

# 1962 BAR EXAMINATION QUESTIONS

(Continuation)

## POLITICAL LAW

- I. (a) What are the salient features and characteristics of our Constitution that give us a government republican in form?  
 (b) What do you understand by the principle of "limited government" as one of the basic principles of constitutional law in the Philippines?  
 (c) Describe briefly the procedure of amending the Philippine Constitution.
- II. (a) Discuss briefly the limitations on the powers of Congress.  
 (b) Under the Constitution as amended, what are the bills which must originate exclusively in the House of Representatives?  
 (c) In the Appropriation Act, Congress provides that no government official or employee shall be permitted to teach more than six hours a week. Is this constitutional? Reasons.  
 (d) Name the instances when a bill or measure duly passed by Congress and submitted to the President for his approval may become a law without his signature (the President's).
- III. (a) Pedro Santos who had previously served twelve years in Muntinglupa Prison for swindling is elected unopposed in a congressional district. Under the Constitution, not being a qualified elector, he cannot be a legislator. When informed of this fact, may the House to which he is chosen *motu proprio* postpone his induction? May it suspend, investigate and thereafter exclude him? Reasons.  
 (b) In case the proper Electoral Tribunal decides that a protested legislator has the necessary qualifications altho in fact he does not have them, may the courts review the said finding on appeal thereto? Reason.  
 (c) On the basis of the report of the Commission on Elections that by reason of certain specified acts of terrorism and violence in certain provinces the voting therein did not reflect the true and free expression of the popular will, the Senate, in the course of its session, approved a resolution ordering that pending the termination of the protest lodged against their election with the Electoral Tribunal of the Senate based on said terrorism, the administration of oaths seating three senators be deferred. The senators concerned filed in the Supreme Court a petition for a writ of preliminary injunction against their colleagues, praying for an order annulling the resolution and compelling them to permit them to occupy their seats, and to exercise their senatorial prerogatives. In their pleadings, the respondents alleged that the Court had no jurisdiction over the case and asserted the validity of the resolution. Decide giving reasons.
- IV. (a) The Government grants to a company an exclusive franchise to operate a toll bridge across a river. Subsequently, it institutes condemnation proceedings for the acquisition of the toll bridge in question for the purpose of converting it into a free bridge. The company claims that the obligation of its franchise contract would be impaired in violation of the Constitution. Decide giving reasons.
- (b) State the meaning of the constitutional provision "No person shall be denied the equal protection of the laws."  
 (c) Pursuant to Republic Act No. 37, which grants preference to Filipino citizens in the lease of public market stalls, the Secretary of Finance issued an order declaring all stalls or booths in all public markets as vacated by their occupants and their leases terminated on January 1, 1947, and that therefor all leases of market stalls shall be awarded to Filipino citizens. The constitutionality of the Act in question is attacked as a denial of equal protection to the Chinese. Decide giving your reasons.
- V. (a) In what cases, if any, may the courts review or control the exercise of authority of making appointments vested in the executive department?  
 (b) What are the limitations on the power of the President to remove public officers?  
 (c) X was the City Engineer of Baguio in 1951. On June 20, 1951, the President appointed Y *ad interim* City Engineer of Baguio to take the place of X. X refused to vacate his post claiming that he was being removed without cause, and filed a petition for a writ of *quo warranto* against Y. Decide the case giving your reasons.
- VI. (a) You are the representative from the lone Congressional district of Bataan and you are interested in the conversion of a barrio of the town of Salanga into an independent municipality. Under existing laws, what are the courses of action open to you to accomplish your desire?  
 (b) Explain briefly the meaning of: "municipal corporations present a dual aspect and perform powers and functions in a dual capacity."  
 (c) Before the cession of the Philippine Islands to the United States, Juan Santos was a creditor of the City of Manila. After said City was incorporated under a new charter, Santos brought an action against the City of Manila to recover the sum due him. As a matter of defense it was claimed that the old City of Manila, which incurred the debt, had been dissolved by the change of sovereignty and that by the new incorporation of the City of Manila the liability of the old city had already been extinguished. Decide giving your reasons.
- VII. (a) Under what conditions may the President of the Philippines deport aliens and what is the basis of his authority to do so?  
 (b) What is the composition of the Deportation Board as at present organized and what are its functions?  
 (c) An alien has been ordered deported by the President, having found, after due investigation by the Deportation Board, an undesirable alien. Not being satisfied with the decision of the President, he institutes an action petitioning the Supreme Court to review his case, alleging that the evidence adduced at the investigation and upon which the President based his decision was insufficient to warrant his deportation. Decide giving reasons.
- VIII. (a) Under the Constitution, who is authorized to judge all contests relating to the election, returns and qualifica-

tions of members of Congress? What is its composition?

