 5 large sapphires, w/ diamonds & 7 small sapphires (w/ photo)
	4	768,910.00	1 ea. emerald brooch (8 emeralds) w/ diamonds
	5	47,105.00	1 ea. tiara w/ mabe pearl center w/ diamonds & rubies
	6	1,487,415.00	1 set comprised of 1 bracelet, 1 pair earrings & 1 brooch consisting sapphires, rubies, diamonds
	7	58,286.00	1 ea. tiara w/ 6 s/s pearls & diamonds (from Catchpole & Williams, 510 Oxford Street, London, England)
	8	30,500.00	1 ea. tiara w/ diamonds (1 diamond in center, approximately 4k)
	9	140.00	4 ea. gold settings
	10	2,745.00	1 pair diamond earrings in gold setting

375857 - Louis Vuitton soft-sided

Assorted men's clothing and miscellaneous documents

<u>Bag Tax #</u>	<u>Item</u>	<u>Nomenclature</u>
<u>Description</u>	<u>Number</u>	
375865 - Red russet leather 777 suitcase		
	1	\$ 2,960.00
		Twined double choker fresh water pearls, pink w/ white, 7-strand ea., w/ 14k white gold/diamond clip clasp
	2	405.00
		Choker, multicolored stone w/ pearls, rope tie
	3	325.00
		Choker, (antique) porcelain set w/ stones & pearls
	4	7,120.00
		Multi-strand baby pearl double choker w/ 2 ea. barrel clasp onyx w/ yellow gold & set w/ diamond
	5	935.00
		Choker 8-strand seed pearl (4 gold-4 white) w/ 14k yellow gold set w/ diamond clasp
	6	9,160.00
		Multi-strand baby pearl choker w/ 2 ea. 14k yellow gold set w/ ruby & diamonds
	7	1,770.00
		Necklace 11-strand white cultured pearls m/m? Small 4- section gold dividers
	8	1,320.00
		Chokers 10-strand pink cultured pearls mm? Small w/ 18k yellow gold clasps. Brooch clasp flower shape set w/ petals of polished stone w/ pink coral and diamond inserts
	9	2,550.00
		1 ea. pearl pendant set w/ diamonds & amethyst on silver chain
	10	1,380.00
		Choker freshwater pearls 20-strand w/ 14k yellow gold clasp set w/ multi-rubies, sapphires & diamonds
	11	2,640.00
		1 ea. 3-strand pearl necklace 7x7.5 mm w/ pendant and clasp 18k set w/ rubies, emeralds, sapphires & diamonds
	12	2,265.00
		Necklace 8-strand freshwater pearls w/ 14k gold clasp set w/ rubies
	13	500.00
		9 ea. antique gold bracelets set w/ 24 pearls
	14	2,980.00
		Freshwater pearl necklace 12-strand w/ 14k yellow gold clasp set w/ diamonds
	15	1,310.00
		Bracelet freshwater pearls 4-strand white and 6-strand pink w/ 14k yellow gold clasp set w/ diamonds
	16	465.00
		1 ea. 14k gold bracelet set w/ 37 pearls
	17	750.00
		Necklace freshwater pearls 9-strand w/ 14k gold clasp set w/ 9 pearls
	18	1,485.00
		1 set 8-strand freshwater pearl necklace w/ gold clasp in flower design consisting of pearls & diamonds
		2,420.00
		1 ea. hair comb same design as clasp
		2,240.00
		1 ea. brooch same design as clasp

<u>Bag Tax #</u> <u>Description</u>	<u>Item</u> <u>Number</u>	<u>Nomenclature</u>	
	19	250.00	1 ea. hand cut crystal choker w/ silver clasp
	20	2,500.00	Cultured pearl necklace 2-strand 7.5 w/ silver clasp
	21	790.00	Pearl necklace 2-strand 14k white gold clasp set w/ diamonds
	22	1,700.00	Antique necklace gold color metal (unknown)
	23	750.00	Freshwater pearl choker 12-strand w/ 14k white gold clasp w/ diamonds
	24	195.00	1 pair mabe pearl cufflinks 14k gold
	25	60.00	1 pair pearl earrings
	26	160.00	1 pair pearl w/ diamond 14k yellow gold cufflinks
	27	235.00	1 set mabe pearl ring and earrings, 14k yellow gold
	28	345.00	1 set (Lux-3 studs 2 cufflinks) pearl w/ diamonds
	29	250.00	1 set ring match earrings mabe pearl 14k
	30	525.00	Bracelet antique 18k 3 mabe pearl and paradox
	31	5,400.00	27 loose strung black pearls strand
	32	1,575.00	5-strand black pearl temporarily strung
	33	1,350.00	9-strand temporarily strung blue pearl 6.5-7 mm
	34	1,40.00	8-strand temporarily strung blue pearl 6.5-7.5 mm No price.
	35	1,050.00	5-strand temporarily strung blue pearls, 8x8.5 mm No price.
	36	1,450.00	10 strand temporarily strung blue pearls, 7.5 mm
	37	1,005.00	3-strand temporarily strung blue pearls, 8x8.5 mm
	38	450.00	3-strand temporarily strung blue pearls, 6.5x7 mm
	39	390.00	3-strand temporarily strung blue pearls, 6.5x7 mm
	40	420.00	2-strand temporarily strung blue pearls, 8x8.5 mm
	41	330.00	1.5-strand temporarily strung blue pearls, 8.5x8 mm
	42	875.00	7-strand temporarily strung blue pearls, 6.5x7 mm
	43	1,000.00	1-strand permanently strung pearl w/ silver clasp 8 mm
	44	270.00	2-strand temporarily strung pearls, 7-7.5 mm
	45	1,575.00	9-strand temporarily strung pearls, 7-7.5 mm
	46	1,560.00	13-strand temporarily strung 8 mm
	47	2,760.00	4-strand temporarily strung, 9 mm
	48	2,250.00	6-strand temporarily strung, 7.5-8 mm 3-strand temporarily strung 8-8.5 mm
	49	1,000.00	8-strand temporarily strung 6.5-7 mm
	50	990.00	2-strand temporarily strung, 8 mm
	51	2,375.00	19-strand temporarily strung, 6.5-7 mm
	52	1,140.00	6-strand temporarily strung 7.5-8 mm

<u>Bag Tax #</u> <u>Description</u>	<u>Item</u> <u>Number</u>	<u>Nomenclature</u>	
	53	1,650.00	11-strand temporarily strung pearls 6-6.5 mm
	54	450.00	3-strand temporarily strung pearls 6-6.5 mm
	55	375.00	5-strand temporarily strung pearls 5.5-6 mm
	56	250.00	2-strand temporarily strung pearls 6.5-7 mm
	57	1,275.00	3-strand temporarily strung pearls 7.5-8 mm
	58	240.00	2-strand temporarily strung pearls 7-7.5 mm
	59	990.00	2-strand temporarily strung pearls 8-8.5 mm
	60	500.00	2-strand temporarily strung pearls 7-7.5 mm
	61	560.00	2-strand temporarily strung pearls 8-8.5 mm
	62	500.00	2-strand temporarily strung pearls 7-7.5 mm
	63	1,530.00	10-strand temporarily strung mixed pearls
	64	1,500.00	6-strand temporarily strung 8x8.5 mm pearls
	65	720.00	3-strand temporarily strung pearls 8.5-9 mm
	66	560.00	2-strand temporarily strung pearls 8-8.5 mm
	67	2,475.00	5-strand temporarily strung pearls 8-8.5 mm
	68	520.00	2-strand temporarily strung pearls 6.5 mm
	69	1,230.00	3-strand temporarily strung pearls 8-8.5 mm
	70	450.00	3-strand temporarily strung pearls 7-7.5 mm
	71	1,875.00	5-strand temporarily strung pearls 8-8.5 mm
	72	750.00	2-strand temporarily strung pearls 8-8.5 mm
	73	770.00	4-strand assorted size pearls temporarily strung necklace
	74	590.00	3-strand temporarily strung pearls bracelet
	75	270.00	2 ea. temporarily strung pearl necklace
	76	225.00	120 ea. loose pearls, mixed sizes
	77	1,010.00	16 ea. loose pearls, mixed sizes
	78	225.00	48 ea. loose pearls, mixed sizes
	79	1,020.00	130 ea. loose pearls, mixed sizes
	80	355.00	Assorted pearls
	81A	750.00	1 pair brooch w/ diamond pendant, yellow gold
	81B	210.00	Silver diamond earrings
	82	70.00	1 ea. yellow gold ring w/ 3 pearls ea.
	83	70.00	1 ea. yellow gold ring w/ 3 pearls
	84	95.00	1 ea. yellow gold pearl amethyst brooch 14k
	85	60.00	1 ea. pearl/diamond pendant
	86	20.00	1 ea. gold chain 750
	87	265.00	1 set black coral/diamond earrings and ring
	88	12.00	4 ea. costume jewelry necklace
	89	6.00	2 ea. costume jewelry necklace
	90	60.00	1 ea. yellow gold ring w/ 1 white & 1 black pearl

<u>Bag Tax #</u>	<u>Item</u>	<u>Nomenclature</u>	
<u>Description</u>	<u>Number</u>		
	91	5.00	1 side only pearl yellow gold earring
	92	20.00	9 ea. yellow gold bell shape spacers
	93	65.00	13 ea. black pearls
<hr/>			
375280 - Tan w/ brown trimming suitcase			
	1		Men's clothing, miscellaneous documents and inventory of clothing and jewelry
<hr/>			
375282 - Black attaché case			
	1		Used men's clothing and miscellaneous documents
<hr/>			
375284 - Black Samsonite attaché case			
	1		Treasury warrant check
	2		Diplomatic passport
	3		Philippine currency
			100 ea. fifty peso notes = 5,000 pesos (P.I.)
			100 ea. 100 peso notes = 10,000 pesos
			100 ea. fifty peso notes = 5,000 pesos
			100 ea. fifty peso notes = 5,000 pesos
			100 ea. fifty peso notes = 5,000 pesos
			100 ea. fifty peso notes = 5,000 pesos
			9 ea. 100 peso notes = 900 pesos
			2 ea. 10 peso notes = 20.00 pesos
			10 ea. 100 peso notes = 1,000.00 pesos
	4		Philippine National Bank savings passbook
	5	\$ 50.00	1 ea. men's Raymond Weil Geneve quartz wristwatch (black strap), serial #9007
	6	75.00	1 ea. men's Seiko quartz wristwatch (brown strap), serial #S443588
	7	75.00	1 ea. men's Gucci quartz wristwatch (brown strap), no serial #
	8	70.00	1 ea. men's black onyx ring, 14k gold
	9		1 ea. men's ID bracelet 14k

<u>Bag Tax #</u>	<u>Item</u>	<u>Nomenclature</u>	
<u>Description</u>	<u>Number</u>		
	10	75.00	1 ea. men's Gucci quartz watch, brown leather strap
	11		1 ea. black leather men's pocket book
<hr/>			
375295 - Brown Russet leather 777 suitcase			
	1	4,830.00	Coral set consisting of 1 ea. necklace, 14k gold 1 ea. ring w/ diamond, 14k gold 1 pair earrings w/ diamonds, 14k gold
	2	135.00	Pearl 14k yellow gold cufflinks w/ matching studs
	3	140.00	Same as #2
	4	155.00	Same as #2
	5	150.00	Same as #2
	6	155.00	Same as #2
	7	120.00	Same as #2
	8	3,280.00	Gold cufflinks w/ 1 emerald stone & diamonds
	9	170.00	Same as #2
	10	145.00	Same as #2
	11	135.00	14k yellow gold pearl w/ diamond cufflinks and matching studs
	12	170.00	Same as #2
	13	140.00	Same as #2
	14	1,230.00	14k white gold w/ blue sapphires & diamond cufflinks
	15	720.00	4 sets of diamond (1 ea.) cufflinks w/ matching studs
	16	555.00	Silver cufflinks w/ matching studs
	17	130.00	1 pair 14k yellow gold cufflinks
	18	265.00	Pearl earrings w/ matching ring, 14k
	19	560.00	Diamond cufflinks w/ matching studs
	20	185.00	Pearl (1 ea.) on black coral cufflinks w/ matching studs
	21	135.00	Pearl (1 ea.) on mother of pearl shell cufflinks w/ matching studs
	22	100.00	Diamond cufflinks w/ matching studs
	23	90.00	Blue sapphire gold cufflinks
	24	235.00	Pearl w/ diamond cufflinks w/ matching studs
	25	265.00	Diamond black onyx 14k yellow gold cufflink
	26	260.00	Cabachon amethyst cufflinks
	27	170.00	Mabe pearl cufflinks

<u>Bag Tax #</u>	<u>Item</u>	<u>Nomenclature</u>	
<u>Description</u>	<u>Number</u>		
	28	170.00	Same as #27
	29	50.00	Pearl cufflinks w/ matching studs
	30	200.00	Ruby small diamond cufflink w/ matching studs
	31	200.00	4 boxes containing 1 set cufflinks
	32	190.00	14k yellow gold w/ 9 ea. ruby cufflinks
	33	50.00	1 set pearl w/ white gold cufflinks
	34	200.00	1 set gold cufflinks
	35	200.00	1 set gold w/ diamond chips cufflinks
	36	210.00	1 set gold w/ diamond chips cufflinks
	37	250.00	Gold cufflinks w/ matching tie clip
	38	385.00	1 set cufflinks w/ matching studs
	39	50.00	1 set mabe pearl cufflink
	40	245.00	1 set gold cufflink 750
	41	145.00	1 set 14k yellow gold pearl cufflink w/ matching studs
	42	425.00	Gold cufflink w/ matching gold ring
	43	75.00	1 set cufflink w/ small ruby/sapphire/emerald stones, total 4 stones
	44	450.00	1 set gold ruby w/ diamond cufflinks
	45	75.00	1 set cufflinks
	46	165.00	1 set pearl cufflinks w/ matching studs
	47	50.00	1 set cufflinks
	48	335.00	1 set gold cufflinks w/ Cabachon amethyst stone
	49	2,295.00	1 set sapphire w/ diamond (1 ea.) cufflinks
	50	80.00	2 ea. pearl bracelet
	51	50.00	1 ea. pearl bracelet
	52	630.00	1 set Cabachon amethyst cufflinks
	53	720.00	1 pair 14k yellow gold w/ diamond chips necklace
	54	2,715.00	14k yellow gold w/ diamond chips necklace
	55	65,495.00	Diamond earrings w/ diamond hair comb, approximately 20k
	56	145.00	1 set gold cufflinks
	57	75.00	1 ea. Chandler gold pocket watch
	58	190.00	1 set gold w/ diamond chips
	59	375.00	1 set gold w/ diamond ring, brooch, earrings quartz
	60	600.00	4-strand small pearls
	61	185.00	1 ea. gold necklace
	62	25.00	1 ea. gold necklace
	63	230.00	1 set Cabachon cufflinks
	64	90.00	1 ea. gold w/ gold engraved brochure

<u>Bag Tax #</u> <u>Description</u>	<u>Item</u> <u>Number</u>	<u>Nomenclature</u>
	65 \$ 525.00	1 ea. gold brooch w/ multi-colored stones w/ matching earrings
	66 720.00	1 ea. gold and diamond bracelets
	67 240.00	2 matching brooch gold w/ diamond and quartz 4 leaf clover
	68 1,115.00	Two brooches 1 white stones diamonds, amethysts, emeralds 1 diamonds and white stone
	69 200.00	Cufflinks, enamel on gold
	70 260.00	Gold beach necklace
	71 125.00	Gold pocket watch
	72 10,350.00	Gold and diamond bracelet
	73 285.00	Topaz cufflinks set
	74 170.00	Gold and enamel cufflinks
	75 7,600.00	Pearl/gold/emerald/diamond necklace w/ matching earrings
	76 4,425.00	Multi-stone and crystal necklace w/ diamonds w/ 1 pair of emerald/ruby/diamond earrings
	77 1,885.00	Necklace gold multi-stone w/ matching earrings & ring
	78 5.00	Parker pen
	79 635.00	Gold chain w/ scissors & knife pendant
	80 55.00	Gold bracelet w/ pearls
	81 650.00	Gold chain w/ 14k bullion block
	82 150.00	Bracelet & matching ring, mother of pearl w/ diamond
	83 280.00	Brooch white gold, green & white jade
	84 220.00	Gold w/ green stone
	85 130.00	God ring w/ 6 pearls
	86 425.00	Men's gold ring w/ amethyst
	87 260.00	Men's gold ring w/ aquamarine
	88 1,210.00	Gold ring w/ emerald & diamonds
	89 610.00	Gold ring w/ ruby and & diamonds
	90 5,670.00	Ruby diamond earrings, gold setting
	91 625.00	Gold bangle bracelet
	92 75.00	Men's Lognine watch gold color
	93 250.00	Cartier watch
	94 1,305.00	Chopard Geneve women's gold watch & band diamonds & rubies
	95 2,500.00	Men's Chopard Geneve gold watch

<u>Bag Tax #</u>	<u>Item</u>	<u>Nomenclature</u>
<u>Description</u>	<u>Number</u>	
	96	\$ 115.00
		18k Mop/red enamel w/ diamond chip buttons

375851 - Maroon attaché case

			Miscellaneous documents and personal items
1	2,330.00		1 ea. gold Cartier watch w/ gold bracelet
2	25.00		1 ea. Alba quartz watch w/ leather strap
3	50.00		1 ea. ladies' watch w/ black strap
4	7,695.00		1 ea. men's 18k gold Rolex watch w/ black face

ENVELOPE A

U.S. currency

U.S. \$100 bills	10 ea.	= \$ 1,000
U.S. \$50 bills	50 ea.	= 500
U.S. \$20 bills	3 ea.	= 60
U.S. \$5 bill	1 ea.	= 5
U.S. \$1 bill	5 ea.	= 5

\$ 1,570

Philippine currency

10 peso bill	10 ea.	= 100 pesos
2 peso bill	1 ea.	= 2 pesos
Total		= 102 pesos

ENVELOPE B

Miscellaneous documents

7 ea. peso bills = P 14

ENVELOPE C

Certificate of time deposit

<u>Amount</u>	<u>Issue Date</u>	<u>Due Date</u>
Peso 9,000,000	01-23-86	01-24-88
Peso 5,363,144.13	01-23-86	01-24-88
Peso 4,362,637.56	01-23-86	01-24-88
Peso 2,256,636.81	02-03-86	02-04-88
Peso 8,000,000	02-19-86	02-20-88

TOTAL

Peso 28,982,428.5
 @ 25P=\$1 (\$1,159,296.74 U.S.)

<u>Bag Tax #</u>	<u>Item</u>	<u>Nomenclature</u>
<u>Description</u>	<u>Number</u>	
		ENVELOPE D
		Certificate of time deposit
		<u>Amount</u> <u>Issue Date</u> <u>Due Date</u>
		Peso 8,000,000 02-19-86 02-20-88
		Peso 8,000,000 02-19-86 02-20-88
		Peso 1,460,347.05 02-19-86 02-20-88
	TOTAL	Peso 17,460,347.05 @ 25P = \$1 (\$698,413.88 U.S.)
<hr/>		
375862 - Small wooden crate		
	1	1 ea. Ceramic Statue - Jesus seated
<hr/>		
375856 - Brown Louis Vuitton Foot Locker style		
	1	154 ea. Assorted Video tapes
	2	17 ea. Assorted Cassette tapes
	3	2 ea. Assorted Documents
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375860 - Large wooden crate		
	1	1 ea. statue infant Jesus of Prague (El Niño), ivory w/ hammered silver mantle w/ 1 diamond gold necklace 1 gold cross w/ chain 1 gold medallion & chain 1 small box w/ gold medallion
<hr/>		
375870 - Inventory of Monetary Instruments		
		100 peso bills x 1,300 = P130,000
		5 " " x 69 = 345
		2 " " x 5 = 10
		<u>P130,355</u>

<u>Bag Tax #</u> <u>Description</u>	<u>Item</u> <u>Number</u>	<u>Nomenclature</u>
375893 - Box 17		100 peso bills x 8,300 = 830,000 50 peso bills x 2,000 = 100,000 20 peso bills x 900 = 18,000 10 peso bills x 4,600 = 46,000 5 peso bills x 2,000 = 10,000 <u>₱ 1,004,000</u>
375894 - Box 18		Package in brown paper containing (& so marked) - 100 peso bills x 900 = 90,000 - 1 bundle of mixed 100 & 5 notes marked 7,775 = 7,775 Package ₱97,775 Remainder of Box 18 contains - 50 peso bills x 9,700 = 485,000 - 20 peso bills x 8,400 = 168,000 <u>₱ 653,000</u> Total Box 18 97,775 <u>653,000</u> ₱ 750,000
375895 - Box 19		100 peso bills x 18,000 = 1,800,000
375896 - Box 20		(Christmas packs) 100 peso bills x 20 = 1,000 10 peso bills x 3,900 = 39,000 5 peso bills x 12,700 = 63,500 <u>₱ 103,500</u>
375897 - Box 21		100 peso bills x 16,800 = ₱ 1,680,000

<u>Bag Tax #</u> <u>Description</u>	<u>Item</u> <u>Number</u>	<u>Nomenclature</u>
375898 - Box 22		Panasonic 8003 Auto Constant Pocket Calculator (Engraved)
		100 peso bills x 71 = 7,100
		20 peso bills x 8,508 = 170,160
		10 peso bills x 900 = 4,000
		P 181,260
<hr/>		
375853 - One (1) ea. dark brown Gucci suitcase		
	1	\$ 735.00
	2	2,830.00
	3	400.00
	4	1,390.00
	5	570.00
	6	695.00
	7	620.00
	8	610.00
	9	375.00
	10	270.00
	11	350.00
	12	330.00
		1 ea. Mabe pearl on gold brooch w/ 18 assorted stones (sunburst design) #585
		1 ea. pearl choker necklace (56 pearls w/ 12 blue beads) w/ pendant (blue teardrop, 8 diamond stones in horse shoe design & 1 ruby), gold bead clasp
		1 ea. Mabe pearl pendant on 15" gold chain 14k gold earrings w/ 2 white stones
		1 pair Mabe pearl earrings w/ 2 white stones, 14k
		1 ea. Mabe pearl ring w/ 2 white stones (ladies) on 14k
		1 ea. Baroque pearl ring w/ 5 yellow stones, w baguettes on white gold setting
		1 ea. Mabe pearl ring on 18k gold setting w/ diamonds on swirled design on side of ring
		1 ea. Baroque pearl on 14k gold setting w/ diamonds on petal design
		1 ea. Mabe pearl ring on 18k gold setting w/ diamonds on swirled design on side of ring
		1 ea. yellow stone on #585 gold setting ladies ring w/ 6 white stones
		1 pair pearl earrings w/ 4 sapphires & 4 white stones on white gold setting
		1 ea. Mabe pearl ring on 14k gold setting w/ 12 white stones
		1 ea. Baroque pearl ring 14k gold setting w/ 9 white stones
		1 ea. Baroque pearl ring on 14k gold setting w/ white stones on floral design

<u>Bag Tax #</u> <u>Description</u>	<u>Item</u> <u>Number</u>	<u>Nomenclature</u>
	13	\$ 730.00
	14	725.00
	15	195.00
	16	795.00
	17	715.00
	18	810.00
	19	190.00
	20	1,560.00
	21	400.00
	22	2,550.00
	23	150.00
	24-30	2,800.00
	31-35	1,600.00
	36	11,970.00
		10,465.00
	37	855.00
	38-45	4,560.00
	46	735.00

1 ea. Mabe pearl on gold brooch w/ 18 assorted stones (sunburst design) #585
 1 ea. Mabe pearl on gold brooch w/ 18 assorted stones (sunburst design) #585
 1 pair 5/8" approximate diameter Mabe pearl earrings on #585 gold setting
 1 ea. Baroque pearl ring on 14k gold setting w/ 24 white stones
 1 ea. Mabe pearl on gold brooch w/ 18 assorted stones (sunburst design) #585
 1 ea. Mabe pearl brooch on #585 gold setting w/ white stones (23 stones) (floral design)
 1 pair cufflinks, star sapphires, #585 gold setting
 1 ea. 3 Baroque pearl brooch w/ 5 branches containing white stones, 18k trio gold setting
 1 ea. 0.5" approximate diameter Mabe pearl pendant on 15" gold chain 14k gold setting w/ 1 white stone
 1 pair 0.5" approximate diameter Mabe pearl earring on 14k gold setting w/ 1 white stone
 1 ea. 0.5" approximate diameter Mabe pearl ring on 14k gold setting w/ 1 white stone
 1 ea. 56 pearl choker w/ 12 purple stones, 1 purple stone teardrop pendant, 8 white stones on horseshoe design, 1 single purple stone above horseshoe design, gold bead clasp
 1 pair 5/8" approximate diameter Mabe pearl earrings on #585 gold setting
 1 ea. 5/8" approximate diameter Mabe pearl ring on #585 gold setting
 See item #3 for description
 See item #21 for description
 1 ea. ruby (25.7cts) and diamond (7.13cts) on 18k gold setting bracelet
 1 ea. blue sapphires (31.45cts) and diamonds (7.32cts) 18k gold setting bracelet
 1 ea. fly design brooch on #750 gold setting (pearl abdomen, diamond thorax head, emerald eyes, gold wings & legs)
 See items #5, #7 for description.
 See item #1 for description, sun burst brooch

<u>Bag Tax #</u> <u>Description</u>	<u>Item</u> <u>Number</u>	<u>Nomenclature</u>
	47	\$ 610.00
	48	710.00
	49-52	2,800.00
	53-56	600.00
	57	2,500.00
	58	245.00
	59	250.00
	60	1,615.00
	61	2,020.00
	62	620.00
	63	500.00
	64	3,430.00
	65	1,870.00
	66	55.00
	67	175.00
	68	240.00
	69	340.00
	70	385.00
	71	615.00

1 ea. Baroque pearl ring w/ 8 white stones on 14k gold setting
 1 ea. Mabe pearl on #585 gold setting w/ 12 white stones ring
 1 pair Mabe pearl on #585 gold setting w/ 12 white stones earrings
 See item #48 for description
 See items #15 & #23 for description
 1 ea. antique men's pocket watch in heart shaped jewel box w/ emeralds, sapphires & rubies on silver setting (design)
 1 pair #585 gold cufflinks
 3 pairs mother-of-pearl buttons w/ ruby in center
 1 ea. 10 strands freshwater pearls choker 16" w/ pendant (1 purple stone, 1 yellow stone, surrounded w/ white stone on #750 gold setting)
 1 ea. 10 strands freshwater pearl choker 16" w/ pendant (1 purple stone, 2 yellow stones, surrounded w/ white stones #750 gold setting)
 1 ea. 6 red stones (floral design) w/ 30 white stone brooch
 1 pair 2 red stones w/ 5 white stones ea. earrings
 1 ea. 3 blue stones brooch w/ 3 pearls & white stones on #585 gold setting
 1 ea. 2 red stones, 6 white stones on 18k gold setting (ring)
 1 pair 2 red stones, 8 white stones on 18k gold setting (earrings)
 1 ea. 2 pearl brooch w/ 41 white stones
 1 ea. 1 pearl brooch (fleurdelis) design w/ MOP carving, enamel border
 1 pair Mabe pearl cufflinks, #585 gold setting
 1 pair MOP cufflinks, 14k gold w/ 6 white stones in center
 3 ea. studs MOP 14k gold setting
 1 ea. Baroque pearl ring, 14k gold 10 white stones on mounting
 1 ea. Baroque pearl ring, 14k gold w/ 4 white stones
 1 ea. Baroque pearl ring w/ 14 diamond stones 14k gold bamboo design

<u>Bag Tax #</u>	<u>Item</u>	<u>Nomenclature</u>
<u>Description</u>	<u>Number</u>	
	72 \$ 1,000.00	1 ea. Baroque pearl ring, 14k gold setting w/ 20 diamond stones
	73 335.00	1 ea. Baroque pearl ring, 14k gold setting w/ 14 diamond stones
	74 400.00	1 ea., see item #3 for description
	75 395.00	1 ea. Mabe pearl, 750 gold setting w/ 4 white stones
		1 pair Mabe pearl earrings, 718 gold setting w/ 4 white stones
	76 275.00	1 ea. Mabe pearl ring, 14k gold setting
		1 pair Mabe pearl earrings, 14k gold setting
	77 230.00	1 ea. Mabe pearl ring, 750 gold setting
		1 pair Mabe pearl earrings, 750 gold setting
	78 585.00	1 ea., see item #18 for description
	79 620.00	1 ea., see item #18 for description
	80 80.00	1 ea. Mabe pearl brooch, leaf design, satin finish, 23 white stones, #585 gold setting
	81 785.00	1 ea. Mabe pearl brooch on #585 gold setting w/ 23 white stones floral design
	82 110.00	1 ea. Mabe pearl pendant on #585 gold setting, #16" gold chain w/ 1 white stone

