

INSTRUCTIONS

1. This Questionnaire contains THIRTEEN (13) pages including these Instructions pages. Check the number of pages and the page numbers at the upper right hand corner of each page of this Questionnaire and make sure it has the correct number of pages and their proper numbers.

There are THIRTY (30) Essay and Multiple Choice Questions (MCQs) to be answered within *four (4) hours*.

2. Read each question very carefully and write your answers in your Bar Examination Notebook *in the same order the questions are posed*. Write your answers only on the *front*, not the back, page of every sheet in your Notebook. Note well the allocated percentage points for each number, question, or subquestion. In your answers, use the numbering system in the questionnaire.

If the sheets provided in your Examination Notebook are not sufficient for your answers, use the back page of every sheet of your Examination Notebook, starting at the back page of the first sheet and the back of the succeeding sheets thereafter.

3. Answer the Essay questions *legibly, clearly, and concisely*. Start each number on a separate page. An answer to a sub-question under the same number may be written continuously on the same page and the immediately succeeding pages until completed.

Your answer should demonstrate your ability to analyze the facts presented by the question, to select the material from the immaterial facts, and to discern the points upon which the question turns. It should show your knowledge and understanding of the pertinent principles and theories of law involved and their qualifications and limitations. It should demonstrate your ability to apply the law to the given facts, and to reason logically in a lawyerlike manner to a sound conclusion from the given premises.

A mere "Yes" or "No" answer without any corresponding explanation or discussion will not be given any credit. Thus, always *briefly* but fully explain your answers although the question does not expressly ask for an explanation. At the same time, remember that a complete explanation does not require that you volunteer information or discuss legal doctrines that are not necessary or pertinent to the solution to the problem. You do not need to re-write or repeat the question in your Notebook.

4. MCQs are to be answered by writing in your Notebook the capital letter A, B, C, D or E, corresponding to your chosen answer.

There is only one correct answer to every MCQ; choose the BEST answer from among the offered choices. Note that some MCQs may need careful analysis both of the questions and the choices offered.

5. Make sure you do not write *your name* or any *extraneous note/s* or *distinctive marking/s* on your Notebook that can serve as an identifying mark/s (such as names that are not in the given questions, prayers, or private notes to the Examiner).

Writing, leaving or making any distinguishing or identifying mark in the exam Notebook is considered cheating and can disqualify you for the Bar examinations.

You can use the questionnaire for notes you may wish/need to write during the examination.

**YOU CAN BRING HOME THIS QUESTIONNAIRE OR HAND IT TOGETHER WITH YOUR
NOTEBOOK**

J. DIOSDADO M. PERALTA
Chairman
2014 Bar Examinations

I.

With the passage of time, the members of the House of Representatives increased with the creation of new legislative districts and the corresponding adjustments in the number of party-list representatives. At a time when the House membership was already 290, a great number of the members decided that it was time to propose amendments to the Constitution. The Senators, however, were cool to the idea. But the members of the House insisted. They accordingly convened Congress into a constituent assembly in spite of the opposition of the majority of the members of the Senate. When the votes were counted, 275 members of the House of Representatives approved the proposed amendments. Only 10 Senators supported such proposals. The proponents now claim that the proposals were validly made, since more than the required three-fourths vote of Congress has been obtained. The 14 Senators who voted against the proposals claim that the proposals needed not three-fourths vote of the entire Congress but each house. Since the required number of votes in the Senate was not obtained, then there could be no valid proposals, so argued the Senators. Were the proposals validly adopted by Congress? (5%)

II.

Several citizens, unhappy with the proliferation of families dominating the political landscape, decided to take matters into their own hands. They proposed to come up with a peoples initiative defining political dynasties. They started a signature campaign for the purpose of coming up with a petition for that purpose. Some others expressed misgivings about a peoples initiative for the purpose of proposing amendments to the Constitution, however. They cited the Courts decision in Santiago v. Commission on Elections, 270 SCRA 106 (1997), as authority for their position that there is yet no enabling law for such purpose. On the other hand, there are also those who claim that the individual votes of the justices in Lambino v. Commission on Elections, 505 SCRA 160 (2006), mean that Santiagos pronouncement has effectively been abandoned. If you were consulted by those behind the new attempt at a peoples initiative, how would you advise them? (4%)

III.

