

ARTURO M. TOLENTINO, PETITIONER, VS. COMMISSION ON ELECTIONS, AND THE CHIEF ACCOUNTANT, THE AUDITOR, AND THE DISBURSING OFFICER OF THE 1971 CONSTITUTIONAL CONVENTION, RESPONDEN...

G.R. No. L-34150. November 04, 1971

Ponente: BARREDO, J.

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BARREDO, J.:

Submitted for resolution are the motion for reconsideration of the decision of this Court in this case, filed by the intervenors and adopted by respondent Commission on Elections, and the other motion to the same effect and practically on the same grounds of the respondents Chief Accounting Officer and Auditor of the Constitutional Convention of 1971, both seasonably answered by petitioner.

The decision sought to be reconsidered holds as null and void Organic Resolution No. 1 of the Convention which proposes the amendment of Section 1 of Article V of the Constitution by reducing the age requirement for voters therein from 21 to 18 years, "without prejudice to other amendments that will be proposed in the future by the 1971 Constitutional Convention on other portions of the amended section or on other portions of the entire Constitution", and provides further that said proposed amendment shall be submitted for ratification or rejection by the people in a plebiscite to be held coincident with the forthcoming election of senators and local officials on November 8, 1971, and finally appropriates part of the funds of the Convention for the purpose. In brief, the said decision is based on the ground that, having in view the obvious reasons underlying the provisions of Section 1 of Article XV of the Constitution which prescribe the procedure of amending the fundamental law, aside, of course, from the ordinary import of its language, the Court is convinced that said provisions do not permit the holding of more than one "election" or plebiscite for the submission to the people of any and all of the amendments to be proposed by the present convention and this, We say, is without considering anymore the fact that the proposed amendment in question is expressly saddled with reservations which naturally impair, in great measure, its very essence as a proposed constitutional amendment.

Reconsideration of this decision is now sought on the following grounds:

- (1) That inasmuch as Congress, acting as a constituent assembly, can submit to a plebiscite, whether, singly or together, the constitutional amendments it may propose, the Convention being at par with such constituent assembly must also be considered as having such power;
- (2) That the phrase "at an election" in Section 1 of Article XV of the Constitution does not necessarily mean only one plebiscite but may be construed as signifying several plebiscites, because there is jurisprudence holding that a word in singular in a statute or constitution may be understood in the plural;
- (3) That the question of whether or not the Convention should submit the amendments it may propose in a single plebiscite or otherwise is a matter that goes into the wisdom of the action of the Convention rather than to its

authority or power, hence outside the pale of judicial review;

(4) And that, in relation to the point in the decision to the effect that the proposed amendment in question regarding the reduction of the voting age in the Philippines has no frame of reference on which the voters at the projected plebiscite may base their judgment as to its acceptability, there is no need of such frame of reference because the proposed amendment "is a simple fixing (lowering) of the minimum voting age from 21 to 18," and "it is difficult to conceive of any possible future amendments where (sic) this fixed voting age could be out of tune" and hard to "imagine how this amendment on this minimum voting age could conceivably be better understood if presented together with the various substantial and fundamental amendments in the whole draft when concluded."

The rest of the motion of intervenors deals with the additional arguments discussed in the separate concurring opinion of Justices J. B. L. Reyes, Zaldivar, Castro and Makasiar.

After full and serious consideration of the above grounds and the arguments adduced in support thereof, together with the answer thereto of petitioner, the Court does not find sufficient cause to alter or modify its rulings on the points covered by the motions for reconsideration. Ironically for respondents and intervenors, as will be presently demonstrated, the points now being raised by them serve to reinforce rather than to destroy the bases of said rulings.

Importantly, before discussing the arguments of the parties, it is well to emphasize that respondents and intervenors impliedly, if not expressly, admit now that the provisions of Section 1 of Article XV of the Constitution, dealing with the procedure or manner of amending the fundamental law, are binding upon the Convention and the other departments of the government. It must be added that, as well pointed out by petitioner in his answer to the motions for reconsideration, they are no less binding upon the people. The preamble of the Constitution says that the Constitution has been ordained by the "Filipino people, imploring the aid of Divine Providence." Section 1 of Article XV is nothing more than a part of the Constitution thus ordained by the people. Hence, in construing said section, We must read it as if the people had said, "This Constitution may be amended, but it is our will that the amendment must be proposed and submitted to Us for ratification only in the manner herein provided." This is not to say that the people may not, in the exercise of their inherent revolutionary powers, amend the Constitution or promulgate an entirely new one otherwise, but as long as any amendment is formulated and submitted under the aegis of the present Charter, any resolution for the submission of any such amendment which is not in conformity with the letter, spirit and intent of the provisions of the Charter for effecting amendments, cannot receive the sanction of this Court. Accordingly, the real issue here cannot be whether or not the amending process delineated by the present Constitution may be disregarded in favor of allowing the sovereign people to express their decision on the proposed amendments, if only because it is evident that the very idea of departing from the fundamental law is anachronistic in the realm of constitutionalism and repugnant to the essence of the rule of law; rather, it is whether or not the provisional nature of the proposed amendment and the manner of its submission to the people for ratification or rejection conform with the mandate of the people themselves in such regard, as expressed in the Constitution itself. In other words, the inescapable function of the Court in this case is to determine what is the proper construction of Section 1 of Article XV, and, corollarily, to declare whether CC Organic Resolution No. 1 falls within or without said construction.

As already stated, movants claim that inasmuch as Congress, as a constituent assembly, has the power to submit amendments proposed by it in a piecemeal manner for ratification, it follows that the Convention, which is at par with said assembly, also has such power. The fault in this posture lies in the simple fact that the factual truth and legal correctness of its major premise are assumed, and it happens that after mature study, We find that said premise suffers from inaccuracy, factually and legally.

To begin with, in trying to draw a parallelism between the Convention, on the one hand, and the Congress, as a constituent assembly, on the other, movants would ignore, at the same time, the distinction, between Congress as the Legislature and Congress acting in its capacity as a constituent body. Although Congress as the Legislature is a continuing body, factually and in contemplation of law, it is not so whenever it sits in its capacity as a constituent assembly. In the latter instance, its juridical existence as such is coextensive only with the legal duration of the joint session assembled to perform any particular work of proposing amendments to the Constitution. Each of such joint sessions adjourns finally after it has approved its proposal or proposals and becomes *functus officio* thereafter in order to give way to the submission of its proposal or proposals to the people. In the juridical sense, each such joint session is a constitutional convention in itself, distinct and separate from the others of similar nature, and may be distinguished from the convention *per se*, like the current one, only in that the latter is constituted upon the election of delegates by the people, whereas the constituent assembly of Congress constitutes itself upon mere concurrent resolution of the two Houses to such effect passed by simple majority vote of the respective members thereof. Consequently, while Congress may easily reconvene as another constituent body after it has finally adjourned as such, from the very nature of its existence, such cannot be done by a convention, since in the case of the latter, a new call for election of delegates who would compose a new Constitutional Convention would be needed.

It can thus be seen that the submission by Congress of proposed amendments after each final adjournment of its joint constituent session, and not before such adjournment, is conclusive proof, not of the legal possibility of piece-meal submission of proposed amendments to the people by Congress, but, on the contrary, of the validity of the proposition that the constituent assembly has to become *functus officio* first before the Constitutional amendments it proposes may be submitted to the people for ratification. Indeed, the holding of a plebiscite only after every joint constituent session of Congress has already approved all its proposed amendments to the Constitution is not in any sense a piece-meal submission of such amendments, but rather the whole-sale submission thereof, since they would be all that the particular assembly approving them wants to propose, irrespective of their actual number, whether one or more than one.

Petitioner's well-reasoned discussion of this point, albeit confined to theoretical rationalization, could sufficiently refute movants' contentions, but a little bit of historical exposition should serve to lay the matter in issue at rest on more solid ground. Incident ally, in the same manner that movants have not cited any specific factual basis for their pose, petitioner's answer is silent as to the facts extant in the Congressional records relative to the important issue under discussion.

What do the congressional records reveal in his regard?

Since its ratification on May 14, 1935, the Philippine Constitution has been amended three times, not counting, of course, the unsuccessful attempt in that direction caused by the rejection by the people of the two amendments proposed by the constituent Congress in 1967. These amendments were approved in 1939, 1940 and 1947.