375292 - 1 ea. Gucci soft-shell suitcase

1	\$59,050.00	19 ea. assorted stones w/ white stones #750 white gold setting necklace
2	65,500.00	Sapphire beads w/ diamond necklace in 18k gold necklace
3	82,425.00	6 strands emerald, ruby & sapphire beads & diamond rondelles (37 pieces) & balls (21 pieces)
4		100 ea. = 50 pesos notes = 5,000 pesos
		100 ea. = 50 pesos notes = 5,000 pesos
5		Used clothing
6		1 bag used clothing

Item No. 2:

Beads - 450.10 cts

Diamonds - 10.27 cts

Diamond Balls - 21 pcs

Diamond Rondelles - 37 pcs

Gold Rings - 212 pcs

<u>Bag Tax #</u>	<u>Item</u>	<u>Nomenclature</u>	
<u>Description</u>	<u>Number</u>		
375867 - Documents & stocks (bearer)			
376999 - 1 ea. aluminum suitcase			
	1	\$ 5,115.00	1 ea. Chopard women's wrist watch goldset w/ diamonds & rubies
	2	12,000.00	1 ea. men's Piaget wrist watch goldset w/ diamonds
	3	149,575.00	1 ea. pair cufflinks
	4	32,865.00	1 ea. pair earrings
	5	290,000.00	150cts Burmese ruby w/ diamond brooch
	6	10.00	Ring from India
	7	150.00	Gold proof coin
	8	545.00	Heart-shaped diamond/pearl ring
	9	100.00	Gold compact case
	10	345.00	Mother of pearl/diamond cufflinks
	11	0.00	Cufflinks, no value
	12	755.00	Black pearl/diamond ring
	13	665.00	Diamond/pearl ring
	14	670.00	Diamond/pearl ring
	15	955.00	Gold chain w/ bar
	16	0.00	Gold locket (old)
	17	990.00	Diamond/pearl ring
	18	335.00	Diamond/black pearl ring
	19	0.00	Brooch
	20	490.00	Diamond/pearl ring
	21	0.00	Presidential seal medallions
	22	165.00	Gold ring
	23	555.00	Diamond/pearl ring
	24	100.00	Box miscellaneous jewelry
	25	2,125.00	Assorted cufflinks, tie clasps
	26	25.00	Tie clasp
	27	7,500.00	Men's gold Rolex watch
	28	25.00	Irland quartz watch
	29	75.00	Men's Seiko watch
	30	50.00	Men's Casio watch
	31		25 caliber Beretta handgun, serial #76311V
	32		.357 Magnum COP handgun, serial #006707, 4 shots
	33		9 mm Beretta handgun, serial #B00381Y
	34		9 caliber Beretta 93R handgun, serial #B759272
	35		9 mm Walther handgun, serial #CW777

<u>Bag Tax #</u>	<u>Item</u>	<u>Nomenclature</u>
<u>Description</u>	<u>Number</u>	
	36 \$ 1,810.00	Seven (&) semi-precious, unset stones
	37 500.00	Cartier table clock
<hr/>		
3759092 - Brown suitcase		
	1 \$ 145.00	1 ea. gold serpent w/ green eyes key ring
	2 435.00	1 ea. yellow metal brooch w/ 15 pearls
	3 615.00	1 ea. 18k gold link bracelet, 3-strand w/ 8 small rubies
		1 pair 18k gold earring w/ 12 small rubies & 7 small diamonds ea.
	4 4,200.00	1 ea. gold brooch w/ rubies & diamonds & 1 detachable 3-strand gold chain w/ rubies & diamonds
	5 74,825.00	1 set teardrop green emerald & diamonds pendant (has 1 pearl & earring)
		1 piece loose crystal-like stone
	6 180.00	1 three flower brooch w/ 3 small rubies
	7	1 set 18k gold of rubies & diamonds consisting of
	18,165.00	a. 1 heart-shaped brooch
	32,540.00	b. 1 necklace
	3,290.00	c. 1 pair pierced earrings
	6,125.00	1 ea. platinum ring w/ a large ruby & diamonds
	9,765.00	1 ea. 4-strand pearl bracelet w/ gold clasp of 1 large ruby & diamonds
	8	1 set 18k gold of pearl & diamonds consisting of
	16,345.00	a. 1 necklace w/ 8 pearls
	3,65600.00	b. 1 pair earrings w/ 1 pearl ea.
	9 220.00	1 ea. 14k gold brooch w/ 2 opals, 6 rubies & 4 pearls
	10 25.00	1 ea. pink coral necklace
	290.00	1 ea. necklace w/ 2-strand pearls & 1 strand pink coral
	1,760.00	1 ea. necklace w/ purple stones & diamonds
	11	1 set black sapphire & diamonds consisting of
	1,315.00	a. 1 brooch
	315.00	b. 1 ring
	360.00	c. 1 pair earrings
	12 50.00	Two (2) ea. tie tacks: 1 coral, 1 airplane
	13 400.00	1 ea. gold brooch w/ 12 flowers w/ diamonds

<u>Bag Tax #</u> <u>Description</u>	<u>Item</u> <u>Number</u>	<u>Nomenclature</u>	
	14	\$ 175.00	1 ea. gold pendant w/ 1 large pearl & 7 small assorted stones on a gold chain
	15		1 set pink coral in gold consisting of
		140.00	a. 1 ring
		40.00	b. 1 pair earrings
		100.00	c. 1 pendant on gold chain
	16		1 set yellow & white gold w/ diamonds consisting of
		5,530.00	a. 1 belt
		3,765.00	b. 1 bracelet
	17		1 set yellow gold w/ blue pearls & diamonds consisting of
		2,550.00	a. 1 ring
		6,780.00	b. 1 pair earrings
		11,660.00	c. 1 brooch
		4,510.00	1 pair earrings w/ purple-like teardrops & diamonds
		7,500.00	1 brooch w/ 1 large & 6 small pearls & 1 large & 8 small diamonds
		5,670.00	1 diamond necklace w/ 3 teardrop, colored stones
	18	120.00	1 gold bracelet, characters spell "Philippines"
	19	50.00	1 white shell necklace
	20	270.00	1 18k gold bracelet, rope design
	21	2,560.00	1 pair cufflinks of initials:
			a. diamond
			b. green emeralds
			c. ruby
			d. blue sapphire
	22	160.00	1 gold brooch w/ white orchid of 3 small blue stones
	23	100.00	1 silver ornament in red sock, may be a mirror
	24	500.00	1 decorative rock w/ 1 gold sleeve
	25	125.00	1 ladies' Cartier quartz watch w/ 4 diamonds & red leather band
	26	125.00	Same as #25
	27	125.00	Same as #25
	28	100.00	1 ladies' Cartier quartz watch, leather band
	29	125.00	1 ladies' Cartier quartz watch w/ 1 diamond, brown band w/ black trim
	30	125.00	Same as #29
	31	125.00	Same as #29
	32	50.00	1 ladies' Seiko watch, black band, serial #17-0620
	33	75.00	1 ladies' Seiko watch, black band, serial #5299985

<u>Item</u> <u>Tag Tax #</u> <u>Description</u>	<u>Item</u> <u>Number</u>	<u>Nomenclature</u>
	34 \$ 4,745.00	1 Patek Philippe Geneva gold bracelet watch
	35 50.00	1 men's Miles watch, 7 rubies antichoc, inscription on case back
	36 150.00	1 ladies' Ebel watch, serial #181908
	37 20.00	1 ladies' Van Cleef & Arpels watch, #845, condition of watch is very poor (old)
	38 150.00	1 Graff watch, serial #G21377 19770, inscription on case back
	39 1,060.00	1 men's Rolex watch, stainless steel & gold, serial #5046290, band #78353
	40 6,700.00	1 men's Rolex watch, yellow gold, oyster perpetual date, serial #8601763, #18038
	41 4,460.00	1 ladies' Rolex watch, yellow gold, oyster perpetual date, serial #8259938, #69178
	42 2,745.00	1 ladies' Patek Philippe Geneva watch, diamonds around blue face, serial #1393068, #413414
	43 2,040.00	1 ladies' bracelet-type Chopard Geneva watch, bracelet of pearls & turquoise w/ diamond clasp, floating diamond face
	44 3,650.00	1 Chopard Geneva gold watch w/ diamonds, serial #102816
	45 675.00	1 Chopard Geneva watch w/ diamonds, black band, serial #409323
	46 2,445.00	1 Chopard Geneva gold watch w/ diamonds, serial #86443, #5045-1
	47 4,355.00	1 ladies' Delaneau diamond watch w/ gold strand bracelet, serial #G2491676
	48 2,655.00	1 ladies' Chopard Geneva gold watch w/ diamond face, serial #413912 5404 4
	49 1,805.00	1 ladies' Chopard Geneva gold watch w/ diamonds, gold strand bracelet, serial #200734 4054
	50 6,470.00	1 ladies' Chopard Geneva gold watch w/ diamond face, serial #130885 4029 1
	51 75.00	1 ladies' Girard Perregaux gold watch
	52 75.00	Same as #51
	53 75.00	Same as #51
	54 75.00	Same as #51

<u>Bag Tax #</u> <u>Description</u>	<u>Item</u> <u>Number</u>	<u>Nomenclature</u>
	57	\$ 25.00
		1 Jean Perret Geneve watch w/ black band w/ inscription
	58	25.00
		Same as #57, serial #0946 1
	59	
		Same as #57, serial #0703 1
	60	
		Same as #57, serial #0703 1
	61	
		Same as #57, serial #0703 1
	62	25.00
		1 Favre-Levb watch with alk bank, serial #58612
	63	25.00
		Same as #57, serial #0703 1
	64	25.00
		1 Van Cleef & Arpels watch, condition of watch is poor
	65	25.00
		Same as #57, serial #25021
	66	125.00
		Same as #29
	67	125.00
		Same as #29
	68	125.00
		Same as #29
	69	125.00
		Same as #29
	70	125.00
		Same as #29
	71	125.00
		Same as #29
	72	100.00
		1 ladies' Cartier watch w/ brown band
	73	100.00
		1 ladies' Cartier watch w/ red band
	74	100.00
		Same as #73
	75	100.00
		Same as #73
	76	100.00
		Same as #73
	77	100.00
		Same as #73
	78	100.00
		1 Cartier watch w/ roman numerals, black & red
	79	21,180.00
		1 ea. gold/diamond brooch w/ 3 black pearls
	80	1,890.00
		1 ea. gold arm band/bracelet
	81	300.00
		1 ea. loose diamond (.25k) on mtg.
	82	75.00
		1 ea. loose bar pearl

Annex G

Testimony of Minister Jovito R. Salonga on the PCGG and the Marcos Plunder Before the Committee on Transitory Provisions of the *Constitutional Commission** 17 July 1986

HONORABLE Chairman and Members of the Commission:

The thousands of documents in our possession show that for almost 20 years, since Mr. Marcos began his presidency — effectively in January 1986 — something happened to the Philippines which the Filipinos and the rest of the world had never before witnessed: the outright, incredible plunder of an entire nation.

A very prominent Filipino businessman put it very aptly the other day: there is no word in the English dictionary that describes the nature and the magnitude of the offense, and our criminal code has no provision for this kind of a crime against an entire country. Congressman Solarz had to use the word “kleptocracy” to describe Mr. Marcos’ reign of greed, but there is no crime of that sort in American law.

Mr. Marcos’ pillage — systematic, sustained, and surreptitious in most cases — began shortly after he assumed the presidency. It was mostly domestic in the first year, with a foreign element introduced from time to time. But in March 1968, as I will demonstrate shortly by documentary evidence — I do not know whether the documents should be presented here in this public hearing knowing that they are being processed behind closed doors in other countries — Mr. and Mrs. Marcos were salting away dollars with the use of code names in the banks of a country known for its tight secrecy laws: Switzerland, a stable neutralized country in a troubled, turbulent world, the most favored place for the world’s most corrupt rulers and dictators, such as the Shah of Iran and Anastacio Somoza of Nicaragua.

The evidence in our possession shows that Mr. Marcos began his venture in

*Delivered at a time when there was a move of some commissioners to abolish the PCGG on the ground that “sequestration is being carried out without previous notice and hearing, thus depriving the Marcos cronies of due process of law.”

1967, and by 1968, four years before martial law, he became a little more versatile. He used the code name or pseudonym William Saunders, while Mrs. Imelda Romualdez Marcos used the pseudonym Jane Ryan.

In 1970, Mr. Marcos was apprehensive he might be detected even with the use of code names. Secretly, without previous notice or hearing, as demanded by those who invoke the due process clause, he caused the organization of a foundation, the Sandy Foundation, which is one of the many hidden foundations he was to organize not only in Switzerland but in other places, such as Liechtenstein, a tiny principality in Europe. By the way, we have discovered at least 14 more foundations in Europe.

Over the years, Mr. Marcos harnessed the services of only a trusted few in accumulating the nation's wealth in foreign banks; among them, a very close associate, long before he came into power, who now complains that he has not been given previous notice and hearing, thus supposedly depriving him of his "private property" without due process of law; a former general, now deceased, who used to be in charge of war reparations from Japan and who apparently felt obligated to give blood money to his Commander-in-Chief; a former cabinet member, now old and sick, who has decided to tell the PCGG the truth. Evidently, this Cabinet member knows that after serving Mr. and Mrs. Marcos surreptitiously, it would be the height of hypocrisy to tell the Filipino people, whom the Marcoses had robbed and exploited, that their basic human rights are being violated by the Aquino Government. I may add the name of a very close crony based in Vancouver, one whose name has been repeatedly published in the newspapers, a private businessman, who told us not only the truth but also agreed to unload a part of the ill-gotten wealth, because — like Zaccheus of Biblical times — his conscience bothered him.

In any case, the point I am trying to put across is that in the hands of a corrupt president (even of a democratic country, such as the Philippines was in 1966 up to the declaration of martial law on September 21, 1972) the elegant, stately language of the 1935 Constitution, which spoke of checks and balances, did not make any difference at all. Five years before martial law was declared, he and his wife had been in the secret business of looting the whole country. He needed martial law partly to perpetuate himself in power indefinitely, and partly to expand without fear of being found out, his empire of "gold, oil, land, and cash" beyond the imagination of the Filipino people.

Thus, after 1972, under martial law, he and his emboldened cronies and associates confiscated — not just sequestered — lucrative business enterprises (Meralco, ABS-CBN, Manila Chronicle, IISMI, are but a few of the more notorious examples). They bought on-going, profitable companies, installed the tobacco, sugar, and coconut monopolies purportedly for the benefit of the poor, demanded kickbacks, and extorted cash and equity holdings in various corpora-

tions. Two days ago, a prominent Chinese associate of Marcos told us that 60 percent equity had been demanded of him just before the February 1986 (EDSA) revolution.

In a manner of speaking, Marcos and his agents raided government banking and financing institutions using all kinds of excuses, thus reducing the DBP and the PNB to what has been described by the Central Bank Governor "as a state of *in extremis*." Meanwhile, Mr. and Mrs. Marcos continued their depositing and investing sprees in the richest countries of the world. They did not invest in China, India, or Bangladesh. Ironically, Marcos used to describe himself as the spokesman of the Third World, the so-called Club of 77, where the only qualification for membership of any nation is abject poverty.

Early in the 1980s, all this was not enough: Mrs. Marcos, with her edifice complex, wanted to own a good part of New York, in terms of elegant buildings, estates and mansions.

We have been reliably informed that Mr. and Mrs. Marcos own around 21 real estate properties in the eastern seaboard of the United States — only seven are in actual litigation today because of the intricate, complex corporate devices resorted to, which must first be unraveled. With respect to three or four of these properties, Mrs. Gleyce Tantoco played an important role.

Let me cite an example, so we may realize that traditional legal measures and abstract platitudes and legalisms cannot possibly apply to this kind of plunder. There are four elegant buildings in Manhattan worth around 350 million dollars — around seven billion pesos. In the U.S. in New York or in Texas, or in Canada, no building is registered in the name of Mr. and Mrs. Marcos — their Filipino and American financial advisers and engineers were not that stupid. So what did they do? Every building, in New York for example, is purportedly owned by a corporation in Netherlands Antilles, and in turn every Netherlands Antilles corporation is owned by three Panamanian corporations, with bearer shares, which means that these shares are transferable without need of registration. Whoever is the bearer of the shares is the owner.

Shortly after I was appointed to the PCGG by President Aquino on February 28, 1986, I got a call from a Filipina-American lawyer based in Washington, D.C. — she said that the buildings were about to be sold by the Bernstein brothers. The latter were the ones who secretly managed the buildings for Mr. and Mrs. Marcos, who had arrived in Honolulu two days before. Remember the Bernsteins were declared in contempt by the U.S. Congress for their refusal to answer the questions of the Solarz Committee. In any case, we had to decide quick: we engaged the services of distinguished American lawyers in New York, who are all serving the PCGG without pay, so we could have a restraining order. That was done right away — without previous notice or hearing. A restraining order was obtained by our lawyers. That has ripened into an injunc-

tion today, which is now on appeal by the dummies and the corporate nominees acting for Marcos.

On March 16, 1986, while testifying in the American Congress in Washington, an in-depth article appeared in the *New York Times* about the Marcos empire, which quoted me as having said that "the greatest bulk of the Marcos holdings are not in the Philippines, not in the United States, but in Switzerland." I said that the documents supporting this conclusion had just been found in the Philippines.

In a few days, that is, on March 24, 1986, after the *New York Times* article came out, an agent of Marcos got the dictator to sign a document authorizing this agent to get hold of the cash and securities deposited in that country. On March 24, this Marcos agent presented himself before the Swiss banks in order to get hold of the enormous loot. Fortunately for our nation, the next day, March 25, the Swiss Federal Council, which is not a Court, on its own motion and without waiting for PCGG Commissioner Pedro Yap, who was precisely on his way from New York, where I had been testifying at the Federal Courthouse, had the guts and the wisdom to impose a unilateral freeze on all the assets of Marcos, his associates and cronies, without benefit of any previous notice and hearing. Several of these cronies, by the way, have gone to the Supreme Court here to precisely complain that in a democracy like the Philippines, any act of the PCGG can only be taken after previous notice and hearing, otherwise due process would be violated. Were we to follow the argument, twenty (20) years of secret, hidden accumulation of ill-gotten wealth are to be undone in one year of open, protracted hearings! Because of the complaints from the affected banks, whose principal officers had been appointed by Marcos as his own agents, we in the PCGG had to regularize the freeze by complying with the procedural requirements of the Swiss Law on International Mutual Legal Assistance (IMAC). This we did in April and the whole process ended successfully towards the end of the month. Marcos and his agents must have thought we were not successful. On May 7, 1986, his representatives went to Switzerland again and threatened the Swiss banks: if they did not release the cash and securities of Marcos, within 24 hours, they would be sued by Marcos' lawyers in Europe. But the Swiss authorities held fast: the administrative freeze, without any judicial confirmation, still prevails up to this hour.

That is why I say, this Constitutional Commission must be careful. In the desire to preserve the business stability of the cronies and the associates of Mr. Marcos, whether big or small, we may be committing a crime against our own people — who in the final analysis own this ill-gotten wealth. It is the bulk of our people — around 75 percent of whom live below the level of poverty — whose rights are at stake, not just the property rights of the Marcoses, the Tantocos, the Cojuangcos, the Tans and the other cronies, but our people's right

to survival, to a decent, humane life. It is our people's right to a stable future we must all protect.

As I have said again and again, why should the Swiss and the American authorities (for example, the Customs authorities in Honolulu) continue to impose a freeze for the direct benefit of the Filipino people, without previous notice to Mr. Marcos, if we ourselves here have become so unwilling and hesitant to freeze the assets of Marcos and his cronies here? Why should they stick their necks out for the Filipino people, when we are losing the courage to do that in the process?

Moreover, sensitive proceedings are going on in foreign jurisdictions right now — the resulting adverse publicity here could deprive our people of billions of cash, securities, gold and silver.

If any sequestration or freeze order was issued unjustly, let us know. *Kabit na si Kristo, hindi napigilan ang kanyang mga disipulo — may isang nagtaksil.* We don't pretend to be infallible.

If any of our agents has committed any abuses or excesses, let us know. There are hundreds of volunteers here and abroad, including some foreigners, some of them the finest men and women I know, in the fields of banking, technology, law, and other disciplines who should not be smeared, partly because they helped us solve some of the mysteries of the ill-gotten wealth and partly because — out of the generosity of their spirit — they offered their services without thought of any compensation.

There is another point. Some of the cronies of Marcos are on the point of unloading their ill-gotten wealth, and negotiations are now proceeding to accomplish that end, but continuous adverse publicity against the PCGG, without solid evidence in some cases, could dissuade them from continuing their negotiations with us. What is the point, indeed, in negotiating? They can just sit tight and wait, hold on to their ill-gotten wealth, and the time may come when, in the name of the Constitution and due process, their so-called property rights will be legitimized by our lack of political will?

May I say that it is not true that before you can sequester you must first hold a hearing. In administrative proceedings, the closest approximation to our sequestration is the Summary Proceedings of Dstraint of Personal Property/Levy of Real Property under Title IX, "Civil Remedies for the Collection of Taxes (National Internal Revenue Code)." For the purpose of safeguarding the interest of the Government, the Commissioner may place under constructive dstraint the property of a delinquent taxpayer or any taxpayer, who *in his opinion* : (1) is retiring from any business subject to tax; (2) is intending to leave the Philippines, or removing his property therefrom; (3) is hiding or concealing his property; or (4) is performing any act tending to obstruct the proceedings for collecting the tax due or which may be due from him. (Sec. 303, NIRC)

The procedure is as follows:

First, a warrant of distraint is served upon the taxpayer or upon the person in possession of the taxpayer's personal property. Then a notice to the taxpayer of the time and the place of public sale of the articles distraint is posted. Then the articles distraint are sold to the highest bidder in a public auction. The proceeds of the sale are then disposed.

The Constructive Distraint is effected by requiring the taxpayer or any person having possession or control of the property to sign a receipt covering the property distrainted and to obligate himself to preserve the same intact and unaltered and not to dispose of the same in any manner whatsoever without the express authority of the Commissioner of Internal Revenue. The same procedure is used for levy property. No hearing or determination is necessary for actual distraint (actual possession of property) and in constructive distraint the taxpayer *need not even be delinquent*.

To proceed, not one of these cronies have been imprisoned, by the way. And many of the KBLs who now complain of "unfairness" did not say one word when Marcos confiscated the properties of the Lopezes, for example, to be delivered to the Romualdezes and the Benedictos. I do not seem to recall any time when they did.

The latest Ateneo Social Weather Stations survey shows that our people approved by the highest rating possible — 64 percent as against disapproval of 14 percent — the drastic measure of *confiscating*, not just sequestering, the ill-gotten wealth of Marcos and his cronies.

Let us not betray their faith in us. For if we did, a dictator will come again some day, in the name of national security and stability, and do what Marcos did, since after all, Marcos and his associates here and abroad shall have demonstrated for all the world to see that crime pays.

And what lesson shall we leave to our children who watch us and who see through our daily pretensions? That the highest office in the land is a public trust? Or is it a private possession which can be used to plunder an entire nation? It is not just clipping the powers of the PCGG that is at issue here — it is dismantling the drive against the most gigantic loot in world history.

For my part, I am not interested in the position I hold. I can leave this office any time. I can resign any moment, and President Aquino knows that. But in heaven's name, please do not abandon the pledge we have made before God and men to go after the ill-gotten loot of Marcos, his cronies, and associates. Otherwise we will be cursed by our people.

As I am in the habit of saying — whenever I am asked about why evil continues to flourish in our midst up to this hour — my answer has always been:

“The reason is simple: Good men and good women get sick and tired of being good before bad men and bad women get sick and tired of being bad.”

Thank you.

Annex H

PCGG List of Companies
Affected by Sequestration Orders

as of January 14, 1987

COMPANY	DATE SEQ'D	NATURE OF ASSET / TYPE OF BUSINESS	LOCATION
Ago Golf & Country Club	04/10/85	Shares	Davao City
Agri.Consultancy Serv. Corp.	05/30/86		
Agri Investors, Inc.	04/21/86		Makati, Manila
Agri Ford, Inc.	05/05/86	Shares	Femii Bldg. Intramuros
Agro-Far East Foundation Colleges	05/12/86		Toril, Davao City
Agro-Int'l & Comm'l Sec. Agency	05/05/86	Shares	Femii Bldg. Intramuros
Agro-Indus. Found Coll. Of the Phil.	05/12/86		Toril, Davao City
Aklan Bulk Carriers, Inc.	05/05/86	Shares	Femii Bldg. Intramuros
Allied Banking Corporation	06/19/86	354417 Shares	Makati
American Inter Fashion	03/25/86	Garments	1 Victoneto Ave. Malabon
American-Phils. Fiber Indus. Inc.	09/22/86		2200 Pasong Tamo Ext. Mkt.
Anchor Insurance BKGE Corp.	04/21/86	Insurance Brokerage	7th Floor Aroza Bldg.
Anflo Mgt. & Investors Corp.	04/10/86	32,500,000 Shares	Paranaque, Metro Manila
Anflo Cars Inc.	03/19/86	Car Dealership	Paranaque, Metro Manila
AGF Shipping and Co., Inc.	04/10/86	Shares	Davao City
APO Production Unit, Inc.	05/30/86	Printing	11 Panay Ave. Q.C.
Aquacor Food Mktg. Corp.	05/30/86		
Aquacultural Investors, Inc.	05/30/86	Aquacultural Dev.	Malinta, Davao Del Sur
Argao Beach Club	03/19/86		Dumaguete, Cebu
Armco-Marsteel Alloy Corp.	05/26/86	Shares	Makati, Manila
Assemblyman Mariano Marcos	05/12/86		Davao Del Sur
Asso. Of Integrated Millers, Inc.	05/05/86	Shares	Fermii Bldg. Intramuros
Autonomous Development Corp.	05/09/86	Buy/Sell Real Est. Prog.	
Aviles Realty Corp.	04/22/86	Realty Business	1201 JP Laurel St. Manila
Bacolod Real Estate Dev't Corp.	09/22/86		2290 Pasong Tamo Ext. Mkt.
Balut Island Sawmill Corp.	05/29/86	Logging	Dingalan, Aurora & Gen Nakar
Baseco Drydock and Const. Com.	04/02/86	Drydocking/Ship Rep.	Port Area, Manila
Baseco Quarry	04/14/86		
Basic Petroleum & Minerals Inc.	04/10/86	Shares	Makati
Bataan Shipyard & Eng'g Co., Inc.	04/14/86	Ship Bldg. & Repair	Eng'g Is. Port Area, Manila
Bay Transport	04/14/86		
Belgor Investment, Inc.	04/14/86	Shares	
Benguet Corporation	04/05/86	Shares	
BH-Anci	05/05/86	Shares	Bacolod City
Bohol Beach Club	04/22/86		Panglao, Bohol
Bugsok Island	03/19/86	Hybrid Coconut	Palawan
Bukidnon Farms, Inc.	03/19/86	Cacao/Hybrid Coconut	Bukidnon
Bukidnon Sugar Milling Co., Inc.	04/10/86	Milling/Mftr of Sugar	Baitan, Quezon, Bukidnon
Bulletin Publishing Corp.	04/22/86	Shares	Intramuros Manila
Cagayan DeOro Oil Co.	03/19/86	Manufac-Coconut Oil	Cagayan de Oro
Calpi and Deagan Ranches	03/15/86		
Carruf Agricultural Corp.	04/18/86		
Cebu Plaza Hotel	04/22/86	Hotel	Lahug, Cebu City

