



# COMMISSION ON APPOINTMENTS

## *A Primer*

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# Historical Notes

The issue of having the executive appointments reviewed and confirmed by another body had been the subject of debates and discussion by the 1934 Constitutional Convention.

Eventually, the idea of having permanent commission that could review and approve executive appointments and free the President from the time consuming, humiliating, and impossible task of negotiating with every member of the Assembly for the approval of each appointment, paved the way for the creation of the Commission on Appointments (CA).

Under the 1935 Constitution, the CA was a 21-Member Commission. A structural change in the legislature was made when the 1935 Constitution was amended in 1940. The amendment abolished the unicameral legislature and, in its place, a bicameral legislative body was created composed of the Senate and House of Representatives.

Consequently, a structural change was also introduced to the composition of the CA - from a 21-Member body to a 25-Member body composed of the President of the Senate, as *ex officio* Chairman, 12 Senators and 12 Members of the House of Representatives.

The CA, however, was abolished with the adoption of the 1973 Constitution. The President had the sole appointing power without any check from a co-equal body.

Learning from the experience in which the power to appoint was exercised by the former President under the 1973 Constitution, provisions on the CA were again introduced in the 1987 Constitution. The provision on the composition of the CA under the 1935 Constitution, as amended, was adopted and, thus, reversion to the 25-Member CA.

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# *The Commission on Appointments*

The CA is a constitutional body under the 1987 Constitution. It is an independent body separate and distinct from the Legislature, although its membership is confined to members of Congress.\*

The CA does not curtail the President's appointing authority but serves as check against its abuse. It assures that the President has exercised the power to appoint wisely, by appointing only those who are fit and qualified.

To this end, the Rules of the Commission's Statement of Policy provides that,

"The Commission on Appointments hereby declares as its policy that the powers vested in it by the Constitution shall be discharged with only one impelling motive, which is the efficient and harmonious functioning of the government.

"Cognizant of the fact that the power of appointment is vested in the President of the Philippines, and that the President, in the exercise of that power, had carefully considered the fitness and qualifications of nominees or appointees, the Commission on Appointments shall accord the nomination or appointment weight and respect, to the end that all doubts should be resolved in favor of approval or confirmation.

"On the other hand, the Commission, being part of our republican system of checks and balances, shall act as a restraint against abuse of the appointing authority, to the end that the power of disapproval should be exercised to protect and enhance the public interest."

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\* (*Pimentel Jr. vs. Ermita* (G.R. No 164978; 472 SCRA 587)

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# Composition of the Commission

The Commission on Appointments is composed of the President of the Senate as *ex officio* Chairman, 12 senators, and 12 members of the House of Representatives.

The members of each House are chosen on the basis of proportional representation from the political parties and parties or organizations registered under the party-list system represented therein.

