

Political law essay



1. Specify Political Law It is that subdivision of public jurisprudence which deals with the organisation and operations of the governmental variety meats of the State and defines the dealings of the State with the dwellers of its district. (PEOPLE VS. PERFECTO. 43 Phil. 887)
2. What are included in Political Law? Constitutional Law ; Administrative Law Law of Public Officers Law on Public Corporation Election Law
3. What is the philosophy of constitutional domination? Under the philosophy of constitutional domination. if a jurisprudence or contract violates any norm of the fundamental law that jurisprudence or contract whether promulgated by the legislative or by the executive subdivision or entered into by private individuals for private intents is void and null and without any force and consequence. Therefore. since the Constitution is the cardinal. paramount and supreme jurisprudence of the state. it is deemed written in every legislative act and contract.
4. What are the necessities for the exercising of “ people’s initiative” to amend the Constitution? It is provided under Section 2. Art. Seventeen of the Constitution which provides that ? Amendments to this Constitution may similarly be straight proposed by the people through inaugural upon a request of at least 12 % of the entire figure of registered electors. of which every legislative territory must be represented by at least 3 % of the registered elector therein. ? The Congress shall supply for the execution of the exercising of this right.
5. Is at that place a jurisprudence which would supply for the mechanism for the people to suggest amendments to the Constitution by people’s enterprise?

While Congress had enacted RA 6735 supposedly to supply the mechanisms for the people's exercising the power to amend the Fundamental law by people's enterprise, the Supreme Court in MIRIAM DEFENSOR-SANTIAGO, et Al. Vs. COMELEC, G. R. No. 127325, March 19, 1997 & A ; June 10, 1997, the Supreme Court held that RA 6735 is incomplete, inadequate or wanting in indispensable footings and conditions insofar as enterprise on amendments to the Constitution is concerned. Its blank on this substantial affair are fatal and can not be cured by "empowering" the COMELEC to proclaim such regulations and ordinances as may be necessary to transport the intents of this act. In LAMBINO VS. COMELEC, nevertheless, the Supreme Court on November 21, 2006, in the Minute Resolution of the petitioner's Motion for Reconsideration held that RA No. 6735 is equal and complete for the intent of suggesting amendments to the Constitution through people's enterprise by a ballot of 10 members as per Certification of the En Banc's Clerk of Court.

BAR OPERATIONS 2011

Page 1

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5-a. May the inquiry "Do you approve the amendment of Articles VI and VII of the 1987 Philippine Constitution altering the signifier of authorities from Presidential-Bicameral to Parliamentary-Unicameral" be allowed to be submitted to the people for their confirmation or rejection as a agency of amending the Fundamental law by people's enterprise if the needed figure of signers (12 % countrywide and at least 3 % for every legislative territory)

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are met? No for two (2) grounds. 1. The said ? proposal? did non bespeak which commissariats of Articles VI and VII are really being amended which is a must under Section 2. Art. Seventeen. Otherwise. who shall do the amendments if the people in a plebiscite approve the same ; 2. Changing the signifier of authorities from presidential to parliamentary is an act of REVISING the Constitution which is non allowed under Art. Seventeen.

Section 2. People' s enterprise may merely be allowed to suggest amendments to the Constitution. non alteration. 6. What are the necessities before an amendment to the Constitution by “ people’s initiative” is sufficient in signifier and in substance? In the instance of RAUL L. LAMBINO and ERICO B. AUMENTADO. together with 6. 327. 952 registered electors V. THE COMMISSION ON ELECTIONS. G. R. No. 174153. October 25. 2006. 505 SCRA 160. the undermentioned necessities must be present: 1. The people must author and must subscribe the full proposal. No agent or representative can subscribe for and on their behalf ;

2. As an inaugural upon a request. THE PROPOSAL MUST BE EMBODIED IN A PETITION. These indispensable elements are present merely if the full text of the proposed amendments is first shown to the people who will show their acquiescence by subscribing such complete proposal in a request. Thus. an amendment is ? DIRECTLY PROPOSED BY THE PEOPLE THROUGH INITIATIVE UPON A PETITION ? ONLY IF THE PEOPLE SIGN ON A PETITION THAT OCNTAINS THE FULL TEXT OF THE PROPOSED AMENDMENTS. 7. Distinguish “ Revision” from “ amendment” of the Constitution. “ Revision” is the changes of the different parts of the full papers [Constitution] . It may ensue in the revising whether the whole fundamental law. or the greater part of it. or

possibly some of its of import commissariats. But whatever consequences the alteration may bring forth. the factor that characterizes it as an act of alteration is the original purpose and program authorized to be carried out.

That purpose and program must contemplate a consideration of all the commissariats of the Constitution to find which 1 should be altered or suppressed or whether the whole papers should be replaced with an wholly new one. “ Amendment” of the Constitution. on the other manus. envisages a alteration or merely a few specific commissariats. The purpose of an act to amend is non to see the advisability of altering the full fundamental law or of sing that possibility. The purpose instead is to better specific parts of the bing fundamental law or to add to it commissariats deemed indispensable on history of changed conditions or to stamp down parts of it that seem disused. or unsafe. or misdirecting in their consequence. (SINCO. Vicente. PHILIPPINE POLITICAL LAW) 8. May Congress propose amendments to the Constitution while at the same clip naming for a Constitutional Convention to amend the Constitution?

BAR OPERATIONS 2011

Page 2

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Yes. there is no prohibition for Congress to suggest amendments to the Constitution and at the same clip call for the convention of a ConstitutionalConvention to amend the Constitution. The word “ or” in the proviso “...Congress. upon a ballot of ? of all its members ; OR [2] A

constitutional Convention” under Section 1. Art. XVII besides means “ AND” .
(GONZALES VS. COMELEC. 21 SCRA 774) 9. What is the “ Doctrine of Proper Submission” in connexion with proposed amendments to the Constitution? “ Doctrine of Proper Submission” means all the proposed amendments to the Constitution shall be presented to the people for the confirmation or rejection at the same clip. non bit-by-bit. (TOLENTINO VS. COMELEC. 41 SCRA 702) 10. What is the archipelagic philosophy or archipelago theory? It is the second sentence of Section 1. Art. I of the Constitution which states that ? the Waterss around. between and linking the islands of the archipelago. regardless of their comprehensiveness and dimensions. organize portion of the internal Waterss of the Philippines. ? 11. What are the elements of a “ state” ? As held in COLLECTOR VS. CAMPOS RUEDA. 42 SCRA 23. the elements of a province are. 1. people 2. territory 3. sovereignty 4. authorities 12. Are the double map of authorities as enumerated by the Supreme Court in BACANI VS. NACOCO. 100 Phil. 468 (Ministrant [simply directory] and Constituent [Mandatory] Functions) still applicable today? No more every bit held in ACCFA VS. CUGCO. 30 SCRA 649. This is due to complexnesss of the altering society. the double map of the authorities as classified by President Wilson is no longer relevant as a consequence of the altering society wherein what are considered simply ministrant maps of the State before are now considered component. or frailty versa. 13. What sort of authorities was the “ Aquino Government” after former President Marcos left Malacanang for Hawaii due to the EDSA Revolution in February 1986. As held in In Re: SATURNINO BERMUDEZ. 145 SCRA 160. the same is de jure. A authorities formed as a consequence of a people’ s revolution. is considered

de jure if it is already accepted by the household of states or other states like the United States. Great Britain. Germany. Japan. and others. 14. What are the three (3) sorts of de facto authorities?

