

## AN ACT PROVIDING FOR THE ORGANIZATION OF COURTS IN THE PHILIPPINE ISLANDS.

*Act No. 136, June 11, 1901*

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

### CHAPTER I.

#### GENERAL PROVISIONS.

SECTION 1. Courts of justice to be maintained in every province. Courts of justice shall be maintained in every province in the Philippine Islands in which civil government shall be established; which courts shall be open for the trial of all causes proper for their cognizance, and justice shall be therein impartially administered without corruption or unnecessary delay.

SEC. 2. Constitution of judiciary.—The judicial power of the Government of the Philippine Islands shall be vested in a Supreme Court, Courts of First instance, and courts of justices of the peace, together with such special jurisdictions of municipal courts, and other special tribunals as now are or hereafter may be authorized by law. The two courts first named shall be courts of record.

SEC. 3. Qualifications of judges, and so forth.—In order to be eligible to the office of Chief Justice of the Supreme Court, or judge of the Supreme Court, or judge of a Court of First Instance, or Attorney-General, a person must:

- Be more than thirty years of age;
- Be a citizen of the United States or a native of the Philippine Islands, or have acquired, by virtue of the Treaty of Paris, the political rights of a native of the Islands;
- He must have practiced law, or have been a judge of a court of record, in the United States or the Philippine Islands, or in Spain, or, previous to the date of the ratification of the Treaty of Paris, in any Spanish territory, for a period of five years, or must for a like period have filled any office which requires a legal degree as an indispensable qualification in the Philippine Islands or, previous to the date of the ratification of the Treaty of Paris, in any Spanish territory.

SEC. 4. Hours of labor of court employees.—The hours of labor of all employees in and about the Supreme Court and the Courts of First Instance shall be regulated by section one of Act Numbered Eighty, entitled, "An Act regulating the hours of labor, leaves of absence, and transportation of appointees under the Philippine Civil Service," enacted January twenty-sixth, nineteen hundred and one.

SEC. 5. Leaves of absence.—All leaves of absence of the judges of the Supreme Court, the Attorney-General, Solicitor-General, and Assistant Attorney-General, clerk, and other subordinates of the Supreme Court, and judges of Courts of First Instance, shall be granted by the Chief Justice.

Leaves of absence of clerks and other subordinates, officials or employees of Courts of First Instance shall be

granted by the judge of the Court of First Instance, for each province within his judicial district. The Chief Justice shall determine his own leave of absence, but his leave of absence and that of all the other officials and employees in this Act named shall be governed by sections two and three of Act Numbered Eighty, above referred to.

SEC. 6. Transportation of judges, and salary while traveling.—A person residing in the United States who is appointed judge of the Supreme Court, or judge of the Court of First Instance of the Philippine Islands, shall be paid the traveling expenses of himself and family from his place of residence to Manila, if he shall come by the steamer and route directed by the Chief Executive of the Islands. He shall be allowed one-half salary from the date of leaving home to come to Manila, and full salary from the date of his arrival in the Islands, provided that he proceeds directly to the Islands. Otherwise, he shall be allowed half salary for such time only as is ordinarily required to perform the journey from his place of residence to Manila. If he has been employed as judge in the Philippine Islands for three years or more he shall, if he so requests, upon his retirement from the service, be furnished with transportation for himself and family from Manila to his place of residence, and be allowed half salary for thirty days, in addition to full salary for the period for which he may be entitled as leave of absence, under the provisions of this Act, and of said Act Numbered Eighty.

SEC. 7. Official oath of judicial officers.—The judges and justices of the several courts shall, before they proceed to execute the duties of their respective offices, take and subscribe to the following oath or affirmation, to wit:

"I, \_\_\_\_\_ solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as \_\_\_\_\_, according to the best of my ability and understanding, agreeably to the laws of the Philippine Islands. And that recognize and accept the supreme authority of the United States of America in these Islands, and will maintain true faith and allegiance thereto; that I impose upon myself this obligation voluntarily, without mental reservation or purpose of evasion; so help me God." (The last four words to be stricken out in case of affirmation.)

"(Signature)\_\_\_\_\_

"Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_."

The oath may be administered by any member of the Philippine Commission, or by any judge or justice of the peace duly qualified to act, and shall be filed with the clerk of the court in which the official taking the oath presides, and be by him recorded in the records of the court.

## CHAPTER II.

### SUPREME COURT.

SEC. 8. Supreme Court.—The Supreme Court shall consist of a Chief Justice and six associate judges, any five of whom when convened shall form a quorum, and may transact any of the business of the court; but in the absence of a quorum the member or members present may adjourn the court from time to time with the same effect as if all were present. The concurrence of at least four members of the court shall be necessary to pronounce a judgment. They shall be appointed by the Commission, and shall hold office during its pleasure. The word "Judges" or "Judge's of the Supreme Court," when used in this Act, shall include the Chief Justice.

SEC. 9. Salaries of the judges of the Supreme Court.—The annual salary of the Chief Justice shall be seven thousand five hundred dollars, and of the associate judges seven thousand dollars, all payable monthly.

SEC. 10. The Supreme Court to sit in banc.—The Supreme Court shall sit in banc as a body composed of all its

members, and the Chief Justice shall be the presiding officer thereof. In case of his absence at a session of the court, the judge present next in seniority to the Chief Justice shall preside. The seniority of the associate judges shall be determined by the dates of their respective commissions.

SEC. 11. Sessions of the Supreme Court.—The Supreme Court shall always be open for the transaction of business. It shall hold regular terms for the hearing of causes at Manila, commencing on the second Monday of January and July, and at Iloilo, commencing on the first Monday of November and at Cebu on the first Monday of December of each year, and special sessions at either of the above-named places at such other times as may be prescribed by the judges thereof. The regular terms at Manila shall each continue for at least four successive months unless all the business of the sessions has been sooner completed. The rooms at other times occupied by the Courts of First Instance at Cebu and Iloilo shall be available for the use of the Supreme Court in its sessions at those cities. Sessions of the court for hearing causes shall be held on five days in each week, when there is business to be transacted, and the sessions shall continue not less than four hours on each day.

