

AN ACT TO AMEND CERTAIN PROVISIONS OF THE REVISED ADMINISTRATIVE CODE ON THE JUDICIARY, BY REDUCING THE NUMBER OF JUSTICES OF THE SUPREME COURT AND CREATING THE COURT OF APPEALS...

Commonwealth Act No. 3, December 31, 1935

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Be it enacted by the National Assembly of the Philippines:

SECTION 1. Sections one hundred and twenty-six, one hundred and thirty, and one hundred and thirty-two of the Revised Administrative Code are hereby amended to read as follows:

"SEC. 126. The various courts.—The courts referred to in this chapter are the Supreme Court, the Court of Appeals, and the Courts of First Instance.

"SEC. 130. Disposition of moneys paid into court.—All moneys accruing to the Government in the Supreme Court, in the Court of Appeals, and in the Courts of First Instance, including fees, fines, forfeitures, costs, or other miscellaneous receipts, and all trust or depository funds paid into such courts shall be received by the corresponding clerks of court and, in the absence of special provision, shall be paid by him into the Philippine Treasury to the credit of the proper account or fund and under such regulations as shall be prescribed by the Auditor General: Provided, That forty per centum of the fines collected under sections two thousand seven hundred and fifty-one and two thousand seven hundred and fifty-two of this Code, shall accrue to the school funds of the municipality in which the offense is committed, and ten per centum shall accrue to the school funds of the respective provinces.

"A clerk shall not receive money belonging to private parties except where the same is paid to him or into court by authority of law.

"SEC. 132. Annual report of clerks of courts.—The clerk of the Supreme Court, the clerk of the Court of Appeals, and all clerks of Courts of First Instance shall make annual reports to the Secretary of Justice, of such scope and in such form as shall be by the latter prescribed, concerning the business, done in their respective courts during the year."

SEC. 2. Sections one hundred and thirty-three, one hundred and thirty-four, and one hundred and thirty-eight of the Revised Administrative Code are hereby amended to read as follows:

"SEC. 133. The Supreme Court; quorum of the Court; designation of Judges of the Court of Appeals to sit in Supreme Court; number of Justices necessary to reach a decision.—The Supreme Court of the Philippines shall consist of a Chief Justice and six Associate Justices, which shall sit in the hearing and determination of all cases within its jurisdiction. The presence of six Justices shall be necessary to constitute a quorum, except when the judgment of the lower court imposes the death penalty, in which case the presence of all Justices shall be necessary to constitute quorum. In the absence of a quorum, the Court shall stand ipso facto adjourned until such time as the requisite number shall be present, and a memorandum showing this fact shall be inserted by the clerk in the minutes of the Court.

"If on account of illness, absence, or incapacity upon any of the grounds mentioned in section eight of Act

Numbered One hundred and ninety, of any of the Justices of the Court, or, whenever, by reason of temporary disability of any Justices of the Court, Justice thereof or of vacancies, occurring therein, the requisite number of Justices necessary to constitute a quorum or to render a judgment in any given case, as heretofore provided, is not present, the President of the Philippines, upon the recommendation of the Chief Justice, may designate such number of Judges of the Court of Appeals, as may be necessary, to sit temporarily as Justices of said Court, in order to form a quorum, or until a judgment in said case is reached: Provided, however, That no Judge of the Court of Appeals may be designated to act in any case in the decision of which he has taken part.

"The concurrence of at least four Justices of the Court shall be necessary for the pronouncement of a judgment. However, for the purpose of declaring a law or a treaty unconstitutional, at least five Justices must concur. When the necessary majority, as herein provided, to declare a law or a treaty unconstitutional cannot be had, the Court shall so declare, and in such case the validity or constitutionality of the act or treaty involved shall be deemed upheld.

"Whenever the judgment of the lower court imposes the death penalty, the case shall be heard and determined by all the Justices of the Court, and the unanimous decision of all of such Justices shall be necessary for the pronouncement of a judgment imposing the death penalty. When the Court fails to reach a unanimous decision as herein provided, the penalty next lower in degree than the death penalty shall be imposed.