As held in CO KIM CHAM VS. VALDEZ TAN KEH. 75 Phil. 113. the three (3) sorts of de facto authorities are: a. The first. or authorities de facto in a proper legal sense. is that authorities that gets ownership and control of. or usurps. by force or by the voice of the bulk. the rightful legal authorities and maintains itself against the will of the latter. such as the authorities of England under the Commonwealth. foremost by Parliament and subsequently by Cromwell as Protector. B. The 2nd is that which is established and maintained by military forces who invade and occupy a district of the enemy in the class of war. and BAR OPERATIONS 2011 Page 3

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which is denominated a authorities of paramount force. as the instances of Castine. in Maine. which was reduced to British ownership in the war of 1812. and Tampico. Mexico. occupied during the war with Mexico. by the military personnels of the United States. c. And the 3rd is that established as an independent authorities by the dwellers of a state who rise in rebellion against the parent province of such as the authorities of the Southern Confederacy in rebellion non concerned in the present instance with the first sort. but merely with the 2nd and 3rd sorts of de facto authorities. “ But there is another description of authorities. called besides by publicizers a authorities de facto. but which might. possibly. be more competently denominated a authorities of paramount force. Its distinguishing features are

(1) . that its being is maintained by active military power with the districts. and against the rightful authorization of an established and lawful authorities ; and (2) . that while it exists it needfully be obeyed in civil affairs by private citizens who. by Acts of the Apostless of obeisance rendered in entry to such force. make non go responsible. or offenders. for those Acts of the Apostless. though non warranted by the Torahs of the rightful authorities. 15. What is the postliminy theory or jus postliminium?

When a foreign power occupies a province and exercises the powers of authorities. the political Torahs of the said province are deemed automatically suspended but the former authorities automatically comes to life and will be in force and in consequence once more upon the re-establishment of the former authorities. (Taylor. International Law. p. 615.) 16. What is the philosophy of sovereignty as “ auto limitation” ? In the compendious linguistic communication of Jellinek. it “ is the belongings of a state-force due to which it has the sole capacity of legal self-government and self-restriction. ” A province so. if it chooses to. may forbear from the exercising of what otherwise is limitless competency. ”

The sentiment was at strivings to indicate out though that even so. there is at the most decline of jurisdictional rights. non its disappearing. (Cited in Reagan vs. Commissioner. PEOPLE VS. GOZO. 53 SCRA 476 and COMMISSIONER VS. ROBERTSON. 143 SCRA 397) 17. What is the “ incorporation theory” or the “ Incorporation Clause” of the Constitution? It is the rule embodied in Section 2. Article II of the Constitution which states that ? The Philippines adopts the by and large recognized rules of international jurisprudence as portion of the jurisprudence of the land” . (MEJOFF VS.

DIRECTOR OF PRISONS. 90 Phil. 70. KURODA VS. JALANDONI. 83 Phil 171. and AGUSTIN VS. EDU. 88 SCRA 195) . 18. In instance of struggle between a constitutional right of a citizen and a by and large accepted rule of international jurisprudence. which shall predominate? In the instance of 4) AGUSTIN VS. EDU. 88 SCRA 195 REYES VS. BAGATSING. 125 SCRA 553. the Supreme Court held that the constitutional right shall predominate. Though Article 22 of the Vienna Convention on Diplomatic Relations prohibits mass meetings within 500 pessa of any foreign embassy. the same shall give manner to the constitutional right of the citizens to ? peaceably assemble and to petition the authorities for redress of their grievances? .

BAR OPERATIONS 2011

Page 4

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19. May a citizen be exempted to render personal military service/training because he does not hold military disposition or he does not desire to kill or be killed? No as held in PEOPLE VS. LAGMAN. 66 Phil. 13. “ The appellant’s statement that he does not desire to fall in the armed forces because “ he does not desire to kill or be killed” and that “ he has no military inclination” is not acceptable because it is his duty to fall in the armed forces in connection with the “ defense of the State” proviso of the Constitution. 20. Is the “ separation of church and state” a myth or a reality? It is a reality as shown by the undermentioned provisions of the Constitution. 1. ART. III. Sec. 5. No law shall be made respecting an establishment of religion, or forbidding the free exercising thereof. The free exercising and enjoyment of

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spiritual profession and worship. without favoritism or penchant. shall everlastingly be allowed. No Religious TEST SHALL BE REQUIRED FOR THE EXERCISE OF CIVIL OR POLITICAL RIGHTS. 2. ART. VI. Sec. 28 (3) .

Charitable establishments. churches. mosques. non-profit cemeteries... actually. straight and entirely used for spiritual. charitable. or educational intents shall be exempt from revenue enhancement. 3. ART. VI. Sec. 29. (2) . No public money or belongings shall be appropriated. applied. paid. for the benefit. straight or indirectly. for the usage. benefit. or support of any religious order. church. denomination or faith. except when such priest. curate. . is assigned to the armed forces. or to any penal establishment. or authorities orphanhood or leprosarium. 4. ART. IX. C. 2 (5) . Religious denominations and religious orders shall non be registered...as political parties. (Note: Religious organisations are besides prohibited ion connexion with sectoral representatives under Art. VI) 5. ART. Fourteen. Sec. 3 (3) .

At the option in authorship by parents. faith shall be allowed to be taught to their kids in simple and high schools within the regular category hours by teachers designated or approved by spiritual governments to which said kids belong. without extra cost to the authorities. 21. What are the factors to be considered by the Philippines in covering with other states? As provided in Section 7 of Art. II. The Philippines shall prosecute an independent foreign policy. In its dealingss with other provinces the paramount consideration shall be [1] national sovereignty. [2] territorial unity. [3] national involvement. and [4] the right to self-government. 22. Is at that place absolute prohibition for the Philippines to be equipped with atomic arms? No. as stated in Section 8. Art. II. ? the Philippines. consistent with the national

involvement. adopts and pursues a policy of freedom from atomic arms in its district. ? As such. if it is consistent with national involvement. the same is non prohibited. 23. Is “ divorce” prohibited by the 1987 Philippine Constitution? : Father Bernas opines that the proviso of the Constitution (Section 12. Art. III) which provides in portion that the ? State shall beef up the family? does non take a base on divorce though it appears that a divorce jurisprudence would ? break? the household alternatively of ? strengthening? it. As such. a Divorce Law to be passed by Congress may or may non be unconstitutional. 23. Is abortion allowed in the Philippines? BAR OPERATIONS 2011 Page 5