SEC. 12. Allowance for traveling expenses.—The judges and officers of the Supreme Court, the Attorney-General, the Solicitor-General, and assistant attorney-general shall be allowed their actual expenses of travel and subsistence when absent from Manila on the business of the court, or to attend its sessions, upon the certificate of the Chief Justice and the approval of the Auditor.

SEC. 13. Where actions shall be heard.—All actions coming into the Supreme Court from Courts of First Instance situated in the Islands of Luzon, Mindoro, Marinduque, and Paragua, shall be heard at Manila. Those coming into the Supreme Court from Courts of First Instance situated in the Islands of Romblon, Panay, Masbate, and Negros, the Sulu Archipelago, and the south half of Mindanao, shall be heard at Iloilo. Those coming from the Islands of Cebu, Bohol, Samar, Leyte, and the north half of Mindanao, shall be heard at Cebu. Original actions in the Supreme Court shall be filed in Manila, but may be heard at Iloilo or Cebu, if the Court shall so order.

SEC. 14. Transferring of hearings.—Whenever the public good, or the convenience of individuals, or the necessity for speedy hearings, requires that any action, or any number of actions, which would by the terms of this Act be properly triable at either one of said places, should be heard at another of them, the Supreme Court may order such action or actions to be heard at either Manila, Cebu, or Iloilo, as it finds most expedient, and with the same effect as though such actions or actions had been heard at the place provided in the preceding section.

SEC. 15. Decisions to be in writing.—In the determination of causes, all decisions of the Supreme Court shall be given in writing, signed by the judges concurring in the decision, and the grounds of the decision shall be stated as briefly as may be consistent with clearness.

SEC. 16. Jurisdiction of the Supreme Court.—The jurisdiction of the Supreme Court shall be of two kinds:

- Original; and
- Appellate.

SEC. 17. Its original jurisdiction.—The Supreme Court shall have original jurisdiction to issue writs of mandamus, certiorari, prohibition, habeas corpus, and quo warranto in the cases and in the manner prescribed in the Code of Civil Procedure, and to hear and determine the controversies thus brought before it, and in other cases provided by law.

SEC. 18. Its appellate jurisdiction.—The Supreme Court shall have appellate jurisdiction of all actions and special proceedings properly brought to it from Courts of First Instance, and from other tribunals from whose judgment the law shall specially provide an appeal to the Supreme Court.

SEC. 19. Power to issue all necessary auxiliary writs.—The Supreme Court shall have power to issue writs of certiorari and all other auxiliary writs and process necessary to the complete exercise of its original or appellate jurisdiction.

SEC. 20. The clerk and his assistants.—The Commission shall appoint a clerk, who shall be the recording officer and interpreter and translator of the Court, and perform such duties as are prescribed in the Code of Civil Procedure. He shall receive a salary at the rate of three thousand dollars per year, and all fees charged by him for his own services or those of his assistants shall belong to the Government. He may be at any time removed by the judges of the Supreme Court, and his successor may be appointed by them from a list of eligibles provided by the Civil Service Board under the rules of the Civil Service Act. He may employ such deputies and assistants as the majority of the judges of the Supreme Court may decide to be necessary, and at salaries to be by them fixed, all with the approval of the Chief Executive. The selection of such assistants shall be made in accordance with the provisions of the Civil Service Act.

SEC. 21. Clerk's bond.—Before entering upon the performance of his duties the clerk of the Supreme Court shall execute a bond to the Government of the Philippine Islands in the penal sum of ten thousand dollars, with sufficient surety, to be approved by the Insular Treasurer, conditioned for the faithful performance of his duties and for the payment to those entitled thereto of all sums of money that shall come into his hands or into those of his deputies and assistants by virtue of his office. The bond shall be recorded in the books of the Insular Treasurer and be retained in his office, and shall be available for any party in interest. The clerk may require of his deputies and assistants a sufficient bond to indemnify him against the malfeasance or nonfeasance of such deputies or assistants.

SEC. 22. Governor of province to be officer of court.—The officer of the Supreme Court to serve its process and enforce good order in and about the court room shall be the governor, or his deputy, of the province in which the court is held, when the court is in session at Cebu or Iloilo. At other times its officer shall be the sheriff of the city of Manila, as hereinafter provided.

SEC. 23. Governor to execute an official bond.—The governor of the province shall, before being qualified to perform the duties of officer of any court, execute a bond, with sufficient sureties, to the Government of the Philippine Islands, in the penal sum of ten thousand dollars, to be approved by the provincial treasurer, conditioned for the faithful performance of the duties of himself and his deputies as officer of the court, and the payment of all sums of money that shall come into his or their hands officially, to the persons entitled thereto. The bond shall be recorded in the books of the provincial treasurer and kept on file in his office, and shall be available as security for the benefit of any person in interest. The governor may require each deputy by him appointed to execute to him a sufficient indemnity for his protection against the malfeasance or nonfeasance of such deputy.

SEC. 24. Provisions for officer when governor fails to give bond.— In case the governor shall fail to give the bond provided in the preceding section within thirty days after his election, it shall be the duty of the judge of the Court of First Instance of the province to appoint, in writing, a suitable person as the officer of the courts of the province, and the officer so appointed, upon executing the bond provided in the preceding section, shall be the officer of the courts of the province, with the same powers in the execution of process and appointment of deputies as the governor would have had he given the bond required.

The person so appointed shall hold office until the expiration of the term of office, of the governor, and shall he called the sheriff of the province, and may require bonds of his deputies, as provided in the preceding section.

SEC. 25. Officer of courts in Manila.—The officer of the Supreme Court to serve its process and enforce good order in and about the court room of the courts in session at Manila shall be the sheriff of the city of Manila, to be

appointed by the Commission, to hold office during its pleasure. The sheriff of the city of Manila shall have power to appoint as many deputies as he deems expedient, and may, in person or by his deputies, serve any process, preliminary or final, issued from the Supreme Court, a Court of First Instance, or court of justice of the peace in the city of Manila. Before entering upon the performance of his duties he shall execute a bond, with sufficient surety, to the Government of the Philippine Islands, in the penal sum of twenty-five thousand dollars, to be approved by the Insular Treasurer, conditioned for the faithful performance of the duties of himself and deputies as officers of the court, and the payment of all sums of money that shall come into his or their hands officially, to the persons entitled thereto. The bond shall be recorded in the books of the Insular Treasurer, and kept on file in his office, and shall be available as security for the benefit of any person in interest. The sheriff may require each deputy by him appointed to execute to him a sufficient indemnity for his protection against the malfeasance or nonfeasance of such deputy.