COMPANY	DATE SEQ'D	NATURE OF ASSET / TYPE OF BUSINESS	LOCATION
Cebu Pub'g House, Inc.	12/04/86		
Cebu Vigilantes Protective & Pvt.	12/04/86		
Celebrity Sports Plaza	05/20/86	Shares	
Challenge Corp. of the Phils. (Pepsi)	04/17/86	Shares	
Cocoa Investors, Inc.	03/19/86	Cacao/Coconut	Davao Del Sur
Coconut Producers Fed of Phils.	07/08/86	Shares of Stocks	Taft Ave. Q.C. Vito Cruz
Cojuangco (Central) Res. Corp.	04/21/86		
Consultants Manila, Inc.	05/07/86	Management Services	Makati, Metro Manila
Coral Islands Resorts Dev't Corp.	03/14/86		Makati, Metro Manila
Coron Bulk Carriers Inc.	05/05/86	Shares	Femii Bldg. Intramuros
Cougar Security Agency	01/10/86	Shares	Davao City
Countryside Millers, Inc.	10/13/86		
Credit and Collective Specialists	04/10/86	Shares	Davao City
Clarixon-Rionda Philippines	05/05/86	Shares	PO Commerce Bldg. Mkt.
Daal Corp.	05/09/86	Holding Company	Makati, Metro Manila
Davao Agri'l Aviation Corp.	03/19/86	Agricultural/Aircraft	Davao City
Davao Agri Ventures Corp.	03/19/86	Pineapple Plantation	Davao City
Davao Gulf Club, Inc.	04/10/86	Shares	Davao City
Davao Inst of Agri Found, Inc.	05/12/86		Toril, Davao City
Davao Motor Sales Co.	03/19/86	Car Dealership	Davao City
Dayton Metals Corp.	09/22/86	Mftr. Iron Steel/Metals	2200 Pasong Tamo
De Soleil Apparel Mftg. Corp.	03/15/86	Garments	Malabon
Delgado Bros. Hotel	04/10/86	Shares	Manila
DH, Inc. (Diversified Holdings)	05/10/86	Holding company	Makati, Metro Manila
Dipudo Industrial, Inc.	04/02/86	Ranch Optr. Meat Prod.	90 Tambo, Pamplona, Camarines Sur
Domestic Satellite Corp.	03/14/86	Telecommunication	
Dutch Boy Phils. Inc.	09/30/86	Shares	2240 Pasong Tamo, Mkt.
E. Cojuangco & Sons, Inc.	04/21/86		Makati
EM Cojuangco & Sons Ari Ent Inc.	04/24/86	Coconut Plant/Fishpond	
Eastern Pacific Dry	04/24/86	Drydocking	
Eastern Telecom Phils. Inc.	03/14/86	Shares	
Eci Challenge, Inc.	03/19/86	Hybrid Coconut	Palawan
Ecijia Bulk Carriers, Inc.	05/05/86	Shares	Femii Bldg. Intramuros
Ecological Technology Foundation	05/05/86	Non-Stock/Non-Profit School	Lahug, Cebu
Electronic Tel Systems Ind. Inc.	04/18/86	3125 Shares	Makati
ER Ranch	03/15/86	Cattle Raising	Malarang, Masbate
Escano Hermanos, Inc.	04/18/86		
Express Comm'l Printers Corp.	05/05/86	Shares	Broadcast City, Diliman, Q.C.
Far Eastern Managers & Investors	05/05/86	Shares	Femii Bldg. Intramuros
Femii Building	05/05/86	Shares	Femii Bldg. Intramuros
Fidelity Mgmt. Co., Inc.	04/14/86	Management	
Fil-Oil Refining Corp.	04/10/86	Shares	Manila
Filipinas Micro-Circuits, Inc.	09/22/86	Semiconductor Elec.	2200 Pasong Tamo, Makati
Filsov Shipping Agency	04/24/86	Shares	
First Manila Mgmt. Corp.	04/30/86		
Foremost Farms, Inc.	08/26/86	41842500 Shares	Pasig
Fortune Tobacco Corp.	07/24/86	Shares	Parang, Marikina

COMPANY	DATE SEQ'D	NATURE OF ASSET / TYPE OF BUSINESS	LOCATION
Fuga Bulk Carriers, Inc.	05/05/86	Shares	Femii Bldg. Intramuros
Golden Needle, Inc.	06/13/86		
Golden Times Trading Co., Inc.	04/24/86	Trader-Gen Mdse	
Grannex	03/19/86		Iligan City
Guaranteed Education, Inc. (GEI)	10/24/86	Shares	PBCON Bldg. Ayala Ave.
He Heacock, Inc.	06/13/86		
Hacienda Carmen	04/18/86		La Carlota, Negros Occidental
Hacienda Fe, Inc.	05/09/86	Sugar Cane Plantation	Makati, Metro Manila
Hacienda San Martin	04/18/86	Farming	
Hi Cement Corp.	04/10/86	Shares	Makati, Metro Manila
Hi-Five Corp.	06/13/86		
Hi-Tri Dev't Corp.	04/15/86	General Contractor	
Highway Builders, Inc.	04/02/86	General Contractor	Marikina, Rizal
Holiday Inn	04/22/86	Condominium Unit	Manila
Hotel Properties, Inc.	05/31/86	Hotel Bldg. Co.	Makati, Metro Manila
House of Investment, Inc.	04/10/86	Shares	Manila
House of Travel, Inc.	04/10/86	1835000 Shares	Manila
Ilicoco	03/19/86		Iligan City
Indophil	03/19/86		Medina, Misamis DRBO
Insular Refining Co.	10/10/86		Hulo, Mandaluyong
Integral Factors Corp.	04/10/86		Intramuros, Manila
International Forwarders Corp.	05/05/86	Shares	Iloilo
Investors Finance Corp.	04/10/86	Shares	Makati
Jewel-mer International Corp.	05/30/86	Pearl Culture	
Land Oil Resources Corp.	04/10/86	Shares	Makati
Lapay Development Corp.	05/05/86	Shares	Femii Bldg. Intramuros
Legaspi Oil, Cagayan de Oro	03/19/86		Cagayan De Oro City
Legaspi Oil, Davao	03/19/86		Davao City
Liangga Bay Logging Co.	04/02/86	Logging & Other Bus	Surigao Del Sur
Mandaue Printers, Inc.	12/04/86		
Manila Golf & Country Club	04/21/86	Shares	Harvard Road, Makati
Manila International Port Term	04/02/86	Warehouse Const. & Operation	Harbor Port Area, Manila
Manila Jockey Club, Inc.	04/10/86	Shares	Manila
Mantrade, Inc.	04/30/86		
Mapalad Realty Co. Inc.	05/23/86	Realty	
Maranao Oil Resources	05/05/86	Shares	Femii Bldg. Intramuros
Maranaw Hotels & Resort Corp.	07/24/86	Shares	Century Park
Marapara Shipping Co.	05/05/86	Shares	Femii Bldg. Intramuros
Marcopper Mining	04/01/86	190300962 Shares	
Maritrade Carriers (Overseas)	04/11/86	&/or Phil. Pres. Lines	
Marsteel Consolidated Inc.	09/22/86	Holding Company	2280 Pasong Tamo, Makati
Marsteel Corporation	09/22/86	Mfr.Im/Steel Products	2280 Pasong Tamo, Makati
Maximum Trading Co. (Matico)	04/24/86		
Metro Manila Symphony Found	05/29/86		CCP Complex, Manila
Metroplex Commodities, Inc.	04/21/86	Manufacturer/Miller	16th Flr., UCPB Bldg.
Metropolitan Museum of Manila	03/06/86	Art Collection	CB Complex, Roxas Blvd.
Metropolitan Shipping Col. Inc.	04/02/86	Shipping	Ermita, Manila
Metropport Services, Inc.	04/02/86	Arrastre Operation	S. Harbor, Manila

COMPANY	DATE SEQ'D	NATURE OF ASSET / TYPE OF BUSINESS	LOCATION
Mindanao Motors	03/19/86	Car Dealership	Cagayan de Oro City
Mindanao Nickel Mining Co.	05/05/86	Share	Femii Bldg., Intramuros
Mindophil	03/19/86		Medina, Misamis Oriental
Molave Bulk Carriers, Inc.	05/05/86	Shares	Femii Bldg., Intramuros
Mountainview Real State	05/09/86	Real State	Makati, Metro Manila
Multiplex Marketing Corp.	09/22/86	Shares	Harrison Plaza Commercial
Negros Stevedoring Co., Inc.	05/05/86	73598000 Shares	Femii Bldg., Intramuros
Nestfarms, Inc.	04/10/86	73598000 Shares	Davao City
New Riviera Hotel Dev't Co., Inc.	05/22/86	Oper. Of Holiday Inn	
New Trident Management	04/14/86	Management	
Noah's Ark Merchandising	10/10/86		Escolta, Metro Manila
Northeastern Agro-Indust'l Dev't	03/19/86	Holding Co. for Agri.	Metro Manila
Northern Cement Corp.	06/18/86	Cement Manufac.	Sison, Pangasinan
Northern Shipping Lines	05/05/86	Shares	Femii Bldg., Intramuros
N. Tobacco Redrying Plant	01/07/86		Vigan, Ilocos Sur
Ocean Terminal Services, Inc.	04/02/86	Gen. Stevedoring	Port Area, Manila
Oceanic Wireless Network, Inc.	03/14/86		
Offices of RSB E. Garcia, et al.	05/05/86		TRB Bldg., Intramuros
Oriental Petroleum & Min. Corp.	04/10/86	4664030000 Shares	Makati, Metro Manila
Ozamis Agri. Dev't Inc.	04/18/86		
Pacific Tourism Consultants Inc.	12/04/86		
Palm Ave. Holdings, Inc.	10/27/86	Shares	Makati, Metro Manila
Palm Ave. Realty Dev't Corp.	10/27/86	Shares	Makati, Metro Manila
Palm Oil Project	03/19/86	Palm Oil	Agusan Del Norte
Pamplona Redwood Veneer, inc.	04/24/86	Logging/Mfr/Exporter	
Pan Malayan and Investment	04/10/86	Shares	Manila
Panabo Trucking Services, Inc.	04/10/86	Shares	Davao
Pantranco North Express, Inc.	03/12/86	Transport Business	232 Quezon Blvd. QC
Peggy Mills, Inc.	04/10/86	Shares	Manila
Peninsula Tourist Shipping	05/05/86	Shares	Femii Bldg., Intramuros
Phil-Asia Food Ind. Corp.	03/19/86		Bo. Ugong, Pasig
Phil. Agri. Aviation Corp.	04/10/86	Shares	Davao City
Phil. Casino Operators Corp.	03/19/86	Casino Operations	
Phil. Comm. Satellite Corp.	03/14/86	Shares	
Phil. Dockyard Corp.	04/02/86	Drydocking	Baseco Compound
Phil. Games and Holidays Corp.	12/04/86		
Phil. Integrated Meat Corp.	03/17/86	Manuf., Canned Meat	Bo Ugong, Pasig Taft Ave. Manila
Phil. Jai-Alai Corp.	04/14/86		
Phil. Long Distance Tel. Co.	03/14/86	Shares	
Phil. Drill/Oil Dev't Corp.	01/14/86	Shares	
Phil. Overseas Telecom Corp.	03/14/86	5356 Shares	Makati
Phil. Telecom & Invest Corp.	05/09/86	111415 Shares	Makati
Phil. Assoc of Hog Raisers	04/10/86	Shares	Manila
Philippine Daily Express	04/11/86	Publisher	
Philippine Journalist, Inc.	04/10/86	Shares	
Philippine Village Hotel, Inc.	06/06/86		Manila
Philroad Construction Corp.	05/31/86		
Philtranco	03/12/86	Transport Business	Roxas Blvd, Manila
Pilipinas Hino	04/30/86		

COMPANY	DATE SEQ'D	NATURE OF ASSET / TYPE OF BUSINESS	LOCATION
Pilipinas Nissan	04/30/86		
Pilipinas Shell Petroleum Corp.	04/14/86	66614189 Shares	Roxas Blvd., Manila
Pioneer Trading & Supply Co.	04/10/86	Shares	Davao City
Pistang Pilipino Arts & Crafts	07/30/86		A.Mabini & Pedro Gil St.
Plaza Amusement, Inc.	09/22/86		Harrison Plaza Commercial
Port Center Dev't Corp.	04/14/86	Shares	
Prosperidad Agri'l Corp.	03/19/86	Cacao/Hybrid Coconut	Agusan del Norte
Provident Int'l Resources Corp.	03/19/86	Real Estate Dealer/Less	
Purefoods Corp.	04/10/86	Shares	Manila
Radyo Pilipino Corp.	04/21/86		
Rancho Mercedes	04/18/86		
Ray-ay Farms, Inc.	04/18/86	Agricultural Dev	
Republic Planters Bank	04/14/86	Shares in Traders Royal	
Rizal Commercial Banking	04/10/86	Shares	Makati
Rizal Memorial Colleges	04/10/86	Shares	Davao
Robar Bldg. Inc.	04/10/86	Shares	Manila
Romson Realty, Inc.	04/14/86	Realty	
Rom Trading, Inc.	03/10/86	Trading	744 Romualdez St.
San Miguel Corporation	04/07/86	58018712 Shares	
San Miguel Farm	03/19/86	Coconuts	Malinta, Davao Del Sur
San Vicente Termi & B'krage Service Inc.	04/10/86	Shares Trader	Davao City
September Trading and Indus	04/24/86	General Contractor	
Seven R Devt Construction	04/15/86		
Seven R Heavy Eqpt Co., Inc.	04/15/86	Cattle Raising	Milagros Camayan Masbate
Seven R. Ranch	03/15/86	W'Saler/Ret'r-Equip	
Seven R. Sales Co., Inc.	04/15/86	W' Saler/Ret'R	
Shareholdings, Inc.	07/24/86	Equip 97305000 Shares	Allied Bank
Sharon Development Corp.	05/05/86	Shares	Bacolod City
Sierra Madre Wood Ind. Corp.	04/24/86	San Milling/Shipping	
Silahis International Hotel	05/31/86		1990 Roxas Blvd. Manila
Silangan Investors & Mgmt. Inc.	04/18/86	Finance/Holding co.	
Sining Makulay	05/12/86		
Soloil, Inc.	06/09/86		Tanauan, Leyte
Southern Island Oil Mill	03/19/86	Oil Mill	Dipolog City
Southern Plywood Corp.	04/24/86	Manufac-Logs/Lumber	
Southern Textile Mills	05/09/86	Textile Fabrics Manufac.	Makati, Metro Manila
Strachan and Macmurray Ltd.	05/05/86	Shares	Iloilo
Sunnyday Farms, Inc.	04/18/86		
Sunshine Farms	04/18/86	Agriculture	
Taggat Industries, Inc.	04/02/86	Logging & Lumber Mftr.	Cagayan
Tagum Agricultural Dev't Co.	04/10/86	Shares	Davao City
Tagum Plastics, Inc.	04/10/86	Shares	Tagum, Davao Del Norte
Tambulo Beach club	05/26/86		Brgy. Buyong Mactan Island
Ternate Dev't Corp.	03/10/86		PVH Nayong Pilipino, MM
Tourist Trade & Travel Corp.	03/11/86	Exp./Imp't/Ret'r Goods	

COMPANY	DATE SEQ'D	NATURE OF ASSET / TYPE OF BUSINESS	LOCATION
Tourist Trade & Travel Corp.	09/22/86	Mgmt. Shopping/ Amusement Center	Gate A South Blvd. Rizal Park, Manila
Traders Royal bank	04/11/86	22150000 Shares	Roxas Blvd. , Pasay City
Trans-Asia Oil & Mineral Dev't	04/04/86	1540625000	
Trident Management Co.	04/24/86	Management	
Triple "A" Ranches		Farming & Cattle Rais.	Masbate
United Coconut Planters, Inc	03/19/86	Cacao	Malinta, Davao Del Sur
United Coconut Planters Bank	06/06/86	26643137 Shares	Makati Ave., Makati
United Financing Corp.	03/19/86	Financing	Paranaque, Metro Manila
United Motors Corp.	03/19/86	Car Dealership	Paranaque, Metro Manila
United Sari-Sari & Livelihood	06/06/86	Agricultural Farming	Paseo De Roxas, Makati
Universal Broadcasting Corp.	05/30/86	Broadcasting/Media	Pasay City, Metro Manila
Universal Equity Corp.	05/05/86	0999000 Shares	Femii Bldg., Intramuros
Universal Hotels & Tourism Development Corp.	12/04/86		
Universal Molasses Corp.	10/14/86	7+N Shares in Traders	
Valley Escondida Farms, Inc.	04/18/86	Agriculture	
Valley Motor Sales	03/19/86	Car Dealership	Gen. Santos City
Vaness Corp.	05/09/86	Holding Company	Escolta, Manila
Venture Securities	05/09/86	Stocks & Bonds	Makati, Metro Manila
Veteran Woodworks, Inc.	04/24/86	Logs & Lumber Exp.	
Vicor Entertainment Corp.	05/12/86		
Vicor Music Corp.	05/12/86		
Virginia Tobacco Redrying Plant	12/16/86		Vigan, Ilocos Sur
Visayan Maritime Academy	05/05/86	Shares	Bacolod
Western Cagayan Lumber	04/24/86	Logging	
Worldwide Agri. Dev't Corp.	03/19/86	Banana Farm	Davao City
Worldwide Minerals, Inc.	04/10/86	Shares	Paranaque
Worldwide Mining & Exploration	03/19/86	Mining Exploration	Baguio City
VKR Corporation	04/02/86	Ranch Operator	Busuanga, Palawan

Annex I

Convergence of International Law and Domestic Law in the Recovery of the Plundered Wealth*

I AM honored to have been selected as this year's Ambassador Jose P. Melencio Lecturer on Public International Law. We are especially happy that the late ambassador's daughter, the widely-respected former Justice Ameurfina Melencio Herrera, is with us today. I am also grateful for the presence of CHR Chairman Sedfrey A. Ordoñez, former Solicitor-General and former Secretary of Justice.

The convergence of International Law and domestic law is inevitable. There is hardly any case involving principles of International Law that does not also involve questions of domestic law. This is especially true of the transnational activities of the key personalities during the twenty (20) years of the Marcos era. This lecture is a documented account of how the convergence came about and its far-reaching consequences in terms of law, public policy and social ethics. Necessarily, it is stripped of academic jargon which may tend to confuse the audience and evade the central issue of right and wrong.

I emphasize the words "documented account" because there is a sense in which we need to know the past more accurately and be reminded of it again and again so we can solve with wisdom the problems of the present. Father Nebres, S.J., the president of Ateneo, was quoted somewhere as saying that we Filipinos "usually fail to face reality and truth, not realizing that any structure built on untruth and manipulation may work for a time but it will eventually fall apart, as in Eastern Europe and the Soviet Union. We do not seem to have a national memory. As a people, we live in a perpetual present — we have no sense of the past and we cannot see in the future."

Let us then consider the recent past.

*Delivered by former Senate President Jovito R. Salonga at the U.P. College of Law on July 20, 1993.

The U.S. and the ailing dictator

An extremely sad and devastating episode occurred in the early morning of Tuesday, February 25, 1986. Around five o'clock a.m. in Malacañang, President Ferdinand E. Marcos answered the call of Senator Paul Laxalt from Capitol Hill, Washington, D.C. The besieged dictator had called earlier, at around, three a.m. in Manila, to find out whether the latest White House statement calling for the "peaceful transition to a new government" expressed the views of his dear friend, President Ronald Reagan, and whether the latter really wanted him to resign. In that wintry afternoon in Washington, the Nevada senator, one of the closest friends of the U.S. president, said he couldn't speak for Reagan. Then came the gut-wrenching question of Marcos — "What do you think I should do?" Paul Laxalt answered — "Cut and cut cleanly. The time has come." There was a long pause, and Senator Laxalt had to ask the ailing dictator if he was still there. Marcos, in a very weak voice, said — "I'm so very, very disappointed."¹

The oath-taking of two presidents

Around 9:30 in the morning of the same day, the fourth day of the non-violent EDSA Revolution, the leaders of the mutiny, Minister Juan Ponce Enrile and General Fidel V. Ramos, arrived in Club Filipino for the oath-taking of Cory and Doy, and were greeted by Opposition leaders with enthusiastic applause. A few minutes later, candidates Corazon C. Aquino and Salvador H. Laurel — all smiles and apparently inseparable — arrived and the crowd in the jam-packed hall shouted — "Cory, Cory, Cory."

I recall that then Senator Justice Claudio Teehankee approached me and said — "*Jovy, itanong mo nga kay Cory kung may handa siyang Inaugural Address.*" I complied with his request and informed Dingdong, "*Wala raw. Akala niya pagkatapos ng oath-taking, alis na agad tayo*" — something that was understandable as sporadic gunfire could still be heard at that time. Then Dingdong said "*How about Doy — mayroon ba siyang inaugural speech?*" And Doy answered — "*Mayroon. Para tayong boy scout — laging handa.*" And so, Cory had to ask her speechwriter to dash off a short inaugural speech, so short many can't even remember now what it was she said.

Around ten a.m., the ceremonies began. After a political manifesto was read saying that their installation was by direct action of the people, Cory Aquino took her oath as President of the Republic of the Philippines. She also appointed Enrile her first Minister of National Defense and Ramos as Chief of Staff of the Armed Forces.

A few miles away, President and Mrs. Ferdinand Marcos were preparing their own inauguration ceremony. He had not slept for four long hours and nights and now he was running a high fever. With the words of Laxalt ringing in

his ears, he nevertheless summoned the strength to take his oath as president at high noon before then Chief Justice Ramon Aquino. His vice-president, Arturo M. Tolentino, was nowhere to be found, and Prime Minister Cesar Virata failed to show up. The crowd in the garden below asked the First Couple to address them. Imelda, clad in white, led Marcos to the balcony and after a few words of thanks, they sang their favorite duet — *Dahil sa Iyo*. For around eight hours, the Philippines had two governments and two presidents — an interesting problem in International Law and Philippine political law.

The collapse of the dictatorship

It was almost nine o'clock in the evening of the same day when Ferdinand Marcos, his wife and children left Malacañang Park by a U.S. helicopter. The others in this huge retinue followed. General Teddy Allen, the man in charge of the evacuation, said Marcos was "so physically weak, he could not even lift his arm.... He was being carried by his bodyguards. I had to pick him up and lay him in the belly of the helicopter."² A delirious crowd outside the Palace, buoyed by the news that the Marcoses were gone, climbed the gates of Malacañang and ransacked the Executive Building. Articles, official papers and documents were seized, pictures and portraits were defaced, as more rampaging celebrants stormed the historic citadel of power. Outside the Palace, a man said — "*Ganito pala ang rebolusyon*," realizing he was witnessing a once-in-a-lifetime event. Hours later, the media reported that Marcos and his 89-person entourage took off from Clark Field, where they spent the night, and arrived in Honolulu via Guam on February 26. The whole nation learned that the dictator had fled. The dictatorship had crumbled like a cardboard shanty and a new government began to function.

Cabinet appointments and the PCGG

In the afternoon of that same day, the new president appointed her Cabinet members. Among other things, she announced my appointment as Chairman of the presidential Commission on Good Government, with Cabinet rank, charged with the two-fold task of (1) recovering the ill-gotten wealth of the Marcoses, their associates and cronies; and (2) prosecuting violators of human rights during the previous regime. I told the president the next day that the first task was thankless and difficult enough; having to go after human rights violators, in addition, would be an exercise in self-extinction. She saw the point immediately and, in time, Senator Jose W. Diokno was drafted to head the Presidential Commission on Human Rights.

A call from Washington — our first suit

As soon as the international media reported my appointment, I received a call from a Filipina lawyer in Washington, Atty. Severina Rivera, whom I had requested in December 1984 — just before I returned to Manila from self-exile — to make an in-depth study of the legal aspects of recovering the plundered wealth of the nation. Psychoteraphists may call it serendipity, but my new appointment and my past activities in the United States, while in exile, seemed to be all of a piece. I recall that in early 1984, a few months after the Aquino assassination, I organized a small group of Filipinos which met from time to time to exchange valuable information, mostly hearsay, on accumulations of ill-gotten wealth in the U.S. After my return from exile on January 21, 1985, more than one year before the EDSA Revolution, this group continued its meetings in the U.S. and called its work "Project Ganid" (Greed) aimed at tracking down and documenting the stolen wealth of Marcos, his relatives and associates.³ Among the members of this group were Col. (now Congressman) Bonifacio Gillego, then residing in New York, and Mr. Rafael Fernando of Los Angeles, both of whom were appointed later to supervise PCGG's operations in the East Coast and West Coast, respectively, with Atty. Severina Rivera of Washington, D.C. as legal coordinator. The other members of "Project Ganid" were Commodore Ramon Alcaraz, Dr. Ruben Mallari, and Atty. Rey Mercado — all based in California. In any case, Severina congratulated me in her telephone call of February 27 and gave me an alarming information — the Bernstein brothers, the managers of the Manhattan buildings of the Marcoses, were scheduled to sell the buildings in New York any day now.⁴ My reaction was quite swift: "Why don't we get a restraining order from a New York court?" Her reply almost floored me: "Do we have the money to pay New York lawyers for the purpose? They are paid by the hour here." Meekly, I answered — "Our national treasury is probably empty. But is it possible to get some New York lawyers who would donate their services to our people?" She said she would try and call me back.

Past midnight, Severina's call came. She was able to get the services of the Center for Constitutional Rights, headed by a certain Morton Stavis, an elderly human rights lawyer who had finished his law in Columbia University. This Center, known and respected for handling human rights cases, would need an appointment right away. Could I possibly send the appointment by cable? And that was what I did in the wee hours of the morning. In the next two days, Morton Stavis and his colleagues discussed with me by overseas phone a revolutionary legal concept in our quest for the nation's plundered wealth.⁵

But, first, the options.

Options

Actually, we had several options open to a revolutionary government in dealing with the ill-gotten wealth of the dictator, his cronies and associates:

1. The first option was the one adopted by Mao Tse Tung and his fanatical followers in Communist China: confiscate the wealth of the "enemies of the people," most of whom were wealthy landlords, and line them up against the wall after a sham trial. Hundreds of thousands of people were killed in that bloody purge.⁶ For obvious reasons, we disregarded this option. Likewise, there were legal problems involved in the confiscation, which would be impossible to resolve with respect to assets located abroad. Moreover, we could not even get hold of the key personalities for the purpose of trying them — most of them had left with the Marcoses or were abroad at the time of the EDSA event.

2. The de Gaulle formula was for the new Government to confiscate and take over the enterprises and assets of French collaborators during the Nazi occupation of France. After a period of one year, no more confiscations were allowed. Economic collaborators were tried, along with the military and political collaborators. Some were executed, many were imprisoned.⁷ Outright confiscation of the plundered wealth was something we could not resort to — legally and physically. Many ill-gotten properties were located abroad, especially in the U.S. and Switzerland, which viewed outright confiscation with disfavor.

3. The option advocated by Ninoy Aquino when he came to my place in Encino, California to say goodbye shortly before he embarked on his last, fatal journey, involved a scenario he must have visualized long ago. Ninoy thought he would be imprisoned upon arrival and in time demonstrations would be the order of the day. A beleaguered Marcos — his fraternity brother (Upsilon) — would send for him to ask what should be done. He would then tell Marcos — "Leave the country with your family, take out all your wealth, *basta iwanan mo na kami at kami na ang bahala*." That formula could no longer apply, partly because Ninoy Aquino was assassinated in August 1983, and partly because Marcos did not have to take out the ill-gotten wealth — much of it had already been stashed away.

4. The alternative advocated by the Marcos loyalists was what may be described as the "forgive and forget" formula, in the name of "national reconciliation and unity" — their favorite cliché. The new Government, they contended, should not resort to acts of "vindictiveness," otherwise the President would be unChristian. But in the Scriptures, forgiveness is extended to the sinner only after contrition or repentance and the restitution of what had been taken or stolen.⁸ In my view, national reconciliation and unity without justice would be a mockery.

5. My own formula was a refinement of what I had stated in the LP Vision and Program of Government.⁹ Instead of confiscation, the Government, in simple

fairness to our people, should sequester the ill-gotten assets, that is to say, place them in custody of the Government, *but always on the basis of prima facie evidence, pending final judicial determination of the ownership of the said assets*. Sequestration would render it difficult for the Marcoses, or their associates, cronies and dummies, to transfer or dissipate the ill-gotten wealth and thereby undermine the new democracy we had regained after so much sacrifice and loss of life. Abroad, we could ask for the freezing of the ill-gotten gains, in accordance with the *lex situs*, but insist that the question of violations of Philippine Law should be decided by our own courts.

Executive Order No. 1: our priorities

In due course, the executive order which Commissioner Pedro Yap and I had drafted was signed by President Aquino on February 28 — two days after my appointment. Executive Order No. 1 created the PCGG, defined its central task — to assist the President in the recovery of the ill-gotten wealth of the former First Family, their subordinates and associates, including the takeover or sequestration of all business enterprises owned or controlled by them — and enumerated its powers in order to carry out its principal task. It also named its first set of commissioners — Salonga, Pedro Yap, Ramon Diaz, Raul Daza and Mary Concepcion Bautista.

In our history as a nation, we have never had any agency or commission like the PCGG. There was simply no need for that kind of agency before. No president before 1965 had probably even thought of accumulating and concealing so much wealth and, after several years, impose martial law to perpetuate himself in power. It was only after the downfall of the corrupt, repressive dictatorship that it became “the right and duty” of the newly restored democracy, to cite the opinion of then Justice Andres Narvasa in the Baseco case,¹⁰ to recover the ill-gotten wealth of the dictator, his subordinates and associates. To former Chief Justice Teehankee, who wrote a concurring opinion in the same case, recovery of the ill-gotten wealth had its basis in police power and involves “the material and moral survival of the nation.”

We had our Executive Order No. 1, but we had no office, no personnel, no equipment, and no funds, except the appropriation of P50 million pesos which existed on paper in that order. And yet, we had to attend to all kinds people from morning to night — foreign news correspondents, with TV crews, local media representatives, volunteers, job-seekers, friends, well-wishers and plain kibitzers. My residence in Pasig served as our temporary office.

In any case, we had to make sure we knew our priorities and keep them clearly in mind. Top priority, in my analysis, was the plundered wealth located abroad, first, because these assets were beyond our jurisdiction and second, because they could be disposed of or concealed without any difficulty. Our next

priority was the ill-gotten wealth in the Philippines, and these had to be classified further. Bank deposits, shares of stocks, jewelry, cars, boats, airplanes, and other movables had to be sequestered right away. Lands, buildings, residences, and the like could be attended to a little later.