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Section 12. Art. II prohibits all signifiers of abortion except ? therapeutic abortion? or when the life of the female parent is in danger. (Note: In the United States. abortion is allowed but merely up to the 2 nd trimester of the gestation [ROE vs. WADE]) 24. Is a jurisprudence forbidding the sale of “ girlie (bold) magazines” to bush leagues violates the right of parents in rise uping their kids for civic efficiency? No. as held in the instance of GINSBERG VS. NEW YORK. 390 US 629 (1969) . a jurisprudence forbidding the sale of ? girlie magazines? [bold?) is constitutional and does non go against the above proviso. This is so because parents could purchase said magazines for their kids if they believe the same is already suited to the apprehension of their kid. This is in conformity with this proviso which states that the parents have the ? natural and primary right in rise uping their kid for civic efficiency...? 25. May the State prohibit the instruction of a peculiar linguistic communication in any school? No as held in MEYER VS. NEBRASKA. 260 US

260 (1922) because the kid is non a mere animal of the State and the parents have the natural right and responsibility of rise uping their kids for civic efficiency. 26. May the State require parents to inscribe their little kids merely to public schools valid? As held in *PIERCE VS. SOCIETY OF SISTERS*. 268 US 510 (1925) . a jurisprudence necessitating little childs to be enrolled in public schools merely is unconstitutional since it interferes with the right of parents in rise uping their kids.

They have the right to take which school is best suited for the development of their kids without intervention from the State. THIS IS So BECAUSE THE CHILDREN ARE NOT MERE CREATURES OF THE STATE. 27. Make we pattern the free endeavor system in the Philippines or is it the public assistance province construct? Distinguish the two. As held in *ACCFA VS. CUGCO*. 30 SCRA 649 “ the Philippines ne’er practiced the free endeavor system. It is the welfare-state construct which is being followed as shown by the constitutional proviso on agricultural reform. lodging. protection to labor... (NOTE. nevertheless. that the 1987 Constitution have commissariats which provide for ? free endeavor) . The said philosophy was reiterated in *PHILIPPINE COCONUT DESICCATORS VS. PHILIPPINE COCONUT AUTHORITY*. 286 SCRA 109 where it was held that the Filipino Constitutions. get downing from the 1935 papers. HAVE REPUDIATED laissez faire (or the philosophy of free endeavor) as an economic rule. and although the present Constitution enshrines free endeavor as a policy. it nevertheless militias to the authorities the power to step in whenever necessary to advance the general public assistance.

As such, free endeavor does not name for the removal of ? protective regulations? for the benefit of the general populace. This is so because under Art. Twelve, Sections 6 and 9, it is really clear that the authorities militias the power to step in whenever necessary to advance the general public assistance and when the public involvement so requires. 27-a. May the PCGG Commissioners refuse to look before a Senate Committee carrying on alleged abnormalities committed by them while sitting in the Board of PHILCOMSAT, a private house sequestered by the authorities on history of Executive Order No. 1 supplying that they should not be the topic of any probe in connexion with their Acts of the Apostles in connexion with the public presentation of their responsibilities as such? No. Such act would go against Section 28, Art. II of the Constitution mandating revelation of all public minutess affecting the public involvement. Such act would besides go against the “ right to information on affairs of public concern” every bit good as the “ public answerability of public officials” as embodied in Section 1, Art. Eleven of the 1987 Constitution, not to advert that such would render nugatory the power of Congress under Section 21, Art. VI. IN FACT, GOVERNMENT OFFICIALS HAVE LIMITED RIGHT TO PRIVACY. (SABIO VS. GORDON, 504 SCRA 704) BAR OPERATIONS 2011 Page 6

Green Notes IN POLITICAL Law Prepared by: ATTY. LARRY D. GACAYAN

28. What Are the restrictions to the Congress power to exert legislative power? The restrictions are: 1. it can not go through irrepealable Torahs 2. rule of separation of powers 3. non-delegability of legislative powers 29. What are the constitutionally allowed “ delegation of legislative power” by Congress? The allowable deputation of legislative power are. 1) Sec. 23 (2)

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of Article VI (Emergency powers to the President in instance of war or other national exigency. for a limited period and capable to such limitations as Congress may supply. to exert powers necessary and proper to transport out a declared national policy. Unless sooner withdrawn by Resolution of Congress. such powers shall discontinue upon the following dissolution thereof. 2) Sec. 28 (2) of Article VI. The Congress may by jurisprudence. authorise the President to repair within specified bounds. and capable to such restrictions and limitations as it may enforce. duty rates. import and export quotas. tunnage and quayage dues. and other responsibilities or customss within the model of the national development plan of the authorities. 3) Deputation to local authoritiess 4) Deputation of Rule-making power to administrative organic structures

5) Deputation to the People (Section 2. Art. Seventeen of the Constitution and Section 32. Article VI—The Congress shall. every bit early as possible. supply for a system of enterprise and referendum. and the exclusions therefrom. whereby the people can straight suggest and ordain Torahs or O. K. or reject any act or jurisprudence or portion thereof passed by the Congress of local legislative organic structure after the enrollment of a request thereof signed by at least 10 % of the entire figure of registered electors. of which every legislative territory must be represented by at least 3 % of the registered electors thereof. 30. What is the completeness trial? The sufficiency of standard trial? As held in PELAEZ VS. AUDITOR GENERAL. 15 SCRA 569: (a) Completeness Test merely means that the jurisprudence must be complete in itself when it left Congress. It must put Forth therein the policy to be executed. carried out or implemented by the delegate which is

non given any discretion ; and (B) Sufficiency of Standards Test merely requires Congress to repair a criterion. the bounds of which are sufficiently determinate or determinable to which the delegate must conform in the public presentation of his maps.

Some of the criterions to steer the delegate are general public assistance. public involvement. etc. 31. Is it constitutional for the COMELEC to necessitate campaigners for all elected offices. including those for President. VP. Senators and members of the House of Representatives to subject a Certification from a government-accredited drug-testing centres that they are free from prohibited drugs before their Certificate of Candidacy is admitted? No. the COMELEC Resolution is unconstitutional. It adds extra makings for the President. VOP. Senators and Members of the House of Representatives non required by the Constitution. (PIMENTEL VS. COMELEC. G. R. No. 161658. November 3. 2008)

BAR OPERATIONS 2011

Page 7

Green Notes IN POLITICAL Law Prepared by: ATTY. LARRY D. GACAYAN

31-a. Is a Filipino citizen who became a member of the US Armed Forces and hence at one clip a US Citizen considered “ natural born” for intents of following with the makings of a member of the House of Representatives? Yes as held in ANTONIO BENGSON III VS. HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL and TEODORO CRUZ. 357 SCRA 545 because Rep. Act No. 2630 provides that ? Any individual who had lost his Filipino Citizenship

by rendering service to, or accepting committee in, the Armed Forces of the United States, or after separation from the Armed Forces of the United States, acquired US citizenship. MAY REACQUIRE PHILIPPINE CITIZENSHIP BY TAKING AN OATH OF ALLEGIANCE TO THE REPUBLIC OF THE PHILIPPINES AND REGISTERING THE SAME WITH THE LOCAL CIVIL REGISTRY IN THE PLACE WHERE HE RESIDES OR LAST RESIDED IN THE PHILIPPINES. The said Oath of commitment shall incorporate a repudiation of any other citizenship. ? And he shall still be considered ? natural born? Filipino citizen. 32. If the campaigner for Congressman is later disqualified for non-compliance of the abode demand under Art. VI, may the 2nd placer be declared the victor in his topographic point? When may the 2nd placer be allowed to be declared the victor? It depends.