SEC. 26. Renewing bond of officer.—At any time that it shall be made to appear to the judge of the Court of First Instance in any province, or to the judges of the Supreme Court in the city of Manila, that the bond of the officer of the court, whether governor or sheriff, is insufficient, he or they may require a new and sufficient bond to be given within a period to be fixed in the order. If the new bond so required is not given within the period so fixed, a sheriff shall be appointed, as provided in the preceding sections. The sheriff so appointed shall have all the powers and duties of the regular officer of the court.

SEC. 27. Fees.—The officer of the court and his deputies shall be paid by fees only, and strictly in accordance with the fee bill provided in the Code of Civil Procedure.

SEC. 28. Rules.—The judges of the Supreme Court shall make all necessary rules for orderly procedure in the Supreme Court and Courts of First Instance, and courts of justices of the peace, and for the admission of lawyers to the practice of the law before such courts, in accordance with the provisions of the Code of Civil Procedure, which rules shall be uniform for all the courts of the same grade, and binding upon the several courts; but the judges of the Supreme Court may at any time alter or amend such rules.

SEC. 29. Assignment of Supreme Court judges to sit in Courts, of First Instance.—The Supreme Court may, at any time, and for any reason satisfactory to its judges, assign any judge of that Court to hear any particular cause pending in any Court of First Instance, or to hold a term of the court in any Court of First Instance. The judge so assigned shall possess all the powers of the regular judge of a Court of First Instance in all actions heard by him under such assignment, but shall not sit in the Supreme Court in review of any decisions made by him in a Court of First Instance.

SEC. 30. Reporter of decisions.—The judges of the Supreme a Court shall appoint a reporter of the decisions of the Court, who shall hold office during their pleasure, and they may at any time remove him and appoint his successor. He shall receive a salary at the rate of one thousand dollars per year, payable quarterly, upon the certificate of a majority of the judges of the court that he has performed the duties of the office for the preceding quarter, and is entitled to the compensation herein provided.

SEC. 31. Reporter a ministerial officer.—The reporter shall be a ministerial officer, subject to the orders of the Supreme Court.

SEC. 32. What cases reported, and how reported.—The judges shall prepare and furnish to the reporter reports of the opinions by them severally given, embracing such decisions of the court as may be deemed by the court of sufficient importance to be printed and published, as rapidly as such decisions are promulgated. Dissenting opinions may be published with the majority opinions, if the dissenting judge or judges so direct.

The reporter shall prepare and publish with each case a concise and correct synopsis of the facts necessary to a clear understanding of the decision, and shall state the names of counsel, and concisely the material and controverted points made and the authority therein cited by them and shall prefix to each case a syllabus, which shall be confined, as near as may be, to points of law decided by the court on the facts of the case, without a recital therein of the facts.

SEC. 33. In what language cases reported.—Until the first day of January, nineteen hundred and six, each case shall be reported in both the English and Spanish languages, and the decisions in both languages shall be bound together in the same volume. After the first day of January, nineteen hundred and six, the decisions shall be published only in the English language.

SEC. 34. Volumes, how indexed, bound, and so forth.—Each volume shall contain a table of the cases reported and of the cases cited in the opinions and a full and alphabetical index of the subject matters of the volume prepared by the reporter, shall contain not less than seven hundred and fifty pages of printed matter, shall be well printed, upon good paper, and well bound in the best law sheep, substantially in the manner of the reports of the decisions of the Supreme Court of the United States, and shall be styled, "Philippine Reports," and numbered consecutively, in the order of the volumes published.

SEC. 35. Contract for printing report.—When the reporter of decisions of the Supreme Court has prepared a volume of the Philippine Reports for publication, he shall contract for printing and binding two thousand copies thereof, but such contract shall not be valid until approved by a majority of the judges of the Supreme Court.

SEC. 36. Disposition of reports.—The volumes, when printed, shall be delivered to the librarian of the Philippine Commission, who shall deliver one copy to the Chief Executive of the Archipelago, to each judge of the Supreme Court, and to each judge of a Court of First Instance, to each justice of the peace, to each provincial secretary, to the clerk of the Supreme Court, and to each clerk of a Court of First Instance in the Philippine Islands, to the Treasurer and Auditor of the Archipelago, which volumes shall not be sold or disposed of by the officials to whom they are delivered, but shall be public property appertaining to the several offices named, and remain as a part of the public documents thereof for the use of the successors of the officials named, and of the public. At least ten copies shall be retained at all times in the library of the Philippine Commission and ten copies shall be sent to the Library of Congress at Washington. Volumes above the number provided by law for the Philippine Commission, and for distribution as above provided, shall be kept for exchange and for sale by the librarian, for the benefit of the library of the Commission. The price of the volumes shall be fixed by the reporter, the Treasurer and the Auditor of the Archipelago.

SEC. 37. Custody of original opinions.—Immediately upon promulgation thereof, the opinions of the Supreme Court shall be regularly recorded by the clerk, in an "Opinion Book," and, when recorded, the original shall be delivered by the clerk to the reporter for the purpose of preparing the publications herein required, and shall be by him retained as a part of the reporter's office.

SEC. 38. Disposition of causes, actions, proceedings, appeals, records, papers, and so forth, pending in the existing Supreme Court and in the, "Contencioso Administrativo."—All records, books, papers, causes, actions, proceedings, and appeals lodged, deposited, or pending in the existing Audiencia or Supreme Court, or pending by appeal before the Spanish tribunal called "Contencioso Administrativo," are transferred to the Supreme Court above provided for, which has the same power and jurisdiction over them as if they had been in the first instance lodged, filed, or pending therein, or, in case of appeal, appealed thereto.

