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APERTURA DE LA SESION

Se abre la sesion a las 5:25 p.m., ocupando el estrado el Presidente, Hon. Claro M. Recto.

EL PRESIDENTE: Se abre la sesion.

DISPENSACION DE LA LECTURA DE LA LISTA
Y DEL ACTA

SR. ESCAREAL: Senor Presidente.

EL PRESIDENTE: Senor Delegado por Samar.

SR. ESCAREAL: Pido que se dispense la lectura de la lista y del acta, dandose esta por aprobada y por presente un quorum.

EL PRESIDENTE: ØÿHay alguna objecion a la mocion. (Silencio.) La Mesa no oye ninguna. Queda aprobada.

EL PRESIDENTE: Leanse los documentos recibidos.

EL SECRETARIO:

CONSTITUTIONAL CONVENTION
MANILA
COMMITTEE REPORT NO. 52

Submitted by the Committee on Judicial Power on September 29, 1934

The President,
Constitutional Convention
Manila

Sir:

Your committee on Judicial Power begs leave to submit herewith a draft for the provisions to be inserted in the Constitution, for the consideration of the Constitutional Convention.

Respectfully submitted,

(Sgd.) VICENTE J. FRANCISCO

Chairman

Committee on Judicial Power

THE JUDICIARY

ART. 1. The Judicial Power in the Philippines shall be vested in one Supreme Court, in District Courts, in Municipal Courts, and in such other courts, inferior to the Supreme Court, as may hereafter be established by law.

ART. 2. Courts provided for in this Constitution shall be courts of both law and of equity. The Supreme Court and the District courts are courts of record.

ART. 3. Justices and judges shall be independent in the discharge of their functions, subject only to the Constitution and the law.

ART. 4. The Supreme Court, the District Courts, the Municipal Courts, and the municipal courts of the city of Manila provided in this Constitution, shall possess and exercise such jurisdiction as the Supreme Court, the Courts of First Instance, the Justice of the Peace Courts, and the Municipal Court of the City of Manila possess respectively under existing laws; Provided, however, that the Legislature may increase or diminish the jurisdiction of any court inferior to the Supreme Court.

ART. 5. The judicial power of the Supreme Court and of the District Courts shall extend to the determination of the validity of any law or resolution, having regard to the provisions of the Constitution; it shall also extend to the declaration of the nullity of any act or order of any executive official, including the Chief Executive of the Philippines, which is in excess of authority, either statutory or constitutional.

ART. 6. Until otherwise provided for by law, the Supreme Court shall be composed of the Chief Justice and thirteen Associate Justices, and shall sit in two divisions of seven justices each, which shall be known as the Criminal Division, and the Civil Division.

To constitute a quorum, ten Justices of the Supreme Court then sitting in banc and five Justices then sitting in division shall be necessary.

The Criminal Division shall have power to hear and determine all cases that are criminal or penal in nature and not herein required to be heard and determined by the Court in banc; The Civil Division shall have the power to hear and determine all other cases not herein required to be heard and determined by the Court in banc.

The failure of a Division of the Supreme Court to reach a decision shall operate to transfer the case to the Court in banc, where it shall be reheard.

Whenever for any cause the requisite number of Justices of the Supreme Court sitting in banc cannot agree upon a decision, it shall designate such number of judges of the District Court as is necessary for the purpose, to sit and act in the case temporarily with the Supreme Court as members thereof.

In order to attain a normal distribution of cases between the two Divisions, the Court may order the submission to the Criminal Division of cases belonging to the Civil Division.

For the imposition of the death penalty or for the confirmation of a judgment of an inferior court imposing the death sentence, the case shall be heard and determined by the Supreme Court sitting in banc and the concurrence of all the Justices present in the Philippine Islands, not disqualified or physically incapacitated, shall be necessary for the pronouncement of a judgment imposing the death penalty. When all the members of the

Court taking part in the considerations of the case are not unanimous in their voting as to the propriety of the imposition of the death penalty the penalty of next lower degree shall be imposed.

The Supreme Court when deciding the validity of any law or resolution, or the nullity of any act or order of any

executive official, including the Chief executive of the Philippines, shall sit in banc, and the concurrence of at least two thirds of all members of the Court shall be necessary for the pronouncement of judgment declaring a law or resolution unconstitutional, or any act or order of any executive official including the Chief Executive of the Philippines, illegal.

ART. 7. In the determination of cases, the Supreme Court shall give its decisions or resolutions in writing, signed by the Justices concurring therein, and shall state its findings and the grounds of its decisions or resolutions.

Dissenting opinions shall state the reasons thereof.

In deciding motions for reconsideration, the Supreme Court must squarely pass upon the grounds thereof and set forth the reasons for its decisions.

