



PURSUING THE MANDATE

A PRIMER OF THE COMMISSION ON APPOINTMENTS

2021

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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 discussions by the delegates of the 1934 Philippine Constitutional Convention.

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

Under the 1935 Constitution, the CA was a twenty-one Commission. A structural change in the legislature was made when the 1935 Constitution was amended in 1940. The amendment abolished the unicameral legislature. It was replaced by a bicameral legislative body composed of the Senate and the House of Representatives.

Consequently, a structural change was also introduced to the composition of the CA. From a twenty-one Member body to a twenty-five Member body composed of the President of the Senate, as *ex-officio* Chairman, twelve Senators and twelve 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 or branch of government.

Learning from the experience in which the power to appoint was solely exercised by the President under the 1973 Philippine

Constitution, provisions on the CA were again introduced in the 1987 Philippine Constitution. The provision on the composition of the CA under the 1935 Philippine Constitution, as amended, was adopted, hence the reversion to the twenty-five Member CA.

The Commission on Appointments

The Commission on Appointments is a constitutional body under the 1987 Philippine Constitution. It is an independent body separate and distinct from the legislative branch although its membership is confined to the members therein.

The Philippine republican system of government is defined by the absolute separation of power among its three co-equal branches: the executive, the legislative and the judiciary. To ensure that interference and overlapping of influence amongst the three is prevented, the Constitution established a system of checks and balances by creating the CA making it an integral element of the government.

The CA serves as moderator of the President's executive power to appoint at will by passing judgment over the fitness and qualifications of the Presidential nominees and appointees. The avowed purpose of the CA is embodied in its rules as declared in the Statement of Policy—

“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."

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

Composition of the Commission on Appointments

The Commission on Appointments is composed of the President of the Senate as *ex officio* Chairman, Twelve (12) Senators, and Twelve (12) Members of the House of Representatives.

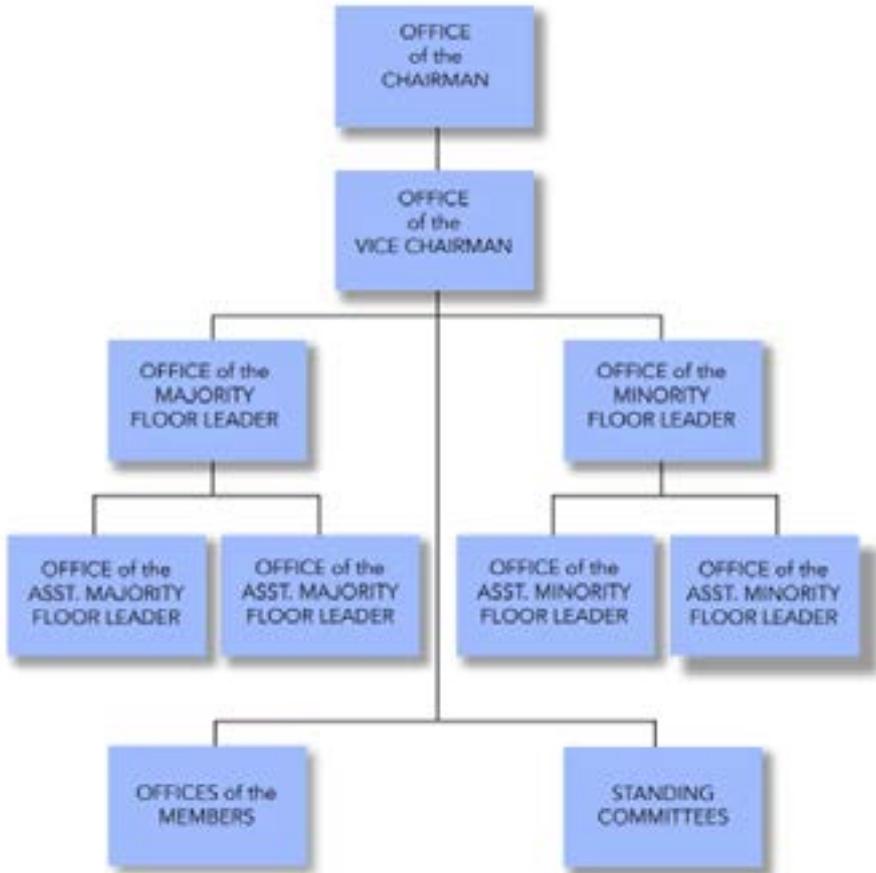
The members of each House are chosen on the basis of proportional representation from the political parties and parties or organizations registered under the party-list system represented therein.

