

From Selection to Succession of the Chief Justice: A Note on the Next-in-Rank Rule

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This Note examines the age old tradition of the Next-in-Rank Rule in the selection of a Supreme Court Chief Justice. This comes in the heels of the recent appointment of Justice Artemio Panganiban as the next Chief Justice, whose appointment breaks away from the Next-in-Rank Rule. The Note delves into the process of succession in the Executive Department, Legislative Department, and Judiciary. The Next-in-Rank Rule is the customary rule in the selection of Chief Justice, where the Principle of Seniority is upheld. Since its inception, it has been the practice of the Supreme Court to have for its Chief Justice, the most senior of Justices in terms of appointment to the Supreme Court. The Note also examines the American Tradition of appointing Chief Justices and how it is inapplicable to the Philippines.

The observance of the Next-in-Rank Rule has long been recognized by the Supreme Court as reflected in previous decisions. There have only been a few deviations from this rule throughout the history of the Court. The first occurred when Victorino Mapa was appointed over Florentino Torres. Other instances were the appointments of Laurel over Yulo and Makasiar and Aquino over Teehankee.

Under the 1987 Constitution and until recently, the President has always adhered to the Next-in-Rank Rule. In order to retain an unbending adherence to this rule and avoid the politicking involved in the appointment of Chief Justice, the Author proposes that the Next-in-Rank Rule be incorporated in the Constitution in case of Charter Change. This would favor a smooth transition of power and leadership in the Judiciary. Politicking and caprices of executive selection are also avoided.