When a motion for reconsideration is denied by a Division the movant may appeal to the Chief Justice specifically pointing out the error or errors relied upon. The Chief Justice shall thereupon endorse the appeal to any three justices of the other Division who shall report to him the merits thereof. If the report is that the appeal is groundless, the Chief Justice shall dismiss the case, otherwise, he shall order the submission of the case to the Court in banc for decision on the merits.

ART. 8. There shall be a District Court in each of the Judicial Districts provided for under the existing laws or as may be provided for by subsequent legislation; and except in cases in which a District Court is composed of two or more branches in which event there shall be such number of Judges as there are branches in said Court, each District Court shall be presided over by the Judge appointed thereto.

In addition to the Judges appointed in the respective District Courts, there shall also be appointed such number of Judges-at-large as may be fixed by law. The Supreme Court may, in the interest of justice, assign temporarily one or more judges-at large to any district. Judges-at large may be also assigned by the Supreme Court to substitute District Judges in case of their absence, illness or incapacity, or to supply temporarily any vacancy that may occur among them.

ART. 9. All Judges of District Courts shall reside within their respective districts, and no District Judge shall be transferred from the district to which he has been appointed without his consent; Provided, however, that the Supreme Court, after due investigation and hearing shall order such transfer, if in its opinion there exists a cause not constituting a sufficient ground for his removal, but which would affect the impartial administration of justice.

ART. 10. The Supreme Court shall, whenever, it is practicable, group municipalities which are capital of the provinces into Circuit Courts composed of at least two municipalities, in which case only one Municipal Judge shall be appointed thereto. Municipal Judges may be transferred by the Supreme Court from one Municipal or Circuit Court to another, when in its opinion public interests so require.

There shall be an Auxiliary Judge for each Municipal or Circuit Court, as the case may be, who shall perform the duties of said office in the cases as are or may hereafter be prescribed.

ART. 11. The Supreme Court shall have the power to make rules relating to pleadings, practices, the orderly conduct of business in all courts, and for the admission of lawyers to the practice of law in the Philippine Islands which rules shall be uniform for all the Courts of the same grade. In making the rules, the Supreme Court should take into consideration the suggestions of the Judicial Council herein created for this purpose. The Legislature may repeal, alter, or supplement any such rule or rules by law limited to that specific purpose. The existing laws on pleadings and practice are hereby repealed as statutes and are constituted and declared, together with existing laws and rules of courts, to be operative as the rules of courts and of pleadings and practice at the time this

Constitution takes effect, subject to the power of the Supreme Court to amend the same.

ART. 12. To be eligible to the position of Justice of the Supreme Court, a person must;

- (a) Be a citizen of the Philippines by birth;
- (b) Be at least 40 years of age;
- (c) Be of good moral character, and
- (d) Have engaged in the private practice of law for a period of at least 10 years or have been a Judge of a Court of Record for a period of at least 8 years, in the Philippine Islands.

No person shall be appointed Judge of a District Court or Judge-at-large unless he is a citizen of the Philippines by birth, at least thirty-five years of age, of good moral character, and has engaged in the private practice of law in the Philippine Islands for a period of not less than five years.

No person shall be eligible to appointment as Judge or Auxiliary Judge of a Municipal or Circuit Court unless he is a citizen of the Philippines by birth, at least thirty years of age, of good moral character and has been admitted by the Supreme Court to the practice of law.

ART. 13. The members of the Supreme Court shall be appointed by the Chief Executive of the Philippines with the advice and consent of the Senate.

Judges of District Courts and Judges-at large shall be appointed by the Chief Executive of the Philippines from a list of candidates nominated and recommended by the Supreme Court. For each post to be filled, there shall be in the list three candidates to be indiscriminately selected from lawyers in active private practice and from those in the governmental service. The Supreme Court shall in the preparation of the list secure the opinion of District Judges of the city of Manila and of the provinces.

Judges of Municipal or Circuit Courts shall be appointed by the Chief Executive of the Philippines upon nomination of the Supreme Court of candidates recommended by the Judge of the district within whose jurisdiction the Municipal or Circuit Courts belong.

ART. 14. Justices of the Supreme Court and Judges of District Courts and of Municipal or Circuit Courts shall hold office until they reach the age of retirement, as herein provided, unless before reaching that age, they resign or be removed from office as the case may be. The Supreme Court, however, may, pending the proceedings for the removal of any judge, order the temporary suspension of the respondent.

ART. 15. The members of the Supreme Court, the Judges and the Auxiliary Judges of Municipal or Circuit Courts, cannot engage in the private practice of law or accept any remunerative office or employment in or out of the Government; Provided, however, that Judges and Auxiliary judges of Municipal or Circuit Courts may, with the express permission of the respective Judges of the District Courts, practice law outside of their territorial jurisdiction. Violation of this provision shall cause removal from office.