On August 7, 1939, the Congress of the United States passed the Tydings-Koscialkowski Bill providing for terms of the trade relation between the United States and the Philippines purportedly improving those contained in the Philippine Independence Act and requiring that, in order that said terms may become effective on January 1, 1940, the ordinance appended to the Constitution should be correspondingly amended to include them not later than January 1, 1940. In the meanwhile, earlier in the same year 1939, agitations had started already for the possible extension of the term of President Quezon which was to expire, under the original Constitution, in 1941. The idea snowballed steadily, such that in the convention of the Nacionalista Party assembled on July 7 and 8, 1939, it was resolved to request the National Assembly to meet as a constituent body to propose three amendments to the Constitution, namely: (1) to change the term of the President from six years without reelection

to four years with one re-election; (2) to restore the bicameral system of legislature; and (3) to establish a constitutional commission on elections. Taking advantage of the approval of the Tydings-Koscialkowski Act on August 8, 1939, President Quezon called the National Assembly to a special session purposely to consider proposals to amend the Constitution, not only to comply with the said American law but also to act on the request contained in the above-mentioned resolution of the Nacionalista Party convention. The response of the National Assembly was rather fast. On September 15, 1939, all four proposed amendments were approved in two separate resolutions, Nos. 38 and 39, (a) the proposed amendment of the Ordinance being embodied in Resolution No. 39 and (b) the three other proposals for amendment of the Constitution in Resolution No. 38. Four days later, on September 19, 1939, the National Assembly, acting this time as the Legislature, approved Commonwealth Act 492, providing for the submission of the foregoing approved proposals to amend the Constitution to the people in two separate plebiscites, (a) Resolution No. 39 in the first to be held on October 24, 1939 and (b) Resolution No. 38 in the second scheduled to coincide with the following election of local officials in 1940. However, inasmuch as strong public opinion developed against the submittal of the three amendments proposed in Resolution No. 38 in one single question, the National Assembly had to reconvene as a constituent body to make the corresponding changes in the wording of the proposals in such a way that the three proposed amendments could be embodied in three separate questions and thereby make it possible for any of them to be accepted or rejected independently of any of the other two. Thus on April 11, 1940, the amendatory Resolution No. 73 was approved, and shortly thereafter, the Legislature enacted Commonwealth Act 517 correspondingly amending Commonwealth Act 492 and advancing at the same time the second plebiscite to June 18, 1940. The three amendment proposals were all ratified at this plebiscite. In the meanwhile the proposed amendment of the Ordinance to the Constitution proposed in Resolution No. 39 was ratified by the people on the previously scheduled plebiscite on October 24, 1939.[1]

The third amendment ratified on March 11, 1947 was in connection with the added provision of the Ordinance appended to the Constitution granting parity rights to the Americans.

In this historical account, it does appear that factually, the National Assembly sought to submit several proposed amendments approved by it in a single session as a constituent body separately or "piece-meal" in two separate plebiscites or elections a little reflection will reveal that what actually happened in 1939 cannot be invoked to justify the proposed plebiscite now in question.

In Our decision, We held that the legal objection to a piece-meal submission of the proposed amendment is that it does not provide the people with a frame of reference on the basis of which they can determine the acceptability of the proposal. More specifically, since the proposed reduction of the voting age to eighteen years cannot apply to the forthcoming election, of November 8, 1971 and could hardly have any relevance to the framework and principles of the present Constitution, considering that these are precisely being the subject also of proposed changes in the Convention, the result is that the proposed amendment is completely an isolated one which cannot even be related to the amended or new constitution which the Convention will propose, for the simple reason that, as things now stand in the Convention; no one can foretell what shape, color or size the other amendments will have. Moreover, as indicated in Our decision, and as thoroughly discussed in the deliberations of the Court, properly analyzed, the proposed amendment in question cannot in truth be considered as a complete one, but merely as a fractional, provisional and incomplete proposal that hardly qualifies to be a part of the fundamental law of the land, which is the embodiment of permanence, definiteness, security and stability in all that it embraces, for the better protection and enjoyment of all the people under it, considering that the proposed amendment is coupled with express and implied reservations,[2] the specific extent and magnitude of which are not possible to define, delimit and delineate, on the basis of what appears on the face of the Convention's resolution, in a manner that would give the voter a clear and definite idea of what the exact amendment would

lat-er on turn out to be, and thus enable him to make an intelligent decision, which is what the Constitution con-templates as indispensable in any plebiscite for the amendment thereof.

All these shortcomings were absent in the 1939 proposals. To begin with, there was no idea then of completely overhauling the Constitution outside of the specific areas of the presidency, Congress and the Commission on Elections covered by amendatory Resolution No. 73. Consequently, the existing Constitution was readily the frame of reference of all the proposed amendments, which could, therefore, be studied and judged in the light of the other parts of the whole Constitution. Secondly, all the proposed amendments then were complete and in final form before they were submitted to the people, unlike the one here in ques-tion which, as already discussed, is fractional and conditional. Thirdly, the proposed amendment related to the Ordinance appended to the Constitution was no less than an ineluctable imposition of the sovereign power, the United States of America, which imposition, if not yielded to, would cost the loss of preferential treatment of our country in the American trade market, something which our leaders at that time considered, rightly, or, wrongly, as essential to our national eco-nomy. Indeed, in a sense, it was psychologically de-sirable that said imposition was separated from the op-tional proposals to avoid mistaking the latter as being also obligatory. Besides, there was the element of time; the United States Congress gave the Philippines only up to January 1, 1940 to accept its offer of pre-ferential treatment; upon the other hand, more time was needed by the people to distill the effects and implications of the optional proposed amendments and the wise leaders of the country knew that, under the circumstan-ces, it was only fair and proper that the people be given sufficient opportunity to study them. Further-more, in another sense, the submission of the amendment to the Ordinance might have been considered a formality because the American Government then still retained some measure of sovereignty over the Philippines.

Withal, looking at the matter from an alternative point of view, it can even be said that, in effect, the scheduling of the second plebiscite in Commonwealth Act 492 was reconsidered in favor of another separate cons-tituent session of the National Assembly which in actuality convened and forthwith approved Resolution No. 73 which became the one submitted for the ratification of the people on June 18, 1940 by virtue of the provi-sions of a law other than Commonwealth Act 492, namely, Commonwealth Act 517. In other words, it can be said that Resolution No. 38 was abandoned and in a different constituent assembly, Amendatory Resolution No. 73 was approved. Clearly, therefore, what happened in 1939 does not detract from the premises of Our decision in this case, nor has it established any precedent which can justifiably apply to the background circumstances of this case in the sense movants would perchance have such 1939 events understood.

It may be stated, at this juncture, that the real lessons from the above chapter of our Constitutional history seem to have escaped the intervenors. As already observed, We did hold two separate plebiscites for the ratification of several amendments apparently proposed by the same constituent assembly, but it should be emphasized that, as explained above, Resolution No. 38 of the first assembly was disregarded and a new assembly approved Resolution No. 73, on the basis of which the June 18, 1940 plebiscite was set. In any event, when the two plebiscites were scheduled or set all the amendments had already been approved in defi-nite and final form, hence the frame of reference of the people was likewise already fixed and clear, i.e., not only the other parts of the existing Constitution but also the proposed amendments taken toge-ther and in relation to each other. Thus, in the view of some members of the Court, this writer included, articulated and discussed during the deliberations, the cause for the participation of the eighteen-year-olds in the plebiscite or election for the ratification of the amendatory Constitution to be proposed by the Con-vention is not precluded by the decision in this case, much less lost. Said justices have expressed the opi-nion that once the Convention has completed all its work on the whole constitution, this proposal to allow the eighteen-year-olds to vote in the ratification plebiscite may be included among the transitory provi-sions thereof and a special advance plebiscite may be held for the sole purpose of submitting this particular transitory provision in favor of the eighteen--year-olds for approval or

rejection ahead of the main body of the new Constitution or the rest of the pro-posed final amendments to be approved by the Conven-tion. In such an event, according to this view, the frame of reference would already be clear, and in that sense, the advance plebiscite can no longer be considered as piece-meal within the contemplation of Section 1, Article XV of the Constitution.

In this connection, the writer of this opinion recalls that under the second sentence of Section 1 of Article V of the Constitution as approved on February 8, 1935, woman suffrage was to be allowed by law only if in a plebiscite which shall be held within two years after the adoption of the Constitution, that is, after its ratification by the people, not less than three hundred thousand women possessing the necessary qualifications should vote in its favor. This means that in a sense, there were actually two plebiscites held separately to ratify the Constitution, the first to approve or reject the whole of it and the second, to ratify the extension of woman suffrage, albeit the latter was participated in only by women. Otherwise stated, it is not strange that a particular provision of the Constitution is submitted to the people separately from the whole, provided the latter is already complete.

