Today is a time for reminiscing; today is also a time to look forward to the future. Today, we learn from the experience of yesterday so that we may shape our vision of tomorrow. The Journal has indeed come a long way but it still has far to go. But with the inspiration that we draw from our predecessors, we are confident that we will be able to surmount the obstacles that lie ahead so that the words of Fr. McMahon, written 35 years ago, will not ring hollow in our ears; so that 35 years from now, in a similar gathering, our successors will be proud to accept the challenge to carry on the tradition of excellence that the Ateneo Law Journal is and always will be.

In closing, I would like to thank our distinguished Guest of Honor, Speaker and Inducting Officer, The Honorable Chief Justice Claudio Teehankee for taking time out of his very busy schedule to honor us with his presence. We would also like to thank our past faculty advisers and past editors-in-chief for showing that the Ateneo Law Journal is worth coming back to. We thank the distinguished members of our faculty and our guests for joining us on this very important occasion.

Thank you all very much.

I congratulate and greet the editors and staffers of the Ateneo Law Journal past and present, on your 35th anniversary. We have much to celebrate and be thankful for. We also celebrate the golden anniversary of our Alma Mater and its indisputable position as the premier law school of the nation. Most of all, we celebrate the restoration of our freedom after having redeemed ourselves from the long and terrible era of shame and degradation when the people finally had enough and threw out the cruel and corrupt regime with its insatiable appetite for loot and plunder.

We didn't have a law journal in our time. We were too few and too busy getting the school organized and going. The Law School opened its doors in 1936 at the now defunct Ateneo de Padre Faura offering 1st and 2nd year law classes. The first batch of 1939 was composed mostly of Atenean returnees who took their first year courses at the UP College of Law. They were the first twelve graduates, headed by now retired Supreme Court Justice Lorenzo Relova and Appellate Justice Eduardo Caguioa. In my class of 1940, the first batch that completed the full four-year course, we started 80 strong in first year but were weeded down to twenty by the time we graduated. All candidates of our pre-war classes passed the Bar exams 100% We oldtimers gladly note that the high standard of excellence adopted by our school from the beginning has been maintained and strengthened.

My counterpart in the Supreme Court of India, the Hon. P.N. Bhagwati's discourse on the Rule of Law and the crucial role of the judiciary through the power of judicial review is a classic brief for social economic and political justice: "It is axiomatic that no democracy based on the Rule of Law can survive unless there is a truly independent and fearless judiciary. The concept of independence of the judiciary is a noble concept which constitutes the foundation on which rests the edifice of every democratic polity. x x x The power of judicial review is one of the most potent weapons in the armory of the law and by exercising this power, the judiciary seeks to protect the citizen against violation of his constitutional or legal rights or misuse or abuse of power by the State or its officers. The judiciary stands between the citizen and the State as a bulwark against executive excesses and misuse or abuse of power by the executive as also transgression of its constitutional limitations by the legislature. The concept of liberty is an indispensable norm and perennial human aspiration for freedom, dignity and equality : it is the source and sustenance of the vision and vitality of every nation wedded to freedom, equality and justice, it is an essential condition of democracy and development, it is a shield and a sword of social defense, and it is a challenge and opportunity to the people to help themselves to ameliorate their conditions, to emancipate themselves from deadweights, to facilitate and accelerate social transformation and to achieve justice - social, economic and political. It is this dynamic concept of liberty which the judiciary is expected in a democratic set-up to safeguard and protect through the exercise of the power of judicial review and therefore it is absolutely essential that the judiciary must be free from executive pressure or influence."

*Keynote address of Chief Justice Claudio Teehankee at the Ateneo Law Journal's 35th Anniversary Celebration and Induction Ceremonies at the Ateneo Professional School's Auditorium in Makati, on September 20, 1986.

Here, as recently retired Senior Justice Vicente Abad Santos recalled in his valedictory to the new members of the Bar last May, "In the past (regime), the judiciary was under heavy attack by an extremely powerful executive. During this state of judical siege, lawyers both in and outside the judiciary perceptively surrendered to the animus of technicality. In the end, morality was overwhelmed by technically, so that the latter emerged ugly and naked in its true manifestation."

So it was that in the famous (or infamous, if you will) habeas corpus case of Dr. Aurora Parong, et al., the Supreme Court majority decision of April 20, 1983 (two years after the lifting of martial law) upheld the Presidential Commitment Order (PCO) as an indefinite detention order that no citizen could question through a petition for the great writ of habeas corpus and that no court could override. It also ruled that the right to bail was equally suspended.

The majority held that on the occasion of the grave emergencies dealt with by the President under the Commander-in-Chief clause "The President takes absolute command, for the very life of the nation and its government, which incidentally, includes the courts, is in grave peril. In so doing, the President is answerable only to his conscience, the people and to God. For their part, in giving him the supreme mandate as their President, the people can only trust and pray that, giving him their own loyalty with utmost patriotism, the President will not fail them."