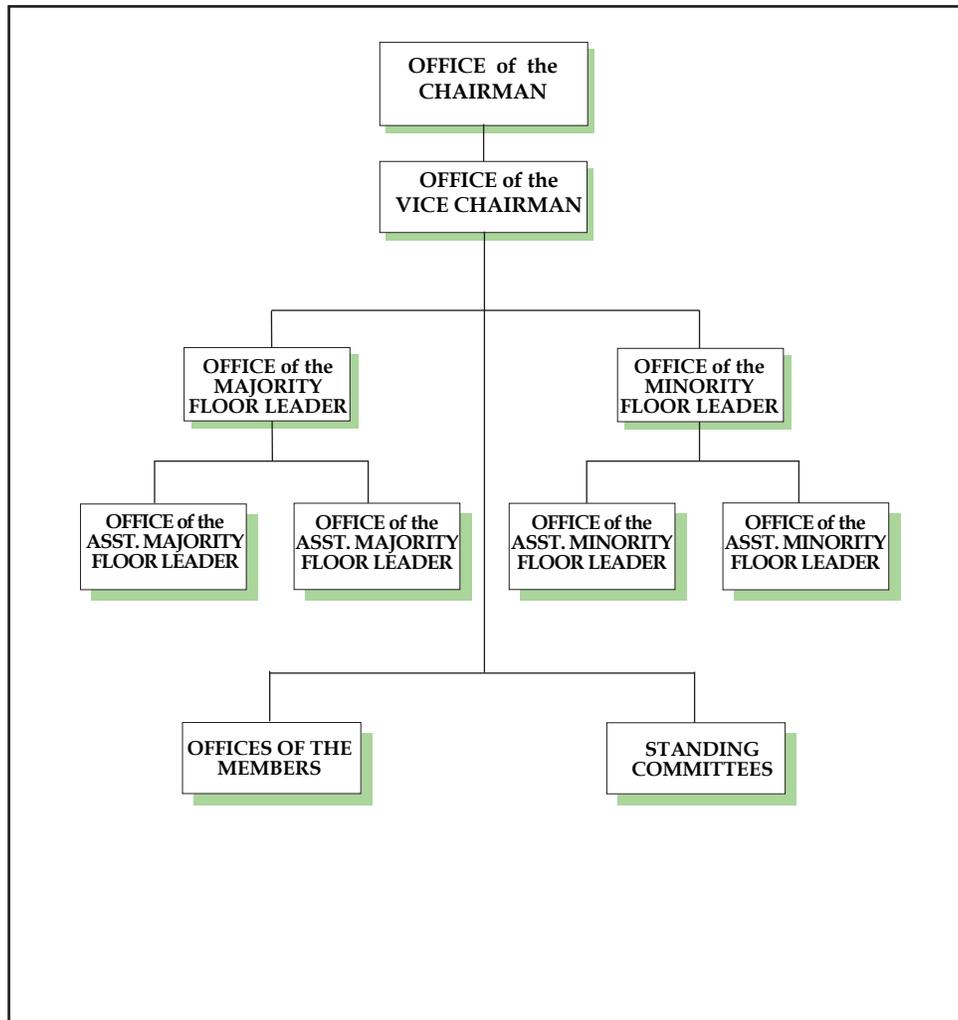
Article VI, Section 18, of the 1987 Constitution reads:

“There shall be a Commission on Appointments consisting of the President of the Senate, as *ex officio* Chairman, twelve Senators and twelve Members of the House of Representatives, elected by each House on the basis of proportional representation from the political parties and parties or organizations registered under the party-list system represented therein.

The Chairman of the Commission shall not vote, except in case of a tie. The Commission shall act on all appointments submitted to it within thirty session days of the Congress from their submission.

The Commission shall rule by a majority vote of all the members.”

# Organizational Structure



# *Standing Committees*

COMMITTEE on	CHAIRMAN	VICE CHAIRMAN	REGULAR MEMBERS	TOTAL
1. Foreign Affairs	1	7	10	18
2. National Defense	1	7	13	21
3. Finance	1	1	15	17
4. Budget and Management	1	1	15	17
5. Justice, Judicial and Bar Council	1	1	17	19
6. Agriculture and Food	1	1	13	15
7. Public Works and Highways	1	2	18	21
8. Education, Culture and Sports	1	1	15	17
9. Labor, Employment and Social Welfare	1	1	9	11
10. Health	1	1	13	15
11. Trade and Industry	1	1	13	15
12. Tourism and Economic Development	1	1	13	15
13. Environment and Natural Resources	1	1	15	17
14. Science and Technology	1	1	7	9
15. Interior and Local Government, Regional Consultative Commissions and Regional Autonomous Governments	1	1	15	17
16. Constitutional Commissions and Offices	1	1	16	18
17. Transportation and Communications	1	1	16	18
18. Agrarian Reform	1	1	13	15
19. Government Corporations and Other Offices	1	1	13	15
20. Energy	1	1	15	17
21. Accounts	1	1	6	8
22. Rules and Resolutions	1	3	5	9
23. Ethics	1	1	5	7

The number of chairpersons, vice chairpersons, and regular members is in accordance with Section 5, Chapter II, Rules of the Commission; Section 2, Article III, Rules of the Standing Committees.

