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offense shall be punished according to the provisions of law existing when it was committed in the same manner as if this Act had not been passed.

Approved, February 21, 1933.

[CHAPTER 110.]

February 21, 1933.
[H. R. 7520.]
[Public, No. 366.]

AN ACT

An Act to amend the Code of Criminal Procedure for the Canal Zone.

Code of Criminal Procedure, Canal Zone. Amendments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Jury trials.

"SEC. 2. No person can be convicted of a public offense unless by the verdict of a jury, accepted and recorded by the court, or upon a plea of guilty, or upon a judgment of the district court, a jury having been waived, or upon the judgment of a magistrate's court."

Waiver.

SEC. 2. That section 3 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Prosecution by information signed by district attorney.

"SEC. 3. Every offense of which the district court has original jurisdiction must be prosecuted by information signed by the district attorney, or in the case of his absence by an assistant district attorney. The information must state that it is based upon due investigation of the facts relating to the crime charged therein, and on the sworn testimony of one or more witnesses."

SEC. 2a. That the Code of Criminal Procedure for the Canal Zone is hereby amended by adding a new section numbered 3a, reading as follows:

"District attorney" to include assistant.

"SEC. 3a. Wherever the designation 'district attorney' appears in this code, such designation shall include an assistant district attorney: *Provided*, *however*, That this section shall only apply during the absence or disability of the district attorney or during a vacancy in the office of district attorney."

Proviso. Application.

SEC. 3. That section 8 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Jurisdiction over offense.

"SEC. 8. The jurisdiction of an offense triable either in the district or magistrates' courts shall be in the division or subdivision where the offense has been committed."

SEC. 4. That section 9 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Offenses committed within Canal Zone.

"SEC. 9. Every person is liable to punishment by the law of the Canal Zone, or by the laws of the United States which are made applicable to the Canal Zone, for an offense committed by him therein."

SEC. 5. That section 11 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Rights of defendant.

"SEC. 11. In a criminal action, the defendant is entitled—

"1. To a speedy and public trial.

"2. To be allowed counsel as in civil actions, or to appear and defend in person and with counsel.

"3. To produce witnesses on his behalf and to be confronted with the witnesses against him, in the presence of the court, except that where the charge has been preliminarily examined before a committing magistrate and the testimony taken down by question and answer in the presence of the defendant, who has, either in person or by counsel, cross-examined or had an opportunity to cross-examine the witness; or where the testimony of a witness on the

part of the Government, who is unable to give security for his appearance, has been taken conditionally in the like manner in the presence of the defendant, who has, either in person or by counsel, cross-examined or had an opportunity to cross-examine the witness, the deposition of such witness may be read, upon its being satisfactorily shown to the court that he is dead or insane, or can not with due diligence be found within the Canal Zone; and except also that in the case of offenses hereafter committed the testimony on behalf of the Government or the defendant of a witness deceased, insane, out of jurisdiction, or who can not, with due diligence, be found within the Canal Zone, given on a former trial of the action in the presence of the defendant who has, either in person or by counsel, cross-examined or had an opportunity to cross-examine the witness, may be admitted."

SEC. 6. That section 12 of the code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Warrants, power to issue.

"SEC. 12. The magistrates and the district attorney shall have power to issue warrants for the arrest of persons charged with public offenses."

SEC. 7. That section 14 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 14. One magistrate may conduct the proceedings of the magistrate of the other subdivision upon inability to act, sickness, or any other cause. In such cases the proper entry of the proceedings of such magistrate so acting shall be made in the docket of the magistrate for whom he so acts."

SEC. 7a. That section 18 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Complaint by affidavit before issue of warrant.

"SEC. 18. Before a magistrate shall issue a warrant in any case, a complaint must be made by affidavit of the complaining witness, clearly charging therein the offense committed, and such affidavit must be signed by said complaining witness."

SEC. 8. That section 19 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Contents.

"SEC. 19. Every affidavit shall contain as particularly as can be done the nature of the offense charged and the particulars as to the time, place, person, and property, so as to enable the defendant to understand the nature and character of such offense."