In Serrano v. Gallant Maritime Services, Inc., 582 SCRA 254 (2009), the Supreme Court declared as violative of the Equal Protection Clause the 5th paragraph of 10 R.A. No. 8042 (Migrant Workers and Overseas Filipinos Act of 1995) for discriminating against illegally dismissed OFWs who still had more than a year to their contract compared to those who only had less than a year remaining. The next year, Congress enacted R.A. No 10222, an amendment to the Migrant Workers and Overseas Filipinos Act, which practically reinstated the provision struck down in Serrano.

Seamacho, an overseas seafarer who still had two years remaining on his contract when he was illegally terminated, and who would only be entitled to a maximum of six-months pay under the reinstated provision, engages you as his counsel. How are you to argue that the new law is invalid insofar as it brings back to the statute books a provision that has already been struck down by the Court? (5%)

IV.

Beauty was proclaimed as the winning candidate for the position of Representative in the House of Representatives three (3) days after the elections in May. She then immediately took her oath of office. However, there was a pending disqualification case against her, which case was eventually decided by the COMELEC against her 10 days after the election. Since she has already been proclaimed, she ignored that decision and did not bother appealing it. The COMELEC then declared in the first week of June that its decision holding that Beauty was not validly elected had become final. Beauty then went to the Supreme Court questioning the jurisdiction of the COMELEC claiming that since she had already been proclaimed and had taken her oath of office, such election body had no more right to come up with a decision that the jurisdiction had already been transferred to the House of Representatives Electoral Tribunal. How defensible is the argument of Beauty? (4%)

V.

Greenpeas is an ideology-based political party fighting for environmental causes. It decided to participate under the party-list system. When the election results came in, it only obtained 1.99 percent of the votes cast under the party -list system. Bluebean, a political observer, claimed that Greenpeas is not entitled to any seat since it failed to obtain at least 2% of the votes. Moreover, since it does not represent any of the marginalized and underrepresented sectors of society, Greenpeas is not entitled to participate under the party-list system. How valid are the observations of Bluebean? (4%)

VI.

A few months before the end of the present Congress, Strongwill was invited by the Senate to shed light in an inquiry relative to the alleged siphoning and diverting of the pork barrel of members of Congress to non-existent or fictitious projects. Strongwill has been identified in the news as the principal actor responsible for the scandal, the leader of a non-governmental organization which ostensibly funnelled the funds to certain local government projects which existed only on paper. At the start of the hearings before the Senate, Strongwill refused at once to cooperate. The Senate cited him in contempt and sent him to jail until he would have seen the light. The Congress, thereafter, adjourned sine die preparatory to the assumption to office of the newly-elected members. In the meantime, Strongwill languished behind bars and the remaining senators refused to have him released, claiming that the Senate is a continuing body and , therefore, he can be detained indefinitely. Are the senators right? (4%)

VII.

Margie has been in the judiciary for a long time, starting from the lowest court. Twenty (20) years from her first year in the judiciary, she was nominated as a Justice in the Court of Appeals. Margie also happens to be a first-degree cousin of the President. The Judicial and Bar Council included her in the short-list submitted to the President whose term of office was about to end it was a month before the next presidential elections. Can the President still make appointments to the judiciary during the so-called midnight appointment ban period? Assuming that he can still make appointments, could he appoint Margie, his cousin? (4%)

VIII.

The President, concerned about persistent reports of widespread irregularities and shenanigans

related to the alleged ghost projects with which the pork barrel funds of members of Congress had been associated, decided not to release the funds authorized under a Special Appropriations Act for the construction of a new bridge. The Chief Executive explained that, to properly conserve and preserve the limited funds of the government, as well as to avoid further mistrust by the people, such a project which he considered as unnecessary since there was an old bridge near the proposed bridge which was still functional should be scrapped. Does the President have such authority? (4%)

IX.

Gerrymandering refers to the practice of: (1%)

- (A) creating or dividing congressional districts in a manner intended to favor a particular party or candidate
- (B) truancy as applied to Members of Congress
- (C) loafing among members of Congress
- (D) coming up with guessing game when it comes to legislation
- (E) commandeering large chunks of the budget for favoured congressional districts

X.