SEC. 39. Abolition of existing Supreme Court.—The existing Audiencia or Supreme Court is hereby abolished, and the Supreme Court provided by this Act is substituted in place thereof.

### CHAPTER III.

#### THE ATTORNEY-GENERAL.

SEC. 40. Attorney-General.—There shall be an Attorney-General for the Philippine islands, to be appointed by the Philippine Commission, to serve during its pleasure, with a salary at the rate of five thousand five hundred dollars per annum, payable monthly.

SEC. 41. Solicitor-General.—There shall be an officer learned in the law to assist the Attorney-General in the performance of all his duties, called the Solicitor-General, who shall be appointed by the Commission and shall be entitled to a salary of four thousand five hundred dollars a year, payable monthly. In case of a vacancy in the office of Attorney-General, or of his absence or disability, the Solicitor-General shall have power to exercise the duties of that office. Under the supervision of the Attorney-General, it shall be the especial duty of the Solicitor-General to conduct and argue suits and appeals in the Supreme Court, in which the Philippine Government is interested, and the Attorney-General may, whenever he deems it for the interest of the Philippine Government, either in person conduct and argue any case in any court of the Philippine Islands in which the Philippine Government is interested or may direct the Solicitor-General to do so.

SEC. 42. Assistant Attorney-General.—There shall be an Assistant Attorney-General, to be appointed by the Commission, to serve during its pleasure, with a salary at the rate of three thousand dollars per annum, payable monthly, who shall perform the duties of the Attorney-General, in his absence, and the absence of the Solicitor-General, and shall render such other services in the performance of the duties of the Attorney-General as may be assigned to him.

SEC. 43. Oath of Attorney-General, Solicitor-General, and Assistant Attorney-General.—Before entering upon the performance of their duties, the Attorney-General, Solicitor-General, and Assistant Attorney-General shall take and subscribe to the following oath or affirmation, to wit:

"I, \_\_\_\_\_, solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent upon me as Attorney-General (or Solicitor-General or Assistant Attorney-General), according to the best of my ability and understanding, agreeably to the laws of the Philippine Islands; that I will prosecute no man for envy, hatred, or malice, neither will I leave unprosecuted for love, fear, favor, affection, or hope of reward; and that I recognize and accept the supreme authority of the United States of America in these Islands, and will maintain true faith and allegiance thereto; that I impose upon myself this obligation voluntarily, without mental reservation, or purpose of evasion; so help me God. (The last four words to be stricken out in case of affirmation.)

"(Signature) \_\_\_\_\_

"Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_"

The oath may be administered by any judge of the Supreme Court and shall be filed with the clerk of that court.

SEC. 44. Bond of Attorney-General.—Before entering upon the performance of the duties of his office, the Attorney-General shall execute a bond to the Insular Government, in the penal sum of five thousand dollars, with sufficient surety or sureties, to be approved by the Insular Treasurer, conditioned for the faithful performance of the official duties of himself and his assistants and the payment of all sums of money that shall come into his or their hands officially, to the person entitled thereto. The bond shall be recorded in the books of the Insular Treasurer and kept on file in his office, and shall be available as security for the benefit of any person, corporation, or municipality in interest. In case the Attorney-General fails to give the bond herein prescribed,

within thirty days after his appointment, the office shall be vacant, and another person shall be appointed in his stead as Attorney-General. The Attorney-General may require of the Solicitor-General and Assistant Attorney-General, each, a bond to him in the penal sum of five thousand dollars, with sufficient surety or sureties, to be by him approved, conditioned for the faithful performance of their official duties, respectively, and the payment of all sums of money that shall come into their or either of their hands officially, to the person lawfully entitled thereto. In case either the Solicitor-General or the Assistant Attorney-General fails to give the bond here prescribed, within thirty days after his appointment, his office shall be vacant, and another person shall be appointed in his stead.

SEC. 45. Duties of the Attorney-General.—The Attorney-General shall perform the following duties:

- (a) He shall attend the Supreme Court and prosecute or defend therein all causes, civil and criminal, to which the United States, or any officer thereof, in his official capacity, is a party;
- (b) He shall prosecute or defend therein all causes, civil and criminal, to which the Government of the Philippine Islands, or any officer thereof, in his official capacity, is a party; and all causes to which any province may be a party, unless the interest of the province be adverse to that of the Government of the Islands, or that of the United States, or some officer thereof acting in his official capacity, or of some other province;
- (c) After judgment in favor of the interest represented by him, in any of the cases mentioned in the last section, he shall direct the issuing of such process as may be necessary to carry the same into execution, and shall account for and pay over to the proper officer all money that may come into his possession belonging to the United States Government, the Government of the Philippine Islands, or any province;
- (d) When it may be necessary or proper for the enforcement or collection of any judgment or debt in favor of the Insular Government or any officer thereof in his official capacity, or of any province, the Attorney-General shall institute and prosecute in behalf of the creditor an action or actions to set aside any conveyance or other devise fraudulently made by the debtor, or any one for him, to hinder or delay or defraud the creditor;
- (e) He shall, when required by the public service, or when directed by the Chief Executive, repair to any province in the Islands and assist the provincial fiscal there in the discharge of his duties, and shall assist the provincial fiscal in any prosecution against an officer of the Government;
- (f) He shall, at the request of the Chief Executive, or other proper officer of the Insular Government, institute and prosecute a suit on any official bond or any contract, in which the Government of the Islands is interested, upon a breach thereof, and prosecute or defend for the Insular Government all actions, civil or criminal, relating to any matter connected with either of the offices of the Insular Government; and he may require the service or assistance of any provincial fiscal in and about such matters or suits;
- (g) Whenever requested by the Chief Executive, or other officer of the Insular Government, he shall prepare proper drafts for contracts, forms, or other writings which may be wanted for the use of the Government;
- (h) He shall pursue the collection of any claim or judgment in favor of the Insular Government, outside of the Islands, or may, with the consent of the Chief Executive, employ counsel to assist in the collection thereof;
- (i) He shall give his opinion in writing to the legislative body of the Islands, the Chief Executive, the Auditor of public accounts, the Insular Treasurer, the General Superintendent of Public Instruction, the trustee of any Government institution, and any provincial fiscal, when requested in writing, upon any question of law relating to their respective offices;
- (j) He shall keep a docket of all causes in which he is required to appear, which shall show the province and court

in which the causes have been instituted and tried, and whether they be civil or criminal; if civil, the nature of the demand, stage of the proceedings, and, when prosecuted to a judgment, a memorandum of the judgment; of any process issued thereon, whether satisfied or not; if not satisfied, the return of the officer; and if criminal, the nature of the crime, the mode of prosecution, and the stage of the proceedings; and, when prosecuted to a sentence, a memorandum of the sentence, and of the execution thereof, if executed, and, if not executed, of the reasons for delay or prevention;

