REVIEWER ON THE LAW ON PUBLIC OFFICERS

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I. PUBLIC OFFICE

Section 1, Article 11 of the Constitution states:

"Sec. 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism, and justice, and lead modest lives."

A. Definition

1. A public office is the right, authority and duty, created and conferred by law, by which, for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public. The individual so invested is a public officer. The characteristics of a public office include the delegation of sovereign functions, its creation by law and not by contract, an oath, salary, continuance of the position, scope of duties, and the designation of the position as an office. *(Laurel vs. Desierto, G.R. No. 145368, April 12, 2002)*

2. The National Centennial Commission performs executive functions, generally defined as the power to enforce and administer the laws and performs sovereign functions. It is, therefore, a public office, and its Chair is a public officer. *(Laurel vs. Desierto, G.R. No. 145368, April 12, 2002)*

3. A salary is a usual but not a necessary criterion for determining the nature of the position. It is not conclusive. The salary is a mere incident and forms no part of the office. Where a salary or fees is annexed, the office provided for it is a naked or honorary office, and is supposed to be accepted merely for the public good. It may be characterized as an honorary office, as opposed to a lucrative office or an office of profit, i.e., one to which salary, compensation or fees are attached. But it is a public office, nonetheless. *(Laurel vs. Desierto, G.R. No. 145368, April 12, 2002)*

4. An ad-hoc body may be a public office if the other elements of a public office are present. *(Laurel vs. Desierto, G.R. No. 145368, April 12, 2002)*

II. PUBLIC OFFICERS

A. Nature and Definition

1. Public service requires integrity and discipline. For this reason, public servants must exhibit at all times the highest sense of honesty and dedication to duty. By the very nature of their duties and responsibilities, public officers and employees must faithfully adhere to hold sacred and render inviolate the constitutional principle that a public office is a public trust; and must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency. *(Galero vs. Court of Appeals, G.R. No.151121, July 21, 2008)*

2. When a public officer takes an oath of office, he or she binds himself or herself to faithfully perform the duties of the office and use reasonable skill and diligence, and to act primarily for the benefit of the public. Thus, in the discharge of duties, a public officer is to use that prudence, caution, and attention which careful persons use in the management of their affairs. *(Farolan vs. Solmac Marketing Corporation, G.R. No. 83589, March 13, 1991)*

3. Under the old Administrative Code (Act No. 2657), a government "employee" includes any person in the service of the Government or any branch thereof of whatever grade or class. A government "officer," on the other hand, refers to officials whose duties involve the exercise of discretion in the performance of the functions of government, whether such duties are precisely defined or not. Clearly, the law did not require a specific job description and job specification. Thus, the absence of a specific position in a governmental structure is not a hindrance for the Court to give weight to one's government service as legal counsel and consultant, and consequently consider such as creditable government service for the purpose of computing retirement benefits. (*Re: Request of Chief Justice Panganiban, A.M. No. 10-9-15-SC, 12 February 2013*).

B. Exclusions

1. A private individual who has in his charge any of the public funds or property enumerated therein and commits any of the acts defined in any of the provisions of Chapter Four, Title Seven of the RPC, should likewise be penalized with the same penalty meted to erring public officers. Nowhere in this provision is it expressed or implied that a

private individual falling under said Article 222 is to be deemed a public officer. *(Azarcon vs. Sandiganbayan, G.R. No. 116033, February 26, 1997).*

C. Creation and Abolition of Office

1. The general rule has always been that the power to abolish a public office is lodged with the legislature. This proceeds from the legal precept that the power to create includes the power to destroy. A public office is either created by the Constitution, by statute, or by authority of law. Thus, except where the office was created by the Constitution itself, it may be abolished by the same legislature that brought it into existence. The exception, however, is that as far as bureaus, agencies or offices in the executive department are concerned, the Presidents power of control may justify him to inactivate the functions of a particular office, or certain laws may grant him the broad authority to carry out reorganization measures. *(Buklod ng Kawaning EIIB vs. Zamora, G.R. No. 142801-2, July 10, 2001)*

2. Under Section 31, Book III of Executive Order No. 292 (otherwise known as the Administrative Code of 1987), the President, subject to the policy in the Executive Office and in order to achieve simplicity, economy and efficiency, shall have the continuing authority to reorganize the administrative structure of the Office of the President. For this purpose, he may transfer the functions of other Departments or Agencies to the Office of the President. *(Buklod ng Kawaning EIIB vs. Zamora, G.R. No. 142801-2, July 10, 2001)*

3. Reorganization involves the reduction of personnel, consolidation of offices, or abolition thereof by reason of economy or redundancy of functions. It takes place when there is an alteration of the existing structure of government offices or units therein, including the lines of control, authority and responsibility between them. *(Canonizado vs. Aguirre, G.R. No. 133132, January 25, 2000)*

4. As a general rule, a reorganization is carried out in "good faith" if it is for the purpose of economy or to make bureaucracy more efficient. In that event, no dismissal (in case of a dismissal) or separation actually occurs because the position itself ceases to exist. And in that case, security of tenure would not be a Chinese wall. Be that as it may, if the "abolition," which is nothing else but a separation or removal, is done for political reasons or purposely to defeat security of tenure, or otherwise not in good faith, no valid "abolition" takes place and whatever "abolition" is done, is void *ab initio*. There is an invalid "abolition" as where there is merely a change of nomenclature of positions, or where claims of

economy are belied by the existence of ample funds. *(Dario vs. Mison, G.R. No. 81954, August 8, 1989)*

D. Eligibility

1. A permanent appointment can be issued only to a person who meets all the requirements for the position to which he is being appointed, including the appropriate eligibility prescribed. *(Achacoso vs. Macaraig, G.R. No. 93023, March 13, 1991)*

2. In order to qualify an appointment as permanent, the appointee must possess the rank appropriate to the position. Failure in this respect will render the appointment merely temporary. *(Cuevas vs. Bacal, G.R. No. 139382, December 6, 2000)*

E. Qualifications

1. Relative to public offices created by statute, Congress has virtually plenary powers to prescribe qualifications, provided that (i) the qualifications are germane to the objective/s for which the public office was created; and(ii) the qualifications are not too specific as to fit a particular, identifiable person, because that would deprive the appointing authority of discretion in the selection of the appointee. *(Flores v. Drilon, G.R. No. 104732, June 22, 1993)*