The void-for-vagueness doctrine is a concept which means that: (1%)

- (A) if a law is vague, then it must be void
- (B) any law which could not be understood by laymen is a nullity
- (C) if a law is incomprehensible to ordinary people such that they do not really know what is required or prohibited, then the law must be struck down
- (D) a government regulation that lacks clear standards is nonsensical and useless as a guide for human conduct
- (E) clarity in legal language is a mandate of due process.

XI.

In keeping with the modern age of instant and incessant information and transformation, Congress passed Cybercrime Prevention Act to regulate access to and use of the amenities of the cyberspace. While ostensibly the law is intended to protect the interests of society, some of its provisions were also seen as impermissibly invading and impairing widely cherished liberties of the people particularly the freedom of expression. Before the law could even be implemented, petitions were filed in the Supreme Court questioning said provisions by people who felt threatened, for themselves as well as for the benefit of others who may be similarly affected but not minded enough to challenge the law. The Solicitor General countered that there is no basis for the exercise of the power of judicial review since there has yet been no violation of the law, and therefore, there is no actual case or controversy to speak of, aside from the fact that the petitioners have no locus standi since they do not claim to be

in imminent danger of being prosecuted under the law. Can the Court proceed to decide the case even if the law has not yet become effective? (4%)

XII.

The Court had adopted the practice of announcing its decision in important, controversial or interesting cases the moment the votes had been taken among the justices, even as the final printed decision and separate opinions are not yet available to the public. In a greatly anticipated decision in a case of wide-ranging ramifications, the voting was close 8 for the majority, while 7 were for the other side. After the Court had thus voted, it issued a press release announcing the result, with the advice that the printed copy of the decision, together with the separate opinions, were to be issued subsequently. The following day, however, one of the members of the Court died. The Court then announced that it would deliberate anew on the case since apparently the one who died belonged to the majority. Citizens for Transparency, a group of civic-spirited professionals and ordinary citizens dedicated to transparency and accountability in the government, questioned the act of the Court. The petitioners claimed the decision had already been validly adopted and promulgated. Therefore, it could no longer be recalled by the Court. At the same time, the group also asked the Court to disclose to the public the original decision and the separate opinions of the magistrates, together with what they had deliberated on just before they came up with the press release about the 8-7 decision. (6%)

- (A) Was the announced 8-7 decision already validly promulgated and thus not subject to recall?
- (B) If the decision was not yet finalized at the time when the justice died, could it still be promulgated?
- (C) If the decision was still being finalized, should the Court release to the public the majority decision and the separate opinions as originally announced, together with their deliberations on the issues?

XIII.

Congress may increase the appellate jurisdiction of the Supreme Court: (1%)

- (A) anytime it wants
- (B) if requested by the Supreme Court
- (C) upon recommendation of the President
- (D) only with the advice and concurrence of the Supreme Court
- (E) whenever it deems it appropriate, advisable or necessary

XIV.

The guarantee of freedom of expression signifies: (1%)

- (A) absolute freedom to express oneself
- (B) freedom from prior restraint

(C) right to freely speak on anything without limitations

(D) the right of the government to regulate speech

(E) the right of broadcast stations to air any program

XV.

Allmighty Apostles is a relatively new religious group and movement with fast-growing membership. One time, DeepThroat, an investigative reporter, made a research and study as to what the groups leader, Maskeraid was actually doing. DeepThroat eventually came up with the conclusion that Maskeraid was a phony who is just fooling the simple-minded people to part with their money in exchange for the promise of eternal happiness in some far -away heaven. This was published in a newspaper which caused much agitation among the followers of Maskeraid. Some threatened violence against DeepThroat, while some others already started destroying properties while hurting those selling the newspaper. The local authorities, afraid of the public disorder that such followers might do, decided to ban the distribution of the newspaper containing the article. DeepThroat went to court complaining about the prohibition placed on the dissemination of his article. He claims that the act of the authorities partakes of the nature of hecklers veto, thus a violation of the guaranty of press freedom. On the other hand, the authorities counter that the act was necessary to protect the public order and the greater interest of the community. If you were the judge, how would you resolve the issue? (4%)

XVI.

The overbreadth doctrine posits that the government: (1%)

(A) must know the extent of its power

(B) when it exercises too much power it is like someone with bad breath it is not healthy to society

(C) can enact laws which can reach outside its borders, like long -arm statutes

(D) the government is prohibited in banning unprotected speech if a substantial amount of protected speech is restrained or chilled in the process

XVII.