As held in OCAMPO VS. HOUSE ELECTORAL TRIBUNAL and MARIO CRESPO. a. k. a. MARK JIMENEZ. June 15, 2004. 1. There must be a concluding judgement unfitting a campaigner in order that the ballots of a disqualified campaigner can be considered ? stray? . This concluding judgement must be rendered BEFORE THE ELECTION. This was the opinion in the instance of CODILLA VS. DE VENECIA. Hence, when a campaigner has non been disqualified by concluding judgement during the election twenty-four hours he was voted for, the ballots cast in his favour can non be declared isolated. To make so would amount to disfranchising the electorate in whom sovereignty resides. The ground behind this is that the people voted for him bona fide and in the honest belief that the campaigner was so qualified to be the individual to whom they would intrust the exercising of the powers of authorities. 2. The disqualification of a campaigner who obtained the highest

figure of ballots AFTER THE ELECTION does not entitle the 2nd placer to be declared the victor. The said rule was laid down every bit early as 1912 and reiterated in the instances of LABO VS. COMELEC, ABELLA VS. COMELEC and DOMINO VS. COMELEC.

32-a. In order to validly make an additional territory for Cagayan de Oro City, must the jurisprudence making it be foremost submitted to the people therein in a plebiscite in conformity with Section 10, Art. Ten of the 1987 Constitution? No, because the creative activity of another territory when the same is warranted as when there is an addition of population warranting the creative activity of a new territory does not make a new or split a local authorities unit. (BAGABUYO VS. COMELEC, December 8, 2008) 32-b. In the calculation of party-list representatives, is the Veterans Federation Party vs. COMELEC Formula or the Panganiban Formula still applicable? No more because it consequences in a mathematical impossibility. To purely follow with it necessitating at least 2 % for every sectoral representative to obtain in order to earn 1 place would necessitate 110 % in order that there will be 55 sectoral representatives based on the figure of legislative territories. 33. In instance of vacancy in the Senate or in the House of Representatives under Section 9 of Article VII, is it automatic for the COMELEC to keep a particular election?

BAR OPERATIONS 2011

Page 8

Green Notes IN POLITICAL Law Prepared by: ATTY. LARRY D. GACAYAN

No. there must be a jurisprudence passed by Congress allowing the financers for the said intent. (LOZADA vs. COMELEC. 120 SCRA 337) 34.

While a Member of Congress is not allowed to look as advocate for any party in tribunal or before administrative organic structures. may he make so as a “ stockholder” ? No as held in PUYAT vs. DE GUZMAN. 113 SCRA 31. What could not be done straight could not similarly be done indirectly. So a member of Congress who is a shareholder of the corporation involved in a instance is not allowed to look under the pretense that he is looking as such. not as advocate for the corporation. 35. May a tribunal suspend a member of Congress when Section 16 [3] . Article VI appears to give such sole power to each House merely for disorderly behaviour. and with the concurrency of 2/3 of all its members. suspend or throw out a Member. A punishment of suspension. when imposed. shall not transcend 60 years? Yes. this was the opinions of the Supreme Court in the instances of MIRIAM DEFENSOR and REP. PAREDES VS. SANDIGANBAYAN. RA 3019 applies to all authorities officers and employees.

36. In instance of struggle between the entries in a diary of both Houses of Congress and immaterial grounds like affidavits of informants. which shall predominate? As held in U. S. vs. PONS. 34 Phil. 729. the diary prevails over immaterial grounds like histories of newspaper journalists and newsmen as to what the proceedings all about. 37. In instance of struggle between the diary and the enrolled measure. which shall predominate? In CASCO PHIL. VS. GIMENEZ. 7 SCRA 347. it was held by the Supreme Court that The enrolled measure prevails over the diary. If the enrolled measure provides that it is urea methanal is the one exempt from revenue enhancement. and

non urea and methanal which appears in the diary which was truly approved. the former prevails and merely CURATIVE LEGISLATION COULD CHANGE THE SAME. NOT JUDICIAL LEGISLATION. However. if the President of the Philippines. Senate President and the Speaker of the House of Representatives withdraw their signatures as a consequence of an anomalousness envioning the printing of the concluding transcript of the measure. so. the diary will predominate since what is left is no longer considered an ? enrolled measure. ? (NOTE. nevertheless. that the diary prevails over the enrolled measure on all affairs required to be entered in the diaries. like yeas and nays on the concluding reading of a measure or on any inquiry at the petition of 1/5 of the members present. [Justice Isagani Cruz])

38. May Congress alter the bing rank of the Commission on Appointments or Electoral Courts as a consequence of the alterations of rank of the different political parties? Yes If the alterations in the political party associations of the members of Congress is significant and at the same clip permanent so as to dramatically increase the rank of one party while significantly cut downing the other. the figure of representatives of the different parties in the Commission on Appointments may besides be changed in proportion to their existent ranks. (Note: In Cunanan vs. Tan. the rank of the Senators was merely “ temporary” so as non to ensue in the alteration of rank in the Commission on Appointments) 38-a. May a political party (LDP) replace its representative in the House of Representatives Electoral Commission who. in a preliminary vote in a protest instance against an LDP Member. voted in favour of the other party and against the campaigner of his really ain party?

BAR OPERATIONS 2011

Page 9

Green Notes IN POLITICAL Law Prepared by: ATTY. LARRY D. GACAYAN

While as a regulation the different political parties may alter their representatives in the Electoral Tribunal or Commission on Appointments, it may not alter a Member who wholly heard and participated in a peculiar instance [and has already indicated his ballot to the members of the tribunal] and replace him with another who has no engagement in this, except merely to vote for a party-mate who is involved in the protest. Such would be a farce of justness. (BONDOC VS. PINEDA, September 26, 1991) 39. May a commission of Congress cite a individual for disdain of tribunal for declining to reply its inquiries during probes in assistance of statute law? How long may it incarcerate such informant? As held in ARNAULT vs. NAZARENO, 87 Phil. 29. “ A informant who refuses to reply a question by the Committee may be detained during the term of the members enforcing said punishment but the detainment should not be excessively long as to go against the witness? right to due procedure of jurisprudence. ”

40. May the President validly prohibit members of the Cabinet and those of the executive section from looking before any Committee of Congress without her consent? It depends. If the visual aspect is due to the power of Congress to look into in assistance of statute law under Section 21, Art. VI, such act of the President is unconstitutional for it would go against the inadvertence powers of Congress and because the visual aspect of said executive officers is MANDATORY. It would besides go against the right to

information on the portion of the citizens. However, if the invitation to look is based on Section 22, Art. VI or during the ? question hour? . so the President may validly demand that they must acquire her consent foremost because such visual aspect is DISCRETIONARY. (SENATE OF THE PHILIPPINES, represented by SENATE PRESIDENT FRANKLIN DRILON, ET AL. . VS. EXEC. SEC. EDUARDO ERMITA, ET AL. . G. R. No. 16977. April 20, 2006. 488 SCRA 1) 40-a. While a Member of the Cabinet may be compelled to look before Congress under Section 21, Art. VI of the Constitution, may he be compelled to reply inquiries sing his conversations with the President on affairs capable of the investigation/inquiry in assistance of statute law? NO IF THE CONVERSATIONS ARE COVERED BY THE ? EXECUTIVE PRIVILEGE? .