(k) He shall make reports to the Philippine Commission through the Military Governor, on the first day of January and the first day of July of each year, of the condition of the public service as administered in his office and under his supervision; and he shall, as a part of his report, make any recommendation which he may deem proper for the improvement of the service.

SEC. 46. Office hours.—The Attorney-General shall keep an office at Manila, and shall except when absent on public business, or by consent of the Chief Executive, keep the same open on each business day from nine until twelve o'clock in the forenoon, and from three until five o'clock in the afternoon, and be there for business.

SEC. 47. Assistants to the Attorney-General.—The Attorney-General shall be allowed only such clerical assistants as may be absolutely necessary for the due performance of the duties of his office, upon the certificate of the majority of the judges of the Supreme Court that such assistants are necessary. The compensation of such assistants shall be fixed by the judges of the Supreme Court, with the approval of the Chief Executive.

## CHAPTER IV.

### COURTS OF FIRST INSTANCE.

SEC. 48. One Court of First Instance for each province.—There shall be in each province in which civil government has been or shall be organized under the sovereignty of the United States, a Court of First Instance, in each of which a judge shall preside, to be appointed by the Philippine Commission, to hold office during its pleasure. Each judge so appointed shall preside in all Courts of First Instance in his judicial district, which shall consist of such provinces as shall be hereafter by law designated to constitute such judicial district. But this section shall not apply to the Province of Benguet, nor to other provinces in which a special civil government shall be organized for largely uncivilized people, nor to the city of Manila.

SEC. 49. In Manila.—There shall be one Court of First Instance for the city of Manila, and two judges shall be appointed by the Commission, to serve during its pleasure, to preside in such court in separate court rooms.

Actions brought in the Court of First Instance for the city of Manila shall be equally apportioned for trial between the two judges, in accordance with a rule to be made by the judges of the Supreme Court. Any action apportioned to one judge may be tried by the other judge, when more convenient to the judges.

SEC. 50. Salaries of judges of Courts of First Instance.—Judges of the Courts of First Instance for the city of Manila shall receive a salary at the rate of five thousand five hundred dollars per year.

The salaries of other judges of Courts of First Instance shall be specially prescribed by law, according to the importance and responsibility of the duties to be performed.

SEC. 51. Transferring of judges for special reasons.—Any judge of a Court of First Instance may be ordered by the Supreme Court to hold a term or part of a term of any Court of First Instance, although not in the district which properly appertains to his jurisdiction, whenever in the opinion of the judges of the Supreme Court such assignment is necessary, by reason of absence, illness, or disqualification of the judge who would properly preside

in such court, or whenever, by reason of an unusual amount of business, the services of an additional judge may be needed in any district or province.

The judgments, orders, and proceedings of the judge so assigned to another province or judicial district, shall be equally effective as if the regular judge of the province in which the court is held had presided.

SEC. 52. Judge may preside in another province at request of judge of that province.—A judge of any Court of First Instance may hold the Court of First Instance in any province, at the request of the judge thereof; and upon the request of the Chief Executive it shall be his duty to do so; and in either case, the judge holding the court shall have the same power as the proper judge thereof.

SEC. 53. When such courts are open.—Courts of First Instance shall be always open (legal holidays and non-judicial days excepted), and they shall hold their sessions at the capitals of the several provinces respectively unless otherwise specially provided by law. The dates upon which sessions shall be held in the several provinces shall be fixed by law hereafter.

SEC. 54. Hours of sessions.—During terms of court, the hours for the sessions thereof shall be from nine o'clock to twelve in the forenoon, and from three until live in the afternoon, except Saturdays, when a forenoon session, only, shall be required; but the judge may extend the hours of sessions whenever in his judgment it is proper to do so. All officers and employees of the court shall be in attendance during the hours of sessions.

SEC. 55. Jurisdiction of Courts of First Instance.—The jurisdiction of Courts of First Instance shall be of two kinds:

- Original; and
- Appellate.

SEC. 56. Its original jurisdiction.—Courts of First Instance shall have original jurisdiction:

- In all civil actions in which the subject of litigations is not capable of pecuniary estimation;
- In all civil actions which involve the title to or possession of real property, or any interest therein, or the legality of any tax, impost, or assessment, except actions of forcible entry into, and detainer of lands or buildings, original jurisdiction of which is by this Act conferred upon courts of justice of the peace;
- In all cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to one hundred dollars or more;
- In all actions in admiralty and maritime jurisdiction, irrespective of the value of the property in controversy or the amount of the demand;
- In all matters of probate, both of testate and intestate estates, appointment of guardians, trustees, and receivers, and in all actions for annulment of marriage, and in all such special cases and proceedings as are not otherwise provided for;
- In all criminal cases in which a penalty of more than six months' imprisonment or a fine exceeding one hundred dollars may be imposed;
- Said courts and their judges, or any of them, shall have power to issue writs of injunction, mandamus, certiorari, prohibition, quo warranto, and habeas corpus in their respective provinces and districts, in the manner provided in the Code of Civil Procedure.

SEC. 57. Its appellate jurisdiction.—Courts of First Instance shall have appellate jurisdiction over all causes arising

in justices and other inferior courts in their respective provinces.

