

LAST-MINUTE TIPS

ni Atty. G



POLITICAL LAW

1

EXPLORATION, DEVELOPMENT, AND UTILIZATION OF NATURAL RESOURCES

Regalian doctrine / *Jura Regalia*

- All natural resources are owned by the State;
- Lands which are not clearly under private ownership are generally presumed part of the public domain belonging to the State;
- Only agricultural lands of the public domain can be alienated (recall classification of lands);
- The only exception in the Regalian doctrine is native title to land (*Republic v. PRCI*, G.R. No. 213207, 15 February 2022).

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EXPLORATION, DEVELOPMENT, AND UTILIZATION OF NATURAL RESOURCES

Modes of undertaking EDU

- directly by the State;
- through co-production, joint venture or production-sharing agreements with Filipino citizens or qualified corporations;
- through small-scale utilization of natural resources by qualified Filipino citizens (as may be allowed by Congress);
- through an agreement the President may enter into with foreign-owned corporations involving technical or financial assistance.

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EXPLORATION, DEVELOPMENT, AND UTILIZATION OF NATURAL RESOURCES

Modes of undertaking EDU; FTAA

- not limited to FTAA's, but also covers service contracts with safeguards to prevent abuses;
- FTAA's - agreements involving financial and technical assistance;
- Service contracts - agreement between a service contractor and the Government, whereby the service contractor provides service and technology in exchange for a fee, while the Government provides financing. All petroleum produced belongs to the Government.

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EXPLORATION, DEVELOPMENT, AND UTILIZATION OF NATURAL RESOURCES

Modes of undertaking EDU; FTAA

Safeguards

Parties	Only the President, in behalf of the State, may enter into these agreements, and only with corporations
Activity size	Only large scale EDU
Natural resource	Only minerals, petroleum and other mineral oils
Notification	The President shall notify Congress of every FTAA entered into within 30 days of execution.

La Bugal-B'laan Tribal Association v. Ramos
G.R. No. 127882, 27 January 2004

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EXPLORATION, DEVELOPMENT, AND UTILIZATION OF NATURAL RESOURCES

Modes of undertaking EDU; FTAA

Safeguards (cont.)

- The agreements must be consistent with the provisions of law;
- The agreements must be based on real contributions to economic growth and general welfare of the country;
- The agreements must contain stipulations for the promotion of the development and use of local scientific and technical resources.

La Bugal-B'laan Tribal Association v. Ramos
G.R. No. 127882, 27 January 2004

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EXPLORATION, DEVELOPMENT, AND UTILIZATION OF NATURAL RESOURCES

Ocampo v. Macapagal-Arroyo
G.R. No. 182734, 10 January 2023

❑ **Joint Marine Seismic Undertaking (JMSU)** in the South China Sea among:

- Philippine National Oil Company (PNOC);
- China National Offshore Oil Corporation (CNOOC);
- Vietnam Oil and Gas Corporation (PETROVIETNAM)

❑ Parties entered into the JMSU to engage in a joint research of petroleum resource potential [in] the South China Sea as a pre-exploration activity;

❑ Petitioners argue that the JMSU is unconstitutional for violating Sec. 2, Art. XII of the 1987 Constitution.

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EXPLORATION, DEVELOPMENT, AND UTILIZATION OF NATURAL RESOURCES

Ocampo v. Macapagal-Arroyo
G.R. No. 182734, 10 January 2023

Is the JMSU covered by Sec. 2, Art. XII? YES.

- ❑ The JMSU involves the **exploration** of petroleum, which is covered by Sec. 2, Art. XII.
- ❑ Exploration means:
 - *Ordinarily*, the activity of searching and finding out about something;
 - *Under the Mining Act*, the searching or prospecting for mineral resources to determine their existence, extent, quantity and quality and the feasibility of mining them for profit;
 - *Under the Petroleum Act*, all work that aims to discover petroleum, including all auxiliary work useful for such operations.

