

MALACAÑAN PALACE  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 86

AMENDING FURTHER SECTION 133 OF THE REVISED ADMINISTRATIVE CODE, AS AMENDED BY EXECUTIVE ORDER NO. 40, DATED MAY 4, 1945.

WHEREAS, Executive Order No. 40, dated May 4, 1945, authorizes the Supreme Court to sit in two divisions, one of six and another of five Justices, and requires the concurrence of five members of a division for the pronouncement of a judgment by each division; and

WHEREAS, the speedy administration of justice demands that four members of a division be permitted to constitute a quorum for the transaction of business by each division and that the number required for the pronouncement of judgment by a division be reduced to the affirmative vote of the majority of the members thereof;

NOW, THEREFORE, by virtue of the powers vested in me by the Constitution and existing laws of the Philippines, I, SERGIO OSMEÑA, President of the Philippines, do hereby order:

1. That section 133 of the Revised Administrative Code, as amended by section 2 of Commonwealth Act No. 3 and sections 1 and 2 of Commonwealth Act No. 259 and by the aforesaid Executive Order No. 40, dated May 4, 1945, be further amended so as to read as follows:

"SEC. 133. Justices of the Supreme Court; quorum of the Court; number of Justices necessary to reach a decision. - The Supreme Court of the Philippines shall consist of a Chief Justice and ten Associate Justices, any eight of whom shall constitute a quorum for its sessions in banc. In the absence of a quorum, the Court shall stand ipso facto adjourned until such time as the requisite number shall be present, and a memorandum showing this fact shall be inserted by the clerk in the minutes of the Court.

"The Supreme Court shall, as a body, sit in banc, but it may sit in two divisions, one of six and another of five Justices, to transact business, and the two divisions may sit at the same time.

"Whenever the constitutionality of a law or a treaty is involved, the case shall be heard and determined by the Court sitting in banc, and no law or treaty may be declared unconstitutional without the concurrence of at least eight Justices. When the necessary majority, as herein provided, to declare a law or a treaty unconstitutional cannot be had, the Court shall so declare, and in such case the validity or constitutionality of the law or treaty involved shall be deemed upheld.

"Whenever the judgment of the lower court imposes the death penalty, the case shall likewise be heard and determined by the Court sitting in banc, and the concurrence of all of the Justices present in the Philippines, not disqualified or physically incapacitated, shall be necessary for the pronouncement of a judgment imposing the death penalty. When the Court fails to reach a unanimous decision as herein provided, the penalty next lower in degree than the death penalty shall be imposed.

"All of the cases of the Court that are not required to be heard and determined by the Court in banc shall be allotted between the two divisions thereof for hearing and decision. Any four members of a division shall constitute a quorum for the transaction of business by that division and the affirmative vote of a majority of the members thereof shall be necessary for the pronouncement of a judgment by such division. Whenever a division fails to reach a decision in a case submitted to it, or whenever such division shall so order, or whenever the Chief Justice, in the exercise of a sound discretion, so orders, or whenever the admiralty jurisdiction of the Court is involved, the case shall be heard and determined by the Court sitting in banc, the affirmative vote of a majority of at least six Justices being necessary for the pronouncement of a judgment.

"The Court sitting in banc shall, from time to time, make proper orders or rules to govern the allotment of cases between the two divisions, the constitution of such divisions, the regular rotation of Justices between them, the filling of vacancies occurring therein, and other matters relating to the business of the Court. If the Chief Justice is present in any session of the Court sitting in banc or in division, he shall preside. In his absence, that one of the Justices attending in banc or in division shall preside who holds the senior commission."

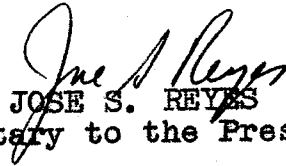
2. That all Acts or parts of Acts which are inconsistent with the provisions of this Executive Order are hereby repealed.

Done at the City of Manila, this 7th day of January, in the year of Our Lord, nineteen hundred and forty-six, and of the Commonwealth of the Philippines, the eleventh.



SERGIO OSMEÑA  
President of the Philippines

By the President:



JOSE S. REYES  
Secretary to the President