The composition of the CA is based on Article VI, Section 18, of the 1987 Philippine Constitution which 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.”

The provision of the Constitution explicitly confers on the Senate and on the House of Representatives the authority, with defined limits, to elect among their members those who would fill the twelve (12) seats for Senators and twelve (12) seats for House members in the Commission on Appointments. (*Pimentel, Jr. vs. House of Representatives Electoral Tribunal*, 393 SCRA 227)

The Organizational Structure



The Standing Committees

STANDING COMMITTEES	CHAIRMAN	VICE CHAIRMAN	REGULAR MEMBERS	TOTAL
1. Accounts	1	1	2	9
2. Agrarian Reform	1	1	15	17
3. Agriculture	1	1	15	17
4. Budget and Management	1	1	15	17
5. Constitutional Commissions and Offices	1	1	15	17
6. Education	1	1	15	17
7. Energy	1	1	15	17
8. Environment and Natural Resources	1	1	15	17
9. Ethics	1	1	7	9
10. Finance	1	1	15	17
11. Foreign Affairs	1	1	9	17
12. Health	1	1	15	17
13. Human Settlements and Urban Development	1	2	14	17
14. Information and Communications Technology	1	1	15	17
15. Justice and Judicial and Bar Council	1	1	15	17
16. Labor Employment and Social Welfare	1	1	15	17
17. National Defense	1	1	9	17
18. Public Works and Highways	1	1	9	17
19. The Executive Secretary and Presidential Communications Offices of the Office of the President	1	1	15	17
20. The Interior and Local Government	1	1	15	17
21. Tourism and Economic Development	1	1	15	17
22. Trade and Industry	1	1	15	17
23. Transportation	1	1	15	17
24. Rules and Resolution	1	3	5	9
25. Science and Technology	1	1	15	17

List of Officers Subject to Confirmation

A. HEADS OF THE EXECUTIVE DEPARTMENTS

Executive Secretary Secretary of:

Agrarian Reform
Agriculture
Budget and Management
Education
Energy
Environment and Natural Resources
Finance
Foreign Affairs
Health
Human Settlement and Urban Development
Information and Communications Technology
Interior and Local Government
Justice
Labor and Employment
National Defense
National Economic Development Authority
Presidential Communications
Public Works and Highways
Science and Technology
Social Welfare and Development
Tourism
Trade and Industry
Transportation

B. AMBASSADORS, OTHER PUBLIC MINISTERS AND CONSULS

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)

C. OFFICERS OF THE ARMED FORCES

Air Force, Army and Marine Corps

General
Lieutenant General
Major General
Brigadier General
Colonel

Navy

Admiral
Vice Admiral
Rear Admiral
Commodore
Captain

D. OTHER OFFICERS

Regular Members

Judicial and Bar Council

Chairman and Commissioners

Commission on Elections
Commission on Audit
Civil Service Commission

The Power to Appoint

The power of appointment is vested in the President by the Constitution. Article VII, Section 16 of the 1987 Philippine 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.

The nomination of the regular appointee is made and approved during session, when the CA is authorized to meet. But the ad interim appointment is made during the recess and becomes effective then, subject to confirmation or rejection later, during the next legislative session. (*Political Law, 2002 Edition, Isagani A. Cruz*)

The Appointment Process

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

1. Nomination
2. Consent
3. Appointment
4. Acceptance/Oath of Office

The President sends to the Commission on Appointments the nomination. It is only after due deliberation and upon consent of the CA that the President issues the appointment. After acceptance of the appointment, the officer concerned may then take the oath and assume office.

The second paragraph of Article VII, Section 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

The *ad interim* appointment, once confirmed by the Commission on Appointments, continues until the end of the term of the appointee. The *ad interim* appointment is effective immediately and shall cease to be valid if disapproved by the Commission on Appointments or upon the next adjournment of the Congress.

A nomination or appointment is “by-passed” when it has not been finally acted upon on the merits at the close of the session of Congress. There is no final decision by the Commission on Appointments to give or withhold its consent to the appointment as required by the Constitution. Absent such decision, the President is free to renew the *ad interim* appointment of a bypass appointee. (*Matibag vs. Benipayo* 380 SCRA 49)

Officers Subject to Confirmation

There are two classes of public officers whose appointments by the President 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—

- a. The Chairman and Members of the Constitutional Commissions such as the Commission on Elections, the Commission on Audit, and the Civil Service Commission; and
- b. The regular Members of the Judicial and Bar Council.

