LAST-MINUTE NOTES IN POLITICAL LAW

for

2026 BAR EXAMINATION

By:

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1. **Differentiate revision from amendment.**

Revision broadly implies a change that alters a basic principle in the Constitution. Revision also applies when the change alters the Constitution's substantial entirety. Amendment broadly refers to a change that adds, reduces, or deletes without altering the basic principle involved. Revision generally affects several provisions of the Constitution, while amendment generally affects only the specific provision being amended **(Lambino vs. COMELEC, G.R. No. 174153, October 25, 2006)**.

2. **If the proposed change is to alter the form of government; let us say from presidential to parliamentary, how is the proposed changed classified? Is it amendment or revision?**

It is revision. A change in the structure of government is a revision of the Constitution, as when the three great co-equal branches of government in the present Constitution are reduced into two. This alters the separation of powers in the Constitution. A shift from the present Bicameral-Presidential system to a Unicameral-Parliamentary system is a revision of the Constitution. Merging the legislative and executive branches is a radical change in the structure of government **(Lambino vs. COMELEC, G.R. No. 174153, October 25, 2006)**.

3. **May people's initiative be used to revise the Constitution?**

NO. People's initiative cannot be used to revise the Constitution. The rationale lies in the constitutional text. Section 1, Article XVII provides that Congress and a Constitutional Convention may propose amendments or revisions. While Section 2 provides that amendments may likewise be proposed by the people.

4. **Is R.A. 6735 sufficient in prescribing procedure to amend the Constitution through people's initiative?**

NO. While the Act provides subtitles for National Initiative and Referendum (Subtitle II) and for Local Initiative and Referendum (Subtitle III), no subtitle is provided for initiative on the Constitution. This conspicuous silence as to the latter simply means that the main thrust of the Act is initiative and referendum on national and local laws. If Congress intended R.A. No. 6735 to fully provide for the implementation of the initiative on amendments to the Constitution, it could have provided for a subtitle therefor, considering that in the order of things, the primacy of interest, or hierarchy of values, the right of the people to directly propose amendments to the Constitution is far more important than the initiative on national and local laws (**Santiago vs. COMELEC, G.R. No. 127325, March 19, 1997**).

5. **What is the doctrine of incorporation?**

The doctrine provides that the generally accepted principles of international law form part of the law of the land **(Section 2, Article II of the Constitution)**. Please note that only the generally accepted principles of international law are automatically incorporated. Thus, international law or principles that are not generally accepted do not form part of the law of the land by incorporation.

6. **What are considered "generally accepted principles of international law"?**

It refers to norms of general or customary international law that are binding on all states, *e.g.*, renunciation of war as an instrument of national policy, sovereign immunity, a person's right to life, liberty, and due process, and *pacta sunt servanda* **(Pharmaceutical and Health Care Association of the Philippines vs. Duque, G.R. No. 173034, October 9, 2007)**.

7. **Are the principles in the Universal Declaration of Human Rights considered as generally accepted principles of international law?**

YES. In *Government of Hong Kong vs. Olalia*, the issue is whether an extraditee is entitled to bail. In ruling that the extraditee is entitled to bail during extradition proceedings, the Supreme Court applied the principles contained in the Universal Declaration of Human Rights. The Supreme Court said:

> On a more positive note, also after World War II, both international organizations and states gave recognition and importance to human rights. Thus, on December 10, 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights in which the right to life, liberty and all the other fundamental rights of every person were proclaimed. **While not a treaty, the principles contained in the said Declaration are now recognized as customarily binding upon the members of the international community (Government of Hongkong vs. Olalia, G.R. No. 153675, April 19, 2007)**.

8. **Is the right of the people to a balanced and healthful ecology a demandable constitutional right?**

YES. It is a demandable constitutional right. It is a self-executing provision which does not necessitate enabling legislation. The Supreme Court said:

> While the right to a balanced and healthful ecology is to be found under the Declaration of Principles and State Policies and not under the Bill of Rights, it does not follow that it is less important than any of the civil and political rights enumerated in the latter. Such a right belongs to a different category of rights altogether for it concerns nothing less than self-preservation and self-perpetuation — aptly and fittingly stressed by the petitioners — the advancement of which may even be said to predate all governments and constitutions. As a matter of fact, these basic rights need not even be written in the Constitution for they are assumed to exist from the inception of humankind. If they are now explicitly mentioned in the fundamental charter, it is because of the well-founded fear of its framers that unless the rights to a balanced and healthful ecology and to health are mandated as state policies by the Constitution itself, thereby highlighting their continuing importance and imposing upon the state a solemn obligation to preserve the first and protect and advance the second, the day would not be too far when all else would be lost not only for the present generation, but also for those to come — generations which stand to inherit nothing but parched earth incapable of sustaining life **(Oposa vs. Factoran, G.R. No. 101083, July 10, 1993)**.

9. The USS Guardian, a naval military ship of the United States, while transiting the Sulu Sea, ran aground on the northwest side of South Shoal of the Tubbataha Reefs, about 80 miles east-southeast of Palawan. No one was injured in the incident, but there have been no reports of leaking fuel or oil. Vice Admiral Scott Swift, the commander in charge, expressed regret for the incident. US Ambassador to the Philippines "reiterated his regrets over the grounding incident. Petitioners on their behalf and in representation of their respective sector/organization and others, including minors or generations yet unborn, filed the present petition a petition for Writ of Kalikasan against Scott in his capacity as Commander of the USS Guardian. Scott pleaded immunity from suit.

Is the defense of Swift tenable?

Yes. In this case, Admiral Scott Swift was sued in his official capacity as commanding officer of the US Navy, with control and supervision over the USS Guardian and its crew. The alleged act or omission that led to the unfortunate grounding of the USS Guardian on the TRNP occurred while he was performing official military duties. Because satisfying a judgment against these officials would require remedial action and the appropriation of funds by the US government, the suit is deemed one against the US itself. The principle of State immunity therefore bars this Court from exercising jurisdiction over Swift **(Arigo v. Shift, G.R. No. 206510, September 16, 2014)**.

10. **The plaintiff sued the government for revocation of donation on the ground of the failure of the defendant to comply with the stipulated conditions. The government invoked immunity from suit. Will the defense prosper?**

No. It will not prosper. The plaintiff was only seeking the return of the donated property. He need not even file a claim with the Commission on Audit under the provision of C.A. No. 327. The Supreme Court ruled in Santiago vs. Republic:

> Our decision, it must be emphasized, goes no further than to rule that a donor, with the Republic or any of its agency being the donee, is entitled to go to court in case of an alleged breach of the conditions of such donation. He has the right to be heard. Under the circumstances, the fundamental postulate of non-suability cannot stand in the way. It is made to accommodate itself to the demands of procedural due process, which is the negation of arbitrariness and inequity. The government, in the final analysis, is the beneficiary. It thereby manifests its adherence to the highest ethical standards, which can only be ignored at the risk of losing the confidence of the people, the repository of the sovereign power. The judiciary under this circumstance has the grave responsibility of living up to the ideal of objectivity and impartiality, the very essence of the rule of law. Only by displaying the neutrality expected of an arbiter, even if it happens to be one of the departments of a litigant, can the decision arrived at, whatever it may be, command respect and be entitled to acceptance **(Santiago vs. Republic, G.R. No. L-48214, December 19, 1978)**.

11. **When is there violation of principle of separation of power?**

The principle of separation of powers may be violated in two (2) ways: firstly, "[o]ne branch may *interfere impermissibly* with the other's performance of its constitutionally assigned function"; and "alternatively, the doctrine may be violated when one branch *assumes a function* that more properly is entrusted to another." In other words, there is a violation of the principle when there is impermissible (a) *interference with and/or* (b) *assumption of another department's functions* **(Belgica vs. Ochoa, G.R. No. 208566, November 19, 2013)**.

12. **Senator Tatad and Senator Fernan vied for Senate presidency where the latter won. Senator Tatad thereafter manifested that, with the agreement of Senator Santiago, allegedly the only other member of the minority, he was assuming the position of minority leader. He explained that those who had voted for Senator Fernan comprised the "majority," while only those who had voted for him, the losing nominee, belonged to the "minority." During the discussion on who should constitute the Senate "minority," Sen. Juan M. Flavier manifested that the senators belonging to the Lakas-NUCD-UMDP Party — numbering seven (7) and, thus, also a minority — had chosen Senator Guingona as the minority leader.**

No consensus on the matter was arrived at. Later however, the Senate President recognized Senator Guingona as the Minority Floor Leader. Senator Tatad filed a *quo warranto* petition against Senator Guingona. Should the petition for *quo warranto* be granted?

No. The petition should be dismissed. The Supreme Court has no authority to interfere with the purely internal matters of the Senate, lest, the Court will violate separation of power. The Supreme Court held:

> Congress verily has the power and prerogative to provide for such officers as it may deem. And it is certainly within its own jurisdiction and discretion to prescribe the parameters for the exercise of this prerogative. *This Court has no authority to interfere and unilaterally intrude into that exclusive realm, without running afoul of constitutional principles that it is bound to protect and uphold — the very duty that justified the Court's being.* Constitutional respect and a becoming regard for the sovereign acts of a coequal branch prevents this Court from prying into the internal workings of the Senate. To repeat, this Court will be neither a tyrant nor a wimp; rather, it will remain steadfast and judicious in upholding the rule and majesty of the law. *To accede, then, to the interpretation of petitioners would practically amount to judicial legislation, a clear breach of the constitutional doctrine of separation of powers* **(Defensor-Santiago vs. Guingona, G.R. No. 134577, November 18, 1998)**.

13. Congressman Baguilat, Jr., who landed second in the election for Speakership of the House of Representative, demanded from the House leadership that he be recognized as the Minority Floor Leader. The leadership of the House did not recognize him, instead, it was Congressman Suarez who was recognized as the Minority Floor Leader. Congressman Baguilat, Jr., filed a Petition for Mandamus before the Supreme Court to compel the House leadership to recognize him. Should the Petition be granted?

Petition should be denied. The Supreme Court, in the absence of grave abuse of discretion committed by the House, cannot interfere with a purely internal matter of the House. If it does, the Supreme Court will violate the principle of separation of powers. The Supreme Court held in **Baguilat vs. Alvarez**:

> However, as may be gleaned from the circumstances as to how the House had conducted the questioned proceedings and its apparent deviation from its traditional rules, the Court is hard-pressed to find any attending grave abuse of discretion which would warrant its intrusion in this case. By and large, this case concerns an internal matter of a coequal, political branch of government which, absent any showing of grave abuse of discretion, cannot be judicially interfered with. To rule otherwise would not only embroil this Court in the realm of politics, but also lead to its own

breach of the separation of powers doctrine. Verily, "[i]t would be an unwarranted invasion of the prerogative of a coequal department for this Court either to set aside a legislative action as void [only] because [it] thinks [that] the House has disregarded its own rules of procedure, or to allow those defeated in the political arena to seek a rematch in the judicial forum when petitioners can find their remedy in that department itself (**Baguilat vs. Alvarez, G.R. No. 227757, July 25, 2017**).

14. **Section 12 of Attrition Law provides: "*Joint Congressional Oversight Committee.* – There is hereby created a Joint Congressional Oversight Committee composed of seven Members from the Senate and seven Members from the House of Representatives. The Members from the Senate shall be appointed by the Senate President, with at least two senators representing the minority. The Members from the House of Representatives shall be appointed by the Speaker with at least two members representing the minority. After the Oversight Committee will have approved the implementing rules and regulations (IRR) it shall thereafter become *functus officio* and therefore cease to exist." Is it constitutional?**

No. The law is unconstitutional. From the moment the law becomes effective, any provision of law that empowers Congress or any of its members to play any role in the implementation or enforcement of the law violates the principle of separation of powers and is thus unconstitutional. Under this principle, a provision that requires Congress or its members to approve the implementing rules of a law after it has already taken effect shall be unconstitutional, as is a provision that allows Congress or its members to overturn any directive or ruling made by the members of the executive branch charged with the implementation of the law **(Abakada Guru Party-list vs. Purisima, G.R. No. 166715, August 14, 2008)**.

15. **What is legislative veto?**

Legislative veto is a statutory provision requiring the President or an administrative agency to present the proposed implementing rules and regulations of a law to Congress, which, by itself or through a committee formed by it, retains a "right" or "power" *to approve or disapprove such regulations before they take effect* **(Abakada Guru Party-list vs. Purisima, G.R. No. 166715, August 14, 2008)**.

16. **Is legislative veto constitutional?**

No. Legislative veto is unconstitutional. Legislative veto violates the principle of separation of powers. From the moment the law becomes effective, any provision of law that empowers Congress or any of its members to play any role in the implementation or enforcement of the law violates the principle of separation of powers and is thus unconstitutional **(Abakada Guru Party-list vs. Purisima, G.R. No. 166715, August 14, 2008)**.

17. **What is a pork barrel system?**

Pork Barrel System as the collective body of rules and practices that govern how lump-sum, discretionary funds, primarily intended for local projects, are utilized through the respective participation of the Legislative and Executive branches of government, including their members **(Belgica vs. Executive Secretary Ochoa, G.R. No. 208566, November 19, 2013)**.

18. **What is congressional pork barrel system?**

It is defined as a type of lump-sum, discretionary fund in which legislators, either individually or collectively through committees, can effectively control certain aspects of the fund's use through various post-enactment measures and/or practices **(Belgica vs. Executive Secretary Ochoa, G.R. No. 208566, November 19, 2013)**.

19. **Does "pork barrel system" violate the principle of separation of powers?**

Yes. The "pork barrel system" violates the principle of separation of powers. The distinguishing feature of a pork barrel system, especially the "Congressional Pork Barrel," is the authority of the legislator to participate in the post-enactment phases of project implementation. These post-enactment measures, which govern project identification, fund release, and fund realignment, are unrelated to the functions of congressional oversight and, hence, allow legislators to intervene and/or assume duties that properly belong to the sphere of budget execution **(Belgica vs. Executive Secretary Ochoa, G.R. No. 208566, November 19, 2013).**

20. **Supposing Congressman Manhikmanaog of the 1st district of Oriental Mindoro, during the budget deliberation in Congress, allocated a total of 70M worth of projects in his district. All congressmen followed suit. Each of them allocated 70M worth of projects to their respective districts. Because senators did not want to be left out, each identified projects worth 200M. The projects were approved and carried out in the GAA, which was eventually passed and approved. Are the actions of the legislators as reflected in the GAA constitutional?**

The actions of the legislators as reflected in the GAA are not unconstitutional. What is prohibited under the Constitution is the participation of the legislators in the post-enactment phases of project implementation. This is proscribed because it violates the constitutional principle of separation of powers. However, when project identification occurs during congressional budget deliberation, it does not violate separation of powers. Project identification happens while Congress is performing its function of legislation.

21. **How does the Disbursement Allocation Program violate separation of powers?**

The act of the President of allotting or redirecting funds for certain programs, activities or projects well beyond what Congress had intended, arrogate unto himself a power that belongs to Congress. While the president is authorized to spend in line with his mandate to execute the laws (including the GAA's), such authority should not translate to unfettered discretion that allows him to substitute his own will for that of Congress. **(Araullo vs. Aquino III, G.R. No. 209287, July 1, 2014)**.

22. What are the tests for a valid delegation?

There are two (2) tests for a valid delegation of legislative power. **First**, is the completeness test. When the law is complete in all its essential terms and conditions when it leaves the legislature, the delegate has nothing to do but to enforce. A law is complete when it sets forth therein the policy to be executed, carried out and implemented by the delegate **(Pelaez vs. Auditor General, 122 Phil. 965)**. **Second**, is the sufficient standard test. A sufficient standard is intended to map the boundaries of the delegate's authority by defining the legislative policy and indicating the circumstances under which it is to be pursued and effected. The purpose of the sufficient standard is to prevent the total transference of legislative power from the law-making body to the delegate, who is not allowed to step into the shoes of the legislature and exercise a power essentially legislative **(Eastern Shipping Lines, Inc., vs. POEA, 166 SCRA 533, 543-544)**.

23. What is sufficient standard?

A sufficient standard is one which defines legislative policy, marks its limits, maps out its boundaries and specifies the public agency to apply it. It indicates the circumstances under which the legislative command is to be effected **(Edu vs. Ericta, 35 SCRA 481, 497)**. A law lays down a sufficient standard when it provides adequate guidelines or limitations in the law to map out the boundaries of the delegate's authority and prevent the delegation from running riot. To be sufficient, the standard must specify the limits of the delegate's authority, announce the legislative policy, and identify the conditions under which it is to be implemented **(Abakada Guro Party List vs. Ermita, 469 SCRA 1)**.

24. Section 8 of PD 910 (Law governing the disposition of Malampaya Funds) pertinently provides: "All fees, revenues and receipts of the Board x x x shall form part of a Special Fund to be used to finance energy resource development and exploitation programs and projects of the government and for such other purposes as may be <u>hereafter directed by the President</u>." Is the provision valid?

The **provision is invalid** as it constitutes an undue delegation of legislative power. The phrase "*and for such other purposes as may be hereafter directed by the President*" under Section 8 of PD 910 constitutes an undue delegation of legislative power insofar as it does not lay down a sufficient standard to adequately determine the limits of the President's authority with respect to the purpose for which the Malampaya Funds may be used **(<u>Belgica vs. Executive Secretary Ochoa, G.R. No. 208666, November 19, 2013</u>)**.

25. **A provision of the Organic Act for the Autonomous Region in Muslim Mindanao (R.A. No. 6734) authorized the President of the Philippines to "merge" by administrative determination the regions remaining after the establishment of the Autonomous Region, and the Executive Order issued by the President pursuant to such authority, "Providing for the Reorganization of Administrative Regions in Mindanao." The petitioner questioned the constitutionality of the provision on the ground of invalid delegation of legislative power considering that there is no sufficient standard by which the President would implement the merger.**

Is the questioned provision valid?

Yes. A legislative standard need not be expressed. It may be gathered or implied. Nor need it be found in the challenged law, because it may be embodied in other statutes on the same subject as the challenged legislation. The standard for the power to merge existing administrative regions is found in the same policy underlying the grant to the President in R.A. No. 5435 of the power to reorganize the Executive Department, to wit: "to promote simplicity, economy and efficiency in the government to enable it to pursue programs consistent with national goals for accelerated social and economic development and to improve the service in the transaction of the public business" **(Chiongbian vs. Orbos, G.R. No. 96754, June 22, 1995)**.

26. **Is it required that the standard be expressed in the law where delegation is provided?**

It is not necessary. A legislative standard need not be expressed. It may simply be gathered or implied. Nor need it be found in the law challenged because it may be embodied in other statutes on the same subjects as that of the challenged legislation **(Chiongbian vs. Orbos, G.R. No. 96754, June 22, 1995)**.

27. **Petitioners questioned the constitutionality of RA 9522 as it reduces Philippine maritime territory, and logically the reach of the Philippine state's sovereign power, in violation of Article 1 of the 1987 Constitution, embodying the terms of the Treaty of Paris and ancillary treaties. Is the law constitutional?**

The law is constitutional. <u>Baseline laws are nothing but statutory mechanisms for UNCLOS III States parties to delimit with precision the extent of their maritime zones and continental shelves.</u>

In turn, this gives notice to the rest of the international community of the scope of the maritime space and submarine areas within which States parties exercise treaty-based rights, namely, the exercise of sovereignty over territorial waters (Article 2, UNCLOS III), the jurisdiction to enforce customs, fiscal, immigration, and sanitation laws in the contiguous zone (Article 33, UNLCOS III), and the right to exploit the living and non-living resources in the exclusive economic zone (Article 56, UNCLOS III) and continental shelf (Article 77, UNCLOS III) **(Margallona vs. Ermita, G.R. No. 187167, August 16, 2011)**.

28. Is the adaptation by RA 9522 of UNCLOS "regime of islands" to determine maritime zones of Kalayaan Group of Islands and Scarborough Shoal inconsistent with the Philippine claim of sovereignty over these areas, thus violating Article I of the Constitution?

No. The Baseline Law, by adopting UNCLOS "regime of islands," does not dismember the Kalayaan Group of Islands and Scarborough Shoal from the national territory. The Baseline Law did not diminish Philippine sovereignty and jurisdiction.

Under UNCLOS, an archipelagic state has the right to draw baselines but "[t]he drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago" (**Article 47 (3) of UNCLOS III**). Kalayaan Group of Islands are located at an appreciable distance from the nearest shoreline of the Philippine archipelago **(Margallona vs. Ermita, G.R. No. 187167, August 16, 2011)**.

29. Arnado is a natural born Filipino citizen. However, as a consequence of his subsequent naturalization as a citizen of the United States of America, he lost his Filipino citizenship. Arnado applied for repatriation under Republic Act (R.A.) No. 9225 before the Consulate General of the Philippines in San Francisco, USA and took the Oath of Allegiance to the Republic of the Philippines. On the same day, an Order of Approval of his Citizenship Retention and Re-acquisition was issued in his favor. Because he wanted to run for public office, he executed an affidavit of renunciation of his American citizenship. After having executed the affidavit of renunciation, he continuously used his American passport. Should Arnado be considered to have renounced his Philippine citizenship by continuously using his US passport even after he had already executed affidavit of renunciation of US citizenship?

No. Armando's use of US passport after having executed an affidavit of renunciation is not considered to have renounced Philippine citizenship. It is not one of the acts enumerated in Commonwealth Act No. 63 constituting renunciation and loss of Philippine citizenship. **However, while the act of using a foreign passport is not one of the acts enumerated in Commonwealth Act No. 63 constituting renunciation and loss of Philippine citizenship, it is nevertheless an act which repudiates the very oath of renunciation required for a former Filipino citizen who is also a citizen of another country to be qualified to run for a local elective position (Maquiling vs. COMELEC, G.R. No. 195649, April 16, 2013)**.