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# The power to appoint

The power of appointment is vested in the President by the Constitution.

Article VII, Section 16 of the 1987 Constitution reads:

“The President shall nominate and, with the consent of the Commission on Appointments, appoint the heads of the executive departments, ambassadors, other public ministers and consuls, or officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in this Constitution. He shall also appoint all other officers of the Government whose appointments are not otherwise provided for by law, and those whom he may be authorized by law to appoint.

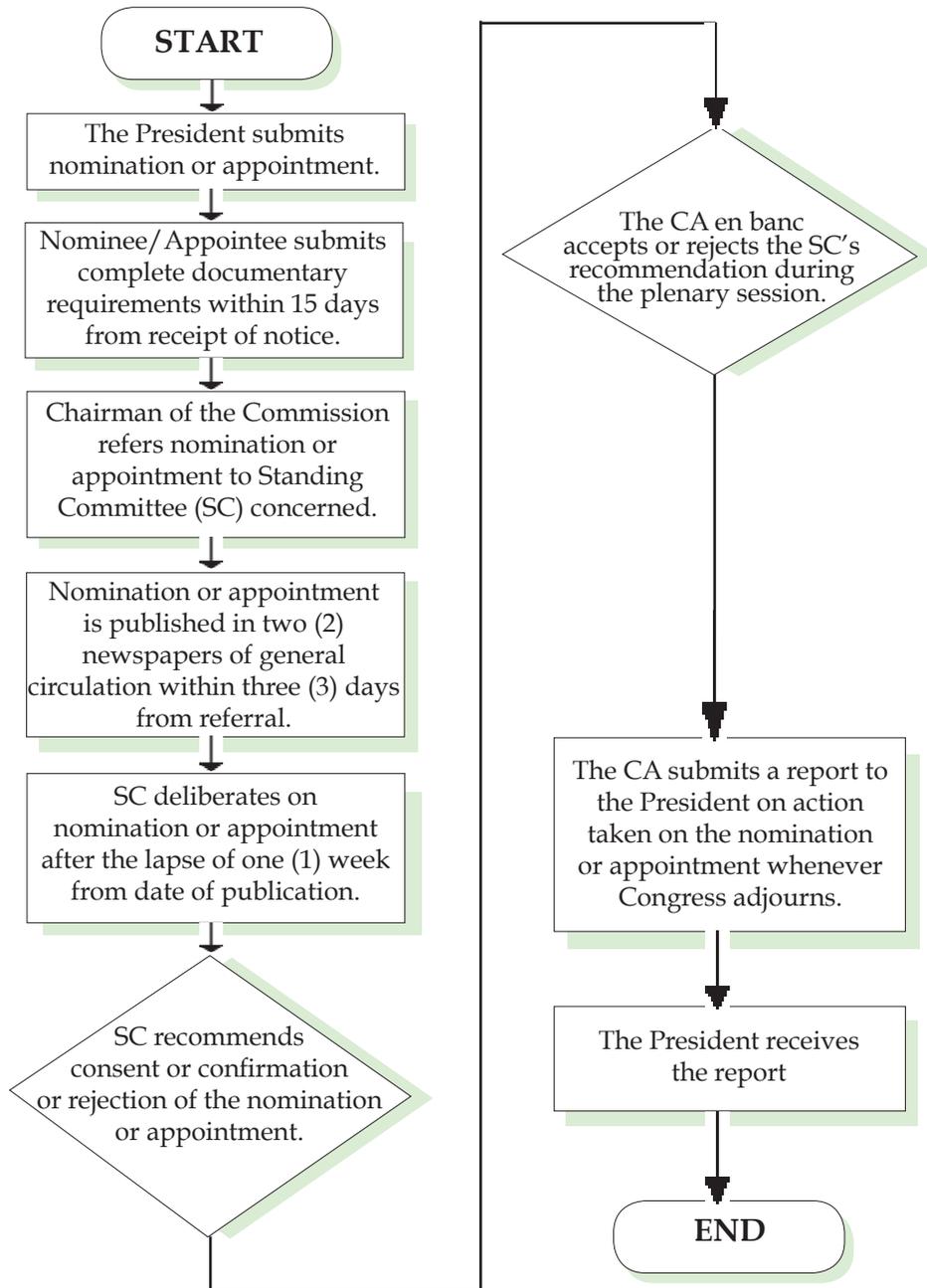
The Congress may, by law, vest the appointment of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies, commissions, or boards.