Art. 16. All Justices and Judges of courts in the Philippines shall receive such compensation as may be fixed by law which shall not be reduced during the term of the incumbents except in case of general reduction of salaries of the officials and employees in the Government.

All Justices and Judges shall automatically be retired from office upon reaching the age of 70 years: Provided, however, that they shall have the option to retire upon reaching the age of 65 year. Justices and Judges who have thus retired and have rendered service for 10 consecutive years, shall receive a gratuity in such amount and payable in such manner as may be prescribed by law.

Any Justices or Judges whose position may be abolished by a reorganization of the Supreme Court, of the District Courts or of the judicial districts, shall, for a period of two years thereafter, continue to receive the same amount of compensation which he was receiving at the time of his separation from office.

ART. 17. Every Filipino citizen, and every American citizen during the existence of the Philippine Commonwealth shall have the right to be indemnified for damages which they may suffer by reason of a judicial error or crime committed by judicial officers in the exercise of their functions, in accordance with what may be provided by law.

For damages suffered by reason of judicial error, the State alone shall be liable; for damages suffered by reason of a crime committed by judicial officials in the discharge of their functions, the judicial officials who caused such damages shall be primarily liable and the State shall be subsidiarily liable.

ART. 18. There shall be a Judicial Council to be composed of the Chief Justice of the Supreme Court as chairman, the Solicitor General, two Judges of the District Courts to be appointed by the Chief judges, the City Fiscal of Makati, and a representative each of the Manila bar association and the bar associations of nationwide organization to be selected by their respective members.

It shall be the duty of the Judicial Council to recommend to the Supreme Court such rules and regulations for the proper administration of justice as it may deem expedient.

TRANSITORY PROVISIONS

ART. 19. Pending the final and complete withdrawal of American sovereignty over the Philippine Islands, the decisions of the Courts of the Commonwealth shall be subject to review by the Supreme Court of the United States as heretofore authorized by law, and such review shall extend to all cases involving the Constitution of the Commonwealth of the Philippine Islands.

ART. 20. The judgments and decrees of the Supreme Court of the Philippine Islands shall be final, except in regard to cases which under the provisions of the existing laws, are appealable to the Supreme Court of the United States.

ART. 21. The Justices of the Supreme Court, the Judges of Courts of First Instance, of the Municipal Court of the City of Manila, and of the Justices of the Peace Courts, holding office at the time this Constitution takes effect, shall continue to hold their respective offices until the organization of the Courts provided for in this Constitution and the appointment and qualifications of the Judges thereto.

ART. 22. Any Justices of the Supreme Court, or Judges of a Court of First Instance who, upon the establishment of the Courts provided for in this Constitution, are not appointed as Justice or Judge of any court, shall receive a gratuity equivalent to one year's salary which he was receiving at the time of his separation from the service, to be paid monthly, Provided; however, that those who have served for six years or more shall be entitled to double the amount as herein specified; and, Provided, further, that in no case shall such gratuity exceed the amount of two year's salary.

ART. 23. For all cases, both civil and criminal, which at the time of the proclamation of Philippine Independence are pending decision under the operation of the laws then existing, the jurisdiction of the Courts of the Commonwealth and of the Supreme Court of the United States shall continue until final judgment and determination.

EL PRESIDENTE: Esta en orden la continuacion de la consideracion del proyecto de Preamble.

MOCION SOTTO (F.) DE APLAZAMIENTO, SU APROBACION

SR. SOTTO (F.): Senor Presidente, si no hay objecion por parte de la Asamblea, propongo que se aplaze para otro dia la continuacion de la consideracion de este asunto.

EL PRESIDENTE: ØÿHay alguna objecion por parte de la Asamblea? (Silencio.) La Mesa no oye ninguna. Queda aprobada la mocion.

Se aplaza para otro dia la continuacion de la consideracion del proyecto de Preambulo.

MOCION DE SESALAMIENTO, SU APROBACION

SR. SOTTO (F.): Senor Presidente.

EL PRESIDENTE: Senor Delegado por Cebu.

SR. SOTTO (F.): Estando en el calendario el report del Comit  de Ponencias sobre la delimitacion territorial, propongo que esta Convencion fije un dia para suconsideracion; si es posible para despues de aprobado el proyecto de Preambulo.

EL PRESIDENTE: ØÿHay alguna objecion a esta mocion? (Silencio.) La Mesa no oye ninguna. Queda aprobada.

LEVANTAMIENTO DE LA SESION

SR. SOTTO (F.): Senor Presidente, pido que se levante la sesion hasta manana.

EL PRESIDENTE: Si no hay objecion, se levanta la sesion hasta manana. (No hubo objecion.)

Eran a las 5:35 p.m.

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