SEC. 9. That section 20 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Issue of warrant of arrest.

"SEC. 20. After a complaint has been made charging that an offense has been committed against the laws of the Canal Zone, and the magistrate before whom such complaint was made is satisfied that the complaint charges an offense, he shall forthwith issue a warrant of arrest for the offending party, directed to any peace officer, commanding the said peace officer to forthwith arrest the offender and bring him before the said magistrate."

SEC. 11. That the Code of Criminal Procedure for the Canal Zone be amended by inserting therein, following section 21, a new section numbered 21a, to read as follows:

Contents of warrant.

"SEC. 21a. The warrant must specify the name of the defendant, or, if it is unknown to the magistrate, the defendant may be designated therein by any name. It must also state the time of issuing it, and the place where it is issued, and be signed by the magistrate, with his name and office. The warrant must be directed to and executed by a peace officer."

Execution of.

SEC. 12. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 21a, a new section numbered 21b, to read as follows:

Peace officers; who are.

"SEC. 21b. The following are peace officers: The marshal and deputy marshals of the Canal Zone, constables of the magistrate courts, and all officers and members of the police force of the Canal Zone."

SEC. 13. That section 22 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Admission to bail.

"SEC. 22. In the event that the offense charged against the person be triable in the magistrate's court, the defendant may be admitted to bail upon executing a bond in a sum to be fixed by the magistrate not exceeding $500. Such bond shall be in favor of the 'Government of the Canal Zone' upon condition that the defendant shall be and appear before said magistrate at a certain date therein mentioned; said bond shall be signed by the defendant and two or more good and sufficient sureties. The date of the appearance shall not be later than three days from the signing of the bond. Should the defendant fail to enter into such bond, the said magistrate shall commit him to jail awaiting trial."

Bond.

SEC. 14. That section 23 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Subpœnas. Issue of.

"SEC. 23. Whenever a person arrested charged with an offense cognizable by a magistrate is placed on trial, he shall give the names of his witnesses, if he has any, and their places of abode; and the magistrate shall forthwith issue subpœnas for the same to testify in said cause. The subpœnas shall state the day, hour, and place of trial."

SEC. 15. That section 24 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Pleadings of defendant.

"SEC. 24. When a defendant is put upon trial in a magistrate's court, the magistrate shall read the complaint to the defendant, whereupon the defendant may plead to the same, which plea shall be 'guilty' or 'not guilty'. Should the defendant refuse to answer or plead to the same, the magistrate shall enter a plea of not guilty. Should the defendant plead guilty, the magistrate shall, after hearing testimony to determine the gravity of the offense, within twenty-four hours thereafter render his decision as to the amount of punishment to be inflicted."

SEC. 16. That section 25 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Proceedings if plea "not guilty."

"SEC. 25. After having heard the charge, if the defendant plead 'not guilty', the proceedings shall be as follows:

"First. The witnesses for the prosecution shall be examined under oath. The oath shall be as follows: 'You do solemnly swear before Almighty God that you will tell the truth, the whole truth, and nothing but the truth, in the matter now pending before me.'

Examination of witnesses.

"Second. The witnesses for the defendant, including the defendant himself if he wishes to testify, shall be examined under oath; if the defendant does not testify, that fact can not be used against him.

Rebuttal.

"Third. Witnesses for the prosecution may be called to testify in rebuttal only of testimony given by the defendant or his witnesses.

Consideration of evidence.

"Fourth. The court shall then consider the evidence, and within twenty-four hours thereafter render his decision. The trial must be had and a decision rendered in the presence of the defendant. When a decision is in favor of the defendant by acquitting him of the charge, he shall be at once released. Should the decision be that the defendant is guilty, the court shall, within the time limit, fine or commit the defendant to jail, or both, as the case may be."

SEC. 17. That section 26 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Arrests by private persons.

"SEC. 26. A private person who has arrested another for the commission of an offense must without unnecessary delay, take the person arrested before a magistrate or deliver him to a peace officer."