2. Immorality has not been confined to sexual matters, but includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity and dissoluteness; or is willful, flagrant, or shameless conduct showing moral indifference to opinions of respectable members of the community and an inconsiderate attitude toward good order and public welfare. Moral character is not a subjective term but one that corresponds to objective reality. To have a good moral character, a person must have the personal characteristic of being good. It is not enough that he or she has a good reputation, that is, the opinion generally entertained about a person or the estimate in which he or she is held by the public in the place where she is known. *(Jardeleza vs. Sereno, G.R. No. 213181, August 19, 2014)*

3. Extra-marital relationships and insider trading are issues that can be properly categorized as "questions on integrity" under Section 2, Rule 10 of JBC-009. They fall within the ambit of "questions on integrity." Hence, the "unanimity rule" may come into operation as the subject provision is worded. *(Jardeleza vs. Sereno, G.R. No. 213181, August 19, 2014)*

4. As a qualification, the term is taken to refer to a virtue, such that, "integrity is the quality of person's character. *(Jardeleza vs. Sereno, G.R. No. 213181, August 19, 2014)*

5. To fall under Section 2, Rule 10 of JBC-009, there must be a showing that the act complained of is, at the least, linked to the moral character of the person and not to his judgment as a professional. *(Jardeleza vs. Sereno, G.R. No. 213181, August 19, 2014)*

6. The JBC, as the sole body empowered to evaluate applications for judicial posts, exercises full discretion on its power to recommend nominees to the President. The sui generis character of JBC proceedings, however, is not a blanket authority to disregard the due process under JBC-010. *(Jardeleza vs. Sereno, G.R. No. 213181, August 19, 2014)*

7. The appointee to a Sangguniang Panlungsod who sits there as a representative of the barangays must meet the qualifications required by law for the position. An unqualified person cannot be appointed a member even in an acting capacity. *(Ignacio vs. Banate, G.R. No. 74720, August 31, 1987)*

8. An oath of office is a qualifying requirement for a public office. Only when the public officer has satisfied this prerequisite can his right to enter into the position be considered plenary and complete. Until then, he has none at all, and for as long as he has not qualified, the holdover officer is the rightful occupant *(Lecaroz v. Sandiganbayan, G.R. No. 130872, March 25, 1999)*

9. However, once proclaimed and duly sworn in office, a public officer is entitled to assume office and to exercise the functions thereof. The pendency of an election protest is not sufficient basis to enjoin him from assuming office or from discharging his functions. *(Mendoza v. Laxina, G.R. No. 146875, July 14, 2003)*

F. <u>Appointments</u>

1. Substantial distinctions clearly exist between elective officials and appointive officials. The former occupy their office by virtue of the mandate of the electorate. They are elected to an office for a definite term and may be removed therefrom only upon stringent conditions. On the other hand, appointive officials hold their office by virtue of their designation thereto by an appointing authority. Some appointive officials hold their office in a permanent capacity and are entitled to security of tenure while others serve at the pleasure of the appointing authority. Another substantial distinction between the two sets of

officials is that under Section 55, Chapter 8, Title I, Subsection A. Civil Service Commission, Book V of the Administrative Code of 1987 (Executive Order No. 292), appointive officials, as officers and employees in the civil service, are strictly prohibited from engaging in any partisan political activity or take part in any election except to vote. Under the same provision, elective officials, or officers or employees holding political offices, are obviously expressly allowed to take part in political and electoral activities. *(Fariñas vs. COMELEC, G.R. No. 147387, December 10, 2003)*

2. When Congress clothes the President with the power to appoint an officer, it cannot at the same time limit the choice of the President to only one candidate. Once the power of appointment is conferred on the President, such conferment necessarily carries the discretion of whom to appoint. Even on the pretext of prescribing the qualifications of the officer, Congress may not abuse such power as to divest the appointing authority, directly or indirectly, of his discretion to pick his own choice. Consequently, when the qualifications prescribed by Congress can only be met by one individual, such enactment effectively eliminates the discretion of the appointing power to choose and constitutes an irregular restriction on the power of appointment. *(Flores vs. Drilon, G.R. No. 104732, June 22, 1993)*

3. The nature of a position may change by law according to the dictates of Congress. The right to hold a position, on the other hand, is a right that enjoys constitutional and statutory guarantee, but may itself change according to the nature of the position. Congress has the power and prerogative to introduce substantial changes in the provincial administrator position and to reclassify it as a primarily confidential, non-career service position. When done in good faith, these acts would not violate a public officer's security of tenure, even if they result in his removal from office or the shortening of his term. *(Provincial Government of Camarines Norte v. Gonzales, G.R. 185740, July 23, 2013)*

4. Acquisition of the appropriate civil service eligibility by a temporary appointee will not ipso facto convert the temporary appointment into a permanent one; a new appointment is necessary. *(Maturan vs. Maglana, G.R. No. L-52091, March 29, 1982)*

5. A temporary appointment is similar to one made in an acting capacity, the essence of which lies in its temporary character and its terminability at pleasure by the appointing power. And one who bears such an appointment cannot complain if it is terminated at a moment's notice. *(Cuadra vs. Cordova, G.R. No. L-11602, April 21, 1958)*

6. An appointment to a position in the Career Service of the Civil Service does not necessarily mean that the appointment is a permanent one and the appointee entitled to security of tenure. Where the appointee does not possess the qualifications for the position, the appointment is temporary and may be terminated at will. *(De Leon v. Court of Appeals, G.R. No. 127182, January 22, 2001)*

7. Where the employment is qualified by the phrase "unless terminated sooner", it is clear that even if the employment is co-terminous with the project, the employee nevertheless serves at the pleasure of the appointing authority. *(Orcullo v. Civil Service Commission, G.R. No. 138780, May 22, 2001)*

8. Where the temporary appointment is for a fixed period, the appointment may be revoked only at the expiration of the period, or, if revocation is made before such expiration, the same has to be for a valid and just cause. *(Ambas vs. Buenaseda, G.R. No. 95244, September 4, 1991)*

9. An ad-interim appointment is a permanent appointment, and its being subject to confirmation does not alter its permanent character. *(Pamantasan ng Lungsod ng Maynila v. Intermediate Appellate Court, G.R. No. L-65439 November 13, 1985)*