30. Section 36(g) of R.A. 9165, or "*The Dangerous Drugs Act of 2002,*" provides that "all candidates for public office, whether appointed or elected, in the national or local government, shall undergo a mandatory drug test." As a result, the Commission on Elections (COMELEC) passed a Resolution requiring all candidates to

undergo a mandatory drug test in government forensic laboratories or in any drug testing laboratory monitored and accredited by the Department of Health. The Resolution also provides that if a candidate fails to undergo drug testing, he shall not be allowed to assume his office. Are the law and the COMELEC Resolution valid?

Section 36(g) and the COMELEC Resolution are invalid. They violate Section 3, Article VI of the Constitution, which sets the constitutional qualifications for a senator. These qualifications are exclusive. Congress cannot change them by passing a law. By requiring mandatory drug testing for all elective candidates and by prohibiting candidates, even if they win, from assuming office unless they undergo drug testing, Congress and the COMELEC are imposing an additional qualification on a senator whose qualifications are constitutionally prescribed **(Social Justice Society vs. DBB, G.R. No. 157870, November 3, 2008)**.

31. **How may domicile be changed or new domicile acquired?**

To change one's domicile or acquire a new one, the following requisites must concur: **(a)** residence or bodily presence in the new locality, **(b)** a bona fide intention to remain there, and **(c)** a *bona fide* intention to abandon the old domicile. In other words, there must be *animus manendi* in new residence, coupled with *animus non revertendi* with respect to the former residence **(Dano vs. Comelec, G.R. No. 210200, September 13, 2016, citing Limbona vs. Comelec, 619 Phil. 226 (2009)**.

32. **What are the foundational rules in the consideration of residency issues?**

The following must be considered in determining one's residence: ***First***, a man must have a residence or domicile somewhere; ***Second***, when once established, it remains until a new one is acquired; and ***third,*** a man can have but one residence or domicile at a time **(Jalosjos v. Comelec, G.R. No. 191970, April 24, 2012)**.

33. A petitioner who was born of Filipino father and an American mother, and who later obtained an American passport upon petition or application of her mother, should be considered dual citizens upon her birth. Her mother's act is not considered a naturalization process. Therefore, petitioner is not covered by R.A. No. 9225 **(Gana-Carait v. COMELEC, G.R. No. 257453, August 9, 2022)**.

34. **How is legislative district apportioned?**

Legislative districts are apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio **(Section 5(1), Article VI)**.

35. **What is legislative apportionment or reapportionment?**

Legislative apportionment, as defined by Black's Law Dictionary, is the determination of the number of representatives a State, county, or other subdivision may send to a legislative body. It is the allocation of seats in a legislative body in proportion to population and the drawing of voting district lines to equalize population and voting power among the districts. Reapportionment, on the other hand, is the realignment or change in legislative districts brought about by changes in population and mandated by the constitutional requirement of equality of representation **(Bagabuyo vs. COMELEC, G.R. No. 176970, December 8, 2008)**.

36. What is the constitutional requirement for the creation, apportionment, or reapportionment of legislative districts?

The constitutional requirement for the creation, apportionment or reapportionment of legislative districts is provided in Section 5(3), Article VI of the Constitution. It provides that "each legislative district shall comprise, as far as practicable, contiguous, compact and adjacent territory. Each city with a population of at least two hundred fifty thousand, or each province, shall have at least one representative" **(Section 5(3), Article VI)**.

37. A law is passed, R.A. 9591 creating a legislative district for the City of Malolos, Bulacan. The City of Malolos lies at the center of the First Legislative District. Its creation will fragment the other territories of the First District of Malolos. Is the law constitutional.

The law is unconstitutional. Section 5(3) of Article VI, which provides that "each legislative district shall "comprise, as far as practicable, contiguous, compact, and adjacent territory,'" is violated. The Supreme Court ruled in ***Aldaba***:

> Aside from failing to comply with Section 5 (3), Article VI of the Constitution on the population requirement, the creation by RA 9591 of a legislative district for Malolos City, carving the city from the former First Legislative District, leaves the town of Bulacan isolated from the rest of the geographic mass of that district. 15 This contravenes the requirement in Section 5 (3), Article VI that each legislative district shall "comprise, as far as practicable, contiguous, compact, and adjacent territory." It is no argument to say, as the OSG does, that it was impracticable for Congress to create a district with contiguous, compact, and adjacent territory because Malolos city lies at the center of the First Legislative District. The geographic lay-out of the First Legislative District is not an insuperable condition making compliance with Section 5(3) impracticable. To adhere to the constitutional mandate, and thus maintain fidelity to its purpose of ensuring efficient representation, the practicable alternative for Congress was to include the municipality of Bulacan in Malolos City's legislative district. Although unorthodox, the resulting contiguous and compact district fulfills the constitutional

> requirements of geographic unity and population floor, ensuring efficient representation of the minimum mass of constituents **(Aldaba vs. COMELEC, G.R. No. 188078, March 15, 2010)**.

38. Before 1 May 2009, the province of Bulacan was represented in Congress through four legislative districts. The First Legislative District comprised of the City of Malolos and the municipalities of Hagonoy, Calumpit, Pulilan, Bulacan, and Paombong. On 1 May 2009, RA 9591 lapsed into law, amending Malolos' City Charter, by creating a separate legislative district for the city. At the time the legislative bills for RA 9591 were filed in Congress in 2007, namely, House Bill No. 3162 (later converted to House Bill No. 3693) and Senate Bill No. 1986, the population of Malolos City was 223,069. The population of Malolos City on 1 May 2009 is a contested fact but there is no dispute that House Bill No. 3693 relied on an undated certification issued by a Regional Director of the National Statistics Office (NSO) that "the projected population of the Municipality of Malolos will be 254,030 by the year 2010 using the population growth rate of 3.78 between 1995 to 2000." Is the law constitutional?

No. The law violates Section 5(3), Article VI of the constitution with respect to population requirement for the creation of legislative district in cities. The Supreme Court ruled in ***Aldaba***:

> The Certification of Regional Director Miranda, which is based on demographic projections, is without legal effect because Regional Director Miranda has no basis and no authority to issue the Certification. The Certification is also void on its face because based on its own growth rate assumption, the population of Malolos will be less than 250,000 in the year 2010. In addition, intercensal demographic projections cannot be made for the entire year. **In any event, a city whose population has increased to 250,000 is entitled to have a legislative district only in the "immediately following election" after the attainment of the 250,000 population**.

39. A law (R.A. 9716) was passed re-districting the province of Camarines Sur. As a result of the passage of the said law, the first district of Camarines Sur has a population of 176,383. Petitioner questioned the constitutionality of the law as it violates Section 5(3), Article VI of the Constitution. Is the law valid?

Yes. The law is valid. It is not contrary to Section 5(3), Article VI of the Constitution on the required number of population for the creation of legislative district. The constitutional requirement of 250,000 population applied to creation of legislative district in the cities but not in the provinces. The Supreme Court ruled in **Aquino III vs. Comelec**:

> The second sentence of Section 5 (3), Article VI of the Constitution, succinctly provides: "Each city with a population of at least two hundred fifty thousand, or each

province, shall have at least one representative." The provision draws a plain and clear distinction between the entitlement of a city to a district on one hand, and the entitlement of a province to a district on the other. For while a province is entitled to at least a representative, with nothing mentioned about population, a city must first meet a population minimum of 250,000 in order to be similarly entitled. The use by the subject provision of a comma to separate the phrase "each city with a population of at least two hundred fifty thousand" from the phrase "or each province" point to no other conclusion than that the 250,000 minimum population is only required for a city, but not for a province. **Plainly read, Section 5(3) of the Constitution requires a 250,000 minimum population only for a city to be entitled to a representative, but not so for a province (Aquino III vs. COMELEC, G.R. No. 189793, April 7, 2010)**.

40. Under its organic law, R.A. 6734, as amended by R.A. 9054, the ARMM Regional Assembly is empowered to create a province within the autonomous Region. The ARMM Regional Assembly passed Muslim Mindanao Autonomy Act No. 201 (MMA Act 201), creating the Province of Shariff Kabunsuan. Is the Province of Shariff Kabunsuan entitled to a representative?

No. The province of Shariff Kabunsuan is not entitled to a district representative. This is because the creation of the province of Shariff Kabunsuan is unconstitutional. Under Section 5(3), each province shall have at least one representative. Thus, the creation of a province carries with it the creation of a legislative district. But only Congress can create a legislative district. Therefore, only Congress can create a province. The Supreme Court ruled in **Sema vs. Comelec**:

> Clearly, a province cannot be created without a legislative district because it will violate Section 5 (3), Article VI of the Constitution as well as Section 3 of the Ordinance appended to the Constitution. For the same reason, a city with a population of 250,000 or more cannot also be created without a legislative district. Thus, the power to create a province, or a city with a population of 250,000 or more, requires also the power to create a legislative district. Even the creation of a city with a population of less than 250,000 involves the power to create a legislative district because once the city's population reaches 250,000, the city automatically becomes entitled to one representative under Section 5 (3), Article VI of the Constitution and Section 3 of the Ordinance appended to the Constitution. Thus, the power to create a province or city inherently involves the power to create a legislative district (**Sema vs. COMELEC, G.R. No. 177597 & 178628, July 16, 2008**).

41. Is plebiscite required for the validity of the creation of legislative district?

No. Legislative districts are not local government units under Section 10, Article X of the Constitution, which requires a plebiscite for the creation, division, merger, abolition, or alteration of the boundary of a local government unit. Because a legislative district is not a local government unit, the Constitution does not require, as a prerequisite to its validity, the conduct of a plebiscite. In resolving this issue, the Supreme Court ruled in **Bagabuyo vs. COMELEC**:

> A pronounced distinction between Article VI, Section 5 and Article X, Section 10 is on the requirement of a plebiscite. The Constitution and the Local Government Code expressly require a plebiscite to carry out any creation, division, merger, abolition or alteration of boundary of a local government unit. 26 In contrast, no plebiscite requirement exists under the apportionment or reapportionment provision **(Bagabuyo vs. COMELEC, G.R. No. 176970, December 8, 2008)**.

42. It is provided in Section 11, Article VI of the Constitution that Members of Congress cannot be arrested while Congress is in session for any offense punishable by not more than six (6) years' imprisonment. What is the meaning of "*while Congress is in session*"?

Session does not refer to the day-to-day meetings of the legislature but to the entire period from initial convening until its final adjournment.

43. Accused-appellant is a full-fledged member of Congress who is now confined at the national penitentiary while his conviction for statutory rape on two counts and acts of lasciviousness on six counts is pending appeal. Accused-appellant filed a motion asking that he be allowed to fully discharge the duties of a Congressman, including attendance at legislative sessions and committee meetings despite his having been convicted in the first instance of a non-bailable offense. Accused-appellant insisted that having been re-elected by his constituents, he had the duty to perform the functions of a Congressman. According to him, his covenant with his constituents cannot be defeated by insuperable procedural restraint arising from pending criminal cases. He asserted that the duty to legislate ranks highest in the hierarchy of government. Should the accused-appellant be allowed to attend congressional sessions?

No. Accused-appellant should not be allowed to attend congressional sessions. Allowing accused-appellant to attend congressional sessions and committee meetings for five or more days a week would virtually make him a free man with all the privileges appurtenant to his position. As such, this aberrant situation not only elevates accused-appellant's status to that of a special class but also would be a mockery of the purposes of the correction system. The performance of legitimate and even essential duties by public officers has never been an excuse to free a person lawfully in prison. The Supreme Court ruled in **People vs. Jalosjos**:

> The Court found the election to the position of Congressman is not a reasonable classification in criminal enforcement. The functions and duties of the office are not substantial distinctions, which lift him from the class of prisoners interrupted in their freedom and restrict in liberty of movement. Lawful arrest and confinement are germane to the purposes of the law and apply to all those belonging to the same class. The Court was constrained to rule against the accused-appellant's claim that re-election to public office gives priority to any other right or interest, including the police power of the State **(People vs. Jalosjos, G.R. No. 132875, February 3, 2000)**.

44. Senator Miriam Defensor-Santiago delivered a privilege speech lambasting Chief Justice Artemio Panganiban and the Supreme Court calling the Court as the Supreme Court of idiots. This was on account of her not being nominated for Chief Justice of the Supreme Court. Atty. Pobre filed a petition for contempt against Senator Santiago and moved that disbarment proceeding be constituted against her. Can Senator Santiago be held liable?

No. Senator Santiago cannot be held liable. She enjoyed parliamentary immunity under Section 11, Article VI of the Constitution. While admittedly the speech of Senator Santiago constitutes utter disrespect to the Supreme Court and its justices and is thus a violation of the Code of Professional Responsibility, the Supreme Court cannot sanction Senator Santiago. Her parliamentary immunity shielded her. The Supreme Court ruled in **Pobre vs. Santiago**:

> The Court is not hesitant to impose some form of disciplinary sanctions on Senator/Atty. Santiago for what otherwise would have constituted an act of utter disrespect on her part towards the Court and its members. The factual and legal circumstances of this case, however, deter the Court from doing so, even without any sign of remorse from her. Basic constitutional consideration dictates this kind of disposition **(Pobre vs. Santiago, A.C. 7399, August 25, 2009)**.

45. **NOTE:** To be covered by the privilege, the statement must be uttered in Congress during speech or debate. It is, thus, clear that parliamentary non-accountability cannot be invoked when the lawmaker's speech or utterance is made outside sessions, hearings, or debates in Congress, extraneous to the "due functioning of the (legislative) process." Participating in or responding to media interviews is not an official function of any lawmaker; it does not fall under his sworn duty nor is it a component of the lawmaking process **(Trillanes vs. Castillo-Marigoment, G.R. No. 223451, March 14, 2018)**.

46. What is the concept of "incompatible office" and "forbidden office"?

Incompatible office is an office or position in the government which a member of Congress cannot hold simultaneously with his legislative office. If a member wants the other office, he will have to forfeit his seat in Congress. Forbidden office is one which cannot be accepted or occupied by a member of Congress even if he gave up his legislative position. The disqualification last for the entire duration of his term.

Please take note: Not every office is to be regarded as incompatible with legislative position as when a member of Congress is designated to be member of the Commission on Appointment or the chairman of the Committee on Education of each house of Congress are ex-officio members of the U.P. Board of Regents.

47. Senator Marquez is the Chairman of the Committee on Public Works in the Senate. Because of his influence as Chairman of the Public Works Committee, he was able to bag an infrastructure contract for his company with the Department of Public Works and Highways (DPWH). A concerned citizens questioned the validity of the contract entered into by the company of Senator Marquez with the DPWH. How should the Court rule on the validity of the contract?

The Court should invalidate the contract because it contravenes **Section 14, Article VI** of the Constitution. It is provided therein that a member of Congress shall not "*directly or indirectly, be interested financially in any contract with, or in any franchise or special privilege granted by the Government, or any subdivision, agency, or instrumentality thereof, including any government-owned or controlled corporation, or its subsidiary, during his term of office. He shall not intervene in any matter before any office of the Government for his pecuniary benefit or where he may be called upon to act on account of his office*."

48. Cong. Teddy Baguilat questioned the recognition of Cong. Danilo Suarez as the Minority Floor Leader. There were three (3) contenders for Speakership, Cong. Pantaleon Alvarez, Cong. Baguilat and Cong. Suarez. Cong. Alvarez won. He was seconded by Cong. Baguilat and followed by Cong. Suarez. But there were congressmen who registered votes of abstention. The Majority Floor Leader ruled that those who did not vote for Speaker Alvarez, including those who abstained should vote among themselves who should be their Minority Floor Leader. Cong. Suarez was voted as the Minority Floor Leader and he was recognized as such by the House leadership. Cong. Baguilat contends that the election of Cong. Suarez is invalid because it has become the long tradition in the House of the Representatives that the one who garnered the second number of votes for Speakership should be the Minority Floor Leader. Cong. Baguilat filed an action for mandamus to compel the leadership of the House of Representatives to recognize him as the Minority Floor Leader. Should mandamus be granted?

No. The election of officers in the Senate or the House of Representatives, other than the Senate President or Speaker of the

House is purely internal to the concerned house of Congress and may not be intervened by the Court. Addressing this issue, the Supreme Court ruled in **Baguilat vs. Alvarez**:

> Under this provision, (**<u>referring to Section 16(1), Article VI</u>**), the Speaker of the House of Representatives shall be elected by a majority vote of its entire membership. Said provision also states that the House of Representatives may decide to have officers other than the Speaker, and that the method and manner as to how these officers are chosen is something within its sole control.

Corollary thereto, Section 16 (3), Article VI 26 of the Constitution vests in the House of Representatives the sole authority to, inter alia, "determine the rules of its proceedings." These "legislative rules, unlike statutory laws, do not have the imprints of permanence and obligatoriness during their effectivity. In fact, they 'are subject to revocation, modification or waiver at the pleasure of the body adopting them.' Being merely matters of procedure, their observance is of no concern to the courts, for said rules may be waived or disregarded by the legislative body at will, upon the concurrence of a majority [of the House of Representatives]." Hence, as a general rule, "this Court has no authority to interfere and unilaterally intrude into that exclusive realm, without running afoul of Constitutional principles that it is bound to protect and uphold x x x. Constitutional respect and a becoming regard for the sovereign acts of a coequal branch prevents the Court from prying into the internal workings of the [House of Representatives]." **(Baguilat vs. Alvarez, G.R. No. 227757, July 25, 2017)**.

49. What is the jurisdiction of the Electoral Tribunal?

Electoral Tribunal shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members **(Section 17, Article VI)**.

50. A petition is filed before the Supreme Court to disqualify Congressman Raul Daza for allegedly being a green card holder and a permanent resident of the United States. What should the Supreme Court do with the petition?

The Supreme Court should dismiss the petition for lack of jurisdiction. Jurisdiction rests with the House Electoral Tribunal, which, under Section 17, Article VI of the Constitution, is the sole judge of all contests relating to the election, return, and qualification of its members **(Sampayan vs. Daza, 213 SCRA 807)**.

51. When may the Electoral Tribunal assume jurisdiction?

The Electoral Tribunal may assume jurisdiction only after the winning candidate (who is a party to the election controversy) has taken his oath and has assumed the function of the office because it is only then that he is said to be a member of the House **(Aquino vs. Comelec, 248 SCRA 400)**. Thus, in **Vinzons-Chato vs. Comelec, G.R. No. 172131,**

April 2, 2007, the Supreme Court said that once the winning candidate has been proclaimed, taken his oath, and assumed public office, as member of the House of Representatives, the Comelec's jurisdiction over the election contest relating to his election, returns and qualification ends, and the HRET's jurisdiction begins **(see also, Reyes vs. Comelec, G.R. No. 207464, October 22, 2013)**.

52. Does the House Electoral tribunal have jurisdiction over qualification of a party-list?

No. The House Electoral Tribunal has no jurisdiction to rule on the qualifications of a party-list, even if the party-list was already declared a winner in a party-list election. This is clear from the ruling of the Supreme Court in **Layug**:

> Neither does the HRET have jurisdiction over the qualifications of Buhay Party-List, as it is vested by law, specifically, the Party-List System Act, upon the COMELEC. Section 6 of said Act states that "the COMELEC may motu proprio or upon verified complaint of any interested party, remove or cancel, after due notice and hearing, the registration of any national, regional or sectoral party, organization or coalition . . . ." Accordingly, in the case of Abayon vs. HRET, We ruled that the HRET did not gravely abuse its discretion when it dismissed the petitions for quo warranto against Aangat Tayo party-list and Bantay party-list insofar as they sought the disqualifications of said party-lists **(Layug vs. COMELEC, G.R. No. 192984, February 28, 2011)**.

53. Does the House Electoral Tribunal have jurisdiction over a contest relating to the qualification of the party-list nominee after the party-list has been proclaimed a winner in the party-list election and is already serving in the House of Representatives?

Yes. The nominee of the winning party-list is a member of Congress, specifically of the House of Representatives. Thus, because the nominee is already a member of Congress, all contests relating to his election, returns, and qualification are lodged exclusively with the House Electoral Tribunal. As the Supreme Court held in **Bello vs. COMELEC:**

> This issue is far from novel and is an issue previously ruled upon by this Court. The consistent judicial holding is that the HRET has jurisdiction to pass upon the qualifications of party-list nominees after their proclamation and assumption of office; they are, for all intents and purposes, "elected members" of the House of Representatives although the entity directly voted upon was their party (**Bello vs. Comelec, G.R. No. 191988, December 7, 2010**).

53. What is "one subject one title" rule?

It is a rule which requires that every bill passed by the Congress shall embrace only one subject which shall be expressed in the title thereof **(Section 26(1), Article VI)**.

54. **The petitioners question the constitutionality of the Reproductive Health Law (R.A. 10354), claiming that it violates Section 26(1) of Article VI of the Constitution, which prescribes the one subject-one title rule. According to them, because the law is about reproductive health with responsible parenthood, the assailed legislation violates the constitutional standards of due process by concealing its true intent — to act as a population control measure. Thus, the title of the law covers two subjects: a) reproductive health; and b) population control. Does the law violate the "one subject, one title rule"?**

The Supreme Court said **NO**. In **Imbong vs. Ochoa,** the Supreme Court ruled that RH Law does not violate the one subject/one bill rule. A textual analysis of the law's provisions shows that both "reproductive health" and "responsible parenthood" are interrelated and germane to the overriding objective of controlling population growth. The Supreme Court lectured:

> It is well-settled that the "one title-one subject" rule does not require the Congress to employ in the title of the enactment language of such precision as to mirror, fully index or catalogue all the contents and the minute details therein. The rule is sufficiently complied with if the title is comprehensive enough as to include the general object which the statute seeks to effect, and where, as here, the persons interested are informed of the nature, scope and consequences of the proposed law and its operation. Moreover, this Court has invariably adopted a liberal rather than technical construction of the rule "so as not to cripple or impede legislation." **(Imbong vs. Ochoa, G.R. No. 204819, April 8, 2014)**.