THE “ EXECUTIVE PRIVILEGE” DOCTRINE. DISTINGUISH THE “ PRESIDENTIAL COMMUNICATIONS PRIVILEGE” AND THE “ DELIBERATIVE PROCESS PRIVILEGE” WHICH COMPRISE SAID “ EXECUTIVE PRIVILEGE” . WHO ARE COVERED BY THIS RULE?

40-B. Explain

The Nixon and post-Watergate instances established the wide contours of the presidential communications privilege. 1 [28] In United States v. Nixon. 2 [29] the U. S. Court recognized a great public involvement in continuing “ the confidentiality of conversations that take topographic point in the President? s public presentation of his official responsibilities. ” It therefore considered presidential communications as ? presumptively privileged. ? Apparently, the given is founded on the ? President? s generalised involvement in confidentiality. ? The privilege is said to be necessary to

vouch the fairness of presidential advisers and to supply ? the President and those who assist him... with freedom to research options in the procedure of determining policies and doing determinations and to make so in a manner many would be unwilling to show except in private. ” In In Re: Sealed Case. 3 [30] the U. S. Court of Appeals delved deeper.

It ruled that there are two (2) sorts of executive privilege ; one is the presidential communications privilege and. the other is the deliberative procedure privilege. The former pertains to “ communications. paperss or other stuffs that reflect presidential decision-making and deliberations and that the President believes should stay confidential. ” The latter includes „ advisory sentiments. recommendations 1 [28] 2 [29] 3 [30]

CRS Report for Congress. Presidential Claims of Executive Privilege: History. Law. Practice and Recent Developments at p. 2. 418 U. S. 683. In Re: Sealed Case No. 96-3124. June 17. 1997.

BAR OPERATIONS 2011

Page 10

Green Notes IN POLITICAL LawPrepared by: ATTY. LARRY D. GACAYAN

and deliberations consisting portion of a procedure by which governmental determinations and policies are formulated. ” Consequently. they are characterized by pronounced differentiations. Presidential communications privilege applies to decision-making of the President while. the deliberative procedure privilege. to decision-making of executive functionaries. The first is rooted in the constitutional rule of separation of power and the President’ s

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alone constitutional function ; the 2nd on common jurisprudence privilege. Unlike the deliberative procedure privilege. the presidential communications privilege applies to papers in their entirety. and covers concluding and post-decisional stuffs every bit good as pre-deliberative ones⁴ [31] As a effect. congressional or judicial negation of the presidential communications privilege is ever capable to greater examination than denial of the deliberative procedure privilege.

Turning on who are the functionaries covered by the presidential communications privilege. In *Re: Sealed Case* confines the privilege merely to White House Staff that has ? operational proximity? to direct presidential decision-making. Therefore. the privilege is meant to embrace merely those maps that form the nucleus of presidential authorization. affecting what the tribunal characterized as ? quintessential and non-delegable Presidential power. ? such as commander-in-chief power. assignment and removal power. the power to allow forgiveness and respites. the sole-authority to have ambassadors and other public officers. the power to negotiate pacts. etc. 5 [32] The state of affairs in *Judicial Watch. Inc. v. Department of Justice*⁶ [33] tested the *In Re: Sealed Case* rules. There. while the presidential determination involved is the exercising of the President' s forgiveness power. a non-delegable. core-presidential map. the Deputy Attorney General and the Pardon Attorney were deemed to be excessively distant from the President and his senior White House advisers to be protected.

The Court conceded that functionally those functionaries were executing a undertaking straight related to the President' s forgiveness power. but concluded that an organisational trial was more appropriate for restricting

the potentially wide expanse that would ensue from the In Re: Sealed Case's functional trial. The bulk concluded that the lesser protections of the deliberative procedure privilege would do. That privilege was, nevertheless, found insufficient to warrant the confidentiality of the 4,341 withheld papers. But more specific categorizations of communications covered by executive privilege are made in older instances. Courts ruled early that the Executive has a right to keep back papers that might uncover military or province secrets. 7 [34] individuality of authorities betrays in some fortunes. . 8 [35] and information related to pending probes. 9 [36] An country where the privilege is extremely revered is in foreign dealings.

Majority of the above law have found their manner in our legal power. In Chavez v. PCGG 10 [38] . this Court held that there is a ? governmental privilege against public revelation with regard to province secrets sing military, diplomatic and other security affairs. ? In Chavez v. PEA. 11 [39] there is besides a acknowledgment of the confidentiality of Presidential conversations, correspondences, and treatments in closed-door Cabinet meetings. In Senate v. Ermita, the construct of presidential communications privilege is to the full discussed. As may be gleaned from the above treatment, the claim of executive privilege is extremely recognized in instances where the topic of enquiry relates to a power textually committed by the Constitution to the President, such as the country of military and foreign dealings. Under our Constitution. 4 [31] 5 [32]

Id. CRS Report for Congress. Presidential Claims of Executive Privilege: History, Law, Practice and Recent Developments at pp.

18-19. 6 [33] 7 [34]

365 F. 3d 1108. 361 U. S. App. D. C. 183. 64 Fed. R. Evid. Serv. 141. See United States v. Reynolds. 345 U. S. 1. 6-8 (1953) ; Chicago v. Airlines. Inc. v. Waterman Steamship Corp. . 333 U. S. 103. 111 ; Totten v. United States. 92 U. S. 105. 106-107 (1875) . 8 [35] Roviato v. United States. 353 U. S. 53. 59-61. 9 [36] See Friedman v. Bache Halsey Stuart Shields. Inc. 738 F. 2d 1336. 1341-43 (D. C. Cir. 1984) . 10 [38] 360 Phil. 133 (1998) . 11 [39] Supra.