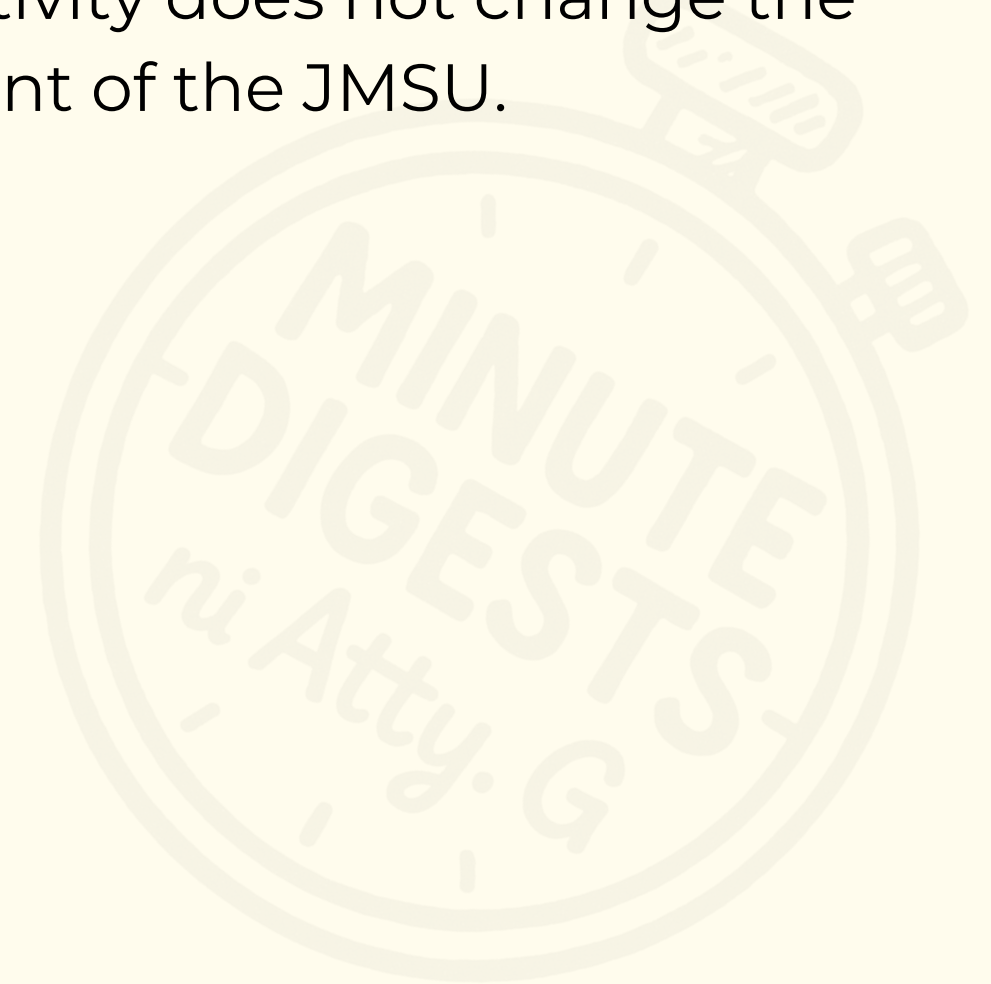
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EXPLORATION, DEVELOPMENT, AND UTILIZATION OF NATURAL RESOURCES

Ocampo v. Macapagal-Arroyo
G.R. No. 182734, 10 January 2023

Is the JMSU covered by Sec. 2, Art. XII? YES.

- ☐ The JMSU was executed to determine if petroleum exists in the area covered;
- ☐ The designation of joint research as **pre-exploration** activity does not change the purpose or intent of the JMSU.



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EXPLORATION, DEVELOPMENT, AND UTILIZATION OF NATURAL RESOURCES

Ocampo v. Macapagal-Arroyo
G.R. No. 182734, 10 January 2023

**JMSU*

Is the JMSU unconstitutional? YES.

- ❑ The JMSU allows wholly-owned foreign corporations to participate in the exploration natural resources without observing the safeguards under Sec. 2, Art. XII.
- ❑ The JMSU was not executed and implemented under one of the four acceptable modes under Sec. 2, Art. XII;
 - It was not undertaken solely by the State;
 - The other parties are wholly-owned foreign corporations.

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EXPLORATION, DEVELOPMENT, AND UTILIZATION OF NATURAL RESOURCES

Ocampo v. Macapagal-Arroyo
G.R. No. 182734, 10 January 2023

Is the JMSU unconstitutional? YES.

- ❑ The JMSU is not an FTAA, nor a service contract.
 - The JMSU does not provide for financial and technical assistance - each party shoulders its cost and shares equally in common expenses, and there is no provision for technical assistance;
 - Respondents admitted that the JMSU is not a service contract.

- ❑ Assuming the JMSU is a service contract, it failed to comply with the safeguards under Sec. 2, Art. XII.