“The President shall have the power to make appointments during the recess of the Congress, whether voluntary or compulsory, but such appointments shall be effective only until disapproval by the Commission on Appointments or until the next adjournment of the Congress.”

Under this provision, there are two kinds of presidential appointments:

- (1) appointments made during the session of Congress or the so-called regular appointments or nominations, and
- (2) appointments made during the recess of Congress which are also known as *ad interim* appointments.

# Confirmation Flow Process



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# The Appointment Process

The regular appointments which are contemplated under the first paragraph of Article VII, Section 16 of the 1987 Constitution go through the following stages:

- (1) nomination
- (2) consent
- (3) appointment
- (4) acceptance by the nominee

What the President sends to the Commission is just a nomination.

After the Commission has given its consent, the President issues the appointment. It is only when the last stage has been completed may the officer concerned take his oath of office.

The second paragraph of Article VII, Sec. 16, of the 1987 Constitution also empowers the President to issue appointments while Congress is not in session. Such appointments are called *ad interim* appointments, and it goes through the following stages:

- (1) appointment
- (2) confirmation

An *ad interim* appointment is permanent in nature and takes effect immediately. Thus, one who was issued an *ad interim* appointment may immediately enter upon the discharge of his functions.

An *ad interim* appointment ceases to be valid upon disapproval by the Commission on Appointments or, if not confirmed, until the next adjournment of Congress.

# Officers subject to confirmation

Under Section 16, Article VII of the 1987 Constitution, there are two classes of public officers whose appointments need confirmation. These are:

(1) The heads of the executive departments, ambassadors, other public ministers and consuls, officers of the armed forces from the rank of colonel or naval captain; and

(2) other officers whose appointments are vested in the President under the 1987 Constitution. The officers referred to under this provision are: the Chairman and Members of Constitutional Commissions such as the Commission on Elections, the Commission on Audit and the Civil Service Commission; the regular members of the Judicial and Bar Council.

A. Heads of the executive departments	B. Ambassadors, other public ministers and consuls	C. Officers of the Armed Forces	D. Other officers
Executive Secretary Secretary of - Agrarian Reform - Agriculture - Budget and Management - Education - Energy - Environment and Natural Resources - Finance - Foreign Affairs - Health - Justice - Labor and Employment - National Defense - Public Works and Highways - Science and Technology - Social Welfare and Development - Interior and Local Government - Tourism - Trade and Industry - Transportation and Communication Press Secretary Director General National Economic and Dev't Authority	Under the 1987 Constitution - Ambassadors - Other Public Ministers - Consuls Under the Foreign Service Act - Chief of Mission I - Chief of Mission II - Career Minister - Foreign Service Officer I - Foreign Service Officer II - Posting* of Ambassadors * (place of assignment)	Air Force, Army and Marine Corps - General - Lieutenant General - Major General - Brigadier General - Colonel Navy - Admiral - Vice Admiral - Rear Admiral - Commodore - Captain	Regular Members: Judicial and Bar Council - Chairmen and Commissioners Commission on Elections Commission on Audit Civil Service Commission

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# *The Confirmation process*

**The steps in the confirmation process including the procedural and substantive rules thereof:**

**A. Submission of nominations or appointments by the President to the Commission on Appointments**

A.1. The process of confirmation starts when the President submits the nomination or appointment to the Commission.

