

AN ACT AMENDING CERTAIN SECTIONS OF ACTS NUMBERED ONE HUNDRED AND THIRTY-SIX, ONE HUNDRED AND NINETY, FOURTEEN HUNDRED AND FIFTY, SIXTEEN HUNDRED AND TWENTY-SEVEN, INTRODUCING C...

Act No. 2041, February 03, 1911

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By authority of the United States, be it enacted by the Philippine Legislature, that:

SECTION 1. Section sixty-seven of Act Numbered One hundred and thirty-six, as amended, is hereby amended so as to read as follows:

"SEC. 67. Appointment and term.—One justice of the peace and one auxiliary justice shall be appointed by the Governor-General, by and with the consent of the Philippine Commission, for the city of Manila, for each municipality organized according to the Municipal Code, and for such other towns or places as may be determined by resolution of said Commission: Provided, however, That upon the recommendation of the Secretary of Finance and Justice the Governor-General, with the consent of the Philippine Commission, may appoint one justice of the peace and one auxiliary justice for two or more such municipalities, towns, or places, at a salary not to exceed seventy-five per centum of the sum of the salaries of the combined positions. Whenever a vacancy occurs therein, except in the city of Manila, the judge of the Court of First Instance of the district shall forward to the Governor-General a list of names of persons qualified to fill said vacancy. In preparing said list preference shall be given to any justice of the province who may desire to transfer to another station and whose record entitles him to promotion. Appointments shall be made from the lists furnished as above prescribed: Provided, however, That the Governor-General may appoint any qualified person not included in such lists when the interests of the service so require.

"In case new municipalities are formed by the Governor-General he shall, in the same manner, designate which of the justices and auxiliary justices within the territory so formed into the municipality shall continue in office and the towers of all others therein shall cease. All justices of the peace and auxiliary justices shall hold office during good behavior and those now in office who have not the qualifications required by this Act shall continue in office until their successors are appointed."

SEC. 2. Section two of Act Numbered Sixteen hundred and twenty-seven is hereby amended to read as follows:

"SEC. 2. Supervision; reports.—The judge of the Court of First Instance shall at all times exercise a supervision over the justices of the peace within his district, and shall keep himself informed of the manner in which they perform their duties, by personal inspection whenever possible, from reports which he may require from them, from cases appealed to his court, and from all other available sources. In proper cases he shall advise and instruct them whenever requested, or when occasion arises, and such justices of the peace shall apply to him and not to the Attorney-General for advice and instruction, and any such inquiries received by the Attorney-General shall be referred by him to the judge of the proper district. The justice of the peace shall during the first five days of the fiscal year forward to said judge of the district a report concerning the business done in his court for the previous year, upon forms to be prescribed by the Attorney-General with the approval of the Secretary of Finance and Justice, such report to show, among other particulars, the number of suits begun in the court of said justice during the current year, the nature thereof, whether civil or criminal, the mode

of disposition, whether by voluntary dismissal or judgment, the number still pending, the amount of costs and fees collected and for what service, and the number of marriages solemnized. Such report shall be filed in the office of the clerk of the Court of First Instance, and said judge of the district shall, with the assistance of said clerk, embody a summary of such reports for each province of his district, together with other matters of interest and importance relative to the administration of justice therein, particularly with reference to justice of the peace courts, in a brief report, which he shall forward as soon as possible after the close of the fiscal year to the Secretary of Finance and Justice."

SEC. 3. Section sixty-eight of Act Numbered One hundred and thirty-six, as amended, is hereby further amended to read as follows:

"SEC. 68. Civil jurisdiction and powers.—In all civil actions, including those mentioned in sections two hundred and sixty-two to two hundred and seventy-two, as hereby amended, inclusive, and chapter eighteen of Act Numbered One hundred and ninety, arising in his municipality, and not exclusively cognizable by the Court of First Instance, the justice of the peace shall have exclusive original jurisdiction where the value of the subject-matter or amount of the demand does not exceed two hundred pesos, exclusive of interest and costs; and where such value or demand exceeds two hundred pesos but is less than six hundred pesos, the justice of the peace shall have jurisdiction concurrent with the Court of First Instance. In forcible entry and detainer proceedings the justice shall have original jurisdiction, but he may receive evidence upon the question of title therein solely for the purpose of determining character and extent of possession and damages for detention. In forcible entry proceedings he may grant preliminary injunctions, in accordance with the provisions of Act Numbered One hundred and ninety, to prevent the defendant from committing further acts of dispossession against the plaintiff.

