[ADMINISTRATIVE ORDER NO. 494, April 24, 1985]

SUSPENDING ASSISTANT CITY FISCAL SANTIAGO MALATE FROM OFFICE FOR THREE (3) MONTHS WITHOUT PAY

After examining the records of the present case, I agree with the following findings of the Minister of Justice:

> "Investigation of this case disclosed that at about 4:00 o'clock in the afternoon of July 23, 1932, while complainant Liwanag Pastoral was eating "mami" at the DN Restaurant on San Miguel Street, Iriga City, preparatory to attending his law classes at the University of Northeastern Philippines, respondent Santiago Malate and his companions Senior Trial Attorney Eulogio Prima and Atty. Ricardo Martinez arrived, occupied a table, and ordered beer which was served to them by waiter Gerardo Escano. Later, respondent Malate and his companions invited complainant to join them. They told complainant not to attend his classes that night, for they themselves, being instructors of complainant, had lost interest in teaching law in that school. Complainant obliged, taking a seat between respondent Malate on his right side and Eulogio Prima on his left side. A heavy downpour prolonged their stay in the DN Restaurant until about 8:00 o'clock p.m., during which time, more beer, thirty-six (56) bottles in all, was ordered. Complainant himself drank three bottles of beer. However, their conversation did not fare very well when it drifted into recollections of previous administrative complaints lodged by complainant against respondent Santiago Malate, and of the latter's adverse resolution in the case filed by Merly Ong against complainant.
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> "It appears that at this stage the beer they had drunk set afire their personal animosities. Respondent in a belicose mood, poured with his right hand the contents of a bottle full of beer on the stomach of complainant, struck the latter's head and eyebrow with the bottle which broke, and a fragment thereof hit a son of the restaurant owner." (Letter dated April 1984 of the Minister of Justice to the President of the Philippines)

Respondent has raised the following defenses:

1. That it was complainant who allegedly joined respondent and his companions without being invited, partook of their side dish of fried chicken, and talked aloud about his (complainant) having lost in the Merly Ong case;

2. That complainant was then cautioned by Senior Trial Attorney Eulogio Prima to tone down his voice;