55. **Supposing the Senate, in those bills that must originate from the House of Representatives, totally changes the version of the House and that the version of the Senate prevails, would the law violate Section 24, Article VI of the Constitution?**

No. Under Section 24 of Article VI, the Senate has the power to propose or concur with amendments. This power to concur with amendments is unlimited. The Senate can change, amend, or even revise the House version without violating Section 24 of Article VI. What is required to originate from the House of Representatives are the "bills" not laws. It simply means that the initiative must come from the House of Representative. From the language of the Supreme Court:

> To begin with, it is not the law — but the revenue bill — which is required by the Constitution to "originate exclusively" in the House of Representatives. It is important to emphasize this, because a bill originating in the House may undergo such extensive changes in the

> Senate that the result may be a rewriting of the whole. The possibility of a third version by the conference committee will be discussed later. At this point, what is important to note is that, as a result of the Senate action, a distinct bill may be produced. To insist that a revenue statute — and not only the bill which initiated the legislative process culminating in the enactment of the law — must substantially be the same as the House bill would be to deny the Senate's power not only to "concur with amendments" but also to " propose amendments." It would be to violate the coequality of legislative power of the two houses of Congress and in fact make the House superior to the Senate **(Tolentino vs. Secretary of Finance, G.R. No. 115455, October 30, 1995, 235 SCRA 630)**.

56. The Department of Science and Technology (DOST) released funds to cover benefits for its personnel provided under a law, despite the absence of a specific appropriation for the same in the General Appropriations Act (GAA) and notwithstanding the express provision in the said law requiring such funds to be covered by the GAA. Upon receipt of a Notice of Disallowance from the Commission on Audit (COA) covering the said release of funds, the petitioner obtained authority from the Office of the President to use the agency's savings to cover the said benefits. After receiving that authority, the petitioner invoked it to request that the COA lift the notice of disallowance. The COA still refused. The issue went to the Supreme Court. How should the Supreme Court rule on the notice of disallowance?

The Supreme Court should affirm the notice of disallowance of COA. The DOST cannot release funds for the benefits of its personnel without congressional authorization. This is proscribed by Section 29(1), Article VI of the Constitution. In fact, the Supreme Court ruled in **Nazareth vs. Villar**:

> As we see it, the COA correctly ruled on the matter at hand. Article VI Section 29 (1) of the 1987 Constitution firmly declares that: "No money shall be paid out of the Treasury except in pursuance of an appropriation made by law." This constitutional edict requires that the GAA be purposeful, deliberate, and precise in its provisions and stipulations. As such, the requirement under Section 20 13 of R.A. No. 8439 that the amounts needed to fund the Magna Carta benefits were to be appropriated by the GAA only meant that such funding must be purposefully, deliberately, and precisely included in the GAA. The funding for the Magna Carta benefits would not materialize as a matter of course simply by fiat of R.A. No. 8439 but must initially be proposed by the officials of the DOST as the concerned agency for submission to and consideration by Congress. That process is what complies with the constitutional edict. R.A. No. 8439 alone could not fund the payment of the benefits because the GAA did not mirror every provision of law that referred to it as the

source of funding. It is worthy to note that the DOST itself acknowledged the absolute need for the appropriation in the GAA. Otherwise, Secretary Uriarte, Jr. would not have needed to request the OP for the express authority to use the savings to pay the Magna Carta benefits **(Nazareth vs. Villar, G.R. No. 188635, January 29, 2013, 689 SCRA 385)**.

57. What are the constitutional limitations on the power of appropriation?

The following are the constitutional limitations on the power of appropriation:

a. All appropriation bill must originate from the house of representatives **(Section 24, Article VI)**.
b. The Congress may not increase the appropriations recommended by the President for the operation of the Government as specified in the budget. The form, content, and manner of preparation of the budget shall be prescribed by law **(Section 25(1), Article VI)**.
c. No provision or enactment shall be embraced in the general appropriations bill unless it relates specifically to some particular appropriations therein. Any such provision or enactment shall be limited in its operation to the appropriation to which it relates **(Section 25(2), Article VI)**.
d. The procedure in approving appropriations for the Congress shall strictly follow the procedure for approving appropriations for other departments and agencies **(Section 25(3), Article VI)**.
e. A special appropriations bill shall specify the purpose for which it is intended and shall be supported by funds actually available as certified by the National Treasurer, or to be raised by a corresponding revenue proposed therein **(Section 25(4), Article VI)**.
f. No law shall be passed authorizing any transfer of appropriations; however, the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions may, by law, be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations **(Section 25(5), Article VI)**.
g. Discretionary funds appropriated for particular officials shall be disbursed only for public purposes to be supported by appropriate vouchers and subject to such guidelines as may be prescribed by law **(Section 25(6), Article VI)**.

58. What is the Disbursement Allocation Program?

It is a policy implemented by the Executive Department on how the fund appropriated by Congress would be spent. It is a policy by which the supposed savings of the government would be pooled together to create a pool funds from which the funds for the priority project of the government can be sourced out. The intention of the policy is to accelerate public spending. As held by the Supreme Court in **Araullo vs. Aquino**:

> The DAP was a government policy or strategy designed to stimulate the economy through accelerated spending. In the context of the DAP's adoption and implementation being a function pertaining to the Executive as the main actor during the Budget Execution Stage under its constitutional mandate to faithfully execute the laws, including the GAAs. Congress did not need to legislate to adopt or to implement the DAP. Congress could appropriate but would have nothing more to do during the Budget Execution Stage.
>
> On the other hand, the President, in keeping with his duty to faithfully execute the laws, had sufficient discretion during the execution of the budget to adapt the budget to changes in the country's economic situation. He could adopt a plan like the DAP for the purpose. He could pool the savings and identify the PAPs to be funded under the DAP. The pooling of savings pursuant to the DAP, and the identification of the PAPs to be funded under the DAP did not involve appropriation in the strict sense because the money had been already set apart from the public treasury by Congress through the GAAs. In such actions, the Executive did not usurp the power vested in Congress under Section 29 (1), Article VI of the Constitution (**Araullo vs. Aquino, G.R. No. 209287, July 1, 2014)**.

59. Is DAP unconstitutional?

No. DAP is not unconstitutional. DAP is not a fund or an appropriation but a program or an administrative system for priority spending; and the adoption of the DAP was by virtue of the authority of the President, as the Chief Executive, to ensure that laws were faithfully executed. Thus, the Supreme Court said in **Araullo vs. Aquino**:

> On the other hand, the President, in keeping with his duty to faithfully execute the laws, had sufficient discretion during the execution of the budget to adapt the budget to changes in the country's economic situation. He could adopt a plan like the DAP for the purpose. He could pool the savings and identify the PAPs to be funded under the DAP. The pooling of savings pursuant to the DAP, and the identification of the PAPs to be funded under the DAP did not involve appropriation in the strict sense because the money had been already set apart from the public treasury by Congress through the GAAs. In such actions, the Executive did not usurp the power vested in Congress under Section 29 (1), Article VI of the Constitution (**Araullo vs. Aquino, G.R. No. 209287, July 1, 2014)**.

60. **What is the power of augmentation?**

It is the power of the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions, when authorized by law to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations **(Section 25(5), Article VI)**. When the appropriation for particular item in the respective offices of the abovementioned officials are deficient, the same can be augmented from the savings in other items of their respective appropriations.

61. **How should the accumulation and utilization of saving be interpreted?**

The exercise of the power to augment shall be strictly construed by virtue of its being an exception to the general rule that the funding of PAPs shall be limited to the amount fixed by Congress for the purpose. Necessarily, savings, their utilization and their management will also be strictly construed against expanding the scope of the power to augment. Such a strict interpretation is essential in order to keep the Executive and other budget implementors within the limits of their prerogatives during budget execution, and to prevent them from unduly transgressing Congress' power of the purse **(Araullo vs. Aquino, G.R. No. 209287, February 3, 2015)**.

62. **The executive department pooled funds to finance its priority projects under the Disbursement Allocation Program (DAP) system. The executive department used this pooled funding to accelerate government spending. The funds were drawn from unreleased appropriation and withdrawn appropriation, which the executive department treats as savings. Can funds sourced from unreleased appropriation or withdrawn appropriation be considered savings for the application of the power of augmentation under Section 25(5), Article VI of the Constitution?**

No. The funds which were sourced from the unreleased appropriation and the withdrawn appropriation are not considered savings. Savings under Section 25(5), Article VI should not be construed as expanding the scope of the power to augment. Thus, the power to augment was to be used only when the purpose for which the funds had been allocated was already satisfied, or the need for such funds had ceased to exist, for only then could savings be properly realized. According to **Araullo vs. Aquino**, savings are specifically defined by law:

> Savings refer to portions or balances of any programmed appropriation in this Act free from any obligation or encumbrance which are: (i) still available after the completion or final discontinuance or abandonment of the work, activity or purpose for which the appropriation is authorized; (ii) from appropriations balances arising from unpaid compensation and related costs pertaining to vacant positions and leaves of absence without pay; and (iii) from appropriations balances realized from the

> implementation of measures resulting in improved systems and efficiencies and thus enabled agencies to meet and deliver the required or planned targets, programs and services approved in this Act at a lesser cost (**Araullo vs. Aquino, G.R. No. 209287, July 1, 2014)**.

If this is the definition of savings under the law, then unreleased appropriation and withdrawn appropriation are not considered saving. The Supreme Court further ruled in **Araullo**:

> The declaration of the DBM by itself does not state the clear legal basis for the treatment of unreleased or unalloted appropriations as savings. The fact alone that the appropriations are unreleased or unalloted is a mere description of the status of the items as unalloted or unreleased. They have not yet ripened into categories of items from which savings can be generated. Appropriations have been considered "released" if there has already been an allotment or authorization to incur obligations and disbursement authority. This means that the DBM has issued either an ABM (for those not needing clearance), or a SARO (for those needing clearance), and consequently an NCA, NCAA or CDC, as the case may be. Appropriations remain unreleased, for instance, because of noncompliance with documentary requirements (like the Special Budget Request), or simply because of the unavailability of funds. But the appropriations do not actually reach the agencies to which they were allocated under the GAAs, and have remained with the DBM technically speaking. Ergo, unreleased appropriations refer to appropriations with allotments but without disbursement authority.
>
> For us to consider unreleased appropriations as savings, unless these met the statutory definition of savings, would seriously undercut the congressional power of the purse, because such appropriations had not even reached and been used by the agency concerned vis-à-vis the PAPs for which Congress had allocated them. However, if an agency has unfilled positions in its plantilla and did not receive an allotment and NCA for such vacancies, appropriations for such positions, although unreleased, may already constitute savings for that agency under the second instance.
>
> Unobligated allotments, on the other hand, were encompassed by the first part of the definition of "savings" in the GAA, that is, as "portions or balances of any programmed appropriation in this Act free from any obligation or encumbrance." But the first part of the definition was further qualified by the three enumerated instances of when savings would be realized. As such, unobligated allotments could not be indiscriminately declared as savings without first determining whether any

of the three instances existed. This signified that the DBM's withdrawal of unobligated allotments had disregarded the definition of savings under the GAAs (**Araullo vs. Aquino, G.R. No. 209287, July 1, 2014**).

63. What are the requisites for a valid transfer of funds under Section 25(5), Article VI of the Constitution?

The transfer of appropriated funds, to be valid under Section 25 (5), supra, must be made upon a concurrence of the following requisites, namely:

a. There is a law authorizing the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of the Constitutional Commissions to transfer funds within their respective offices;
b. The funds to be transferred are savings generated from the appropriations for their respective offices; and
c. The purpose of the transfer is to augment an item in the general appropriations law for their respective offices **(Araullo vs. Aquino)**.

64. The General Appropriation Law (GAA) provides:

> **Section 59. Use of Savings. — The President of the Philippines, the Senate President, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, the Heads of Constitutional Commissions enjoying fiscal autonomy, and the Ombudsman are hereby authorized to augment any item in this Act from savings in other items of their respective appropriations.**

Is the provision valid?

No. Such provision in the GAA is not textually faithful to Section 25(5), Article VI of the Constitution. Section 59 of the GAA does not carry the phrase "for their respective offices." It may imply that the savings may be applied to augment any item even outside the respective offices of the above-mentioned officials in Section 59. Thus, said provision is not valid as it is not in conformity with Section 25(5). **Araulllo vs. Aquino** ruled:

> A reading shows, however, that the afore-quoted provisions of the GAAs of 2011 and 2012 were textually unfaithful to the Constitution for not carrying the phrase "for their respective offices" contained in Section 25 (5), supra. The impact of the phrase "for their respective offices" was to authorize only transfers of funds within their offices (i.e., in the case of the President, the transfer was to an item of appropriation within the Executive). The provisions carried a different phrase ("to augment any item in this Act"), and the effect was that the 2011 and 2012 GAAs thereby literally allowed the transfer of funds from

> savings to augment any item in the GAAs even if the item belonged to an office outside the Executive. To that extent did the 2011 and 2012 GAAs contravene the Constitution. At the very least, the afore-quoted provisions cannot be used to claim authority to transfer appropriations from the Executive to another branch, or to a constitutional commission (**Araullo vs. Aquino, G.R. No. 209287, July 1, 2014**).

65. Can the President use the savings to augment an item not provided in the GAA?

The President cannot fund, through the savings, an item or items not provided in the GAA because it is a violation of Section 25(5), Article VI of the Constitution. It is very clear from the said provision that the item that may be augmented must be an item in the GAA. Thus, a non-existing item cannot be augmented. Further, it will violate Section 29(1), Article VI that no money shall be paid out of natural treasury except in pursuance of an appropriation law. If there is no congressional authorization, public fund cannot be disbursed. The Supreme Court in **Araullo vs. Aquino** explained:

> In defending the disbursements, however, the OSG contends that the Executive enjoyed sound discretion in implementing the budget given the generality in the language and the broad policy objectives identified under the GAAs; and that the President enjoyed unlimited authority to spend the initial appropriations under his authority to declare and utilize savings, and in keeping with his duty to faithfully execute the laws.
>
> Although the OSG rightly contends that the Executive was authorized to spend in line with its mandate to faithfully execute the laws (which included the GAAs), such authority did not translate to unfettered discretion that allowed the President to substitute his own will for that of Congress. He was still required to remain faithful to the provisions of the GAAs, given that his power to spend pursuant to the GAAs was but a delegation to him from Congress. Verily, the power to spend the public wealth resided in Congress, not in the Executive. 174 Moreover, leaving the spending power of the Executive unrestricted would threaten to undo the principle of separation of powers.
>
> Congress acts as the guardian of the public treasury in faithful discharge of its power of the purse whenever it deliberates and acts on the budget proposal submitted by the Executive. Its power of the purse is touted as the very foundation of its institutional strength and underpins "all other legislative decisions and regulating the balance of influence between the legislative and executive branches of government." Such enormous power encompasses the capacity to generate money for the Government, to

> appropriate public funds, and to spend the money. Pertinently, when it exercises its power of the purse, Congress wields control by specifying the PAPs for which public money should be spent (**Araullo vs. Aquino, G.R. No. 209287, July 1, 2014)**.

66. Supposing the Legislative Department's appropriation is already deficient and there are no more remaining savings that the Legislative Department could use, can the President transfer the savings of the Executive Department to the Legislative Department, assuming that he is empowered by law?

No. the President cannot do that. It is contrary to Section 25(5), Article VI. The augmentation must be limited to items in their respective offices from the saving in other items of their respective appropriations. Thus, cross-border transfer of funds is constitutionally proscribed. The Supreme Court in **Araullo vs. Aquino** explained the principle:

> By providing that the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the Heads of the Constitutional Commissions may be authorized to augment any item in the GAA "for their respective offices," Section 25 (5), supra, has delineated borders between their offices, such that funds appropriated for one office are prohibited from crossing over to another office even in the guise of augmentation of a deficient item or items. Thus, we call such transfers of funds cross-border transfers or cross-border augmentations.
>
> To be sure, the phrase "respective offices" used in Section 25 (5), supra, refers to the entire Executive, with respect to the President; the Senate, with respect to the Senate President; the House of Representatives, with respect to the Speaker; the Judiciary, with respect to the Chief Justice; the Constitutional Commissions, with respect to their respective Chairpersons (**Araullo vs. Aquino, G.R. No. 209287, July 1, 2014)**.

67. In connection with the Senate investigation into the anomalous losses incurred by the Philippines Overseas Telecommunications Corporation (POTC), Philippine Communications Satellite Corporation (PHILCOMSAT), and PHILCOMSAT Holdings Corporation (PHC) due to alleged improprieties in their operations by their respective Boards of Directors, the Senate Blue Ribbon Committee invited the Chairman of the Presidential Commission on Good Government (PCGG) and its Commissioner. Chairman Sabio and the Commissioners of PCGG refused to heed the Senate Committee's invitation. A subpoena was issued. Still, the said officials of PCGG refused to appear. They offered Section 4(b) of E.O. No. 1, the law creating PCGG, as justification for not appearing: "No member or staff of the Commission shall be required to testify or produce evidence in any judicial, legislative or administrative proceeding concerning matters within its official

cognizance." Can PCGG officials be compelled by Congress to appear and testify?

Yes. They cannot find justification in Section 4(b) of E.O. 1. That provision is unconstitutional because it contradicts Section 21, Article VI of the Constitution. The Supreme Court in **Gordon vs. Ermita** ruled:

> We find Section 4(b) directly repugnant with Article VI, Section 21. Section 4(b) exempts the PCGG members and staff from the Congress' power of inquiry. This cannot be countenanced. Nowhere in the Constitution is any provision granting such exemption. The Congress' power of inquiry, being broad, encompasses everything that concerns the administration of existing laws as well as proposed or possibly needed statutes. It even extends "to government agencies created by Congress and officers whose positions are within the power of Congress to regulate or even abolish." PCGG belongs to this class **(Gordon vs. Sabio, G.R. No. 174340, October 17, 2006).**

68. The President issued E.O. No. 464 which provides among others:

> **Section 2. Nature, Scope and Coverage of Executive Privilege.**
>
> **x x x x**
>
> **Executive privilege covers all confidential or classified information between the President and the public officers covered by this executive order, including:**
>
> **(b) Who are covered. — The following are covered by this executive order:**
>
> **i. Senior officials of executive departments who in the judgment of the department heads are covered by the executive privilege;**
> **ii. Generals and flag officers of the Armed Forces of the Philippines and such other officers who in the judgment of the Chief of Staff are covered by the executive privilege;**
> **iii. Philippine National Police (PNP) officers with rank of chief superintendent or higher and such other officers who in the judgment of the Chief of the PNP are covered by the executive privilege;**
> **iv. Senior national security officials who in the judgment of the National Security Adviser are covered by the executive privilege; and**
> **v. Such other officers as may be determined by the President.**
>
> **Section 3. Appearance of Other Public Officials Before Congress. — All public officials enumerated in**

> **Section 2 (b) hereof shall secure prior consent of the President prior to appearing before either House of Congress to ensure the observance of the principle of separation of powers, adherence to the rule on executive privilege and respect for the rights of public officials appearing in inquiries in aid of legislation**.

Are Sections 2(b) and 3, unconstitutional?

Yes. The provisions contravene the power of inquiry vested in Congress. Sections 2(b) and 3 of E.O. 464 unconstitutional because "***it severely frustrates the power of inquiry of Congress***." EO 464 exempts officials in the executive department from the reach of legislative inquiry by the mere fact of their being officials as such which is anathema to Section 21, Art. VI.

The Supreme Court in **Senate vs. Ermita**, ruled:

> When Congress exercises its power of inquiry, the only way for department heads to exempt themselves therefrom is by a valid claim of privilege. They are not exempt by the mere fact that they are department heads. Only one executive official may be exempted from this power — the President on whom executive power is vested, hence, beyond the reach of Congress except through the power of impeachment. It is based on her being the highest official of the executive branch, and the due respect accorded to a co-equal branch of government which is sanctioned by a long-standing custom.
>
> By the same token, members of the Supreme Court are also exempt from this power of inquiry. Unlike the Presidency, judicial power is vested in a collegial body; hence, each member thereof is exempt on the basis not only of separation of powers but also on the fiscal autonomy and the constitutional independence of the judiciary. This point is not in dispute, as even counsel for the Senate, Sen. Joker Arroyo, admitted it during the oral argument upon interpellation of the Chief Justice **(Senate vs. Ermita, G.R. No. 169777, April 20, 2006)**.

69. For how long can the Congress or any of its committees detain a person cited for contempt?

The Court finds that the period of imprisonment under the Senate's inherent power of contempt during inquiries in aid of legislation should last only until the termination of the legislative inquiry under which that power is invoked. In *Arnault,* it was stated that obedience to its process may be enforced by the Senate Committee if the subject of investigation before it falls within the range of legitimate legislative inquiry and the proposed testimony relates to that subject. Accordingly, as long as there is a legitimate legislative inquiry, the Senate's inherent power of contempt may be properly exercised. Conversely, once the legislative inquiry concludes, the

exercise of the Senate's inherent power of contempt ceases, and there is no longer any genuine necessity to penalize the detained witness (Balag vs. Senate, G.R. No. 234608, July 3, 2018).