10. The person next in rank shall be given preference in promotion when the position immediately above his is vacated. But the appointing authority still exercises discretion and is not bound by this rule, although he is required to specify the "special reason or reasons" for not appointing the officer next-in-rank. This means that the one who is "next-inrank" is given only preferential consideration for promotion; but it does not necessarily follow that he alone and no one else can be appointed. *(Panis v. Civil Service Commission, G.R. No. 102948, February 2, 1994)*

G. <u>De Facto Public Officers</u>

1. A *de facto* officer is one who is in possession of an office and who openly exercises its functions under color of an appointment or election, even though such appointment or election may be irregular. *(Dimaandal vs. Commission on Audit, G.R. No. 122197, June 26, 1998)*

2. It is likewise defined as one who is in possession of an office, and is discharging its duties under color of authority, by which is meant authority derived from an appointment, however irregular or informal, so that the incumbent be not a mere volunteer. Consequently, the acts of the de facto officer are as valid for all purposes as those of a de jure

officer, in so far as the public or third persons who are interested therein are concerned. *(Zoleta vs. Sandiganbayan, G.R. No. 185224, July 29, 2015)*

3. A de facto officer is distinguished form a de jure officer, as follows: The difference between the basis of the authority of a de jure officer and that of a de facto officer is that one rests on right, the other on reputation. It may be likened to the difference between character and reputation. One is the truth of a man, the other is what is thought of him. Moreover, as against a mere usurper, "[i]t is the color of authority, not the color of title that distinguishes an officer de facto from a usurper." Thus, a mere usurper is one "who takes possession of [an] office and undertakes to act officially without any color of right or authority, either actual or apparent." A usurper is no officer at all. *(Re: Nomination of Atty. Lynda Chaguile, A.M. No. 13-04-03-SC, December 10, 2013)*

4. To be a de facto officer, all of the following elements must be present: 1) There must be a de jure office; 2) There must be color of right or general acquiescence by the public; and 3) There must be actual physical possession of the office in good faith. *(Tuanda vs. Sandiganbayan, G.R. No. 110544, October 17, 1995)*

5. A de facto officer is one who derives his appointment from one having colorable authority to appoint, if the office is an appointive office, and whose appointment is valid on its face. He may also be one who is in possession of an office, and is discharging its duties under color of authority, by which is meant authority derived from an appointment, however irregular or informal, so that the incumbent is not a mere volunteer. Consequently, the acts of the de facto officer are just as valid for all purposes as those of a de jure officer, in so far as the public or third persons who are interested therein are concerned. *(Funa v. Agra, G.R. No. 191644, 19 February 2013).*

6. A de facto officer need not show that she was elected or appointed in its strict sense, for a showing of a color of right to the office suffices. Designation may be loosely defined as an appointment because it likewise involves the naming of a particular person to a specified public office. *(Binamira vs. Garrucho, G.R. No. 92008, July 30, 1990)*

7. There can be no officer, either de jure or de facto, where there is no office to fill. While there can be no de facto officer where there is no de jure office, there may be a de facto officer in a de jure office. *(Tuanda vs. Sandiganbayan, G.R. No. 110544, October 17, 1995)*

8. The rule on succession in Section 44 of the Local Government Code cannot apply in instances when a *de facto* officer is ousted from office and the *de jure* officer takes over. The ouster of a *de facto* officer cannot

create a permanent vacancy as contemplated in the Local Government Code. There is no vacancy to speak of as the *de jure* officer, the rightful winner in the elections, has the legal right to assume the position. *(Jalosjos vs. COMELEC, G.R. No. 193314, June 25, 2013)*

9. A rightful incumbent of a public office may recover from a *de facto* officer the salary received by the latter during the time of his wrongful tenure, even though he (the *de facto* officer) occupied the office in good faith and under color of title. A *de facto* officer, not having a good title, takes the salaries at his risk and must, therefore, account to the *de jure* officer for whatever salary he received during the period of his wrongful tenure. *(Monroy vs. Court of Appeals, G.R. No. L-23258, July 1, 1967)*

10. In cases where there is no de jure officer, a de facto officer who, in good faith, has had possession of the office and has discharged the duties pertaining thereto, is legally entitled to the emoluments of the office, and may in appropriate action recover the salary, fees and other compensations attached to the office. *(Civil Liberties Union vs. Executive Secretary, G.R. No. 83896, February 22, 1991)*

H. <u>Security of Tenure</u>

1. The mere fact that a position belongs to the Career Service does not automatically confer security of tenure on its occupant even if he does not possess the required qualifications. Such right will have to depend on the nature of his appointment, which in turn depends on his eligibility or lack of it. A person who does not have the requisite qualifications for the position cannot be appointed to it in the first place or, only as an exception to the rule, may be appointed to it merely in an acting capacity in the absence of appropriate eligibles. The appointment extended to him cannot be regarded as permanent even if it may be so designated. *(Achacoso vs. Macaraig, G.R. No. 93023, March 13, 1991)*

2. Security of tenure in the career executive service (CES) is thus acquired with respect to rank, and not to position. The guaranty of security of tenure to members of the career executive service does not extend to the particular positions to which they may be appointed a concept which is applicable only to first and second-level employees in the civil service but to the rank to which they are appointed by the President. *(Cuevas vs. Bacal, G.R. No. 139382, December 6, 2000)*

3. The mere fact that a position belongs to the Career Service does not automatically confer security of tenure on its occupant even if he does not possess the required qualifications. Such right will have to depend on the nature of his appointment, which in turn depends on his

eligibility or lack of it. A person who does not have the requisite qualifications for the position cannot be appointed to it in the first place or, only as an exception to the rule, may be appointed to it merely in an acting capacity in the absence of appropriate eligibles. The appointment extended to him cannot be regarded as permanent even if it may be so designated. *(De Leon vs. G.R. No. 127182, January 22, 2001)*

4. It is established that no officer or employee in the Civil Service shall be removed or suspended except for cause provided by law. However, this admits of exceptions for it is likewise settled that the right to security of tenure is not available to those employees whose appointments are contractual and co-terminous in nature. *(Ong vs. Office of the President, G.R. No. 184219, January 30, 2012)*