"Justices of the peace shall have exclusive jurisdiction to adjudicate questions of title to real estate or any interest therein when the value of the property in litigation does not exceed two hundred pesos, and where such value exceeds two hundred pesos but is less than six hundred pesos the justice of the peace shall have jurisdiction concurrent with the Court of First Instance.

"The jurisdiction of a justice of the peace shall not extend to civil actions in which the subject of litigation is not capable of pecuniary estimation, except in forcible entry and detainer cases; nor to those which involve the legality of any tax, impost, or assessment; nor to actions involving admiralty or maritime jurisdiction; nor to matters of probate, the appointment of guardians, trustees, or receivers; nor to actions for annulment of marriages: Provided, however, That justices of the peace in provincial capitals, except in the city of Manila, may by assignment of the respective judge of the Court of First Instance in each case have like jurisdiction within the province as the Court of First Instance to hear and determine cases originally cognizable by the Court of First Instance in which the subject of litigation¹ is capable of pecuniary estimation and the value of the subject-matter or amount of the demand does not exceed two thousand pesos exclusive of interest and costs, except cases involving the legality of any tax, impost, or assessment, or actions involving admiralty or maritime jurisdiction.

"Justices of the peace in the capitals of provinces organized under the Provincial Government Act, and the governors of provinces not organized under said Act acting as ex officio justices of the peace, in the absence of the judge of the district from the province may exercise within the province like interlocutory jurisdiction as the Court of First Instance, which shall be held to include the hearing of all motions for the appointment of a receiver, for temporary injunctions, and for all other orders of the court which are not final in their character and do not involve a decision of the case on its merits, the hearing of petitions for a writ of habeas corpus, and all questions which may arise concerning the appointment of inspectors of election, or the inclusion in or exclusion from the register of voters of the names of electors.

"A justice of the peace shall have power anywhere within his territorial jurisdiction to solemnize marriages, authenticate merchants' books as provided by articles nineteen and thirty-six of the Code of Commerce,

administer oaths, take depositions and acknowledgments, and to perform all other acts which under the law may be performed by a notary public."

SEC. 4. Section four of Act Numbered Sixteen hundred and twenty-seven is hereby amended to read as follows:

"SEC. 4. Jurisdiction to try and sentence.—Justices of the peace, except in the city of Manila, shall have original jurisdiction to try parties charged with misdemeanors, offenses, and infractions of municipal ordinances, arising within the municipality, in which the penalty provided by law does not exceed six months' imprisonment or a fine of two hundred pesos, or both such imprisonment and fine.

"Justices of the peace in the capitals of provinces organized under the Provincial Government Act, and the governors of provinces not organized under said Act acting as ex-officio justices of the peace, may by assignment of the respective judge of the district in each case have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within the province in which the penalty provided by law does not exceed two years' imprisonment or a fine of two thousand pesos, or both such imprisonment and fine, and in the absence of the judge of the district shall have like jurisdiction within the province as the Court of First Instance to hear applications for bail.

"Subdivision (g) of section eighteen of Act Numbered Eighty-two is hereby repealed."

SEC. 5. Whenever a justice of the peace exercises jurisdiction as the Court of First Instance the same procedure shall be followed as that prescribed by law for Courts of First Instance, and from his orders or judgments the same appeal shall lie as from like orders or judgments rendered by a judge of the Court of First Instance.