The Confirmation Process

The steps in the confirmation process of the Commission on Appointments in the exercise of its Constitutional mandate as a check and balance of the Presidential power and prerogative to appoint are as follows—

A. SUBMISSION, PUBLICATION AND REFERRAL OF THE NOMINATIONS OR APPOINTMENTS

1. The process of confirmation starts when the President submits the nomination or appointment to the Commission on Appointments. The President of the Philippines makes the nomination or appointment, as the case may be, and shall submit the same to the CA for its consent or confirmation. *(1987 Constitution of the Philippines, Article V, Section 16)*
2. The Commission through its Secretariat shall, upon receipt of the nomination or appointment, immediately publish the same in two (2) newspapers of general circulation or publicized in broadcast media. *(The New Rules of the CA Standing Committees, Article II, Section 2)*
3. The publication shall contain the name of the nominee or appointee, the position to which the person is 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.

4. The Chairman of the Commission shall, upon receipt of the nomination or appointment, directly and immediately refer the same to the appropriate Standing Committee. (*The New Rules of the Commission on Appointments, Chapter V, Section 16*)

B. SUBMISSION OF THE DOCUMENTARY REQUIREMENTS OF THE NOMINEE OR APPOINTEE

1. The Commission through its Secretariat shall notify in writing the nominee or appointee to submit the documentary requirements mentioned in Sec. 24 of the Rule of the Commission within thirty (30) days from receipt of the notice. The nominee or appointee may be given a non-extendible period of fifteen (15) days for justifiable reasons as may be determined by the Commission. (*The New Rules of the Commission on Appointments, Chapter VI, Section 24*)
2. Failure of the nominee or appointee to substantially comply with the submission of the documentary requirements upon the expiration of the required period shall be a ground for the rejection of the nomination or appointment. (*The New Rules of the Commission on Appointments, Chapter VI, Section 24*)
3. The Standing Committee concerned shall recommend to the Committee on Rules and Resolutions the rejection of the nominee or appointee who failed to substantially comply with the submission of the documentary requirements despite due notice. The Committee on Rules and Resolutions shall report such failure of the nominee or appointee to the Commission in plenary session which shall formally reject the

nomination or appointment. (*The New Rules of the Commission on Appointments, Chapter VI, Section 24*)

C. THE STANDING COMMITTEE HEARINGS AND CONSIDERATION OF THE NOMINEE OR APPOINTEE

1. The Standing Committees of the Commission on Appointments are task to evaluate the Presidential nominees or appointees guided by no consideration other than the integrity, competence and fitness of the nominees or appointees. (*The New Rules of the CA Standing Committees, Chapter I, Statement of Policy*)
2. The Standing Committee concerned may begin consideration of the nomination or appointment upon receipt of the referral and after the lapse of one (1) week from the date of publication regardless of whether or not the nominee or appointee has complied with the submission of the documentary requirements. The Standing Committee concerned shall not however recommend for confirmation any nomination or appointment until the documentary requirements have been fully complied. (*The New Rules of the Commission on Appointments, Chapter V, Section 16; Chapter VI, Section 24; and The New Rules of the CA Standing Committees, Article II, Section 3*)
3. Notice, together with the agenda of the Standing Committee hearings, shall be given at least one (1) day in advance to its members. The time and place of the hearing are determined by the Chairman of the Standing Committee or by at least one-third (1/3) of its members in coordination with the Committee on Rules and Resolutions. (*The New Rules of the CA Standing Committees, Article IV, Section 1*)

4. A majority of all the members of the Standing Committee shall constitute a quorum to do business. The *ex officio* members present may be considered in determining the existence of a quorum. (*The New Rules of the CA Standing Committees, Article IV, Section 2*)
5. For purposes of conducting public hearings, the presence of the Chairman of the Standing Committee or the Vice-Chairman, and at least two (2) members who must not come from the same House shall be sufficient. (*The New Rules of the CA Standing Committees, Article VI, Section 2*)
6. In case of declared national emergency, *force majeure*, and other unforeseeable events, the standing committee, at the call of the Committee Chair or at least 1/3 of its members, may conduct meetings through teleconference, video conference, webcast or other similar reliable forms of remote or electronic means. Members who elect to be physically present may personally attend and participate. The physical presence of the nominee or appointee is still required during the deliberation; except, when a written request (from the nominee or appointee) was granted by the Committee Chair. (*The New Rules of the CA Standing Committees, Article IV, Section 1, as amended on 24 August 2020*)
7. The members of the Commission who are not *ex officio* or regular members of the Standing Committee may participate, without the right to vote, in the deliberations and discussions of the Committee. (*The New Rules of the CA Standing Committees, Article V, Section 1*)
8. A Commission member may be represented by his duly authorized representative in any Committee hearing.