**B. Submission of Documentary Requirements and Referral of Appointments by the Chairman of the Commission to the appropriate Standing Committee (SC)**

B.1. Immediately after receipt of the nomination or appointment, a letter is sent to the nominee or appointee requesting him to submit, within 15 working days from receipt of the letter, the documentary requirements mentioned in Section 24, Chapter V of the Rules of the Commission. The nominee or appointee is given a non-extendible period of another fifteen (15) working days within which to submit the documentary requirements.

B.2. Failure to substantially comply with the submission of documentary requirements within the 15-day extended period shall result in the rejection of the nomination or appointment. (Sec. 24, Chapter V, CA Rules)

B.3. Upon submission by the nominee or appointee of complete documentary requirements, the Chairman of the Commission immediately refers his nomination or appointment to the Standing Committee concerned for consideration.

**C. Publication of Nominations and Appointments**

C.1. Within three (3) days from the date of referral, all initial nominations or appointments referred by the Chairman of the Commission to a Standing Committee shall be duly publicized in two (2) newspapers of general circulation (Sec. 2, Art. II, Rules of the Standing Committees)

C.1.1. The publication shall contain the name of the appointee or nominee, the position to which he is being nominated or appointed and a notice to the public to submit any information, written report or sworn complaints in thirty-two (32) copies on the nomination or appointment.

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C.1.2. A certification of publication is executed and signed by the Secretary of the Commission and transmitted to the chairman of the appropriate Committee at any time before it meets to consider the nomination or appointment. (Sec. 2, Art. II, Rules of the Standing Committees)

#### **D. Committee Hearings**

D.1. After the lapse of one (1) week from date of publication, the concerned Committee conducts hearings on the nomination or appointment in the order that the nominees or appointees have submitted the complete documentary requirements. (Sec 3, Art. II, Rules of the Standing Committees)

D.2. Notice, together with the agenda of such meeting, shall be given three (3) days in advance to every member of the Committee. The three (3) day notice shall not apply when the Committee Chairman, for reasons of emergency, sets a date for the next meeting and announces the same during a meeting of the Committee. (Sec. 1, Art. IV, Rules of the Standing Committees)

D.3. A majority of all the members of the Committee shall constitute a quorum to do business. *Ex-Officio* members may be considered in determining the existence of a quorum. (Sec. 2, Art. IV, Rules of the Standing Committees)

D.4. Members of the Commission, who are not *ex-officio* or regular members of the Committee, may participate, without the right to vote, in the deliberations and discussions of the Committee. (Sec. 1, Art. V, Rules of the Standing Committees)

D.5. All oppositions to nominations or appointments filed by non-Member of the Commission must be in writing, under oath and filed before the Committee has made its final recommendation. (Sec. 22, Chap. IV, CA Rules; Sec. 3, Art. VI, SC Rules)

D.6. Anonymous letters, and unsworn complaints or oppositions shall not be considered by the Committee but may be the basis of interpellation or inquiry during the hearing. (Sec. 4, Art. VI, Rules of the Standing Committees)

D.7. The Chairman of the Committee may issue subpoena *ad testificandum and duces tecum* to compel a nominee or witness to testify or bring books or documents at a Committee hearing. (Sec. 6, Art. VI, Rules of the Standing Committees)

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## **E. Committee Recommendation**

E.1. After deliberations, the committee makes its recommendation. All Committee recommendations shall be in the form of a resolution or a motion, either verbally or in writing, and approved by a majority of the members of the Committee. (Sec. 1, Art V, Rules of the Standing Committees)

E.2. The committee recommendation is then submitted to the Commission *en banc* for its final action during the plenary session.

## **F. Caucus and Plenary Session**

F.1. The Commission meets in caucus before the plenary session. Although the caucus is not provided for in the Rules, but by tradition, one is held prior to a plenary session to consider and thresh out matters relative to a Committee recommendation before it is finally acted upon by the Commission during the plenary session.