BAR OPERATIONS 2011Page 11

Green Notes IN POLITICAL LawPrepared by: ATTY. LARRY D. GACAYAN

the President is the depository of the commander-in-chief. 12 [40] naming. 13 [41] pardoning. 14 [42] and diplomatic15 [43] powers. Consistent with the philosophy of separation of powers. the information associating to these powers may bask greater confidentiality than others. The above instances. particularly. Nixon. In Re Sealed Case and Judicial Watch. somehow provide the elements of presidential communications privilege. to humor: 1) The protected communicating must associate to a ? quintessential and non-delegable presidential power. ? The communicating must be authored or ? solicited and received? by a close adviser of the President or the President himself. The judicial trial is that an adviser must be in ? operational proximity? with the President. The presidential communications privilege remains a qualified privilege that may be overcome by a screening of equal demand. such that the information sought ? likely contains of import

evidence? and by the inaccessibility of the information elsewhere by an appropriate investigation authorization. 16 [44]

2)

3)

Simply put. the bases are presidential communications privilege and executive privilege on affairs associating to diplomacy or foreign dealings. Using the above elements. we are convinced that. so. the communications elicited by the three (3) inquiries are covered by the presidential communications privilege. First. the communications relate to a ? quintessential and non-delegable power? of the President. i. e. the power to come in into an executive understanding with other states. This authorization of the President to come in into executive understandings without the concurrency of the Legislature has traditionally been recognized in Philippine law. 17 [45] Second. the communications are ? received? by a close adviser of the President. Under the ? operational proximity? trial. suppliant can be considered a close adviser. being a member of President Arroyo' s cabinet. And 3rd. there is no equal screening of a obliging demand that would warrant the restriction of the privilege and of the inaccessibility of the information elsewhere by an appropriate investigation authorization.

(Note: In Nixon. the US Supreme Court held that supplication of “ executive privilege” is unavailing if it involves the committee of a offense and there is already a pending condemnable case.) We see no difference on this. It is settled in United States v. Nixon¹⁸ [48] that ? demonstrated. specific demand for grounds in pending condemnable trial? outweighs the President'

s ? generalized involvement in confidentiality. ? However, the present case' s differentiation with the Nixon instance is really apparent. In Nixon, there is a pending felon proceeding where the information is requested and it is the demands of due procedure of jurisprudence and the just disposal of condemnable justness that the information be disclosed. This is the ground why the U. S.

Court was speedy to ? limit the range of its determination. ? It stressed that it is “ not concerned here with the balance between the President? s generalised involvement in confidentiality x x x and congressional demands for information. ” Unlike in Nixon, the information here is elicited, non in a condemnable proceeding, but in a legislative enquiry. In this respect, *Senate v. Ermita* stressed that the cogency of the claim of executive privilege depends non merely on the land invoked but, besides, on the procedural scene or the context in which the claim is made. Furthermore, in Nixon, the President did non interpose any claim of demand to protect military, diplomatic 12 [40] 13 [41] 14 [42] 15 [43] 16 [44]

Section 18, Article VII, Section 16, Article VII, Section 19, Article VII, Section 20 and 21, Article VII, CRS Report for Congress, Presidential Claims of Executive Privilege: History, Law Practice and Bernas, S. J. . The 1987 Constitution of the Republic of the Philippines, A Commentary, 2003 Ed. p. 903. *Supra*.

Recent Developments.

supra. . 17 [45] 18 [48]

BAR OPERATIONS 2011

Page 12

Green Notes IN POLITICAL Law Prepared by: ATTY. LARRY D. GACAYAN

or sensitive national security secrets. In the present instance. Executive Secretary Ermita flatly claims executive privilege on the evidences of presidential communications privilege in relation to her executive and policy decision-making procedure and diplomatic secrets. 41. May a individual validly refuse to honour an invitation to look before the Senate Blue Ribbon Committee in connexion with its alleged probe “ in assistance of legislation” ? Yes. In Bengzon. Jr. vs. Senate Blue Ribbon Committee. Nov. 20. 1991. it was held that “ the power of both houses of Congress to carry on enquiries in assistance of statute law is non. absolute or limitless. “ The rights of individuals looking in or affected by such enquiries shall be respected. ” It follows so that the rights of individuals under the Bill of Rights must be respected. including the right to due procedure and the right non to be compelled to attest against one’s ego. But wide as is this power of enquiry. it is non limitless. There is no general authorization to expose the private personal businesss of persons without justification in footings of the maps of Congress. Nor is the Congress a jurisprudence enforcement or test bureau.

These are maps of the executive and judicial sections of authorities. No enquiry is an terminal in itself ; it must be related to and in promotion of a legitimate undertaking of Congress. Probes conducted entirely for the personal aggrandisement of the research workers or to “ punish” those

investigated are untenable. As such, if the individual invited is already an accused before the Sandiganbayan or confronting a instance in the Ombudsman in connexion with a capable affair related to the House or Senate enquiry, so he could validly decline to go to to said hearing. 41-a. May the PCGG Chairman and commissioners refuse to go to enquiries in ad of statute law being done by the Senate because Executive Order No. 1 provides that they should non be questioned sing their activities as such? No, the proviso of Exec. Order No. 1 sing their privilege non to go to such hearings is unconstitutional. It violates Section 28, Art. II. The right to information under Art. III, Section 21, Art. VI and Section 1, Art. Eleven or the answerability of public officers. 41-b. May local legislative organic structures validly cite a individual in disdain of tribunal (as what Congress could make) for declining to look in this or to reply the inquiries of the members thereof? No. In *NEGROS ORIENTAL II ELECTRIC COOPERATIVE VS. SANGGUNIANG PANGLUNGSOD OF DUMAGUETE CITY*, G. R. No. 72492, Nov. 5, 1987, 155 SCRA 421, the Supreme Court held that such power was non delegated by Congress to local authorities units.

42. What are the measures that must entirely arise from the House of Representatives? Under Section 24, Art. VI, All appropriations, gross or duty measures, measures authorising addition of the public debt, measures of local application, and private measures shall arise entirely in the House of representatives, but the Senate may suggest or agree with amendments. (Note: In *Tolentino vs. Secretary of Finance*, the Supreme Court held that the E-VAT Law is constitutional even if the same was the VERSION which came from the Senate, non from the House of Representatives. This is so

because the Senate is allowed to ? propose amendments? to measures which must entirely arise from the House of Representatives.) 43. When is transportation of appropriations allowed by the Constitution? Merely those covered by Section 25 [5] which provides that ? No jurisprudence shall be passed authorising any transportation of appropriations ; nevertheless. the President. the President of the Senate. the Speaker of the house of Representatives. the Chief justness of the Supreme Court. and the caputs of the constitutional committees may. by jurisprudence. be authorized to augment any point in the general appropriations jurisprudence for their several offices from nest eggs in other points of their several appropriations. ? BAR OPERATIONS 2011 Page 13

Green Notes IN POLITICAL Law Prepared by: ATTY. LARRY D. GACAYAN

44. What is the alleged “ executive impoundment” ? It means that although an point of appropriation is non vetoed by the President. he nevertheless refuses for whatever ground. to pass finacess made possible by Congress. It is the failure to pass or compel budget authorization of any type. Advocates of impounding have invoked at least three (3) principal beginnings of authorization of the President. [1] authorization to attach given to him by Congress. either expressly or impliedly ; [2] the executive power drawn from his power as Commander-in-chief ; and [3] the Faithful executing clause of the Constitution. Note that in this instance the SC held that the Countryside Development Fund (CDF) or ? Pork Barrel? of Congressmen and Senators is CONSTITUTIONAL because the same is ? set aside for ? infrastructure. purchase of ambulances and computing machines and other precedence undertakings and activities. and recognition installations to

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measure up donees as proposed and identified by said Senators and Congressmen. (PHILCONSA VS. ENRIQUEZ. 235 SCRA 506) 45. May the President garbage to implement a jurisprudence on the land that in his sentiment it is unconstitutional?