The representative, however, cannot participate in the deliberation therein. If the representative has any question or manifestation, the same should be addressed verbally or in writing to the Chairman of the Committee. (*The New Rules of the CA Standing Committees, Article IV, Section 3*)

9. All oppositions or complaints filed by a non-member of the Commission to a nomination or appointment must be in writing, under oath, and filed before the Standing Committee concerned before it has made its final recommendation to the Commission *en banc*. The opposition or objection shall not cause the automatic deferment of a nomination or appointment unless the deferment is approved by the Standing Committee. (*The New Rules of the CA Standing Committees, Article VI, Section 3 and Article II, Section 3*)
10. Anonymous letters, unsubstantiated complaints, unverified reports, or unsworn oppositions or complaints shall not be considered by the Standing Committee concerned and shall neither prejudice nor prevent any favorable recommendation reached by the Committee. However, the same may be the basis of interpellation or inquiry during the hearings of the Committee. (*The New Rules of the CA Standing Committees, Article VI, Section 4*)
11. A Standing Committee may go into executive session whenever the security of the state or public interest so requires or whenever the integrity of the nominee or appointee may be unnecessarily and unduly prejudiced. (*The New Rules of the CA Standing Committees, Article VI, Section 5*)
12. The Chairman of the Standing Committee may issue a subpoena requiring a nominee, appointee, or witness to

testify at its hearing, to give testimony by deposition, or to bring books, documents, or other things under his control. The subpoena shall be served through the Sergeant-At-Arms of the Commission. *(The New Rules of the CA Standing Committees, Article VI, Section 6)*

13. The Standing Committee concerned shall conduct at least one (1) meeting before it can recommend to the Commission *en banc* the approval or disapproval of a nomination or appointment. *(The New Rules of the CA Standing Committees, Article IV, Section 4)*

D. THE STANDING COMMITTEE RECOMMENDATION

1. After due deliberations and discussions, the Standing Committee makes its recommendation. The recommendation shall be made in a form of a resolution or motion, either verbally or in writing and approved by the members of the Standing Committee concerned. *(The New Rules of the CA Standing Committees, Article V, Section 1)*
2. In the process of performing its task, the Standing Committee concerned may arrive at any of the following recommendations after conducting hearings and deliberations—
 - a. Recommend for the consent or approval of the nomination or appointment;
 - b. Recommend for the disapproval of the nomination or appointment; or,
 - c. By-pass the nomination or appointment

E. CAUCUS AND PLENARY SESSIONS

1. The Commission *en banc* meets in *caucus* before the plenary session. A *caucus* is held prior to a plenary session to consider and thresh out matters relative to a Standing Committee recommendation before it is finally acted upon by the Commission during the plenary session.
2. The Commission *en banc* meets in plenary session to finally act on the Standing Committees recommendation. In case of declared national emergency, force majeure, and other unforeseeable events, the Commission, at the call of the Chairman or Majority members, may conduct sessions through teleconference, video conference, webcast or other similar reliable forms of remote or electronic means. Members who elect to be physically present may personally attend and participate. The physical presence of the nominee or appointee is still required during confirmation; except, when a written request (from the nominee or appointee) was granted by the Chairman.
3. The presence of at least thirteen (13) members is necessary to constitute a quorum and that at least four (4) of the members constituting the quorum should come from either House.
4. The presence of the Chairman shall be considered in determining the existence of a quorum. (*The New Rules of the Commission on Appointments, Chapter III, Section 10, as amended on 24 August 2020*)

F. ACTION ON NOMINATIONS OR APPOINTMENTS

1. All meetings shall be public unless the Commission determines

that a particular nomination or appointment be considered in Executive Session upon motion of a member, duly seconded and approved by a majority of the members present. (*The New Rules of the Commission on Appointments, Chapter III, Section 11*)