Further, those of Us holding the view just dis-cussed, see no constitutional objection to the Con-vention itself fixing the dates of the respective plebiscites. While no definite consensus has been reached yet as to whether the rest of the amendment process is exclusively within the legislative juris-diction of Congress or belongs concurrently to the Convention and Congress, because some justices do not see the necessity of deciding said issue here, the Court is unanimous in not seeing any reason for apprehension of failure in the funding of a separate plebiscite or of any plebiscite, for that matter, even if it were held that the power belongs exclu-sively to Congress.[3] The Court does not share the argument of distrust in the sense of duty and respon-sibility of Congress which movants so heavily rely upon, even if this were conceived, as it must be, in the interest of the independence of the Convention.

The reason for this position of the Court is simple. In the main, the organic part of the Consti-tution has, by necessity, to allocate powers and du-ties among the different departments, branches and offices of the government. These powers are stated either in black and white in its provisions or are necessarily inferable therefrom. In the legal sense, the definition and allocation are made by the people. It is neither reasonable nor fair to assume that any of the departments, branches, or offices upon which any duties afire imposed by the Constitution would ignore and evade the mandate of the people. In their motion for reconsideration, movants give assurances that if this Court should recognize some powers as belonging to the Convention, the high sense of re-sponsibility of its members will not permit the abusive exercise of said powers. This the Court readily concedes, but at the same time, the Court feels it cannot concede any less to the other depart-ments of the government. Here, as in any other constitutional democracy, as contrasted to a totalitarian or authoritarian government, every department must ne-cessarily rely not only on its powers and indepen-dence but also on its interdependence upon and the sense of duty and responsibility of the other depart-ments.

In the words of this Court in *Abueva vs. Wood*, 45 Phil. 612:

“x x x If the Courts could in-tervene in the administration of the other independent departments of government, or vice versa, they would break away from those checks and balances of government which are meant, under our system of government, to be checks of cooperation and not of antagonism or mastery, and would concentrate in their own hands something, at least, of the power which the people, either di-rectly or by the action of their representatives, decided to entrust to the other departments of the government. Under the form of govern-ment established by the United States in the Philippine Islands, one department of the government has no power or authority to inquire into the acts of another, which acts are performed within the discretion of the other department. The absur-dity of any other rule is manifest upon the slightest meditation. The judicial and executive and legisla-tive departments of government are distinct and independent, and neither is responsible to the other for the performance of its duties, and nei-ther can enforce the performance

of the duties of the other. The dangers and difficulties which would grow out of the adoption of a contrary rule would be destructive of the harmonious relations of the different departments of government, and lead to confusion and disorder. Each of the three departments of government has separate and distinct functions to perform. No one department of the government can or ever has claimed a greater zeal than the others in its desire to promote the welfare of the individual citizen and to protect his rights. No one department of the government can claim that it has a monopoly of these benign purposes of the government."

Thus, Congress would be inutile with its power to appropriate unless the Executive can be relied upon to disburse the appropriated sums; the Executive would be helpless in issuing orders the other officials will not give effect to; even this Court would better not exist if it cannot depend on the Executive to enforce its decisions and the Congress to abide by its interpretation and construction of the laws and the Constitution. In other words, as this Court has already repeatedly held, in earlier decisions, and as movants themselves posit, the possibility of abuse is no reason for the denial of power. Briefly then, whether it is the Convention or the Congress that should appropriate the funds for the plebiscite, there is no cause to fear there would be failure in that respect.

Less concern should there be according to the same justices, about the apparent hugeness of the amount needed for a plebiscite separate from an election of officials whether local or national. Granted the importance of giving the youth of the country a more meaningful participation in the exercise of the people's sovereign power in step with other nations of the world, it is a matter of public knowledge that bigger amounts have been spent or thrown to waste for many lesser objectives. All previous plebiscites for the ratification of the proposed constitutional amendments have almost invariably been held separately from such elections, mid in the solitary case when Congress provided for coincidence, six members of this Court, only two short of the required constitutional number, voted to declare the practice unconstitutional.[4] Surely, the amount of seventeen million pesos or even more is not too much a price to pay for fealty and loyalty to the Constitution and the cause movants and many other segments of the country are so assiduously espousing. Withal, consideration should also be given to the fact that even some members of the Convention have gone on record as to their doubts on whether or not there is sufficient time by November 8, 1971 for our people to study seriously and adequately the proposed amendments, even as they complained of the many short cuts and virtual "log rolling" procedure adopted within the Convention in the course of the passage of, the resolution in question, not to mention the apprehension, not without basis, that the manner in which Comelec is undertaking its constitutional and statutory duties in the premises, and the way the proposed plebiscite is to be funded, may not be within the contemplation of the Constitution and the provisions of the election laws.

The second ground of movants deserves scant consideration. To begin with, it is based on the erroneous factual premise that Our decision was based only or mainly on a grammatical analysis of the phrase "an election" as exclusively signifying only one plebiscite under any circumstances. The truth of the matter is that the Court did not merely read and interpret the constitutional provision in question, but went further and construed it, by going behind the actual words used in the provision and ascertaining the purpose and intent of the framers of the Constitution. It was on this basis that We held that there can be no piece-meal submission of amendments proposed and to be proposed by the Convention. Nothing in what We said denies the possibility that the phrase "an election" may comprehend more than one plebiscite; what We held in effect was that as between two possible interpretations, the one more consistent with the spirit of the provisions, is that which proscribes piece-meal submission before the whole draft of the new Constitution or all the amendments to be proposed by the Convention have been finally approved by that body, considering that before that there could be no safe frame of reference for intelligent voting, specially because the particular amendment proposed is subject to many undefined reservations which it is in the power of the Convention to approve at any time before or after the ratification of their final handiwork.

As to the third ground of intervenors' motion for reconsideration, suffice it to say that it is obvious that movants have confused wisdom of the questioned action taken by the Convention with the wisdom of the provisions of Section 1 of Article XV of the Constitution which is applicable thereto. What We discussed in Our decision is not whether or not the Convention acted wisely; We simply held that for the reasons given in the decision, We see wisdom in the construction that piece-meal submission, before all the proposed Constitutional amendments as a whole have been approved, is not allowed by the Constitution.

Finally, movants contend that the proposed amendment in question does not need any frame of reference because it refers solely and only to the reduction of the voting age. As already indicated earlier in this resolution and as discussed in the decision, We consider movants' position to be a shortsighted view. The right to vote is not as simple as it might appear to be when considered in relation to the form of government, the fundamental principles and the educational policies, inter alia, that the other amendments to the Constitution may adopt and pursue. Besides, We reiterate that in the way the proposal is worded, read together with the reservations tacked to it by the Convention thru Section 3 of the questioned resolution, it is too much of a speculation to assume that exactly the amendment would really amount to in the end. All in all, as already pointed out in Our discussion of movants' first ground, if this kind of amendment is allowed, the Philippines will appear before the world to be in the absurd position of being the only country with a constitution containing a provision so ephemeral no one knows until when it will be actually in force. Incidentally; in this connection, the writer of this resolution is persuaded that had the Convention clearly and definitely provided that the proposed amendment was intended solely to enable 18 to 20-year-olds to vote in the plebiscite for ratification or rejection of the Constitution as to be finally amended by the Convention and proposed for ratification, his vote now could have been in favor of respondents.[5]

In the end, We see no plausible reason to alter the judgment in this case. As We see it, the constitutional provision in question presents no doubt which may be resolved in favor of respondents and intervenors. We do not believe such doubt can exist only because it is urged that the end sought to be achieved is to be desired.[6] Paraphrasing no less than the President of the Constitutional Convention of 1934, Claro M. Recto, let those who would put aside, invoking grounds at best controversial, any mandate of the fundamental law purportedly in order to attain some laudable objective bear in mind that someday somehow others with purportedly more laudable objectives may take advantage of the precedent and continue the destruction of the Constitution, making those who laid down the precedent of justifying deviation from the requirements of the Constitution the victims of their own folly.[7]

WHEREFORE, the motions for reconsideration are denied.

Zaldivar and Castro, JJ., concur.

Concepcion, C.J., concurs in a separate opinion.

Reyes, J.B.L., J., concurs with the opinions of Justice Barredo, Chief Justice Concepcion, and Justice Teehankee.