SEC. 6. Section seventy-one of Act Numbered One hundred and thirty-six, as amended, is hereby amended to read as follows:

"SEC. 71. Salary, and disposition of fines and fees.—Justices of the peace shall receive salary as follows: in first-class municipalities, nine hundred and sixty pesos a year; in second-class municipalities, eight hundred and forty pesos a year; in third-class municipalities, seven hundred and twenty pesos a year; in fourth-class municipalities, or in towns or places as provided in the first section of this Act, six hundred pesos a year: Provided, however, That the justice of the peace in the city of Manila shall receive a salary of three thousand pesos a year, and the justices of the peace in the municipalities of Iloilo and Cebu two thousand four hundred pesos a year each; and that justices of the peace in the capitals of the Provinces of Albay, Am bos Caniaries, Batangas, Bulacan, Ilocos Sur, Leyte, Occidental Negros, Pampanga, Pangasinan, and Tayabas shall receive a salary of one thousand eight hundred pesos a year; those of Cagayan, Capiz, C'avite, Ilocos Norte, Laguna, Rizal, Samar, and Sorsogon one thousand five hundred pesos, and those of the capitals of the remaining provinces organized under the Provincial Government Act one thousand two hundred pesos a year. The salaries herein provided shall not be paid to public officers appointed justices of the peace while acting in such public office.

"Except when the justice of the peace acts as judge of the Court of First Instance, all fines imposed by a justice of the peace in criminal prosecutions and all fees charged in civil suits or for any other service and collected shall be paid without delay to the municipal treasurer, or in the city of Manila to the Collector of Internal Revenue, to whom on the first day of each month the justice shall present a detailed statement of the amounts thus collected by him since his last previous report and of the amounts which the municipal treasurer should pay for fees in criminal proceedings during the preceding month. His account shall forthwith be audited by the municipal treasurer and president, or in Manila by the Insular Auditor, by examining the records of the justice of the peace and any other papers or persons deemed necessary, and all mutilated or spoiled receipts must be accounted for and turned in by said justice. But it shall not be necessary for the justice to prove the insolvency of parties who have failed to pay costs taxed against them.

"The collection of the above-mentioned fines and fees shall be collection of fines under the jurisdiction of the

Collector of Internal Revenue, who shall prescribe the administrative regulations therefor, and said fines and fees, except those collected in the city of Manila, shall be paid into the Insular Treasury to be credited to the appropriation provided in this Act. The salary of the justice of the peace shall be paid out of the funds of the Insular Treasury appropriated for that purpose: Provided, however, That in order to facilitate the payment of the salaries of the justices of the peace in the provinces the respective municipal treasurers shall pay such salaries monthly out of any municipal funds in their possession and the municipality shall be reimbursed monthly by the Insular Government from the appropriation therefor for the amount so paid."

SEC. 7. Section seventy-six of Act Numbered One hundred and thirty-six, as amended, is hereby further amended to read as follows:

"SEC. 76. Auxiliary justice; qualifications and duties.—The Auxiliary justices. auxiliary justice of the peace shall have the same qualifications and be subject to the same restrictions as the regular justice, and shall perform the duties of said office during any vacancy therein or in case of the absence of the regular justice from the municipality, or of his disability or disqualification, or in case of his death or resignation until the appointment and qualification of his successor, or in any cause whose immediate trial the regular justice shall certify to be specially urgent and which he is unable to try by reason of actual engagement in another trial. The auxiliary justice for such time as he shall perform the duties of justice shall receive the salary which would have accrued to the office of justice: Provided, That if the justice of the peace, without ceasing to act as justice, shall certify any cause to the auxiliary justice for trial such auxiliary justice shall receive the fees provided by law for each cause so certified, which amount shall be deducted from the salary of the regular justice.

"In case there is no auxiliary justice of the peace to perform the dirties of the regular justice in the cases above mentioned, the judge of the district shall designate the nearest justice of the peace of the province to act as justice of the peace in such municipality, town, or place, in which case the justice of the peace so designated shall receive seventy-five per centum of the sum of his salary and that of the justice of the peace whom he may substitute.