70. When is the legislative inquiry terminated?

The legislative inquiry is terminated in two (2) ways: **i)** upon the approval or disapproval of the committee report on the subject of inquiry or **ii)** upon the termination of the Congress where such inquiry was conducted. The Supreme Court ruled in **Balag vs. Senate**:

> Further, the Court rules that the legislative inquiry of the Senate terminates on two instances:
> *First,* upon the approval or disapproval of the Committee Report. Sections 22 and 23 of Senate Rules state:
>
>> Sec. 22. Report of Committee. **Within fifteen (15) days after the conclusion of the inquiry, the Committee shall meet to begin the consideration of its Report.**
>>
>> The Report shall be approved by a majority vote of all its members. Concurring and dissenting reports may likewise be made by the members who do not sign the majority report within seventy-two (72) hours from the approval of the report. The number of members who sign reports concurring in the conclusions of the Committee Report shall be taken into account in determining whether the Report has been approved by a majority of the members: Provided, That the vote of a member who submits both a concurring and dissenting opinion shall not be considered as part of the majority unless he expressly indicates his vote for the majority position.
>>
>> **The Report, together with any concurring and/or dissenting opinions, shall be filed with the Secretary of the Senate, who shall include the same in the next Order of Business.**
>>
>> Sec. 23. Action on Report. The Report, upon inclusion in the Order of Business, shall be referred to the Committee on Rules for assignment in the Calendar. (Emphases supplied)
>
> As gleaned above, the Senate Committee is required to issue a Committee Report after the conduct of the legislative inquiry. The importance of the Committee Report is highlighted in the Senate Rules because it mandates that the committee begin the consideration of its

Report within fifteen (15) days from the conclusion of the inquiry. The said Committee Report shall then be approved by a majority vote of all its members; otherwise, it is disapproved. The said Report shall be the subject matter of the next order of business, and it shall be acted upon by the Senate. Evidently, the Committee Report is the culmination of the legislative inquiry. Its approval or disapproval signifies the end of such legislative inquiry, and it is now up to the Senate whether or not to act upon the said Committee Report in the succeeding order of business. At that point, the power of contempt simultaneously ceases, and the detained witness should be released. As the legislative inquiry ends, the basis for the detention of the recalcitrant witness likewise ends.

Second, the legislative inquiry of the Senate also terminates upon the expiration of one (1) Congress. As stated in *Neri,* all pending matters and proceedings, such as unpassed bills and even legislative investigations, of the Senate are considered terminated upon the expiration of that Congress and it is merely optional on the Senate of the succeeding Congress to take up such unfinished matters, not in the same status, but as if presented for the first time. Again, while the Senate is a continuing institution, its proceedings are terminated upon the expiration of that Congress at the final adjournment of its last session. Hence, as the legislative inquiry ends upon that expiration, the imprisonment of the detained witnesses likewise ends **(Balag v. Senate, G.R. No. 234608, July 3, 2018)**.

71. What are the tenets that can be derived from Ong vs. Senate, G.R. No. 257401, March 28, 2023?

a. How the Senate exercised its contempt power is a justiciable question and may be inquired into by the Court to determine whether the Senate committed grave abuse of discretion.

b. Before a person may be cited for contempt, he or she must be afforded due process. He or she must be given an opportunity to explain why he or she should not be cited for contempt. This must be the case, considering the inherently criminal nature of contempt proceedings.

c. The “Rules of the Senate”, which allow it to cite a person in contempt for testifying falsely and evasively, is not vague.

d. The Court has stressed that the "vagueness" doctrine merely requires a reasonable degree of certainty for the statute to be upheld, i.e., not absolute precision or mathematical exactitude. "Flexibility, rather than meticulous specificity, is permissible as long as the metes and bounds of the statute are clearly delineated. An act will not be held invalid merely because it might have been more explicit in its wording or detailed in its provisions.

e. No Grave Abuse of Discretion on the Part of the Senate Committee in Requesting for the Issuance of a Lookout Bulletin. Such power is implied from the power of the Senate to compel attendance of witnesses.

f. No grave abuse of discretion on the part of the Senate Committee in compelling Yang to answer questions and to submit documents and information pertaining to him, his property, and business Interests. The power to elicit facts from witnesses is necessary for Congress to craft legislation.

72. Who has the power to canvass votes for the President and Vice-President?

The Congress shall canvas the votes for the President and the Vice-President. Under **Section 4, paragraph 4, Article VII** of the Constitution: "*The returns of every election for President and Vice-President, duly certified by the board of canvassers of each province or city, shall be transmitted to the Congress, directed to the President of the Senate. Upon receipt of the certificates of canvass, the President of the Senate shall, not later than thirty days after the day of the election, open all certificates in the presence of the Senate and the House of Representatives in joint public session, and the Congress, upon determination of the authenticity and due execution thereof in the manner provided by law, canvass the votes.*"

73. The Congress delegated the initial determination of the authenticity and due execution of the certificate of canvass to the Joint Congressional Committee composed of Members of the Senate and the House of Representatives. Is this violative of Section 4, paragraph 4, Article VI of the Constitution, which mandates that the Congress shall canvass the votes for the President and Vice-President?

No. Congress may delegate to the Joint Congressional Canvassing Committee the determination of the authenticity and due execution of the certificate of canvass. The Joint Congressional Canvassing Committee's resolution is only recommendatory, as it still needs to be approved by Congress. The creation of the Joint Committee does not constitute grave abuse of discretion and cannot be said to have deprived the Petitioner and the other members of Congress of their prerogatives, because the very rules under attack provide that the decisions and the final report shall be subject to the approval of Congress in joint session **(Ruy Elias Lopez vs. Senate, G.R. No. 163556, June 8, 2004)**.

74. Can Congress continue in canvassing the votes for the President and Vice-President even after it has adjourned its session?

Yes. When Congress adjourns, its legislative work terminates. The non-legislative work of Congress under the Constitution, such as canvassing votes for the President and Vice-President, may continue. The Supreme Court held in **Pimentel vs. Joint Committee of Congress:**

The legislative function of the Twelfth Congress may have come to a close upon the final adjournment of its regular session on June 11 2004, but this does not affect its non-legislative function, such as that of being a National Board of Canvassers. In fact, the joint public session of both House of Congress convened by express directive of Section 4, Article VII of the Constitution to canvass the votes for and to proclaim the newly elected President and Vice-President has not and cannot, adjourn *sine die* until it has accomplished its constitutionally mandated tasks. For only when the board of canvassers has completed its functions it is rendered *functus officio*. Its membership may change, but it retains its authority as a board until it has accomplished its purposes. Since the twelfth Congress has not yet completed its non-legislative duty to canvass the votes and to proclaim the duly elected President and Vice-President, its existence as the National Board of Canvassers, as well as that of the Joint Committee to which it referred the preliminary tasks of authenticating and canvassing the certificates of canvass, has not become *functus officio*. In sum, despite the adjournment *sine die* of Congress, there is no legal impediment to the Joint Committee completing the task assigned to it and transmitting its report for the approval of the joint public session of both house of Congress, which may reconvene without need of call by the President to a special session **(Pimentel vs. Joint Committee of Congress, G.R. No. 163783, June 22, 2004)**.

75. Senator Poe filed her certificate of candidacy for President. A petition for disqualification was filed with the Commission on Elections on the ground that she is not a natural-born citizen. Does the Commission on Elections have jurisdiction over Petitioner's qualification?

No. No authorized proceeding exists to determine, before election, a candidate's qualifications for President. To disqualify a candidate there must be a declaration by a final judgment of a competent court that the candidate sought to be disqualified "is guilty of or found by the Commission to be suffering from any disqualification provided by law or the Constitution." The Supreme Court ruled in **Poe vs. Commission on Elections**:

> Clearly, the amendment done in 2012 is an acceptance of the reality of absence of an authorized proceeding for determining before election the qualifications of candidate. Such that, as presently required, to disqualify a candidate there must be a declaration by a final judgment of a competent court that the candidate sought to be disqualified "is guilty of or found by the Commission to be suffering from any disqualification provided by law or the Constitution."
>
> Insofar as the qualification of a candidate is concerned, Rule 25 and Rule 23 are flipsides of one to the other. Both do not allow, are not authorizations, are not vestment of jurisdiction, for the COMELEC to determine the qualification of a candidate. The facts of qualification must beforehand be established in a prior proceeding before an authority properly vested with jurisdiction. The prior determination of qualification may be by statute, by executive order or by a judgment of a competent court or tribunal.

> If a candidate cannot be disqualified without a prior finding that he or she is suffering from a disqualification "provided by law or the Constitution," neither can the certificate of candidacy be cancelled or denied due course on grounds of false representations regarding his or her qualifications, without a prior authoritative finding that he or she is not qualified, such prior authority being the necessary measure by which the falsity of the representation can be found. The only exception that can be conceded are self-evident facts of unquestioned or unquestionable veracity and judicial confessions. Such are, anyway, bases equivalent to prior decisions against which the falsity of representation can be determined **(Poe vs. Commission on Elections, G.R. No. 221695, March 8, 2016)**.

76. Under Section 16(3) of Article VI of the Constitution, each house may determine the rules of its proceedings. The Constitution mandates that each house of Congress have its own rules of proceedings. Is a violation of a house's rules a violation of the Constitution? If a rule of the House is violated, can that be used to invalidate the law?

No. Violation of the rules of the House cannot be equated with a violation of the Constitution, nor can it be used to declare a law invalid. Rules are rarely permanent. The prevailing view is that they are subject to revocation, modification, or waiver at the pleasure of the body adopting them, as they are primarily procedural. Courts ordinarily have no concern with their observance. They may be waived or disregarded by the legislative body. Consequently, mere failure to conform to them does not nullify the act taken if the requisite number of members have agreed to a particular measure **(Arroyo vs. De Venecia, G.R. No. 127255, August 14, 1997).**

77. A member of Congress questioned the constitutionality of the law on the ground that it was approved in the House of Representatives without the requisite quorum. Is the law valid?

Yes. The law cannot be invalidated on that ground. The question of quorum is internal to the House of Representatives. Only the latter can determine whether its rules was violated as it is internal to the House of Representatives **(Tinio v. Duterte, G.R. No. 236118 & 236295, January 24, 2023)**.

78. What are the enumerated powers of the President under the Constitution?

a. Appointing Power (Section 16, Article VII)
b. Power of Control (Section 17, Article VII)
c. Military Power (Section 18, Article VII)
d. Pardoning Power (Section 19, Article VII)
e. Borrowing Power (Section 20, Article VII)
f. Diplomatic Power (Section 21, Article VII)
g. Budgetary Power (Section 22, Article VII)

h. Informing Power (Section 23, Article VII)

79. Are the powers of the President limited to those provided in Article VI?

No. The powers of the President are not limited to those provided in Article VII of the Constitution. All powers which are traditionally executive may be exercised by the President. Executive power is more than the sum of specific powers so enumerated in Article VII. This is what we call the doctrine of residual power of the President **(Marcos vs. Manglapus, G.R. No. 88211, September 15, 1989)**.

80. Was there already an instance where the doctrine of residual power of the President was applied?

Yes. It was applied in the case of **Marcos vs. Manglapus**. This case involves the order of President Cory Aquino not allow the return of President Marcos. The Petitioner questioned the order of the President contenting that the President does not have the power under the Constitution to prohibit someone from exercising his right to travel. Moreover, the petitioner contended that the President can only exercise power which are specifically provided in Article VII of the Constitution.

The Supreme Court ruled that the grant of executive power entails the grant of plenary executive power. Although the 1987 Constitution imposes limitations on the exercise of specific powers of the President, it maintains intact what is traditionally considered as within the scope of "executive power." Corollarily, the powers of the President cannot be said to be limited only to the specific powers enumerated in the Constitution. In other words, executive power is more than the sum of specific powers so enumerated. Thus, the President has the duty to serve and protect the people. She has the obligation to maintain peace and order, the protection of life, liberty and property, and the promotion of the general welfare are essentially ideals to guide governmental action. Though these obligation and authority are not specifically provided in the Constitution, the President has the duty to perform them as the head of the government. As the Supreme Court ruled in **Marcos vs. Manglapus**:

> Faced with the problem of whether or not the time is right to allow the Marcoses to return to the Philippines, the President is, under the Constitution, constrained to consider these basic principles in arriving at a decision. More than that, having sworn to defend and uphold the Constitution, the President has the obligation under the Constitution to protect the people, promote their welfare and advance the national interest. It must be borne in mind that the Constitution, aside from being an allocation of power is also a social contract whereby the people have surrendered their sovereign powers to the State for the common good. Hence, lest the officers of the Government exercising the powers delegated by the people forget and the servants of the people become rulers, the Constitution

reminds everyone that "[s]overeignty resides in the people and all government authority emanates from them." [Art. II, Sec. 1.] **(Marcos vs. Manglapus, G.R. No. 88211, September 15, 1989)**.

81. What constitutional provision prohibits the so-called "midnight appointment"?

Section 15, Article VII of the Constitution prohibits "midnight appointment". It provides that: "*two months immediately before the next presidential elections and up to the end of his term, a President or Acting President shall not make appointments, except temporary appointments to executive positions when continued vacancies therein will prejudice public service or endanger public safety*."

82. Atty. Garafil was appointed Solicitor II in the Office of the Solicitor General on March 5, 2010, by President Arroyo. Her appointment was transmitted on March 8, 2010, and received by the MRO of Malacanang on March 13, 2020. She took an oath on March 22, 2020, and assumed office on April 6, 2020. At that time, March 10, 2010, was considered the cut-off for a valid appointment. When President Aquino assumed office, he issued E.O. No. 2, which provides, among others:

> **SECTION 1. Midnight Appointments Defined. — The following appointments made by the former President and other appointing authorities in departments, agencies, offices, and instrumentalities, including government-owned or controlled corporations, shall be considered as midnight appointments:**
>
> **(a) Those made on or after March 11, 2010, including all appointments bearing dates prior to March 11, 2010 where the appointee has accepted, or taken his oath, or assumed public office on or after March 11, 2010, except temporary appointments in the executive positions when continued vacancies will prejudice public service or endanger public safety as may be determined by the appointing authority.**
>
> **(b) Those made prior to March 11, 2010, but to take effect after said date or appointments to office that would be vacant only after March 11, 2010.**
>
> **(c) Appointments and promotions made during the period of 45 days prior to the May 10, 2010 elections in violation of Section 261 of the Omnibus Election Code.**

Because of the issuance of E.O. 2, the appointment of Atty. Garafil was recalled. Is the appointment of Atty. Garafil violative of Section 15, Article VII of the Constitution?

Yes. The appointment of Atty. Garafil is invalid as it violates Section 15, Article VII of the Constitution. Since the appointment was accepted by Atty. Garafil on March 22, 2010, the day when she took an oath, which already covered by the ban on appointments, her appointment is invalid. The Supreme Court in **Velicaria-Garafil vs. Office of the President** held that:

> The following elements should always concur in the making of a valid (which should be understood as both complete and effective) appointment: (1) authority to appoint and evidence of the exercise of the authority; (2) transmittal of the appointment paper and evidence of the transmittal; (3) a vacant position at the time of appointment; and (4) receipt of the appointment paper and acceptance of the appointment by the appointee who possesses all the qualifications and none of the disqualifications. The concurrence of all these elements should always apply, regardless of when the appointment is made, whether outside, just before, or during the appointment ban. These steps in the appointment process should always concur and operate as a single process. No valid appointment exists if the process lacks even one step **(Velicaria-Garafil v. Office of the President, G.R. No. 203372, June 16, 2015)**.

83. What is the extent of the President's power of control over offices under the Office of the President insofar as re-organization is concerned?

Under the Administrative Code of the Philippines, the President can: 1) Transfer any function under the Office of the President to any other Department or Agency as well as transfer functions to the Office of the President from other Departments and Agencies; and 2) Transfer any agency under the Office of the President to any other Department or Agency as well as transfer agencies to the Office of the President from other departments or agencies **(Section 31, Chapter 10, Book III of E.O. No. 292)**. Thus, the President power of re-organization is limited to transferring any function under the Office of the President to any other department or agency and transferring any agency under the Office of the President to any other department or agency. The power does not include to power to abolish, consolidate, or merge office under the Office of the President. However, with respect to offices under the Office of the President Proper, the President power to re-organize can even go as far as abolishing office in the Officer of the President Proper. The Supreme Court ruled in **Domingo vs. Zamora**:

> However, the President's power to reorganize the Office of the President under Section 31 (2) and (3) of EO 292 should be distinguished from his power to reorganize the Office of the President Proper. Under Section 31 (1) of EO

> 292, the President can reorganize the Office of the President Proper by abolishing, consolidating or merging units, or by transferring functions from one unit to another. In contrast, under Section 31 (2) and (3) of EO 292, the President's power to reorganize offices outside the Office of the President Proper but still within the Office of the President is limited to merely transferring functions or agencies from the Office of the President to Departments or Agencies, and vice versa **(Domingo vs. Zamora, G.R. No. 142283, February 6, 2003)**.

84. What is the doctrine of qualified political agency?

Under the doctrine of qualified political agency "all executive and administrative organizations are adjuncts of the Executive Department, the heads of the various executive departments are assistants and agents of the Chief Executive, and, except in cases where the Chief Executive is required by the Constitution or law to act in person on the exigencies of the situation demand that he act personally, the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, and the acts of the Secretaries of such departments, performed and promulgated in the regular course of business, are, unless disapproved or reprobated by the Chief Executive presumptively the acts of the Chief Executive **(Carpio v. Executive Secretary, 283 Phil. 196)**. Simply put, the acts of the Secretaries in the performance of their official functions are deemed to be acts of the President, unless disapproved by him or her. This doctrine is also called **alter ego doctrine**.

In the case of **Trade and Investment Development Corporation vs. Manalang-Demigillo**, the Supreme Court explained the rationale for the doctrine:

> The doctrine of qualified political agency essentially postulates that the heads of the various executive departments are the alter egos of the President, and, thus, the actions taken by such heads in the performance of their official duties are deemed the acts of the President unless the President himself should disapprove such acts. This doctrine is in recognition of the fact that in our presidential form of government, all executive organizations are adjuncts of a single Chief Executive; that the heads of the Executive Departments are assistants and agents of the Chief Executive; and that the multiple executive functions of the President as the Chief Executive are performed through the Executive Departments. The doctrine has been adopted here out of practical necessity, considering that the President cannot be expected to personally perform the multifarious functions of the executive office **(Trade and Investment Development Corporation vs. Manalang-Demigillo, G.R. No. 168613, March 5, 2013)**.

85. The Board of Directors of Trade and Investment Development Corporation of the Philippines (TIDCORP) implemented the

reorganization of TIDCORP. Petitioner was affected by the reorganization. She questioned the legality of the reorganization. The Board of the Directors of TIDCORP justified their action on the continuing authority of the President to reorganize offices under the Office of the President. The members Board of Directors, being cabinet secretaries, are alter ego of the President. Thus, their action, unless reprobated, are actions of the President. Is the contention of the Board of Directors of TIDCORP tenable?

No. The doctrine of qualified political agency would not be applicable to acts of cabinet secretaries done in their capacity as ex-officio board directors of GOCC of which they become members not because of appointment by the President by the authority of the law. In the precise language of the Supreme Court:

> But the doctrine of qualified political agency could not be extended to the acts of the Board of Directors of TIDCORP despite some of its members being themselves the appointees of the President to the Cabinet. Under Section 10 of Presidential Decree No. 1080, as further amended by Section 6 of Republic Act No. 8494, 24 the five ex officio members were the Secretary of Finance, the Secretary of Trade and Industry, the Governor of the *Bangko Sentral ng Pilipinas*, the Director-General of the National Economic and Development Authority, and the Chairman of the Philippine Overseas Construction Board, while the four other members of the Board were the three from the private sector (at least one of whom should come from the export community), who were elected by the ex officio members of the Board for a term of not more than two consecutive years, and the President of TIDCORP who was concurrently the Vice-Chairman of the Board. Such Cabinet members sat on the Board of Directors of TIDCORP ex officio, or by reason of their office or function, not because of their direct appointment to the Board by the President. Evidently, it was the law, not the President, that sat them in the Board **(Trade and Investment Development Corporation vs. Manalang-Demigillo, G.R. No. 168613, March 5, 2013)**.

86. The petitioner (League of the Provinces of the Philippines) questioned the constitutionality of Section 17(iii) of the Local Government Code (R.A. 7610), which vests the Department of Environment and Natural Resources (DENR) with supervision and control over the enforcement of forestry and small-scale mining laws. It likewise questioned the constitutionality of Section 24 of the People's Small-Scale Mining Act of 1991 (R.A. 7076), which grants the DENR the same power with respect to small-scale mining. Petitioner argued that this violates Section 4, Article X of the Constitution, which provides that the President shall have only the power of supervision over local government units, not the power of control. Is the petitioner's contention tenable?

No. The Petitioner's contention is untenable. The subject laws are not contrary to Section 4, Article X. The laws were enacted pursuant to the constitutional mandate in **paragraph 1, Section 2, Article XII** of the Constitution, which provides that "the exploration, development and utilization of natural resources shall be under the full control and supervision of the State." P**aragraph 3 of Section 2, Article XII** provides that "the Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens . . . ." Thus, with respect to mining, it is the national government that shall have the power, not only of supervision but also of control. Thus, in **League of the Provinces of the Philippines vs. DENR**, the Supreme Court held:

> Paragraph 1 of Section 2, Article XII (National Economy and Patrimony) of the Constitution 31 provides that "the exploration, development and utilization of natural resources shall be under the full control and supervision of the State." Moreover, paragraph 3 of Section 2, Article XII of the Constitution provides that "the Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens . . . ."
>
> Pursuant to Section 2, Article XII of the Constitution, R.A. No. 7076 or the People's Small-Scale Mining Act of 1991, was enacted, establishing under Section 4 thereof a People's Small-Scale Mining Program to be implemented by the DENR Secretary in coordination with other concerned government agencies. The People's Small-Scale Mining Act of 1991 defines "small-scale mining" as "referring to mining activities, which rely heavily on manual labor using simple implement and methods and do not use explosives or heavy mining equipment."
>
> It should be pointed out that the Administrative Code of 1987 provides that the DENR is, subject to law and higher authority, in charge of carrying out the State's constitutional mandate, under Section 2, Article XII of the Constitution, to control and supervise the exploration, development, utilization and conservation of the country's natural resources. Hence, the enforcement of small-scale mining law in the provinces is made subject to the supervision, control and review of the DENR under the Local Government Code of 1991, while the People's Small-Scale Mining Act of 1991 provides that the People's Small-Scale Mining Program is to be implemented by the DENR Secretary in coordination with other concerned local government agencies.