Towards the end of the year, the Commission on Audit (COA) sought the remainder of its appropriation from the Department of Budget and Management (DBM). However, the DBM refused because the COA had not yet submitted a report on the expenditures relative to the earlier amount released to it. And, pursuant to the "no report, no release" policy of the DBM, COA is not entitled to any further releases in the meantime. COA counters that such a policy contravenes the guaranty of fiscal autonomy granted by the Constitution. Is COA entitled to receive the rest of its appropriations even without complying with the DBM policy? (4%)

XVIII.

The National Building Code and its implementing rules provide, inter alia, that operators of shopping centers and malls should provide parking and loading spaces, in accordance with a prescribed ratio.

The Solicitor General, heeding the call of the public for the provision of free parking spaces in malls, filed a case to compel said business concerns to discontinue their practice of collecting parking fees. The mall owners and operators oppose, saying that this is an invalid taking of their property, thus a violation of due process. The Solicitor General justifies it, however, claiming that it is a valid exercise of police power. Could the mall owners and operators be validly compelled to provide free parking to their customers? (4%)

XIX.

Surveys Galore is an outfit involved in conducting nationwide surveys. In one such survey, it asked the people about the degree of trust and confidence they had in several institutions of the government. When the results came in, the judiciary was shown to be less trusted than most of the government offices. The results were then published by the mass media. Assension, a trial court judge, felt particularly offended by the news. He then issued a show-cause order against Surveys Galore directing the survey entity to explain why it should not be cited in contempt for coming up with such a survey and publishing the results which were so unflattering and degrading to the dignity of the judiciary. Surveys Galore immediately assailed the show-cause order of Judge Assension, arguing that it is violative of the constitutional guaranty of freedom of expression. Is Surveys Galores petition meritorious? (4%)

XX.

Under the so-called doctrine of qualified political agency, (1%)

- (A) civil servants must first qualify before they could be appointed to office
- (B) all employees in the government are merely agents of the people
- (C) the acts of subordinates presumptively of those of the heads of offices disapproves them
- (D) members of the Cabinet must have the absolute trust and confidence of the President

XXI.

Constituent power refers to the authority (1%)

- (A) of public officials to command respect
- (B) given to Congress to enact police power measures
- (C) to propose constitutional amendments or revisions
- (D) of the people to take back the power entrusted to those in government
- (E) of the President to call out the armed forces to suppress lawless violence

XXII.

The National Power and Grid Corporation (NPGC), a government entity involved in power generation distribution, had its transmissi on lines traverse some fields belonging to Farmerjoe. NPGC did so

without instituting any expropriation proceedings. Farmerjoe, not knowing any better, did not immediately press his claim for payment until after ten years later when a son of his took up Law and told him that he had a right to claim compensation. That was then the only time that Farmerjoe earnestly demanded payment. When the NPGC ignored him, he instituted a case for payment of just compensation. In defense, NPGC pointed out that the claim had already prescribed since under its Charter it is clearly provided that "actions for damages must be filed within five years after the rights of way, transmission lines, substations, plants or other facilities shall have been established and that after said period, no suit shall be brought to question the said rights of way, transmission lines, substations, plants or other facilities." If you were the lawyer of Farmerjoe, how would you protect and vindicate the rights of your client? (4%)

XXIII.

The police got a report about a shooting incident during a town fiesta. One person was killed. The police immediately went to the scene and started asking the people about what they witnessed. In due time, they were pointed to Edward Gunman, a security guard, as the possible malefactor. Edward was then having refreshment in one of the eateries when the police approached him. They asked him if he had a gun to which question he answered yes. Then they asked if he had seen anybody shot in the vicinity just a few minutes earlier and this time he said he did not know about it. After a few more questions, one of the policemen asked Edward if he was the shooter. He said no, but then the policeman who asked him told him that several witnesses pointed to him as the shooter. Whereupon Edward broke down and started explaining that it was a matter of self-defense. Edward was eventually charged with murder. During his trial, the statements he made to the police were introduced as evidence against him. He objected claiming that they were inadmissible since he was not given his Miranda rights. On the other hand, the prosecution countered that there was no need for such rights to be given since he was not yet arrested at the time of the questioning. If you were the judge, how would you rule on the issue? (4%)

XXIV.