2. The Commission *en banc* rules on all nominations or appointments by a majority vote of all its members. Only members present shall be entitled to vote. The *ex officio* Chairman shall not vote except to break a tie. (*The New Rules of the Commission on Appointments, Chapter IV, Section 15*)
3. Voting by the Commission on any nomination or appointment submitted for confirmation shall be by *viva voce*; except, upon request of any member, the voting shall be nominal, by ballot during *caucus*, or by any other appropriate technological means. (*The New Rules of the Commission on Appointments, Chapter V, Section 23, as amended on 30 September 2020*)
4. The Commission, on petition of not less than ten (10) members may directly consider a nomination or appointment and, thereupon, vote on it after the lapse of ten (10) days from the date of referral. It may also directly consider a nomination or appointment and, thereupon, vote on it before the lapse of the ten (10) day period, on petition of at least thirteen (13) members. (*The New Rules of the Commission on Appointments, Chapter V, Section 16*)
5. Immediately after the start of the plenary session, any member may move for the suspension of action by the Commission on any nomination or appointment favorably recommended by a Standing Committee. In such case, the Chairman shall suspend the consideration of said nomination or appointment.

Any member cannot however move for the suspension of action for nominations or appointments taken up by the Commission during the last session prior to a *sine die* adjournment of Congress. (*The New Rules of the Commission on Appointments, Chapter V, Section 20*)

6. The suspension of action provided under Section 20 of the Rules cannot be invoked by any member of the Commission when taking up nominations or appointments which have already been by-passed three (3) times. (*The New Rules of the Commission on Appointments, Chapter VI, Section 25*)

G. REPORT TO THE PRESIDENT ON THE ACTIONS TAKEN ON THE NOMINATIONS OR APPOINTMENTS

1. A report on the actions taken by the Commission on the nominations or appointments is submitted to the Office of the President of the Philippines at the close of the session of Congress. The report contains a list of the approved, rejected and the by-passed nominations or appointments. (*The New Rules of the Commission on Appointments, Chapter V, Section 17*)
2. A Certificate of Confirmation is issued or given to those whose nomination or appointment is approved or consented to by the Commission.
3. A nomination or appointment disapproved or rejected by the Commission is a final decision in the exercise of its checking power on the appointing authority. It is binding on the nominee or appointee as well as on the appointing power. Such nomination can neither be extended nor renewed. (*Matibag vs. Benipayo, 380 SCRA 49*)

4. Nominations or appointments which are not finally acted upon or by-passed 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. (*The New Rules of the Commission on Appointments, Chapter V, Section 17*)

Jurisprudence on the Commission on Appointments

1. Organization and Representation of the Commission

- The Commission on Appointments is a creature of the Constitution. Although its membership is confined to members of Congress, said Commission is independent of Congress. The powers of the Commission do not come from Congress, but emanate directly from the Constitution. (*Cunanan vs. Tan, G.R. No. L-19721 May 10, 1962*)
- The House of Representatives has the authority to change its representation in the Commission on Appointments to reflect at any time the changes that may transpire in the political alignments of its membership. It is understood that such changes must be permanent and do not include the temporary alliances or factional divisions not involving severance of political loyalties or formal disaffiliation and permanent shifts of allegiance from one political party to another. (*Daza vs. Singson, 180 SCRA 496, G.R. No. 86344 December 21, 1989*)

- The provision of Section 18 Article VI of the 1987 Constitution on proportional representation is mandatory in character and does not leave any discretion to the majority party in the Senate to disobey or disregard the rule on proportional representation; otherwise, the party with a majority representation in the Senate or the House of Representatives can by sheer force of numbers impose its will on the hapless minority. (*Guingona, Jr. vs. Gonzales, 214 SCRA 789, G.R. No. 106971 October 20, 1992*)
- The Constitution does not require the election and presence of twelve (12) Senators and twelve (12) members of the House of Representatives in order that the Commission may function. It is quite evident that the Constitution does not require the election and presence of twelve (12) senators and twelve (12) members of the House of Representatives in order that the Commission may function. Other instances may be mentioned of Constitutional collegial bodies which perform their functions even if not fully constituted and even if their composition is expressly specified by the Constitution. Among these are the Supreme Court, Civil Service Commission, Commission on Election, Commission on Audit. They perform their functions so long as there is the required quorum, usually a majority of its membership. The Commission on Appointments may perform its functions and transact its business even if only ten (10) senators are elected thereto as long as a quorum exists (*Ibid*).
- The proportional representatives of each political party in the Commission on Appointments is based

on the actual number of members of each political party at the time of the election of members therein in recognition of changing political alignments at the time of its organization (*Ibid*).

