

[**CRIMINAL PROCEDURE 1900 (GENERAL ORDER NO. 58), April 23, 1900**]

CRIMINAL PROCEDURE 1900 (GENERAL ORDER NO. 58)

OFFICE OF THE U. S. MILITARY GOVERNOR ON THE PHILIPPINE ISLANDS.

GENERAL ORDERS, NO. 58.

In the interests of justice, and to safeguard the civil liberties of the inhabitants of these Islands, the criminal code of procedure now in force therein is hereby amended in certain of its important provisions, as indicated in the following enumerated sections:

SECTION 1. The following provisions shall have the force and effect of law in criminal matters in the Philippine Islands from and after the 15th day of May, 1900, but existing laws on the same subjects shall remain valid except in so far as hereinafter modified or repealed expressly or by necessary implication.

PROSECUTION OF OFFENSES

SEC. 2. All prosecutions for public offenses shall be in the name of the United States against the persons charged with the offences.

SEC. 3. All public offences triable in courts of first instance or in courts of similar jurisdiction, now established or that hereafter may be established, must be prosecuted by complaint or information.

SEC. 4. A complaint is a sworn written statement made to a court or magistrate that a person has been guilty of designated offence.

SEC. 5. An information is an accusation in writing charging a person with a public offence, presented and signed by the promoter fiscal or his deputy and filed with the clerk of court.

SEC. 6. A complaint or information is sufficient if it shows:

1. The name of the defendant, or, if his name cannot be discovered, that he is described under a fictitious name with a statement that his true name is unknown to the informant or official signing the same. His true name may be inserted at any stage of the proceedings instituted against him, whenever ascertained.
2. The designation of the crime or public offence charged.
3. The acts or omission complained of as constituting the crime or public offence in ordinary and concise language, without repetition, not necessarily in the words of the statute, but in such form as to enable a person of common understanding to know what is intended and the court to pronounce judgment according to right.
4. That the offence was committed within the jurisdiction of the court and is triable therein.
5. The names of the persons against whom, or against whose property, the offence was committed, if known.

SEC. 7. Except when time is a material ingredient of an offence, the precise time of commission need not be stated in a complaint or information, but the act may be alleged to have been committed at any time before the filing thereof. And when an offence shall have been described with sufficient certainty to identify the act, an erroneous allegation as to the person injured shall be deemed immaterial.

SEC. 8. A complaint or information may be substantially in the following form:

United States against A. B. In the Court of, to
 Province of the day of, 19..... A. B. is
 accused by the undersigned of the crime of (giving its legal appellation,
 such as murder, arson, robbery, or the like, or designating it as a felony
 or misdemeanor), committed as follows: That said A. B. on the
 day of, 19....., at the Province of (here set
 forth the acts or omissions charged as an offence), contrary to the
 statute in such case made and provided.

(Signed).....

SEC. 9. The information or complaint may be amended in substance or form, without leave of court, at any time before the defendant pleads; and thereafter, during the trial, as to all matters of form, at the discretion to the rights of the defendant.

SEC. 10. No information or complaint is insufficient, nor can the trial, judgment or other proceeding be affected by reason of a defect in matter of form which does not tend to prejudice a substantial right of the defendant upon the merits.

SEC. 11. A complaint or information must charge but one offence; except only in those cases in which existing laws prescribe a single punishment for various allied offences.

SEC. 12. Every person making complaint charging the commission of a crime or public offence, must inform the magistrate of all persons whom he believes to have any knowledge of its commission; and the magistrate shall issue subpoenas for such persons, requiring them to attend at a specified time and place as witnesses.

SEC. 13. When a complaint or information alleging the commission of a crime is laid before a magistrate, he must examine on oath, the informant or prosecutor and the witnesses produced, and take their depositions in writing, causing them to be subscribed by the parties making them. If the magistrate be satisfied from the investigation that the crime complained of has been committed, and that there is reasonable ground to believe that the party charged has committed it, he must issue an order for his arrest. If the offence be admitted to bail; and the defendant offer for his arrest. If the offence beailable, and the defendant offer a sufficient security, he shall be admitted to bail; otherwise he shall be committed to prison.

SEC. 14. If the magistrate shall believe from the evidence submitted, either that the crime complained of was not committed, or that, if committed, the person charged did not commit it, he must set the person at liberty; but such release shall not prevent the filing of a new complaint or information and the arrest of the accused thereon at any time before the prosecution of the offence shall be barred by the statute. In case the promoter fiscal may appeal from the order of release, the judge shall subject the accused to such inspection and measures of vigilance as may be deemed prudent to prevent his escape.

RIGHTS OF ACCUSED AT THE TRIAL

SEC. 15. In all criminal prosecutions the defendant shall be entitled:

1. To appear and defend in person and by counsel at every stage of the proceedings.
2. To be informed of the nature and cause of the accusation.
3. To testify as a witness in his own behalf; but if a defendant offers himself as a witness he may be cross-examined as any other witness. His neglect or refusal to be a witness shall not in any manner prejudice or be used against him.
4. To exempt from testifying against himself.
5. To be confronted at the trial by and cross-examine the witnesses against him. Where the testimony of a witness for the prosecution has previously been taken down by question and answer in the presence of the accused or his counsel, the defence having had an opportunity to cross-examine the witness, the deposition of the latter may be read, upon satisfactory proof to the court that he is dead or insane, or cannot with due diligence be found in the Islands.
6. To have compulsory process issue for obtaining witnesses in his own favor.
7. To have a speedy and public trial.
8. To have the right of appeal in all cases.