Teehanke, J., concurs in the opinion and that of the Chief Justice and add a separate concurrence.

Villamor, J., concurs in the above opinion and in the separate opinions of the Chief Justice and Justice Teehankee.

Makasiar, J., concurs fully in the opinion of Mr. Justice Barredo and in the concurring opinions of Chief Justice Concepcion and Justice Teehankee.

Makalintal and Fernando, JJ., dissent in a separate opinion.

[1] The historical narration is based on details found in Aruego, Know Your Constitution, Revised Edition, pp. 59-76.

[2] The continued existence of the Convention is in it-self the most pervasive reservation, for it lies in its power, while it exists, to make any alteration or modification it may conceive in any and all as-pects of the proposed amendment, all present nega-tive intentions on the matter notwithstanding.

[3] The writer is personally more inclined to the view that the power lies concurrently in the Convention and Congress, similarly, as in the case of the pow-er of Congress sitting as a constituent assembly to call a constitutional convention, as held in Imbong vs. Comelec, 35 SCRA 28, L-32432, Sept. 11, 1970.

[4] Gonzales vs. Comelec, L-28??96, Nov. 9, 1967, 21 SCRA 774.

[5] Justices Zaldivar and Castro would join in this view provided the plebiscite contemplated were held sepa-rately from the election of officials.

[6] In sharing this conclusion, I have not failed to consider the appeals addressed to the Court and to its members individually by scores of persons, young and adult, singly and in groups, urging Us to reconsider Our stand. Unfortunately, even if the Court dis-regarded the impropriety, in the light of traditional norms, of appeals made to it outside of the pleadings and by persons other than the parties directly invol-ved, I find that there are graver considerations that compel Us not to yield. As I see it, the Constitution is clear; if I had entertained any doubts as to its meaning, I would have hesitatingly given the benefit thereof to respondents. And since anyway, as suggested in the opinion, there could be valid ways of pursuing and effecting the objective which the questioned resolution intends to accomplish, why should the Sup-reme Court sanction something that at best could be of dubious constitutionality It is my considered opinion that while the financial costs of a separate plebiscite may be high, it can never be as much as the dangers in-volved in disregarding clear mandates of the Constitution, no matter how laudable the objective. As Justice Laurel, one of the most distinguished members of the 1934 Constitutional Convention would put it, "Of greater import than the damage caused by the illegal expenditures of public funds as the mortal wound in-flicted upon the fundamental by the enforcement of an invalid statute." (People vs. Vera, 65 Phil. 56, at p. 89.) Conversely, no consideration of financial costs should deter Us from adherence to the requirements of the Constitution.

[7] Claro M. Recto, on Our Constitution, Constitutional Amendments and the Constitutional Convention of 1971 by Vicente L. Pastrana, p. 31.

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CONCURRING OPINION

CASTRO, J.:

I concur fully in the above concurrence of Mr. Chief Justice Roberto Concepcion.

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CONCURRING OPINION

CONCEPCION, C.J.:

We are called upon to pass, not upon whether the minimum age for the possession of the right of suffrage should be reduced from 21 to 18 years. This is a political question that has, so far, been decided in the affirmative by the Constitutional Convention of 1971; hereinafter referred to as the Convention. The authority to determine whether the proposal to this effect shall be a part of our Constitution is vested exclusively in the people - voting in a plebis-cite or election called therefor - and beyond our competence.

The issue before Us is limited to the validity of Section 2 of CC Organic Resolution No. 1, providing for the submission of said proposal - as set forth in Section 1 of the Resolution, to the effect that:

"Section One of Article V of the Constitution of the Philippines is amended to read as follows:

'Section 1. Suffrage may be exer-cised by (male) citizens of the Philippines not otherwise disqualified by law, who are (twenty-one) EIGHTEEN years or over and are able to read and write, and who shall have resided in the Philippines for one year and in the municipality wherein they propose to vote for at least six months preceding the election.'"

- to "a plebiscite, to coincide with the local elections in November 1971." Section 3 of the same Resolution provides that:

"This partial amendment, which refers only to the age qualification for the exercise of suffrage shall be without prejudice to other amendments that will be proposed in the future by the 1971 Constitutional Convention on other portions of the amended Section or on other portions of the entire Constitution."[1]

The Convention has thus expressed its intention not only not to adjourn sine die and to continue discharging its functions, and, accordingly, to consider and adopt proposals for amendment to "other portions of the entire Constitution, " but, also, to entertain other proposals for amendment to the very same Section 1 of Arti-cle V of the present Constitution. Consistently with this intent, the Convention refers to its above-quoted proposal for amendment as a "partial amendment" of said provision of the Constitution. To be sure, such intent is amply borne out by the journal of the pro-ceedings of the Convention on the passage of said Resolution No. 1.

Indeed, it appears from said Journal that there were and there are before the Convention several other proposals for amend-ment of Section 1 of Article V of the Constitution, apart from the proposal reducing the minimum of age of voters from 21 to 18 years. For obvious reasons, the sponsors of said other proposals wanted the same to be discussed and passed upon by the Convention together with the one now embodied in Resolution No. 1. To clear the way for the reduction of the voting age, its sponsors urged the immediate approval thereof, without prejudice to the subsequent consideration by the Convention of other amendments to the same constitutional provision on suffrage. Hence, Section 3 of Resolu-tion No. 1.

The proposal for amendment contained in Section 1 thereof is, therefore, not meant or intended by the Convention to reflect the complete and definite amendment to Section 1 of Article V of the Constitution to be proposed by the Convention. The same has not, as yet, made up its mind on the final tenor of the provision on suffrage it will propose. As a matter of fact, it does not seem to have even an idea thereof. In other words, the proposed amendment of Section 1 of Article V of the Constitution, as set forth in Resolution No. 1, was approved by the Convention with a temporary or provisional character. This character is due, not merely to the legal possibility of further amendments to said constitutional pro-vision by the present Convention, but mainly to the intent and pur-pose with which this body had adopted the amendment contained in Section 1 of Resolution No. 1, "as

explicitly stated in Section 3 thereof, and clearly reflected in the journal of the Convention.

It is true that any provision of the Constitution is susceptible of amendment, It is, no less true, however, that such amendment must be made by a Constituent Assembly other than that which drafted the Constitution or the provision thereof sought to be amended. In-deed, every amendment must be made in accordance with the pro-visions of the existing Constitution, pursuant to which it may not be amended except by resolution of Congress in joint session assem-bled or by a Convention called by Congress so assembled. Once the Convention or Congress, sitting as a Constituent Assembly, has adjourned finally, its authority to propose amendments is functus officio. Accordingly, it is not possible for either to, thereafter, propose further amendments. Another constituent assembly is necessary therefor.

At any rate; there can be no question about the proposed amendment set forth in Section 1 of Resolution No. 1 being incomplete, legally and factually, in view, particularly, of the provision of Section 3 thereof declaring that said amendment is a "partial amendment" of Section 1 of Article V of the Constitution and reserv-ing the power of the Convention to introduce other amendments to said provision, and of the circumstances under which the amendment was approved. As such "partial amendment" it does not incorporate the whole proposal for amendment to said provision of our Fundamental Law. Necessarily, therefore, the proposed amendment is incomplete.

It is self-evident, I believe, that, when the Constitution ordains, in Section 1 of Article XV thereof, that:

"The Congress in joint session assembled, by a vote of three-fourths of all the Members of the Senate and of the House of Representatives voting separately, may propose amendments to this Constitution or call a convention for that purpose. Such amendments shall be valid as part of this Constitution when approved by majority of the votes cast at an election at which the amendments are submitted to the people for their ratification.

it permits or sanctions the submission to a plebiscite of one or more complete proposals for amendment, not of part, or a fraction or segment of a proposal for amendment to a constitutional provi-sion, or of parts, fractions or segments of several proposals for the amendment of different constitutional provisions; still in the process of amendment, which process has not, as yet, ended or been completed, regardless of whether the proposal or proposals have been approved by Congress as a Constituent Assembly or by a Convention called therefor by Congress.

In other words, when the Constitution speaks of a proposal for amendment, it does not mean a "part" or a portion of such proposal, for, otherwise, the provision "partially" amended would have to be submitted to another plebiscite, once the proposal has been completed and finalized. As a matter of fact, if Congress or a Convention continued discharging its duties as a Constituent Assembly, after the adoption of a "partial" amendment to a constitutional provision, said "partial amendment" could still be the object of a proposal for reamendment or repeal by the same Assembly. Thus, the ratification of said "partial" amendment would have a temporary, provisional or tentative character.