87. Governor Tan issued Proclamation No. 1, Series of 2009 (Proclamation 1-09), declaring a state of emergency in the province of Sulu. It cited the kidnapping as a ground for the declaration, describing it as a terrorist act under the Human Security Act (R.A. 9372). It also invoked Section 465 of the Local Government Code of 1991 (R.A. 7160), which authorizes the Provincial Governor to implement emergency measures during man-made and natural

disasters and calamities, and to call upon the appropriate national law enforcement agencies to suppress disorder and lawless violence. Does the local chief executive have the authority to call out the Armed Forces to prevent and suppress violence?

No. Only the President has the power to call out the Armed Forces to prevent and suppress violence. This is clear from the wording of Section 18, Article VII of the Constitution. The calling-out power springs from the President's authority as Commander-in-Chief of the Armed Forces. The President is the sole Commander-in-Chief of the Armed Forces. Thus, he, and no one else, can exercise that power. Addressing this issue, the Supreme Court ruled in **Kulayan vs. Tan**:

> Respondent governor characterized the kidnapping of the three ICRC workers as a terroristic act and used this incident to justify the exercise of the powers enumerated under Proclamation 1-09. 56 He invokes Section 465, in relation to Section 16, of the Local Government Code, which purportedly allows the governor to carry out emergency measures and call upon the appropriate national law enforcement agencies for assistance. But a closer look at the said proclamation shows that there is no provision in the Local Government Code nor in any law on which the broad and unwarranted powers granted to the Governor may be based.
>
> Respondents cannot rely on paragraph 1, subparagraph (vii) of Article 465 above, as the said provision expressly refers to calamities and disasters, whether man-made or natural. The governor, as local chief executive of the province, is certainly empowered to enact and implement emergency measures during these occurrences. But the kidnapping incident in the case at bar cannot be considered as a calamity or a disaster. Respondents cannot find any legal mooring under this provision to justify their actions **(Kulayan vs. Tan, G.R. No. 187298, July 3, 2012)**.

88. Is the declaration of martial law and suspension of habeas corpus a justiciable question?

Yes. **Section 18, Article VI** of the Constitution provides "*that the Supreme Court may review, in an appropriate proceeding filed by any citizen, the sufficiency of the factual basis of the proclamation of martial law or the suspension of the privilege of the writ or the extension thereof and must promulgate its decision thereon within thirty days from its filing*."

This is affirmed in the case of **Lagman vs. Medialdea**:

> The third paragraph of Section 18, Article VII was inserted by the framers of the 1987 Constitution to constitutionalize the pre-Marcos martial law ruling of this Court in *In the Matter of the Petition for Habeas Corpus of Lansang*, to wit: that the factual basis of the declaration

> of martial law or the suspension of the privilege of the writ of habeas corpus is not a political question but precisely within the ambit of judicial review.
>
> To recall, the Court held in the 1951 case of *Montenegro v. Castañeda* that the authority to decide whether there is a state of rebellion requiring the suspension of the privilege of the writ of habeas corpus is lodged with the President and his decision thereon is final and conclusive upon the courts. This ruling was reversed in the 1971 case of Lansang where it was held that the factual basis of the declaration of martial law and the suspension of the privilege of the writ of habeas corpus is not a political question and is within the ambit of judicial review. However, in 1983, or after the declaration of martial law by former President Ferdinand E. Marcos, the Court, in *Garcia-Padilla v. Enrile*, abandoned the ruling in Lansang and reverted to Montenegro. According to the Supreme Court, the constitutional power of the President to suspend the privilege of the writ of habeas corpus is not subject to judicial inquiry.
>
> Thus, by inserting Section 18 in Article VII which allows judicial review of the declaration of martial law and suspension of the privilege of the writ of habeas corpus, the framers of the 1987 Constitution in effect constitutionalized and reverted to the *Lansang* doctrine **(Lagman vs. Medialdea, G.R. No. 231658, July 4, 2017)**.

89. What type of proceedings should be instituted to question the factual basis of the declaration of martial law? Should it be Petition for Certiorari?

The Constitution does not specify the kind of proceedings that should be initiated in order to determine the factual basis of the proclamation of martial law or suspension of the writ of habeas corpus. The proceedings is *sui generis* or class of its own. The proceedings may be denominated as compliant, petition or matter to be resolved by the Court. Thus, it is not correct to impose the certiorari petition as the procedural avenue to determine the factual basis of the proclamation or suspension. The proceedings mentioned in the third paragraph of Section 18, Article VII should not be within the purview of Section 1, Article VIII of the Constitution. On this matter, the Supreme Court ruled in **Lagman vs. Medialdea**:

> The unique features of the third paragraph of Section 18, Article VII clearly indicate that it should be treated as sui generis separate and different from those enumerated in Article VIII. Under the third paragraph of Section 18, Article VII, a petition filed pursuant therewith will follow a different rule on standing as any citizen may file it. Said provision of the Constitution also limits the issue to the sufficiency of the factual basis of the exercise by the Chief

> Executive of his emergency powers. The usual period for filing pleadings in Petition for Certiorari is likewise not applicable under the third paragraph of Section 18, Article VII considering the limited period within which this Court has to promulgate its decision.
>
> A proceeding "[i]n its general acceptation, [is] the form in which actions are to be brought and defended, the manner of intervening in suits, of conducting them, the mode of deciding them, of opposing judgments, and of executing." 104 In fine, the phrase "in an appropriate proceeding" appearing on the third paragraph of Section 18, Article VII refers to any action initiated by a citizen for the purpose of questioning the sufficiency of the factual basis of the exercise of the Chief Executive's emergency powers, as in these cases. It could be denominated as a complaint, a petition, or a matter to be resolved by the Court **(Lagman vs. Medialdea, G.R. No. 231658, July 4, 2017)**.

90. When the President declared martial law and suspended the writ of habeas corpus throughout Mindanao, both the House of Representatives and the Senate passed a resolution giving imprimatur to the declaration. Both houses of Congress passed their respective resolutions after the President submitted his report. It is argued that, since Congress has already given its imprimatur to the President's proclamation, the Supreme Court should defer to Congress's action. Is the argument tenable?

No. The argument is not tenable. The Supreme Court can independently determine the factual basis of the proclamation and suspension, separate from Congress. That Congress has already passed a resolution giving imprimatur to the President's proclamation will not prevent the Supreme Court, in a petition filed for that purpose, from determining the factual basis for the declaration. The Supreme Court held in **Lagman vs. Medialdea**:

> Thus, the power to review by the Court and the power to revoke by Congress are not only totally different but likewise independent from each other although concededly, they have the same trajectory, which is, the nullification of the presidential proclamation. Needless to say, the power of the Court to review can be exercised independently from the power of revocation of Congress **(Lagman vs. Medialdea, G.R. No. 231658, July 4, 2017)**.

91. What are the distinctions between the Supreme Court's power of review and Congress's power to revoke the declaration of martial law and the suspension of the privilege of the writ of habeas corpus?

The distinctions are follows:

a. The Court may strike down the presidential proclamation in an appropriate proceeding filed by any citizen on the ground of lack of sufficient factual basis. On the other hand, Congress may revoke the proclamation or suspension, which revocation shall not be set aside by the President.

b. In reviewing the sufficiency of the factual basis of the proclamation or suspension, the Court considers only the information and data available to the President prior to or at the time of the declaration; it is not allowed to "undertake an independent investigation beyond the pleadings." On the other hand, Congress may take into consideration not only data available prior to, but likewise events supervening the declaration. Unlike the Court which does not look into the absolute correctness of the factual basis as will be discussed below, Congress could probe deeper and further; it can delve into the accuracy of the facts presented before it.

c. In addition, the Court's review power is passive; it is only initiated by the filing of a petition "in an appropriate proceeding" by a citizen. On the other hand, Congress' review mechanism is automatic in the sense that it may be activated by Congress itself at any time after the proclamation or suspension was made **(Lagman vs. Medialdea, G.R. No. 231658, July 4, 2017)**.

92. In *Fortun vs. Arroyo*, the Supreme Court held that the Supreme Court will step in only to determine the sufficiency of the factual basis of the declaration when Congress default in its duty under the Constitution. Thus, as a necessary conclusion, the Supreme Court will defer to the action of Congress. The Supreme Court ruled:

> **Consequently, although the Constitution reserves to the Supreme Court the power to review the sufficiency of the factual basis of the proclamation or suspension in a proper suit, it is implicit that the Court must allow Congress to exercise its own review powers, which is automatic rather than initiated. Only when Congress defaults in its express duty to defend the Constitution through such review should the Supreme Court step in as its final rampart. The constitutional validity of the President's proclamation of martial law or suspension of the writ of habeas corpus is first a political question in the hands of Congress before it becomes a justiciable one in the hands of the Court (*Fortun v. President Macapagal-Arroyo, 684 Phil. 526*).**

Is this principle still controlling?

No. Such principle was already re-examined by the Supreme Court in **Lagman vs. Medialdea**. The Court said:

> By the above pronouncement, the Court willingly but unwittingly clipped its own power and surrendered the same to Congress as well as abdicated from its bounden duty to review. Worse, the Court considered itself just on stand-by, waiting and willing to act as a substitute in case

> Congress "defaults." It is an aberration, a stray declaration, which must be rectified and set aside in this proceeding.
>
> We, therefore, hold that the Court can simultaneously exercise its power of review with, and independently from, the power to revoke by Congress. Corollary, any perceived inaction or default on the part of Congress does not deprive or deny the Court of its power to review **(Lagman vs. Medialdea, G.R. No. 231658, July 4, 2017)**.

93. When the President declares martial law or suspends the privilege of the writ of habeas corpus, is it required of Congress to convene in joint session to deliberate on the proclamation or suspension? The petitioners contend that this is what the Constitution requires. The second paragraph of Section 18, Article VII provides that: *The Congress, if not in session, shall, within twenty-four hours following such proclamation or suspension, convene in accordance with its rules without any need of a call.* Is the petitioners' contention correct?

No. The contention of the Petitioners are not correct. When the President declares martial law, it is not incumbent upon Congress to convene in joint session to deliberate on the proclamation or suspension. What the Constitution provides in Section 18, Article VII is that: *The Congress, voting jointly, by a vote of at least a majority of all its Members in regular or special session, may revoke such proclamation or suspension, which revocation shall not be set aside by the President*. There is nothing in the said provision which requires that the voting should be done in joint session. What is required only is that, voting jointly, Congress may revoke the declaration or suspension by a vote of at least a majority of all its members. In fact, the requirement of voting jointly is required only when Congress would opt to revoke the declaration or suspension. The Supreme Court clarified this issue in **Padilla vs. Congress of the Philippines**:

> It is worthy to stress that the provision does not actually refer to a "joint session." While it may be conceded, subject to the discussions below, that the phrase "voting jointly" shall already be understood to mean that the joint voting will be done "in joint session," notwithstanding the absence of clear language in the Constitution, still, the requirement that "[t]he Congress, voting jointly, by a vote of at least a majority of all its Members in regular or special session, x x x" explicitly applies only to the situation when the Congress revokes the President's proclamation of martial law and/or suspension of the privilege of the writ of habeas corpus. Simply put, the provision only requires Congress to vote jointly on the revocation of the President's proclamation and/or suspension **(Padilla vs. Congress of the Philippines, G.R. No. 231671, July 25, 2017)**.

Nevertheless, the even if the intention is to revoke the proclamation, still the requirement of voting jointly in joint session is not mandated by the second paragraph of Section 18, Article VII of the Constitution. The provision only requires that the Congress convene without call, but it does not explicitly state that the Congress shall already convene in joint session. In fact, the provision actually states that the Congress "convene in accordance with its rules," which can only mean the respective rules of each House as there are no standing rules for joint sessions **(Padilla vs. Congress of the Philippines, G.R. No. 231671, July 25, 2017)**.

94. Under Section 18, Article VII, "*upon the initiative of the President, the Congress may, in the same manner, extend such proclamation or suspension for a period to be determined by the Congress, if the invasion or rebellion shall persist and public safety requires it.*" Can Congress extend it beyond sixty (60) days?

Section 18, Article VII did not fix the period of the extension of the proclamation and suspension. However, it clearly gave the Congress the authority to decide its duration; thus, the provision states that the extension shall be "for a period to be determined by the Congress." If it were the intention of the framers of the Constitution to limit the extension to sixty (60) days, they would not have expressly vested in the Congress the power to fix its duration. The Supreme Court explained in **Lagman vs. Pimentel**:

> The Court cannot accept said petitioners' argument that the 60-day limit can be deduced from the following clause in Section 18, Article VII: "the Congress may, in the same manner, extend such proclamation or suspension." The word "manner" means a way a thing is done 109 or a mode of procedure; 110 it does not refer to a period or length of time. Thus, the clause should be understood to mean that the Congress must observe the same manner of voting required for the revocation of the initial proclamation or suspension, as mentioned in the sentence preceding it, i.e., "voting jointly, by a vote of at least a majority of all its Members in regular or special session." **(Lagman vs. Pimentel, G.R. No. 235935, February 6, 2018)**.

95. What is the role of the Congress when the President proclaims martial law and/or suspends the privilege of the writ of habeas corpus?

There are four provisions in Article VII, Section 18 of the 1987 Constitution specifically pertaining to the role of the Congress when the President proclaims martial law and/or suspends the privilege of the writ of habeas corpus, *viz.*:

a. Within forty-eight (48) hours from the proclamation of martial law or the suspension of the privilege of the writ of habeas corpus, the President shall submit a report in person or in writing to the Congress;
b. The Congress, voting jointly, by a vote of at least a majority of all its Members in regular or special session, may revoke such

proclamation or suspension, which revocation shall not be set aside by the President;

c. Upon the initiative of the President, the Congress may, in the same manner, extend such proclamation or suspension for a period to be determined by the Congress, if the invasion or rebellion shall persist; and;

d. The Congress, if not in session, shall within twenty-four hour (24) following such proclamation or suspension, convene in accordance with its rules without need of call **(Padilla vs. Congress of the Philippines, G.R. No. 231671, July 25, 2017)**.

96. The Rome Statute has already been signed by *Charge d'Affaires* Enrique A. Manalo of the Philippine Mission to the United Nations. However, it remains subject to ratification, acceptance, or approval by the signatory states. Petitioners, through mandamus, seek to compel the Office of the President to submit the signed treaty to the Senate for its concurrence in accordance with Section 21, Article VII of the 1987 Constitution. Petitioners contend that, under both domestic and international law, ratification of a treaty is a function of the Senate. Hence, it is the duty of the executive department to transmit the signed copy of the Rome Statute to the Senate to allow it to exercise its discretion with respect to ratification of treaties. Moreover, petitioners submit that the Philippines has a ministerial duty to ratify the Rome Statute under treaty law and customary international law. Petitioners invoke the Vienna Convention on the Law of Treaties, which enjoins states to refrain from acts that would defeat the object and purpose of a treaty when they have signed the treaty prior to ratification, unless they have made their intention clear not to become parties to the treaty. Can the President be compelled by mandamus?

The Rome Statute, though signed, has not yet been ratified. The signature of the Rome Statute by the Philippine Representative is not equivalent to ratification. The signature and ratification are two separate and distinct steps in the treaty-making process. The signature is primarily intended to authenticate the instrument and to symbolize the good faith of the parties. It is usually performed by the state's authorized representative at the diplomatic mission. Ratification, on the other hand, is the formal act by which a state confirms and accepts the provisions of a treaty concluded by its representative. It is generally held to be an executive act, undertaken by the head of state or of government.

Moreover, under our Constitution, the power to ratify is vested in the President, subject to the Senate's concurrence. The Senate's role, however, is limited to giving or withholding its consent to ratification. Hence, it is within the President's authority to refuse to submit a treaty to the Senate or, having secured its consent for ratification, to refuse to ratify it. Although the refusal of a state to ratify a treaty that has been signed in its behalf is a serious step that should not be taken lightly, such a decision is within the President's sole competence and cannot be encroached upon by this Court via a writ of mandamus **(Pimentel, Jr., vs. Executive Secretary, G.R. No. 158088, July 6, 2005)**.

97. Can the President unilaterally withdraw from a treaty?

The President's discretion to unilaterally withdraw from any treaty or international agreement is not absolute. The President cannot unilaterally withdraw from a treaty if subsequent legislation affirms and implements it. Where legislative imprimatur impelled the President's action to enter into a treaty, a withdrawal cannot be effected without concomitant legislative sanction. Similarly, where the Senate's concurrence is made a condition of withdrawal, the President enjoys no unilateral authority to withdraw and must secure Senate concurrence (**Pangilinan vs. Cayetano, G.R. No. 238875, March 16, 2021**).

BUT:

The president can withdraw from a treaty as a matter of policy in keeping with our legal system, if a treaty is unconstitutional or contrary to provisions of an existing prior statute (**Pangilinan vs. Cayetano, G.R. No. 238875. March 16, 2021)**.

98. What are requisites for the exercise of the power of judicial review?

The following are the requisites to the exercise of the power of judicial review:

a. There must be an actual case and controversy.
b. The question of constitutionality must be raised by a proper party.
c. The constitutional question must be raised at the earliest opportunity.
d. The decision of constitutional question must be necessary to the determination of the case itself **(Senate vs. Ermita, 488 SCRA 1)**.

99. What do we mean by actual case or controversy?

An actual case or controversy involves a conflict of legal rights or an assertion of opposing legal claims susceptible of judicial resolution. This means that there must be a conflict of legal rights or opposing legal claims that can be resolved on the basis of existing law and jurisprudence. An abstract dispute, in stark contrast, seeks only an opinion advising what the law would be on a hypothetical state of facts **(Guingona v. Court of Appeals, G.R. No. 125532, July 10, 1998, cited in the Separate Opinion of Justice Peralta in Facis III vs. Civil Registrar General, G.R. No. 217910, September 3, 2019)**.

100. When may a case be considered ripe for judicial determination?

A case is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. Something must have been accomplished or performed by either branch of Government before a court may come into the picture, and a petitioner must allege an immediate or threatened injury to the petitioner as a result of the challenged action **(Province of North Cotabato v. Government, G.R. No. 183591, October 14, 2008)**.

101. Petitioners challenged the constitutionality of Republic Act No. 10591, the Comprehensive Firearms and Ammunition Regulation Act, and the 2013 Implementing Rules and Regulations on the ground that the law and its implementing rules and regulations unduly restrict their rights to bear arms, property, and privacy. However, the petitioners failed to show that their gun license and permits were revoked because of the implementation of the law and its implementing rules and regulations. Will the challenge prosper?

The challenge will not prosper. Petitioners failed to present an actual case or controversy. There is no showing that they were directly affected by the implementation of the challenged law and its IRR. There are no facts on which the court can relate the challenge to the law's constitutionality. The Supreme Court in **Acosta vs. Ochoa** held:

> Petitioners Acosta and Dela Paz assail the constitutionality of Republic Act No. 10591 because it allegedly violated their right to bear arms, their right to property, and even the right to presumption of innocence by disqualifying from holding a firearm license those who have committed a crime involving a firearm. However, they did not show that their firearm licenses were revoked because of any of the provisions of the law or its Implementing Rules and Regulations **(G.R. No. 211559, October 15, 2019)**.

102. Why is it that the Court tends to dismiss the case when it is already mooted?

The reason the court dismisses the petition when it is moot is the absence of an actual case or controversy. In that situation, the court's decision would amount to an advisory opinion. It would not resolve anything. The Supreme Court lecture in **Galicto vs. Aquino**:

> A moot case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical use or value. An action is considered 'moot' when it no longer presents a justiciable controversy because the issues involved have become academic or dead, or when the matter in dispute has already been resolved and hence, one is not entitled to judicial intervention unless the issue is likely to be raised again between the parties. Simply stated, there is nothing for the court to resolve as its determination has been overtaken by subsequent events **(G.R. No. 193978, February 28, 2012)**.

103. Are there exceptions to the rule that if the petition is already mooted, the court is bound to dismiss it?

Yes. There are four recognized exceptions. These are:

a. There is grave violation of the constitution.

b. The exceptional character of the situation and the paramount public interest involved.
c. When the constitutional issues raised require formulations of controlling principles to guide the bench and the bar.
d. The case is capable of repetition yet evading review **(David vs. Arroyo, G.R. No. 171396, May 3, 2006)**.

104. A complaint for violation of Article 200 for "*grave scandal*" Article 201 for "*immoral doctrines, obscene publications and exhibitions, and indecent shows*," and Ordinance No. 7780 of the City of Manila, against the petitioners being the publishers of FHM magazines. While the complaint is pending before the Prosecutor's office, the petitioners challenged the constitutionality of Ordinance No. 7780 before the Supreme Court. While the petition questioning the constitutionality of Ordinance No. 7780 was pending before the Supreme Court, the Prosecutor's office dismissed the complaint against the petitioners. Will the petition challenging the constitutionality of Ordinance No. 7780 be dismissed on the ground of moot and academic? Will the "capable of repetition yet evading review" exception apply?

