

## ***JGL Eye Column***

By JOSEPH G. LARIOS

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*{xtypo\_quote} The late alteration of the federal judiciary...will take away all security for property and personal liberty, and our Republican constitution will sink into a mobocracy, the worst of all popular governments . – U.S. Supreme Court Associate Samuel Chase {/xtypo\_quote}*

CHICAGO (*jGLi*) – When United States Supreme Court Associate Justice Samuel Chase unleashed his attack at the government of U.S. third President Thomas Jefferson, Jefferson responded to the attack by suggesting to his supporters in the U.S. House of Representatives that Chase be impeached, asking, "Ought the seditious and official attack on the principles of our Constitution . . .to go unpunished?"

The House took Jefferson's suggestion, impeaching Chase in 1804. Fortunately, for Justice Chase, Chase was acquitted by the Senate of all charges in March 1805.

Actually, Chase's acquittal strengthened the hand of the judiciary establishing the principle that federal judges could be removed only for indictable criminal acts, clarifying the constitutional provision (Article III, section 1) that judges shall hold office during good behavior.

In hindsight, some scholars believe that if Chase had been found guilty, the Jefferson administration would have proceeded against other Federalist justices, particularly Chief Justice John Marshall, a leading opponent of Jefferson

Taking a cue from Philippine President Benigno S. Aquino III, who could no longer hide his displeasure over Philippine Supreme Court Chief Justice Renato Corona, whom he accused of turning the Supreme Court into a "haven of irregularities," the Philippine House of Representatives impeached Corona in a hasty fashion, giving the beleaguered *primus inter pares*

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(first among equals) what appears to be a way out for House's possible violation of his Constitutional right to due process.

## **UP PRES. ADAMS WAS LIKE FORMER PRES. ARROYO**

Like Chase, if Corona were acquitted, it will take the pressure off other Corona associate justices that make up the so-called Arroyo court, among them Associate Justice Mariano del Castillo, who has a pending impeachment complaint for plagiarism in the House.

The other striking similarity of the case of Chief Justice Corona was Jefferson's natural enmity with Federalist Party of outgoing second President John Adams, who, like outgoing Philippine President Gloria Macapagal Arroyo, appointed "Midnight Judges" in newly-created circuit courts a day prior to Jefferson's inauguration as President. Arroyo appointed Corona in violation of election law against "midnight appointment."

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A Supreme Court case would ensue into the famous Marbury v. Madison that involved the appointment of a judgeship of the District of Columbia, authorized under a different Act of Congress, not the Judiciary Act. The case would solidify the United States' system of checks and balances and gave the judicial branch equal power with the executive and legislative branches.

This controversial case began with Adams's appointment of Federalist William Marbury as a Justice of the Peace in the District of Columbia. When the newly appointed Secretary of State James Madison refused to process Marbury's appointment, Marbury requested a writ of *mandamus*, which would force Madison to make his appointment official.

□

Chief Justice John Marshall declared that the Supreme Court did not have the authority to force Madison to make the appointment official. This statement actually challenged the Judiciary Act of 1789, which stated that the Supreme Court did, in fact, have the right to issue those writs. Marshall, therefore, ruled that part of the Judiciary Act of 1789 unconstitutional because the Constitution did not expressly grant this power to the judiciary. In deciding the constitutionality of an act of Congress,

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Marshall

established judicial review, the most significant development in the history of the Supreme Court.

## **IT COULD GO EITHER WAY FOR CORONA**

As a student of law, I feel, if Corona is acquitted of one of the charges for House's violation of his due process, it would have the effect of declaring unconstitutional House impeachment rules crafted by the 13th Congress in 2005. These rules say that if the House committee on impeachment "finds that the complaint is insufficient in form, it shall return the same to the Secretary General within three session days with a written explanation of the insufficiency. The Secretary General shall return the same to the complaint or complainants together with the committee's written explanation within three session days from receipt of the committee resolution finding the complaint insufficient in form.

"If the committee finds that sufficient grounds for impeachment exist, the committee shall conduct a hearing. Committee chairman may limit the period of examination and cross-examination.

“The committee on justice after hearing, and by a majority vote of all its members, shall submit its report to the House containing its findings and recommendations within 60 session days from the referral to it of the verified complaint and/or resolution. Together with the report shall be formal resolution of the committee regarding the disposition of the complaint shall be calendared for consideration by the House within 10 session days from receipt thereof.”

It's very clear that when the House drafted the complaint against Corona and signed by 188 Congressmen in less than a week, the complaining House members railroaded the very impeachment rules they earlier created without amending the same law first. The House did not even give Corona the opportunity to submit a counter-affidavit nor granted him a hearing.

As to the two other articles of impeachment, like Corona's alleged failure to declare his assets and liability, and his alleged failure and refusal to account for the judiciary development fund (JDF) and special allowance for the judiciary (SAJ) collections, if proven, they could make him liable for graft charges, which are impeachable offenses.

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As to other charges, Corona could wiggle himself out of them if he can prove that he issued the questionable decisions as purely his judgment calls that were done in good faith.

**Merry Christmas to all! # # #**

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