Surely the framers of our Constitution could not have coun-tenanced such a peculiar and unusual type of ratification. Apart from the waste of public funds - the avoidance of which respondents and the intervenor invoke, in their motion for reconsideration; as a factor militating against plebiscites by special election - that mul-tiple plebiscites would normally entail, we must reckon with the fact that - as fittingly elucidated in the majority opinion - a partial amendment would deprive the voters of the context which is usually necessary for them to make a reasonably intelligent appraisal of the issue submitted for their ratification or rejection. What is more, if the Constituent Assembly has been unable, as yet, to determine the final text of the complete proposal it expects

to make later, it would manifestly, be unjust and unfair to impose upon the people the task of envisaging the milieu of which the partial amendment will eventually constitute an integral part.

Then, too, the submission to a plebiscite of a partial amend-ment, without a definite frame of reference, is fraught with possi-bilities which may jeopardize the social fabric. For one thing, it opens the door to wild speculations. It offers ample opportunities for overzealous leaders and members of opposing political camps to unduly exaggerate the pros and cons of the partial amendment proposed. In short, it is apt to breed false hopes and create wrong impressions. As a consequence, it is bound to unduly strain the people's faith in the soundness and validity of democratic processes and institutions.

And let it not be said that these factors are relevant only to the wisdom of submitting partial amendments to a plebiscite, not to the authority to make the submission. They are, likewise, pertinent and material to the question whether or not the framers of our Fundamental Law have vested such authority in our Consti-tuent Assembly, for, in the absence of a clear intent to the con-trary, the presumption should be that they have not granted powers that Would ordinarily bring about the evils adverted to.

It has been intimated that the case at bar is an exceptional one and that the hazards aforementioned are absent therein. I am not satisfied, however, that this is true. Besides, the Constitution cannot be so interpreted and construed as to permit a partial amend-ment, as regards the voting age, to be submitted to a plebiscite, and to prohibit the same when the partial amendment refers to another provision, aspect or part of the Fundamental Law. Such action would be open to the charge of compartmentalized justice, Which would be highly regrettable; not only because it affects the highest court of the land, but, also, because the charge would not be alto-gether unfounded. Moreover, to distinguish the partial amendment on the voting age from other partial amendments that may be trig-gered by the first, should the plebiscite thereon be sanctioned, it would normally be necessary to dwell on matters more relevant to the wisdom of the measure - which is beyond the jurisdiction of courts of justice - than to the authority to adopt such measure.

The view has, also, been advanced that the foregoing con-siderations are not decisive on the issue before Us, inasmuch as the people are sovereign; and the partial amendment involved in this case is being submitted to them. The issue before Us is whether or not said partial amendment may be validly submitted to the people for ratification "in a plebiscite to coincide with the local elections in November 1971, and this particular issue will not be submitted to the people. What is More, the Constitution does not permit its submission to the people. The question sought to be settled in the scheduled plebiscite is whether or not the people are in favor of the reduction of the voting age.

To illustrate graphically the situation confronting the Court, let us suppose that the President has called a special election to fill a vacancy in Congress allegedly caused by the death of a Member thereof, who had not been heard from for sometime, and that the validity of the call is judicially contested upon the ground of insuffi-ciency of the indicia of the incumbent's death. Would it be proper for Us to dismiss the case upon the ground that, since the people are sovereign, it is up to them to do what they deem best in connection with such election? If it were proper for the Supreme Court to sanction the holding of a plebiscite - even if it felt that the Fun-damental Law does not permit it - for the ratification of a partial amendment to a provision of the Constitution, in view of the, sov-ereignty residing in the people, why should that sovereignty be inadequate to offset the illegality of an election to be held in con-travention of a statute which is lower in rank than the Constitution?

It is thus Obvious, manifest and clear, beyond a scintilla of doubt, that being fragmentary and incomplete, the proposal for partial amendment under consideration, can not be submitted to the people for ratification, consistently with the letter and the spirit of the Constitution.

Is this approach to the problem too "legalistic"? This term has several possible connotations. It may mean strict adherence to the law, which in the case at bar is the Supreme Law of the land. On this point, suffice it to say that, in compliance with the specific mandate of such Supreme Law,[2] the Members of the Supreme Court have taken the requisite "oath to support and defend the Constitution."

The term "legalistic" may, also, be used to indicate adherence to the letter of the law, even if it contravenes its spirit. In relation thereto, it may not be amiss to advert to the fact that the spirit of the law is not a matter of sheer speculation, and that it is no more than the intent and purpose of the lawmaker or framer of the Constitution as determined by a consideration of the whole context thereof - and, hence of the letter of the law, in its entirety[3] and the circumstances surrounding its enactment. Our attention has not been called, however, to any inconsistency between the language of Section 1 of Article XV of the Constitution and the intention and purpose of its framers.

Then, again, the term "legalistic" may be used to suggest inversely that the somewhat strained interpretation of the Constitution being urged upon this Court be tolerated or, at least, overlooked, upon the theory that the partial amendment on the voting age is badly needed and reflects the will of the people, specially the youth. This course of action favors, in effect, the adoption of a political approach, inasmuch as the advisability of the amendment and an appraisal of the people's feeling thereon are political matters. In fact, apart from the obvious message of the mass media, and, at times, of the pulpit, the Court has been literally bombarded with scores of handwritten letters, almost all of which bear the penmanship and the signature of girls, as well as the letterhead of some sectarian educational institutions, generally stating that the writer is 18 years of age and urging that she or he be allowed to vote. Thus the pressure of public opinion has been brought to bear heavily upon the Court for a reconsideration of its decision in the case at bar.

As above stated, however, the wisdom of the amendment and the popularity thereof are political questions beyond our province. In fact, respondents and the intervenors originally maintained that We have no jurisdiction to entertain the petition herein, upon the ground that the issue therein raised is a political one. Aside from the absence of authority to pass upon political questions, it is obviously improper and unwise for the bench to delve into such questions owing to the danger of getting involved in politics, more likely of a partisan nature, and, hence, of impairing the image and the usefulness of courts of justice as objective and impartial arbiters of justiciable controversies.

Then, too, the suggested course of action, if adopted, would constitute a grievous disservice to the people and the very Convention itself. Indeed, the latter and the Constitution it is in the process of drafting stand essentially for the Rule of Law. However; as the Supreme Law of the land, a Constitution would not be worthy of its name, and the Convention called upon to draft it would be engaged in a futile undertaking, if we did not exact faithful adherence to the fundamental tenets set forth in the Constitution and compliance with its provisions were not obligatory. If we, in effect, approved, consented to or even overlooked a circumvention of said tenets and provisions, because of the good intention with which Resolution No. 1 is animated, the Court would thereby become the Judge of the good or bad intentions of the Convention and thus be involved in a question essentially political in nature.

This is confirmed by the plea made in the motions for reconsideration in favor of the exercise of judicial statesmanship in deciding the present case. Indeed, "politics" is the word commonly used to epitomize compromise, even with principles, for the sake of political expediency or the advancement of the bid for power of a given political party. Upon the other hand, statesmanship is the expression usually availed of to refer to high politics or politics on the highest level. In any event, politics, political approach, political expediency and statesmanship are generally associated, and often identified, with the dictum that "the end justifies the means." I earnestly hope that the administration of justice in this country and the Supreme Court, in particular, will never

adhere, to or approve or indorse such dictum.

As regards the aforementioned extra-legal pressure brought to bear upon the Court, well settled is the rule that it is its duty "to follow the law as it is written in all cases and under all circumstances, without fear and without regard to public clamor x xx" and that "any other course would bring the law into disrepute x x x. "[4] in the language of Dr. Jose P. Laurel, one of the foremost leader of the Constitutional Convention of 1934, speaking for the Supreme Court, in 1937:

"x x x. If it is ever necessary for us to make any vehement affirmance during this formative period of our political history, it is that we are x x x independent in the performance of our functions, undeterred by any consideration, free from politics, indifferent to popularity, and unafraid of criticism in the accomplishment of our sworn duty as we see it and as we understand it. "[5]

Indeed, Canon 13 of Judicial Ethics provides that "a judge should not be swayed by public clamor or considerations of personal popularity.