"SEC. 133-A. Place of holding sessions.—The Supreme Court shall hold its sessions in the City of Manila.

"SEC. 134. Appointment of Justices of the Supreme Court.—The Chief Justice and the Associate Justices of the Supreme Court shall be appointed by the President of the Philippines, with the consent of the Commission on Appointments of the National Assembly. The Chief Justice of the Supreme Court shall be so designated in his commission; and the Associate Justices shall have precedence according to the dates of their respective commissions, or, when the commissions of two or more of them bear the same date, according to the order in which their commissions may have been issued by the President of the Philippines.

"SEC. 134-A. Vacancy in office of Chief Justice.—In case of a vacancy in the office of Chief Justice of the Supreme Court, or of his inability to perform the duties and powers of his office, they shall devolve upon the Associate Justice who is first in precedence, until such disability is removed, or another Chief Justice is appointed and duly qualified. This provision shall apply to every Associate Justice who succeeds to the office of Chief Justice.

"SEC. 138. Jurisdiction of the Supreme Court.—The Supreme Court shall have such original jurisdiction as may be possessed and exercised by the Supreme Court of the Philippines at the time of the approval of this Act, including cases affecting ambassadors, other public ministers, and consuls.

"The Supreme Court shall have exclusive jurisdiction to review, revise, reverse, modify or affirm, on appeal, certiorari or writ of error, as the law or rules of court may provide, final judgments and decrees of inferior courts as herein provided, in—

"(1) All cases in which the constitutionality or validity of any treaty, law, ordinance, or executive order or regulation is in question;

"(2) All cases involving the legality of any tax, impost, assessment or toll, or any penalty imposed in relation thereto;

"(3) All cases in which the jurisdiction of any inferior court is in issue;

"(4) All criminal cases in which the penalty imposed is death or life imprisonment;

"(5) All civil cases in which the value in controversy exceeds twenty-five thousand pesos, or in which the title or possession of real estate exceeding in value the sum of twenty-five thousand pesos, to be ascertained by the oath of a party to the cause or by other competent evidence, is involved or brought in question ;

"(6) All other cases in which only errors or questions of law are involved."

SEC. 3. Chapter nine, Title IV of the Revised Administrative Code is hereby amended by inserting immediately after Article II thereof a new article to be known as "Article II-A—Court of Appeals," which shall contain the following provisions:

"ARTICLE II-A.—Court of Appeals

"SEC. 145-A. The Court of Appeals.—The Court of Appeals of the Philippines shall consist of a Presiding Judge and ten appellate Judges, who shall be appointed by the President of the Philippines, with the consent of the Commission on Appointments of the National Assembly. The Presiding Judge of the Court of Appeals shall be so designated in his commission, and the other Judges of the Court shall have precedence according to the dates of their respective commission, or, when the commissions of two or more of them shall bear the same date according to the order in which their commissions may have been issued by the President of the Philippines. The said Court of Appeals shall, as a body, sit *hi bane*, but it may sit in two divisions, one of six and another of five Judges, to transact business, and the two divisions may sit at the same time.

"SEC. 145-B. Presiding Judge to preside sessions of Court.—If the Presiding Judge is present in any session of the Court whether in *bane* or in division, he shall preside. In his absence, that one of the Judges attending shall preside who is first in precedence in accordance with the above preceding section of this Code.

"SEC. 145-C. Vacancy in office of Presiding Judge.—In case of a vacancy in the office of Presiding Judge' of the Court of Appeals, or in the event of his inability to perform the duties and powers of his office, they shall devolve upon the Judge of the Court who is first in precedence, until such disability is removed, or another Presiding Judge is appointed and has qualified. This provision and the provision of the preceding section shall apply to every appellate Judge who succeeds to the office of the Presiding Judge.