No. Otherwise. he will be go againsting the philosophy of separation of powers because by making so. he will be claiming unto himself the power to construe the jurisprudence. non simply to implement it. (L. S. MOON & A ; CO. VS. HARRISON. 43 Phil. 38) 46. The President of the Philippines. by Administrative Order. mandates the “ ADOPTION OF A NATIONAL COMPUTERIZED IDENTIFICATION REFERENCE SYSTEM” and allowing finacess hence? Is this within his “ executive power” ? No as held by the Supreme Court in BLAS OPLE VS. RUBEN TORRES. ET AL. . G. R. No. 127685. July 23. 1998. the AO establishes a system of designation that is across-the-board in range. affects the life and autonomy of every Filipino citizens and foreign occupants and hence. it is supposed to be a jurisprudence passed by Congress that implements it. non by an Administrative Order issued by the President.

Administrative Power. which is supposed to be exercised by the President. is concerned with the work of using policies and implementing orders as determined by proper governmental variety meats. It enables the President to repair a unvarying criterion of administrative efficiency and look into the official behavior of his agents. Prescinding from the foregoing principles. AO 308 involves a topic that is non appropriate to be covered by an Administrative Order. An administrative order is an regulation issued by the President which relates to specific facets in the administrative operation of

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the authorities. It must be in harmoniousness with the jurisprudence and should be for the exclusive intent of implementing the jurisprudence and transporting out the legislative policy. The topic of AO 308 therefore is beyond the power of the President to publish and it is a trespass of legislative power.

47. What is the “ totality test” used by the Supreme Court in keeping that former President Joseph Estrada resigned as President on January 20, 2007?

THIS IS THE TOTALITY TEST. THE TOTALITY OF PRIOR, CONTEMPORANEOUS AND POSTERIOR FACTS AND CIRCUMSTANTIAL EVIDENCE BEARING

MATERIAL RELEVANCE TO THE ISSUE. 48. Is President Gloria Macapagal

Arroyo a de jure or a de facto President? If de jure, how did she win?

Resignation or lasting disablement of former President Estrada? Since both Houses of Congress had recognized that Arroyo is the President when they passed Resolution ? expressing their support to the disposal of Her

Excellency Gloria Macapagal Arroyo, President of the Philippines? which was passed on January 24, 2001 ; another declaration dated January 24, 2001 ?

expressing full support to the premise into office by VP Arroyo as President of the Philippines? ; and the Resolution dated February 7, 2001 ? confirming

President Arroyo’ s nomination of Senator Teopisto Guingona, Jr. as Vice

President of the Philippines? . her authorities is de jure. BAR OPERATIONS

2011 Page 14

Green Notes IN POLITICAL LawPrepared by: ATTY. LARRY D. GACAYAN

49. May the President makes assignment to vacancies in the bench within two months instantly before the following presidential election and up to the

terminal of his term” in order to follow with the demand of Sections 4 and 8. Art. VIII for him to make full up vacancies in the bench within 90 yearss from the entry of the list of campaigners by the Judicial and Bar Council? No. Section 15. Article VII applies merely to impermanent assignments to executive places when continued vacancies therein will prejudice public service or endanger public safety and non to the bench. 50. What assignments made by the President shall be the topic of verification by the Commission on Appointments? Merely those covered by the 1st sentence of Section 16. Art. VII which are the caputs of the executive sections. ambassadors. other public curates and consuls. or officers of the armed forces from the rank of colonel or naval captain. and other officers are vested in him in this Constitution.

51. May the President make impermanent assignments affecting the members of the Cabinet while Congress in session or non in session? Distinguish ad interim assignment and assignment in an acting capacity. Yes provided the impermanent assignments of cabinet members do non transcend one (1) twelvemonth. (SEN. AQUILINO PIMENTEL. et Al. . vs. EXEC. SECRETARY EDUARDO ERMITA. et Al. . 472 SCRA 587) 1. The impermanent assignments are valid. The power to appoint is basically executive in nature and the legislative assembly may non interfere with the exercising of this executive power except in those cases when the Constitution expressly allows it to interfere. The kernel of an assignment in an acting capacity is its impermanent nature. It is a stop-gap step intended to make full an office for a limited clip until the assignment of a lasting resident to the office. In instance of vacancy in an office occupied by an alter

self-importance of the President. such as the office of a section secretary. the President must needfully name an alter self-importance of her pick as moving secretary before the lasting appointee of her pick could presume office. Congress. through a jurisprudence can non enforce on the President the duty of automatically naming the Undersecretary as her alter self-importance.

He must be of the President' s assurance and provided that the impermanent assignment does non transcend one (1) twelvemonth. There is a demand to separate ad interim assignments and assignments in an acting capacity. While both are effectual upon credence. ad interim assignments are extended merely during the deferral of Congress. whereas moving assignments may be extended any clip that there is a vacancy. Furthermore. ad interim assignments are submitted to the Commission on Appointments for verification or rejection ; moving assignments are non submitted to the Commission on assignments. Acting assignments are a manner of temporarily besieging the demand of verification by the Commission on Appointments. 52. What is the “ take attention power” of the President of the Philippines?

It is the power of the President under Section 17. Art. VII which provides that The President shall hold control of all the executive sections. agency and offices. He shall guarantee that the Torahs be dependably executed. 53. What is the power of control of the President. Distinguish it from power of supervising. “ Control” has been defined as “ the power of an officer to change or modify or invalidate or put aside what a low-level officer had done in the public presentation of his responsibilities and to replace the judgement

of the former for trial of the latter. " " Supervision" on the other manus means " overseeing or the power or authorization of an officer to see that low-level officers perform their responsibilities. (MONDANO VS. SILVOSA)

BAR OPERATIONS 2011 Page 15

Green Notes IN POLITICAL LawPrepared by: ATTY. LARRY D. GACAYAN

54. May the President validly require all officers and employees under the executive section to keep ID systems and have ID cards? Yes in conformity with her power of control under Section 17. Art. VII of the Constitution.