SEC. 58. The clerk.—The Commission shall appoint a clerk for the court of each province. He shall hold office during the pleasure of the judge, and he may be removed and his successor be appointed by the judge from a list of eligibles provided by the Civil Service Board under the rules of the Civil Service Act. The clerk shall receive a salary at the rate of one thousand two hundred dollars per year, except in cases where a greater or less salary is specially prescribed by law, and all fees charged by him shall belong to the Government. He may employ such assistants as a majority of the judges of the Supreme Court may decide to be necessary, and at salaries to be by them fixed, after approval thereof by the Chief Executive. Each clerk of the court may appoint and remove his own deputy, whose services shall be paid for by the clerk out of his salary unless he be an assistant duly authorized, as in this section provided.

SEC. 59. The clerk's bond.—Before entering upon the performance of his duties, the clerk of a Court of First Instance shall execute a bond to the Government of the Philippine Islands, in the penal sum of four thousand dollars, with sufficient surety, to be approved by the judge, conditioned for the faithful performance of his duties, and for the payment to those entitled thereto of all sums of money that shall come into his hands or into those of his deputies, by virtue of his office. The judge shall forward the bond to the Insular Treasurer and it shall be recorded in his books and kept on file in his office, and shall be available for any party in interest.

SEC. 60. The clerk in Manila.—The Commission shall appoint a clerk and an assistant, clerk in the city of Manila. The clerk and assistant clerk shall hold office during the pleasure of the judges and may be removed and their successors appointed by the judges in accordance with the provisions of the Civil Service Law. The clerk shall receive a salary at the rate of two thousand dollars a year, the assistant clerk at the rate of one thousand six hundred dollars per year, and all fees charged by them shall belong to the Government. The clerk may appoint and remove one or more deputies, whose services shall be paid for out of his salary, unless the deputy be an assistant duly authorized, as in this section provided. The clerk may employ such assistants, to be selected under the provisions of the Civil Service Law, as a majority of the judges of the Supreme Court may decide to be necessary, and at salaries to be by them fixed, after approval thereof by the Chief Executive. The bond of the clerk shall be for six thousand dollars, and he may require a bond of indemnity from the assistant clerk, which shall be approved, filed, and recorded as provided in the last preceding section. The clerk shall be answerable on his bond for defaults of his deputy and assistants.

SEC. 61. Officer of the Court of First Instance.—The officer of the Court of First Instance to serve its process and enforce good order in and about the court room shall be the governor, or his deputy, of the province in which the court is held; but in the city of Manila the officer of the Court of First Instance shall be the sheriff or his deputy.

SEC. 62. The fiscal.—The provincial fiscal, chosen in accordance with the Provincial Government Act, shall represent the provincial and Insular Governments in his province in all actions or prosecutions in a Court of First Instance in the manner provided in the Provincial Government Act. He shall be an officer of the court and subject to its directions in relation to official matters pending in the Court of First Instance.

SEC. 63. Allowance for traveling expenses.—The judges of the Court of First Instance shall be allowed their actual traveling expenses in going to and from their respective places of residence to other provinces upon the business of the court, or to attend its sessions, but not including any allowance for subsistence.

SEC. 64. Disposition of records, papers, causes, and appeals, now pending in the existing Courts of First Instance.—All records, books, papers, actions, proceedings, and appeals lodged, deposited, or pending in the Court of First Instance as now constituted of or in any province, are transferred to the Court of First Instance of such province hereby established, which shall have the same power and jurisdiction over them as if they had been

primarily lodged, deposited, filed, or commenced therein, or in cases of appeal, appealed thereto.

SEC. 65. Abolition of existing Courts of First Instance.—The existing Courts of First Instance are hereby abolished, and the Courts of First Instance provided by this Act are substituted in place thereof.

## **CHAPTER V.**

### **COURTS OF JUSTICES OF THE PEACE.**

SEC. 66. Justice courts for each municipality.—There shall be courts of justice of the peace as in this section provided:

- The existing courts of justices of the peace, established by military orders since the thirteenth day of August, eighteen hundred and ninety-eight, are hereby recognized and continued and the justices of such courts shall continue to hold office during the pleasure of the Commission.

- In every province in which there now is, or shall hereafter be established, a Court of First Instance, courts of justices of the peace shall be established in every municipality thereof which shall be organized under The Municipal Code, or which has been organized and is being conducted as a municipality when this Act shall take effect, under and by virtue of The Municipal Code.

SEC. 67. Appointment and term of office of justices of the peace. Justices of the peace shall be appointed by the Philippine Commission, and shall hold office during the pleasure of the Commission. They shall be appointed from lists of suitable persons, nominated for such appointments by the provincial board for each province, for the several municipalities within the province.

SEC. 68. Jurisdiction.—A justice of the peace shall have original jurisdiction for the trial of all misdemeanors and offenses arising within the municipality of which he is a justice, in all cases where the sentence might not by law exceed six months' imprisonment or a fine of one hundred dollars; and for the trial of all civil actions properly triable within his municipality and over which jurisdiction has not herein been given to the Court of First Instance, in all cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to less than three hundred dollars.

A justice of the peace shall also have jurisdiction over actions for forcible entry into, and detainer of real estate, irrespective of the amount in controversy.

The jurisdiction of a justice of the peace in civil actions triable within his municipality, in cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to one hundred dollars or more, but to less than three hundred dollars, shall be concurrent with that of the Court of First Instance: Provided, That 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, or to those which involve the title to or possession of real estate or an interest therein, or the legality of any tax, impost, or assessment, or to actions in admiralty, or maritime jurisdiction, or to matters of probate, the appointment of guardians, trustees, and receivers, or actions for the annulment of marriage; but this proviso shall not apply to actions of forcible entry into and detainer of lands or buildings, original jurisdiction of which is hereby conferred upon courts of justices of the peace.

SEC. 69. Courts of justices of the peace in Manila.—The existing courts of justices of the peace in the city of Manila shall be continued as now organized, and with the same jurisdiction as is now by law conferred upon them, and shall so continue until special provisions shall be made by law for the organization of inferior civil and criminal tribunals for the city of Manila.

SEC. 70. Clerks and amanuenses, and so forth, for justice courts. Each justice of the peace may act as his own clerk or he may appoint a clerk, and, if necessary, other clerical assistants and bailiffs, all at his own expense.