It is obvious, however, that most of the writers of the communications aforementioned, although bent on influencing the Court's action, did not realize the implications of their own act, insofar as the same tended to affect the independence of the judiciary. In point of fact, they seemingly had a hazy idea of the issue before the Court and of its authority in relation thereto. Apparently, most of the writers were under the wrong impression that it is a matter of discretion for the Court to reconsider or not to reconsider its decision. A good many of them were under the mistaken notion that the proposed reduction of the voting age had been annulled, disapproved or vetoed by the Court. It can be said, with reasonable certainty, that hardly any one knew that the proposed amendment is a partial and incomplete amendment of a provision of the Constitution and that the Convention had reserved its authority to introduce further amendments to said provision, which would have to be submitted for ratification in another plebiscite. It is even quite probable that those who directly persuaded, induced or encouraged them to write said communications were in a similar predicament.

Just the same, it cannot be overemphasized that, regardless of whether they will actually affect or influence court action, demonstrations, publications, letters and other acts similar to those just adverted to have a tendency to impair the freedom of courts of justice in the discharge of their difficult and delicate functions; that parties who wish to be heard in connection with any litigation and have therein an interest recognized by law, may obtain judicial permission to intervene in such litigation and make direct, official representations to the court in connection therewith, in the manner provided by law and the Rules of Court; that the attempt to influence court action by any other means may constitute contempt of court and be dealt with accordingly and that courts can not possibly permit a party to resort to such means without allowing its opponent to avail of the same or analogous means.

One need not have a rich imagination to envisage vividly what would happen if both parties had such authority. Indeed, instead of being the most potent factor for the maintenance of peace and order, through the peaceful settlement of justiciable controversies, the judiciary would pose the gravest threat to the social order, for court proceedings would be characterized by a display of strength of the opposing litigants, and thus foster a frontal clash between their respective forces. This would, moreover, be advantageous to the party in power, the vested interests and those who are otherwise influential or strong and detrimental to the interest of the poor, the weak and the average citizen, apart from being inconsistent with the climate of freedom essential to the impartial administration of justice under a Regime of Law.

Referring to the role of the judge as a legislator, Benjamin N. Cardozo had the following to say:

"'The statute,' says the Swiss Code, 'governs all matters within the letter or the spirit of any of its mandates. In

default of an applicable statute, the judge is to pronounce judgment according to the customary law, and in default of a custom according to the rules which he would establish if he were to assume the part of a legislator. He is to draw his in-spiration, however, from the solutions consecrated by the doctrine of the learned and the jurisprudence of the courts -- par la doctrine et la jurisprudence.' There, in the final precept, is the gist of the difference between 'le phénomène Magnaud,' and justice according to law. The judge, even when he is free, is still not wholly free. He is not to innovate at pleasure. He is not a knight-errant roaming at will in pursuit of his own ideal of beauty or of goodness. He is to draw his inspiration from consecrated principles. He is not to yield to spasmodic sentiment, to vague and unregulated benevolence. He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated to 'the primordial-necessity of order in the social life.'"[6]

WHEREFORE, I concur in the opinions of Justices Teehankee and Barredo and vote to deny the motions for reconsideration.

[1] Underscoring ours.

[2] Section 2, Article XIV of the Constitution.

[3] A legislative enactment is to be judged from its language; on occasion, aid may be derived from its history. *Bowman v. Davenport*, 63 ALR 2d 853. 243 Iowa 1135, 53 NW 2d 249.

The intent of a statute is to be drawn from its words and general purpose. *Parsons v. Wethersfield*, 135 Conn 24, 60 A 2d 771, 4 ALR 2d 330.

A statute must be construed to carry out the intention of the legislature, determined from the language used and the general purpose of the act. *Consumers Power Co. v. State*, 16 ALR 2d 1084, 326 Mich 643, 40 NW 2d 756.

The primary purpose in construing statutes is to arrive at the legislative intent within the framework of the language used. *Canada Dry Bottling Co. of Utah v. Board of Review, Industrial Com. of Utah*, 619, 223 P 2d 586.

A statute must be construed and applied as it is written by the legislature, and not as judges may believe it should have been written. *People v. Olah*, ALR 2d 219, 300 NY 96, 89 NE 2d 329.

In determining legislative intent, which controls in the construction of a statute, the meaning of the words used and the language of the statute as a whole must be considered. *Hoellinger v. Molzhon*, 19 ALR 2d 1147, 77 ND 108, 41 NW 217.

In the construction of a statute, the court must consider the specific language used, and give effect thereto. *Dowdy v. Franklin*, 93 ALR 2d 1194, 203 Va 7, 121 Se 2d 817.

The intent of the lawgiver is to be found in the language used. *Brundage v. Township of Randolph*, 96 ALR 2d 1400. 54 NJ Super 384, 148 A 2d 841.

[4] *Ex Parte Ruef*, Court of Appeals, First District, California, 97 Pac. 89, 90.

[5] *People v. Vera*, 65 Phil., 56, 96. Underscoring ours.

[6] *The Nature of the Judicial Process*, pp. 140-141.

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SEPARATE CONCURRING OPINION

TEEHANKEE, J.:

I concur in the extensive resolution penned by Mr. Justice Barredo denying the motions for reconsideration filed by respondents and intervenors and in the illuminating concurrence filed by Mr. Chief Justice Concepcion. I would only summarize hereunder, as briefly as possible, the fundamental considerations for my vote against the constitutionality and legality of submitting the proposed constitutional amendment to an advance plebiscite coinciding with the forthcoming November 8, 1971 elections.

1. As pointed out in the Court's decision,[1] the amendment proposed under Organic Resolution No. 1 of the 1971 Constitutional Convention is by its own terms (per section 3 of said resolution) a "partial amendment which refers only to the age qualification for the exercise of suffrage, (but) shall be without prejudice to other amendments that will be proposed in the future by the 1971 Constitutional Convention on other portions of the amended section or on other portions of the entire Constitution."

It is then a provisional, incomplete and fractional proposal - "admittedly tentative", according to Mr. Justice Fernando's dissent[2] -which cannot even be dignified with the character of final and complete amendments which may be duly submitted to the people for ratification, under the amendatory process provided in Article XV, section 1 of our Constitution.

2. The partial and tentative character of the proposed amendment reducing the voting age, as expressly reserved in section 3 of said Organic Resolution No. 1, was expressly made of record by the author of said section 3, Delegate Feliciano Jover Ledesma who said in introducing the same that:

"DELEGATE LEDESMA (J): x x x Now there are several delegates presenting amendments on the education qualification and on the residence qualification because they are afraid that once the age qualification is presented to a plebiscite, later on they may not be able to present their intended amendments on the residence and the educational qualification. Now the other objections (sic) to this Res. 1 is based on the apprehension that once we proposed one amendment to the Constitution and submit this amendment to the people, this Convention will be considered *functus officio*. Now this amendment that I am intending to present is intended to dispel that apprehension and the other fear that we will not be able to present any further amendment to this particular section of our Constitution. May I therefore read this proposed amendment, Mr. President. 'Whereas, some of the objections to Res. 1 of the Committee on Suffrage and Electoral Re-forms which resolution seeks to lower the voting age to 18 are based on the fear that after approving the said Res. No. 1 and submitting the same to the people for ratification on Nov. 8, 1971, no further amendment could be made on Sec. 1, Art. 5 of the Philippine Constitution. And on the fear and doubt that once the said amendment is submitted to the people, the Constitutional Convention would be deemed dissolved *functus officio*. Whereas, the above mentioned fears and doubts can be dispelled if this Convention can make it clear in the resolution that the partial amendment that it is submitting to the people shall be without prejudice to other amendments that will follow. Now therefore, resolved that Res. 1 of the Committee on Suffrage and Electoral Reforms be amended adding thereto another section to read as follows: 'SEC. 3. This partial amendment which refers only to the age qualification for the exercise of suffrage shall be without prejudice to other amendments that will be proposed in the future by the 1971 Constitutional Convention or other portions of the amended section or on other portions of the entire Constitution.'"[3]

Delegate Raul S. Manglapus, chairman of the committee on suffrage and electoral reforms, in accepting the amendment of adding section 3 to Organic Resolution No. 1, likewise reaffirmed the partial and tentative, character of said resolution on the voting age, thus: "DELEGATE MANGLAPUS: Mr. President, it has always been the position of the Committees involved in this consolidated report that this resolution on the young age is without prejudice to a further con-sideration of the other elements of suffrage that are obtained in Ar-ticle 1, Section 5. In spite of this, however, and in view of the desire of the gentleman from Manila to reassure those who are interested in the other elements outside of the lowering of the voting age contained in such article, the committees are happy to accept the amendment of the gentleman from Manila."[4]

3. The Convention committee on legal affairs, charged with the study of the legal feasibility of the proposal to submit the proposed amendment lowering the voting age to an advance plebiscite was itself so split over the serious legal question that Delegate Serrano remarked during the debates that "With due deference to said committee, of which I am a humble member, let it be said that the opinion it has rendered has lost much of its persuasive effect. It has gone through the distressing cycle of upholding the legality of the proposal, (by a vote of 11 to 5 on August 31, 1971) reversing it to my motion for reconsideration (by a vote of 8 to 6 on September 7, 1971) and reversing the reversal of another motion for reconsideration (by a vote of 10 to 8 on September 19, 1971), depending upon how many pros and cons voted on the proposition and when at a particular time, they are absent or present."[5] From the records furnished this Court, it appears that an absolute majority of 12 out of the 23-member committee on legal affairs, in favor of the legal feasibility of the proposal, was not even obtained at any time.