We did not have any idea — and this could be the subject of a useful, thoroughgoing study — just how much wealth, consisting of bank deposits, shares of stock, jewelry and other movables were transferred, here and abroad, during the four days of the EDSA Revolution and before we in the Commission could begin to act effectively. In any case, we could not act effectively, unless we had *prima facie* evidence of wrongful acquisition. All we had in the beginning were reports, mostly hearsay, which could not stand up in court.

I took charge of our No. 1 priority — the ill-gotten assets abroad — during my one-year stint as first PCGG Chairman (Feb. 28, 1986 to March 9, 1987). Deputy Minister Diaz was in charge of the No. 2 priority — the ill-gotten wealth at home.

Our big break

Then came our good fortune — on Saturday, March 1, 1986, twenty four (24) suitcases and boxes of important documents and articles coming from Malacañang Palace were turned over to me by the owners of a house (Mr. and Dra. Lita Reyes) in Dasmariñas Village, Makati, in the presence of Minister Juan Ponce Enrile, General Fidel V. Ramos, Secretary Jaime V. Ongpin, and Commissioner (later Chief Justice) Pedro L. Yap. Suddenly, we had the documentary evidence we needed so badly. Meanwhile, our New York lawyers completed their draft of the complaint against the Marcoses and their associates during that hectic weekend. On the night of Sunday, March 2, 1986 the New York Supreme Court, through Justice Elliot Wilk, issued a temporary restraining order, good for 20 days only, and set the hearing on the preliminary injunction for the third week of March, 1986, after our New York lawyers assured the court that we would be there on or around March 20. In issuing the TRO, the New York court impliedly adopted a new, revolutionary concept of law.

Our revolutionary concept

What, it may be asked, was this new revolutionary concept of law?

As every lawyer knows, restraining orders, writs of preliminary injunction, attachments and receiverships are merely subsidiary, ancillary remedies. In our Rules of Court (Rules 57 to 59), they are called provisional remedies, precisely because they are merely ancillary to a principal action that must have been filed in the same court, where the ancillary remedies are being sought.

But there was no principal action in the New York case simply because after the hurried flight of the dictator and his family, we did not have enough evi-

dence and, in any case, the New York court was not the ultimate forum. Our lawyers informed the Court that the principal action would be filed in the Philippines later, since what had been violated was Philippine law and many of the acts of misappropriation, bribery, or extortion took place in the Philippines. In the meantime, it was a matter of crucial urgency that the New York court issue a restraining order or a writ of preliminary injunction, even without a principal action, to make sure that the buildings and the estate in New York are not disposed of, dissipated, or encumbered in the meanwhile. The Court realized that this was not an ordinary case, to which ordinary traditional rules should apply; this novel suit involved the acts of a dictator, his wife and their associates who, it was alleged in our complaint, acquired monies in violation of the laws of the Philippines, invested the wealth of the nation in valuable buildings in Manhattan and the Lindenmere estate in New York, and made use of dummies and shell corporations in the Netherlands Antilles, British Virgin Islands, and Panama to make sure they would not be found out. The New York Court agreed that this was something novel and extraordinary and it was prepared to abandon in the meanwhile traditional rules, by issuing the restraining order — something unprecedented in the annals of American law and jurisprudence.

Meanwhile, the deposed dictator and his lawyers began their counteroffensive. They filed suits in Hawaii and New York for the recovery of the documents and articles seized and impounded by the Customs authorities.¹¹

The case our New York lawyers had filed with the New York Supreme Court was thereafter removed, at the instance of the defendants themselves, to the Federal District Court of New York. In the United States, the disposition of civil cases is speeded up through the liberal use of the depositions and discovery. An expedited discovery was ordered by the Court and a schedule was set for the submission of proofs on the preliminary injunction hearing. It was urgent, stressed our New York lawyers, that I leave for the United States immediately to submit the evidence in the possession of the Aquino Government. Before Commissioner Pedro Yap and I left Manila on March 12, 1986, the President signed Executive Order No. 2 which we had drafted, in consultation with our lawyers abroad. Executive Order No. 2 freezes all properties in the Philippines where there is evidence that they were assets illegally acquired by the former President, his wife, business associates, dummies and nominees; prohibits them from transferring, concealing or encumbering said assets, whether located here or abroad; and authorizes the PCGG to request and appeal to foreign governments to freeze all assets of the aforementioned persons to prevent their transfer, concealment or encumbrance, pending the outcome of appropriate proceedings in the Philippines to determine their rightful ownership.

Shortly after our arrival in the United States on March 12, we were informed that the suits filed by the Marcoses against the U.S. Customs authorities

would be dismissed, at the instance of the U.S. Department of Justice and the State Department, paving the way for the delivery to us a few days later of 2,300 pages of documents brought to Hawaii by the Marcoses. These, together with Malacañang documents, became our collective proof and primary source of information.

My deposition in New York and the Order of Judge Pierre Leval

After my appearance before the Solarz Subcommittee in Washington, D.C. on March 19, I gave my testimony by deposition at the Federal Courthouse in New York on March 20 and March 24. The experience was something new to me. Many national media representatives — TV and print, including illustrators — were there to interview us before the hearing, but as soon as the hearing was called, they immediately left. After Mr. Stavis' direct examination, I was subjected to a rigorous cross-examination by a battery of New York lawyers who took turns in impugning my testimony both on the facts and on questions of law involved in those facts, including Corporation Law, Evidence, Conflict of Laws, Philippine Constitutional Law and International Law.

In the order of May 2, 1986, granting the writ of preliminary injunction, the District Court presided by Federal Judge Pierre Leval, found the following facts to have been proved:

Joseph Bernstein, the manager of the 3 Manhattan buildings, caused to be set up two layers of offshore corporate vehicles for the acquisition and ownership of the elegant Crown Building on 5th Avenue. The Building was purchased in September 1981 in the name of the Lastura Corporation, N.V., a Netherlands Antilles corporation; in turn, the shares of this corporation were held by two (2) Panamanian corporations issuing bearer shares. Which means that whoever has the stock certificate is the owner of the shares without need of registering them in the books of the corporation. Thus stock transfer can be effected anytime without any formality, rendering it difficult to know who are the owners of the corporations at any given time. The name of Ferdinand Marcos or his wife does not appear in any stock certificate or title deed.

The same procedure was followed in the acquisition of the Herald Center on 6th Avenue in February 1981 in the name of a British Virgin Island corporation named Voloby, Ltd., where Bernstein served as a sole director. In turn, the shares of Voloby were held by three (3) Panamanian corporations issuing bearer shares.

The biggest building in downtown New York, the 71-story building known as Wall Street 40, was purchased in December 1982 in the name

of Nyland Co., a Netherlands Antilles corporation whose shares are in turn owned by three (3) Panamanian corporations issuing bearer shares.

A similar device was used in acquiring the building on 200 Madison Avenue.

How, then, was it possible to trace the ownership of the buildings to the Marcoses? Immediately after thousands of Malacañang documents were turned over to me in the afternoon of March 1, 1986, I noticed a remarkable document written in what appeared to be the handwriting of Joseph Bernstein on a Manila Peninsula Hotel stationary dated April 4, 1982. It stated that he was holding the shares of Lastura Corporation (which owned the Crown Building) in trust "for the benefit of President Ferdinand E. Marcos." Another document in Bernstein's handwriting, dated April 5, 1982, referred to Beneficio Investment, one of the Panamanian corporations involved in the Wall Street 40 Building. We checked the Peninsula Hotel list of guests, and found that Mr. Bernstein was billeted in the hotel on April 4 and 5, 1982.

Bernstein also testified on the several meetings he had with former President Marcos at a resort south of Manila, with respect to the tax aspects of a loan to Lastura which owned the Crown building, then in the family area in Malacañang where Mrs. Marcos, Mrs. Tantoco and Rolando Gapud were also present to discuss the draft of a trust agreement to be signed by Bernstein, and finally at the Manila International Airport where he (Bernstein) was reminded by Marcos about the trust agreement. The Federal District Court concluded that "while the evidence was not conclusive, considering all the proofs and circumstances, the Republic of the Philippines has demonstrated entitlement to a preliminary injunction."

It is interesting to note that the defendants did not submit any proof in opposition to our evidence. They merely relied on certain legal defenses under International Law and under domestic law, namely: the Act of State doctrine, the immunity of ex-President Marcos under Philippine laws, and the doctrine of *forum non conveniens*, one that is familiar to students of Private International Law, otherwise known as Conflict of Laws.

The Act of State Doctrine

You will recall that under the Act of State doctrine, a State does not, as a general rule, question the validity or legality of the official acts of another State, since to hold otherwise would "imperil the amicable relations between governments."¹² But as Judge Leval said:

It is indeed possible that the act-of-state doctrine may eventually prove an obstacle to the plaintiff's case. But the applicability of the doctrine is not demonstrated on the present record. The doctrine gener-

ally does not protect foreign officials from personal acts of conversion that do not purport to be done in the name of the foreign sovereign.

...This court has received neither an indication from the Department of State, nor even argument from the defendants, that this government's conduct of its foreign policy would be hindered or affected by judicial consideration of plaintiff's claims. Unlike the usual case of application of the doctrine in which the foreign state defends its acts against U.S. court intrusion (citing the 1964 *Sabattino* and the 1897 *Underhill vs. Fernandez* cases) here, by contrast, it is the foreign government (under Pres. Aquino) that seeks adjudication in our courts. There is no effort to declare invalid acts asserted to be legal by a foreign state.

Forum non conveniens principle

Under the principle of *forum non conveniens*, as students of Private International Law may remember, even if the court of one State may have jurisdiction over the subject matter or over the parties, it may nevertheless refuse to entertain the case for such practical reasons as the belief that the matter can be better tried and decided elsewhere, or that the non-resident plaintiff is engaged in forum shopping; the inadequacy of the local judicial machinery for effectuating the right sought to be maintained; or the difficulty of ascertaining foreign law. In short, a court, even if it has jurisdiction, may dismiss the suit because it believes itself to be a seriously inconvenient forum and that a more convenient forum is available to a plaintiff.¹³ Judge Leval in the instant case made this observation.

Defendants further contend that principles of *forum non conveniens* require dismissal, or denial, or a preliminary injunction. The Supreme Court explains "the central purpose of any *forum non conveniens* inquiry is to ensure that the trial is convenient" (*Piper Aircraft v. Reyno*, 454 U.S. 235,236 [1981]). While it is true that much of the evidence is to be found in the Philippines, the action focuses on New York properties and plaintiff's application for a New York receiver. Numerous pertinent financial documents are in New York. The likelihood of dismissal based on *forum non conveniens* is not sufficiently high to justify denying preliminary restraints necessary for plaintiff's protection.

The immunity of former President Marcos

How about the immunity of Marcos under the Philippine Constitution of 1973 and the U.S. Foreign Sovereign Immunity Act of 1976? Judge Leval disposed of this argument in one sentence.

...without reaching the merits of these defenses, it is sufficient to say that Mr. Marcos has not appeared in this action, and that none of the appearing defendants is entitled to raise either defense in his behalf. Preliminary injunction is granted. Plaintiff is directed to post a bond of \$3 million.

As may be readily seen, the overriding need to issue the writ of preliminary injunction to protect the interests of the Philippines in the disputed New York assets led the Federal Court to disregard the orthodox requirement of a principal action before the issuance of the writ. As for the Act of State doctrine, the recognition by the United States of the new democratic government ruled out the need of giving protection to the obviously personal acts of the ousted dictator.

Our Advisory Panel of International Experts

At the suggestion of Atty. Rivera and with the help of a respected law professor of Harvard, a distinguished panel of International Law experts was constituted by the PCGG in June 1986 to advise the Commission and help ensure that all the proceedings instituted here and abroad against the Marcoses, their relatives and associates complied with the requirements of International Law.

The Chairman of the Advisory Panel was Keith Higher, president of the American Society of International Law; Vice Chairman was Prof. Abram Chayes of Harvard and former legal adviser of the U.S. State Department; and the members were Professors Myres McDougal of Yale, Richard Falk of Princeton and John Stevenson, former president of the American Society of International Law and a partner in the firm of Sullivan and Cromwell.

These eminent experts served voluntarily without thought of compensation. I have cause to lament that after my one-year stay in the PCGG to run for the Senate, nothing much was done to make it worthwhile for this panel to continue to function.

Appeal to the U.S. Court of Appeals and its decision of November 26, 1986

To go back to the NY injunction against the Marcoses and their associates. From the May 2, 1986 order of Judge Pierre Leval of the Federal District Court, the defendants appealed to the U.S. Court of Appeals for the Second Circuit. Without drawing any invidious comparison, note the speed with which our suit affecting four Manhattan buildings and the Estate in Long Island was disposed of by American courts. Arguments were held on June 11, 1986, that is, one month after the May 2, 1986 order of Judge Leval, which means that the printed briefs on appeal were required to be submitted in record time, allowing no

motion for extension whatever. The appeal was taken up in the August 1986 term of the Court. In a decision dated November 26, 1986, the Court of Appeals unanimously affirmed the order of Judge Leval.¹⁴ A very thorough, careful analysis of the allegation of the complaint and the evidence was made by the Court. Let me quote the decision in part:

The evidence of the Marcoses' ownership of the New York properties is complex and circumstantial. Joseph Bernstein, both in deposition and in testimony before the Solarz House Subcommittee, repeatedly stated that he believed but did not know with certainty that Imelda Marcos owned the properties. That belief was based in large part on her (Imelda's) behavior and comments during a series of meetings.... Bernstein considered two 1984 meetings (incidentally, a few months after the assassination of Ninoy Aquino) at 15 East 66th Street (the consular building that had been converted into a Marcos townhouse) owned by the Philippine Government...probably the strongest indicators of Mrs. Marcos' involvement. At those meetings Bernstein and Mrs. Tantoco were trying to get money out of Mrs. Marcos; they needed at the time about \$10 million to develop the Wall Street property, and the Bernsteins had recommended to Mrs. Tantoco that it be sold. At the first meeting, Mrs. Marcos refused to contribute, saying "there is no money" and "paddle your own canoe," but at the same time stated that the building "wouldn't be sold." At the second meeting, she turned to Rolando Gapud, president of Security Bank & Trust Company of Manila and the Marcoses' financial adviser, to ask, "Do we have the \$10 million?".... On occasion, the Bernsteins, Mr. and Mrs. Marcos were at the 66th Street townhouse in the evening and Mrs. Tantoco urged that they take a trip downtown; they drove to 40 Wall Street where Mrs. Tantoco got out of the car and looked at the building for a few minutes. When they returned to the car Mrs. Marcos remarked that it was a "nice" building, appearing to be proud of it...

Perhaps as significant a piece of evidence as any, however, were two documents discovered in Manila in Malacañang Palace after the departure of the Marcoses. These documents, which Bernstein authenticated...were declarations of trust executed by Bernstein on April 4 declaration set Bernstein up as trustee for the benefit of President Ferdinand E. Marcos with respect to all matters relating to the Lastura corporation; the April 5 declaration deleted Marcos' name and inserted Beneficio Investment, Inc., a Panamanian Corporation, (which partly owned Nyland Co., an Antilles corporation which owned 40 Wall building).

Parentetically, these two declarations of trust had been read and examined by Congressman Solarz who, shortly after the EDSA event and the oath-taking of Cory Aquino, came to my residence in Pasig on March 6, 1986. In a press interview the next day, he described them as the "smoking gun" documents.

Let me now continue quoting from the unanimous decision of the Court of Appeals:

Overall, the evidence of ownership of the Bernstein properties is strong, if not overwhelming, no evidence has been offered to refute it, and the Bernstein brief on appeal fails to challenge the conclusion that the Marcoses are in fact the beneficial owners of the Marcos properties.

However, this conclusion, even if correct, may not mean that the funds used were legally obtained. After all, Mrs. Marcos has been saying something about her husband's wealth (the so-called Yamashita treasure) before they were married. But the Court saw something else.

Bernstein testified that one night in a New York restaurant, Mrs. Marcos started talking "in terms of what she owned in the world." After mentioning her Swiss bank account she pulled out a statement indicating that the account was worth in the nature of \$120 million. Perhaps the strongest evidence in the record that the Marcoses' money was obtained illicitly is a memorandum dated March 25, 1983, for Ferdinand Marcos from the president of the Philippines National Bank (PNB), the official depository of the Republic of the Philippines. This document requests approval to charge temporarily against the Office of the President's accounts receivables several unliquidated advances from the bank's NY branch totaling over \$9.8 million. The memorandum states that disposition of the receivable will subsequently be made from the Philippine Intelligence Fund to be provided out of the PNB profits when the income or profit position of PNB can absorb it. Accompanying memoranda indicate the actual items whereby the \$9.8 million of expenditure was accumulated, representing deposits to the accounts of Fe Gimenez or Vilma Bautista in the hundreds of thousands of dollars. The memoranda also indicate a \$300,000 payment to Voloby (a shell corporation which owns Herald Center), payments to Mrs. Tantoco, and, separately, a \$500,000 check from PNB to Antonio Floirendo dated July 23, 1982...

We think the Republic has presented enough evidence of illegality

to warrant a preliminary injunction based on a claim for imposition of a constructive trust or an equitable lien....

The Court of Appeals then discussed the Appellants' defenses, namely the Act of State doctrine, the alleged confiscatory acts of the Aquino Government, the immunity of ex-President Marcos, and the doctrine of *forum non conveniens*.

Act of State doctrine not applicable

The Court of Appeals said, citing the 1962 Venezuela case of *Jimenez vs. Aristeguieta* (311 F. 2d 547, 557-58) that "the doctrine applies only when an official having sovereign authority acts in an official capacity; a dictator is not a sovereign and his financial crimes committed in violation of his position and not in pursuance of it are not acts of sovereign, but rather were for his own benefit and "as far as from being an act of state as rape." Regarding the case relied on by appellants to the effect that acts that are illegal in the foreign state may still be protected from judicial scrutiny under the act of state doctrine, the Court of Appeals said that "Appellants simply fail to make the crucial distinction between the acts of Marcos as head of state, which may be protected from judicial scrutiny even if illegal under Philippine law, and his purely private acts."

Two other considerations, said the Court, may limit the applicability of the doctrine even to Marcos' public acts: (1) the Marcos Government is no longer in power, hence the danger of interference with the U.S. Government's conduct of foreign policy is remote; (2) the Act of State doctrine reflects respect for foreign states, but when the Republic of the Philippines, through its new Government, asks the U.S. Government to scrutinize the actions of Marcos, the doctrine may not apply.

EO 1 and EO 2 are not confiscatory decrees

On the claim of appellants that the two Executive Orders of President Aquino are confiscation decrees affecting property in the United States, the Court of Appeals upheld EO 1 and EO 2, saying these two orders "are not in and of themselves confiscation decrees. They do not purport to seize the U.S. properties of the Marcoses nor does the Republic seek to enforce these orders as the basis for recovery." Furthermore, said the Court:

...the complaint (here) seeks a recovery of property illegally taken by a former head of state, not confiscation of property legally owned by him.

Marcos not immune

How about the claim of sovereign immunity? The Court of Appeals held that appellants have no standing to assert this claim — only Marcos can invoke it. But even if appellants had standing, “we are not at all certain that the immunity of a foreign state, ...goes so far as to render a former head of state immune as regards his private acts. The rationale underlying sovereign immunity — avoiding embarrassment to our government and showing respect for a foreign state — may well be absent when the individual is no longer head of state and the current government is suing him. In any event, the Foreign Sovereign Immunity Act may not support appellants’ immunity claim in light of its ‘commercial activity’ exception.”

New York court not an inconvenient forum

Regarding the defense of *forum non conveniens*, this matter is committed to the sound discretion of the trial court. In *Islamic Republic of Iran vs. Pahlavi*, (464 N.Y.S. 2d 487 (App. Div. 1983) aff’d, 62 N.Y. 2d 474, 467 N.E. 2d 245, 478 N.Y.S. 2d 597 (1984), it was held that Iran’s *in personam* action against the former Shah and his wife alleging that they had accepted bribes, misappropriated funds, and embezzled or converted billions of dollars belonging to the National Treasury of Iran should be dismissed because the litigation had little relation to New York other than the presence of the hospitalized Shah and his wife in the State. There was no dispute over the ownership of any specific property in New York. The complaint against the Shah asked that a constructive trust be imposed “on assets of the defendants throughout the world” — something the New York court could not grant. Here, the Republic of the Philippines sought to impress a constructive trust only on assets in New York. The assets in dispute are pieces of real property, fixed and immovable. Hence, the New York court cannot be deemed an inconvenient forum.

“Judge Leval,” said the Court of Appeals, “rejected the *forum non conveniens* argument, noting that the complaint only seeks the United States’ recognition of the Philippine decree and that the district court will not be asked to try the basic issues accusing President Marcos of unlawful takings. He did see that the court might be required to adjudicate whether Marcos is the owner of the New York properties, but he did not visualize that the case would involve questions of unlawful takings and the rights of the Philippine Republic. As for the final relief, Judge Leval stated that evidence of wrongdoing would only be reviewed only to the extent necessary to inquire whether the ultimate Philippine decree, if any, is consistent with the law and policy of the United States...This action is merely ancillary to an eventual Philippine decree

or judgment and was brought in the District Court only because the real estate is located here.

Judgment affirmed.

This decision of the U.S. Court of Appeals was issued on November 26, 1986. One month later, that is, on December 29, 1986, we filed, on behalf of the Republic of the Philippines, our first civil action with the Sandiganbayan against Ferdinand Marcos, Imelda Marcos, and nineteen (19) others involved in the New York properties, for "Reconveyance, Breach of Fiduciary Duty, Abuse of Right and Power, Unjust Enrichment, Implied or Constructive Trust, Accounting and Damages." Under rules of Private International Law, a final judgment in such a civil suit may qualify for recognition and enforcement in New York, where the properties had been frozen by virtue of the injunctive order of Judge Pierre Leval and affirmed by the 2nd Circuit Court of Appeals.

On January 13, 1987, the District Court ruled that a receiver should be appointed with respect to the New York properties. Incidentally, the defendants appealed the decision of the Court of Appeals to the U.S. Supreme Court by means of a petition for certiorari, but this petition was promptly denied in 1987 by the highest court of the United States in two simple words — "Petition denied" — thus affirming in just one (1) year the correctness and validity of our new revolutionary concept of law.¹⁵

Why was a civil case filed in Sandiganbayan?

The question may be posed: why did we file a civil case in the Sandiganbayan instead of a criminal case? We all know that under Conflict of Laws rules, a penal judgment in the Philippines may not be recognized, much less enforced, in the United States. Our object was to get the New York court to recognize and enforce the final judgment which the Sandiganbayan may promulgate with respect to the Marcos properties in New York. The criminal cases arising from the illegal acts could be filed a little later.

At any rate, the unusual moves that we took — first, an action for a restraining order and preliminary injunction in a New York court, and second, a principal action filed for reconveyance, accounting and damages in the Philippines — elicited the following comment of International Law professor Abram Chayes of Harvard, who pointed out the apparent abnormality of our procedure:

But there was no such case (in the Philippines) when the case asking for a freeze order was filed in New York. And usually it is the court where the case is brought that freezes or attaches the assets. Well, that

sounds very outlandish from the point of view of traditional rules. But if we think about it in terms of the jurisprudence of deposed dictators, it is very natural that that should be the case... It is natural, first of all, that the deposed dictator should have tried to spread his assets around in places where it will be hard for the country from which he fled to get at them... And it will take some time to put together the evidence that is necessary to file a case of this kind. And meanwhile, if the assets cannot be frozen in place, the assets will simply be dissipated... So I am glad to say that the New York lawyers who brought this outlandish case in New York court was up to it — they were able to develop an appropriate theory for the freeze. And I have to say that the U.S. judges, who had been observing the traditional rules and practices, were equal to the very difficult task — they decided that a freeze was appropriate even in these circumstances.

Incidentally, in the Philippines, as soon as our Commission began issuing and carrying out freeze and sequestration orders, the affected parties and the KBL officials began their crusade to abolish the PCGG, on the ground that it was a vindictive agency of government; it was “destabilizing the economy” and it was “disregarding the requirements of due process” in that our orders were issued without previous notice and hearing. Then, respected voices in the Constitutional Commission, led by Father Bernas and Commissioner Felicitas Aquino, and several law professors, urged and said the same thing. What they omitted to say was that if we had observed the traditional procedure they wanted us to follow, including the need for a regular court to issue restraining orders, writs of injunctions, and attachments only after previous notice and hearing, there would be very little in terms of ill-gotten wealth our Government and people could hope to recover.

It is a tribute to the members of our Supreme Court — their sense of history, their fairness and their common-sense approach to the legal questions involved in the very difficult task of recovering the plundered wealth of the nation, accumulated and concealed over a period of almost 20 years — that in a series of cases instituted by the dictator's associates and cronies, either in person or through their corporate vehicles, the high court sustained the power of the Government, through the Commission (not through a court of justice) to issue and carry out writs of sequestration, without need of previous notice and hearing, provided always that the Commission acts on the basis of *prima facie* evidence pending the filing of a principal action in court for the recovery of ill-gotten assets.¹⁶ In short, our revolutionary concept of law and the disputed executive orders issued by President Aquino were upheld here and abroad.

This brings us to the proceedings we instituted in early 1986 to recover the

plundered wealth in Switzerland — that small but beautiful country so famous for the secrecy of its bank deposits and the numbered accounts of the depositors.

The Swiss tradition of secrecy

In Switzerland, there used to be an inflexible tradition against disclosing the identity and amount of any Swiss bank deposit. This tradition was enshrined in the 1934 Banking Law, which ensured the safety of clients' deposits under the official protection of a penal sanction. Any officer or employee of a Swiss bank who divulges a secret entrusted to him as such officer or employee is punishable by a prison term of up to six (6) months and fine up to 50,000 Swiss francs. This law was severely tested during the height of Hitler's dictatorship in Nazi Germany. Many Jews in Germany had relatives in other countries who had substantial deposits in Switzerland — a neutralized State in International Law. The Nazi agents and spies contacted officers and employees of Swiss banks for the purpose of making them disclose the identities of their Jewish clients and the amount of their deposits. Once a depositor was known, Nazi agents would usually demand the withdrawal of his deposits under threat of reprisals against his relatives living in Germany. By and large, the Swiss banking personnel adhered to their tradition and refused to comply with the demand of the Nazis, thus, exposing them and their country to many risks, including possible acts of aggression by a powerful neighbor.

After the war, it was found that the risk, if any, was minimal, since Nazi officers and their collaborators, a good number of whom perished in the conflict, also made sizeable deposits in Swiss banks. Again, the Swiss upheld their tradition of bank secrecy. Some critics contend that whether the depositors were oppressors, the Swiss banks made enormous amounts of money. It seems it pays to be a neutralized country in Europe.

Adverse world opinion and the new Swiss law

Since the Second World War, however, the Swiss system has been used by dictators such as the Shah of Iran, Anastacio Somoza of Nicaragua, Jean-Claude "Baby Doc" Duvalier of Haiti, Moussa Traore of Mali, Mobutu Sese of Zaire, Manuel Noriega of Panama and our own contribution to the world's roll of honor — all of them specialists in the art of concealing their ill-gotten gains in Swiss banks to the detriment of their impoverished countrymen. In 1979, an Iranian request for freezing the huge assets of Shah Pahlavi reportedly hidden in Swiss banks was turned down by the Swiss Government, which advised the successors of the former Shah to take their case to Swiss courts, where it apparently died a natural death. In recent years, drug dealers, Mafia characters, and notorious racketeers from various countries have availed of the reputed hospi-

tality of Swiss banks and their rigid system of secrecy. The pressure of world public opinion induced the Swiss to relax their rules.

But even in 1977, the Swiss banks and their professional organization, the Swiss Banker's Association, established binding rules of good conduct in bank management. The Agreement, reached with the Swiss National Bank (the Swiss Central Bank) requires the banks to ascertain the identity of their customers on a systematic basis. Furthermore, the banks agreed not to actively assist in the transfer of capital from countries whose legislation restricts the investment of funds abroad. This "Observance of Care" Agreement, as it is called, was extended in October 1982 for an additional five years with stiffer provisions. The revised Agreement also prohibits the banks from maintaining accounts for persons and companies known by the banks to use their accounts professionally for the purpose of assisting capital flight or tax evasion. It also extends to the renting of safe-deposit boxes, requiring the banks to rent such facilities only to persons whose trustworthiness gives no cause for doubt.

In addition, Switzerland became party to many bilateral and multilateral conventions for legal assistance with other countries. Where such treaties exist, such as the treaty between the U.S. and Switzerland, Swiss authorities assist foreign countries in criminal cases under conditions provided by these treaties.

On January 1, 1981, the Swiss Parliament enacted a new Swiss Federal Act on International Mutual Assistance in Criminal Matters, IMAC for short, which came into effect on January 1, 1983. Largely based on the U.S.-Swiss Treaty, it governs all forms of legal assistance between States, no longer dependent on arrangements in each canton. It also provides that legal assistance can be granted in cases of tax fraud, where willful deception through the use of false documents can be proved. While Switzerland recognizes the interest of foreign countries to investigate alleged violations of their penal laws, any attempt to obtain information which would bypass the established procedures of intergovernmental cooperation is considered by them contrary to International Law and therefore illegal.