2

NATIONAL TERRITORY

Esmero v. Duterte
G.R. No. 256288 (Resolution), 29 July 2021

- ❑ Petition for Mandamus to compel President Rodrigo Duterte to defend the West Philippine Sea against Chinese incursions.
- ❑ Petitioner, Atty. Esmero claimed that the President had a ministerial duty to protect national territory, including by filing cases before the UN Security Council or the ICJ, or by calling for collective defense under the Mutual Defense Treaty.
- ❑ SC dismissed the petition.

2

NATIONAL TERRITORY

Esmero v. Duterte

G.R. No. 256288 (Resolution), 29 July 2021

❑ The President is **immune from suit** during his incumbency, regardless of the nature of the suit filed against him.

❑ Mandamus only compels ministerial, not **discretionary** acts. The President's actions in foreign policy, national defense, and external affairs are discretionary, not ministerial.

- No law requires the President to go to the UN or the ICJ to sue China.
- The manner of defending national territory is left to the President's judgment.

❑ As chief architect of foreign policy, the President has wide discretion in handling disputes with China. His choice of strategy (diplomatic, legal, military) cannot be dictated by the courts, absent clear constitutional violations.

3

ARRESTS, SEARCHES AND SEIZURES

Board of Commissioners v. Wenle
G.R. No. 242957, 28 February 2023

- ❑ The Constitution guarantees the right of the people to be secure in their persons, houses, papers, and effects against **unreasonable** searches and seizures.
- ❑ General rule: arrests, searches, and seizures can be done only under the authority of a court-issued warrant. Otherwise, they are unreasonable.
- ❑ Exceptions
 - Valid warrantless arrests
 - Valid warrantless search and seizures - (i) incident to lawful arrest; (ii) consent searches; (iii) plain view doctrine; (iv) search of moving vehicles; (v) customs searches; (vi) stop and frisk.

3

ARRESTS, SEARCHES AND SEIZURES

Board of Commissioners v. Wenle
G.R. No. 242957, 28 February 2023

Guidelines for establishing the validity of administrative warrants

- The danger, harm, or evil sought to be prevented must be **imminent** and must be **greater** than the damage or injury to be inflicted on the person who shall be deprived of a right;
- The deprivation of a right or legitimate claim of entitlement must be **temporary**, and its permanency must be strictly subject to procedural due process requirements;
- The issuing administrative authority must be **empowered by law to perform specific implementing acts** pursuant to well-defined regulatory purposes;

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ARRESTS, SEARCHES AND SEIZURES

Board of Commissioners v. Wenle
G.R. No. 242957, 28 February 2023

**specific*

Guidelines for establishing the validity of administrative warrants

- The issuing administrative authority must be **empowered by law to pass upon** and make final pronouncements on conflicting rights and obligations of contending parties, as well as to issue warrants or orders that are incidental to or reasonably necessary for the performance of the executive or administrative duty entrusted to it;
- A warrant must be based on **tangible proof of probable cause** and must state a specific purpose or infraction allegedly committed with particular descriptions of the place to be searched and the persons or things to be seized;

3

ARRESTS, SEARCHES AND SEIZURES

Board of Commissioners v. Wenle
G.R. No. 242957, 28 February 2023

Guidelines for establishing the validity of administrative warrants

- The administrative warrant must not pertain to a criminal offense or be used as precursor for the filing of criminal complaints for any evidence obtained pursuant to such writ shall be **inadmissible** in criminal proceedings;
- The person temporarily deprived of a right shall be **formally charged within a reasonable time** if no such period is provided by law and shall not be denied access to a competent counsel of his or her own choice. Where a person is deprived of liberty, the adjudicative body which issued the warrant shall immediately notify the RTC nearest to the detainee for purposes of issuing a judicial commitment order.

