

- The independence of the courts does not mean that they should be free from criticism. The following is a unique and courageous stand on the subject.

CRITICAL REMARKS ON THE SUPREME COURT

A middle-aged practicing lawyer, in renouncing his license to practice law as a protest against what he considered a grave injustice committed by the Supreme Court against his client, accused the high tribunal of offenses so serious that the Court must clear itself.

In a written petition to the court, Vicente Raul Almacén of Iloilo, a senior partner in the law firm of Villareal, Almacén, Navarra & Amores, stated: "... our own Supreme Court is composed of men who are caloused to our pleas for justice, who ignore their own applicable decisions and commit culpable violations of the Constitution with impunity."

Lawyer Almacén was provoked into his outburst by what he called "short-cut justice" administered by the high court. He had lost an appeal before the Court of

Appeals on a technicality; his motion for reconsideration of a lower court decision ordering his client to pay ₱120,000.00 failed to include a notice of hearing. Almacén argued that the omission had caused no harm, that the opposing lawyer was duly notified.

Almacén appealed the case to the Supreme Court which, in its resolution of denial, gave no reason whatsoever. He filed a motion for reconsideration. It was again denied without explanation. He filed a motion for recon- of court to submit a second motion for reconsideration which the high court again denied. This was the straw that broke the camel's back for Almacén.

Supreme Court justices are subject to impeachment. Section 1, Article IX of the Constitution states: "The President, the Vice President,

the Justices of the Supreme Court and the Auditor General shall be removed from office on impeachment for and conviction of, culpable violation of the Constitution, treason, bribery, or other high crimes." Almacen has charged the high tribunal with "culpable violations of the Constitution." His charge is one of the constitutional ~~basis~~ for impeachment. The Supreme Court cannot let his charge pass without challenging its veracity.

Perhaps, Almacen had in mind Section 12, Article VIII of the Constitution which states: "No decision shall be rendered by any court of record without expressing therein clearly and distinctly the facts and the law on which it is based." Is a resolution denying a petition a decision? Evidently the Supreme Court does not think so. Maybe a resolution is a routine action that does not deserve to be classified as a decision and, therefore, needs no elaborate reasoning.

Perhaps, also, the Supreme Court had in mind the rule that any decision rendered by the Court of Appeals on a case involving only ques-

tions of facts is final. If this is the case, the Supreme Court need not explain it to a lawyer. A lawyer is presumed to know so elementary a rule. Yet, what would it cost the high tribunal to state in its resolution that the denial is based on the law defining the Court of Appeals' jurisdiction?

It is evidently the thinking of the framers of the Constitution that in the administration of justice in a free society there is no room for summary and arbitrary action. The power of the courts is perhaps the highest in the state in the sense that it includes the authority to deprive a person of life, liberty and property. Precisely because this power is the ultimate, it may not be exercised without due process of law. Does the arbitrary denial of a petition satisfy the requirement of due process?

There is no appeal from a decision of the Supreme Court except by petitioning it for reconsideration. If the original decision is rendered by the high tribunal itself it is understood that it has complied with the constitutional requirement that the facts

and the law on which the decision was based should be expressed. But where the decision appealed is from the lower courts, it should not be amiss for the Supreme Court to explain the basis of its action, even if it is a mere denial to review the case. This procedure would seem to be more in conformity with the constitutional requirement.

Almost at the same time, the newspapers reported that the Supreme Court also dismissed the appeal of the three senators convicted by the Senate Electoral Tribunal of election overspending in a resolution without explanation. The reason could be lack of jurisdiction

or the principle of the separation of powers or the fact that three Supreme Court justices had voted for conviction. But whatever be the reason, there is no denying that the senators concerned would have been less unhappy if there had been even the briefest of explanations. As the court's decision was also precedent-setting, it would have been better all around if its basis in law had been expressed.

Be this as it may, the charge of "culpable violations of the Constitution" should be nailed down and exposed as empty — if it is in fact empty. — *Vicente Albano Pacis, Manila Chronicle, Sept. 1967.*