5. The provincial administrator position has been classified into a primarily confidential, non-career position through R.A. No. 7160. The nature of a position may change by law according to the dictates of Congress. The right to hold a position, on the other hand, is a right that enjoys constitutional and statutory guarantee, but may itself change according to the nature of the position. Congress has the power and prerogative to introduce substantial changes in the provincial administrator position and to reclassify it as a primarily confidential, non-career service position. When done in good faith, these acts would not violate a public officer's security of tenure, even if they result in his removal from office or the shortening of his term. *(Provincial Government of Camarines Norte v. Gonzales, G.R. 185740, 23 July 2013)*

6. There is no violation of the civil servant's right to security of tenure if the agency where she works exercises the essential prerogative to change the work assignment or to transfer the civil servant to an assignment where she would be most useful and effective. There is no violation of the right to security of tenure if it is pursuant to a valid reorganization. *(Manalang-Demigillo v. Trade and Investment Development Corp. of the Philippines, G.R. No. 168613, 5 March 2013)*

7. Municipal employees cannot be dropped from the rolls simply because they had no daily time records at the hotel where the mayor was temporarily holding office, if they are performing their duties at the municipal building. *(Adalim v. Taniñas, G.R. No. 198682, 10 April 2013).*

I. <u>Other Rights of Public Officers</u>

1. Compensation has been held to include allowance for personal expenses, commissions, expenses, fees, an honorarium, mileage or traveling

expenses, payments for services, restitution or a balancing of accounts, salary, and wages. *(15 C.J.S. Compensation, p. 654.)*

2. Clerks of court are not authorized to demand and/or receive commissioner's fees for reception of evidence ex parte. To be entitled to reasonable compensation, a commissioner must not be an employee of the court. *(Villanueva vs. Saguyod, A.M. No. P-13-3102, September 8, 2014)*

3. It is distinguished from honorarium, as honorarium is given not as a matter of obligation but in appreciation for services rendered; a voluntary donation in consideration of services which admit of no compensation in money. *(Sison v. Tablang, G.R. No. 177011, June 5, 2009)*

4. The proper reckoning point for the disallowance of payment of salaries should be pegged from the date of the Department Secretary's order of the administrative penalty of dismissal, since it was immediately executory, and the government official had already been disqualified from receiving any salary or benefit attendant to his post. *(Dimapilis-Baldoz v. Commission on Audit, G.R. No. 199114, 16 July 2013)*

5. While the COA correctly affirmed the disallowance of the salaries and benefits which the employee unduly received when he continued to hold office despite his conviction, the liability for refund cannot be imposed upon the head of the agency because she had no knowledge or any reasonable indication that the payment of salaries to the employee was actually improper. Although a public officer is the final approving authority and the employees who processed the transaction were directly under his supervision, personal liability does not automatically attach to him but only upon those directly responsible for the unlawful expenditures. *(Dimapilis-Baldoz v. Commission on Audit, G.R. No. 199114, 16 July 2013)*

6. According to Section 3 of Republic Act No. 9946, survivorship pension benefits are given to surviving spouses of retired judges or justices or surviving spouses of judges or justices who are eligible to retire optionally. When the judge or justice is neither retired nor is eligible to retire, his or her surviving spouse not entitled to those benefits. *(Application for Survivorship Pension Benefits of Mrs. Pacita Gruba, A.M. No. 14155-Ret., 19 November 2013)*

7. A surviving spouse who received survivorship pension benefits in good faith no longer needs to refund such pensions. *(Application for Survivorship Pension Benefits of Mrs. Pacita Gruba, A.M. No. 14155-Ret., 19 November 2013)*

8. The refund of the disallowed payment of a benefit granted by law to a covered person, agency or office of the Government may be barred by the good faith of the approving official and of the recipient. *(Nazareth v. Villar, G.R. No. 188635, 29 January 2013)*

J. Accountability of Public Officers

1. Public office is a public trust. It must be discharged by its holder not for his own personal gain but for the benefit of the public for whom he holds it in trust. By demanding accountability and service with responsibility, integrity, loyalty, efficiency, patriotism and justice, all government officials and employees have the duty to be responsive to the needs of the people they are called upon to serve. *(ABAKADA-GURO Party List vs. Purisima, G.R. No. 166715, August 14, 2008)*

2. Any act which falls short of the exacting standards for public office, especially on the part of those expected to preserve the image of the judiciary, shall not be countenanced. Public office is a public trust. Public officers must at all times be accountable to the people, serve them with utmost degree of responsibility, integrity, loyalty and efficiency. *(Re: Report of Judge Vapor on the Habitual Absenteeism of Velez, A.M. No. P-14-3232, August 12, 2014; OCA v. Cruz, A.M. No. P-14-3260, September 16, 2014)*

3. Public service is its own reward. Nevertheless, public officers may by law be rewarded for exemplary and exceptional performance. A system of incentives for exceeding the set expectations of a public office is not anathema to the concept of public accountability. In fact, it recognizes and reinforces dedication to duty, industry, efficiency and loyalty to public service of deserving government personnel. *(ABAKADA-GURO Party List vs. Purisima, G.R. No. 166715, August 14, 2008)*

4. Under the Government Auditing Code of the Philippines, an accountable public officer is a public officer who, by reason of his office, is accountable for public funds or property. Sec. 340 of the Local Government Code expanded this definition with regard to local government officials. Local government officials become accountable public officers either (1) because of the nature of their functions; or (2) on account of their participation in the use or application of public funds. *(Zoleta vs. Sandiganbayan, G.R. No. 185224, July 29, 2015)*

K. Liability

1. A public officer is not liable for damages which a person may suffer arising from the just performance of his official duties and within the scope of his assigned tasks. An officer who acts within his authority to administer the affairs of the office which he/she heads is not liable for damages that may have been caused to another, as it would virtually be a charge against the Republic, which is not amenable to judgment for monetary claims without its consent. However, a public officer is by law not immune from damages in his/her personal capacity for acts done in bad faith which, being outside the scope of his authority, are no longer protected by the mantle of immunity for official actions. *(Vinzons-Chato vs. Fortune Tobacco Corporation, G.R. No. 141309, June 19, 2007)*

2. The mere fact that a public officer is the head of an agency does not necessarily mean that he is the party ultimately liable in case of disallowance of expenses for questionable transactions of his agency. The head of the agency cannot be held personally liable for the disallowance simply because he was the final approving authority of the transaction in question and that the officers/employees who processed the same were directly under his supervision. *(Albert vs. Gangan, G.R. No. 126557, March 6, 2001)*