This was but a retrogression to the *lese majeste* when the voice of the King was the voice of God so that those who are touched by his absolute powers could do nothing, but only pray that the King acted prudently and wisely. This was to repudiate the rule of law and constitutionalism which had precisely worked out the setting up of legal institutions precisely to effectively protect and defend the rights and liberties of the people and not merely depend in resignation on prayers to which the president turned dictator-king proved to be impervious.

Such absolute power could not but lead to absolute corruption. We have seen this in the Supreme Court decision of last September 12th declaring void *ab initio* the rigged proceedings in the Sandiganbayan and nullifying its wholesale verdict of acquittal of the 26 accused. We wrote that : The record shows suffocatingly that from beginning to end, the then President used, or more precisely, misused the overwhelming resources of the government and his authoritarian powers to corrupt and make a mockery of the judicial process in the Aquino-Galman murder cases. As graphically depicted in the Report, *supra*, and borne out by the happenings *(res ipsa loquitur)*, since the resolution prepared by his "Coordinator," Manuel Lazaro, his Presidential Assistant on Legal Affairs, for the Tanodbayan's dismissal of the cases against all accused was unpalatable (it would summon the demonstrators back to the streets) and at any rate was not acceptable to the Herrera prosecution panel, the unholy scenario for acquittal of all 26 accused after the rigged trial as ordered at the Malacanang conference, would accomplish the two principal objectives of satisfaction of the public clamor for the suspected killers to be charged in court and of giving them through their acquittal the legal shield of double jeopardy.

Indeed, the secret Malacanang conference at which the authoritarian President called together the Presiding Justice of the Sandiganbayan and Tanodbayan Fernandez and the entire prosecution panel headed by Deputy Tanodbayan Herrera and told them how to handle and rig *(moro-moro)* the trial and the close

monitoring of the entire proceedings to assure the pre-determined ignominious final outcome are without parallel and precedent in our annals and jurisprudence. To borrow a phrase from Ninoy's April 14, 1975 letter withdrawing his petition for habeas corpus, "This is the evil of one-man rule at its very worst." Our Penal Code penalizes "any executive officer who shall address any order or suggestion to any judicial authority with respect to any case or business coming within the exclusive jurisdiction of the courts of justice." The President-dictator's obsession for acquittal of the "boys" who were "getting frantic" led to several firsts which would otherwise be inexplicable :

1. He turned his back on and repudiated the findings of the very Fact Finding Board that he himself appointed to investigate the "national tragedy and national shame" of the "treacherous and vicious assassination of Ninoy Aquino" and "to ventilate the truth through free, independent and dispassionate investigation by prestigious and free investigators."

2. He cordially received the chairman with her minority report one day ahead of the four majority members and instantly referred it to respondents "for final resolution through the legal system" as if it were the majority and controlling report; and rebuked the four majority members when they presented to him the next day their report calling for the indictment of all 26 respondents headed by Gens. Ver and Olivas (instead of the lesser seven under the chairman's minority report).

3. From the day after the Aquino assassination to the dictated verdict of acquittal, he totally disregarded the Board's majority and minority findings of fact and publicly insisted that the military's "fall guy" Rolando Galman was the killer of Ninoy Aquino and sought futilely to justify the soldiers' incompetence and gross negligence to provide any security for Ninoy in contrast to their alacrity in gunning down the alleged assasin Galman and sealing his lips.

4. The Sandiganbayan's decision (Pamaran, *J. Ponente*) in effect convicted Rolando Galman as Ninoy's assassin notwithstanding that he was not on trial but the victim according to the very information filed, and evidence submitted, by the Herrera prosecution panel; and

5. Justice Pamaran's *ponencia* (despite reservations expressed by Justice Amores who wanted to convict some of the accused) granted all 26 accused total absolution and pronounced them "innocent of the crimes charged in the two informations, and accordingly, they incur neither criminal nor civil liability," notwithstanding the evidence on the basis of which the Fact Finding Board had unanimously declared the soldiers' version of Galman being Aquino's killer a "perjured story, given deliberately and in conspiracy with one another."

This illegality vitiated from the very beginning all proceedings in the Sandiganbayan court headed by the very Presiding Justice who attended the conference. As the Commission noted: "The very acts of being summoned to Malacañang and their ready acquiescence thereto under the circumstances then obtaining, are in themselves pressure dramatized and exemplified. x x x Verily, it can be said that any avowal of independent action or resistance to presidential pressure became illusory from the very moment they stepped inside Malacañang Palace on January 10, 1985." The Supreme Court could not permit such a sham trial and verdict and travesty of justice to stand unrectified. The courts of the land under its aegis are courts of law and justice and equity. They would have no reason to exist if they were allowed to be used as mere tools of injustice, deception and duplicity

to subvert and suppress the truth, instead of repositories of judicial power whose judges are sworn and committed to render impartial justice to all alike who seek the enforcement or protection of a right or the prevention or redress of a wrong, without fear or favor and removed from the pressures of politics and prejudice. More so, in the case at bar where the people and the world are entitled to know the truth, and the integrity of our judicial system is at stake. In life, as an accused before the military tribunal, Ninoy had pleaded in vain that as a civilian he was entitled to due process of law and trial in the regular civil courts before an impartial court with an unbiased prosecutor. In death, Ninoy, as the victim of the "treacherous and vicious assassination," and the relatives and sovereign people as the aggrieved parties, certainly were entitled to due process of law and a retrial before an impartial court with an unbiased prosecutor. The Court declared the sham trial a mock trial – the non-trial of the century – and that the predetermined judgment of acquittal was unlawful and void *ab initio*.