The first Marcos Swiss bank deposit — pseudonyms and foundations

When former President and Mrs. Marcos began depositing in March 1968 huge sums of money in Swiss banks, they tried to make sure they would not be found out. In their contracts with Credit Suisse dated March 20 and 21, 1968 they employed pseudonyms such as William Saunders for depositor Ferdinand E. Marcos and Jane Ryan for Imelda Romualdez Marcos, transferring for that purpose moneys they had maintained since 1967 in the U.S.— that is, only a little over one year after Mr. Marcos first took his oath of office as president — specifically, in their Beverly Hills Account in Security First National Bank. Why they chose those pseudonyms is a mystery I cannot understand — *Malakas*

and *Maganda* could have been better, except that that would be quite obvious. In any event, after Marcos' reelection in November 1969, they decided they had had enough of American code names — they discontinued the practice in February 1970. Over the years, they made use of a more sophisticated scheme by organizing foundations and establishments, mostly in Liechtenstein, a tiny principality between Switzerland and Austria, and authorizing the Swiss banks to administer these entities for the benefit of the conjugal dictatorship. The names of these foundations and their enormous deposits in Swiss banks are found among the thousands of documents they hurriedly left behind in Malacañang — such names as Xandy, Wintrop, Valamo, Verso, Charis, Azio, Avertina, Spinus, Vibur, Scolari, Carmelo, Rosalyn, Aguamina (the last two were used as the foundations for Japanese kickbacks), Trinidad, Rayby, and Palmy. The last three were apparently the foundations for the private use of the former First Lady.

A word about Liechtenstein. It is the haven for tax evaders, drug-traffickers, and corrupt rulers who hide their stolen wealth. It is a pastoral country with no railway and no airport, but unlike the Philippines, it has no budgetary or trade deficits and no foreign debt. Foundations and establishments are five times the voting population. Its capital, Vaduz, has only 5,000 people. Its advantages as an asylum for plundered wealth include anonymity for the beneficial owner, ease of registration procedures, taxation at token rates, a cavalier attitude to financial crimes, and absence of international treaties which could embarrass its non-resident customers. But the risks for the beneficial owner and his heirs — and for the ultimate owner — are said to be formidable.¹⁷

The unilateral freeze order of March 25, 1986

Hence, when Commissioner Yap and I left for the United States shortly after President Aquino was installed as President, we had a little knowledge of the scheme but had some idea of the huge deposits in Swiss banks. After my testimony in the Federal Courthouse of New York, Commissioner Yap suggested it might be necessary for him to fly to Switzerland and see what we could do to recover the hidden assets in Swiss banks. I immediately agreed. He flew to Switzerland on Tuesday, March 25, 1986 and when he alighted from the plane, he got the surprise of his life — the Swiss Government, through its executive arm, the Federal Swiss Council, had just imposed a unilateral freeze on the deposits of the Marcoses and their associates in Swiss banks. Why the Swiss Government did this has been the subject of much speculation. In any case, the unilateral freeze was even better than the developments in New York, where we had to file a suit in court before we could get a freeze order, through a TRO. We were, of course, satisfied with the New York procedure because it was speedy and there was no need for previous notice and hearing which could have defeated our objective of preserving the ill-gotten assets in New York. But the

Swiss Government did something unprecedented even if the history of Switzerland by issuing a freeze order on its own initiative. Note that unlike the U.S., the freeze order was done by an executive agency, not a court of justice.

Upon his return, Commissioner Yap apprised us of his talks with Swiss officials in the Department of Justice and Police. He was told that the unilateral freeze order was only temporary and that its purpose was to prevent the transfer or concealment of the Marcos deposits; it would be necessary, however, to have that replaced with a regular freeze order, this time at the request of the Philippine Government. To that end, we were advised to formalize, as soon as possible, a request for legal assistance in criminal matters under IMAC, as explained earlier. We can safely assume that former President Marcos had been duly informed by his trusted Swiss bankers about this new law — and that he knew about it — for he was not yet ill when it was enacted in 1981.

Our request for assistance under IMAC

In preparing our request in 1986, we availed of the assistance of three Swiss lawyers, carefully chosen with the help of a Swiss classmate in Yale who had just retired as chief justice of the Swiss Federal Court (or Supreme Court). Our lawyers were members of the Swiss Parliament and had been critical of unjust Swiss banking practices; in addition, each represented a major political party and a major ethnic group in Switzerland.¹⁸ Minister (later Ambassador) Luis Ascalon, who was the *chargé d'affaires* of the Philippine Embassy in Berne, was of great help.

We presented to the Swiss Government the formal request for legal assistance on April 25, 1986, with supporting evidence, including a copy of a criminal complaint against Ferdinand Marcos, Imelda Marcos and others including their close relatives and business associates. This complaint was filed with the PCGG on April 7, 1986 by then Solicitor-General Sedfrey A. Ordoñez for purposes of preliminary investigation, as authorized under EO 1. Among the offenses mentioned in that complaint were bribery, frauds and illegal exactions, malversation of public funds and the crimes mentioned in the Anti-Graft and Corrupt Practices Act (RA No. 3019).

Our formal request asked the Swiss authorities to “search for the accounts, to transfer the information and supporting documents obtained, and to take the necessary measures to freeze the assets and to transfer them finally to the requesting State,” in accordance with the IMAC.

The regular freeze order of May 29, 1986; appeals and the death of Marcos

On May 29, 1986, the canton of Zurich, the financial center not only of Switzerland but of the continent of Europe, accepted in principle the legal assis-

tance requested and issued the regular freeze order requesting all the banks of Zurich to freeze immediately all the accounts, deposits and safes of the Marcoses, their cronies, and associates. The other cantons such as Geneva, Lausanne, Fribourg, and Berne followed suit.

Note again, that unlike our rules of Conflict of Laws, where only a judgment in a civil case can be enforced abroad, we now see the exact reverse. We had to show first that we had initiated criminal proceedings in the Philippines and that in the proper prosecution of the criminal cases, we would need the documents asked for in our request. Unlike American law, which requires a final judgment in a civil case here for it to be recognized and enforced in New York, what the Swiss law requires is a final judgment in a criminal proceeding.

The Marcoses hired the services of more than 15 (the Office of the Solicitor General says more than 30) lawyers, to defend them in various cantons, as the Swiss magistrates in the lower tribunal began the procedure of unraveling the plundered wealth deposited through various schemes in Swiss banks. Because this was a new unfamiliar procedure, Swiss lawyers and jurists differed in their interpretation of the law.

The expectation of a group of Swiss jurists and lawyers in April 1986 was that in a period of two to three years, the Philippines would be able to get hold of the banking documents from Switzerland and that the entire hidden wealth of the Marcoses would then be revealed and held in custody for our Government. Our expectation was equally high: with their presentation in our courts, we could probably get a final judgment of criminal conviction in two to three years' time.

These expectations did not materialize. All kinds of technical objections and defenses, including those invoked in New York, were interposed at the lowest level in various cantons; then appeals were taken to the intermediate tribunals where objections and defenses were again presented. The Marcoses lost in all their appeals, and from the various cantons, the final appeals were taken to the Swiss Federal Court. In the meantime, until we could get hold of all the necessary banking documents, the preliminary investigation of the criminal cases could not be completed. In addition, criminal proceedings in the Sandiganbayan could not begin unless the Marcoses were physically present. Our Government, threatened by repeated coup attempts, did not want the return of the former president. To compound the situation, the dictator passed away in September 1989. All sorts of legal questions were presented to the Swiss tribunals — for, indeed, how can a dead man be prosecuted? But the other half of the conjugal team along with the children could be prosecuted under our theory of the case. In any event, there exists RA 1379, which authorizes forfeiture proceedings in favor of the State of any property found to have been unlawfully acquired by any public officer or employee.

Decision of the Swiss Federal Court; the forfeiture proceeding under Philippine law

Finally, in a Decision (Sentence) promulgated by the Swiss Federal Court (the Supreme Court), on December 21, 1990, the appeals of the Marcoses, their heirs and foundations (Avertina, Vibur, and Palmy) were ordered dismissed and the transmission to the requesting State (the Philippines) of the banking documents was authorized, but "only for use in the pending preparatory (preliminary) investigation and for the criminal proceeding to be opened before the Sandiganbayan or another Philippine Court legally competent in criminal matters." This is in accordance with the International law principle of specialty which, you may recall, is applied to extradition proceedings. The Philippines, said the Federal Court, must also comply with its undertakings "to respect the minimal rights that the Swiss Constitution and the European Convention of Human Rights grant to indicted persons"—namely, an impartial, independent tribunal, a fair trial, and the opportunity on the part of the defendants to present their evidence in person or by counsel.

Regarding the consequences of the death of former President Marcos, the Court said that in accordance with the memorandum of the Solicitor General, "the death of the principal accused is not an obstacle to the opening of a formal criminal proceedings as his wife and three children are suspected to have participated in his criminal activities. According to Philippine jurisprudence, it is also possible to implement a criminal confiscation proceeding against Ferdinand Marcos' heirs." In any case, "the point of view explained by the requesting State...does not appear at first glance to be wrong and is not in the least contrary to the Swiss concept of public order."

How about the most important part — the return of the ill-gotten wealth, amounting at this time to \$356 million? The high Court held:

The transmission to the requesting State of the assets attached...is in principle granted. It is however deferred until an executory decision of the Sandiganbayan or another Philippine court legally competent in criminal matters concerning their restitution to those entitled or their confiscation is presented. If the requesting State intends to open a proceeding to this effect, it must do so within a maximum of one year from the present decision of the Federal Court, failing which the attachment of the estate shall be lifted on the request of the independent parties.

Accordingly, on December 17, 1991, the Philippine Government, through Solicitor-General Francisco Chavez, instituted a forfeiture proceeding with the Sandiganbayan under RA 1379. Apparently, the whole year of 1992 and the first half of this year were spent on preliminary skirmishes — the filing of a

Motion to Quash, which was duly opposed by the Government; the Sandiganbayan denied the Motion, then a Motion for Reconsideration was filed and an Opposition was presented; the Sandiganbayan denied forthwith the Motion for Reconsideration. Let us hope that that is the end of the scrimmage. The real fight for truth should begin with the filing of the Respondents' Answer so that the long-awaited trial can start.¹⁹

What has been accomplished

Pragmatic practising lawyers will probably ask — what have we in fact accomplished by filing proceedings abroad, invoking principles of International Law and domestic law in the effort to recover the nation's plundered wealth? Was it not just a fascinating but useless exercise?

Part of the answer is that we had no choice. The bulk of the Marcos assets are abroad, mainly in the U.S. and Switzerland, and perhaps in other countries still impervious to penetration, and it is only the governments and the courts in those States that have effective jurisdiction over those assets. The foundation of jurisdiction, as Justice Holmes aptly put it in one case²⁰ is physical power. And physical power is found in the States where the assets have their situs. Our claims in those countries are tied up with facts that render it necessary for us to invoke rules of Public International Law, Private International Law, and the internal domestic law of the forum and our own internal law.

The other part of the answer is that it was not a useless, though it was a fascinating exercise, indeed. Compared with the other countries confronted by the same problem, namely, Cuba, Nicaragua, Iran, Haiti, Panama and Mali, the Philippines has fared well. Consider these documented facts:

1. Our first concrete recovery was in New Jersey, accomplished within six (6) months after the EDSA Revolution. On September 12, 1986, the Superior Court of New Jersey rendered a final judgement against the Marcoses, based on our motion for summary judgement.²¹ We were able to recover a bank account and two residences at Princeton Pike and Cherry Hill; the funds used in purchasing them came from PNB New York, and were channeled through a network of Marcos nominees, including an employee of the Philippine Mission to the U.N. The money proceeds were delivered by our New Jersey lawyers (who served *pro bono*) to President Aquino during her state visit to the U.S., more precisely on September 22, 1986. More important than the money proceeds (around \$1.5 million), it was the first case in more than 200 years of American history where a country of a deposed dictator was able to recover part of the plundered wealth of the nation.

2. In Texas, Professor Michael Tigar, a respected professor of law, along with the well-known firm of Vision & Elkins, Attys. Jay Westbrook and Peter Schencken, rendered their services to PCGG *pro bono* and filed the first civil

Anti-Racketeering suit in the U.S. District Court against the Marcoses and a business associate, Jose Yao Campos.²² As an immediate result of the filing of the RICO suit, Mr. Campos, then ailing in Vancouver, where he had been residing since his heart attack, contacted the Commission and informed us of his desire to enter into a Compromise Settlement. We imposed two minimum conditions which we required for any compromise of the PCGG with cronies or associates of Marcos: full and fair disclosure of his connections with the Marcoses, and full restitution of all the properties held by or entrusted to him as a result of said connections. After our verification of his own disclosure, he surrendered to the Commission the cash amount of P250 million, 197 certificates of title covering vast tracts of land in Metro Manila, Rizal, Laguna, Cavite and Bataan and certificates of stock in 27 corporations — now estimated at more than five billion pesos, at current values. The compromise was approved by President Aquino in May 1986 — two months after the creation of the PCGG. It was also upheld by the Supreme Court.

3. As a result of the injunction suit we filed in New York, Mr. Antonio Floirendo, one of the defendants in that case, complied with our conditions and entered into a settlement with the PCGG, agreeing to surrender to the Government not only a cash amount of P70 million but the Lindenmere Estate in Long Island, the Olympic Towers condominiums on 5th Avenue, Manhattan, and the Makiki Heights mansion in Honolulu, all in all amounting to almost P1 billion, shortly before I was drafted to run for the Senate in March 1987. This compromise was duly approved by the Sandiganbayan.

4. In Los Angeles, California, a Filipino-American lawyer, Atty. Jose Lauchengco, donated his legal services to us and was able to get a TRO placing the PCGG in a position to recover a deposit by Mrs. Imelda Marcos of less than \$1 million dollars in the Lloyd's Bank of California — a small deposit the former First Lady must have forgotten due to its insignificance. But the principles remain the same — *Ang nakaw na yaman, ibalik sa bayan*. A public office is a public trust. Crime does not and should not pay.

5. In Switzerland, the amount of \$356 million (almost P10 billion) as possibly more is held in custody, pending the outcome of the proceedings in Sandiganbayan, as I explained earlier. How does the Philippines compare with other States which filed claims in Switzerland to recover the bank deposits of their deposed rulers? The answer may be found in the Economist (London), issue of April 17, 1993:

Over the past 20 years a dozen or so attempts by governments to retrieve ex-dictators' ill-gotten gains have come to naught. Only the Philippines, seven years after the fall of President Marcos, stands to lay hands on a substantial sum.

The proposed International Jurisprudence of Deposed Dictators

Let me pause for a while and say that the inconsistency between Swiss law, which required a final penal judgement from a Philippine court, and the U.S. (also Philippine) conflict rules—which requires a final judgement in a civil but not a criminal case, in order to qualify for recognition abroad, has led a number of jurists to suggest that in the proposed International Jurisprudence of Deposed Dictators, a final judgement in one State for the recovery of ill-gotten wealth of a deposed ruler should be an enforceable judgment, regardless of its characterization, whether criminal or civil, provided that in other respects it complies with the other requirements for the recognition of a foreign judgement, namely, that the court or agency is impartial, there is a full opportunity for a fair and full hearing, and there is no inconsistency with the fundamental principles of public policy or morality of the forum.

There is another point. In Switzerland, the Government, with the cooperation of the Swiss banks, provided our Government the available banking documents which we needed in order to prove our cases against the defendants. If the Swiss, with their system of numbered accounts and their strict tradition of banking secrecy, with penal sanction, can do this, Professor Chaynes of Harvard maintains that the United States and, may I add, other countries of the world, particularly Japan, Austria, Germany and England, should do no less. This will have a beneficent effect worldwide. The Somozas, Duvaliers, the Shah Pahlavis and the Noriegas would be effectively deterred from doing what their namesakes did if they knew that international legal cooperation would go that far. Perhaps, a multilateral treaty for international legal assistance in the recovery of the plundered wealth of deposed dictators, including the creation of an international tribunal before which an impoverished State can prove its case, ripening into a judgement that can be enforced world-wide, would have a salutary effect.

Another deterrence would be a treaty provision empowering the said tribunal to adjudicate cases involving banks and/or their officials who conspire with authoritarian rulers, their relatives, or associates, for the purpose of concealing the latter's bank deposits abroad, in violation of laws prohibiting or restricting the flight for capital, or in default thereof, in circumstances where there is a manifest mismatch between their known lawful income and the huge amount of their deposits.

The proposal to compromise

Very recently, the former First Lady expressed a desire to compromise all criminal and civil cases with the Government, particularly with respect to the

Swiss deposits, so that "instead of the money going to these Communists" (referring to the human rights victims who won their cases against the Marcoses in Honolulu), Mrs. Marcos said, "I can give the funds to the Government to help solve the power crisis." As I said elsewhere, many of the human rights victims are not Communists, and in any case, the money is not for her to give away. But more importantly, for the sake of the late President and Mrs. Marcos — the principals — who had repeatedly asserted their innocence, and for the sake of the Marcos family, she would do well to ask for the immediate trial of all the cases against her so she can assert, and if necessary, prove her innocence. Moreover, in a criminal case, an offer to compromise by the accused is an implied admission of guilt. On the side of the Government, there should be no compromise. There are two things that a government cannot compromise without damaging itself beyond repair — truth and justice. Reconciliation without contrition and restitution, and a call to national unity without seriously facing the truth and deciding once and for all the question of responsibility or the plunder of the nation's wealth, would betray all that EDSA means and all that our martyrs and heroes fought for during the Marcos years. Power brownouts are bad enough, but a total blackout of our basic moral sense — the sense of right and wrong — is unbearable.²³

The wheels of justice in this country should grind now.

Endnotes

¹ Ray Bonner, *Waltzing with the Dictator: The Marcoses and the Making of American Policy* (Times Books, N.Y. 1987), pp. 439-440.

² Sandra Burton, *Impossible Dream*, (Warner Books, N.Y., 1989), pp. 406-407.

³ Ernesto Rodriguez, *Working with Heroes and Exiles*, (Vantage Press, N.Y., 1989), pp. 262-268.

⁴ The *New York Times*, issue of Feb. 28, 1986, quotes Mr. Joseph Bernstein as saying that as to some of the NY properties, the same had been transferred to corporations controlled by him and his brother and "the deal is done. We are the new owners."

⁵ At the time, I did not know that Morton Stavis was the lawyer of Dr. Martin Luther King, Jr., the great leader of the blacks, now called Afro-Americans in their fight for human dignity. I only learned about this from a news story published in the *New York Times* after he passed away due to a fatal accident in December 1992.

⁶ See Witold Rodzinski, *The People's Republic of China*, (Collins, London, 1988), pp. 20-21; Lynn Pan, *The New Chinese Revolution*, (Hamish Hamilton, London, 1987), pp. 16-17; John King Fairbank, *China Watch*, (Harvard University Press, 1987), p. 66.

⁷ See Don Cook, *Charles de Gaulle, A Biography*, (Putnam's Sons, N.Y., 1983), pp. 289 et seq. Shortly after the EDSA Revolution and the assumption of the presidency by Mrs. Corazon Aquino, French Ambassador Jacques Leclerc paid a call on me and explained the formula of General Charles de Gaulle.

⁸ In the Gospel, a contrite Zaccheus—the rich tax collector from Jehrico—offered to return not only what he might have taken wrongfully but four times the amount. Which was probably why Jesus said to him, “Today, salvation has come to this house.” (Luke 19:1-9).

⁹ Liberal Party Vision and Program of Government (1985), p. 6. Sequestration imposed by the dictator during martial law had a different connotation. It meant not merely the takeover but the outright confiscation of any business or property for the benefit of the dictator and his wife, their close relatives, or associates. Thus, Meralco was “sequestered” by order of Mr. Marcos and turned over to Imelda’s younger brother, Benjamin “Kokoy” Romualdez; ABS-CBN, owned by the Lopez bothers, was “sequestered” and turned over to Mr. Roberto Benedicto, Marcos’ classmate and trusted associate.

¹⁰ *Bataan Shipyard & Engineering Co., Inc. vs. PCGG*, 150 SCRA et seq. (1987).

¹¹ *Darwin Azurin and Gregorio Araneta vs. William Raab, Commissioner of the U.S. Customs Service*, Civil Case No. 86-0189, district of Hawaii. The other case was filed with the U.S. Court of International Trade located in New York (See Declaration of Undersecretary of State Michael H. Armacost on March 15, 1986).

¹² Salonga and Yap, *Public International Law* (1992), pp. 100-101, citing the cases of *Underhill vs. Hernandez*, 168 U.S. 250 (1987) *Cuba v. Sabbatino*, 376 U.S. 398 (1964) and *First National City Bank vs. Banco Nacional de Cuba*, 406 U.S. 759 (1965).

¹³ Salonga, *Private International Law*, (Regina Publishing Co., Manila, 1980), pp.47-50.

¹⁴ Docket Nos. 86-7350, 86-7356, 86-7362, U.S. Court of Appeals for the Second Circuit.

¹⁵ Docket No. 86-1383, Supreme Court of United States.

¹⁶ See such cases as *Tourist Duty Free Shops vs. PCGG*, GR. 74302, May 27, 1986; *Cruz vs. PCGG*, GR 74281, May 27, 1986; *BASECO vs. PCGG et al.*, 150 SCRA 1987, GR 75885, May 27, 1987; *Palm Avenue Realty Dev. Corp. vs. PCGG et al.* GR 76296 153 SCRA 1987; *Rodolfo Cuenca vs. PCGG*, GR 77658, October 1, 1987; *Ricardo Silverio vs. PCGG*, GR 77645, October 26, 1987; *Traders Royal Bank vs. PCGG*, GR 74794, February 22, 1988.

¹⁷ See U.E. Ramati, *Lichtenstein's Uncertain Foundations* (Hazlemore, Ltd. Dublin, 1993), 227 pages.

¹⁸ Messrs. Guy Fontanet of Geneve (Conservative French): Moritz

Leuenberger of Zurich (Social Democrat, German); and Sergio Salvioni of Locarno (Radical, Italian). Mr. Leuenberger became a ranking official of Zurich later and was replaced as our lawyer by Mr. Kurt Meler, also at Zurich.

¹⁹The Swiss Law (IMAC) was amended in 1995. Under the amended Article 74a of IMAC, as decided by the Swiss Federal Supreme Court in its landmark decision of December 10, 1997 and January 7, 1998, the requirements of the IMAC as amended, "are in the Marcos case satisfied as long as the judicial procedure has been started be it in a criminal, civil or administrative court in a country where constitutional rights protect plaintiffs and defendants and human rights. The Philippines meets all the conditions." Hence, there is no more need for a judgment of criminal conviction against the Marcoses in the Philippines. Even a civil proceeding and a final judgment in favor of the republic will be enough.

²⁰ *McDonald vs. Mabee*, 37 Supt. Ct. 342 (1917).

²¹ *Republic of the Philippines vs. Ferdinand Marcos, Imelda Marcos, Imee Manotoc, Tomas Manotoc et al.*, Docket No. C-86-0037-E, Chancery Division, Mercer Country, N.J. (1986).

²² *Republic of the Philippines vs. Ferdinand Marcos, Jose Yao Campos, et al.*, docketed as C.A. No. H-86-1184 (1986); the case was thereafter withdrawn with his surrender of all these properties to the Aquino Government.

²³ See the article of Jovito R. Salonga, "Let's Stop the Nonsense," published in the *Philippine Daily Inquirer*. April 30, 1993 and also the *Daily Star*, April 30, 1993.

Annex J

An Open Letter to President Fidel V. Ramos*

August 2, 1993

President Fidel V. Ramos
Malacañang, Manila

Dear Mr. President:

We are concerned citizens who have banded together under the name KILOBAYAN for the sake of truth, justice and national renewal. We ask nothing for ourselves. All we ask is a decent and just government of which all of us and our children can well be proud.

Because there is widespread skepticism about the quality of justice in your Administration and your political will to go after big shots, whether in or out of government, who have made a mockery of our laws and violated the basic norms of honesty and fairness, we were glad when, in your State of the Nation Address on July 26, 1993, you said with unusual emphasis that —

“The challenge is clear: crime can only come under full control when criminals — in and out of government — know we’re going to catch them, convict them, and jail them.”

But we couldn’t believe what we heard when in the next breath you were urging Congress — some of whose ranking leaders are known to be the associates and subordinates of the late dictator — to “set guidelines for the Presidential Commission on Good Government in making compromises on ill-gotten wealth cases.”

Mr. President: We hope we are wrong when we assert that the persons who will directly and primarily benefit from such compromises are the Marcoses, the Romualdezes, their close relatives and subordinates who had enjoyed the

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monopoly of power and wealth for almost 20 years. As Mrs. Imelda R. Marcos used to say — they were “smarter than the others.” This Government, of which you are the head, has filed more than 100 cases against them. Their offenses range from malversation of public funds, direct bribery, theft, illegal exactions, violations of the Anti-Graft Law, to falsification of public documents, tax evasion, and outright extortion — in short, not ordinary cases of graft and corruption but the brazen plunder of the nation. Their cases have been pending in the Sandiganbayan, but not one has been convicted much less jailed since they were charged years ago.

You were roundly applauded when you singled out the Mayor of Calauan in your speech. Many of us joined in that applause. But if the mayor of that small town in Laguna is so obnoxious to you because he belongs to a “brotherhood of criminals,” why are these “world-class grafters” who had imposed their unique brand of “kleptocracy” in this country — to borrow the words of Congressman (now Ambassador) Stephen Solarz, who conducted a thorough investigation of the Marcos hidden wealth in the United States — yes, why are they so desirable to your Administration you are apparently prepared to compromise with them and let them go scot-free? Sir: We can appreciate your drive against persons charged with rape and murder of a girl from Los Baños, Laguna but how can your Administration possibly compromise with those whom the Government has charged with raping and oppressing an entire nation?

Governments in Italy, Japan, and South Korea have mounted a no-compromise drive against persons who abused their power and accumulated enormous wealth. In Italy, more than a hundred top leaders in government and private business have been jailed in recent months. In Japan, Prime Minister Tanaka was prosecuted and imprisoned due to the Lockheed scandal. Recently, several prime ministers have been ousted from power due to their links with organized crime and corruption. In South Korea, the first Christian civilian president, Mr. Kim Young Sam, enjoys tremendous public support due to his “no sanctuary” drive against corruption. As reported in *Newsweek* (June 21, 1993):

“All in all, more than 1,000 legislators (including ex-Speaker Kim Jainsoon), government officials, businessmen, educators and generals have been dismissed, arrested or reprimanded in the crackdown.”

Years ago, South Korea’s prime minister, Chun Doo Wan, publicly apologized and repented, returning to the Government his ill-gotten wealth.

Incidentally, not one of the above mentioned cases in those countries involved even one-fifth of the enormous wealth that had been plundered in the Philippines, or even one-half of the \$356 million dollars of the Marcos hidden deposits in Swiss banks that are now being held in custody by the Swiss Government pending final outcome of the litigation in the Sandiganbayan against the Marcoses.

And yet, we do not see any sign of repentance or contrition among those with whom your Administration now seeks a compromise. Nor any desire to return in full what they have been charged with having illegally taken. What we hear and read about is their repeated protestation of innocence and their pride in what they had done during the Marcos era. If this is correct, what your Administration should work for is speedy justice — with full opportunity for the prosecution and the defense to present their evidence, so that the guilty may be convicted and the innocent may get the clearance they deserve. To those accomplices and accessories who are willing to: (1) tell the whole truth and (2) restore what they had unjustly taken, perhaps the Government can extend the hand of mercy under such terms and conditions as you stated in your State of the Nation Address — “fair to the Government and only with those who have demonstrated their commitment to help in the development of the country.”

Mr. President: It is a cause for deep shame that the Philippines, which holds itself out as “the only Christian nation in Asia,” should be described abroad as “a corrupt country with a flat economy.” Fortunately, it is within your power to do something about the first — with immediate effect; obviously, it may take more time to do much about the second. But we believe that if you do something about the first, in fulfillment of Your Honor’s oath of office “to execute its (Philippine) laws and do justice to every man,” the whole nation can begin to believe again that honesty is the best policy, that crime does not pay, and that public office is a public trust.

If this happens — and we pray it will — all of us can rejoice and look forward to a better, brighter Philippines by the year 2000.

With assurances of our high esteem and best wishes.