3. Under Section 38, Book I of the Administrative Code, civil liability may arise where there is bad faith, malice, or gross negligence on the part of a superior public officer. And, under Section 39 of the same Book, civil liability may arise where the subordinate public officer's act is characterized by willfulness or negligence. *(Vinzons-Chato vs. Fortune Tobacco Corporation, G.R. No. 141309, June 19, 2007)*

4. A public officer who directly or indirectly violates the constitutional rights of another, may be validly sued for damages under Article 32 of the Civil Code even if his acts were not so tainted with malice or bad faith. *(Cojuangco, Jr. vs. Court of Appeals, G.R. No. 119398, July 2, 1999*)

5. Sections 38 and 39, Book I of the Administrative Code, laid down the rule on the civil liability of superior and subordinate public officers for acts done in the performance of their duties. For both superior and subordinate public officers, the presence of bad faith, malice, and negligence are vital elements that will make them liable for damages. Note that while said provisions deal in particular with the liability of government officials, the subject thereof is general, *i.e.*, acts done in the performance of official duties, without specifying the action or omission that may give rise to a civil suit against the official concerned. *(Vinzons-Chato vs. Fortune Tobacco Corporation, G.R. No. 141309, June 19, 2007)*

6. Article 32 of the Civil Code specifies in clear and unequivocal terms a particular specie of an act that may give rise to an action for damages against a public officer, and that is, a tort for impairment of rights and liberties. Indeed, Article 32 is the special provision that deals specifically with violation of constitutional rights by public officers. All other actionable acts of public officers are governed by Sections 38 and 39 of the Administrative Code. While the Civil Code, specifically, the Chapter on Human Relations is a general law, Article 32 of the same Chapter is a special and specific provision that holds a public officer liable for and allows redress from a particular class of wrongful acts that may be committed by public officers. Compared thus with Section 38 of the Administrative Code, which broadly deals with civil liability arising from errors in the performance of duties, Article 32 of the Civil Code is the specific provision which must be applied in the instant case precisely filed to seek damages for violation of constitutional rights. *(Vinzons-Chato vs. Fortune Tobacco Corporation, G.R. No. 141309, June 19, 2007)*

7. Conduct Prejudicial to the Best Interest of the Service need not be related to or connected with the public officer's official functions. As long as the questioned conduct tarnishes the image and integrity of his/her public office, the corresponding penalty may be meted on the erring public officer or employee *(Lagro vs. Court of Appeals, G.R. No. 177244, November 20, 2007*.

8. While the loans cannot bind the municipality for being *ultra vires*, the officers who authorized the passage of the resolutions are personally liable (*Land Bank of the Philippines v. Cacayuran, G.R. No. 191667, 17 April 2013*).
9. The Court should never remove a public officer for acts done prior to his present term of office. To do otherwise would be to deprive the people of their right to elect their officers. When the people elected a man to office, it must be assumed that they did this with knowledge of his life and character, and that they disregarded or forgave his faults or misconduct, if he had been guilty of any. It is not for the court, by reason of such faults or misconduct, to practically overrule the will of the people. *(Pascual vs. Hon. Provincial Board of Nueva Ecija, G,R. No. L-11959, October 31, 1959)*

10. The condonation doctrine does not apply to a criminal case. *(Aguinaldo vs. Santos, G.R. No. 94115, August 21, 1992)*

11. The condonation doctrine does not apply to when there is a re-appointment to a non-career position. *(Civil Service Commission vs. Sojor, G.R. No. 168766, May 22, 2008)*

12. The electorate's condonation of the previous administrative infractions of the reelected official cannot be extended to that of the reappointed coterminous employees, the underlying basis of the rule being to uphold the will of the people expressed through the ballot. In other words, there is neither subversion of the sovereign will nor disenfranchisement of the electorate to speak of, in the case of reappointed coterminous employees. It is the will of the populace, not the whim of one person who happens to be the appointing authority, that could extinguish an administrative liability. *(Salumbides vs. Office of the Ombudsman, G.R. No. 180917, April 23, 2010)*

L. Resignation

1. Resignation from public office, to be effective, requires the acceptance of the proper government authority. *(Light Rail Transit Authority vs. Salvana, G.R. No. 192074, June 10, 2014)*

2. Resignation implies an expression of the incumbent in some form, express or implied, of the intention to surrender, renounce, and relinquish the office and the acceptance by competent and lawful authority. To constitute a complete and operative resignation from public office, there must be: (a) an intention to relinquish a part of the term; (b) an act of relinquishment; and (c) an acceptance by the proper authority. *(Republic vs. Singun, G.R. No. 149356, March 14, 2008)*

3. A public officer cannot abandon his office before his resignation is accepted, otherwise the officer is subject to the penal provisions of Article 238 of the Revised Penal Code. The final or conclusive act of a resignation's acceptance is the notice of acceptance. The incumbent official would not be in a position to determine the acceptance of his resignation unless he had been duly notified therefor. *(Republic vs. Singun, G.R. No. 149356, March 14, 2008)*

M. Dismissal or Removal from Public Office

1. When an officer or employee is disciplined, the object sought is not the punishment of such officer or employee but the improvement of the public service and the preservation of the publics faith and confidence in the government. *(Bautista vs. Negado, G.R. No. L-14319, May 26, 1960)*

2. Primarily confidential appointee is not subject to removal at the pleasure of the appointing authority. Instead, termination of such an appointee's official relation can be justified on the ground of loss of

confidence, which involves no removal but merely the expiration of the term of office. *(Hernandez vs. Villegas, G.R. No. L-17287, June 30, 1965)*

3. In order for the Court to acquire jurisdiction over an administrative proceeding, the complaint must be filed during the incumbency of the respondent public official or employee. Once jurisdiction has attached, the same is not lost by the mere fact that the public official or employee was no longer in office during the pendency of the case. Cessation from office by reason of resignation, death or retirement is not a ground to dismiss the case filed against the said officer or employee at the time that he was still in the public service, or render it moot and academic. (*Office of the Court Administrator v. Grageda, A.M. No. RTJ-10-2235, 11 March 2013*).