I must here commend the courage and civic-mindedness of then Deputy Tanodbayan, now Court of Appeals, Justice Manuel Herrera who, as the Commission observed, "played his role with manifestly ambivalent feelings" in connection wih the Malacanang directives. He had nursed in vain the hope "that with sufficient evidence sincerely and efficiently presented by the prosecution, all involved in the trial would be conscience-pricked and realize the futility and injustice of the proceeding in accordance with the script." But at the first opportunity after the authoritarian president had been deposed and casting aside all extraneous considerations of personal safety, and *pakikisama*, and serving only the cause of the truth and justice, honor and integrity, he courageously exposed "the smoking gun" and the criminal conspiracy imposed by the dictator in the secret Malacanang conference of January 10, 1985.

We are now faced with the task of restoring public faith and confidence in the courts. The Supreme Court enjoys neither the power of the sword nor of the purse. Like His Holiness, the Pope, the Supreme Court has no battalions, tanks or guns to enforce its decisions. Its strength lies mainly in public confidence, based on the truth and moral force of its judgments, as long as the Court keeps the faith and confidence reposed in it by the people to render justice and sustained their moral conviction that through the Supreme Court, justice and the voice of reason and truth will prevail in the end. This has been built on the Supreme Court's cherished traditions of objectivity and impartiality, integrity and fairness and unswerving loyalty to the Constitution and the rule of law which compels acceptance as well by the leadership as by the people. The lower courts draw their bearings from the Supreme Court. The Court expressed its regard for due process and equal justice under law in this wise: With the Court's judgment declaring the nullity of the questioned judgment of acquittal and directing a new trial, there must be a rejection of the temptation of becoming instruments of injustice as vigorously as we rejected becoming its victims. The end of one form of injustice should not become simply the beginning of another. This simply means that the respondents-accused must now face trial for the crimes charged against them before an impartial court with an unbiased prosecutor with all due process. What the past regime had denied the people and the aggrieved parties in the sham trial must now be assured as much to the accused as to the aggrieved parties. The people will assuredly have a way of knowing when justice has prevailed as well as when it has failed.

The restoration of public faith and confidence in the courts is a two-way street. We must all shake off the yoke and terrible after-effects of martial law and renew once more our faith in and adherence to the force of law, rather than the law of force. We must reconsecrate ourselves to the supremacy of the Rule of Law. The citizens would then obey the law and respect the judgment of the courts rather than resist and require that the military or the police enforce the law through force and fall prey to the dominance of the military who would then have the last say on the enforcement or non-enforcement of the law, like during the pass fourteen years of authoritarian misrule. This would mean military supremacy over the civilian. The rule of law must prevail to restrain and order power so that it will serve human rights and freedoms and not destroy them and convert the citizen into the servant, rather than the master, of the State.

I trust that we have learned the lesson that "politics as usual" is a deadly game and that a real democracy (as Brandeis aptly expressed it) "is a serious undertaking. It substitutes self-restraint for external restraint. It is more difficult to maintain than to achieve. It demands continuous sacrifice by the individual and more exigent obedience to the moral law than any other form of government."

We also have the perverted and cynical notion that a fair and just trial before an impartial court is not likely nor possible because the judges to retry the case are appointees of the President, who by destiny's hand and the people's mandate is the widow of the martyred victim. Such a notion betrays the subservience to which the opportunists fell under the heel of the oppressor and total ignorance or disdain of the meaning and sacredness of one's oath of office. I thus wrote in this regard in the Galman mistrial resolution that "notion nurtured under the past regime that those appointed to public office owe their primary allegiance to the appointing authority and are accountable to him alone and not to the people or the Constitution must be discarded. The function of the appointing authority with the mandate of the people, under our system of Government. is to fill the public posts. While the appointee may acknowledge with gratitude the opportunity thus given of rendering public service, the appointing authority becomes *functus officio* and the primary loyalty of the appointed must be rendered to the Constitution and the sovereign people in accordance with his sacred oath of office. To paraphrase the late Chief Justice Earl Warren of the United States Supreme Court, the Justices and Judges must ever realize that they have no constituency, serve no majority nor minority but serve only the public interest as they see it in accordance with their oath of office, guided only by the Constitution and their own conscience and honor."

The bottom line is that the people get the kind of government that they deserve, that it is up to the people to insist that the government live by the great principles of truth, freedom, justice and genuine democracy, which is our birthright. This is where law journals like yours may play a significant role - by helping to instill in every citizen (particularly the students of this great school) the strongest possible thirst for right and justice, so that he may find life unbearable without it and be ready to give his all to defend it. For as Hume reminds us, "though it be possible for men to maintain a small uncultivated society without government, it is impossible that they should maintain a society of any kind without justice." Thus, when we read the law and recognize in it something we already know, it is because it conforms to what we know of justice. If it is a