2. Scope of the Power of the Commission

- The position of Commissioner of the Bureau of Customs is not one of those which require the consent of the Commission on Appointments (CA). The intent of the framers of the 1987 Constitution is to exclude presidential appointments from confirmation of the CA except appointments mentioned in the first sentence of Section 16 of Article VII. (*Sarmiento III vs. Mison*, 156 SCRA 549, No. L-79974 December 17, 1987)
- 1935 Constitution requires confirmation by the Commission on Appointments of all presidential appointments, under the 1973 constitution the president has absolute power of appointment while under the 1987 Constitution, 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 (*Ibid*).
- Since the position of Chairman of the Commission on Human Rights is not among the positions mentioned in the first sentence of Sec. 16, Art. VII of the 1987 Constitution, appointments which are to be made with the confirmation of the Commission on Appointments, it follows that the appointment by the President of the

Chairman of the CHR is to be made without the review or participation of the Commission on Appointments. (*Bautista vs. Salonga*, 172 SCRA 160, G.R. No. 86439 April 13, 1989)

- The Chairman and Members of the National Labor Relations Commission are not among the officers mentioned in the first sentence of Section 16, Article VII whose appointments requires confirmation by the Commission on Appointments. (*Calderon vs. Carale*, 208 SCRA 254, G.R. No. 91636 April 23, 1992)
- Congress cannot by law expand the confirmation powers of the Commission on Appointments and require appointment of other government officials not expressly mentioned in the first sentence of Sec. 16 of Article 7 of the Constitution. (*Tarrosa vs. Singson*, 232 SCRA 553, G.R. No. 111243 May 25, 1994)
- Directors and chief superintendents of the PNP do not fall under the first category of presidential appointees requiring the confirmation by the Commission on Appointments. The police force is different from and independent of the armed forces and the ranks in the military are not similar to those in the Philippine National Police. Thus, directors and chief superintendents of the PNP, such as the herein respondent police officers, do not fall under the first category of presidential appointees requiring the confirmation by the Commission on Appointments. (*Manalo vs. Sistoza*, 312 SCRA 239, G.R. No. 107369 August 11, 1999)
- The promotions and appointments of respondent

officers of the PCG or any PCG officer from the rank of captain and higher for that matter, do not require confirmation by the CA. Now that the PCG is under the DOTC and no longer part of the Philippine Navy or the Armed Forces of the Philippines, the promotions and appointments of respondent officers of the PCG, or any PCG officer from the rank of captain and higher for that matter, do not require confirmation by the CA. (*Soriano III vs. Lista*, 399 SCRA 437, G.R. No. 153881 March 24, 2003)

3. Ad Interim Appointments

- An *ad interim* appointment is one made in pursuance of paragraph (4), section 10 (now section 16), Article VII, of the Constitution, which provides that “the President shall have the power to make appointments during the recess of the Congress, but such appointments shall be effective only until disapproval by the Commission on Appointments or until the next adjournment of the Congress.” It is an appointment permanent in nature, and the circumstance that it is subject to confirmation by the Commission on Appointments does not alter its permanent character. (*Summers vs. Ozaeta and Agregado*, 81 Phil. 754, No. L-1534 October 25, 1948)
- The framers of our Constitution in employing merely the word adjournment as a mode of terminating an appointment made during the recess of Congress had in mind either the regular or special session, and not simply the regular one as contended by petitioner. (*Guevara vs. Inocentes*, 16 SCRA 379, No. L-25577 March 15, 1966)

- The Constitution imposes no condition on the effectivity of an *ad interim* appointment, and thus an *ad interim* appointment takes effect immediately xxx. (*Matibag vs. Benipayo*, 380 SCRA 49, G.R. No. 149036 April 2, 2002)
- A by-passed appointment is one that has not been finally acted upon on the merits by the Commission on Appointments at the close of the session of Congress. There is no final decision by the Commission on Appointments to give or withhold its consent to the appointment as required by the Constitution. Absent such decision, the President is free to renew the *ad interim* appointment of a by-passed appointee (*Ibid*).