ARRAIGNMENT AND COUNSEL

SEC. 16. When a complaint or information shall have been filed the defendant must be arraigned thereon before the court in which it is filed, unless the cause shall have been transferred elsewhere for trial. If the charge is for a felony (delito), the defendant must be personally present at the arraignment; but if for a misdemeanor (falta), he may appear by counsel.

SEC. 17. If the defendant appears without counsel, he must be informed by the court that it is his right to have counsel before being arraigned, and must be asked if he desires the aid of counsel. If he desires and is unable to employ counsel, the

court must assigned counsel to defend him. A reasonable time must be allowed for procuring counsel.

SEC. 18. The arraignment must be made by the court or clerk, and shall consist in reading the complaint or information to the defendant and delivering to him a copy thereof, including a list of witnesses, and asking him whether he pleads guilty or not guilty as charged. The prosecution may call at the trial other witnesses than those named in the complaint or information.

DEMURRERS AND PLEAS

SEC. 19. If, on the arraignment, the defendant requires it, he must be allowed a reasonable time, not less than one day, to answer the complaint or information. He may, in his answer to the arraignment, demur or plead to the complaint or information.

SEC. 20. Both demurrer and plea must be submitted in open court, either at the arraignment or at such other time as may be allowed to the defendant for the purpose.

SEC. 21. The defendant may demur to the complaint or information, when it appears on the face thereof:

1. That the offence charged is not within the jurisdiction of the court.
2. That it does not conform substantially to the prescribed form.
3. That more than one offence is charged; except only in those cases in which existing laws prescribe a single punishment for various allied offences,
4. That the facts charged do not constitute a public offence.
5. That it contains averments which, if true, would constitute a legal jurisdiction or excuse.

SEC. 22. In courts of first instance or of like jurisdiction, the demurrer must be in writing, signed by the defendant or his counsel, and must distinctly set forth the grounds of objection, or it shall be disregarded. The formal demurrer shall be accompanied by such arguments in writing as the defence may desire to submit to sustain it. Within three days after the filing of a demurrer the promoter fiscal must file his answer thereto in writing. The judgment of the court, either allowing or disallowing it, must be in writing and shall be filed with the papers in the case within three days after the demurrer is heard.

SEC. 23. If the demurrer is sustained, the judgment shall be final on the complaint or information demurred to, and it shall be a bar to another prosecution for the same offence, unless the court delivering judgment was without jurisdiction, or unless the court being of opinion that the objection may be avoided, directs a new complaint or information to be filed. If the court does not direct that the accused be remanded to a court of proper jurisdiction for trial or that a new information be filed, the defendant must be discharged or his bail be exonerated.

SEC. 24. Should the demurrer be disallowed, the court must require the defendant to plead. If he refuses, a plea of not guilty shall be entered for him.

There are four kind of pleas to an information or complaint: (1) guilty; (2) not guilty; (3) a former judgment of conviction or acquittal of the offence charged which may be pleaded either with or without the plea of not guilty; (4) once in jeopardy, which may be pleaded with or without the plea of not guilty. The plea must be oral, and a minute thereof in writing filed with the papers in the case.

SEC. 25. A plea of guilty can be put in only by the defendant himself in open court. The court may at any time before judgment upon a plea of guilty, permit it to be withdrawn and a plea of not guilty substituted.

SEC. 26. When a defendant shall have been convicted or acquitted or once placed in jeopardy upon an information or complaint, the conviction, acquittal shall be a bar to another information or indictment for the offence charged, or for an attempt to commit the same, or for a frustration thereof, or for any offence necessarily therein included of which he might have been convicted under such complaint or information.

SEC. 27. If the defendant shall have been formerly acquitted on the ground of variance between the complaint or information and the proof, or if the complaint or information shall have been dismissed upon objection to its form or substance or in order to hold the defendant for a higher offence without a judgment of acquittal, it shall not be considered an acquittal of the same offence.

SEC. 28. A person cannot be tried for an offence, nor for any attempt to commit the same or frustration thereof, for which he has been previously brought to trial in a court of competent jurisdiction upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction, after issue properly joined, when the case is dismissed or otherwise terminated before judgment without the consent of the accused.

SEC. 29. The court may find the defendant guilty of any offence, or of any frustrated or attempted offence, the commission of which is necessarily included in the charge in the complaint or information.

SEC. 30. After his plea the defendant shall be entitled, on demand, to at least two days in which to prepare for trial.

THE TRIAL

SEC. 31. The plea of not guilty having been entered, the trial must proceed in the following order:

1. The counsel for the United States must offer evidence in support of the charges.
2. The defendant or his counsel may offer evidence in support of the charges.
3. The parties may then respectively offer rebutting testimony, but rebutting testimony only, unless the court, in furtherance of justice, permit them to offer new and additional evidence bearing upon the main issue in question.
4. When the introduction of testimony shall have been concluded, unless the case is submitted to the court without argument, the counsel for the United States must open the argument, the counsel for the United States must open