The petition should be dismissed. The case will not fall under the "capable of repetition yet evading review" exception. The dismissal of the complaints against the petitioners will result in the loss of the first element for the exercise of judicial review, which is an actual case and controversy. The petition has become moot. The petition will not also fall under the "capable of repetition yet evading review" exception. The elements required to fall under the exception are not met. The time constraint, under the first requisite, that justified the application of the exception does not exist here. The proceedings will take time to resolve. Further, the second element is not present. There is less likelihood that petitioners will once again be hailed before the Prosecutor's Officer for the same or another violation of Ordinance No. 7780 **(Madrilejos vs. Gatdula, G.R. No. 184389, September 24, 2019)**.

105. Who is a proper party?

A property party is one who has sustained or is in immediate danger of sustaining an injury as a result of the act complained of **(Ex Parte Levitt, 303 U.S. 633; Macalintal vs. PET, G.R. No. 191618, November 23, 2010)**. Until and unless such actual or threatened injury is established, the complainant is not clothed with legal personality to raise the constitutional question.

106. What is direct injury test in relation to *locus standi*?

It is a test by which a party who impugns the validity of a statute must have "a personal and substantial interest in the case such that he has sustained or will sustain direct injury as a result." This doctrine is derived from the decisions of US Supreme Court in **Ex Parte Levitt**, later reaffirmed in **Tileston v. Ullman**. This is to prevent just about any person from seeking judicial interference in any official policy or act with which he disagreed with, and thus hinders the activities of governmental agencies engaged in public service (**Macalintal vs. PET, G.R. No. 191618, November 23, 2010**).

107. Summarize the rules concerning the standing of "taxpayers," "voters," "concerned citizens," and "legislators."

By way of summary, the following rules may be drawn from the cases decided by this Court. Taxpayers, voters, concerned citizens, and legislators may be accorded standing to sue, provided that the following requirements are met:

a) Cases involve constitutional issues;
b) For **taxpayers**, there must be a claim of illegal disbursement of public funds or that the tax measure is unconstitutional;
c) For **voters**, there must be a showing of obvious interest in the validity of the election law in question;
d) For **concerned citizens**, there must be a showing that the issues raised are of transcendental importance which must be settled early; and
e) For **legislators**, there must be a claim that the official action complained of infringes upon their prerogatives as legislators **(David vs. Arroyo, 489 SCRA 160)**.

108. May *locus standi* be dispensed with?

Yes. The Supreme Court may dispense with the requirement of *locus standi*. *Locus standi* is merely a procedural requirement for filing a petition. As a procedural matter, it may be waived by the Supreme Court. The Court, in its discretion, has waived the requirements of *locus standi* in cases of transcendental importance with far-reaching implications **(David v. Macapagal-Arroyo; Araneta vs. Dinglasan, 84 Phil. 368 (1949); Aquino, Jr. vs. COMELEC, 159 Phil. 328)**. Indeed, the Court has held that the requirement of locus standi, being a mere procedural technicality, can be waived in the exercise of its discretion **(De Castro v. Judicial and Bar Council, 629 Phil. 629)**. The Court has ruled that locus standi is a matter of procedure and has allowed some cases to be brought not by parties who have been personally injured by the operation of a law or any other government act, but by concerned citizens, taxpayers, or voters who sue in the public interest **(Abaya v. Ebdane, Jr., 544 Phil. 645)**.

109. Can Congress pass a law amending or repealing the provisions of the Rule of Court?

No. Under the present constitutional set-up, the Supreme Court's rule-making power, insofar as pleading, practice, or procedure is concerned, is exclusive to it. It is a power that is not shared with other departments of the government. The Supreme Court alone can exercise such power over the subject matters provided under the Constitution. Thus, unlike the previous Constitutions, Congress no longer shares this power **(Echegaray v. Secretary of Justice, 301 SCRA 96)**.

110. The Congress passed a law exempting the Government Service Insurance System from legal fees imposed by the Rules of Court. Is the law valid?

The law is invalid. The Rules of Court impose the legal fees. By exempting the GSIS from the legal fees imposed by the Rules of Court, the law effectively amends the Rules of Court. This cannot be done without offending the Constitution. The power to promulgate rules concerning pleading, practice, and procedure in all courts is a traditional power of the Supreme Court. It is not shared with Congress. The imposition of legal fees is provided for by the Rules of Court. The Rules of Court were promulgated in the exercise of the Court's rule-making power. They are essentially procedural in nature, as they do not create, diminish, increase, or modify substantive rights. Corollarily, Rule 141 is essentially procedural. Thus, its regulation belongs exclusively to the Supreme Court. Any law, therefore, encroaching on this power is unconstitutional for violating the separation of powers **(Petition for Recognition of the Exemption of GSIS for Payment of Legal Fees, A.M. No. 08-2-01-0, February 11, 2010)**.

111. May Congress pass a law prohibiting courts from issuing injunctive relief just like Section 14 of RA 6770 or the Ombudsman Law which provides that "no writ of injunction shall be issued by any court to delay an investigation being conducted by the Ombudsman under this Act, unless there is a *prima facie evidence* that the subject matter of the investigation is outside the jurisdiction of the Office of the Ombudsman."

The law prohibiting the courts from issuing injunctive relief is ineffective unless the Supreme Court adopts it as a policy. Under the Constitution, it is within the power of Congress to define, prescribe, and apportion the jurisdiction of various courts (Section 2, Article VIII). However, how the courts will exercise the jurisdiction conferred on them by law is subject to the Supreme Court's rule-making power. A court's exercise of the jurisdiction it has acquired over a particular case conforms to the limits and parameters of the rules of procedure duly promulgated by this Court. In other words, procedure is the framework within which judicial power is exercised. Since the courts are allowed to issue injunctive relief under the Rules, the issuance of injunctive relief may not be restricted by law. The issuance of injunctive relief is subject to the Supreme Court's rule-making power. The Supreme Court in **Carpio-Morales vs. CA, G.R. No. 217126, November 10, 2015**, ruled:

> That Congress has been vested with the authority to define, prescribe, and apportion the jurisdiction of the various courts under Section 2, Article VIII supra, as well as to create statutory courts under Section 1, Article VIII supra, does not result in an abnegation of the Court's own power to promulgate rules of pleading, practice, and procedure under Section 5 (5), Article VIII. When Congress creates a court and delimits its jurisdiction, the procedure for which its jurisdiction is exercised is fixed by the Court through the rules it promulgates.

112. Estipona challenged the constitutionality of Section 23, Article II of RA 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," which provides that "*any person charged under any provision of this Act, regardless of the imposable penalty, shall not be allowed to avail of the provision on plea-bargaining*." Estipona argued that Section 23 violates the Supreme Court's rule-making power. Is the law constitutional?

The law is unconstitutional. It violates the Supreme Court's rule-making power and the principle of separation of powers. The power to promulgate rules concerning pleading, practice, and procedure belongs exclusively to the Supreme Court. Because this power is exclusive to the Supreme Court, Congress cannot encroach on it. Thus, Congress cannot pass a law that will have the effect of amending the Rules of Court. This is the necessary effect of Section 23 of RA 9165. It prohibits something that the Rules of Court allow. It provides exceptions that are absent from the Rules of Court. It governs something that is a matter of procedure. Thus, it is a clear amendment of the Rules of Court. The Supreme Court ruled in **Estipona vs. Lobrigo, G.R. No. 226679, August 15, 2017**:

> The separation of powers among the three co-equal branches of our government has erected an impregnable wall that keeps the power to promulgate rules of pleading, practice and procedure within the sole province of this Court. The other branches trespass upon this prerogative if they enact laws or issue orders that effectively repeal, alter or modify any of the procedural rules promulgated by the Court. Considering that the aforesaid laws effectively modified the Rules, this Court asserted its discretion to amend, repeal or even establish new rules of procedure, to the exclusion of the legislative and executive branches of government. To reiterate, the Court's authority to promulgate rules on pleading, practice, and procedure is exclusive and one of the safeguards of Our institutional independence.

113. Petitioners challenge the constitutionality of RA 7662, the Legal Education Reform Act of 1993. They argue that the law encroaches on the Supreme Court's exclusive rule-making power over admission to the practice of law. They contend that the Court's power to promulgate rules concerning admission to the practice of law necessarily includes related authority, including the power to prescribe the requirements for admission to the study of law. In support, they cite Sections 6 and 16, Rule 138 of the Rules of Court. They contend that Congress cannot create an administrative body, such as the LEB, that exercises the Court's rule-making power. They emphasize that the LEB belongs to the Executive department and, as such, is neither linked to nor accountable to the Court, nor is it placed under the Court's regulation and supervision. Is the law constitutional?

Yes. The law, regulating legal education is constitutional. The rule making power of the Supreme Court pertains to admission to the practice of law. It does not cover supervision and regulation of legal education. Legal education may be left to the regulation and supervision of a political department, like the executive department. The supervision and regulation of legal education is not within the function of the judiciary or specifically the Supreme Court. It is not within pale of judicial power which is the power constitutionally reposed to Supreme Court. That the Rules of Court provides for the requirements for taking the bar examination should not be taken to mean that even legal education can be subject to the rule making power of the Supreme Court. It should be stressed that Section 5 and Section 5 of Rule 138 on the required competencies for taking the bar examination are addressed to bar applicants and not to law schools. Therefore, these provisions of the Rules of Court cannot be used as the foundation for the argument that legal education is within the rule making power of the Supreme Court. The Court's exclusive rule-making power covers the practice of law and not the study of law. The Supreme Court in **Pimentel vs. Legal Education Board, G.R. No. 230642, September 10, 2019**, ruled:

> It is a reality that the Rules of Court, in prescribing the qualifications in order to take the bar examinations, had placed a considerable constraint on the courses offered by law schools. Adjustments in the curriculum, for instance, is a compromise which law schools apparently are willing to take in order to elevate its chances of graduating future bar examinees. It is in this regard that the relationship between legal education and admissions to the bar becomes unmistakable. This, however, does not mean that the Court has or exercises jurisdiction over legal education. Compliance by law schools with the prescribed core courses is but a recognition of the Court's exclusive jurisdiction over admissions to the practice of law — that no person shall be allowed to take the bar examinations and thereafter, be admitted to the Philippine Bar without having taken and completed the required core courses.

114. May a member of a Constitutional Commission be appointed as Chairman? Will it not violate the prohibition on re-appointment?

Yes, a member by a commission may still be appointed as Chairman and his or her appointment will not violate the prohibition on re-appointment. This however is subject to the following conditions laid down in **Funa vs. Villar, G.R. No. 192791, April 24, 2012**:

> The provision, on its face, does not prohibit a promotional appointment from commissioner to chairman as long as the commissioner has not served the full term of seven years, further qualified by the third sentence of Sec. 1 (2), Article IX (D) that "the appointment to any vacancy shall be only for the unexpired portion of the term of the predecessor." In addition, such promotional appointment to the position of Chairman must conform to the rotational plan or the staggering of terms in the commission membership such that the aggregate of the service of the Commissioner in said position and the term to which he

> will be appointed to the position of Chairman must not exceed seven years so as not to disrupt the rotational system in the commission prescribed by Sec. 1 (2), Art. IX (D).

115. Chief Justice Ranato Corona was convicted by the Philippine Senate of an impeachable offense. However, he was not found guilty in any criminal case before his death. Are his heirs entitled to his retirement benefits?

Yes. His heirs are entitled to retirement benefits. A conviction for an impeachment offense is limited to removal from office and disqualification from holding any office under the Republic of the Philippines. That is the extent of the effect of a conviction in an impeachment case. With respect to other penalties, such as forfeitures of retirement or other benefits, the removed impeached official may be deprived of them if a judicial decision finds him criminally liable, which carries with it the accessory penalty under the law. Since Chief Justice Corona was never found by any court of justice to be criminally liable prior to his death, his heirs are entitled to his retirement benefits, as there is no judicial finding depriving him of such. The effect of his conviction in an impeachment case is limited to removal from office or disqualification from holding any office. Therefore, an impeached public official whose civil, criminal, or administrative liability was not judicially established may be considered involuntarily retired from service. **As held by the Supreme Court**:

> Impeachment is, thus, designed to remove the impeachable officer from office, not punish him. It is purely political, and it is neither civil, criminal, nor administrative in nature. No legally actionable liability attaches to the public officer by a mere judgment of impeachment against him or her, and thus lies the necessity for a separate conviction for charges that must be properly filed with courts of law.
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> Having been removed by the Congress from office with a lifetime ban from occupying any and all future public posts, but without a proper determination of or even a basis for any recoverable liability under the law due to causes beyond his control, Chief Justice Corona may be considered involuntarily retired from public service.
>
> There is a sizeable vacuum in the law that blurred the circumstances of Chief Justice Corona's impeachment, in that no provision exists that lays out the consequences of his impeachment pending the resolution of the other charges filed against him. Notably, from the time the impeachment court rendered its judgment, there has been no law that commands the automatic cancellation of post-employment benefits and other privileges pertaining to the impeached official. Chief Justice Corona's untimely

> demise and the consequent termination of the other charges against him all the more compounded the issue. Considering the foregoing, we hold that Chief Justice Corona was involuntarily retired by virtue of his conviction arising from impeachment. This is fortified by the failure of the other forum to follow through and conclude the proceedings before it that should have brought to fruition the full consequences of his removal from his post **(In Re: Letter of Mrs. Ma. Christina Roco Corana Requesting the Grant of Retirement and Other Benefits to the Late Former Chief Justice Renato C. Corona and Her Claim for Survivorship Pension as His Wife under Republic Act No. 9946, A.M. No. 20-07-10-SC, January 12, 2021, J. Hernando).**

116. May an impeachable official be removed by other means?

Yes. An impeachable official may be removed from office not only by impeachment but also by other means, such as *quo warranto*. The remedies of impeachment and *quo warranto* are materially different. One is political; the other is judicial. The grounds for impeachment also differ from those for *quo warranto*. The wording of **Section 2, Article XI** of the 1987 Constitution supports the conclusion that impeachment is not the only method by which an impeachable official may be removed. It should be emphasized that the provision uses the word "may." It says, "*the President, the Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman **may be removed** from office on impeachment for, and conviction of...*" The Supreme Court said in **Republic vs. Sereno, G.R. No. 237428, May 11, 2018**:

> The provision uses the permissive term "may" which, in statutory construction, denotes discretion and cannot be construed as having a mandatory effect. We have consistently held that the term "may" is indicative of a mere possibility, an opportunity or an option. The grantee of that opportunity is vested with a right or faculty which he has the option to exercise. An option to remove by impeachment admits of an alternative mode of effecting the removal.

117. Distinguish impeachment from *quo warranto*.

Impeachment may be distinguished from *quo warranto*. Thus:

a) Impeachment is political; *quo warranto* is judicial. In impeachment, the Congress is the prosecutor, the trier, and the judge, whereas *quo warranto* petitions are instituted either by the Solicitor General in behalf of the Republic of the Philippines or by an individual claiming the public office in issue, both of which petitions are cognizable only by the Supreme Court.
b) Impeachment proceedings seek to confirm and vindicate the breach of the trust reposed by the Filipino people upon

the impeachable official, but *quo warranto* determines the legal right, title, eligibility, or qualifications of the incumbent to the contested public office. The 1987 Constitution, as supplemented by the internal rules of procedure of the Congress, directs the course of impeachment proceedings. *Quo warranto* cases, on the other hand, are dictated by the Rules of Court.

c) The end result of an impeachment proceeding is the removal of the public officer, and his or her perpetual political disqualification from holding public office. On the other hand, when a *quo warranto* petition is granted, ouster from office is likewise meted, but the Court can likewise impose upon the public officer additional penalties such as reimbursement of costs pertaining to the rightful holder of the public office and such further judgment determining the respective rights in and to the public office, position, or franchise of all the parties to the action as justice requires **(Republic vs. Sereno, G.R. No. 237428, May 11, 2018)**.

118. What are the grounds for impeachment?

The following are the grounds for impeachment: 1) culpable violation of the Constitution; 2) Treason. Bribery, Graft and Corruption; 3) Other High Crimes; and 4) Betrayal of public trust.

119. What is the meaning of betrayal of public trust?

Acts which are just short of being criminal but constitute gross unfaithfulness against public trust, tyrannical abuse of power, inexcusable negligence of duty, favoritism, and gross exercise of discretionary powers. In other words, acts must be attended with bad faith and of such gravity and seriousness as other grounds for impeachment (**Gonzales vs. Office of the President, September 4, 2012)**.

120. Discuss the procedure for impeachment

First, a verified complaint for impeachment may be filed by any member of the HoR or by any citizen upon a Resolution of endorsement by any Member

Second, the verified complaint for impeachment filed by a member of the HoR or the Resolution of Endorsement shall be included in the order of business within 10 session days, and referred to the proper committee within 3 session days.

Third, the Committee, by majority vote of all its members, shall submit its report within 60 days after referral. A vote of at least 1/3 of all the members of the House shall be necessary either to affirm a favorable resolution or override its contrary resolution

Fourth, if the verified complaint is filed by at least 1/3 of all the members of the House, the same shall constitute the Articles of Impeachment

121. What is the constitutional limitation on impeachment?

No impeachment proceedings shall be initiated against the same official more than once within a period of one year **(Section 3(5), Article XI)**.

122. What is meant by "initiation"?

The SC gives the term "initiate" a meaning different from "filing." Impeachment is deemed initiated when the complaint (with the accompanying resolution of endorsement) has been filed with the HoR and referred to the appropriate Committee **(Francisco v. House of Representatives)**.

123. Can there be multiple grounds in an impeachment complaint?

Gutierrez vs. The House of Representatives, Feb. 25, 2011, rules that "an impeachment complaint need not allege only one impeachable offense." In fact, multiple complaints may be considered as long as they are all simultaneously referred or endorsed to the proper committee.

124. What is the "condonation doctrine"?

The Court should never remove a public officer for acts done prior to his present term of office. To do otherwise would be to deprive the people of their right to elect their officers. When the people have elected a man to office, it must be assumed that they did this with knowledge of his life and character, and that they disregarded or forgave his faults or misconduct, if he had been guilty of any. It is not for the court, by reason of such faults or misconduct to practically overrule the will of the people **(Pascual vs Provincial Board, 106 Phil. 466).**

125. Does "condonation doctrine" still apply?

Not anymore. The Supreme Court ruled: "That being said, this Court simply finds no legal authority to sustain the condonation doctrine in this jurisdiction. As can be seen from this discourse, it was a doctrine adopted from one class of US rulings way back in 1959 and thus, out of touch from — and now rendered obsolete by — the current legal regime. In consequence, it is high time for this Court to abandon the condonation doctrine that originated from Pascual, and affirmed in the cases following the same, such as Aguinaldo, Salalima, Mayor Garcia, and Governor Garcia, Jr. which were all relied upon by the CA **(Carpio-Morales vs. CA, G.R. No. 217126, November 10, 2015).**

PLEASE TAKE NOTE:

In *Carpio Morales v. Court of Appeals*, the Court abandoned the condonation doctrine. Then, in *Madreo v. Bayron*, the Court emphasized that the abandonment of the condonation doctrine shall be prospective in nature, or from April 12, 2016 onwards. Parenthetically, the condonation doctrine is still considered as "good law" in all administrative cases involving public officials whose reelections occurred before April 12, 2016 **(OFFICE OF THE OMBUDSMAN *v.* ENRIQUE T. GARCIA, JR. et. al. G.R. No. 202156, 26 April 2023, Gaerlan, *J.*).**

126. What is police power?

It is the power of the State to regulate liberty and property for the common good. The power of promoting the public welfare by restraining the use of liberty and property.

127. May the power of eminent domain be used as an implement of police power? Give example.

To the extent that the measures under challenge merely prescribe retention limits for landowners, they constitute an exercise of the police power to regulate private property in accordance with the Constitution. But where, to carry out such regulation, it becomes necessary to deprive such owners of any lands they may own in excess of the maximum area allowed, there is a taking under the power of eminent domain for which payment of just compensation is imperative **(Association of Small Landowners vs. DAR, G.R. No. 78742, July 14, 1989)**.

128. What power is exercised in granting senior citizens a 20% discount?

Police power (**Manila Memorial Park, Inc. vs. Secretary, December 13, 2013)**.

129. What are the two (2) tests to determine the validity of the exercise of police power?

<u>Lawful subject</u> – the interest of the public generally, as distinguished from those of a particular class, require the exercise of police power.

<u>Lawful means</u> – the means employed are reasonably necessary for the accomplishment of the purpose and must not be unduly oppressive.

130. An LGU passed an ordinance imposing a special assessment equal to one-half percent (0.5%) of the assessed value of Land exceeding One Hundred Thousand Pesos (Php100,000.00). The City Treasurer shall collect the assessment, which shall accrue to the Quezon City Government's Socialized Housing Programs. The special assessment shall accrue to the General Fund under a special account to be established for that purpose. The fund will benefit informal settlers. Petitioners questioned the ordinance's constitutionality on the ground that people should not be required to pay for services the government is mandated to provide. Further, according to petitioners, it is a form of class legislation because it favors informal settlers who occupy property not their own and pay no taxes, over law-abiding real property owners who pay income and realty taxes.

Is the ordinance constitutional?

Yes. Section 6, Article XII provides that the use of property bears a social function and that all economic agents shall contribute to the common good. Individuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the State's duty to promote distributive justice and to intervene when the common good so demands. Individuals' property rights may be subject to restraints and burdens to fulfill the government's objectives in exercising police power. In this jurisdiction, it is well established that taxation may be used as an instrument of the State's police power **(Ferrer vs. Bautista, G.R. No. 210551, June 30, 2015)**.