4. Acting Appointments

- The essence of an appointment in an acting capacity is its temporary nature. It is a stop-gap measure intended to fill an office for a limited time until the appointment of a permanent occupant to the office. In case of vacancy in an office occupied by an alter ego of the President, such as the office of a department secretary, the President must necessarily appoint an alter ego of her choice as acting secretary before the permanent appointee of her choice could assume office. (*Pimentel, Jr. vs. Ermita*, 472 SCRA 587, G.R. No. 164978 October 13, 2005)
- *Ad interim* appointments must be distinguished from appointments in an acting capacity. Both of them are effective upon acceptance. But *ad interim* appointments are extended only during a recess of Congress and are submitted to the Commission on

Appointments for confirmation or rejection, whereas acting appointments may be extended any time there is a vacancy and are not submitted to the Commission on Appointments(*Ibid*).

5. Qualification of Appointees / Nominees

- The phrase “practice of law” is not limited to the conduct of cases in court. It means any activity, in and out of court, which requires the application of law, legal procedure, knowledge, training and experience. Atty. Monsod’s past work experiences as lawyer-economist, lawyer-manager, lawyer-entrepreneur, and lawyer-negotiator, satisfy the constitutional requirement that he has been engaged in the practice of law for at least ten (10) years. (*Cayetano vs. Monsod*, 201 SCRA 210, G.R. No. 100113 September 3, 1991)

6. Motion for Reconsideration

- A resolution of the Commission on any appointment may be reconsidered on motion by a member presented not more than one (1) day after their approval. If a majority of the members present concur to grant a reconsideration, the appointment shall be reopened and submitted anew to the Commission. Any motion to reconsider the vote on any appointment may be laid on the table, and this shall be a final disposition of such a motion. (*Altarejos vs. Molo*, 25 SCRA 550, No. L-25726 October 21, 1968)
- Mere filing of a motion for reconsideration does not have the effect of setting aside a confirmation of an

appointment. (*Pacete vs. The Sec. of the Commission on Appointments*, 40 SCRA 58, No. L-25895 July 23, 1971)

- Pursuant to this provision, the vote of a majority of the members present in favor of the motion for reconsideration is necessary to “reopen” the appointment—and, hence, to “recall” its confirmation—and to require a resubmission of the appointment for confirmation (*Ibid*).

7. Appointing Power of the President

- The appointing power is the exclusive prerogative of the President, upon which no limitations may be imposed by Congress except those resulting from the need of securing the concurrence of the Commission on Appointments and from the exercise of the limited legislative power to prescribe the qualifications to a given appointive office. (*Manalang vs. Quitariano, et al.*, 94 Phil. 903, No. L-6898 April 30, 1954)
- A new President may recall nominations made by an outgoing President before such nominations have been confirmed by the Commission on Appointments. (*Siguiente vs. Secretary of Justice*, 9 SCRA 598, No. L-20370 November 29, 1963)
- An outgoing President may not make an appointment to take effect after he has ceased to be President (*Ibid*).

Definition of Terms

Ad interim Appointment - is made by the President when Congress is not in session or on recess, whether voluntary or compulsory. An *ad interim* appointment is a permanent appointment. It takes effect immediately and can no longer be withdrawn by the President once the appointee has qualified into office. The fact that it is subject to confirmation by the Commission on Appointments does not alter its permanent character. The *ad interim* appointment is 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 on Appointments, the President issues the regular appointment.

By-passed Nomination or Appointment – is one that has not been finally acted upon on the merits by the Commission on Appointments at the close of the session of Congress.

Recess - refers to the period when Congress is not in session either because it has voluntarily declared a recess under Article VI, Section 16 (5) of the 1987 Philippine Constitution (“voluntary recess”), or 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 Art. VI, Sec. 15; 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 Art. VI, Secs. 7 and 15.

Documentary Requirements - a set of documents required from a nominee or appointee which includes, among others, Personal Profile, Statement of Assets Liabilities and Networth (SALN), and Income Tax Return (ITR) records to be used as reference during Standing Committee hearings.

Committee Hearing - an open-to-the-public meeting conducted by a Standing Committee of the Commission 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 matters relative to the confirmation of a nominee or appointee.

Plenary Session - an *en banc* session of the Commission wherein the Standing Committees, through their Chairpersons, formally endorse their respective recommendations. Under the Rules, it is held every Wednesday or on the last two (2) days of each Congress' session, either at the Session Hall of the Senate or the House of Representatives upon the call of the Chairman or at such other place as the Commission may designate.

Executive Session – in general parliamentary usage has come to mean any meeting of a deliberative assembly, or a portion of a meeting, at which the proceedings are secret.

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