4. Dishonesty is defined as the concealment or distortion of truth in a matter of fact relevant to one's office or connected with the performance of his duty. It implies a disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity, or integrity in principle; and lack of fairness and straightforwardness. On the other hand, misconduct is a transgression of some established or definite rule of action, is a forbidden act, is a dereliction of duty, is willful in character, and implies wrongful intent and not mere error in judgment. More particularly, it is an unlawful behavior by the public officer. *(Balasbas vs. Monayao, G.R. No. 190524, February 17, 2014)*

5. Dishonesty, in order to warrant dismissal, need not be committed in the course of the performance of duty" by the public officer, for it "inevitably reflects on the fitness of the officer or employee to continue in office and the discipline and morale of the service. *(Remolona vs. Civil Service Commission, G.R. No. 137473, August 2, 2001)*

III. PRESUMPTION OF REGULARITY

A. <u>In General</u>

1. Public officers enjoy the presumption of regularity in the performance of their duties. *(ABAKADA-GURO Party List vs. Purisima, G.R. No. 166715, August 14, 2008)*

2. The Republic cannot simply rely on the presumption that the PCGG has acted pursuant to law and based on prima facie evidence, for the same will undermine the basic constitutional principle that public officers and employees must at all times be accountable to the people. *(Palm Avenue Holding Co. v. Sandiganbayan 5th Division, G.R. No. 173082, August 6, 2014)*

B. In Criminal Cases

1. The presumption of regularity of official acts may be rebutted by affirmative evidence of irregularity or failure to perform a duty. The presumption, however, prevails until it is overcome by no less than clear and convincing evidence to the contrary. Thus, unless the presumption in rebutted, it becomes conclusive. Every reasonable intendment will be made in support of the presumption and in case of doubt as to an officer's act being lawful or unlawful, construction should be in favor of its lawfulness. *(Bustillo vs. People, G.R. No. 160718, May 12, 2010)*

2. Regularity of performance of official duties in favor of the members of buy-bust teams enforcing our laws against the illegal sale of dangerous drugs is presumed. Such presumption is based on three fundamental reasons, namely: first, innocence, and not wrong-doing, is to be presumed; second, an official oath will not be violated; and, third, a republican form of government cannot survive long unless a limit is placed upon controversies and certain trust and confidence reposed in each governmental department or agent by every other such department or agent, at least to the extent of such presumption. But the presumption is rebuttable by affirmative evidence of irregularity or of any failure to perform a duty. *(People vs. Mendoza, G.R. No. 192432, June 23, 2014)*

3. The presumption of regularity of performance of official duty stands only when no reason exists in the records by which to doubt the regularity of the performance of official duty. And even in that instance the presumption of regularity will not be stronger than the presumption of innocence in favor of the accused. Otherwise, a mere rule of evidence will defeat the constitutionally enshrined right to be presumed innocent. *(People vs. Mendoza, G.R. No. 192432, June 23, 2014)*

IV. OFFICE OF THE OMBUDSMAN

A. Jurisdiction

1. The Office of the Ombudsman has disciplinary authority over all elective and appointive officials of the government and its subdivisions, instrumentalities, and agencies, with the exception only of impeachable officers, Members of Congress, and the Judiciary. Nonetheless, the Ombudsman retains the power to investigate any serious misconduct in office allegedly committed by officials removable by impeachment, for

the purpose of filing a verified complaint for impeachment, if warranted. *(Carpio-Morales vs. Binay, G.R. No. 217126-27, November 10, 2015)*

2. The Ombudsman has concurrent jurisdiction over certain administrative cases which are within the jurisdiction of the regular courts or administrative agencies, but has primary jurisdiction to investigate any act or omission of a public officer or employee who is under the jurisdiction of the Sandiganbayan. *(Carpio-Morales vs. Binay, G.R. No. 217126-27, November 10, 2015)*

3. The manifest intent of the lawmakers was to bestow on the Office of the Ombudsman full administrative disciplinary authority in accord with the constitutional deliberations. Unlike the Ombudsman-like agencies of the past the powers of which extend to no more than making findings of fact and recommendations, and the Ombudsman or Tanodbayan under the 1973 Constitution who may file and prosecute criminal, civil or administrative cases against public officials and employees only in cases of failure of justice, the Ombudsman under the 1987 Constitution and R.A. No. 6770 is intended to play a more active role in the enforcement of laws on anti-graft and corrupt practices and other offenses committed by public officers and employees. The Ombudsman is to be an activist watchman, not merely a passive one. He is vested with broad powers to enable him to implement his own actions. *(Office of the Ombudsman vs. Masing, G.R. No. 165416, January 22, 2008)*

4. The Ombudsman's order to remove, suspend, demote, fine, censure, or prosecute an officer or employee is not merely advisory or recommendatory but is actually mandatory *(Office of the Ombudsman vs. Laja, G.R. No. 169241, May 2, 2006*)

5. As the principal and primary complaints and action center against erring public officers and employees, it is mandated by no less than Section 13(1), Article XI of the Constitution. In conjunction therewith, Section 19 of R.A. No. 6770 grants to the Ombudsman the authority to act on all administrative complaints. *(Department of Justice vs. Liwag, G.R. No. 149311, February 11, 2005)*

6. The prosecution of offenses committed by public officers is vested primarily in the OMB. For this purpose, the OMB has been given a wide latitude of investigatory and prosecutory powers under the Constitution and Republic Act No. 6770 (The Ombudsman Act of 1989). Its discretion is freed from legislative, executive or judicial intervention to ensure that the OMB is insulated from any outside pressure and improper influence. Hence, unless there are good and compelling reasons to do so, the Court will refrain from interfering with the exercise of the Ombudsmans powers, and will respect the initiative and independence inherent in the

latter who, beholden to no one, acts as the champion of the people and the guardian of the integrity of the public service. The Ombudsman is empowered to determine whether there exists reasonable grounds to believe that a crime has been committed and that the accused is probably guilty thereof and, thereafter, to file the corresponding information with the appropriate courts. Such finding of probable cause is a finding of fact which is generally not reviewable by this Court. The only ground upon which a plea for review of the OMBs resolution may be entertained is an alleged grave abuse of discretion. *(Racho vs. Miro, G.R. No. 168578, September 30, 2008)*