131. A law requires survey firms to also publish the name of the person, candidate, party, or organization that commissioned or paid for the survey. Is the law valid?

Yes, the law is valid. The Supreme Court ruled: "We sustain the validity of Resolution No. 9674. The names of those who commission or pay for election surveys, including subscribers of survey firms, must be disclosed pursuant to Section 5.2(a) of the Fair Election Act. This requirement is a valid regulation in the exercise of police power and effects the constitutional policy of "guarantee[ing] equal access to opportunities for public service[.]" Section 5.2(a)'s requirement of disclosing subscribers neither curtails petitioners' free speech rights nor violates the constitutional proscription against the impairment of contracts **(SWS vs. COMELEC, G.R. No. 208062, April 15, 2015)**.

132. Is a survey election propaganda?

Yes. The Fair Election Act's inclusion of election surveys in the list of regulated items recognizes that election surveys are not merely descriptive aggregations of data. Publishing surveys can shape voters' preferences, inform campaign strategies, and ultimately affect election outcomes. Election surveys are similar in nature to election propaganda. They are expensive, typically paid for by those interested in election outcomes, and have tremendous consequences for election results **(SWS vs. COMELEC, G.R. No. 208062, April 15, 2015)**.

133. Petitioners submit that the Curfew Ordinances are void for failing to include sufficient enforcement parameters, leaving the enforcing authorities with unbridled discretion to carry out their provisions. Are the Curfew Ordinances void for failing to include sufficient enforcement parameters?

No. The confusion lies not in what conduct is to be punished but only in the lack of sufficient enforcement parameters. How the ordinance is enforced is a policy matter left to the political branches to resolve. The ordinance is not unconstitutionally vague because it is not vague about what conduct is prohibited, but rather about how it will be enforced. The Supreme Court ruled:

> Essentially, petitioners only bewail the lack of enforcement parameters to guide the local authorities in the proper apprehension of suspected curfew offenders. They do not assert any confusion as to what conduct the subject ordinances prohibit or not prohibit but only point to the ordinances' lack of enforcement guidelines. The mechanisms related to the implementation of the Curfew Ordinances are, however, matters of policy that are best left for the political branches of government to resolve. Verily, the objective of curbing unbridled enforcement is not the sole consideration in a void for vagueness analysis; rather, petitioners must show that this perceived danger of unbridled enforcement stems from an ambiguous provision in the law that allows enforcement authorities to second-guess if a particular conduct is prohibited or not prohibited **(SPARK vs. Quezon City, G.R. No. 225442, August 8, 2018)**.

134. What is the power of eminent domain?

The power to take private property for public use upon payment of just compensation.

135. What is the remedy of the landowner if the government refused to pay the just compensation?

If, after five (5) years from the finality of judgment in an expropriation proceeding, the government failed to pay the just compensation, the landowner has the right to file an action for the recovery of possession of the property **(Republic vs. Lim, 482 SCRA 265).**

136. Is the Court required to consider the formula established in the Comprehensive Agrarian Reform Law?

Yes. The LBP correctly argued that consideration of the valuation factors under Section 17 of RA 6657 and the formula under DAR A.O. No. 05-98 is mandatory in ascertaining just compensation for purposes of agrarian reform cases. In *Land Bank of the Philippines v. Gonzalez*, we held that although the determination of just compensation is fundamentally a judicial function vested in the RTC, the judge must still exercise his discretion within the bounds of law.

He ought to take into full consideration the factors specifically identified in RA 6657 and its implementing rules, as contained under the pertinent Administrative Orders of the DAR, such as DAR A.O. No. 05-98, which contains the basic formula of the factors enumerated under said law. He may not disregard the procedure laid down therein because unless an administrative order is declared invalid courts have no option but to apply it.

Otherwise, the judge runs the risk of violating the agrarian reform law should he choose not to use the formula laid down by the DAR for the determination of just compensation. The Court reaffirmed this established jurisprudential rule in *Alfonso v. Land Bank of the*

Philippines when it categorically gave "full constitutional presumptive weight and credit to Section 17 of RA 6657, DAR AO No. 5 (1998) and the resulting DAR basic formulas." (**Landbank vs. Spouses Esteban, G.R. No. 192345, March 29, 2017**).

137. When does life begin?

Life commences at "conception," that is, at fertilization. When the egg cell and sperm meet, life begins. Hence, the obligation upon the State to "equally protect the life of the mother and the life of an unborn from conception" prevents the legislature from legalizing abortion **(Imbong vs. Ochoa, G.R. No. 204819, April 8, 2014).**

138. In a preliminary investigation, is the respondent entitled to be furnished with copies of the counter-affidavit of their co-respondents?

No. There is no law or rule that requires the investigating prosecutor to furnish a respondent with copies of the counter-affidavits of his co-respondents. A respondent's rights in a preliminary investigation are limited to those granted by procedural law. "The rights conferred upon accused persons to participate in preliminary investigations concerning themselves depend upon the provisions of law by which such rights are specifically secured, rather than upon the phrase 'due process of law'." **(Estrada vs. Ombudsman, G.R. No. 212140, January 21, 2015).**

139. What is the Equal Protection Clause?

All persons or things similarly situated shall be treated alike both as to the rights conferred and responsibilities imposed **(Ichong vs. Hernandez, G.R. No. L-7995, May 31, 1957).**

140. What are the requirements for a valid classification?

It must be based on **substantial distinction**.
It must be **germane** to the purpose of law.
It must **not be limited** to **existing. conditions**.
It must **apply equally** to all members of the same class.

141. Section 47 of R.A. No. 8791, otherwise known as "The General Banking Law of 2000," which took effect on June 13, 2000, amended Act No. 3135. The law provides: "Notwithstanding Act 3135, juridical persons whose property is being sold pursuant to an extrajudicial foreclosure, shall have the right to redeem the property in accordance with this provision until, but not after, the registration of the certificate of foreclosure sale with the applicable Register of Deeds, which in no case shall be more than three (3) months after foreclosure, whichever is earlier. Owners of property that has been sold in a foreclosure sale prior to the effectivity of this Act shall retain their redemption rights until their expiration." Is the law valid?

Yes, the law is valid. There is a valid classification. The difference in treatment between juridical and natural persons was based on the nature of the foreclosed property — whether it is used as a residence, for which the more liberal one-year redemption period is retained, or used for industrial or commercial purposes, in which case a shorter term is deemed necessary to reduce the period of uncertainty in the ownership of property and enable mortgagee-banks to dispose of these acquired assets sooner. It must be underscored that the General Banking Law of 2000, crafted in the aftermath of the 1997 Southeast Asian financial crisis, sought to reform the General Banking Act of 1949 by creating a legal framework to maintain a safe and sound banking system. In this context, the amendment introduced by Section 47 embodied one such safe and sound practice aimed at ensuring the solvency and liquidity of our banks. It cannot therefore be disputed that the said provision amending the redemption period in Act 3135 was based on a reasonable classification and germane to the purpose of the law **(Goldenway Merchandizing Corporation vs. Equitable PCI, G.R. No. 195540, March 13, 2013).**

142. What are the three (3) tests of judicial scrutiny to determine the reasonableness of classifications?

The **strict scrutiny** test applies when a classification either (i) interferes with the exercise of fundamental rights, including the basic liberties guaranteed under the Constitution, or (ii) burdens suspect classes.

Intermediate scrutiny applies when a classification does not involve suspect classes or fundamental rights but still requires heightened scrutiny, such as classifications based on gender and legitimacy.

Lastly, the **rational basis test** applies to all other subjects not covered by the first two tests **(Samahan ng mga Progresibong Kabataan vs. Quezon City, GR No. 225442, August 8, 2017)**.

143. Petitioner challenged the constitutionality of the RH Law on the ground that they are bound to fund a government program that is contrary to their religion. How do you contend the argument of the petitioner?

The argument is untenable. In the same breath that the Establishment Clause restricts what the government can do with religion, it also limits what religious sects can or cannot do with the government. They can neither compel the government to adopt their doctrines as policy for everyone nor compel it to restrict other groups. To do so, in simple terms, would cause the State to adhere to a particular religion and, thus, establish a state religion.

Consequently, the petitioners are mistaken in supposing that the State cannot enhance its population control program through the RH Law simply because promoting contraceptive use conflicts with their religious beliefs. Indeed, the State is not precluded from pursuing its legitimate secular objectives, nor is it dictated to by the policies of any one religion. One cannot refuse to pay taxes simply because doing so would cloud one's conscience. The demarcation line between Church and State demands that one render unto Caesar the things that are

Caesar's and unto God the things that are God's **(Imbong vs. Ochoa, G.R. No. 204819, April 8, 2014)**.

144. Is the duty to refer under the RH Law constitutional?

No. In applying the test, the first inquiry is whether a conscientious objector's right to religious freedom has been burdened. As in Escritor, there is no doubt that a conscientious objector faces an intense tug-of-war. One side urges obedience to the law and the abandonment of his religious beliefs, while the other entices him toward a clean conscience, yet under the threat of penalty. The scenario illustrates the predicament of medical practitioners whose religious beliefs are incongruent with what the RH Law promotes.

The Court is of the view that the obligation to refer imposed by the RH Law violates the religious belief and conviction of a conscientious objector. Once the medical practitioner, against his will, refers a patient seeking information on modern reproductive health products, services, procedures and methods, his conscience is immediately burdened as he has been compelled to perform an act against his beliefs. As Commissioner Joaquin A. Bernas (Commissioner Bernas) has written, "at the basis of the free exercise clause is the respect for the inviolability of the human conscience." **(Imbong vs. Ochoa, G.R. No. 204819, April 8, 2014)**.

145. Sec. 10. Money Claims. — . . . In case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, the workers shall be entitled to the full reimbursement of his placement fee with interest of twelve percent (12%) per annum, plus his salaries for the unexpired portion of his employment contract or for three (3) months for every year of the unexpired term, whichever is less. Is this valid?

No. The law is invalid. It violates the Equal Protection Clause. The law invalidly classifies OFWs into two categories: 1) OFWs with fixed-period employment contracts of less than one year; in case of illegal dismissal, they are entitled to their salaries for the entire unexpired portion of their contracts. And 2) OFWs with fixed-period employment contracts of one year or more; in case of illegal dismissal, they are entitled to a monetary award equivalent to only 3 months of the unexpired portion of their contracts. There is no substantial distinction between the two that is germane to the purpose of the law (**Serrano vs. Gallant, G.R. No. 167614, March 24, 2009)**.

146. The items to be confiscated in the search warrant are firearms and grenades. The search warrant was issued for violation of R.A. No. 10591. Is the search warrant valid?

No. The search warrant is invalid because it violates the one-warrant-one-offense rule. Although its caption does not specify a particular offense, its body categorically states that it was issued in view of a finding of probable cause that Puguon violated R.A. No. 10591. However, the enumeration of the items intended to be seized from Puguon, particularly the inclusion of hand grenades, shows that the subjects of the search warrant squarely fall within the purview of two separate special penal laws, R.A. No. 10591 and R.A. No. 9516. Specifically, the enumerated firearms and ammunition are covered by R.A. No. 10591, while the hand grenades listed therein fall under R.A. No. 9516 **(JIMMY B. PUGUON, JR.** *v.* **PEOPLE OF THE PHILIPPINES G.R. No. 257683, 21 October 2024, Gaerlan, *J.*)**.

147. What are the requisites of plain view?

a. the law enforcement officer in search of the evidence has a prior justification for an intrusion or is in a position from which he can view a particular area;
b. the discovery of the evidence in plain view is inadvertent; and
c. it is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband, or otherwise subject to seizure **(People vs. Chi Chan Liu, January 21, 2015).**

148. Angela Tan, a high school student at St. Theresa's College (STC), uploaded several pictures on Facebook of herself and her classmates (Nenita Daluz and Julienne Suzara) wearing only their undergarments. Thereafter, some of their classmates reported the photos to their teacher, Mylene Escudero. Escudero, through her students, viewed and downloaded the photos. She showed the photos to STC's Discipline-in-Charge for appropriate action. Is the children's right to privacy violated?

No. The children's right is not violated. Before one can have an expectation of privacy in his or her Online Social Networking (OSN) activity, it is necessary that the user, in this case the children of petitioners, manifest the intention to keep certain posts private by taking measures to prevent access to them or to limit their visibility.

This intention can materialize in cyberspace through the use of the OSN's privacy tools. In other words, the use of these privacy tools is the manifestation, in the cyber world, of the user's invocation of his or her right to informational privacy **(Vivares vs. St. Theresa College, G.R. No. 202666, September 29, 2014)**.

149. Distinguish content-based regulation and content-neutral regulation?

In content-based regulation, restrictions are based on the subject matter of the utterance or speech. Content-neutral regulation, by contrast, concerns the incident of the speech, or it controls the time, place, or manner of expression under well-defined standards. Content-based regulation bears a heavy presumption of invalidity and is measured against the clear and present danger rule. It will pass constitutional muster only if justified by a compelling reason. In testing its validity, the Court applies strict scrutiny. A content-neutral regulation needs only a substantial government interest to be valid. It is not subject to the strictest form of judicial scrutiny but to an intermediate approach – something in the middle of the rational basis test and the strict scrutiny test.

150. Is the regulation as to the size of tarpaulin where the expression is to be made considered as a content-based or content-neutral regulation?

Supreme Court ruled that it is a content-based regulation. The form of expression is just as important as the information conveyed that it forms part of the expression. Large tarpaulins, therefore, are not analogous to time and place. They are fundamentally part of expression protected under Article III, Section 4 of the Constitution **(Diocese of Bacolod vs. COMELEC, G.R. No. 205728, January 21, 2015)**.

151. Does COMELEC have the power to regulate the right to freedom of expression of non-candidates?

No. According to the ruling of the Supreme Court in Diocese of Bacolod vs. COMELEC: "Respondents cite the Constitution, laws, and jurisprudence to support their position that they had the power to regulate the tarpaulin. However, all of these provisions pertain to candidates and political parties. Petitioners are not candidates. Neither do they belong to any political party. COMELEC does not have the authority to regulate the enjoyment of the preferred right to freedom of expression exercised by a non-candidate in this case." **(Diocese of Bacolod vs. COMELEC, G.R. No. 205728, January 21, 2015)**

152. Section 4 (c) (3) of Cyber Crime Law – Unsolicited Commercial Communications is unconstitutional.

To prohibit the transmission of unsolicited ads would deny a person the right to read his emails, even unsolicited commercial ads addressed to him.

Commercial speech is a separate category of speech which is not accorded the same level of protection as that given to other constitutionally guaranteed forms of expression but is nonetheless entitled to protection.

The State cannot rob him of this right without violating the constitutionally guaranteed freedom of expression. Unsolicited advertisements are legitimate forms of expression **(Disini vs. DOJ).**

153. What is the benevolent neutrality approach?

The benevolent neutrality theory holds that accommodation of religion may be allowed not to promote the government's favored religion, but to allow individuals and groups to exercise their religion without hindrance. The purpose of accommodations is to remove a burden on or facilitate the exercise of religious profession **(Estrada vs. Escritor, A.M. No. P-02-1651, June 22, 2006)**.

154. When is one considered under custodial investigation?

Any questioning initiated by law enforcement officers after a person has been taken into custody or otherwise <u>**deprived of his freedom of action in**</u> <u>**some significant way**</u>.

It starts when the police investigation is no longer a general inquiry into an unsolved crime but has begun to focus on a particular suspect taken into custody by the police who starts the interrogation and propounds questions to the person to elicit incriminating statements.

155. Is police line-up part of custodial investigation?

Police line-up is not part of the custodial investigation; hence, the right to counsel guaranteed by the Constitution cannot yet be invoked at this stage. This is because, during a police line-up, the process has not yet **shifted from the investigatory to the accusatory,** and it is usually the witness or the complainant who is interrogated and gives a statement during the line-up **(People vs. Amestuzo, 413 Phil. 500 (2001; People vs. Escordial, January 16, 2002)**.

156. Should the right to counsel be made available during preliminary investigation?

The right to counsel applies in certain pretrial proceedings that can be deemed 'critical stages' in the criminal process. The **preliminary investigation can be no different from the in-custody interrogations by the police**, for a suspect who takes part in a preliminary investigation will be subjected to no less than the State's processes, oftentimes intimidating and relentless, of pursuing those who might be liable for criminal prosecution **(People vs. Bonkingco, G.R. 187536, August 10, 2011)**.

157. May a person facing extradition proceedings post bail?

YES. In **Govt. of Hongkong vs. Olalia, April 19, 2007, the SC ruled** that the right to bail is recognized in the Universal Declaration of Human Rights, of which the Philippines is a signatory. Although not a treaty, its principles, including the right to bail, are recognized as customary law binding on members of the community. If the right to bail is granted to a deportee, there is no reason to deny it to the extradite.

158. Does a law enforcement officer have the right to arrest the accused who committed a violation of a traffic ordinance whose penalty is only a fine?

No. The Supreme Court held in **Polangcos vs. People**: "In view of the foregoing, SPO2 Juntanilla thus conducted an illegal search when he frisked Polangcos for the foregoing violations which were punishable only by fine. He had no reason to "arrest" Polangcos because the latter's violation did not entail a penalty of imprisonment. It was thus not, as it could not have been, a search incidental to a lawful arrest as there was no, as there could not have been any, lawful arrest to speak of" **(Polangcos vs. People, G.R. No. 239866, September 11, 2019)**.

159. While passing through a checkpoint, the petitioner was flagged down. The police asked for the motorcycle's registration, but he could not produce it. Finding this suspicious, the police inspected the compartment of his motorcycle and found a small block of

marijuana. For this reason, the police arrested the accused. Is the search valid?

Yes, the search is valid. The subsequent arrest is likewise valid. In Uy vs. People, the SC considered the fact of the petitioner's not being able to produce the registration of his motorcycle as enough reason for the police officer to conduct an extensive search. Ordinarily, a search of a vehicle is limited to a routine or visual search. However, the situation, in the case at bar, creates probable cause which would justify a reasonable belief on the part of the law enforcers that either the petitioner is a law offender, or that the contents of the vehicle are, or have been, instruments of some offense **(Rolando Uy vs. People G.R. No. 217097, February 23, 2022, J. Hernando).**

PLEASE TAKE NOTE:

Inspections at checkpoints are not violative of an individual's right against unreasonable searches if limited to the following: (a) the officer merely draws aside the curtain of a vacant vehicle which is parked on the public fairgrounds; (b) simply looks into a vehicle; (c) flashes a light therein without opening the car's doors; (d) where the occupants are not subjected to a physical or body search; (e) where the inspection of the vehicles is limited to a visual search or visual inspection; and (e) where the routine check is conducted in a fixed area **(Rolando Uy vs. People, G.R. No. 217097, February 23, 2022, J. Hernando).**

160. Mary Jane Veloso was apprehended in Indonesia for drug trafficking. She was sentenced to suffer the penalty of death, the Philippine Government interceded for Mary Jane and consequently, President Widodo of Indonesia granted her indefinite reprieve. May Jane complained that she was just a victim of human trafficking and the one responsible for her arrest in Indonesia was the accused. Consequently, a case for human trafficking was filed against the accused. The State filed a "Motion for Leave of Court to Take the Testimony of Complainant Mary Jane Veloso by Deposition Upon Written Interrogatories." The accused opposed the motion contending that the examination of Mary Jane should be done on open court. Secondly, it will violate the constitutional right of the accused to confrontation, a right that is provided in Section 14(2) of the 1987 Constitution. The RTC granted the motion subject to some conditions. The accused, after their motion for reconsideration was denied by the RTC, filed a Petition for Certiorari under Rule 65 before the CA. The CA granted the petition and annulled the Order of the RTC. The State filed a Petition for Review on Certiorari under Rule 45 before the SC.

Will the taking of Mary Jane's testimony through deposition violate the accused's right to confrontation?

No. There is likewise no violation of the right to confrontation. It has a two-fold purpose: (1) primarily, to afford the accused an opportunity to test the testimony of the witness by cross-examination; and (2) secondarily, to allow the judge to observe the deportment of the witness. With the conditions imposed by the Judge, the two-fold purpose of the right to confrontation has been served. In this case, the accused are given the right to submit cross-interrogatories and recross-interrogatories. Thus, they are provided the right to cross-examine the witness. Second, because one condition of the judge is that he must preside over the taking of the deposition, he can observe the witness's demeanor or deportment. Thus, the two-fold purpose of the right to confrontation has been complied with (**People vs. Sergio G.R. No. 240053, October 9, 2019, J. Hernando**).

161. The accused contends that the implementation of the search warrant is illegal because it does not conform to the PNP New Rules on Engagement, which require that a search warrant be implemented in the presence of at least two (2) witnesses, preferably barangay officials or responsible persons in the area. If the search was not conducted in accordance with the PNP New Rules on Engagement, would that make the search invalid?

Assuming for the sake of argument that the same was not followed, the search would still be lawful if the same was implemented pursuant to the provision of the Rule of Court, specifically Section 8, Rule 126. In <u>People vs. Go</u>, the SC clarified that the Rules of Court clearly and explicitly establishes a hierarchy among the witnesses in whose presence the search of the premises must be conducted. Thus, a search under the strength of a warrant is required to be witnessed by the lawful occupant of the premises sought to be searched. Only upon their absence may two (2) persons of sufficient age and discretion residing in the same locality be made to stand as their replacements. This is the rule notwithstanding that the PNP New Rules on Engagement makes it mandatory the presence of at least two witnesses during the conduct of the search. As between the <u>Revised Rules on Criminal Procedure</u> and the PNP New Rules on Engagement, the former shall prevail **(Estores vs. People, G.R. No. 192332. January 11, 2021, J. Hernando).**

162. Can the police conduct a warrantless intrusive search of a vehicle based solely on an unverified tip relayed by an anonymous informant?