Respectfully yours,

Rev. Cirilo A. Rigos - UCCP, Cosmopolitan
 Sen. Jovito R. Salonga - UCCP, Cosmopolitan
 Ex-Judge Jose T. Apolo - Roman Catholic
 Rev. Rey Desenganio - UCCP, Capitolyo
 Ex-Chairman Emilio C. Capulong, Jr. - UCCP
 Pastor, Cris Ravello - UCCP
 Rev. Leonardo L. Andaleon - UCCP
 Rev. Ernesto E. Blanco - UCCP
 Ex-Moderator Alfonso G. Salterio - UCCP
 Pastor Leslie V. Guerrero - UCCP
 Dean Mariano C. Apilado
 Mr. David P. Claveria - UCCP
 Ms. Euvelyn Velasco-Guerrero - UCCP

Mr. Ding C. Saria - UCCP
Mr. Ephraim V. Guerrero - UCCP
Ms. Erlinda C. Arciaga - UCCP
Moderator Elmer Bolocon - UCCP
Bishop Estanislao Abainza- CBF Sec. Gen.
Bishop Erme R. Camba - UCCP Gen Sec.
Mr. Solomon H. Abellera, Jr. - UCCP, Chairman
Bishop Eliczer M. Pascua - UCCP
Rev. Efraim Tendero - PCEC Gen. Sec.
Dr. Isabelo Magalit - ATS
Rev. Jesse Cavida - UCCP
Rev. Primitivo M. Arce - UCCP
Rev. Nelson S. Frair - UCCP
Ms. Fraternidad A. Miranda
Mr. Emmanuel S. Raymundo - PTR
Rev. Jonathan A. Caipang - UCCP
Mr. Rafael G. Fernando - United Methodist
Rev. Saubel B. Salamat - UCCP
Atty. Jose Maronilla - Born Again
Bro. Gregorio L. Oculito
Mr. David S. Guimbatan
Rev. Elias F. Pablo - United Methodist
Mr. Mar S. Canoñigo - Roman Catholic
Ms. Miriam O. Bulseco - UCCP
Mr. Ricardo R. Garcia
Rev. Benjamin T. Reyes - United Methodist
Pastor Luis L. Hilario - UCCP
Rev. J.P.M. Cunanan - United Methodist
Pastor Esteban A. Acuna - UCCP
Rev. Rodolfo O. Olaes - United Methodist
Ms. Flora Turla - UCCP
Rev. Johane M. Osias - United Methodist
Rev. Ben dela Peña- - UCCP
Rev. Bernard C. Bassig - UCCP
Mr. Jose (Pepe) Abcede - Roman Catholic
Ms. Maria Ican - UCCP
Rev. Victor Felicia - UCCP
Pastor Nicolas R. Justo - United Methodist
Mr. Irving L. Guerrero - UCCP
Rev. Samuel C. Gesite - UCCP
Mr. David C. Beltan - UCCP'

J.M. Mendez - UCCP
 C. Prado
 B. dela Pena - UCCP
 Ms. Edwina B. Gonzales - Roman Catholic
 Ms. Edionaida C. Canlas
 Ms. Loida P. Leynes- JTLG
 Rev. Dr. Pedro T. Maglaya, Jr. - UCCP
 Dr. Alfonso M. Dumlao - IEMELIF
 Rev. Steve O. Rillo - UCCP
 Mr. Rey Halili - ISACC
 Mrs. Marian N. Rillo - UCCP
 Mrs. Liturla - UCCP
 Ms. Melba Maggay - ISACC
 Mr. James S. Mante - UCCP
 Ex-Justice Fernando Santiago - Roman Catholic
 Pastor Moises E. Quila - UCCP
 Rev. Domingo S. Cruz, Jr. - UCCP/Mandaluyong Church
 Pastor Micael B. Abueva - UCCP
 Bishop L. Verne Mercado - United Methodist
 Pastor Jim Paraan - UCCP
 Atty. Raoul Victorino - NCCP, Chairman
 Bishop Rizalino Q. Taganas - UCCP, Visayas
 Bishop Lorenzo G. Genotiva - UCCP
 Ms. Pearl G. Doromal- UCCP, Cosmopolitan
 Dr. Quintin S. Doromal - UCCP, Cosmopolitan
 Mr. Cipriano Navarro, Jr. - UCCP, Cosmopolitan
 Arch. Tindalo Amistoso - UCCP
 Mr. Samuel Fiji - UCCP
 Mr. Federico Blay - UCCP
 Mr. Billy Tugade - UCCP
 Mr. Ben Cabana - UCCP
 Atty. Ramon Tagle - Catholic
 Drs. Angelo & Marina & San Agustin- Catholic

Annex K
President Ramos' Reply to Kilosbayan

MALACAÑANG PALACE
Manila

August 12, 1993
Senator Jovito R. Salonga
#1 San Gregorio corner
San Pascual Streets
Capitol 8, 1600 Pasig
Metro Manila

Dear Senator Salonga,

I would like to invite you and the other leaders of the Kilosbayan to join me and some officials for a meeting regarding the issues brought out in an open letter of the Kilosbayan on August 15, 1993, starting at 6:00 p.m. at the Main Conference Room at Malacañang.

I thank you for your support and cooperation, especially in enhancing our national society, in terms of your active commitment in pursuing various socio-economic concerns.

I have asked for this meeting to assure you of the government's position of collaboration with our major sectors and key personalities on grave national problems. I look forward to a productive meeting.

In this spirit, let us join together in our continuing pursuit of lasting peace and progress. Let us close ranks further to ensure unity, solidarity and teamwork in the service of God, country and people.

With warmest regards.

Sincerely,

(Sgd.) President Fidel V. Ramos

Annex L

Kilobayan Dialogue with President Ramos in Malacañang August 15, 1993

Kilobayan Representatives:

Senator Jovito R. Salonga (UCCP)	Dr. Cirilo A. Rigos (UCCP)
Bishop Ernie Camba (UCCP)	Bishop Lorenzo Genotiva (UCCP)
Bishop Tito E. Pasco (PIC)	Rev. Efraim Tendero (PCEC)
Atty. Emilio Capulong, Jr. (UCCP)	Atty. Felipe L. Gozon (UCCP)
Ex-Judge & Mrs. Jose Apolo (Catholic)	Justice Fernando Santiago (Catholic)
Dr. Ledivina V. Cariño (UCCP)	Mr. Cesar Parlade (Catholic)
Bishop Melanie Torio (CLDS)	Mr. Rafael Fernando (Methodist)
Ms. Melba Maggay (ISACC)	Mr. Jose Abcede (Catholic)
Mr. James Mante (UCCP)	Rev. Ben Reyes (Methodist)

Dr. Alfonso Dumlao (IEMELIF)

A SUMMARY

1. Our twenty-man group (with 3 ladies — U.P. Vice-Pres. Ledi Cariño, Ms. Melba Maggay, and Mrs. Apolo — first met at 4:00 p.m. at the Salonga residence in Pasig to get to know one another better and exchange views before going to the presidential palace.

Senator Salonga welcomed everyone and introduced those who were not present at the meeting on August 2. He stressed the importance of being united, meaning no division among us in presenting our side to the President. On the suggestion of Dr. Rigos, the senator was chosen by the group as spokesman. He said he would introduce each one of us to the President, and then present our side. At the proper time, some of the members of the group may wish to speak; he would ask the President to acknowledge them when they raise their hands. He anticipated that as a last resort, the President might say — “no compromise on criminal liability, but there can be a compromise with respect to civil liability.” After an exchange of views, it was agreed we would not compromise our right to speak out on crucial public issues whenever necessary; otherwise,

Kilosbayan would lose its reason for being. Although there were two who were not previously included in our original list submitted to Malacañang, as required by the President's staff, Senator Salonga said we would do our best to have Bishop Torio and Mrs. Apolo admitted.

2. All of us, including the two, were admitted at 6:00 p.m. After a few minutes of waiting at the Main Hall, President Ramos arrived. Among those already in the Palace when we arrived: Executive Secretary Tito Guingona, Chairman Magtanggol Gunigundo, Press Secretary Jesus Sison, Mrs. Lenny de Jesus of the Pres. Management Staff, Mr. Ben de Leon (formerly with Letty Shahani), and Mr. Victor Ramos. Senator Salonga asked the President to allow Atty. Gozon to tape record the dialogue to avoid conflicting versions. The President agreed.

3. President Ramos graciously welcomed us and spoke about his 5-point priorities. He said he invited us to talk mainly about the issues raised in our Open Letter to him. He said it was time to heal the wounds and end the division among our people for the sake of national reconciliation and unity. He referred to his visit with Senator Salonga after the presidential elections. Senator Salonga thanked President Ramos, and introduced each one. The President did likewise by introducing those on the side of Government. He said there were persons in the group whom he knew well — among them, Bishop Tito E. Pasco (PIC), Rev. Tendero, Justice Fernando Santiago and of course, Dr. Rigos.

Senator Salonga was requested by the president to begin the presentation. His presentation of the stand of *Kilosbayan* was as follows, more or less.

"Chairman Gunigundo might have informed the President that I have been cooperating with him (the Chairman) since I got to know him around a year ago, actually September 28, 1992, according to my diary; I learned that he was related to Ambassador Ordoñez. I have given him my advice on various matters confronting the PCGG.

"After the President's State of the Nation Address last month, Chairman Gunigundo called me up and asked me for suggested guidelines on the compromises mentioned in the speech. I asked him — "Compromises with whom?" He told me — "Compromises with all, including the Marcoses, not just their cronies and business associates." That's where I said — "*Diyang tayo magkakahiwalay.*" Next day, a ranking leader in Congress told me that the Malacañang idea of compromise would be carried out across the board. I thought the time had come for us to speak out.

"We decided to organize the *Kilosbayan* last August 2. The purposes are neither secret nor new — briefly to arouse public interest on important national issues and to speak out on those issues as part of our prophetic ministry. After

signing this Joint Declaration to Organize Kilosbayan, we issued our first Open Letter to the President, which was faxed to Malacañang and published a little later.

"We were heartened by the public reaction everywhere to our Open Letter. We were happy to read about the reaction of Solicitor-General Raul Goco on August 7, as published in the *Philippine Star* — "No compromise agreements with Marcoses and Romualdezes — Goco." If this is the stand now of your Administration, Mr. President — not to enter into compromises with principals who have not expressed repentance or contrition and have not shown the desire to return in full the ill-gotten wealth they had taken illegally, we shall be one with you."

4. Pres. Ramos called on PCGG Chairman Gunigundo to speak. He made a very short statement but was prodded by the President to say more. Chairman Gunigundo said that 7 years have elapsed but not a single case here was moving, the adversaries are well-funded and can hire top lawyers. It was now time to enter into compromises. He couldn't understand the distinction between Marcoses and Romualdezes, on the one hand, and the cronies on the other. The former couldn't succeed if the latter had not helped them. His was an extreme stand — compromises with all, subject to guidelines and parameters to be set by Congress. It was clear he disagreed with Solicitor-General Goco's published stand — "No compromise with Marcoses and Romualdezes". The Chairman spoke of a supposed "congenital" defect in Executive Order No. 1 — the burden of proof should have been placed on the defendants. The Chairman wondered whether Senator Salonga was quoted correctly when in the Westinghouse case, he urged that the Government enter into a compromise with Westinghouse. In respect of the Westinghouse case, Senator Salonga answered by saying that Westinghouse was prepared to offer an apology (unlike the Marcoses and the Romualdezes) and settle by giving us several turbines. The President intervened and said the handling of the Westinghouse case was a good example of perfect coordination". He was not satisfied with the apology of Westinghouse, he wanted a "firmer, stronger apology" and since this was not given, there was no compromise. Unwittingly, this involved the President in some kind of contradiction. Obviously, Mrs. Marcos — unlike Westinghouse — was not offering any kind of apology. In fact, she had been asserting their complete innocence.

In the course of the discussion, Senator Salonga said the bulk of the Marcos assets were abroad, not here — and we won all PCGG cases abroad and here, during his time as Chairman. We have not yet penetrated Japan, but now that there is a new ruling coalition there, (Ms. Takaku Doi — the Socialist leader who used to visit him in 1986 to encourage him to go after Japanese firms with Marcos connections but which could not be done for as long as the LDP was in

power in Japan — is now in power as the Speaker of parliament) we should try to penetrate Japan.

5. Secretary Guingona spoke. He said with respect to the Marcoses, the Executive may enter into compromises, subject to guidelines to be set by Congress. Then after the compromise is reached, it should be submitted to Congress again for approval. A simple procedure should be observed with respect to the cronies — PCGG may enter into compromises with them in conformity with guidelines to be set by Congress.

6. The members of our group who spoke had one message — it would be immoral and unjust to enter into compromises with the Marcoses who have not shown any repentance or sorrow for what they did, much less any desire to return their ill-gotten wealth. Reconciliation without justice would be a mockery.

Rev. Tendo of the PCEC clarified Chairman Gunigundo's statement regarding compromise and reconciliation. Reconciliation, said Rev. Tendo should be preceded by repentance and restitution. Without these two, there can be no genuine reconciliation.

Bishop Pasco of the Philippine Independent Church said that the preservation of moral values is far more important to the country than the promotion of national reconciliation. We must make sure that the plunder of the nation's wealth is not repeated. Our Government should not forget the kind of example that the projected compromise would give to the youth and to the future generations of Filipinos.

Ms. Maggay of ISAAC said the NGOs would be hard put to explain to the people any government policy which would seek compromises with those who had wronged them. If compromise is pushed, our people will get confused, and will get mixed signals in regard to government's fundamental priorities. The Government should stress what is right, not just what is expedient.

Rev. Ben Reyes of the United Methodist Church said it wouldn't matter much if we fail to get the money due to our refusal to compromise with wrongdoers. We should ask ourselves — what are we teaching the youth of the nation by compromising with persons whom Congressman Solarz had classified as world-class grafters? And how will future generations view us?

Dr. Dumlao of IEMELIF said that for those who will become the leaders of the nation, compromise with the Marcoses who had not shown any desire to apologize or return the ill-gotten wealth may not be a good example. *Mabuti pa, idaan sa mga hukuman upang ang mga nagkasala ay maparusahan.*

7. The President then said — "Please remove the doubt that we will com-

promise with criminals. We do not intend to do so. We will compromise with them not in the ill-gotten wealth cases but in the other cases against them, and the guidelines are to be set by Congress.”

8. Dr. Rigos stressed 2 points: (1) No sign of contrition on the part of the Marcoses. In fact, Congressman Bongbong Marcos wants Marcos to be declared a national hero; and (2) the conflict of interest on the part of Congress, which is supposed to set the guidelines. Congress, said Pastor Rigos, is led by former associates of Marcos.

9. Chairman Gunigundo said that these people are not yet criminals; they are entitled to the presumption of innocence. But Justice Santiago retorted — “When the PCGG filed criminal cases against them, there had to be a *prima facie* case; in short, PCGG was convinced they had committed criminal offenses.”

Justice Santiago pointed out the danger that in compromising civil liability, the criminal liability may also be compromised. He cited the opinion of the Supreme Court in *Berenguer vs. Arcangel*. After all, the civil liability flows out of the criminal liability.

10. The President clarified his stand — no compromise with criminals, no compromise on criminal liability. He talked about the language that will be used by Congress.

11. Senator Salonga pointed out two contradictions, in entering into compromise with the Marcoses even in other cases: (1) the late president (then living in Hawaii) offered in 1989 to provide five billion dollars to the Aquino Government by way of compromise, and much earlier than that, on January 1, 1970, after the presidential election of 1969, when Marcos announced to the nation he was donating all his worldly possessions to the Marcos Foundation, for the benefit of our people. The President interrupted by asking “*Naniniwala ba tayo diyari?*” Senator Salonga replied — *Kung hindi po tayo naniniwala sa kanilang sinasabi, bakit tayo makikipagkompromise sa kanila?* (2) Another example — the President congratulated the Senate for passing the death penalty bill, which imposes the death penalty on graft and corruption involving P10 million pesos or more. How can we then enter into a compromise with persons who had violated the Anti-Graft Law and amassed wealth in terms of hundreds of millions of dollars and, on the other hand, impose the death penalty on those whose ill-gotten wealth is only P10 million? The President said he commended the Senate but the bill is not yet in final form. He reiterated his “no compromise on criminal liability” formula.

Senator Salonga summed up the President's position — no compromise on criminal liability, only on civil liability. This is welcome to *Kilosbayan* but there are two problems: (1) Who would compromise the civil liability by returning their ill-gotten wealth only to be imprisoned later? (2) the danger pointed out by Justice Santiago — by entering into a compromise on civil liability, we may erode their criminal liability. The President, however, spoke of “civil liability in other cases” — an ambiguous formulation that should be clarified.

12. The President asked the group if they had other concerns. We said there were at least two, Senador Salonga called on Atty. Emilio Capulong, Jr. to talk about the murder of UCCP Rev. Gran and her husband in Misamis Occidental. Atty. Capulong said all the defendants — the CAFGU commander and other CAFGU defendants were acquitted. The judge should be dismissed for ignorance or incompetence. Care should be exercised by the Judicial and Bar Council in nominating judges and more care should be exercised in appointing them.

13. Senator Salonga called on Justice Santiago to speak on the state of Agrarian Reform. He spoke about the problem of small landowners whose lands were taken by the DAR without any fixed compensation and on the basis of a false certification by the LRA which enabled the Government to acquire their titles. Justice Santiago said that the farmers are being made to believe that they are already the owners of the land while the small landowner who has not yet been paid does not receive any compensation nor any income from the land which is already in the hands of the farmer beneficiaries. DAR is offering ridiculously low compensation to the small landowners.

14. President Ramos asked Atty. Capulong and Justice Santiago for position papers. Atty. Capulong had a one-page summary and the Justice had a three-page paper. “*Mayroon pa ba?*” the President asked. Rev. Ben Reyes spoke of a local problem, namely, the terrible condition in one part of Novaliches to which the President responded immediately.

Senator Salonga expressed the group's deep appreciation to the President for his invitation and our dialogue with him. *The Kilosbayan* representatives left at 9:40 in the evening — which means that the dialogue lasted for three hours and 40 minutes.

Senator Salonga's Comment on the Dialogue

1. The President was very gracious and cordial in inviting us and engaging us in a 3 1/2-hour dialogue. He was open and receptive, and retreated from the stand of PCGG Chairman Gunigundo when it was time to beat a hasty retreat. His last formula — no compromise with criminals, no compromise with respect

to criminal liability, but compromise only with respect to civil liability in other civil cases is a solution that may or may not involve the Ramos Administration in the difficulties we pointed out.

2. It was clear that Chairman Gunigundo took an extreme stance — compromises with all, because nothing has moved and they have topnotch lawyers. But as I pointed out — the bulk of the Marcoses' ill-gotten assets are abroad, not here, and we won all the PCGG cases abroad and all the cases here against the cronies during the first year of the PCCG.

3. Our side had the upper hand because of our strong moral stance. As Justice Santiago said, how will they justify having a set of rules for the Marcoses and another set of rules for the poor, little people who are not cronies? It is clear President Ramos had decided to pass the buck to Congress. But, as pointed out by Dr. Rigos, Congress is led by associates of Marcos for a long time. A conflict of interest exists.

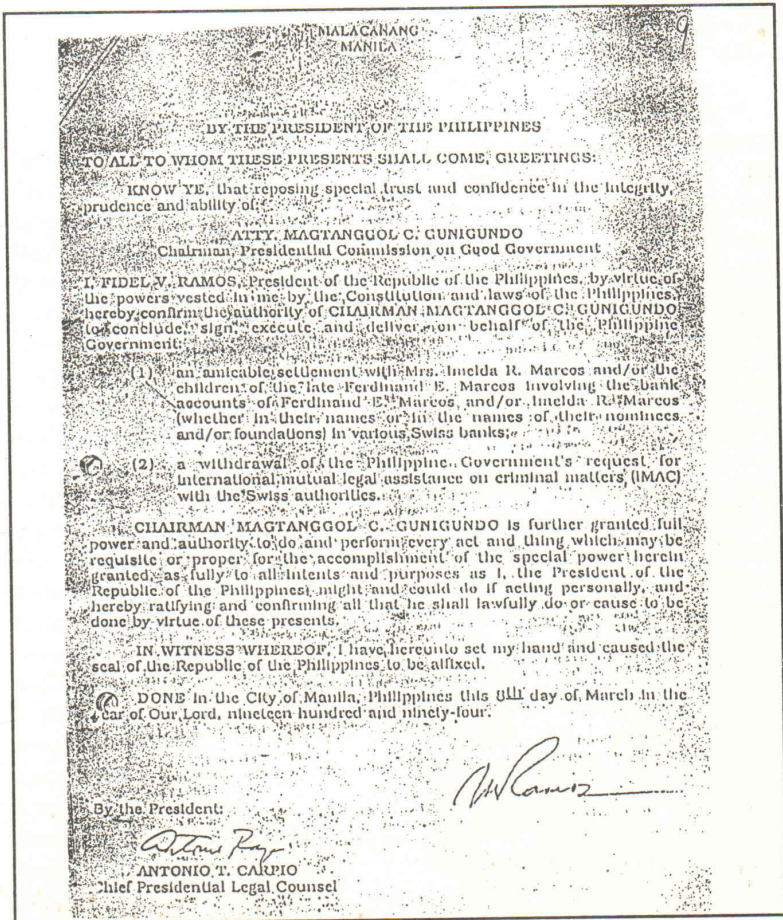
My own guess is that if a proposed bill is sent by the President to Congress, the latter will be divided on the question of compromise with the Marcoses and the Romualdezes — many LDPs in the Senate, led by Senators Butz Aquino, Lina, Alvarez, Romulo and perhaps Neptali Gonzales, may not agree to the compromise stance, particularly in light of former President Cory's uncompromising speech on August 21, 1993 at the Sto. Domingo Church. Senators Tatad, Tolentino, Ople (who had once described Marcos' thievery as "organized pilage") and maybe others will probably favor compromise. Senator Tañada, the Minority Floor Leader and LP President may adopt our *Kilosbayan* stand. The compromise bill could also have a rough sailing in the House.

It is possible that the first compromise formula found in the State of the Nation Address was adopted by the Administration to reach a *modus vivendi* with those congressmen and senators who had filed a bill to abolish the PCGG. This may explain the latest pro-compromise stand of Chairman Gunigundo — in order to save the PCGG from possible abolition. The President could of course threaten to veto the abolition bill even if passed — and that would kill the abolition move. Whether the President is prepared to assert his leadership on the question of PCGG abolition is another question.

Annex M

Photocopy of document signed by President Fidel V. Ramos on March 6, 1994 granting full power and authority to Atty. Gunigundo as PCGG Chairman

President Ramos authorized PCGG Chairman Gunigundo to act on his behalf in entering into an agreement with Mrs. Marcos and her family for an amicable settlement involving the accounts of Ferdinand E. Marcos/or Mrs. Imelda R. Marcos and a withdrawal of the Philippine government's request for an International Mutual Legal Assistance on Criminal Matters with the Swiss authority, and to do anything to accomplish the Chairman's special power and authority.



Index

- A**
Abad Santos, Vicente (Justice), 14, 16
Abadilla, Rolando (Col.), 101
ABS-CBN, 82, 225, 263
Abueva, Jose V., 188n
Act of State doctrine, 72
Ad Hoc Committee on the Immediate
 Release of Political Detainees, 22
AG & P see Atlantic Gulf and Pacific
 Commercial Company
Agence France Presse, 2, 220, 223
Agrarian reform, 161, 216
Aguamina Foundation, 209
Aguinaldo, Rodolfo (Col.), 101
Alay ng Bayan, 73
Alcaraz, Ramon (Com.), 32n, 125
Alien Tort Act, 77
Allied Bank HongKong Cashier's
 Cheque, 89
Allied Banking, 178, 223, 234
Almonte, Jose (Gen.), 84, 85, 90-98,
 107, 108, 117, 118, 128, 140, 155,
 146, 147, 148, 151, 152, 153, 154,
 240
Alvarez, Heherson (Min.), 161, 166
Amador, Tony (Atty.), 135, 143, 239
Ambassador Hotel, 143, 154
"American Inter-Fashion," 189
American Society of International
 Law, 124, 129
Amworld case, 173
Anchor Holdings, 49
Ancor, 135, 157, 239
Ancor Holdings, NV, 175
Ang, Philip, 156, 242
Angara, Edgardo J., 7, 148, 209
Anheuser Busch, 67
Anti-Graft Board, AFP, 78
Anti-Graft Court see Sandiganbayan
Anti-Graft Law (RA 3019), 11, 48,
 182, 198, 205, 249, 255
Anti-Plunder Act (RA 7080), 187,
 247-248
Anti-racketeering suit, 177, 191, 246
Anton, Pomping, 132
Anton, Rafael/Tony, 16, 105, 132,
 151
Apiado, Orly (Dr.), 125
Aquino Administration, 19, 20, 131,
 196, 252
Aquino, Baltazar, 31, 31n, 44, 62,
 233, 235
Aquino, Belinda (Prof.), 36
Aquino, Benigno "Ninoy", Jr., 13,
 15, 28, 71, 132, 173; assassina-
 tion, 28, 109, 110, 236
Aquino, Butz, 159, 165, 166
Aquino, Corazon Cojuangco (Pres.), 2,
 10, 13-16, 21, 24, 27, 29, 35, 43,
 46n, 50, 55-56, 63, 64, 66, 68, 81,
 91, 98, 101-106, 117, 123, 125, 127,
 130, 131, 132, 141, 142, 143, 145,
 147, 148, 149, 151, 153, 159, 161,
 162, 163, 167, 170, 171, 174, 175,
 177, 185, 186, 190, 192n, 194, 201,
 208, 231, 238, 240, 243, 244, 246;
 Cabinet, 71, 72; inauguration, 13;
 Speech, U.S. Congress, 119; trip to
 Japan, 132-133
Aquino, Doña Aurora, 109, 233
Aquino, Felicitas, 68
Aquino Government, 13, 36, 37, 52,
 55, 56, 72, 78, 93, 97, 102, 108,
 109, 163, 202

- Aquino, Paul, 167
 Aquino, Ramon (Chief Justice), 234
 Araneta, George, 91, 121, 213
 Araneta, Irene Marcos see Marcos-
 Araneta, Irene
 Araullo High School, 65
 Argana case, 166
 Argana, Maximino (Mayor of
 Muntinlupa), 200
 Argentina, 142
 Ariyoshi (Governor of Hawaii), 86
 Armacost, Michael (Undersec.), 13,
 14, 38, 40, 40n, 46
 Arroyo, Joker (Exec. Sec.), 20, 22,
 24n, 60, 66, 102, 117, 125, 126,
 133, 135, 137, 141, 143, 147, 149,
 153, 169, 172, 244
 Ascalon, Luis (Amb./Min.), 51, 53,
 83, 84, 90, 91-96, 108, 117, 118,
 121, 130, 142, 148, 151, 152, 166,
 192, 236, 240
Asian Wall Street Journal, 50n
 assassination attempt, Marcos, 30, 232
Associated Press, 2, 220, 223
 Ateneo de Manila University, 8, 102,
 149
 Ateneo Law School, 111, 179
 Atiga, Rolando (Dr.), 170, 172, 243,
 244
 Atlantic Gulf and Pacific Commercial
 Company (AG&P), 81, 127
 attorneys' fees, 255; Swiss lawyers,
 108
 Austria, 86, 93
 Avertina Foundation, 214
 Aviles Realty Company, 224, 262
 Azcuna, Adolfo, 190
- B**
- Bahamas, 31n, 67, 125
 Balabac Oil, 156
 Balao, Eulogio (Gen.), 155, 156, 247
 Bancom, 155
 Bank of the Philippine Islands, 22
 Banque Paribas, Suisse, 31, 234
Bantayog ng mga Bayani, 127
*Bantayog ng mga Bayani Founda-
 tion*, 73, 143, 141, 147, 149, 153
 Barrios, Vic, 65, 235
 Bartko, John, 215, 258
 BASECO see Bataan Shipyard and
 Engineering Company
 Bataan nuclear plant, 66, 120
 Bataan Shipyard and Engineering
 Company (BASECO), 232, 244,
 30; case, 112, 171, 179, 187, 187n
 Batasang Pambansa, 100
 Bautista, Mary Concepcion, 30, 92,
 123, 127, 143, 146, 170, 180, 185,
 247
 Bautista, Vilma, 45, 115
 BBC London, 19
 behest loans, 30; cases, 225, 263
 Beijing, 225
 Bellevue Hotel, 121
 Belmonte, Betty Go, 119, 132
 Benedicto, Roberto "Bobby" S.
 (Amb.), 8, 30, 63, 134, 135, 142,
 144, 146, 152, 155, 178, 192, 223,
 225, 232, 234, 235, 238, 240, 247,
 263
 Beneficio Investment, 23
 Benguet-Bahamas deal, 9, 144
 Benguet Consolidated Mining, 224,
 262
 Bengzon, Alran (Dr.), 17, 102
 the Benipayos, 148
 Bernas, Joaquin, S.J. (Fr.), 17, 20, 102
 Berne, 83
 Bernstein brothers/Joseph, 19, 23, 25,
 44, 47, 48, 72, 125, 126, 128, 140