4. By far one of the most serious objections raised in the committee on legal affairs against the legal feasibility of submitting the age reduction proposal to an advance plebiscite this November 8, 1971 election was that it would be violative of the very Rules of the Convention, thus:

"1. To submit piecemeal amendment is vio-lative of the Rules of the Convention as it will not conform to the established rule on the procedure of submitting proposed amendments to the Constitution. Under the Rules of the Convention, the following steps must be taken before a proposed amendment may be submitted to the people for their ratification, 1] The resolution must be approved by the corresponding organic committee; 2] the approved resolution must be incorporated by the Committee on Style in the final draft of the Constitution; 3] the approved resolution must be sponsored by the Sponsorship Council at the floor of the Convention; 4] it must be approved by the Convention acting as a body." [6]

Indeed, Rule v of the Constitutional Convention Rules[7] provides in the various sections thereof for three readings of all Constitutional proposals; a main debate thereon on second reading (sections 5-7) and the calendar for final action of the printed proposal (sections 8 and 9) which is then voted on third reading by nominal voting (section 10). The last section of the Rule, section 11, then provides that all such approved Constitutional proposals "shall be referred to the Sponsorship Council for collation, organization and/or consolidation to prepare the complete and final draft of the Constitution for consideration of the Convention. Such complete draft shall go through Second and Third Readings as provided for" but "objections raised or matters debated on, or amendments proposed, during the second reading of a Constitutional proposal ... may no longer be raised, debated on, or proposed as an amendment, in the second reading of the final draft."[8]

Rule XIII, section 1 of the Convention Rules set June 12, 1972 as the "tentative target date" for completion of the work of the Conven-tion, while section 2 set November 30, 1971 "as the target date for the submission of proposals to amend the Constitution, provided that sub-sequent proposals shall be presented to the Convention for approval by a simple majority vote ..." without prejudice to the presentation of amendments in plenary sessions and during committee meetings.

5. Under the very Rules of the Convention, therefore, the partial amendment reducing the voting age as proposed under Organic Resolution No. 1 should be incorporated in the complete and final draft of the Constitution, supra, after November 30, 1971, (the stipulated target date for the submission of Constitutional pro-posals) and would yet be subjected to full debate and amendment upon submittal of the "complete and final draft of the Constitution for con-sideration of the Convention." [9] Organic Resolution No. 1 however, short-circuited the Rules by providing for its direct submittal for ratification in an advance plebiscite this coming November 8, 1971 election. As far as I can judge from the record and minutes of the proceedings [10] submitted by intervenors, these Rules remain in full force and were not mended or suspended for the purpose.

6. This only points up to the imperative need stressed in the decision [11] of presenting to the people a clear and fixed frame of reference would furnish them a basis to arrive at an intelligent judgment on the amendment proposal being submitted to them for ratification. This is but to say that a provisional, incomplete and fractional amendment such as the partial voting age reduction amendment before us obviously can of be tied up to a clear and fixed frame of re-ferece and necessarily leaves the voter in the dark, for by the very terms of section 3 of the questioned resolution and by the very Rules of the Convention, the amended section is subject "to other amendments that will be proposed in the future by the 1971 Constitutional Convention" and the amended section is yet to be incorporated "in the Complete and final draft of the Constitution" and remains subject to full debate and amendment.

7. Movants' contention that the proposed amendment is a simple reduction of the voting age to enfranchise 18 to 20-year olds and needs no tying-up to any possible future amendments to be under-stood and voted upon begs the question. The proposed amendment proposes to enlarge the present electorate "by about 2.5 to 3 million additional voters", in petitioner's estimate. Once the electorate is so enlarged, as envisaged by the committee on plebiscite and ratifi-cation report [12] "it would be reasonable to expect that they [the newly enfranchised young 18-20 year old voters] will generously reciprocate our gesture by supporting and ratifying our other proposals, they being change-oriented." It is thus conceivable that should such future amendments-proposals include the pending proposal of requiring a high school diploma as an academic qualification for suffrage, the same may be approved by the enlarged electorate, over the opposition of a large sector of the present electorate who would be thereby disenfranchised and whose opposition might have decisively defeated the proposal, had they not blindly voted to enlarge the present electorate and weaken their own voting strength, since they did not have before them the com-plete and final amendments as an integrated whole.

8. The contemporaneous construction, as well as the practical construction consistently placed since adoption of the present Constitu-tion, upon the amendatory process provided in Article XV, section 1, thereof, to wit, that proposed amendments may not be submitted for ratification piece-meal, be such amendments adopted by Congress acting as a constituent assembly or by a Constitutional Convention elected for the purpose, is entitles to great weight. Such construction is manifest in the fact that there has never been a case where a specific amendment is proposed to be submitted in an advance plebiscite "as a separate, anterior amendment prior to others that will be submitted as a whole later" - to borrow the descriptive phrase of Senator Pelaez. [13]

The principle has thus been restated by a recognized commen-tator: "Where there has been a practical construction, which has been acquiesced in for a considerable period, considerations in favor of ad-hering to this construction sometimes present themselves to the courts with a plausibility and force which it is not easy to resist. Indeed, where a particular construction has been generally accepted as correct, and especially when this has occurred contemporaneously with the adoption of the constitution, and by those who had opportunity to under-stand the intention of the instrument, it is not to be denied that a strong presumption exists that the construction rightly interprets the intention. And where this has been given by officers, in the discharge of their

official duty, and rights have accrued in reliance upon it, which would be divested by a decision that the construction was erroneous, the argument *ab inconvenienti* is sometimes allowed to have very great weight. And similar respect will be paid to a long constant, and uniform practical construction of the constitution by the legislature, more especially in relation to those provisions of it which deal with the legislative rights, powers and duties." [14]

9. Senator Pelaez, Senate sponsor of the 1971 Constitutional Convention Act, Republic Act No. 6132, himself made of record on the Senate floor during the deliberations that the Convention should submit the entire draft of the amendments "just once", not piece-meal, and "once they have done that, their job is finished", and thereafter the Convention would become *functus officio*, since "no more money will be available. We are not going to appropriate further Money. We still hold the purse. The pertinent excerpts of the Congressional Record, [15] read as follows:

"Senator Perez. For instance, Mr. President, the convention decides to submit amendments in a plebiscite, not in whole but by installment. For instance; after they have finished their amendments on the Executive Department they now decide, 'Let us hold a plebiscite and find out if the people like these amendments.'

"Senator Pelaez. I have not really studied that or thought of that question.

"Senator Perez. Or the Convention might decide to submit an entire draft and the people reject it.

"Senator Pelaez. It should be just once. I draw that conclusion from implication. Under the Constitution there are two ways in which the Constitution can be amended. We can do it piecemeal. If we had intended piecemeal amendments we could have submitted that by resolutions to the people. But when we call a constitutional convention, the implication is very clear that they have to work on the Constitution and submit their work to the people; and once they have done that, their job is finished.

"Senator Perez. Yes, but if the people reject their draft, is this not to be understood as saying 'You have not done a good work. Go back and work some more.'

"Senator Pelaez. No more.

"Senator Perez. No more?

"Senator Pelaez. It would be up to us to decide and say: "Well, we told you so. We can amend the Constitution better. We can propose amendments by joint resolution, or call another convention."

"Senator Perez. Suppose we call another convention but that previous convention insists on sitting further, we will have constitutional crisis.

"Senator Pelaez. No more money will be available. We are not going to appropriate further money. We still hold the purse.