No. An unverified tip cannot provide probable cause for the arresting officers. "The Court has already held with unequivocal clarity that in situations involving warrantless searches and seizures, 'law enforcers cannot act solely on the basis of confidential or tipped information. A tip is still hearsay no matter how reliable it may be. It is not sufficient to constitute probable cause in the absence of any other circumstance that will arouse suspicion." **(People vs. Sapla, G.R. No. 244045, June 16, 2020)**.

163. A complaint for illegal appointment under Article 144 of the RPC was filed against Gov. Zaldivar-Perez before OPP of Antique. It took OPP-Antique 3 years to resolve the case. After three (3) years, OPP came up with a resolution, recommending the filing of the Information against Gov. Zaldivar-Perez for violation of Art. 244 of the RPC. The Resolution was forwarded to OMB-Visayas for

approval. It took almost three (3) to resolve the referral of the OPP-Antique. Finally, after almost 3 years, OMB filed Information against Gov. Zaldivar-Perez for violation of Article 244 of RPC. Gov. Zaldivar-Perez filed a motion to dismiss the case for inordinate delay.

The SB denied the motion. Is there violation of the right to speedy disposition of cases under Section 16, Article III of the constitution?

Yes.

The doctrinal rule is that in the determination of whether that right has been violated, the factors that may be considered and balanced are as follows: (1) the length of delay; (2) the reasons for the delay; (3) the assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay.

First, as to the length of delay. Approximately six years had elapsed from May 17, 2006, the time when the complaint-affidavit was filed before the OPP-Antique, until May 24, 2012, when the case was filed before the Sandiganbayan. The OPP-Antique took almost three years from the filing of the Complaint-Affidavit within which to conclude the preliminary investigation. This period to conduct and complete the preliminary investigation is already excessive.

Second, as to the reason for the delay. The prosecution offered no explanation regarding the delay in conducting the preliminary investigation and in its findings indicting petitioner Perez of the offense charged.

Third, with regard to the assertion or failure to assert such right by the accused. It is not for the petitioner to ensure that the wheels of justice continue to turn. Rather, it is for the State to guarantee that the case is disposed within a reasonable period. Thus, it is of no moment that petitioner Perez did not file any motion before the Ombudsman to expedite the proceeding.

Fourth, prejudice caused by the delay. There is no doubt that petitioner Perez was prejudiced by the inordinate delay in the conduct of the preliminary investigation. The lapse of six years before the filing of the Information with Sandiganbayan placed her in a situation of uncertainty (**Zaldivar-Perez vs. Sandiganbayan**, **G.R. No. 204739, November 13, 2019, J. Hernando**).

164. What are the requisites of double jeopardy?

a. Valid complaint or information
b. Filed before competent court
c. Valid plea
d. Previous acquittal or conviction or the case was dismissed or otherwise terminated without the express consent of the accuse.

165. What are the requisites for the validity of an administrative regulation?

a. Its promulgation must be authorized by law
b. It must be within the scope of the authority given by the statute.
c. It must be promulgated in accordance with the prescribed procedure.
d. It must be reasonable.

166. Are issuances of the JBC required to be published in the Office of the National Administrative Register?

No. The publication requirement in in the ONAR is confined to issuances of administrative agencies under the executive branch of the government. Since JBC is a body under the supervision of the SC, it is not covered by the publication requirement of the Administrative Code **(Villanueva vs. JBC, G.R. No. 211833, April 7, 2015).**

167. What are the requisites for the validity of an administrative rule with penal sanction?

a. The law itself must make a violation of the administrative regulation punishable.
b. The law must impose and specify the penalty for violating the regulation.
c. The regulation must be published.

168. What is the doctrine of primary jurisdiction or prior resort?

The doctrine holds that if a case requires the expertise, specialized training, and knowledge of an administrative body, relief must first be obtained in an administrative proceeding before resorting to court, even if the matter may well be within the court's proper jurisdiction. The objective of the doctrine of primary jurisdiction is to guide the court in determining whether it should refrain from exercising its jurisdiction until after an administrative agency has determined some question or some aspect of some question arising in the proceeding before the court (**Nestle, Philippines, Inc., et al. v. Uniwide Sales, Inc., et al., 648 Phil. 451, 459, 2010**).

169. What is the doctrine of exhaustion of administrative remedies?

Under the doctrine of exhaustion of administrative remedies, a party must first avail of all available administrative processes before seeking court intervention. The administrative officer concerned must be given every opportunity to decide on the matter within his or her jurisdiction. Failing to exhaust administrative remedies affects the party's cause of action, as these remedies refer to a prerequisite condition that must be complied with before filing a case in court (**Ongsuco v. Malones, 619 Phil. 492-513 [2009]**).

170. What is a petition to deny due course the certificate of candidacy and on what ground?

A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by the person exclusively on the ground that any "**material representation"** contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election. (**Section 78, OEC**).

171. What is a matter that is materially misrepresented?

Material matters are: "***qualification for elective office.***" Examples: **1)** residency; **2)** age; **3)** citizenship; **4)** or any other legal qualifications necessary to run for local elective office, coupled with the showing that there was an intent to deceive the electorate. The candidate's nickname does not affect his eligibility or qualification for office and cannot be considered a misrepresentation (**Villafuerte v. COMELEC, G.R. No. 206698, February 25, 2014**).

172. What is the effect if the certificate of candidacy is declared void for material misrepresentation?

A cancelled certificate of candidacy is void *ab initio*. It cannot give rise to a valid candidacy, much less valid votes. If one's certificate of candidacy, much less valid votes. If one's certificate is void *ab initio*, then there was never a candidate. The Court ruled that a certificate of candidacy void *ab initio* cannot give rise to a valid candidacy, much less valid votes. Thus, the "second placer" candidate is deemed to have garnered the highest number of votes and is entitled to hold the corresponding elective position **(Aratea vs. COMELEC, G.R. No. 195229, October 9, 2012)**.

173. Is the "second place" rule still applicable?

It is no longer controlling. The second placer rule laid down in Jalosjos, Jr. has no legal basis. No law authorizes the proclamation of the second placer in the elections in case the candidate who received the most votes is disqualified or turned out to be ineligible. The second placer rule undermines the people's choice in every election and is repugnant to the people's constitutional right to suffrage. The Court cannot impose upon the electorate to accept as their representative, the candidate whom they did not choose in the elections **(Mangudadatu vs. COMELEC, G.R. NO 260219, April 22, 2025).**

174. When can there be substitution?

SECTION 77. Candidates in case of **death**, **disqualification** or **withdrawal of another**. — If after the last day for the filing of certificates of candidacy, an official candidate of a registered or accredited political party dies, withdraws or is disqualified for any cause, only a person belonging to, and certified by, the same political party may file a certificate of candidacy to replace the candidate who died, withdrew or was disqualified. x x x x.

PLEASE TAKE NOTE: Considering that Section 77 requires that there be a candidate in order for substitution to take place, as well as the precept that a person without a valid CoC is not considered as a candidate, it necessary follows that if a person's CoC had been denied due course, he cannot be validly substituted, Thus, the existence of a valid CoC is a condition sine qua non for a disqualified candidate to validly substituted **(Talaga vs. COMELEC, G.R. No. 196804, October 9, 2012)**.

175. What is the meaning of "capital" in Section 11, Article XII of the 1987 Constitution?

The term "capital" in Section 11, Article XII of the Constitution refers only to shares of stock entitled to vote in the election of directors. Because common shares have voting rights that translate into control, while preferred shares usually have no voting rights, the term "capital" in Section 11, Article XII of the Constitution refers only to common shares. However, if preferred shares also have the right to vote in the election of directors, then "capital" includes those preferred shares because the right to participate in the control or management of the corporation is exercised through the right to vote in the election of directors. In short, the term "capital" in Section 11, Article XII of the Constitution refers only to shares of stock that can vote in the election of directors **(Gamboa vs. Teves, G.R. No. 176579, June 28, 2011)**. In the Resolution of the Supreme Court on the respondent's motion for reconsideration, the Supreme Court Clarified that both the Voting Control Test and the Beneficial Ownership Test must be applied to determine whether a corporation is a "Philippine national" and that a "Philippine national," as defined in the Foreign Investment Act and all its predecessor statutes, is "a Filipino citizen, or a domestic corporation "at least sixty percent (60%) of the capital stock outstanding and entitled to vote," is owned by Filipino citizens. A domestic corporation is a "Philippine national" only if at least 60% of its voting stock is owned by Filipino citizens." The Court also reiterated that, from the deliberations of the Constitutional Commission, it is evident that the term "capital" refers to the controlling interest of a corporation, and the framers of the Constitution intended public utilities to be majority Filipino-owned and controlled **(Gamboa vs. Teves, G.R. No. 176579, October 9, 2012)**.

176. Petitioner questioned the legality of Section 2 SEC Memorandum Circular No. 8, which provides that:

> **Section 2. All covered corporations shall, at all times, observe the constitutional or statutory ownership requirement. For purposes of determining compliance therewith, the required percentage of Filipino ownership shall be applied to BOTH (a) the total number of outstanding shares of stock entitled to vote in the election of directors; AND (b) the total number of outstanding shares of stock, whether or not entitled to vote in the election of directors. Corporations covered by special laws which provide specific citizenship requirements shall comply with the provisions of said law.**

Petitioner contends that the said circular is against the decision of the Supreme Court in Gamboa vs. Teves. Thus, the SEC committed grave abuse of discretion. Is the Section 2 of SEC MC invalid for having been issued with grave abuse of discretion?

No. Section 2 of SEC MC No. 8 is not contrary to the ruling of the Court in *Gamboa vs. Teves*. Section 2 of SEC-MC No. 8 clearly incorporates the Voting Control Test or the controlling interest requirement. <u>In fact, Section 2 goes beyond requiring a 60-40 ratio in favor of Filipino nationals in the voting stocks; it moreover requires the 60-40 percentage ownership in the total number of outstanding shares of stock, whether voting or not</u>. The SEC formulated SEC-MC No. 8 to adhere to the Court's unambiguous pronouncement that "[f]ull beneficial ownership of 60 percent of the outstanding capital stock, coupled with 60 percent of the voting rights is required." Clearly, SEC-MC No. 8 cannot be said to have been issued with grave abuse of discretion **(Roy III vs. Herbosa, G.R. No. 207246, November 22, 2016).**

177. The averments of the information to the effect is that the two accused "with intent to kill, qualified with treachery, evident premeditation and abuse of superior strength did x x x assault, attack and employ personal violence upon" the victims "by then and there shooting [them] with a gun, hitting [them]" on various parts of their bodies "which [were] the direct and immediate cause of [their] death[s]." Is the allegation of qualifying circumstances in the information sufficient?

No. It is not sufficient. The allegation does not sufficiently set forth the facts and circumstances describing how treachery attended each of the killings. The State must specify in the information the details of the crime and any circumstance that aggravates his liability for the crime. The requirement of sufficient factual averments is meant to inform the accused of the nature and cause of the charge against him in order to enable him to prepare his defense **(People vs. Valdez, 679 Phil. 279 (2012); People v. Dasmariñas, G.R. No. 203986, October 4, 2017; People v. Delector, G.R. No. 200026, October 4, 2017)**.

178. As applied challenge vs. Facial Challenge. In an "as applied" challenge, the petitioner who claims a violation of his constitutional right can raise any constitutional ground — absence of due process, lack of fair notice, lack of ascertainable standards, overbreadth, or vagueness. Here, **one can challenge the constitutionality of a statute only if he asserts a violation of his own rights**. It prohibits one from assailing the constitutionality of the statute based solely on the violation of the rights of third persons not before the court. This rule is also known as the prohibition against third-party standing. **A petitioner may for instance mount a "facial" challenge to the constitutionality of a statute even if he claims no violation of his own rights under the assailed statute where it involves free speech on grounds of overbreadth or vagueness of the statute.** The rationale for this **exception is to counter the "chilling effect" on protected speech that comes from statutes violating free speech.** A person who does not know whether his speech constitutes a crime under an overbroad or vague law may simply restrain himself from speaking in order to avoid being charged of a crime. The overbroad or vague law thus chills him into silence. ***(Calleja v. Executive Secretary, G.R. Nos. 252578, [December 7, 2021])***

179. The City of Batangas passed an ordinance requiring industries along Batangas Bay to use desalinate salt water and use it in their operation rather than the underground water. Is the ordinance valid?

No. The ordinance is not valid. There is no doubt that the Assailed Ordinance effectively contravenes the provisions of the Water Code as it arrogates unto Batangas City the power to control and regulate the use of ground water which, by virtue of the provisions of the Water Code, pertains solely to the NWRB. By enacting the Assailed Ordinance, Batangas City acted in excess of the powers granted to it as an LGU, rendering the Assailed Ordinance *ultra vires* **(City of Batangas vs. Philippine Shell, G.R. No. 195003, June 7, 2017)**.

180. What does "national taxes" mean in Section 6, Article X in determining the just share of local government units?

"National taxes" is not limited to taxes collected by through national internal revenue code but it shall also include customs duties. The phrase *national internal revenue taxes* engrafted in Section 284 is undoubtedly more restrictive than the term *national taxes* written in Section 6. As such, Congress has actually departed from the letter of the 1987 Constitution stating that *national taxes* should be the base from which the *just share* of the LGU comes. Such departure is impermissible. *Verba legis non est recedendum* (from the words of a statute there should be no departure). Strictly speaking, customs duties are also taxes because they are exactions whose proceeds become public funds. According to *Garcia v. Executive Secretary, customs duties* is the nomenclature given to taxes imposed on the importation and exportation of commodities and merchandise to or from a foreign country. Although customs duties have either or both the generation of revenue and the regulation of economic or social activity as their moving purposes, it is often difficult to say which of the two is the principal objective in a particular instance, for, verily, customs duties, much like internal revenue taxes, are rarely designed to achieve only one policy objective. It is clear from the foregoing clarification that the exclusion of *other* national taxes like customs duties from the base for determining the *just share* of the LGUs contravened the express constitutional edict in Section 6, Article X the 1987 Constitution. **(Mandanas vs. Ochoa, G.R. No. 199802, July 3, 2018).**

181. May an administrative agency exercise the power of certiorari?

No. Only the Courts are granted such power. It will be an encroachment into the power of the judiciary if an administrative agency is empowered to issue a writ of certiorari (**Land Bank vs. Magdalena Quilit, G.R. No. 194167, February 10, 2021, J. Hernando).**

182. **Atty. Morales, a clerk of court, was charged with moonlighting. One piece of evidence against him was the pleading files taken from his personal computer in his office. The computer is his. The SC exonerated him because the evidence was declared inadmissible.**

REASON:

Enshrined in our Constitution is the inviolable right of the people to be secure in their persons and properties against unreasonable searches and seizures, which is provided for under Section 2, Article III thereof. The exclusionary rule under Section 3(2), Article III of the Constitution also bars the admission of evidence obtained in violation of such right. The fact that the present case is administrative in nature does not render the above principle inoperative. As expounded in *Zulueta v. Court of Appeals*, any violation of the aforestated constitutional right renders the evidence obtained inadmissible *for any purpose in any proceeding*. (**Anonymous letter against Atty. Miguel Morales, A.M. NO. P-08-2519, November 19, 2008).**

183. **A private individual obtained incriminating messages from the accused's FB Messenger account. Are these messages admissible in evidence?**

No. The photographs and conversations in the Facebook Messenger account that were obtained and used as evidence against petitioner, which he considers fruit of the poisonous tree, were not obtained through the efforts of the police officers or any agent of the State. Rather, a private individual obtained them. Indeed, the rule governing the admissibility of an evidence under Article III of the Constitution must affect only those pieces of evidence obtained by the State through its agents. (**Cadajas vs. People, G.R. No. 247348, November 16, 2021).**

184. **Because of the anonymous letter sent to the Chairman of CSC, a lawyer from CSC Reg. IV was representing those with pending cases before CSC. Chairman David conducted a surprise investigation in the office of CSC Region IV with IT personnel, retrieved and saved all data stored on all computers in that office. Upon examination, investigators found draft pleadings and letters related to cases pending before the CSC on the computer assigned to the petitioner. The petitioner was dismissed from service based on the evidence recovered from his computer. The petitioner claims that the evidence is inadmissible because it was recovered without the requisite search warrant and that his right to privacy was violated. Is the petitioner correct?**

No. There is no violation of petitioner's right to privacy. The right to privacy has two-fold requirement: first, that a person has exhibited an actual (subjective) expectation of privacy; and second, that the expectation be one that society is prepared to recognize as reasonable (objective). There is no expectation of privacy on the part of the petitioner. Under the obtainer circumstances, petitioner would not have expectation of privacy on his office assigned computer considering the office policy on the use of office assigned computer (**Pollo vs. David G.R. No. 181881, October 18, 2011**).

185. Please consider this case.

Jurisprudence dictates that a government-issued computer, even if privately controlled, is subject to absolute regulation and monitoring by the government employer. This Court thus resolved the following questions based on O'Connor and Simons: (1) whether a government employee has a reasonable expectation of privacy in his office and computer files; and (2) whether a search authorized by the government employer, and the copying of the contents of the hard drive on a government employee's computer, are reasonable in its inception and scope.

We considered the following as the relevant factors to be considered in this inquiry: (1) the employee's relationship to the item seized; (2) whether the item was in the immediate control of the employee when it was seized; and (3) whether the employee took actions to maintain his privacy in the item. Applying these concepts to the instant case, this Court finds that the SMS/iMessage exchanges and the judicial audit team's findings are not excludable. There is no violation of Judge Reyes's right to privacy (**OCA vs. Judge Edralin Reyes A.M. No. RTJ-20-2579, October 10, 2023**).

186. The accused was arrested for carnapping and was detained. While in detention, the private complainant, upon the instruction of the police authorities, went to the accused and asked him questions. The accused made some admissions to the private complainant. May these admissions be admitted in evidence against the accused if they were made without the benefit of a counsel?

No. The private complainant may be considered as the agent of the authorities. The police attempted to bypass his constitutional rights by sending the private complainant, a private individual, to interrogate him. However, because police officers instigated the questioning while the accused was under custodial investigation, it fell under constitutional protections. The accused was not informed of his rights or provided counsel during the interrogation, rendering his confession inadmissible because it violated his fundamental rights (**People v. Akil, G.R. No. 265570, 07 April 2025, Gaerlan, *J.***).

187. Summarize the prevailing jurisprudence on issues affecting the consecutiveness of terms and/or involuntary interruption.

Hereunder is the prevailing jurisprudence on issues affecting consecutiveness of terms and/or involuntary interruption as summarized in **Abundo vs. Commission on Elections, G.R. No. 201716, 8 January 2013**:

a) When a permanent vacancy occurs in an elective position, and the official merely assumed the position pursuant to the rules on succession under the LGC, then his service for the unexpired portion of the term of the replaced official cannot be treated as one full term as contemplated under the subject constitutional and statutory provision that service cannot be counted in the application of any term limit (**Borja, Jr. v. Comelec, [1998]**). If the official runs again for the same position he held before assuming the higher office, his succession to that position is by operation of law and is considered an involuntary severance or interruption (**Montebon v. Comelec, [2008]**).

b) An elective official who has served for three consecutive terms and who did not seek the elective position for what could be his fourth term, but later won in a recall election, had an interruption in the continuity of the official's service. For he had become, in the interim, i.e., from the end of the 3rd term up to the recall election, a private citizen (**Adormeo v. Comelec, [2002]; Socrates v. Comelec, [2002]**).

c) The abolition of an elective local office due to a municipality's conversion to a city does not, by itself, interrupt the incumbent official's continuity of service (**Latasa v. Comelec, [2003]**).

d) Preventive suspension is not a term-interrupting event because the elective officer's continued stay and entitlement to the office remain unaffected during the suspension, although he is barred from exercising the functions of his office during that period (**Aldovino, Jr. v. COMELEC [2009]**).

e) If the elected public official was dismissed from service but the dismissal was implemented despite the timely appeal of the said elected public official, the latter's service is considered involuntarily interrupted. For this reason, the term for which he was dismissed from service shall not be included in the determination of the three-term limit rule **(Tallado vs. COMELEC, G.R. No. 246679, September 10, 2019)**

f) When a candidate is proclaimed as winner for an elective position and assumes office, his term is interrupted when he loses in an election protest and is ousted from office, thus disenabling him from serving what would otherwise be the unexpired portion of his term of office had the protest been dismissed (**Lonzanida v. Comelec, [1999]**). The break or interruption need not be for a full term of three years or for the major part of the 3-year term; an interruption for any length of time, provided the cause is involuntary, is sufficient to break the continuity of service (**Socrates v. Comelec; Lonzanida v. Commission on Elections**).

g) When an official is defeated in an election protest and the decision becomes final after the official has served the full term for the office, his loss in the election contest does not constitute an interruption because he served the term from start to finish. His full service, despite the defeat, should be counted in the application of term limits because the nullification of his proclamation came after the expiration of the term (**Ong v. Alegre, [2006]; Rivera III v. Comelec, [2007]**].

h) A winner who dislodges in a recall election an incumbent elective local official merely served the balance of the latter's term of office; it is not a full three-year term. It also goes without saying that an incumbent elective local official against whom a recall election is initiated and who nevertheless wins in a recall election must be viewed as being a continuing term of office and not as a break in reckoning three consecutive terms. - A recall election term then, not being a full three-year term, is not to be counted or used as a basis for disqualification whether it is held prior or subsequent to the nine-year full three-term limit. [***Mendoza v. COMELEC*, 2013**]