"In case of the temporary absence of both the justice of the peace and the auxiliary justice from the municipality, town, or place wherein they exercise their jurisdiction, the municipal president shall make the preliminary investigation in criminal cases when such investigation can not be delayed without prejudice to the interests of justice. He shall make report of any preliminary investigation so made to the justice of the peace or to the auxiliary justice immediately upon the return of one or the other. He shall also have authority in such cases to grant bail to the accused in criminal proceedings brought in the justice court for such municipality, town, or place."

SEC. 8. Section seven hundred and ninety of Act Numbered One hundred and ninety, as amended, is hereby further amended to read as follows:

"SEC. 790. Fee bill—The following are the legal fees which a justice of the peace shall collect:

"For each criminal proceeding, including preliminary investigations, five pesos, to be paid by the respective municipality: Provided, That in prosecutions for infractions of municipal ordinances or for nonpayment of the cedula tax the fee shall be one peso and fifty centavos.

"For each civil action, three pesos.

"For performance of marriage ceremony, including issuance of certificate of marriage, one peso.

"For taking affidavit, fifty centavos.

"For taking acknowledgment, seventy-five centavos.

"For writing and certifying depositions, including oath, per one hundred words, or fractional part thereof, twenty centavos.

"For certified copies of any record, per one hundred words, or fractional part thereof, twenty centavos.

"For stamping and registering hooks, as required by articles nineteen and thirty-six of the Code of Commerce,

each book, one peso.

"For performing notarial acts for which fees are not specifically fixed in this section, the same fees which notaries public are entitled to receive.

"The foregoing fee bill, in Spanish, English, and the native dialect commonly spoken in the municipality, shall be posted in a conspicuous place in the office of every justice."

SEC. 9. Section five of Act Numbered Fourteen hundred and fifty, as amended, is hereby further amended to read as follows:

"SEC. 5. Qualifications and privileges.—No person shall be, eligible to appointment as justice of the peace or auxiliary justice unless he shall be (1) at least twenty-three years of age; (2) a citizen of the Philippine Islands or of the United States; (3) of good moral character; and (4) admitted by the Supreme Court to practice law, or shall have passed the civil service examination for clerk of court, or an examination to be held in each province before a board composed of the judge of the Court of First Instance, the provincial fiscal, and a practicing lawyer appointed by the judge, under rules and regulations to be prescribed by the Attorney-General with the approval of the Secretary of Finance and Justice: Provided, however, That this last-mentioned requisite shall not be required in case the appointee is an officer of the United States Army or of the Philippine Government, or when there is no person having the necessary qualifications who is willing to accept the office. In this last-mentioned case the appointment shall continue only until such time as a qualified person can be found who is willing to accept the office: And provided further; That no person shall be appointed justice of the peace or auxiliary justice for the city of Manila or for any provincial capital who has not been admitted by the Supreme Court to practice law. He shall be present as often as the business of his court requires and at least once each business day at an appointed hour in his office or at the place where his court is held, but he may, during his incumbency, with the permission of the judge of First Instance of the district, pursue any other vocation or hold any other office or position, notwithstanding the provisions of Act Numbered One hundred and forty-eight. But no justice or auxiliary justice may act as the attorney for any party to a cause commenced in his court or elsewhere except by special permission of the said judge. The applicant for examination for justice of the peace shall pay an examination fee of five pesos, to be collected by the clerk of the Court of First Instance, and the lawyer appointed by the judge as a member of the board of examination shall be entitled to a compensation of twenty pesos for each day of actual services."

SEC. 10. For the purpose of paying the salaries of the justices of the peace provided in this Act, and the fees of the lawyer appointed as a member of the board of examination, for the fiscal year nineteen hundred and twelve, there is hereby appropriated out of the funds of the Insular Treasury not otherwise appropriated the sum of two hundred and fifty thousand pesos, all sums collected as fines and fees by the justices of the peace provided in section eight of this Act, and all examination fees provided in section nine of this Act. All these amounts shall be added to the appropriation for the Judiciary for the fiscal year nineteen hundred and twelve.

SEC. 11. This Act shall take effect on the first of July, nineteen hundred and eleven: Provided, however, That the examination for justices of the peace referred to in section nine may be held before that date.

Enacted, February 3, 1911.

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