

**[ EXECUTIVE ORDER NO. 40, May 04, 1945 ]**

**AMENDING CERTAIN PROVISIONS OF THE REVISED  
ADMINISTRATIVE CODE ON THE JUDICIARY, BY INCREASING  
THE NUMBER OF JUSTICES OF THE SUPREME COURT, AND FOR  
OTHER PURPOSES**

WHEREAS, the Court of Appeals was abolished by Executive Order No. 37, current series;

WHEREAS, by such abolition of the Court of Appeals all cases which have theretofore been duly appealed thereto shall be transmitted to the Supreme Court for final decision, and all cases which under the law are appealable to the Court of Appeals shall be appealed to the Supreme Court, which is granted the jurisdiction to finally decide the same;

WHEREAS, such enlarged jurisdiction of the Supreme Court requires the increase of the number of Justices thereof;

NOW, THEREFORE, by virtue of the powers vested in me by the Constitution and the laws of the Commonwealth of the Philippines, particularly Commonwealth Act No. 671, I, SERGIO OSMEÑA, President of the Philippines, do hereby order:

1. That sections 133 and 134 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, 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