SEC. 18. That section 30 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Admission of defendant to bail.

"SEC. 30. If the offense charged is bailable and the defendant is arrested in another division or subdivision, the officer must, upon being required by the defendant, take him before the magistrate in that subdivision who may admit the defendant to bail to answer before the magistrate issuing the warrant within a reasonable time."

SEC. 19. That section 32 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

When bail not given forthwith.

"SEC. 32. If, on the admission of the defendant to bail, the bail is not forthwith given, the officer must take the defendant before the magistrate who issued the warrant or to whom it is made returnable."

SEC. 20. That section 33 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Commitment, when defendant held to answer.

"SEC. 33. When a magistrate orders the defendant to be held to answer, after preliminary investigation in cases triable in the district court, he must make out a commitment signed by him, with his name and office, and deliver it, with the defendant, to the officer to whom he is committed, or if that officer is not present, to a peace officer, who must deliver the defendant to the proper custody, together with the commitment."

SEC. 21. That section 40 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Counsel of person under arrest.

"SEC. 40. Any attorney at law entitled to practice in the courts of the Canal Zone may, at the request of a prisoner, after his arrest, visit the person so arrested."

SEC. 22. That section 41 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Preliminary hearing before magistrate.

"SEC. 41. Whenever any person is charged, other than by information direct, with an offense not triable before the magistrate, the said magistrate shall hold a preliminary hearing, and if the magistrate be satisfied that the offense has been committed, and there exists probable cause that the defendant has committed the same, he shall remand the defendant to jail, or admit him to bail, as the case may be, for his appearance before the district court to answer said charge. If there be no evidence that an offense has been committed, or no probable cause showing the defendant's connection therewith, he shall be discharged."

When probable cause established.

SEC. 23. That section 44 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Appeals.
Notice in open court.

"SEC. 44. An appeal from the judgment of a magistrate's court may be taken by the defendant by giving notice in open court of his intention so to do at the time the judgment is rendered. Upon the perfection of such an appeal the magistrate shall forthwith transmit the warrant and the complaint to the clerk of the district court."

Perfection of.

SEC. 24. That section 50 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Commitment in default of payment of fine.

"SEC. 50. When a judgment is rendered against a defendant that he pay a fine and the cost of said proceeding, should he fail to do so at once, the magistrate shall commit him to jail, to be confined one day for each $1 fine and costs remaining unpaid: *Provided, however,* That such imprisonment shall not exceed thirty days in any case."

Proviso.
Period limited.

SEC. 25. That the second and third subsections of section 52 of the Code of Criminal Procedure for the Canal Zone are hereby amended to read, respectively, as follows:

Magistrates.
Powers.

"SEC. 52. * * *

"Second. To enforce order in the proceedings before him.

"Third. To provide for the orderly conduct of proceedings before him."

SEC. 26. That section 59 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Duties.
Papers relating to criminal matters.

"SEC. 59. It shall be the duty of magistrates to keep all papers relating to criminal matters in which preliminary examination has been held in good order and on file in their offices for a term not to exceed two days, and within said time to deliver to the district attorney a transcript of all proceedings had in such cases and all papers relating to such cases, including original complaint and warrant, affidavits, and the names of the witnesses. The district attorney shall return all such papers to the magistrate in every case where the district attorney does not file an information."

SEC. 27. That section 60 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Undertakings, etc., deposited.

"SEC. 60. It shall be the duty of the magistrates, after the filing of an information by the district attorney, to turn over to the clerk of the district court all undertakings or moneys deposited in lieu thereof with the magistrate for appearance in the district court."

SEC. 28. That section 62 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Information.

"SEC. 62. The first pleading on part of the government in all criminal matters within the original jurisdiction of the district court is the information."

SEC. 29. That section 64 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Filing of.

"SEC. 64. All informations must be filed with the clerk of the district court."

SEC. 30. That section 67 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Form.

"SEC. 67. It may be substantially in the following form:

"'In the district court in and for the division of , Canal Zone.