- Bernstein, Mark, 36
 Beplat, Tristan, 56
 Bicol, 173; Regional Meeting, 139n
 Big Bird Controversy, 95-97
 "Big Bird Investigation", 154n
 "Big Bird Operation", 83-98;
 Salonga's analysis, 97-98;
 Salvioni's assessment and recom-
 mendation, 95-97; 154n
 Blue-Ribbon Committee see Senate
 Blue-Ribbon Committee
 Bolluck, Pam, 21
 "bombshell" revelations, 189, 192
 Bonner, Raymond, 232, 14n, 36n,
 40n, 54n
 Borjal, Art, 98
 Bosworth, Steve (Amb.), 24, 25
 Brillantes, Hortencio (Amb.), 51
 British Virgin Islands, 40
 Browner (Dr. and Mrs.), 163
 Brunei Independence Day, 143
 Buenaventura, Cesar, 25
 Buendia, Rudy, 36
 Bueno Total Investment Co., 158
Bulletin Today, 156, 242
 Bundesrat see Swiss Council of
 Ministers
 Bureau of Internal Revenue, 196, 252
 Burton, Sandra, 14n, 132, 136, 137
 Buscayno, Dante, 22
 Busch, Anheuser, 67
 Busuego, Salvador (Dr.), 108
 the Busuegos, 148
- C**
- Cabauatan, Reynaldo (Col.), 101
 Cabinet, 162
 Cagayan de Oro, 101
 Calderon, Betty, 132
 Calderon, Cicero, 8
 Calderon, Pepe, 132
 California, 10, 124, 125, 129, 141
 California Central District Court,
 114, 116
 California Circuit Court of Appeals,
 116
 California Overseas Bank (COB),
 115, 144, 145, 226, 263
 Calno, 135, 239
 Camacho, Mr., 158
 Camcam, Edna Guiyab, 61, 235
 Camelton, 135, 239
*Campos, Jose D., Jr. v. Sandigan-
 bayan*, GR No. 84895, 246
 Campos, Jose Yao, 11, 53, 54, 57,
 60, 62, 68, 75, 106, 134, 155,
 156, 158, 195, 206, 201, 223, 234,
 235, 241, 242, 244, 246, 252;
 compromise settlement with, 75,
 78, 171, 177, 178
 Canlas, Oscar (Col.), 163
 Caparas, Mateo, 188, 190, 192
 Capulong, Romeo (Atty.), 218, 260
 Cariño, Oscar, 65, 235
 Carpio, Antonio (Atty.), 195, 196,
 197n, 201, 251, 252
 Carroscoso (in-charge, MIA), 90
 Carstens, Karl, 52
 Castañeda, Catalino (Assoc. Justice),
 219, 260
 Castro, David, 188, 188n, 191, 192,
 193, 194, 250
 Castro, George (Bishop), 139, 139n
 CBP see Central Bank of the Philip-
 pines
 CCIÁ see Churches' Commission on
 International Affairs
 CCR see Center for Constitutional
 Rights
 Center for Constitutional Rights (CCR),
 20, 21, 26, 36, 38, 49, 53, 64

- Central Bank of the Philippines, 23,
24, 26, 31, 127, 130, 139, 192,
232
- Central UM Church, 135
- Channel 7, 163
- Channel 13, 153
- Chartered Bank HK Trustee Ltd., 158
- Chavez, Francisco (Sol-Gen), 176,
186, 187, 189, 190, 193, 196, 203,
226, 251, 252, 264
- Chavez v. PCGG*, GR 130716, 182,
199, 205, 254, 257
- Chavez, Victorico (Cong.), 154n
- Chayes, Abram (Prof.), 68, 70, 78,
127, 164, 165
- China, 27, 179
- Christian Democratic Party, 60
- Chronicle Building, 147
- Chun Doo Wan, 2
- Churches' Commission on Interna-
tional Affairs (CCIA), 121, 122,
- Circuit Court of Appeals, 130
- Civil Code, 199, 256
- Civil liability vs. criminal liability, 77
- Claremont Graduate School, 68
- Clark Field, Pampanga, 17
- Club Filipino, 13, 16, 148, 150, 164,
165, 168
- COB see California Overseas Bank
- Cocobank, 247
- coconut levy, 31, 54, 232
- Code of Conduct and Ethical Stan-
dards for Public Officials and
Employees (RA 6713), 110, 189,
208, 247, 251
- Code of Ethical Standards in Govern-
ment, 110
- Cojuangco, Antonio "Tonyboy", 178,
223, 234
- Cojuangco Building, Makati, 21
- "Cojuangco Companies", 54n
- Cojuangco, Eduardo "Danding", 30,
54, 62, 67, 155, 204, 223, 226,
232, 234, 235, 247, 263
- Cojuangco, Imelda, 178, 223, 226,
234, 263
- Cojuangco, Jose "Peping", 82, 90,
108, 117, 118, 240
- Cojuangco, Pedro, 90
- Cojuangco, Ramon, 223, 226, 234,
263
- Cojuangco, Tingting, 23, 24
- Colayco (Deputy Ombudsman), 190
- Colby, William (CIA Head), 125
- College Assurance Plan (CAP), 65, 81
- Commission on Audit, 22
- Commission on Elections, 100, 163
- Commission on Human Rights, 21,
169; 180, 186, 220, 247
- Committee on Ethics, Senate, 247
- Committee on Revision of Codes and
Laws, Senate, 247
- Committee on Transitory Provisions,
communists, 260, 102
- Comprehensive Agrarian Reform,
219, 261
- Comprehensive Agrarian Reform
Law, 216, 221
- Compromise Agreement, December
19, 1998, 258-259
- compromise deals, 254-257
- compromise settlement, 194, 257
- Concepcion, Joe, 25
- Concepcion, Jose (Atty.), 155, 241
- Concepcion, Tommy, 123
- "Concon" see Constitutional Con-
vention
- "conflict of interest", 66, 180, 189,
200, 201, 247, 251
- Conflict of Laws (1947-48) Class, 164
- Constantino, Renato, 152, 240
- Constitution, 1973, 68, 76, 168

- Constitution, 1987, 179, 187, 223, 248; ratification, 163; Transitory provisions, 179, 187
- Constitutional Commission, 102, 122, 161, 179
- Constitutional Convention, 8, 68; 1971, 76
- Convenor's Group, 147
- Coñejos, Esteban (Atty.), 191
- Corinthian Gardens, 148
- Corpus, Victor, 171, 244
- Corpuz, Onofre D., 7
- Corregidor Island, 5
- corruption, 294, 180
- Cosandey, Peter (Zurich District Attorney), 176, 210
- Cosmopolitan Church, 140, 140n
- Cosmopolitan Evangelical Church, 136
- coup, 135, 137, 173
- Court of International Trade, New York, 37
- Cranston, Alan (Sen.), 43
- Credit Suisse Bank, 23, 50, 51, 62, 113, 117
- Credit Suisse, Zurich, 99
- cronies and associates, 30, 38, 47, 61, 223, 226, 232, 234, 235, 246, 247, 264
- Crown Building, Manhattan, New York, 23, 104
- Crucillo, Willy, 125
- Cruz, Angel C. (Atty.), 148, 154, 155, 158, 241
- Cruz, Isagani (Justice), 209
- Cruz, Roman, Jr., 61, 74, 75, 235
- Cuenca, Rodolfo M., 62, 155, 235, 241
- Cuevas, F. R., 156, 241
- Cuevas, Serafin (Justice), 99
- Cunanan, Belinda Olivares, 205n
- Cunanan, Thelmo Y. (Col.), 35, 36, 41, 45
- ## D
- Dagher, Mr. (from Lebanon), 88, 89
- Daily Express*, 63, 102, 134, 146, 152, 153, 225, 239, 240, 263
- Daily Globe*, 154
- Daily Inquirer* see *Philippine Daily Inquirer*
- DAP see Development Academy of the Philippines
- DAP Building, 32
- Davao, 150
- David, Virgilio M., 54n
- Daza, Raul A., 22, 25, 30, 32n, 59, 82, 83, 84, 92, 98, 102, 125, 127, 133, 134, 145, 15, 165, 167, 180, 185, 241, 247
- Daza, Tessie, 133
- de Gaulle formula, 28
- de Guzman, Felix, 203, 205, 207, 208, 257-258
- de Guzman, Isidro (Gen.), 135
- de Guzman, Michael C.U., 16, 83-98, 107, 108, 117, 118, 126, 128, 142, 145, 146, 151, 152, 153, 154, 240
- de Jesus, Jose "Ping", 21
- de Preux, Bruno (Marcos lawyer), 95, 96, 124, 128
- de Venecia, Jose (Cong.), 191; compromise settlement, 191
- Death Penalty Law (RA 6579), 187, 248
- Dee, Dewey, 156, 242
- Dee, Howard (Amb.), 123, 124
- del Rosario, Cipriano, 200
- del Rosario, Rodolfo (Min.), 135, 143, 168, 169, 239

Department of Agrarian Reform,
177, 246

"Desaperecidos", 142

Desierto, Aniano, 263

Development Academy of the
Philippines (DAP), 21, 75

Diaz, Ramon, 22, 30, 33, 53, 54, 55,
57, 59, 60, 67, 75, 78, 90, 92, 98,
102, 127, 130, 164, 165, 168, 174,
180, 185, 186, 189, 190, 247, 250,

Diokno, Jose "Pepe" W., 21, 100,
134, 169

Disini, Herminio, 31, 62, 96, 138,
156, 178, 223, 232, 234, 235, 247

Dizon, Rolly, 136

Doi, Takeku (Ms.), 64

Domingo case, 173

Domingo, Silme, 259, 217

Doromal, Quintin "King" S., 65, 68,
92, 98, 127, 152

Doromal, Pearl, 127

Drilon, Franklin, 217

E

Echevarria, Jaime (Gen.), 101

EDSA Revolution, 1, 3, 8, 9, 10, 13,
15, 28, 32, 38, 45, 55, 100, 103,
120, 154, 157, 218, 249

elections, 5, 8, 9, 100, 172, 174, 195,
200, 215

Elinwood-Malate Church, 16, 148

Elizalde, M., 156, 241

Elma, Magdangal, 208, 209, 210,
214, 216, 219, 222, 224, 261, 264,
265

Enrile, Juan Ponce, 7, 15, 16, 22, 23,
24, 33, 62, 100, 101, 102, 119, 127,
131, 133, 133n, 135, 136, 137

Enrile Law Office, 240, 152, 178,
234

Enriquez/Panlilio, 156, 247

Enriquez, Trinidad, 155, 241

Erap see Estrada, Joseph Ejercito
(Pres.)

Ermita, Eduardo, 137

Escaler, Ching, 17, 162

escrow, 258, 196, 207, 220, 246;
agreements, 209; definition, 210

Espiritu, Cesar A., 8

Espiritu, Edgardo, 209

Estrada Administration, 2, 3

Estrada Government, 204, 207, 220,
262

Estrada, Joseph Ejercito (Pres.), 182,
189, 200, 203, 208, 212, 213, 214,
216, 221, 226, 227, 249, 251, 257,
260, 265; compromise settlement
with the Marcoses, 257; State of
the Nation Address, 1999, 219, 260

Ethical Standards Act (RA 6713), 66n
Ethiopia, 179

Executive Order No. 1, 28, 29, 60,
63, 75, 110, 180, 205, 231, 235,
237, 247, 257,

Executive Order No. 2, 28, 29, 30,
35, 231

Eximbank loan, 120

F

Far Eastern University, 4

Federal Court of New York, 187, 207

Federal Department of Justice and
Police, Switzerland, 235

Federal District Court of Hawaii, 77

Federal District Court of New York,
40, 62, 64-65, 72, 175, 235

Federal Reserve Bank, 130

Feliciano, Raymundo, 155, 247

Ferdinand E. Marcos Foundation,
Inc., 6, 7

- Fernandez, Jobo see Fernandez, Jose B.
- Fernandez, Jose B. (CB Gov.), 23, 26, 67, 139, 147
- Fernando, Rafael "Paeng", 4, 19, 32n, 36, 53, 55, 72, 73, 125, 126, 139, 140, 170, 173, 172, 243, 245
- Ferrer, Jimmy, 145
- Ferro, Jose, 216
- Fessler, C. Walter, 62
- Fides Trust Co., 94, 95, 117
- Fifth Amendment, 115, 129, 237
- Figueroa, Mr., 158
- Finanzierungs Bank, Vienna, 85, 95, 96
- "FIND", 142
- fiscal agents, 65, 66, 189, 190, 251
- Floirendo, Antonio, 38, 49, 62, 143, 155, 157, 168, 169, 175, 207, 235, 239, 247, ; compromise settlement, 174, 175
- Foetish, Patrick, 216
- Fonacier, A., 156, 241
- Fong, Harold (Federal Judge) 78, 130
- Fontaner, Guy, 60
- Foreign Correspondents Association of the Philippines, 110
- foreign debt, 119
- Forfeiture Act (RA 1379), 141, 145, 149
- forfeiture suit, 11, 171, 196, 201, 226, 227, 264
- "forgeries", 171, 244
- Fort Bonifacio, 10, 245, 262, 109, 132, 172, 225, 236
- Fortune Tobacco, 31, 178, 223, 232, 234,
- France, Nazi occupation, 28
- Freedom Constitution, 46
- freedom of the press, 152, 240
- Frei, Lionel (Dr.), 93
- French collaborators, 28
- Freund, Paul (Prof.), 164
- Fribourg, 128, 142
- G**
- Galvez, Ricardo (Sol-Gen), 226, 264
- Ganzon, Rodolfo, 100
- GAO Report, 171, 244
- Gapud, Rolando, 26, 45, 62, 115, 148, 154, 155, 178, 223, 234, 235, 237, 247, 242,
- Garchitorena, Francis, 212, 219, 220, 260
- Garcia, Carlos P. (Pres.), 10
- Gary, Charles, 53
- Geneva, 121, 122, 128, 244
- Genito, Andres, Jr., 61, 235
- Gil, Benjamin Palma see Palma Gil, Benjamin
- Gillego, Bonifacio, 32n, 38, 69, 72, 118, 132, 139, 238
- Gimenez, Fe Roa, 45, 62, 86, 115, 235, 242
- Glockhurst Corporation, 49
- gold bars, 193
- Gomez, Rene, 146
- Gonzales, Mike (Atty.), 144, 152
- Gonzales, Neptali, 15, 20, 62, 165, 166, 186
- Gordon, Edward, 159
- government lawyers and prosecutors, 199, 200, 226, 256
- Government Service Insurance System (GSIS), 22, 74, 156, 242
- Grady, Charles, 36
- Grand Cayman, 125
- Grant (Capt.), 132
- Greenberg Grand Jury, 244
- Gregorio Araneta Memorial Lecture, 111, 179

GSIS see Government Service Insurance System
 "Guardians" (military fraternity), 101
 Guiliani, Rudolfo, 191
 Guingona, Teofisto "Tito", 22, 189, 192, 197
Guingona v. PCGG, 192n
 Guinness Book of Records, 182, 249
 Gunigundo, Magtanggol, 195, 196, 198, 199, 200, 201, 203, 251, 253, 254, 255, 256
 Gunigundo-Marcos compromise deals, 201, 202, 211
 Guzman, Donato L., 96

H

Habib, Philip (Amb.), 13, 25, 56
 Hamilton, George, 135, 239
 Harvard Law School, 64, 68, 70, 164
 Harvard Medical School, 139
 Hawaii, 17, 19, 93, 177, 236, 246
 Hawaii Court, 294
 Hawes, Gary, 54n
 Herald Center, 38, 47
 Hickam Airbase, Hawaii, 50, 85, 87
 Hight, Keith, 124, 127, 129
 Hilao-Enriquez, Maria, 217
 Hizon, Salvador (Atty.), 69, 73, 127, 134, 106, 115, 143, 144, 145, 154, 155, 164, 238, 241,
 HK Standard, 165, 239
 Hoets, Pieter, 52, 53, 60, 61, 91, 108, 126
 Holiday Inn case, 138
 Honasan, "Gringo" (Col.), 163
 Hongkong, 134, 247
 Honolulu documents, 40, 51
 Honolulu, Hawaii, 4, 78, 143, 243
 Honolulu International Airport, 87
 Hotel Regency, 123

House of Representatives, 8, 154, 247
 House Special Committee on Public Accountability, 85
 Human Rights Commission see Commission on Human Rights
 human rights victims case, 76

I

Iemelif Cathedral, Tondo, 139n
 ill-gotten wealth, 30-33, 52, 139, 179, 187, 189, 197, 204, 205, 206, 252, 239; recovery, 174, 177, 246; strategy for recovery, 27-29; techniques by which acquired, 30-32, 231-233; under Executive Order No. 2, 231
 Ilocos Norte, 5, 185, 195, 200, 258
 Ilusorio, Potenciano, 156, 200, 247
 IMAC see International Mutual Assistance on Criminal Matters
 immunity from suit, 63
Impossible Dream, 14n, 132, 136, 137
 income tax returns, Marcoses, 141, 226, 264
 Indonesia, 108, 236
 intelligence funds, 31
 Intelligence Funds 1 and 2, 232
 International House YMCA HK, 134
 International Legal Assistance Department, 93
 International Mutual Assistance on Criminal Matters (IMAC), 51, 61, 91, 93, 123, 130, 195, 202, 203, 211, 252
 Iran, 179

J

Jabidah massacre, 5
 Jacobi, Reiner, 193
 Japan, 131, 132, 133
 Japan Inc., 64, 125
 Japanese companies/firms, 41, 63
 Japanese Diet, 63, 64; members, 64
 Japanese Imperial Forces, 165
 Japanese media, 133
 Japanese Military Tribunal, 165
 Japanese reparations, 31n
 Jardeleza, Francis (Atty.), 168
 Jayme, Vicente "Ting", 61, 62, 64, 138
 "Jesus is Lord Fellowship" Congregation, 99
 Jimenez, Ignacio, 235
 Jopson, Edgar, 149, 218
 Jopson, Josefa, 149

K

Kalaw, Eva, 100
 Kalayaan Hall, Club Filipino see Club Filipino
 Kalinga Apayao Bodong Students Association, 163
 Kaplan, Phil, 130
 Kashiwahara, Lupita Aquino, 127
 Kashoggi, Adnan, 126, 140, 143, 157, 159
 Kaufmann, Otto, 53, 60, 121, 128
 KBL see *Kilusang Bagong Lipunan*
 Keenan (Judge), 192, 192n
 Kendall, Richard B. (Atty.), 114, 115, 130, 143, 159
 Kennedy, Ted (Sen.), 43
 kickbacks and commissions, 31, 232
Kilosbayan, 2, 197, 198, 199, 218, 253, 254, 255, 256, 259; dialogue with Pres. Ramos, 254, 255, 257; Open Letter to Pres. Ramos, 253

Kilosbayan Magazine, 201, 204n, 205n, 206, 214, 220n, 221, 258
Kilusang Bagong Lipunan (KBL), 100, 102
Kilusang Magbubukid sa Pilipinas (KMP), 161
Kilusang Mayo Uno (KMU), 134
 Kloten Airport, Zurich, 193
 KMG (Swiss Company), 213
 KMP see *Kilusang Magbubukid sa Pilipinas*
 KMU see *Kilusang Mayo Uno*
 Koeflerli (Dr.), 94
 Koler (Swiss Amb.), 166
 Konrad, Walter (Dr.), 96
 Kopp, Elizabeth (Min. of Justice), 123
 Koppel, Ted, 41
 Kunzli, Hans, 123, 233
 Kuodo, 135, 239

L

La Salle, Bacolod, 136; Greenhills, 164
LA Times, 54
Laban see *Lakas ng Bansa*
 LaBella, Charles, 191, 192, 192n
 Labial, Nenita, 217
 Lacson, Alex, 153
 Lagman, Cecilia, 141
 Lagman, Hermon, 142
 Laguatan, Ted, 127
Lakas ng Bansa, 154, 165, 167
 Lambert, Samuel, 56
 Lanao del Sur, 113
 land reform, 161
 Landoil case, 191
Lapiang Malaya (Free Party), 5
 Lastura Corporation, 23, 48

- Lauchengco, Jose (Atty.), 175
 laundering technique, 31n
 Laurel, Jose P. (Pres.), 4, 10
 Laurel, Salvador "Doy" (Vice Pres.),
 15, 16, 19, 20, 117, 145, 154,
 165, 166
 Lausanne, Paul, 142
 Laxalt, Paul (Sen.), 13, 14
 LDP (Japan ruling party), 64
 Leach (Cong.), 125
 Lebanon, 86
 Lee, Anthony, 156, 247
 "leftists", 70, 71
 legal ethics, 201
 Legal Management Council of the
 Philippines, 138, 239
 legal system, U.S., 71
 letters of authority, 89, 93
 Leuenberger, Moritz, 60
 Leval, Pierre (U.S. District Judge),
 65, 71, 72, 187
 Liberal Party (LP), 4, 9, 59, 106,
 125, 135, 139, 139n, 154, 165,
 168, 185; Executive Committee,
 112; leaders, 145, 159; Muslim
 Mindanao, 113; Program of
 Government, 19; Vision and
 Program of Government, 29
 Liberals, 100
 Liberation Day, 41st Anniversary, 166
Libingan ng mga Bayani, 257, 203
 Liechtenstein, 118; companies, 31n
 "Light a Fire" group, 218
 Light Rail Transit Authority (LTA),
 198, 254
 Lim, Alfonso, 156, 241
 Lindenmere Estate, 10, 20, 26, 38,
 40, 56, 73, 111, 138, 142, 143,
 157, 168, 169, 174, 175, 207
 Linn, James (Atty.), 214, 258
 Livingston, Debra, 192n
 Lloyds Bank of California, 175
 Lopa, Baby, 26, 120
 Lopez, Eugenio "Geny", Jr., 30, 224,
 232, 262
 Lopez, Eugenio, Sr., 30, 134, 224,
 225, 232, 262
 Lopez, Fernando, 100
 Los Angeles, 4, 36, 125, 140, 142
 loyalist soldiers, 101
 Loyola Memorial, 132
 LP see Liberal Party
 LTA see Light Rail Transit Author-
 ity
 Lucerne, 128
 Lucman, Rashid (Cong.), 114
 Lucman Tarhata, 113
 Luidens, Ed, 49, 163
 Luna Development Corporation, 49
 Luneta Thanksgiving Rally, 24
- ## M
- MABINI, 217, 259
 Mabuhay Corporation, 43
 Macapagal, Diosdado (Pres.), 4, 10,
 15, 112
 Maceda, Ernesto, 20, 62, 137, 138
 Madison Avenue Building, 38, 47
 Magsaysay, Ramon (Pres.), 10
 Maguire, John (Dr.), 46, 68
 Maisto, John, 25, 37, 40
 Makiki Heights, 168, 175; property,
 106-107, 207
 Malacañang documents, 9, 30, 39,
 40, 51, 64, 73, 103, 111, 114,
 116, 119, 175, 195, 206, 209, 232
 Malaysia, 5
 Maler Foundation, 209
 Mallari, Ruben and Zeny (Dr.), 36,
 73, 126, 140n
 Manapat, Ricardo, 140

- Mandarin Hotel, 106, 107
- Manglapus, Raul, 143, 159, 165, 166
- Manhattan buildings, 10, 20, 26, 40, 45, 47, 56, 65, 73, 103, 111, 131, 138, 142, 174, 187, 188, 235, 250,
- Manila Bulletin*, 138, 178, 223, 234
- Manila Chronicle*, 116, 138, 224, 238
- Manila Dental Society, Golden Anniversary, 82
- Manila Electric Company (MERALCO), 31, 82, 178, 223, 258 232, 234, 262; Foundation, 224; Lighthouse, 90; takeover, 224, 262
- Manila Hotel, 99, 101
- Manila Hotel fiasco, 162
- Manila Medical Center, 9, 131
- Manila Rotary Club, 109
- Manila Times*, 195, 197n, 201, 219n, 251
- Manotoc, Imee Marcos see Marcos-Manotoc, Imee
- Manotoc, Tommy, 173
- Mantrasco, 224; and affiliates, 262
- Mao Tse Tung, 27
- Marcelo, J., Jr., 156, 241
- Marcos-Araneta, Irene, 198, 215, 219, 223, 226, 259, 263
- Marcos-Bailey group, 250
- Marcos children, 56, 118
- Marcos deposits, Switzerland, 178
- Marcos, Ferdinand E. (President), 4, 5, 7, 9, 10, 13, 14, 15, 16, 23, 24, 25, 30, 38, 47, 51, 56, 70, 78, 85-86, 92, 102, 113-116, 129, 130, 132, 134, 135, 139, 144, 151, 156, 158, 170, 178, 185, 215, 231-232, 237, 242, 243, 244, 245, 248, 249, 252, 259; assassination attempt, 232; cronies, associates and relatives, 30, 38, 47, 61, 63, 155, 178, 190, 232, 234, 235, 247, 246, 264; deposition, in Honolulu, 237-238; foundations, 6, 216; gold, 193; income and estate taxes, 196; lawful income, 176; power of attorney, 89; pseudonym, 23, 48, 52, 237, 244; retirement benefits, 156; salaries, 176; tax assessment, 196, 252-253; trust accounts, 156; trustees, 178, 223, 233-234; views on reconciliation, 171
- Marcos, Ferdinand "Bongbong" R., Jr., 87-89, 185, 195, 196, 198, 200, 205, 206, 253, 254, 257; tax evasion, 206, 258
- Marcos, Imelda Romualdez, 2, 10, 11, 16, 23, 24, 25, 38, 47, 51, 53, 64, 69, 85-86, 88, 93, 98, 102, 106, 113-116, 124, 129, 156, 158, 172, 176, 177, 178, 185, 192, 195, 198, 202, 205, 207, 215, 221, 223, 225, 232, 233, 234, 235, 236, 238, 242, 245, 254, 258, 259, 263; "bombshell" revelations, 263; compromise deals, 254; interview, 223; power of attorney, 89; pseudonym, 23, 48, 52, 237, 244; thousands of shoes, 37, 234, 236
- Marcos loyalists, 28, 77, 101, 163
- Marcos-Manotoc, Imee, 173, 198, 215, 259
- Marcos-PCGG Compromise, secret, 1993, 248-250
- Marcos, Poñing/Mario, 146, 147
- Marcos v. Court of Appeals*, 196, 252
- the Marcoses, 239; Estate, 76; income tax returns, 264
- martial law, 15, 16, 30, 37, 232, 262; declaration, 16
- martial rule, 32, 54, 100, 225

- Martinez, Manuel F., 54n
 Mathay, Ismael, Jr., 156, 247
 McDougal, Myres S. (Prof.), 52, 78, 127
 Melchor, Alejandro, 96
 Mendiola massacre, 8, 162
 Mendoza, Estelito, 204
 Mendoza, Jose (Col.), 101
 Menzi holding company, 208
 Menzi/Yap, 156, 247
 MERALCO see Manila Electric Company
 Mercado, Niña, 126
 Mercado, Rey (Atty.), 32n, 126
 Mercado, Rogaciano (Min.), 20, 137, 138
 Mesina, Simeon (Atty.), 198, 254
 Ministry of Agrarian Reform, 161, 166
 Miranda, Ben, 146
 "Mister Sequestration", 63
 Mitra, Ramon V. (Min./Speaker of the House), 20, 154n
 Mondale, Walter F. (Vice Pres.), 47n
 Monjo, John, 37, 40
 monopolies, 30
 Montenegro (Mrs.), 127
 Montenegro, Eduardo (Asst. Sol-Gen), 82, 133, 134, 138, 159, 186
 Morales, Mel, 65, 81
 Morocco, 173
 Morris-Bailey group, 188
 Mosing, F. (Dr.), 126
Mother Jones magazine, 110-111
 Multinational Bancorporation, 201
 Munger, Tolles and Olson (L.A. law firm), 68, 114
 Muñoz-Palma, Cecilia, 19, 20, 30, 102, 150, 165, 186
 Muslims, 5
- N
 Nacionalista Party, 4, 106
 Nacionalistas, 99, 100
 Nalundasan murder case, 4
 Nancoz (Marcos Geneva lawyer), 96
 Narvasa (Chief Justice), 194n
 National Assembly, 137
 National Council of Churches (USA), 49, 163
 National Economic Council, 9
 National Shipyard and Engineering Company (NASSCO), 30, 232
 National Treasury, 195, 251
 Nazi occupation, France, 28
 Neptunia Corporation, 67
 Netherlands Antilles, 40, 48, 49, 104, 125; corporations, 157, 243
 New Jersey, 56, 174; case, 118-119, 238; law firms, 71
 New People's Army (NPA), 131
 New York, 124, 125, 126, 129, 141, 142, 147; District Court, 69, 70, 250; litigation 166; properties 157; Supreme Court, 38, 39, 40, 103, 104, 175
New York Times, 38, 46, 50, 52, 53, 70, 72, 150; Salonga letter to the Editor, 70-71
Newsweek, 5, 41n
 Nicaragua, 179
 Nieto, (Marcos associate), 156, 241
 "Nightline" (Koppel's show), 41
 "No Holds Barred" (talk show), 132
 Nollado, Jose, 102
 NPA see National People's Army
 Nubla, Ralph, 156, 247, 248
 Nueva Vizcaya, 132
 Nyland, Ltd., 48