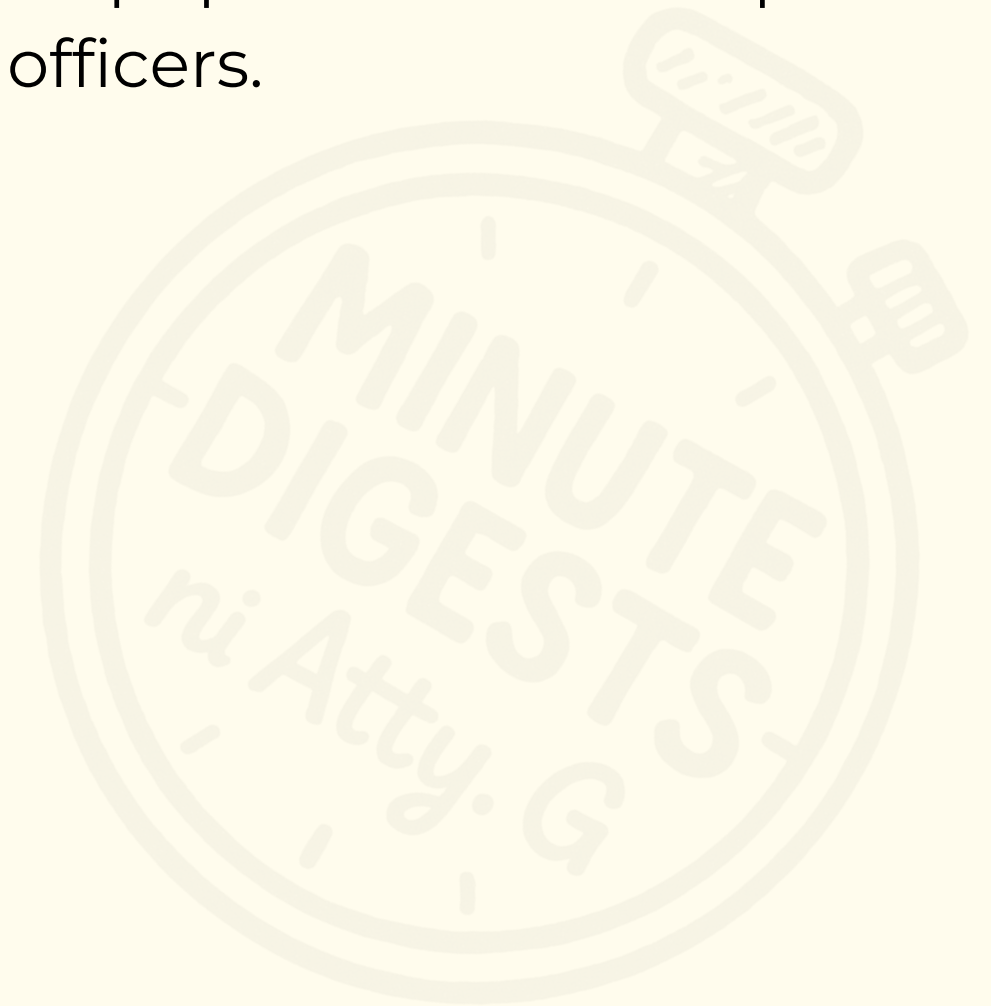
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ARRESTS, SEARCHES AND SEIZURES

Board of Commissioners v. Wenle
G.R. No. 242957, 28 February 2023

Guidelines for establishing the validity of administrative warrants

- A violation of any item on the foregoing guidelines shall be *prima facie* proof of usurpation of judicial functions, malfeasance, misfeasance, nonfeasance, or graft and corrupt practices on the part of responsible officers.



3

LEGISLATIVE INQUIRIES

Ong v. Senate
G.R. No. 257401, 28 March 2023

- ❑ Inquiry in aid of legislation re: COA audit findings on unspent and/or misused government funds in relation to DOH's COVID-19 expenditures.
- ❑ The Senate subpoenaed resource persons, including Lincoln Ong (Pharmally director) and Michael Yang (former presidential adviser, businessman).
 - Ong was cited in contempt for allegedly giving “false and evasive” testimony, and was ordered arrested and detained.
 - Arrest orders were also issued against Yang, who failed to attend earlier hearings due to the alleged short notice of subpoenas.
- ❑ Both questioned the Senate's exercise of its contempt and arrest powers.

3

LEGISLATIVE INQUIRIES

Ong v. Senate
G.R. No. 257401, 28 March 2023

❑ Congress may compel the attendance of resource persons in inquiries in aid of legislation by issuing subpoenas and imposing penalties for non-compliance, even if this power is not expressly provided in the Senate Rules of Procedure. This is inherent and necessary for Congress to carry out legislative inquiries.

❑ Limitations:

- must be in “aid of legislation”;
- must be conducted in accordance with its duly published rules of procedure;
- **the rights of persons appearing in or affected by such inquiries shall be respected.**

❑ The resource person’s detention should only last until termination of the legislative inquiry.

