

AN ACT TO AMEND SECTION SIXTY-TWO OF GENERAL ORDERS NUMBERED FIFTY-EIGHT, KNOWN AS THE CODE OF CRIMINAL PROCEDURE, PROVIDING FOR THE TAKING OF DEPOSITIONS OR WRITTEN SWORN STATE...

Commonwealth Act No. 432, May 31, 1939

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Be it enacted by the National Assembly of the Philippines:

Sec. 1. Section sixty-two of General Orders Numbered Fifty-eight, known as the Code of Criminal Procedure, is amended to read as follows:

"Sec. 62. When the judge of a court of first instance shall be satisfied, by proof or oath, that there is reason to believe that a material witness for the prosecution or for the defense will not appear and testify when required, he may order the witness to give bail in such sum as he may deem proper for such appearance. Upon refusal to give bail, the court must commit him to prison until he complies or is legally discharged. Where, however, it shall satisfactorily appear that the witness cannot procure bail as directed by the order of the court, or has to leave the Philippines with no definite date of returning thereto, he may forthwith be conditionally examined or his deposition immediately taken. Such examination or deposition must be by question and answer, in the presence of the defendant, or after one hour notice to attend the examination or the taking of the deposition has been served on him, and will be conducted in the same manner as an examination at the trial. Failure or refusal on the part of the prosecution or of the accused to attend the examination or the taking of the deposition after notice herein before provided, shall be considered a waiver. The statement or deposition of the witness thus taken may be admitted in behalf of or against the accused. His testimony taken, the witness must thereupon be discharged, if he has been detained.

"Whenever it appears to the judge of a municipal court or to the judge of a justice of the peace court, either in a preliminary investigation or in the trial of a criminal case on its merits, that a material witness for the prosecution or for the defense has to leave the Philippines with no definite date of returning thereto and will not appear and testify when so required in the trial of the case by the corresponding court of first instance, the said judge may forthwith order that the testimony of such witness be taken in writing by question and answer in the presence of the accused or his attorney, which testimony shall be signed by the witness and certified to as correct by the aforesaid judge. When an official stenographer has been employed, the transcript of the stenographic notes taken during the taking of the testimony and duly certified by him, will be sufficient. The testimony of the witness may be admitted against the accused or against the Government, as the case may be.

SEC. 2. This Act shall take effect upon its approval.

Approved, May 31, 1939.

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