The Constitutional Convention itself, in its Rules, *supra*, acquiesced in and adopted the uniform, practical construction against piece-meal amendments and expressly provided for the collation and consolidation of all constitutional proposals "in a complete and final draft [that would be submitted] for consideration of the Convention" with June 12, 1972 as the "tentative target date" for completion of its work.

10. The foregoing considerations, singly and collectively, led to no other verdict than the Court's decision against the constitutionality and legality of submitting the partial and tentative amendment to, an advance plebiscite this November 8th election. The language of Article XV, section 1, acquiring approval of "such amendments by a majority of the votes cast at an election at which the amendments are submitted to the people for their ratification" was merely cited to emphasize that even the grammar used correctly reflected the plain and obvious

intent that the amendments proposed by Congress as a constituent assembly or the Constitutional Convention called for the purpose shall be submitted, not piece-meal, but by way of complete and final amendments as an integrated whole (integrated either with the sub-sisting Constitution or with the hew proposed Constitution) at a single election for the purpose.

Parenthetically, the statement in Mr. Justice Fernando's dissent that "(N)o undue reliance should be accorded rules of grammar; they do not exert a compelling force in Constitutional interpretation"[16] is, I am constrained to state with due respect, a bit of rhetoric rather than an incisive appraisal of the decision's ratio decidendi, (for lin-guistic refinements" were certainly not given any significance at all during the Court's prolonged deliberations on the case), which, he duly acknowledges, "car not be characterized as in any wise bereft of a persuasive quality of a high order."[17]

Hence, even if Article XV, section 1 used the word "election" in the plural form, such as to require the same approval of "such amendments ... by a majority of the votes cast at elections" for the purpose, there could be no question that the Court would arrive at the very same decision on. This would not mean submittal of piece-meal amendments at multiple elections or plebiscites. The very same cogent reasons outlined hereinabove that require that in the amendatory process, complete and final amendments must be submitted as an integrated whole for the independent and intelligent judgment of the elec-torate at an election for the purpose would hold true and would impel, nevertheless, the rendition of the same judgment and the denial of the motions for reconsideration.

11. Movants' submittal that "(T)he primary pur-pose for the submission of the proposed amendment lower-ing the voting to the plebiscite on November 8, 1971 is to enable the youth of 18 to 20 years who comprise more than three (3) million of our population to participate in the ratification of the new Constitution in 1972"[18] so as "to allow young people who would be governed by the new Constitution to be given a say on what kind of Constitution they will have"[19] is a laudable end. Their non-participation in the ratification of the new Constitution in 1972 does not mean, of course, that they would not have a say on the "change-oriented" and expect-antly far-reaching proposals that delegates who were elected as their spokesmen and champions would espouse for the Convention's approval. The Convention's plebis-cite committee report noted expressly that "one of the groups partly responsible for this Convention coming into existence is the youth whose strong agitation and lobbying caused the enactment of the 1970 Constitutional Convention Act. Hence, it is but fair that we reciprocate, in a small measure, this gesture by giving the youth the right to vote."[20]

If this proposal were so vitally important, then it would beg comprehension as to why movants and the youth did not press for the approval of Sen. Aquino's Senate Constituent Resolution No. 5 filed on February 12, 1970,[21] that called precisely for Congress to convene as a constituent assembly on February 23, 1970 to pro-pose only the same constitutional amendment lowering the voting age to 18 years, which would be submitted at a plebiscite on June 2, 1970 and ensure no disruption in the time-table for the holding of the election of dele-gates in November, 1970 and of the Constitutional Con-vention in 1971 (in contrast with Senator Tolentino's proposed resolution which would have set back the election of delegates to 1973 and the holding of the con-vention to 1974). Had this resolution of Senator Aquino materialized and the constitutional amendment approved by the people, the participation of the 18-year olds in the ratification of the new Constitution set for 1972 would have been assured.

But since this "bridge over troubled water" was not to be, those urging the vitality and importance of the proposed constitution amendment and its approval ahead of the complete and final draft of the new Consti-tution must seek a valid solution to achieve it in a manner sanctioned by the amendatory process ordained by our people in the present Constitution.

12. Movants, particularly Senator Pelaez as counsel for the Convention disbursing officer, urge that this Court

"proceed to allocate the powers of the Convention and of Congress with respect to the calling of a plebiscite ... [which] will constitute a judicial precedent and will serve as a guideline for the future acts and decisions of the Constitutional Convention." [22]

The Court, however, is not called upon nor vested with authority to render advisory opinions where no justiciable issue is presented to it. As was aptly stated in *Angara vs. Electoral Commission* [23] "this power of judicial review is limited to actual cases and controversies to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented."

For all we know, the feared "conflicting claims of authority" with respect to the calling of a plebiscite or the possible frustration thereof by Congress may not materialize, if the parties but consult with each other, officially or otherwise, and arrive at a prior consensus, especially on the time and manner for submission of the amendments to the electorate as fixed by the Convention.

Thus, if the Convention completes its work on schedule by the target date of June 12, 1972, the complete and final amendments may be submitted for ratification by the end of the same year or by early 1973. Even if the 18-year olds may not have been enfranchised in the meantime to enable them to participate in the ratification of the amendments comprising the new Constitution, they would assuredly, with such early ratification be duly enfranchised and enabled to participate and vote in the next scheduled national elections of November, 1973. [24]

Petitioner has stressed that "the amendment or revision of the Constitution has become a solemn commitment of Congress to the people. When Congress, as a constituent assembly, called for the convention, and later as a legislative body, provided for the election of delegates, it bound itself to have the constitutional amendments proposed by the Convention ... [submitted to the people] for their ratification or rejection, regardless of the personal opinions of individual members, or of the President, on the merits of the amendments." [25]

The eloquent dictum of Justice Laurel in *Angara* does remind us as ever that "(I)n the last and ultimate analysis, then, must the success of our government in the unfolding years to come be tested in the crucible of Filipino minds and hearts than in consultation rooms and court chambers."

[1] At page 18.

[2] At pages 6-7.

[3] Transcript of Convention debates, p. 196, Annex 7 of Intervenor's Memorandum; emphasis furnished.

[4] *Idem*, p. 197, emphasis furnished.

[5] *Idem*, p. 113, emphasis furnished. Data in parentheses taken from the report of Delegate Emilio de la Cruz II, Chairman, committee on legal affairs, Annex 13 of Intervenor's Memorandum.

[6] Committee on Legal Affairs report, Annex 13, Intervenor's Memorandum; emphasis furnished.

[7] Annex 12, Intervenor's Memorandum.

[8] The whole text of the cited Sec. 11 of Rule V reads: "Section 11. Preparation for Final Draft of the Constitution - When all constitutional proposals shall have been approved by the Convention in the manner indicated in this Rule, they shall be referred to the Sponsorship Council for collation, organization and/or consolidation to prepare the complete and final draft the Constitution for consideration of the Convention. Such complete draft shall go thru Second and Third Readings as provided for above; provided; however, that objections raised or matters debated on, or amendments proposed, during the second reading of a constitutional proposal, in

accordance with Section 5, hereof, ray no longer be raised, debated on, or proposed as an amendment, in the second reading of the find draft." (Rule V)

[9] Rule V, section 11 of the Convention Rules, quoted supra in fn. 8.

[10] Annex 7 - Intervenors' Memorandum

[11] At page 24.

[12] Annex 5-C, Intervenors' Memorandum, which estimates the number of 18 to 20-year olds that could be enfranchised at "approximately 2,200,000." Intervenors themselves place the number at "more than three (3) million of our population" (motion for reconsideration, p. 11).

[13] Manifestation for respondent Con-Con disbursing officer, dated Oct. 27, 1971, p. 13.

[14] Black on Interpretation of Law, 2nd. Ed. pp. 41-42.

[15] Cong. Record, Senate, Seventh Congress of the Republic, First Session, Vol. I, No. 66, pp. 2570-2571 May 6, 1970); emphasis furnished.

[16] At page 6.

[17] At page. 7.

[18] Intervenors' Motion for Reconsideration, at page 11.

[19] Idem.

[20] Annex 5-C, Internvenors' Memorandum.

[21] Annex 3, Intervenors' Motion for Reconsideration

[22] Manifestation of October 27, 1971, at page 4.

[23] 63 Phil. 139 (1936).

[24] This is on the assumption that the scheduled elections of 1973 are not affected or reset by the constitutional amendments.

[25] Petitioner's Addendum to Memorandum, pp. 3-4.

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