- (b) What is the limitation, if any, on the power of Congress to punish private individuals for contempt? Explain briefly your answer.
- (c) One A assaulted Representative B on January 30, 1960. The House of Representatives of which Representative B was a member adopted a resolution on February 10, 1960, requiring the Speaker to order the arrest of A to be confined in Muntinglupa Prison for twenty-four hours. The House adjourned that session on the 19th of May, 1960, without the order of arrest having been served on A. A confirmatory resolution was approved by the House on January 31, 1961, during the regular session of the Legislature. Shortly thereafter, a new warrant of arrest was issued by the Speaker of the House of Representatives, and A was taken into custody by a Constabulary officer. A petitioned for a writ of *Habeas Corpus*. Decide giving reasons.
- IX. (a) The Constitution provides that the Congress may authorize upon payment of just compensation, the "expropriation of lands to be sub-divided into small lots and conveyed at cost to individuals". Is this not a violation of one of the constitutional limitations on the exercise of the power of eminent domain, namely, that private property taken shall be for public use? Reasons.
- (b) In the exercise of the power of eminent domain, may the state appropriate contracts in spite of the provision of the Constitution that "no law impairing the obligation of contracts shall be enacted"? Reasons.
- (c) For the extension of the Dewey Boulevard it was necessary to take over 1/5 of the land belonging to B. Before the extension thereof, the market value of the entire land was P1000.00. As a result of the improvement, the remaining 4/5 has now a market value of P10,000.00. In view hereof the government contends that there is no more obligation to pay for the land appropriated. Decide giving reasons.

- X. (a) Differentiate between the power exercised by the President over the executive departments and the bureaus or offices of the National Government from that exercised by him over the local governments. In your opinion, which is more effective — that exercised by him over the departments and bureaus or offices of the National Government or that over the local governments? Why?
- (b) The Municipal Council of Villasis enters into a contract with Juan Sison whereby the latter is granted the lease of a fishpond for a period of two years in consideration of the sum of five thousand pesos. After one year, the Municipal Council rescinds the contract without any sufficient justification and awards the fishpond to Pedro Santos for a similar period and for the same amount. Sison now hires you to handle the case for him. As counsel, do you think he has a cause of action for damages? If so, against whom and why? Reasons.

## CRIMINAL LAW

- I. (a) What are the PENAL CODES enacted for operation in the Philippines? Give the respective YEARS in which they were made effective.
- (b) Before or after the promulgation of Act 3815 (Revised Penal Code), were any project or projects ever prepared and submitted to Congress or governmental authorities amending the SYSTEM of penology of the Philippines? If so, enumerate them chronologically, giving the names of their respective authors.
- II. "A", a Consul of the Philippines stationed in X-place, in the exercise of his official functions as such, while in his place

of assignment and for the consideration of P10,000 prepared various documents in favor of "B" wherein he knowingly made untruthful statements in the narration of facts and in connection therewith he issued "B" the corresponding VISA authorizing "B" to enter Philippine soil to which "B" was not entitled:

- (a) Has "A" committed any crime defined and punished in the Revised Penal Code? If so, name it; If not, explain your answer.
- (b) Can "A" be prosecuted in the Philippines for said crime? Why?
- III. (a) Explain the aggravating circumstance that the crime was committed by a band.
- (b) What shall be the nature or extent of the disguise necessary to consider its attendance as an aggravating circumstance?
- (c) Article 14, paragraph 6, of the Revised Penal Code mentions 3 aggravating circumstances, i.e., night time, uninhabited place and that the crime be committed by a band. Are ALL these 3 circumstances when attending the commission of a crime to be considered as only one or as 3 different and separate from one another? Why?
- IV. (a) Can the crime of rebellion be complexed with other common crimes? Why?
- (b) In 1960, Juliet committed 6 crimes of estafa to the damage of the respective offended parties in the sum of P1,000 in each case. She was in the same year prosecuted for all the 6 cases: 2 in the Court of First Instance of Manila, 2 in Quezon City, 1 in Pasay City and the last one in Calocan City. She was convicted after hearing in all the 6 cases. In the imposition of the corresponding penalties: (a) would she be entitled to the benefits of the threefold-length-of-time rule provided in Rule 70, last paragraph, of the Revised Penal Code as amended by Commonwealth Act No. 217, Section 2? In the affirmative case, how could that rule be applied to her?
- V. One morning, Hilario went to the house of Dionisio, and there had an altercation with him over certain deliveries of tobacco leaves which the latter did not want to yield. Enraged, Hilario left saying that he was to come back at noon, which he did, armed with a paltik and a bolo, and at a distance of 30 feet from the house, called Dionisio to 'come down'. As the latter refused, Hilario to compel Dionisio to come down, set fire to Dionisio's house. Naturally, Dionisio fled before the house was destroyed. Is Hilario liable for the crime of arson provided in Art. 321, No. 1, of the Revised Penal Code for having set fire to a dwelling house knowing it to be occupied by one or more persons at the time of the fire? Explain your answer.
- VI. A, B, C, D, E and F conspired to commit the crime of robbery with homicide in the house of the spouses Y and Z, residing in San Juan, Rizal. F, a servant of said spouses became afraid upon learning that the conspirators intended also to kill his master and informed them of the proposed crime. Said spouses sought then the protection of the NBI and the Constabulary, so that when on August 1, 1962, the malefactors went to the house of said spouses to consummate their intended felony and were in the act of carrying the spouses' automobile away from the garage, they were halted by the government forces whereupon a gun battle ensued with the result that F, the spouses' servant, and C, one of the malefactors, were killed. Did the surviving malefactors commit the composite or special crime of robbery with homicide notwithstanding the fact that one of the persons killed had participated in the conspiracy and the other was one of the malefactors killed by the government forces? Explain your answer.