"'The government of the Canal Zone against : Information.

"' , district attorney for the Canal Zone, comes into the district court for the said division, and for the government of the Canal Zone gives the court here to be informed and to understand that: on the day of A. D. 19 , in the division aforesaid, did then and there (here set forth the act or omission charged as an offense) and so did then and there commit the offense of (here state the character of the offense committed, whether it be murder, arson, larceny, or the like, or designating it as a felony or misdemeanor) contrary to the law in such case made and provided and against the peace and dignity of the government of the Canal Zone.

"'This information is based upon due investigation of the facts relating to the crime charged therein, and on the sworn testimony of one or more witnesses, and I believe there is just cause for the filing of this information.

"'Signed this day of , A. D. 19

"'District Attorney.'"

Sections repealed. Issue of bench warrants.

SEC. 30a. That sections 68 and 69 of the Code of Criminal Procedure for the Canal Zone are hereby repealed.

Information must be direct.

SEC. 31. That the word "directed" in section 70 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read "direct."

SEC. 32. That subdivision 2 of section 77 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Signing of.

"2. That the information be signed and filed by the district attorney of the Canal Zone."

SEC. 33. That the Code of Criminal Procedure for the Canal Zone be amended by inserting therein, following section 86, a new section numbered 86a, to read as follows:

Previous conviction of felony, etc.

"SEC. 86a. In charging in an information the fact of a previous conviction of felony, or of an attempt to commit an offense which, if perpetrated, would have been a felony, or of petit larceny, it is sufficient to state, 'That the defendant, before the commission of the offense charged in this information, was in (giving the title of the court in which the conviction was had) convicted of a felony (or attempt, and so forth, or of petit larceny).' If more than one previous conviction is charged, the date of the judgment upon each conviction must be stated, but not more than two previous convictions must be charged in any one information."

Including statement of.

SEC. 34. That section 90 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Power of district attorney to subpœna witnesses.

"SEC. 90. The district attorney shall have power to issue subpœnas for witnesses."

SEC. 35. That section 92 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Examination of, after preliminary hearing.

"SEC. 92. When a defendant has been committed as provided in sections 33 and 41, the district attorney may, within twenty days thereafter, issue subpœnas for witnesses and examine such witnesses under oath as to the offense charged. Such examination shall be conducted in private."

SEC. 36. That section 93 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Discharge of defendant if no public offense committed, etc.

"SEC. 93. If, after investigation, it appears either that no public offense has been committed, or that there is not sufficient cause to believe the defendant guilty, the district attorney must, within such twenty-day period, order that the defendant be discharged, and shall file with the committing magistrate the original proceedings indorsed thereon as follows: 'There being no sufficient cause to believe the within named, A. B., to be guilty of an offense, I order his discharge.'"

Indorsement on original proceedings.

SEC. 37. That section 94 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Information filed, if otherwise.

"SEC. 94. If, however, it appears from the examination that a public offense has been committed, and that there is sufficient cause to believe the defendant guilty thereof, the district attorney shall, within such twenty-day period, file an information against such person in the division of the district court in which the offense is triable, charging the defendant with such offense."

SEC. 38. That section 97 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Trial de novo.

"SEC. 97. All offenses triable in the magistrates' courts, when appealed to the district court, shall be tried de novo on the original complaint and warrant: *Provided, however*, That the complaint may be amended in the district court as to matters of form or substance where the rights of the defendant are not substantially prejudiced thereby; but the amended complaint may not charge a crime different

Proviso. Amendments.

from that charged or sought to be charged, in the original complaint."

SEC. 38a. That section 103 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Criminal docket. Clerk of district court to keep.

"SEC. 103. A docket must be kept by the clerk of the district court denominated a criminal docket, in which he shall enter each criminal action and whatever proceedings are had therein, and a statement of the costs. The clerk shall at the end of each month turn over to the collector of the Panama Canal all the government revenues collected or paid to him of whatever character or nature."

Deposit of government revenues.

SEC. 39. That section 105 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Other duties of clerk.