F.2. The Commission meets in plenary session to finally act on the Committee recommendation. The presence of at least thirteen (13) members is necessary to constitute a quorum: Provided, however, that at least four (4) of the members constituting the quorum should come from either House. The presence of the Chairman shall be considered for purposes of determining the existence of a quorum. (Sec. 10, Chap. III, CA Rules)

F.3. For purposes of the plenary session, the order of precedence in the confirmation of the nominations or appointments of military or foreign service officers shall be on the basis of rank. (Sec. 16, Chap. IV, CA Rules)

## **G. Action on Nominations and Appointments**

G.1. The Commission rules on all nominations or appointments by a majority vote of all its members. Only members present shall be entitled to vote. The Chairman of the Commission shall not vote, except in case of a tie. (Sec. 15, Chap III, CA Rules)

G.2. Immediately after the start of the plenary session, a member may, for any reason, invoke Sec. 20 of the CA Rules to suspend action by the Commission on any nomination or appointment favorably recommended by a Standing Committee.

In such case, the Chairman will suspend consideration of the nomination or appointment.

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Sec. 20 does not apply to nominations or appointments taken up by the Commission during the last session prior to *sine die* adjournment of Congress.

## **H. Reconsideration of Resolutions of the Commission**

**H.1.** CA Resolutions on any nomination or appointment may be reconsidered on written motion by any member who voted with the majority or the prevailing side. The motion must be presented to the Chairman not later than one (1) day after the approval of the resolution.

If majority of the members present approves the motion, the nomination or appointment shall be reopened and submitted anew to the Commission. A motion for reconsideration may, however, be laid on the table and which decision shall be considered as a final disposition of such motion. A motion to reconsider, however, is not in order if filed during the last plenary session prior to an adjournment of Congress. (Sec. 18, Chap. IV, CA Rules)

## **I. Issuance of the Certificate of Confirmation**

**I.1.** After confirmation, the Commission issues a certificate of confirmation to the nominee or appointee.

## **J. Report to the President**

**J.1.** Notice of confirmation or disapproval is sent to the President after every adjournment of Congress.

**J.2.** Nominations or appointments, which are not finally acted upon at the close of the session of Congress, shall be returned to the President and, unless new nominations or appointments are made, shall not again be considered by the Commission. (Sec. 17, Chap. IV, CA Rules)

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# Definition of Terms

**Ad interim appointment** - is made by the President when Congress is in recess, whether voluntary or compulsory. The *ad interim* appointment shall be effective, permanent and complete until disapproval by the Commission on Appointments or until the next adjournment of the Congress.

**Nomination** - is issued by the President when Congress is in session. Once consent is given by the Commission, the President issues the regular appointment.

**Recess** - refers to the period when Congress is not in session either because it has voluntarily declared a recess under Section 16 (5), Article VI, (“voluntary recess”) of the Constitution or because, although in existence, it is not allowed by the Constitution to be in session (“compulsory recess”).

Compulsory recess refers to two situations: (1) the thirty-day period between sessions during which Congress may not meet, that is, 30 days before the fourth Monday of July, according to Sec. 15, Art. VI; or, (2) the period between the beginning of a new term (noon of June 30 next following an election) and the beginning of a regular session (fourth Monday of July) referred to in Secs. 7 and 15, Art. VI of the Constitution.

**Documentary Requirements** - a set of documents required from a nominee or appointee which includes his profile, statement of assets and liabilities, ITR records, among others, to be used as reference during committee hearings.

**Committee hearing** - an open-to-the-public meeting conducted by a Standing Committee to consider the merit and fitness and, if any, hear complaints or oppositions filed against a nominee or appointee.

**Caucus** - an *en banc* meeting, usually held prior to a plenary session, to thresh out controversial matters relative to the confirmation of a nominee or appointee.

**Plenary Session** - an *en banc* session of the Commission wherein the Committees, through their chairs, formally endorse their recommendations. Under the rules, it is held every Wednesday or on the last two days of each Congress’ session, either at the Senate or House Session Hall.