

AN ACT CONFERRING JURISDICTION ON JUSTICES OF THE PEACE AND PRESIDENTS TO MAKE PRELIMINARY INVESTIGATIONS OF CRIMINAL OFFENSES, AND AMENDING GENERAL ORDER NUMBER FIFTY-EIGHT OF ...

Act No. 194, August 10, 1901

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

SECTION 1. Every justice of the peace in the Philippine Islands is hereby invested with authority to make preliminary investigation of any crime alleged to have been committed within his municipality, jurisdiction to hear and determine which is by law now vested in the judges of Courts of First Instance. It shall be the duty of every justice of the peace, when written complaint under oath has been made to him that a crime has been committed within his municipality and there is reason to believe that any person has committed the same, which complaint, the justice believes to be well founded, or when he has knowledge of facts tending to show the commission of a crime within his municipality by any person, to issue an order for the arrest of the accused and have him brought before the justice of the peace for such preliminary examination.

The order of arrest shall be directed and delivered to any officer authorized by law to make arrests, signed by the justice of the peace, shall contain the name of the accused, if known, and the offense with which he is charged. The form of the written complaint may be substantially as follows:

"The United States against A. B. " _____, justice of the peace for the municipality of _____ Province of _____, the _____ day of _____, 190____ .

"A. B. is accused by the undersigned of the crime of (giving its legal appellation, such as murder, arson, robbery, or the like) committed as follows:

"That the said A. B. on the _____ day of _____, 190 _____, at the _____ of _____, Province of _____ (here set forth the acts or commissions charged as an offense), contrary to statute in such cases made and provided.

"(Signed)_____"

The form of the order of arrest may be substantially as follows:

"To any lawful officer, greeting:

"You are hereby commanded to arrest (giving the name of the accused), who stands charged before me with the crime; of (stating the nature of the offense charged) and to bring him before me as soon as possible, to be dealt with as law directs. This _____ day of _____, 190____ .

"(Signed by the name of the justice of the peace.)"

Neither the complaint nor order of arrest, however, shall be void because of any mere informality or failure to

follow the above forms. It shall be the duty of the officer to whom the order of arrest is delivered to arrest the accused forthwith and bring him before the justice of the peace as directed in the order.

SEC. 2. When the accused is brought before the justice of the peace, it shall be his duty to inform the accused of the charge, give him an opportunity to examine the complaint and the affidavits, if any, of all other witnesses in support thereof. The justice of the peace shall thereupon demand of the accused whether he pleads guilty or not guilty to the charge. If he should plead guilty then it shall be the duty of the justice of the peace to order that the accused be remanded to jail for safekeeping, to await the action of the judge or Court of First Instance, or give bail in an amount to be fixed by the justice of the peace, with sufficient sureties, for his appearance before the judge or Court of First Instance, if the case be a bailable one as provided in General Order Number Fifty-eight of the Military Governor, series of nineteen hundred. If the accused shall deny his guilt, then it shall be the duty of the justice of the peace to make preliminary investigation of the charge as speedily as may be consistent with right and justice, but in any event he, must begin such investigation within three days of the time the accused was brought before him, unless the accused or complainant shall ask for delay in order that witnesses may be obtained, or for other good and sufficient reason, in which event a continuance for a reasonable time may be allowed. All witnesses, including the complainant, shall be examined under oath and the evidence of each shall be taken down in writing and signed by the witnesses so testifying. The witnesses offered on behalf of the Government or complainant shall be first examined and then those offered on behalf of the accused, who shall be present at every stage of the proceeding. The investigation shall be public and the witnesses shall be examined in the presence of the accused, who shall have a right, either in person or by counsel, to cross-examine them if he so desires. The witnesses shall be examined separate and apart from each other if either party demands it. Upon conclusion of the evidence of the other witnesses, the accused may testify under oath, if he so desires, in which case he may be cross-examined as any other witness. His evidence shall be reduced to writing and signed by him. If he refuses to sign the same, that fact shall be certified by the justice of the peace with the reason for such refusal given by the accused. But the accused shall not be compelled to testify against his wishes and the justice of the peace shall so inform the accused before he begins his evidence. In the event the accused declines to testify as a witness, that fact shall not be considered as evidence against him. Upon the conclusion of the preliminary investigation, if the justice of the peace is of the opinion that there is reasonable cause to believe that an offense has been committed and that the accused is guilty thereof, he shall so declare and shall adjudge that the accused be remanded to jail for safekeeping to await the action of the judge or Court of First Instance, unless he give bail for his appearance if the case be bailable, as provided in General Order Number Fifty-eight. On the other hand, if the justice of the peace be of the opinion that no crime has been committed, or that there is no reasonable ground to believe the accused guilty thereof, the justice of the peace shall order the discharge of the accused. Such discharge, however, shall not operate as a final acquittal of the accused, but he may be again arrested and prosecuted for the same offense.

SEC. 3. In case there shall have been no justice or auxiliary justice of the peace appointed for any municipality, or in the event of the absence or inability to act of both the justice and auxiliary justice of the peace, the president of such municipality is hereby vested with all the powers and jurisdiction conferred on justices of the peace by this Act, to make preliminary investigation of criminal offenses charged against persons within the municipality of such president, and shall make such preliminary investigations as justices of the peace are herein required to do, and with like effect, and shall be entitled to the same fees for his services.

SEC. 4. So much of section fifty of said General Order Number Fifty-eight as requires Courts of First Instance, or clerks thereof, to forward to the Supreme Court or the Ministerio Fiscal the record of all criminal cases for revision or consideration, except where the death penalty is imposed as the judgment or part of the judgment of such Court of First Instance, is hereby repealed, and it shall not be necessary to forward to the Supreme Court or the Ministerio Fiscal the record, or any part thereof, of any case in which there shall have been an acquittal, or in

which the penalty imposed is not death, unless such case shall have been duly appealed, as provided in such order. The records of all cases in which the death penalty shall have been imposed by any Court of First Instance, whether the defendant shall have appealed or not, shall be forwarded to the Supreme Court for investigation and judgment, as law and justice shall dictate.

SEC. 5. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 6. This Act shall take effect on its passage.

Enacted, August 10, 1901.

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