"SEC. 105. The clerk shall perform such other duties as may from time to time be assigned him by the judge of said court."

SEC. 40. That section 113 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Arrest. When offense a felony. Misdemeanor.

"SEC. 113. If the offense charged is a felony, the arrest may be made on any day and at any time of day or night. If it is a misdemeanor, the arrest can not be made at night, except upon direction of a magistrate by indorsement on the warrant, or except when the offense is committed in the presence of the arresting officer."

SEC. 41. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 114, a new section numbered 114a, to read as follows:

Execution of warrant.

"SEC. 114a. A warrant of arrest may be executed in either division or subdivision of the Canal Zone."

SEC. 42. That section 116 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Arrest of person resisting or about to flee.

"SEC. 116. If a person about to be arrested either flees or forcibly resists, after he has been informed of the intention of the arresting officer to place him under arrest, the officer may use all reasonable means to effect the arrest."

SEC. 43. That section 119 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Right to take weapons from person arrested.

"SEC. 119. Any person making an arrest may take from the person arrested all dangerous weapons which he may have about his person."

SEC. 44. That section 125 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Arraignment for felony; presence of defendant required. Misdemeanor.

"SEC. 125. The defendant must be personally present on arraignment for felony. If the offense be a misdemeanor, he need not be arraigned, but when the trial begins the clerk shall read the information."

SEC. 45. That section 129 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Form of bench warrant.

"SEC. 129. The bench warrant upon the information must be substantially in the following form:

In the district court of the Canal Zone Division of

The government of the Canal Zone.

BENCH WARRANT

To the MARSHAL OR ANY PEACE OFFICER OF THE CANAL ZONE:

An information having been filed on the day of A. D. , in the division of the district court of the Canal Zone, charging with the crime of ——————————, you are
(designating it generally)

therefore commanded forthwith to arrest the above-named and bring him before the court (or if the information has been sent to the other division, that division must be named as the place to bring the defendant) to answer said information; or if the court

be not in session, that you deliver him into the custody of the warden of said district.

Given under my hand, with the seal of the court affixed, this day of , A. D. .

By order of the Court.

[SEAL]

Clerk of the Court."

SEC. 46. That section 134 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Right of defendant appearing for arraignment to have counsel.

"SEC. 134. If the defendant appears for arraignment 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 may assign counsel to defend him."

SEC. 47. That section 138 of the Code of Criminal Procedure for the Canal Zone as amended by Executive order of August 16, 1910, is hereby amended to read as follows:

Motion to set aside information not subscribed.

"SEC. 138. When the information is not subscribed by the district attorney, it must be set aside by the court in which the defendant is arraigned, upon his motion."

SEC. 48. That section 140 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Hearing of motion. When denied.

"SEC. 140. The motion must be heard at the time it is made, unless, for cause, the court postpones the hearing to another time. If the motion is denied, the defendant must immediately answer the information either by demurring or pleading thereto. If the motion is

Granted.

granted, the court must order that the defendant, if in custody, be discharged therefrom; or, if admitted to bail, that his bail be exonerated; or, if he has deposited money instead of bail, that the same be refunded to him, unless it directs that an information be filed by the district attorney."

SEC. 49. That section 150 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Amendment of information.

"SEC. 150. An information may be amended by the district attorney without leave of court, at any time before the defendant pleads. Such amendment may be made at any time thereafter, in the discretion of the court, where it can be done without prejudice to the substantial rights of the defendant. If a demurrer is allowed,

Demurrer if allowed, bar to subsequent prosecution for same offense.

the judgment is final upon the information demurred to, and is a bar to another prosecution for the same offense, unless the court, being of the opinion that the objection on which the demurrer is sustained may be avoided in a new information, directs a new information to be filed."

SEC. 50. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 163, a new section numbered 163a, to read as follows:

Previous convictions charged in information.