(KILUSANG MAYO UNO VS. EXECUTIVE SECRETARY EDUARDO ERMITA. ET AL. . April 19. 2006 & A ; June 20. 2006) But non for a national ID system which

includes civilians as held in Ople vs. Torres. supra. 55. What is the philosophy

of qualified political bureau? It merely means that ? the President is non

expected to execute in individual an the many-sided executive and

administrative maps. The Office of the Executive Secretary is an auxillary

unit which assists the President. Under our constitutional set-up. the

Executive Secretary Acts of the Apostless for and in behalf of the President:

and by authorization of the President. he has undisputed legal power to

confirm. modify. or even change by reversal any order of the Secretary of

Natural Resources and other Cabinet Secretaries. Where the Executive

Secretary acts " by authorization of the President" his determination is that

of the President. (Lacson-Magallanes Co. . Inc. vs. Pano. 21 SCRA 895) . 56.

What are the differences between the power of the President to declare

soldierly jurisprudence or suspend the privilege of the writ of habeas

principal under the 1987 Constitution and the old Fundamental laws? Under

the 1987 Philippine Constitution. such Acts of the Apostless of the President

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may be reviewed non merely by the Supreme Court but besides the Congress of the Philippines. Previously, such would be considered ? political question? which is beyond the reappraisal powers of the tribunals. Likewise, there is a definite period for the said suspension unlike before and more significantly, the evidences are lone invasion and rebellion WHEN THE PUBLIC SAFETY REQUIRES IT.

The Supreme Court may reexamine, in an appropriate proceeding filed by any citizen, the sufficiency of the factual footing of the announcement of soldierly jurisprudence or suspension of the privilege of the writ or the extension thereof, and must proclaim its determination thereon within 30 yearss from its filing. A province of soldierly jurisprudence does non suspend the operation of the Constitution, nor supplant the operation of the civil tribunals or legislative assemblies, nor authorise the bestowal of legal power on military tribunals and bureaus over civilians where civil tribunals are able to map, nor automatically suspend the privilege of the writ. The suspension of the privilege of the writ shall use merely to individuals judicially charged for rebellion or discourtesies built-in in or straight connected with invasion. During the suspension of the privilege of the writ, any individual therefore arrested or detained shall be judicially charged within 3 yearss, otherwise, he shall be released. 57. May the President under the 1987 Constitution validly issue edicts after declaring a province of national exigency.

May she direct the return over of concern affected with national involvement by ground of the “ emergency” which she herself proclaimed? I n t H vitamin E c a s vitamin E o f PROF. RANDOLF S. DAVID, et Al VS. GLORIA MACAPAGAL-ARROYO, AS PRESIDENT AND COMMANDER-IN-CHIEF, et Al. . G.

R. No. 171396. May 3. 2006. it was held that in declaring a province of national exigency. President Arroyo did not merely rely on Section 18. Article VII of the Constitution. a proviso naming on the AFP to forestall or stamp down anarchic force. invasion or rebellion. She besides relied on Section 17. Article XII. a proviso on the State's extraordinary power to take over privately-owned public public-service corporation and concern affected with public involvement. The Supreme Court ruled that the assailed PP 1017 is unconstitutional in so far as it grants President Arroyo the authorization to proclaim ? decrees. ? Legislative power is particularly within the state of the Legislature. Section 1. Article VI flatly states that ? [T] he legislative power shall be vested in the Congress of the Philippines which shall dwell of a Senate and a House of BAR OPERATIONS 2011 Page 16

Green Notes IN POLITICAL Law Prepared by: ATTY. LARRY D. GACAYAN

Representatives. ? To be certain. neither Soldierly Law nor a province of rebellion nor a province of exigency can warrant President Arroyo's exercising of legislative power by publishing edicts. Likewise. the exercising of exigency powers. such as the taking over of in private owned public public-service corporation or concern affected with public involvement. is besides unconstitutional. This requires a deputation from Congress. 58. What are the necessities of judicial reappraisal? Courts may exert the power of judicial reappraisal merely when the undermentioned necessities are present: foremost. there must be an existent instance or contention ; 2nd. suppliants have to raise a inquiry of unconstitutionality ; 3rd. the constitutional inquiry must be raised at the earliest chance ; and 4th. the determination of the constitutional inquiry must be necessary to the finding

of the instance itself. 59. When may the tribunals still validly decide moot and academic instances? A moot and academic instance is one that ceases to show a justiciable contention by virtuousness of supervening events. 19 so that a declaration thereon would be of no practical usage or value. Generally, tribunals decline legal power over such instance 20 or disregard it on land of mootness.

The “ moot and academic? rule is non a charming expression that can automatically deter the tribunals in deciding a instance. Courts will make up one’s mind instances. otherwise moot and academic. if: foremost. there is a sedate misdemeanor of the Constitution (Province of Batangas vs. Romulo. . R. No. 152774. May 27. 2004. 429 SCRA 736) . 2nd. the exceeding character of the state of affairs and the paramount public involvement is involved (Lacson vs. Perez. G. R. No. 147780. May 10. 2001. 357 SCRA 756) ; 3rd. when constitutional issue raised requires preparation of commanding rules to steer the bench. the saloon. and the populace (Province of Batangas vs. Romulo) ; and 4th. the instance is capable of repeat yet hedging reappraisal (Albana v. Commission on Elections. G. R. No. 163302. July 23. 2004. 435 SCRA 98. Acop v. Guingona. Jr. . G. R. No. 134855. July 2. 2002. 383 SCRA 577. Sanlakas v. Executive Secretary. G. R. No. 159085. February 3. 2004. 421 SCRA 656.) 60. Define venue standi. Locus standi is defined as ? a right of visual aspect in a tribunal of justness on a given inquiry. ? 21 In private suits. standing is governed by the ? real-parties-in interest? regulation as contained in Section 2. Rule 3 of the 1997 Rules of Civil Procedure. as amended. It provides that ? every action must be prosecuted or defended in the name of the existent party in involvement. ? Consequently. the ? real-

party-in interest? is ? the party who stands to be benefited or injured by the judgement in the suit or the party entitled to the helps of the suit. ? 22

Succinctly put, the plaintiff' s standing is based on his ain right to the alleviation sought. 61. What are the trials of venue standi in the Philippines?

19 20 21 22

State of Batangas v. Romulo. G. R. No. 152774. May 27. 2004. 429 SCRA 736. Royal Cargo Corporation v. Civil Aeronautics Board. G. R. Nos. 103055-56. January 26. 2004. 421 SCRA 21 ; Vda. De Dabao v. Court of Appeals. supra. Black' s Law Dictionary. 6 th Ed. 1991. p. 941. Salonga v. Warner Barnes & A ; Co. . 88 Phil. 125 (1951) .

BAR OPERATIONS 2011

Page 17

Green Notes IN POLITICAL LawPrepared by: ATTY. LARRY D. GACAYAN

The original was: [1] If the act involves the expense of public financess. mere taxpayer has the capacity to action and oppugn such act. [2] If it does non affect expense of public financess. merely those who are ? directly injured? by the said jurisprudence or contract entered into by the authorities. Case jurisprudence in most legal powers now allows both ? citizen? and ? taxpayer? standing in public actions. The differentiation was foremost laid down in Beauchamp v. Silk. 23 where it was held that the complainant in a