4

ELECTION LAW

St. Anthony College of Roxas City v. COMELEC
G.R. No. 258805, 24 October 2023

COMELEC's regulatory power over election propaganda applies only to candidates and political parties, not to private individuals exercising independent political expression.

- There is no statutory basis to regulate privately-owned materials displayed by private citizens.
- The Fair Election Act expressly limits the regulation of election propaganda to candidates and political parties.

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ELECTION LAW

St. Anthony College of Roxas City v. COMELEC
G.R. No. 258805, 24 October 2023

COMELEC's *Oplan Baklas* is unconstitutional as applied to private citizens.

- Freedom of expression – political speech enjoys the highest level of protection; state restrictions must pass strict scrutiny, which COMELEC's actions failed.
- Property rights – the tarpaulins, murals, and posters were privately owned and displayed with consent; forcible removal was an unconstitutional encroachment.

FREEDOM OF SPEECH AND EXPRESSION

ABS-CBN Corporation v. Ampatuan, Jr.
G.R. No. 227004, 25 April 2023

The ***sub judice rule*** is a limitation on freedom of speech and of the press.

- Media has a qualified privilege to report on judicial proceedings and matters of public concern, subject to good faith and accuracy.
- However, this privilege does not extend to interviews of potential witnesses about their personal knowledge before testifying, as this risks prejudicing the trial.

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RIGHT TO PRIVACY

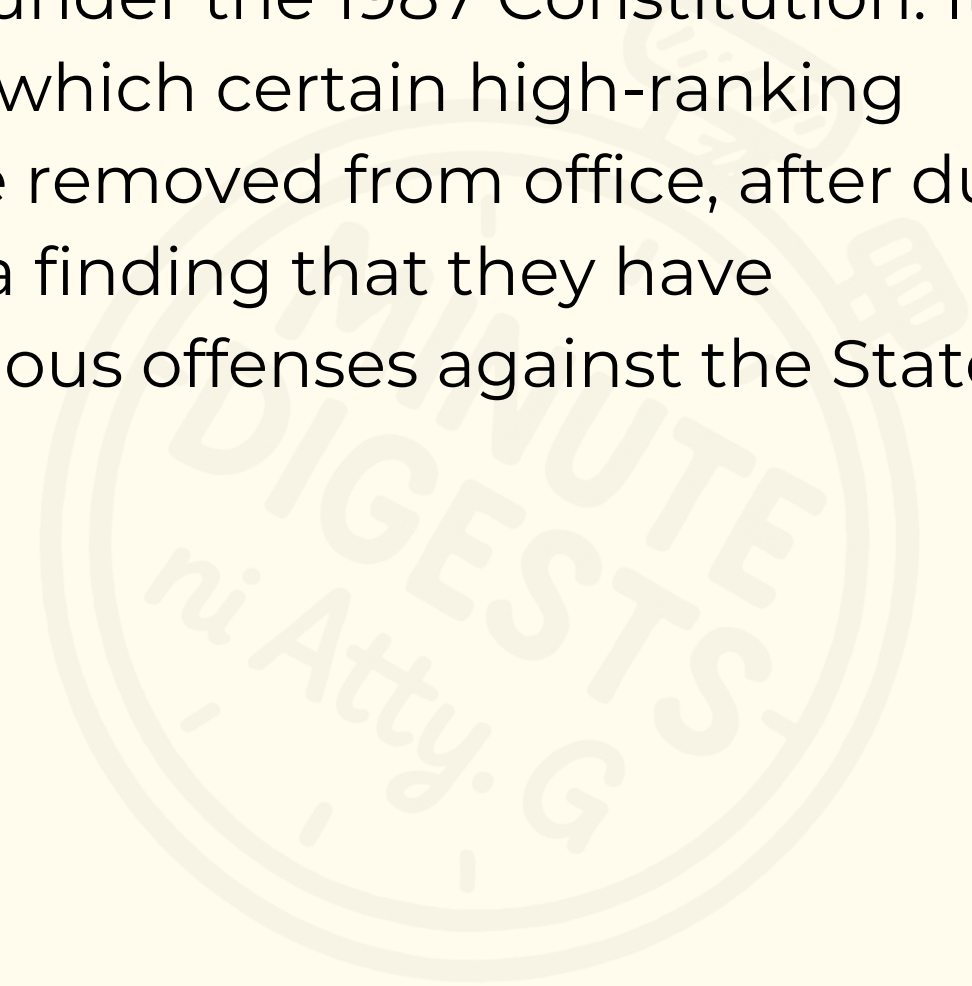
BIR regulation requiring self-employed professionals to submit their rates and register appointment books to monitor their tax compliance violates the right to privacy (*IBP v. Purisima*, G.R. No. 211772, 18 April 2023).