Alienmae is a foreign tourist. She was asked certain questions in regard to a complaint that was filed against her by someone who claimed to have been defrauded by her. Alienmae answered all the questions asked, except in regard to some matters in which she invoked her right against self-incrimination. When she was pressed to elucidate, she said that the questions being asked might tend to elicit incriminating answers insofar as her home state is concerned. Could Alienmae invoke the right against self-incrimination if the fear of incrimination is in regard to her foreign law? (4%)

XXV.

Rosebud is a natural-born Filipino woman who got married to Rockcold, a citizen of State Frozen. By virtue of the laws of Frozen, any person who marries its citizens would automatically be deemed its own citizen. After ten years of marriage, Rosebud, who has split her time between the Philippines and Frozen, decided to run for Congress. Her opponent sought her disqualification, however, claiming that she is no longer a natural-born citizen. In any event, she could not seek elective position since she never renounced her foreign citizenship pursuant to the Citizenship Retention and Reacquisition Act (R.A. No. 9225). Is Rosebud disqualified to run by reason of citizenship? (4%)

XXVI.

The one-year-bar rule in impeachment proceedings is to be reckoned from the time the (1%)

- (A) first impeachment complaint is filed
- (B) impeachment complaint is referred to the Committee on Justice
- (C) House of Representatives vote on the impeachment complaint
- (D) House of Representatives endorses the Articles of Impeachment to the Senate

XXVII.

Congress enacted a law exempting certain government institutions providing social services from the payment of court fees. Atty. Kristopher Timoteo challenged the constitutionality of the said law on the ground that only the Supreme Court has the power to fix and exempt said entities from the payment of court fees.

Congress, on the other hand, argues that the law is constitutional as it has the power to enact said law for it was through legislative fiat that the Judiciary Development Fund (JDF) and the Special Allowance for Judges and Justices (SAJJ), the funding of which are sourced from the fees collected by the courts, were created. Thus, Congress further argues that if it can enact a law utilizing court fees to fund the JDF and SAJJ, a fortiori it can enact a law exempting the payment of court fees.

Discuss the constitutionality of the said law, taking into account the arguments of both parties? (4%)

XXVIII.

From an existing province, Wideland, Congress created a new province, Hundred Isles, consisting of several islands, with an aggregate area of 500 square kilometres. The law creating Hundred Isles was duly approved in a plebiscite called for that purpose. Juan, a taxpayer and a resident of Wideland, assailed the creation of Hundred Isles claiming that it did not comply with the area requirement as set out in the Local Government Code, i.e., an area of at least 2,000 square kilometres. The proponents justified the creation, however, pointing out that the Rules and Regulations Implementing the Local Government Code states that "the land area requirement shall not apply where the proposed province is composed of one (1) or more islands." Accordingly, since the new province consists of several islands, the area requirement need not be satisfied. How tenable is the position of the proponents? (4%)

XXIX.

Ambassador Gaylor is State Juvenus diplomatic representative to State Hinterlands. During one of his vacations, Ambassador Gaylor decided to experience for himself the sights and sounds of State Paradise, a country known for its beauty and other attractions. While in State Paradise, Ambassador Gaylor was caught in the company of children under suspicious circumstances. He was arrested for violation of the strict anti-pedophilia statute of State Paradise. He claims that he is immune from arrest and incarceration by virtue of his diplomatic immunity. Does the claim of Ambassador Gaylor hold water? (4%)

XXX.

Congress passed a law, R.A. No. 15005, creating an administrative Board principally tasked with the supervision and regulation of legal education. The Board was attached to the Department of

Education. It was empowered, among others, to prescribe minimum standards for law admission and minimum qualifications of faculty members, the basic curricula for the course of study aligned to the requirements for admission to the Bar, law practice and social consciousness, as well as to establish a law practice internship as a requirement for taking the Bar which a law student shall undergo anytime during the law course, and to adopt a system of continuing legal education. Professor Boombastick, a long-time law practitioner and lecturer in several prestigious law schools, assails the constitutionality of the law arguing; that it encroached on the prerogatives of the Supreme Court to promulgate rules relative to admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged. If you were Professor Boombasticks understudy, how may you help him develop clear, concise and cogent arguments in support of his position based on the present Constitution and the decisions of the Supreme Court on judicial independence and fiscal autonomy? (4%)

---ooo0ooo---