SEC. 71. Fees, fines, and costs.—Justices of the peace shall receive no salaries or allowances. A justice shall be entitled to a fee of three pesos for each action, civil or criminal, tried by him. But in cases of nonsuit or default the justice shall be entitled to but one-half of the fee herein provided. In civil actions, the fee shall be paid by the successful party, and taxed as a part of the cost against the defeated party. In criminal actions the fee shall be paid by the municipality, but shall be taxed as a part of the costs to be paid against the defendant if he be convicted and sentenced to pay the costs. All fines and costs imposed by a justice of the peace in criminal prosecutions and collected during any month shall be paid into the municipal treasury on the first day of the succeeding month. On that day, the justice shall present to the municipal treasurer a detailed statement of the lines and costs collected by him since the last previous report, and of the fees accruing to him from the municipal treasury during the same period by virtue of this section. His account shall be forthwith audited by the municipal president and treasurer, and he shall thereupon receive from the treasury the amount of his fees as allowed by these auditors. For the purpose of the auditing herein provided, the auditors shall examine the records of the justice and any other papers or persons deemed necessary. The justice shall in all cases execute a receipt in duplicate for all money paid to him for fees, fines, or costs, one copy of which he shall retain and the other shall be delivered to the person making the payment. The copies retained by him shall be produced before the auditors. If the auditors are of the opinion that needless prosecutions have been instituted for the purpose of enhancing fees, they shall report the facts to the Commission and request the removal of the justice so offending.

SEC. 72. Fees, costs, and fines in the justice courts in Manila.—Until a municipal government is established in the city of Manila, all fees, costs, and fines collected by justices of the peace in criminal actions in the city shall be paid into the Insular Treasury and the auditing of their statements, as provided in the preceding section, shall be by the Insular Treasurer, whose duties in this respect shall be the same as those of the auditing board provided in the preceding section; and the justice fees in criminal prosecutions shall be paid from the Insular Treasury. After the organization of a municipal government in the city of Manila, all the provisions of the preceding section shall be applicable to it, as to other municipalities.

SEC. 73. Fees to be only those prescribed by law.—No justice of the peace, clerk, or amanuensis thereof shall collect or receive any fee, except such as are prescribed in the fee bill embraced in the Code of Civil Procedure.

SEC. 74. Bonds of justices.—Each justice of the peace, before entering upon the performance of his duties, shall execute a bond to the Insular Government, with sufficient surety, to be approved by the provincial treasurer, in the penal sum of one thousand dollars, conditioned for the faithful discharge of the duties of his office, and the payment of all sums of money that shall come into his hands by virtue of his office. The bond shall be filed with the provincial treasurer and remain in his custody, and a breach of it may be prosecuted in the name of the Insular Government for the benefit of any party in interest.

SEC. 75. Officers of justice court.—Any deputy of the governor or sheriff of the province is authorized to act as an officer of a justice court in the province, and to serve any process issuing from such court. Process of such court other than executions may also be served by any bailiff appointed by the justice for that purpose, or by any policeman of the municipality.

SEC. 76. Auxiliary justices.—There shall be appointed by the Philippine Commission, to hold office during the pleasure of the Commission, one auxiliary justice of the peace, for each municipality which has a court of a justice of the peace, who shall preside in the justice court in the municipality in case of the absence, disqualification or disability of the justice, and in case of the death of the justice, until the successor to the

deceased justice shall have been appointed and qualified. The auxiliary justice shall receive the fees that would have appertained to the office of the justice during such time as he shall perform the duties of the justice as herein provided, but shall receive no other compensation.

SEC. 77. Clerks and justices to make annual reports.—The clerk of the Supreme Court, and of every Court of First Instance, and every justice of the peace of the Islands shall, on or before February first of each year, make a full report concerning the business done in his court for the year previous, to the Attorney-General, upon forms to be prescribed by him. Such reports shall show the suits brought in each court respectively, the suits dismissed by the plaintiff, and the suits decided during the previous calendar year, together with the suits pending at the close of the year, and the nature of the suits as to being civil or criminal. Each clerk and justice shall state the amount of costs received by him during the year. The Attorney-General shall compile and analyze the reports thus made, and himself make a report to the Military Governor, to be transmitted to the Commission.

SEC. 78. Jurisdiction of provost courts over civil actions repealed, and actions pending therein to be transferred.—All military orders, and all acts conferring upon provost courts in the Philippine Islands jurisdiction over civil actions, are hereby repealed. All civil actions now pending in the provost courts are hereby transferred to the proper tribunal in which they would have been brought under the provisions of this Act had this Act been in force at the time such actions were commenced, and the Supreme Court, Courts of the First Instance, and courts of justices of the peace established by this Act are authorized to try and determine the actions so transferred to them respectively from the provost courts, in the same manner and with the same legal effect as though such actions had originally been commenced in the courts created by virtue of this Act. The criminal jurisdiction of provost courts shall not be affected by this Act.

## **CHAPTER VI.**

### **NOTARIES PUBLIC.**

SEC. 79. Temporary provisions as to notaries public.—Until the enactment of a new system of registration of land titles, whereby notaries public shall no longer be the legal depositories of original instruments affecting titles to land, the notarial law of the Philippine Islands of February fifth, eighteen hundred and eighty-nine, its regulations of April eleventh, eighteen hundred and ninety, and the general instructions for drafting instruments subject to record in the Philippines, of October third, eighteen hundred and eighty-nine, as recognized under the proclamation issued by the major-general commanding the United States Army in the Philippines, dated August fourteenth, eighteen hundred and ninety-eight, and as modified by General Order Number Forty, issued from the office of the United States Military Governor, on September twenty-third, eighteen hundred and ninety-nine, and by General Order Number Twenty, issued from the office of the United States Military Governor on February third, nineteen hundred, are continued in force, and persons authorized under said military orders and by appointments heretofore made by the Military Governor or the Commission to perform the duties of notaries public, will continue in the due performance thereof, in accordance with the laws, regulations, instructions, orders, and modifications above set forth, unless such official shall be removed by the Commission.