Using online chat logs and videos as evidence does not violate the right to privacy when they are used to assess if a crime has been committed (*People v. Rodriguez*, G.R. No. 263603., 09October 2023).

7

IMPEACHMENT

Impeachment is an instrument of accountability under the 1987 Constitution. It is the process by which certain high-ranking officials may be removed from office, after due hearing, upon a finding that they have committed serious offenses against the State.



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IMPEACHMENT

IMPEACHABLE OFFICIALS

PVOCS

- President
- Vice President
- Ombudsman
- ConCom Members
- Supreme Court Members

GROUND FOR IMPEACHMENT

Can The Big Guys Be Held?

- Culpable violation of the Constitution
- Treason
- Bribery
- Graft and corruption
- Betrayal of public trust
- High crimes

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IMPEACHMENT

EFFECTS

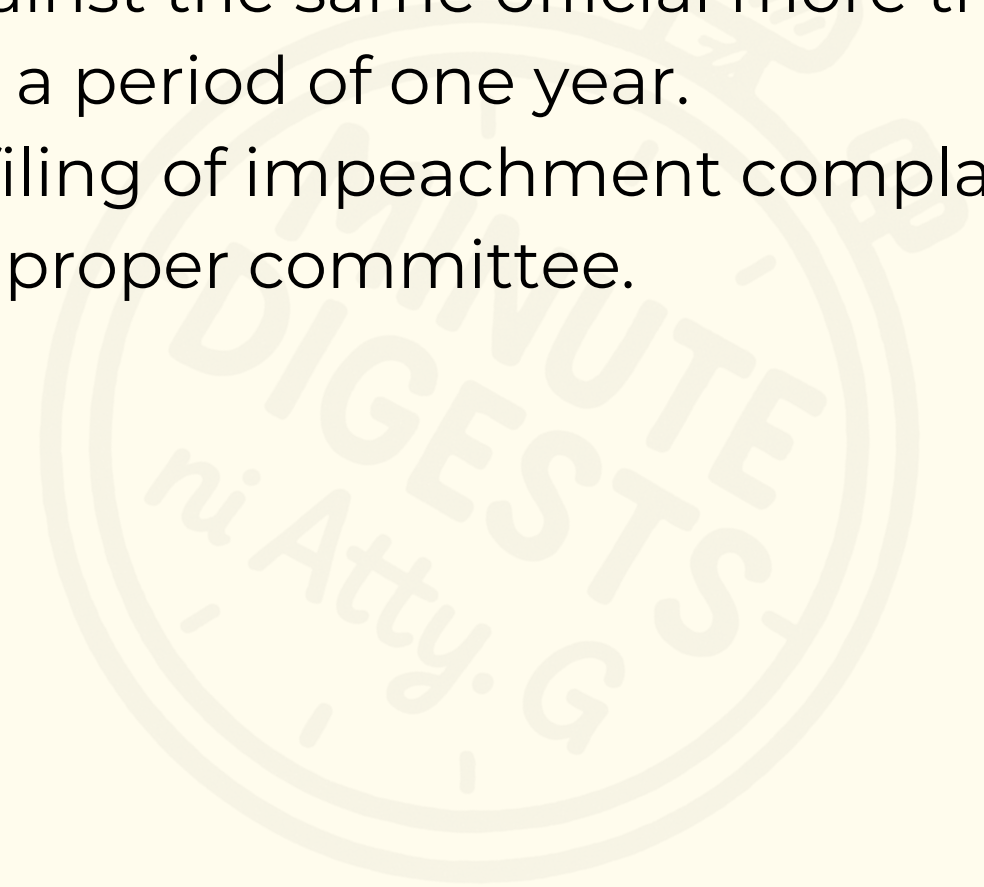
- Impeachment ≠ Removal
- It is the finding of guilt by a vote of 2/3s of all the members of the Senate that leads to the penalty of removal and/or disqualification from public office.
- The President cannot grant pardon in impeachment cases.

7

IMPEACHMENT

1-YEAR BAR RULE

- No impeachment proceedings shall be initiated against the same official more than once within a period of one year.
- Initiation = filing of impeachment complaint + referral to proper committee.



Good!
Luck!