"SEC. 145-D. Destination of Judge of First Instance to sit in the Court of Appeals.—In case of vacancy office of any one of the Judges of the Court of Appeals, or in the event that any one of said Judges is absent, or disabled, or incapacitated, for any reason, to perform the duties and powers of his office, the President of the Philippines, upon the recommendation of the Chief of Justice of the Supreme Court, may designate a Judge of First Instance to sit temporarily in the Court of Appeals, until such disability is removed, or the vacancy is permanently filled.

However, no Judge of First Instance so appointed shall act in the Court of Appeals in any case in which his ruling or decision is the subject of review.

"SEC. 145-E. Qualifications and compensation of Judges -" of Court of Appeals.—The Judges of the Court of Appeals shall have the same qualifications as those provided in the Constitution for Members of the Supreme Court. The Presiding Judge of the Court of Appeals shall receive an annual compensation of twelve thousand pesos, and each appellate Judge, an annual compensation of eleven thousand pesos.

"SEC. 145-F. Jurisdiction of the Court of Appeals.—The Court of Appeals shall have exclusive appellate jurisdiction of all cases, actions, and proceedings, not enumerated in section one hundred and thirty-eight of this Code, properly brought to it from Courts of First Instance. The decision of the Court of Appeals in such cases shall be final; Provided, however, That the Supreme Court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by certiorari that the said case be certified to it for review and determination, as if the case had been brought before it on appeal.

"SEC. 145-G. Original jurisdiction of the Court of Appeals.—The Court of Appeals shall have original jurisdiction to issue writs of mandamus, prohibition, injunction, certiorari, habeas corpus, and all other auxiliary writs and process in aid of its appellate jurisdiction.

"SEC. 145-H. Transfer of cases from Supreme Court and Court of Appeals to proper Court—All cases which may be erroneously brought to the Supreme Court or to the Court of Appeals shall be sent to the proper Court, which shall hear the same, as if it had originally been brought before it.

"SEC. 145-I. Place of holding sessions.—The Court of Appeals and its two divisions shall hold sessions in the City of Manila.

"SEC. 145-J. Quorum of the Court.—Eight Judges of the Court of Appeals shall constitute a quorum of the Court for its session in bane, and four Judges shall constitute a quorum for its sessions in division. In the absence of a quorum, whether in bane or in division, the Court or the division shall stand ipso facto adjourned until such time as the requisite number shall be present, and a memorandum showing this fact shall be inserted by the clerk in the minutes of the Court.

"SEC. 145-K. Distribution of cases between divisions.—All of the cases of the Court of Appeals shall be allotted between the two divisions thereof for trial and decision, and the affirmative vote of the majority of the members of the division shall be necessary for the pronouncement of a judgment. Whenever in any criminal case submitted to a division the said division, or any member thereof, should be of the opinion that the penalty of death or life imprisonment should be imposed, the said Court shall refrain from entering judgment thereon and shall forthwith certify the case to the Supreme Court for final determination, as if the case had been brought before it on appeal.

"Whenever a division of the Court of Appeals fails to reach a decision in a case submitted to it, or whenever such division shall so order, or whenever the Presiding Judge, in the exercise of his sound discretion, so orders, the case shall be heard and determined by the Court sitting in bane, the affirmative vote of a majority of at least six Judges being necessary for the pronouncement of a judgment.

"SEC. 145—L. Power of the Court to adopt certain rules.—The Court of Appeals, sitting in bane, shall, from time to time, make proper orders or rules to govern the allotment of cases between the two divisions, the constitution of such divisions, the regular rotation of Judges between them, the filling of vacancies occurring therein, and other matters relating to the business of the Court; and these rules shall continue in force until repealed or altered by it or by the Supreme Court of the Philippines.

"SEC. 145-M. Clerk of the Court of Appeals; his appoint; his compensation; his bond.—The Court of Appeals shall appoint a clerk of Court, who shall exercise the same powers and perform the same duties in regard to all matters within its jurisdiction, as are exercised and performed by the clerk of the Supreme Court of the Philippines, insofar as the same may be applicable; and in the exercise of those powers and in the performance of those duties, the clerk shall be under the direction of the Court. No person may be appointed clerk of the Court of Appeals unless he has been engaged for five years or more in the practice of law or has been a clerk or deputy clerk of a court of record for the same period of time.