SEC. 80. Ultimate deposit of all original notarial documents.— Whenever a law shall have been duly enacted and become operative, establishing a new system of registration of land titles, as provided in the preceding section, it shall be the duty of every notary public within the Islands forthwith to deposit in the office of the keeper of the general archives of the Islands at Manila, whatever the final official title of that officer may be, all registers, files, original documents, protocols, and notarial instruments of every kind which are in his possession and custody, and it shall be the duty of such custodian of the general archives carefully to preserve all such registers, files, original documents, protocols, and notarial instruments of every kind, and when requested to do so by the persons

interested, to issue a copy of any document so lodged with him, attesting the same under his official title, and with his seal of office.

SEC. 81. Repeal of present notarial law.—After the enactment of a new system of registration of land titles, the notarial law of the Philippine Islands of February fifth, eighteen hundred and eighty-nine, its regulations of April eleventh, eighteen hundred and ninety, and the general instructions for drafting instruments subject to record in the Philippine Islands, of October third, eighteen hundred and eighty-nine, and the modifications thereof, by General Order Number Forty, issued from the office of the United States Military Governor, on September twenty-third, eighteen hundred and ninety-nine, and by General Order Number Twenty, issued from the office of the Military Governor on February third, nineteen hundred, shall be repealed and shall be of no effect after the date of such enactment, and thereafter appointments of notaries public and the performance of official duties by them shall be regulated by the subsequent provisions of this Act.

SEC. 82. Appointment and removal of notaries public.—Judges of the Courts of First Instance may appoint, in their respective provinces, as many notaries public as the public good requires, and shall appoint at least one notary public for every organized municipality within the province, to hold their offices for two years from the first day of January of the year in which they are appointed, whose jurisdiction shall extend throughout the province, but not elsewhere. Clerks of Courts of First Instance shall be, by virtue of their office, notaries public.

Notaries public may be removed from office for good cause, by the judge or judges of the province or his successor in office. In the city of Manila, the judges of the Supreme Court may appoint as many notaries public as the public good requires, and may remove them from office for good cause. Notaries so appointed shall hold their office for two years from the first day of January of the year in which they are appointed, and their jurisdiction shall extend throughout the city of Manila, but not elsewhere.

SEC. 83. Commission.—The appointment of a notary public shall be in writing, signed by the judge, and shall be substantially in the following form:

"United States of America, Philippine Islands,

"Province of \_\_\_\_\_

"This is to certify that \_\_\_\_\_, of the municipality of \_\_\_\_\_ in said province, was, on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 190\_\_\_\_. appointed by me a notary public, within and for said province, for the term ending on the first day of January, A. D. 190\_\_\_\_.

" \_\_\_\_\_

"Judge of the Court of

"First Instance for said Province."

SEC. 84. Oath.—Every notary public, before entering upon his duties, shall take and subscribe the following oath or affirmation:

"I, \_\_\_\_\_, solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties of the office of notary public within and for the province of \_\_\_\_\_ according to the best of my ability and understanding, agreeably to the laws of the Philippine Islands; and that I recognize and accept the supreme authority of the United States in these Islands, and will maintain true faith and allegiance thereto; and that I impose upon myself this obligation voluntarily, without mental reservation or purpose of evasion; so help me God. (The last four words to be stricken out in case of affirmation.)

"(Signature)\_\_\_\_\_

"Subscribed and sworn to (or affirmed) before me, this\_\_\_\_\_ day of \_\_\_\_\_, 190\_\_\_\_"

The oath may be administered by the judge, or any justice of the peace, and shall, together with the commission, be recorded in the office of the clerk of the court of the province in which the notary is appointed.

SEC. 85. Certificate of appointment to be forwarded to the secretary of the Chief Executive.—Clerks of Courts of First Instance shall make and forward to the secretary of the Chief Executive of the Islands a certificate of the appointment of notaries public made in their respective provinces, and with the terms of office, immediately after the commission and oath of office are recorded in said clerk's office, which certificate shall be recorded in the office of the secretary of the Chief Executive.

SEC. 86. Seal.—Each notary public shall have a seal of office, which shall be affixed to papers officially signed by him. The seal shall be procured by the notary at his own expense, and shall have the name of the province and the words "Philippine Islands," and his own name on the margin thereof, and the words "Notary Public" across the center.

SEC. 87. Register of official acts.—Every notary public shall keep a register of all his official acts, and shall give a certified copy of his record, or any part thereof, to any person applying for it, and paying the legal fees therefor.

SEC. 88. Powers of notary public.—Every notary public shall have power, within his province, to administer all oaths and affirmations provided for by law, in all matters incident to his notarial office, and in the execution of affidavits, depositions, and other documents requiring an oath, and to receive the proof or acknowledgment of all writings relating to commerce or navigation, such as bills of sale, bottomries, mortgages, and hypothecations of ships, vessels, or boats, charter parties of affreightments, letters of attorney, deeds, mortgages, transfers and assignments of land or buildings, or an interest therein, and such other writings as are commonly proved or acknowledged before notaries; to act as magistrates, in writing of affidavits or depositions, and to make declarations and testify the truth thereof, under his seal of office, concerning all matters done by him by virtue of his office.

SEC. 89. Record of protest of bills or notes.—When a notary public shall protest any draft, bill of exchange, or promissory note, he shall make a full and true record in his register or book kept for that purpose, of all his proceedings in relation thereto, and shall note therein whether the demand for the sum of money therein mentioned was made, of whom, when, and where; whether he presented such draft, bill, or note; whether notices were given, to whom, and in what manner; where the same was made, and when, and to whom, and where directed; and of every other fact touching the same.

SEC. 90. To affix date of expiration of commission.—Notaries public shall affix to all acknowledgments taken and certified by them, according to law, the date on which their commissions expire.

SEC. 91. Unlawful certification.—Any notary public who shall willfully affix his signature and seal as notary public to an instrument after the expiration of his commission, shall be guilty of a misdemeanor, and punished by fine not exceeding five hundred dollars or imprisonment for a period not exceeding one year, or both, in the discretion of the court.

SEC. 92. When to take effect.—This Act shall take effect on June sixteenth, nineteen hundred and one.

Enacted, June 11, 1901.

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