O

- Ochoco, Brillante (Rear Admiral), 101
- Office of the President, 250, 251
- Office of the Solicitor-General (OSG), 249, 183, 191
- OICs, Rizal (Province), 27
- Olaguez, Eduardo, 260
- Olalia, Rolando, 134; assassination, 134
- Olalia, Rolando (Mrs.), 150
- Olson, Ronald L. (Atty.), 68, 73, 114, 115, 159
- Olympic Towers Apartments, 168, 175, 207
- Ombudsman, 163, 189, 190, 224, 262, 263
- Ong, Gregory (Assoc. Justice), 219, 260
- Ongpin, Jaime, 20, 22, 23, 24, 25, 26, 33, 61, 66, 67, 146, 147
- Ongpin, Roberto, 143, 157
- Open Letter to President Ramos, 197, 253
- "Operation Big Bird" see "Big Bird Operation"
- Ople, Blas, 102, 103
- Opposition leaders, 13
- Ordoñez, Mario (Dr.), 41
- Ordoñez, Sedfrey A., 8, 61, 67, 68, 69, 74, 82, 90-98, 106, 107, 117, 118, 138, 147, 154, 186, 218, 260
- Oriental Petroleum, 156, 242
- Ortiz, Pacifico, S.J., 8
- OSG see Office of the Solicitor-General
- Osmeña, John, 153
- Osmeña, Serge III, 224, 225, 262
- Osmeña, Sergio "Serging", Jr., 6, 9, 169, 262

Osmeña, Sergio, Sr. (Pres.), 10

P

- Pablo, Fernie, 135
- Pablo, Guillermo, Jr., 135
- Pablo, Mito, 162
- Padilla, Ambrosio, 66
- Padilla, Ted, 36, 53, 55
- Pageant Magazine*, 225
- Pahlavi, Shah of Iran see Shah of Iran
- PAL see Philippine Airlines
- Palafox, Antonio (Gen.), 101
- Palma, Cecilia Muñoz see Muñoz-Palma, Cecilia
- Palma Gil, Benjamin, 209
- Palmy Foundation, 88
- Panama, 40, 87, 88, 108, 125, 236; corporations, 48
- Panorama Magazine (Manila Bulletin)*, 149
- Pansol, Laguna, 16, 119, 147, 148, 151
- Parlade, Cesar, 31n, 145, 191
- Parlade, Custodio (Atty./Dean), 81, 127, 129, 139, 140, 145, 150, 159
- Parlade, Ging, 127, 149, 164
- Pastoral, Erlinda Salonga, 26, 133
- PCGG see Presidential Commission on Good Government
- PCI Bank, 224, 262
- PDP-Laban, 165
- Peace Corps, 54
- peace talks, 131, 137
- Pedrosa, Bert, 64
- Pedrosa, Chit, 64, 172
- Pelaez, Emmanuel "Manny" (Amb.), 16, 69, 100, 125, 145
- Peninsula Hotel, 157
- People Magazine*, 26

- People v. Marcos*, 133
People's Journal, 225, 263
People's Solidarity for Participatory Democracy (PSPD), 2
 Perez, Sally, 148
 Periquet, Suzette, 144
 Perlez, Jane, 47, 49
 Peterson, Mr. (Kashoggi's representative), 126, 128, 140, 159
 Petines, Nenita, 155
 Pfaelzer, Mariana (Judge), 207
 Philcag see Philippine Civil Action Group
 Philcomcen Building, 76, 146
 Philcomsat, 156, 242
 Philippine Airlines (PAL), 178, 223, 234
 Philippine Air Force, 162
 Philippine Civil Action Group (Philcag), 31, 233
 Philippine Constabulary, 5
 Philippine Consulate Bldg., 158
Philippine Daily Inquirer, 32n, 51n, 178, 204n, 205, 205n, 220n, 223, 233
 Philippine Dental Association, Charter Presentation, 82
 Philippine Journalists, Inc., 224, 262
 Philippine Long Distance Telephone Company (PLDT), 82, 178, 208, 223, 226, 234, 263
 Philippine Mission (UN), 174
 Philippine National Bank (PNB), 8, 48, 72, 77, 134, 177, 196, 207, 209, 210, 216, 218, 232, 246, 258; Manila, 6, 235; New York, 62, 65, 174, 235; New York documents, 64
 Philippine National Oil Corporation (PNOC), 55
 Philippine Plaza Hotel, 47n
 Philippine Shell Corporation, 224, 262
Philippine Star, 119, 205n
The Philippine State and the Marcos Regime: The Politics of Export, 54n
 Philippine Studies Center, University of Hawaii, 36
 Philippine Tourism Authority, 74
 Philippine Village Hotel, 241
 Pimentel, Aquilino, Jr., 20, 27, 35, 137, 159, 224
 Pineda, Ernesto, 69
 Pineda, Jesus, Jr., 155, 247
 Pineda, Mariano G., 7
 Pineda, Narciso, 155, 247
 Plaza Miranda, 26; bombing, 1, 4, 9, 108, 171
 PLDT see Philippine Long Distance Telephone Company
 plebiscite, 164
 plunder, 187, 183; definition, 247-248
"The Plunder of the Economy and the Marcos Ill-gotten Wealth", 31n
 PNB see Philippine National Bank
 PNOC see Philippine National Oil Corporation
 Poblador, H., 156, 241
 political detainees, 261
 "political dynasties," 163, 164
 political parties, 1165
 Portugal, 173
 power to tax, 199
 powers of attorney, 153; from the Marcoses 89; revocation, 95
 Presidential Assistant for Legal and Judicial affairs, 208
 Presidential Commission on Good Government (PCGG), 2, 11, 20, 21, 22, 24, 29, 35, 41, 81, 91,

- 122, 123, 124, 125, 126, 127, 131, 132, 136, 139, 141, 143, 149, 152, 166, 167, 174, 176, 180, 185, 186, 188, 221, 224, 231, 233, 234, 236, 237, 240, 247, 246, 247, 248, 250, 252, 253-257, 258, 259, 260, 263, 264, 265; accomplishments, 167-183, 221; Advisory Committee, 127, 141; Advisory Group of International law experts, 164; amount of total recoveries, 221-224; call for abolition, 102-105; chairmen, 66, 33, 188; Christmas Party, 146; commissioners, 186, 247; compromise agreement of December 19, 1998, 213, 214, 216, 218, 223; creation, 29; Legal Division, 127; operation budget, 195, 251; problems, 159; Ramos Administration, 195, 251-254; Request for Legal Assistance, 175; Rules and Regulations, 60; under Pres. Estrada, 257-262; under Salonga, 250; volunteer lawyers, 73
- Presidential Decree 1193, 74
 presidential decrees, 31, 54
Presidential Plunder: The Quest for the Marcos Ill-gotten Wealth, 1
 Presidential Security Command, 100
 Princeton Club, 124
 Princeton University, 118, 206, 238
 pseudonyms and code names, 23, 31, 48, 51, 113, 114, 115 199, 203
 Psinakis, Prescy, 36
 Psinakis, Steve, 33
 Puerto Azul, 247
 Purisima, Fidel (Justice), 206, 259
 Puyat, Gil, 100
- Q**
- Quezon, Manuel L. (Pres.), 10
 Quirino, Elpidio (Pres.), 10
- R**
- Rabe (Amb.), 69
 Racketeers Influenced Corrupt organizations (RICO), 114, 129, 130, 221, 207; cases, 57, 244
 RAM see Reform the Armed Forces Movement
 Ramos Administration, 3, 196, 200, 251-253, 252-257
 Ramos, Amelita "Ming", 75
 Ramos, Fidel V. (Gen./Pres.), 10, 15, 16, 22, 23, 24, 75, 78, 131, 133, 133n, 135, 136, 137, 163, 193, 194, 195, 196, 199, 201, 202, 251-257; impeachment, 201; secret compromise agreement, 253-257; State of the Nation Address, 1993, 253
 Raval, Vicente (Gen.), 5, 8
 Reagan, Ronald (Pres.), 13, 14
 Real, Manuel (Judge), 216, 218, 260
 "Recapturing the Ill-gotten Wealth of Dictators", 2
 reconciliation, 29, 111, 171, 172, 182; Marcos' terms for, 244-245
 Redwood Bank, 158
 Reform the Armed Forces Movement (RAM), 134
 Regina Building, 134
 Regional Trial Court, Quezon City, 258
 Republic Act 1379, 141, 176
 Republic Act 3019, 141, 254
 Republic Act 6579, 248

- Republic Act 6713, 66n, 110, 180,
 189, 208, 247, 251
 Republic Act 7080, 181, 247
 Republic Bank, 241
Republic v. Sandiganbayan, 194n
 Retina Associates, Boston, 139
 Revised Penal Code, 181, 248
 Reyes, Angelita (Dr.), 22, 23, 24
 Reyes (Consul General), 158
 Reyes, Eli (Atty.), 134, 144, 145,
 152, 238, 240
 Reyes, JBL (Justice), 150, 170
 Reyes, Jose, 22, 24
 Reyes, Lorenzo, 125
 RICO see Racketeer Influenced
 Corrupt Organizations
 RICO-Anti-Racketeering suit, 191
 Rigos, Cirilo (Dr.), 20, 163
 Rivera, Severina (Atty.), 21, 26, 32n,
 37, 41, 46, 69, 71, 72, 78, 115,
 125, 127, 140, 145, 150
 Rizal Day, 147, 149, 153
 Rizal High School, Golden Jubilee
 and Class Reunion, 146
 Rizal (Province), 246; politics, 60
 Robinson, Irwin Jay, 158
 Rodil (Atty.), 53
 Rodrigo, King (Consul-General), 38,
 39
 Roh Tae Woo, 2
 "Role of Lawyers in the Concealment
 of the Ill-gotten Wealth", 138
 Roman, Emerlinda, 188n
 Roman, Pablo, 155, 156, 247
 Rome, 123
 Romero, Flery (Mrs.), 188
 Romualdez, Alfredo "Bejo", 30, 62,
 232, 235
 Romualdez, Benjamin "Kokoy", 31,
 62, 69, 120, 224, 225, 232, 235,
 262, 263
 Roosevelt Hotel, 124
 Roque, Chito, 66
 Rosales, Loretta Ann, 217
 Rosenman, Colin, Freund and Cohen
 (law firm), 158
 Rosenthal, A.B., 52
 Rosete, Nieve, 21
 Rotary International, 191
 Roth, Stanley, 125
 Roxas, Gerardo (Sen.), 9, 112, 169
 Roxas, Judy A., 112, 165
 Roxas, Manuel A. (Pres.), 10
 Roxas, Sixto, 155
 Royal Traders Bank, 72
 RTC of Quezon City see Regional
 Trial Court, Quezon City
 Rules of Court, 252
 Rustan Department Store, 106
 Ryan, Jane (pseudonym), 23, 48, 52,
 103, 114, 115, 171, 237, 244
- ## S
- Saavedra, Juan (Atty.), 64, 65, 72,
 235
 Sabido, Roberto, 155, 241
 Saguisag, Rene A.V. (Sen.), 22, 60,
 66, 69, 119, 120, 137, 180, 217,
 247, 259
 Salas, Rafael, 172, 213
 Salmon, Charlie, 90
 Salonga, Girlie (daughter-in-law),
 132
 Salonga, JE (grandson), 131
 Salonga, Jovito R., 1, 3, 4, 30, 35,
 45-49, 84, 98, 186, 212, 213, 243,
 244, 257; children, 36, 127, 146,
 148; Classmates, 146; Commence-
 ment Address, 198; as congress-
 man, 4; as Dean of Law, 4;
 deposition, Federal court, 44;

- Family Reunion, 148; Golden Wedding Anniversary, 148; Grandchildren, 148; Hongkong meeting with Marcos associates, 105-107; honorary degree, Claremont, 52; honorary doctorate degree, 68; imprisonment in Muntinlupa, 165; letter to Luis Ascalon, 84; letter to the Editor, *New York Times*, 70-72; letter to the President, 118; as LP President, 112; "Mister Sequestration", 63; New York trip, 43; Plaza Miranda bombing, 108; as PCGG Chairman, 1, 154, 247; resignation as PCGG Chair, 167, 173, 175, 180; as Senator, 1; U.S. trip, second, 67-70
- Salonga, Lydia, 17, 27, 35, 36, 37, 45, 53, 59, 75, 108, 113, 119, 121, 124, 125, 132, 139, 146, 147, 148, 151, 164, 166, 240
- Salonga, Orly, 36
- Salonga, Patty, 19, 36
- Salonga Reunion, 148
- Salonga, Steve, 16
- Salvioni, Sergio (Dr.), 60, 84-85, 94-98, 107, 117, 124, 130
- Samahan ng mga Detainees para sa Amnestiya in Southern Mindanao*, 218
- San Francisco, 36, 126
- San Francisco Chronicle*, 21
- San Miguel Corporation (SMC), 67, 82, 178, 223, 234, 241
- San Miguel Corporation, HK Ltd., 67
- San Miguel International, 67
- Sanchez, Augusto (Min.), 20, 137
- Sandiganbayan (Anti-Graft Court), 2, 10, 11, 29n, 77, 140, 141, 142, 144, 145, 149, 159, 166, 169, 175, 177, 178, 179, 182, 187, 188, 192, 193, 196, 198, 199, 202, 204, 205, 207, 212, 216, 218, 219, 220, 223, 224, 227, 234, 246, 248, 250, 252, 254, 255, 256, 258, 258, 259, 260, 262
- Sandiganbayan Resolution, 220n
- Sangley Point, 162
- Santos, Enrique "Ikeng", 75, 123, 125
- Sarmiento, Abraham, 20, 27, 163, 143
- Sarmiento, Ditto, 143
- Sarmiento, Jorge V., 222
- Saunders, William (pseudonym), 23, 48, 51, 52, 103, 115, 114, 171, 237, 244
- SBTC see Security Bank and Trust Company
- Scheller, Ernest, 62, 89
- Schultz, George (Sec. of State), 13, 40n
- secret bank documents, 176
- Secret compromise agreement, December 28, 1993, 197, 253
- Securities Bank, 72
- Securities and Exchange Commission, 7, 67
- Security Bank and Trust Company (SBTC), 26, 66, 115, 156, 157, 158, 237, 242-243
- Security First National Bank, 52
- Senate, 8, 134; BUREAU-KIBBOH COMMITTEE, 2, 189, 190, 221, 224, Committee on Ethics, 247; Committee on Revision of Codes and Laws, 247
- senatorial candidates, 167
- sequestration, 29, 102, 104, 105;

- cases, 82; orders, 106, 109, 177, 179, 188, 189, 206, 247
- SGV & Associates, 145
- Shah of Iran, 86, 108, 236
- Shahani, Leticia V., 62, 165
- Shamrock group, 193
- Shangrila Hotel, 134
- shell corporations and dummy companies, 30, 40
- Shultz, George (Sec. of State), 40n*
- Sicat, Marciano, 68
- Sigma Delta Chi, 119
- Sigma Rho fraternity, 82
- Silahis Hotel, 241
- Silliman University, 8, 65
- Sin, Jaime (Cardinal), 123, 124
- Singapore, 108, 236
- Singson, Evelyn, 156, 242
- Sison, Jose Maria, 22
- "Sixty Minutes" (talk show), 113-114
- Siy, Ramon, 156, 158, 242
- SMC see San Miguel Corporation
- "smoking gun evidence", 236
- snap presidential election, February 7, 1986, 100, 147
- Socialist Party (Japan), 64
- Solarz Committee, 56, 60
- Solarz, Stephen J. (Cong.), 25, 37, 41, 43, 44, 47n, 72, 125, 153
- Some are Smarter than Others*, 140
- Soriano, Andres, 67
- Soriano group, 66, 67
- Soriano, Noble, 54
- Soriano, Noel (Dr.), 17, 159
- South Korea, 2
- Souviron, C., 62
- Spain, 108, 173, 236
- Special Power of Attorney, 198, 254
- Star News*, 172
- Stavis, Morton, 38, 39, 40, 41, 44, 45, 49, 62, 64, 68, 69, 70, 72, 120, 125, 126, 127, 128, 149, 150, 159, 166
- Stonehill, Harry, 55
- Suarez, Jose, 102
- Subcommittee on Asian and Pacific Affairs, 41, 43
- Suharto, 126
- Suisse Credit Bank, 103
- Sulit (Chairman, Securities and Exchange Commission), 67
- Sulo Group, 241
- Sumiya (Japanese Amb.), 64
- Sumulong, Komong, 59
- Sunday Inquirer Magazine*, 24n
- Superior Court of New Jersey, 118, 238
- Supreme Court, 4, 14, 27, 67, 68, 69, 73, 74, 75, 77, 82, 99, 106, 138, 142, 177, 182, 185, 189, 192, 194n, 199, 200, 201, 205, 206, 220, 227, 235, 240, 246, 248, 249, 252, 253, 254, 255, 256, 257, 262, 264, 265
- Supreme Court of New York see New York Supreme Court
- Swift, Robert, 76, 214, 215, 258
- Swiss bank deposits, 209, 246
- Swiss bank documents, 192
- Swiss Banking Commission, 86, 88, 206
- Swiss Banking Corporation, 49-50, 51, 134, 239
- Swiss Constitution, 50
- Swiss Council of Ministers (Bundesrat), 50
- Swiss Credit Bank, 85, 94, 95, 96, 97, 134, 239
- Swiss Credit Bank, Zurich, 89
- Swiss Department of Justice and Police, 128
- Swiss Federal Council, 53, 103, 175

Swiss Federal Court, 56, 176
 Swiss Federal Supreme Court, 10, 53,
 76, 123, 209, 210, 211, 220, 226,
 246, 252, 264
 Swiss Government, 49, 51, 85, 90,
 91, 103
 Swiss Immigration, 89
 Swiss lawyers, 108
 Switzerland, 3, 7, 28, 35, 49-51, 56,
 61, 65, 78, 82, 83, 87, 89, 93,
 107, 117, 118, 121, 124, 127, 129,
 138, 141, 142, 146, 148, 153, 166,
 175, 207, 210, 234, 239, 240
 Symington hearings, 31, 233

T

Tadeo, Jaime, 161
 Tan, Lucio, 31, 62, 65, 66, 89, 130,
 155, 156, 178, 223, 226, 232, 234,
 235, 247, 242, 263
 Tañada, Lorenzo "Tanny" M. (Sen.),
 13, 14, 187
 Tañada, Wigberto, 247
 Tanjuatco, Ding, 59
 Tanseco, G., 155, 247
 Tantoco, Bienvenido "Benny"
 (Amb.), 61, 62, 106, 123, 235
 Tantoco family, 74
 Tantoco, Gliceria "Glecy", 31, 38,
 47, 49, 61, 62, 69, 73, 74, 106,
 123, 126, 140, 156, 157, 232, 235,
 236, 247, 243
 Tantoco, Naida, 123
 tax evasion, 205
 tax exemptions, 199
 TDFS see Tourist Duty Free Shops
 Teehankee, Claudio (Chief Justice),
 14, 15, 16, 60, 112, 150, 179,
 180, 187, 247
 Temporary Restraining Order (TRO),
 26, 27, 39, 49, 75, 175, 207, 256
 Teodoro, Frankie, 155, 247
 Texas, 56, 177, 206, 246
 Tigar, Michael (Prof.), 57, 71, 75
Time, 5, 53, 126, 234
 Times Journal, 224, 225, 263
 Times-Mirror, 225, 263
 Tinkler, Bruno (Dr.), 93
 Tolentino, Arturo, 16, 99-100, 102
 Tolentino, Felipe (Dr.), 139
 Tongohan, Leon, 146
 Tort liability, 77
 Tourist Duty Free Shops (TDFS), 31,
 69, 73, 74, 105-106, 111, 232,
 235, 239; presidential decree, 74
 Townhouse (New York), 69
 Traders Royal Bank, 134, 239
Trajano v. Imee Marcos-Manotoc,
 HV Civ., 215
 Trans-Middle East Philippine Equi-
 ties, Inc., 224, 262
 Transitory Provisions see Constitu-
 tion, 1987
 Triad Asia, 157
 TRO see Temporary Restraining
 Order
 Trust Account No. 302-070700050-
 85, 85
 "trustees", 223, 233-235
 Truth and Reconciliation Commis-
 sion, South Africa, 4

U

UCPB see United Coconut Planters Bank
 UCPL Assurance Corporation, 247
 Unicom, 247
 Unido, 165
 Union Bank of Switzerland, 51, 221

United Board for Christian Higher Education, 124
 United Coconut Planters Bank, 82, 131, 178, 208, 223, 234
 United Methodist Church, 132
 United States, 7, 10, 13, 26, 28, 35, 41, 62, 78, 87, 121, 141
 Universal Broadcasting Corporation, 224, 262
 University of Hawaii, Philippine Studies Center, 36
 University of Texas Law School, 57
 University of the Philippines (U.P.) 14, 66, 73, 135, 138, 139, 151, 225, 239, 240, 263; College of Law, 11, 22, 164, 182, 198, 208, 248; College of Public Administration, 193; Collegian, 143
 University of the Philippines Press, 1
 U.P. see University of the Philippines
 Ursua, Danilo, 155, 247
 U.S. Aid Funds, 130
 U.S. Congress, 56, 77, 117, 119
 U.S. Court of Appeals, 28
 U.S. Customs, 40; Honolulu, 24, 25
 U.S. Customs Service, 78
 U.S. Department of Justice, 40, 78, 173
 U.S. Department of State see U.S. State Department
 U.S. Economic Support Funds, 130
 U.S. Government, 24, 37
 U.S. House of Representatives, 43
 U.S. media, 50
 U.S. senators, 13, 14
 U.S. State Department, 35, 38, 40, 56, 60, 63, 173
 U.S. Supreme Court, 116, 207

Velasco, Geronimo "Ronnie" Z., 7, 54-55, 62, 235
 Velez, Jose Mari, 76
 Ver, Fabian (Gen.), 62, 83, 85, 87, 89, 98, 132, 235
 Ver, Irwin (Col.), 83, 85-88
 Verbillie, Elizabeth, 40
 Vibur Foundation, 209
 Vienna, Austria, 86, 95
 Viernes, Gene, 217, 258
 Vietnam War, 31
 Villamor Air Base, 162
 Villanueva, Bert, 81
 Villanueva, Eddie (Brother), 99
 Villareal, Gaby, 54
 Villarin, Augusto, 191
 Villaruel, Librada Gloria, 146
 Vinson and Elkins (Texas law firm), 57, 71
 Virata, Cesar (Prime Min.), 7, 16

W

Waldorf Astoria, 69
Waltzing with the Dictator, 14n, 36n, 40n, 49, 54n
 Washington, D.C., 13, 20, 37, 69, 225
Washington Post, 37, 50, 78, 150
 Watson, Russel, et al., 41n
 Weiss, Peter, 49, 68, 69
 Wentworth Hotel, 44, 45
 West Negros College, 136
 Westbrook, J., 71
 Westinghouse case, 69; deal, 41; documents, 66
 White and Case (New York law firm), 64
 Wilk, Elliot (Justice), 39
 Woo Lai Oak (South Korean restaurant), 59
 World Council of Churches, 122

writs of sequestration, 63, 138
 Wylie, Dean, 54

Y

Yale Law School, 52, 128, 208
 Yamashita treasure, 11
 Yap, Emmanuel "Manny", 68, 76,
 142, 218
 Yap, Flora, 68, 76, 142
 Yap, Jose (Justice), 127
 Yap, Julie, 136
 Yap, Lorna, 153
 Yap, Pedro "Pete" L., 8, 21, 22, 23,
 24, 25, 27, 29, 33, 35, 39, 41, 45,
 46, 49, 51, 53, 55, 59, 60, 61, 63,
 65, 67-68, 75, 76, 83, 90, 142,
 180, 185, 234, 247
 Yee, Julie, 135
 Yulo, Luis, 155, 247

Z

Zachheus (Luke 19:1-9), 63
 Zalamea, Cesar, 7
 Zamora, Manny, 60
 Zamora, Ronaldo (Exec. Sec.), 38,
 238, 241
 Zobel, Enrique, 177
 Zumel, Jose M. (Gen.), 135
 Zurich, 96, 155, 162, 176; District
 Attorney's Office, 127, 128, 129

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About DR. JOVITO R. SALONGA



Born of poor parents in Pasig, Rizal on June 22, 1920, Jovito R. Salonga's journey has been marked by struggle against poverty and injustice. On two occasions, he almost lost his life. A senior law student in the University of the Philippines at the outbreak of the war in December 1941, he engaged in anti-Japanese activities and was captured, then severely tortured night and day in Pasig by the Japanese Military Police — in the presence of his aging father. In due time, Salonga was transferred to Fort Santiago where he endured tremendous suffering. In June 1942, he was sentenced to 15 years of hard labor in Muntinlupa, where

he met all sorts of people, from murderers to patriots. By a stroke of fortune, he was pardoned on *Kigen Setsu* (the Foundation Day of Japan) in 1943. Allowed to take the bar exams in August 1944, he topped first place with a rating of 95.3%.

After the war, he graduated with an LL.B. degree from the U.P. College of Law, studied in the United States and obtained his LL.M. degree in Harvard in 1948. He was recommended by his Harvard professor to Yale, which gave him a fellowship. He married Lydia Busuego on Valentine's Day. At Yale, in 1949, he earned his J.S.D. degree and the Ambrose Gehrini Prize for writing the best paper in International Law. Despite the offer of a berth on the Yale Law faculty, Salonga returned to the Philippines, where he practiced and taught law in several law schools. He authored several law books — Private International Law, Public International Law, Corporation Law, and Evidence. He was appointed Dean of Law of Far Eastern University in 1956 but resigned in 1961 after he was elected Congressman for the second district of Rizal. After one term, he was elected No. 1 Senator in 1965. For his well-documented exposés, he was hailed as the Nation's Fiscalizer by the *Philippines Free Press* in May 1968. He served as counsel of Benigno "Ninoy" Aquino, Jr. in the underage case filed against him by order of President Marcos. Aquino won — in the Comelec, the Supreme Court and the Electoral Tribunal.

Salonga ran for reelection and was bombed on August 21, 1971, during the proclamation rally of the Liberal Party in Plaza Miranda, Manila. He was brought to the Manila Medical Center in a state of complete shock. None of his 34 doctors who came to his succor thought he would live. But he survived, with impaired eyesight and hearing and more than a hundred pieces of shrapnel in his body.

Under martial law, he handled important cases against the Marcos regime. So open was his opposition to martial rule the dictator ordered his arrest and

detention in October 1980, without any investigation and without any formal charges. But because of many protests here and abroad, he was ordered released from military custody and placed "under the custody of his wife, Mrs. Lydia Salonga."

Allowed to leave for the U.S. in March 1981 to undergo medical examination and attend international conferences, he and Lydia lived in self-exile in Hawaii and, a little later, in Encino, California, where he continued his non-violent struggle against the Marcos dictatorship. He was given the Mahatma Gandhi Freedom Award of 1983 by the prestigious College of William and Mary in Virginia.

On January 21, 1985, he returned to the Philippines despite the subversion case filed against him. But after a month, a unanimous Supreme Court exonerated him. During the snap election campaign, he campaigned for Cory Aquino and Doy Laurel in various places. A day after the end of the EDSA Revolution and the proclamation of Cory Aquino as president, Salonga was informed he would be the Chairman of the PCGG. He it was who laid its theoretical foundations, its basic strategy and priorities. After his one-year stint in the PCGG, he was drafted to run for the Senate. For the third time, he was elected No. 1 Senator, a feat that remains unequaled to this day.

Learning from political history and his experience in the PCGG, Salonga authored the Code of Conduct and Ethical Standards for Public Officials and Employees (RA 6713) and the Anti-Plunder Act (RA 7080). In 1991 he led a group of 12 senators in rejecting the RP-US Treaty of Friendship, Cooperation and Security, thus ending over 400 years of foreign military presence in the Philippines.

On April 29, 1990, the University of the Philippines, his *alma mater*, conferred on Senate President Salonga the degree of Doctor of Laws (*honoris causa*). Among other things, the citation reads in part:

For a brilliant career as an eminent political figure in this country, particularly as Representative and later Senator of the Republic, consistently topping three nationwide elections, and as President of the Senate whose leadership, intellectual competence, and selfless dedication to duty are crucial to legislative decision making for the progress of the country;

For his unwavering and courageous stand against injustice, oppression, and dictatorship at great risk to his life, his unstinting effort as resistance leader during World War II, and his continued advocacy of peace, democratic rule and non-violent change; and finally,

For his sterling personal qualities of decency, humility, diligence, industry and moderation.

Other honorary degrees Salonga obtained: LL.D. '86 Claremont Graduate School; LL.D. '88, University of Manila; LL.D. '88 State University of Arizona; D.Pub. Adm. '90, Polytechnic University of the Philippines; D.H.L. '91 Queens College, North Carolina; LL.D. '91 *Pamantasan ng Lungsod ng Maynila*.

Former Senator Salonga is the president of *Kilosbayan*, an ethics-oriented people's organization to promote the cause of truth, justice and national renewal; and the Chair of *Bantayog ng mga Bayani Foundation* to honor the martyrs and heroes during martial rule. He is also the founder of *Bantay Katarungan* (Sentinel of Justice), which was organized in February 2000 to improve the system of justice in the Philippines. He continues to teach as Jose P. Laurel Professor of Public Policy in the Claro M. Recto Academy of Advanced Studies, Lyceum of the Philippines.

PRESIDENTIAL PLUNDER

The Quest for the Marcos Ill-Gotten Wealth

• JOVITO R. SALONGA

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