"The clerk shall receive an annual compensation of four thousand pesos; and, before entering upon the discharge of the duties of his office, he shall file a bond in the sum of twenty thousand pesos, with sufficient sureties to be approved by the Treasurer of the Philippines, running to the Government, for the benefit of whom it may concern, conditioned for faithful performance of his duties, and for the delivery of payment to the Government, or the persons entitled thereto, of all property or sums of money that should officially come into his hands or into those of his deputies or assistants. The bond shall be kept in the office of the Treasurer of the Philippines and entered in his books, where it shall be subject to disposition by interested parties.

"The clerk of Court may require any of his deputies or assistants to give an adequate bond as security against loss by reason of any wrongdoing on the part of such deputy or assistant.

"SEC. 145-N. Appointment by Court of Appeals of a deputy clerk of Court and other officers.—The Court may, likewise, appoint a deputy clerk of Court, who will have the same qualifications as those of the clerk of the

Court of Appeals, with an annual compensation of three thousand two hundred pesos, and other officers and employees in such number and with such compensation as may be authorized by the Secretary of Justice, until such provisions be included in the budget for the next year.

"SEC. 145-O. Certification of cases pending in Supreme Court to Court of Appeals, if such cases properly belong to the latter Court.—Immediately after the Court of Appeals is organized, all cases which, under this Act, correspond to the Court of Appeals and which may be pending in the Supreme Court, if such cases have not been heard on argument and submitted for decision by this Court, shall be certified by the clerk of the Supreme Court to the clerk of the Court of Appeals, to be heard and decided by the latter Court in conformity with the provisions of this Act. In those cases so pending in the Supreme Court, in which reference has been made to referees or commissioners for the taking of evidence, no such certification shall be made until after such evidence has been received in the Supreme Court.

"SEC. 145-P. Applicability of laws and rules covering appeals.—All of the provisions of law or of the rules of court, in force upon the approval of this Act, relating to the time within which an appeal may be taken, and the manner of appealing cases, to the Supreme Court, shall be applicable to appeals to the Court of Appeals of cases falling within its jurisdiction.

"SEC. 145-Q. Applicability of certain provisions of the Revised Administrative Code to Court of Appeals.—The Administrative provisions of articles one hundred and twenty-seven, one hundred and twenty-eight, one hundred and thirty-five, one hundred and thirty-six, one hundred and thirty-seven, one hundred and thirty-nine, one hundred and forty, one hundred and forty-one, one hundred and forty-two, one hundred and forty-three, one hundred and forty-four, one hundred and seventy-three, two hundred and seventy-one, two hundred and seventy-two, and two hundred and seventy-three of the Revised Administrative Code shall be applicable to the Court of Appeals, insofar as they may be of possible application."

SEC. 4. Upon the taking effect of this Act, all of the Justices of the Supreme Court, who shall not have been appointed pursuant to the provisions of the Constitution, shall vacate their respective offices, and new appointments of Justices shall be made in accordance with the Constitution to complete the membership of the Court.

SEC. 5. All Acts or parts of Acts, whose provisions are covered by, or are inconsistent or incompatible with, the provisions of this Act are hereby repealed.

SEC. 6. In order to carry into effect the purposes of this Act, there is hereby appropriated out of the funds in the Philippine Treasury not otherwise appropriated, for disbursement until December thirty-one, nineteen hundred and thirty-six, the sum of one hundred and seventy-five thousand pesos or such part thereof as may be necessary for such purposes, in addition to the sum of ninety thousand pesos to be saved by the Supreme Court from its appropriations for the year nineteen hundred and thirty-six on account of the reduction of the number of the Associate Justices and subordinate personnel, which amount is also hereby made available for said purposes, including- payment of salaries and wages, purchase of furniture and equipment, and sundry expenses.

SEC. 7. This Act shall take effect on the first day of February, nineteen hundred and thirty-six.

Approved, December 31, 1935.

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