7. The second paragraph of Section 14, RA 6770 excepts, as the only allowable remedy against "the decision or findings of the Ombudsman," a Rule 45 appeal, for the reason that it is the only remedy taken to the Supreme Court on "pure questions of law". Since it limits the remedy against "decision or findings" of the Ombudsman to a Rule 45 appeal and thus - similar to the fourth paragraph of Section 27, RA 6770 - attempts to effectively increase the Supreme Court's appellate jurisdiction without its advice and concurrence, it is therefore concluded that the former provision is also unconstitutional and perforce, invalid. The remedy against final and unappealable orders of the Office of the Ombudsman in an administrative case is a Rule 65 petition to the Court of Appeals. *(Carpio-Morales vs. Binay, G.R. No. 217126-27, November 10, 2015)*

B. <u>Independence</u>

8. First: creation by the Constitution, which means that the office cannot be abolished, nor its constitutionally specified functions and privileges, be removed, altered, or modified by law, unless the Constitution itself allows, or an amendment thereto is made; Second: fiscal autonomy, which means that the office "may not be obstructed from [its] freedom to use or dispose of [its] funds for purposes germane to [its] functions; hence, its budget cannot be strategically decreased by officials of the political branches of government so as to impair said functions; and Third: insulation from executive supervision and control, which means that those within the ranks of the office can only be disciplined by an internal authority. All three aspects of independence intend to protect the Office of the Ombudsman from political harassment and pressure, so as to free it from the "insidious tentacles of politics *(Gonzales III vs. Office of the President, G.R. No. 196231-32, January 28, 2014)*

9. The concept of Ombudsman independence cannot be invoked as basis to insulate the Ombudsman from judicial power constitutionally vested

unto the courts. *(Carpio-Morales vs. Binay, G.R. No. 217126-27, November 10, 2015)*

C. Removal

1. While the Ombudsman's authority to discipline administratively is extensive and covers all government officials, whether appointive or elective, with the exception only of those officials removable by impeachment, the members of congress and the judiciary, such authority is by no means exclusive. Petitioners cannot insist that they should be solely and directly subject to the disciplinary authority of the Ombudsman. For, while Section 21 declares the Ombudsman's disciplinary authority over all government officials, Section 8(2), on the other hand, grants the President express power of removal over a Deputy Ombudsman and a Special Prosecutor. *(Gonzales III vs. Office of the President, G.R. No. 196231, September 4, 2012)*

2. Being aware of the constitutional imperative of shielding the Office of the Ombudsman from political influences and the discretionary acts of the executive, Congress laid down two restrictions on the President's exercise of such power of removal over a Deputy Ombudsman, namely: (1) that the removal of the Deputy Ombudsman must be for any of the grounds provided for the removal of the Ombudsman and (2) that there must be observance of due process. Reiterating the grounds for impeachment laid down in Section 2, Article XI of the 1987 Constitution, paragraph 1 of Section 8 of R.A. No. 6770 states that the Deputy Ombudsman may be removed from office for the same grounds that the Ombudsman may be removed through impeachment, namely, "culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust." Thus, it cannot be rightly said that giving the President the power to remove a Deputy Ombudsman, or a Special Prosecutor for that matter, would diminish or compromise the constitutional independence of the Office of the Ombudsman. It is, precisely, a measure of protection of the independence of the Ombudsman's Deputies and Special Prosecutor in the discharge of their duties that their removal can only be had on grounds provided by law. *(Gonzales III vs. Office of the President, G.R. No. 196231, September 4, 2012)*

V. SANDIGANBAYAN

A. Jurisdiction

1. Under Section 4(a) of P.D. No. 1606 as amended by R.A. No. 8249, the following offenses are specifically enumerated: violations of R.A. No. 3019, as amended, R.A. No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code. In order for the Sandiganbayan to acquire jurisdiction over the said offenses, the latter must be committed by, among others, officials of the executive branch occupying positions of regional director and higher, otherwise classified as Grade 27 and higher, of the Compensation and Position Classification Act of 1989. However, the law is not devoid of exceptions. Those that are classified as Grade 26 and below may still fall within the jurisdiction of the Sandiganbayan provided that they hold the positions thus enumerated by the same law. Particularly and exclusively enumerated are provincial governors, vice-governors, members of the *sangguniang panlalawigan*, and provincial treasurers, assessors, engineers, and other provincial department heads; city mayors, vice-mayors, members of the *sangguniang panlungsod*, city treasurers, assessors, engineers , and other city department heads; officials of the diplomatic service occupying the position as consul and higher; Philippine army and air force colonels, naval captains, and all officers of higher rank; PNP chief superintendent and PNP officers of higher rank; City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor; and presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations. In connection therewith, Section 4(b) of the same law provides that other offenses or felonies committed by public officials and employees mentioned in subsection (a) in relation to their office also fall under the jurisdiction of the Sandiganbayan. *(People vs. Sandiganbayan, G.R. No. 167304, August 25, 2009)*

2. As long as the offense charged in the information is intimately connected with the office and is alleged to have been perpetrated while the accused was in the performance, though improper or irregular, of his official functions, there being no personal motive to commit the crime and had the accused not have committed it had he not held the aforesaid office, the accused is held to have been indicted for an offense committed in relation to his office. *(Rodriguez vs. Sandiganbayan, G.R. No. 141710, March 3, 2004)*

VI. CIVIL SERVICE COMMISSION

A. <u>Jurisdiction</u>

1. The Civil Service Commission has jurisdiction over all employees of Government branches, subdivisions, instrumentalities, and agencies,

including government-owned or controlled corporations with original charters. As such, it is the sole arbiter of controversies relating to the civil service *(Rimonte vs. Civil Service Commission, G.R. 112045, May 29, 1995)*.

2. Disciplinary cases, and cases involving "personnel action" affecting employees in the Civil Service, including "appointment through certification, promotion, transfer, reinstatement, reemployment, detail, reassignment, demotion and separation", as well as employment status and qualification standards, are within the exclusive jurisdiction of the Civil Service Commission. The Regional Trial Court is without jurisdiction to take cognizance of an action for quo warranto and mandamus filed by one who, claiming she is next-in-rank and better qualified, should have been extended the promotional appointment. *(Mantala vs. Salvador, G.R. No. 101646, February 13, 1992)*

3. The power of the Civil Service Commission includes the authority to recall an appointment which has been initially approved when it is shown that the same was issued in disregard of pertinent Civil Service laws, rules and regulations. *(Debulgado v. Civil Service Commission, G.R. No. 111471, September 26, 1994)*

4. The Civil Service Commission is not a co-manager, or surrogate administrator of government offices and agencies. Its functions and authority are limited to approving or reviewing appointments to determine their compliance with the Civil Service Law. On its own, the Commission does not have the power to terminate employment or to drop members from the rolls. *(University of the Philippines v. Civil Service Commission, G.R. No. 132860, April 3, 2001)*

5. The Civil Service Commission is expressly empowered to declare positions in the Civil Service as primarily confidential. This signifies that the enumeration in the Civil Service decree, which defines the non-career service, is not an exclusive list. The Commission can supplement this enumeration, as it did when it issued Memorandum Circular No. 22, s. 1991, specifying positions in the Civil Service which are considered primarily confidential and, therefore, their occupants hold tenure co-terminous with the officials they serve. *(Montecillo v. Civil Service Commission, G.R. No. 131954, June 28, 2001)*

6. Special laws, such as R.A. No. 4670, do not divest the CSC of its inherent power to supervise and discipline all members of the civil service, including public school teachers. *(Civil Service Commission vs. Alfonso, G.R. NO. 179452, June 11, 2009)*

7. A public school teacher, is first and foremost, a civil servant accountable to the people and answerable to the CSC for complaints lodged against him as a public servant. To hold that R.A. No. 4670 divests the CSC of its power to discipline public school teachers would negate the very purpose for which the CSC was established and would impliedly amend the Constitution itself. *(Pat-Og vs. Civil Service Commission, G.R. No. 198755, June 8, 2013)*

8. The Civil Service Commission does not have the power to make the appointment itself or to direct the appointing authority to change the employment status of an employee (e.g. from temporary to permanent). *(Province of Camarines Sur v. Court of Appeals, G.R. No. 104639, July 14, 1995)*

9. When the law bestows upon a government body the jurisdiction to hear and decide cases involving specific matters, it is to be presumed that such jurisdiction is exclusive unless it be proved that another body is likewise vested with the same jurisdiction, in which case, both bodies have concurrent jurisdiction over the matter. (*Pat-Og, Sr. v. Civil Service Commission, G.R. No. 198755, 5 June 2013*).

10. A formal charge issued prior to the imposition of administrative sanctions must conform to the requirements set forth in Section 16, Rule II of the Uniform Rules on Administrative Cases in the Civil Service (URACCS), otherwise, the employee is not formally charged. The formal charge shall contain a specification of charge(s), a brief statement of material or relevant facts, accompanied by certified true copies of the documentary evidence, if any, sworn statements covering the testimony of witnesses, a directive to answer the charge(s) in writing under oath in not less than seventy-two (72) hours from receipt thereof, an advice for the respondent to indicate in his answer whether or not he elects a formal investigation of the charge(s), and a notice that he is entitled to be assisted by a counsel of his choice. Without a formal charge and proper investigation on the charges imputed on the employee, there is a failure of due process (*Salva v. Valle, G.R. No. 193773, 2 April 2013*).

11. The CSC has standing as a real party in interest and can appeal the CA's decisions modifying or reversing the CSC's rulings, when the CA action would have an adverse impact on the integrity of the civil service (*Civil Service Commission v. Almojuela, G.R. No. 194368, 2 April 2013*).

VII. IMPEACHMENT

1. Impeachment refers to the power of Congress to remove a public official for serious crimes or misconduct as provided in the Constitution. *(Corona vs. Senate of the Philippines, G.R. No. 200242, July 17, 2012)*

2. Impeachment, described as "the most formidable weapon in the arsenal of democracy," was foreseen as creating divisions, partialities and enmities, or highlighting pre-existing factions with the greatest danger that "the decision will be regulated more by the comparative strength of parties, than by the real demonstrations of innocence or guilt." Given their concededly political character, the precise role of the judiciary in impeachment cases is a matter of utmost importance to ensure the effective functioning of the separate branches while preserving the structure of checks and balance in our government. Moreover, in this jurisdiction, the acts of any branch or instrumentality of the government, including those traditionally entrusted to the political departments, are proper subjects of judicial review if tainted with grave abuse or arbitrariness. *(Corona vs. Senate of the Philippines, G.R. No. 200242, July 17, 2012)*

3. The power of judicial review in this jurisdiction includes the power of review over justiciable issues in impeachment proceedings. *(Francisco, Jr. vs. Nagmamalasakit na mga Manananggol ng mga Manggagawang Pilipino, Inc., G.R. No. 160261, November 10, 2003)*.

4. The term initiate means to file the complaint and take initial action on it. The initiation starts with the filing of the complaint which must be accompanied with an action to set the complaint moving. It refers to the filing of the impeachment complaint coupled with Congress taking initial action of said complaint. The initial action taken by the House on the complaint is the referral of the complaint to the Committee on Justice. *(Gutierrez vs. House of Representatives Committee on Justice, G.R. No. 193459, February 15, 2011)*

5. The Constitution allows the indictment for multiple impeachment offenses, with each charge representing an article of impeachment, assembled in one set known as the Articles of Impeachment. It, therefore, follows that an impeachment complaint need not allege only one impeachable offense. *(Gutierrez vs. House of Representatives Committee on Justice, G.R. No. 193459, February 15, 2011)*

6. Members of the Supreme Court must, under Article VIII (7)(1) of the Constitution, be members of the Philippine Bar and may be removed from office only by impeachment (Article XI [2], Constitution). To grant a complaint for disbarment of a Member of the Court during the

Members incumbency, would in effect be to circumvent and hence to run afoul of the constitutional mandate that Members of the Court may be removed from office only by impeachment for and conviction of certain offenses listed in Article XI (2) of the Constitution. Precisely the same situation exists in respect of the Ombudsman and his deputies (Article XI [8] in relation to Article XI [2], *id*.), a majority of the members of the Commission on Elections (Article IX [C] [1] [1] in relation to Article XI [2], *id.*), and the members of the Commission on Audit who are not certified public accountants (Article XI [D] [1] [1], *id*.), all of whom are constitutionally required to be members of the Philippine Bar. *(Cuenco vs. Fernan, A.M. No. 3135, February 17, 1988)*

7. A public officer whose membership in the Philippine Bar is a qualification for the office held by him and removable only by impeachment cannot be charged with disbarment during his membership. *(Lastimosa-Dalawampu vs. Mojica, A.M. No. 4683, August 6, 1997)*