"SEC. 163a. When a defendant who is charged in the information with having suffered a previous conviction, pleads either guilty or not guilty of the offense for which he is informed against, he must be asked whether he has suffered such previous conviction. If he answers that he has, his answer must be entered by the clerk in the minutes of the court, and must, unless withdrawn by consent of the court, be conclusive of the fact of his having suffered such previous conviction in all subsequent proceedings. If he answers that he has not, his answer must be entered by the clerk in the minutes of the court, and the question whether or not he has suffered such previous conviction must be tried by the court or jury which tries the issue upon the plea of not guilty, or in case of a plea of guilty, by the court

Ante, p. 885.

or a jury impaneled for that purpose. The refusal of the defendant to answer is equivalent to a denial that he has suffered such previous conviction. In case the defendant pleads not guilty, and answers that he has suffered the previous conviction, the charge of the previous conviction must not be read to the court or jury, nor alluded to on the trial."

SEC. 51. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 169, a new section numbered 169a, to read as follows:

Removal of action upon agreement of parties.

"SEC. 169a. The court may also order the removal of the action from one division to the other upon the agreement of the parties."

Mode of trial.

SEC. 52. That section 170 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Issues of fact.

"SEC. 170. An issue of fact arises:

"1. Upon a plea of not guilty.

"2. Upon a plea of a former conviction or acquittal of the same offense.

"3. Upon a plea of once in jeopardy."

SEC. 53. That section 171 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Tried by jury in criminal cases.

"SEC. 171. Issues of fact in criminal cases within the original jurisdiction of the district court of the Canal Zone must be tried by jury, unless a trial by jury be waived."

SEC. 54. That section 175 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Right of defendant to prepare.

"SEC. 175. After his plea the defendant is entitled to at least two days to prepare for trial."

SEC. 55. That chapter I of title VII of the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, before section 177, new sections numbering 176a, b, c, d, e, f, g, h, i, j, k, l, m, n, o, oo, p, q, r, s, t, u, v, w, x, y, and z, reading as follows:

"Challenge" defined.

"SEC. 176a. A challenge is an objection made to the trial jurors, and is of two kinds:

"1. To the panel;

"2. To an individual juror."

Several defendants can not sever.

"SEC. 176b. When several defendants are tried together they can not sever their challenges, but must join therein."

"Panel" defined.

"SEC. 176c. The panel is a list of jurors to serve for a particular period or for the trial of a particular action."

"Challenge to panel" defined.

"SEC. 176d. A challenge to the panel is an objection made to all the jurors returned, and may be taken by either party."

When can be founded.

"SEC. 176e. A challenge to the panel can be founded only on a material departure from the forms prescribed in respect to the drawing and return of the jury, or on the intentional omission of the marshal to summon one or more of the jurors drawn."

When and how taken.

"SEC. 176f. A challenge to the panel must be taken before a juror is sworn and must be in writing or be noted by the reporter, and must plainly and distinctly state the facts constituting the ground of challenge."

Exceptions to, when sufficiency denied.

"SEC. 176g. If the sufficiency of the facts alleged as ground of the challenge is denied, the adverse party may except to the challenge. The exception need not be in writing, but must be entered on the minutes of the court, or of the reporter, and thereupon the court must proceed to try the sufficiency of the challenge, assuming the facts alleged therein to be true."

Denial allowed if exception overruled.

"SEC. 176h. If on exception the court finds the challenge sufficient, it may, if justice requires it, permit the party excepting to withdraw his exception and to deny the facts alleged in the challenge. If

exception is allowed, the court may, in like manner, permit an amendment of the challenge." Amendment.

"SEC. 176i. If the challenge is denied, the denial may be oral, and must be entered on the minutes of the court, or of the reporter, and the court must proceed to try the question of fact; and upon such trial, the officers, whether judicial or ministerial, whose irregularity is complained of, as well as any other persons, may be examined to prove or disprove the facts alleged as the ground of the challenge." Trial of denial. Examinations during trial.

"SEC. 176j. When the panel is formed from persons whose names are not drawn as jurors, a challenge may be taken to the panel on account of any bias of the officer who summoned them, which would be good ground of challenge to a juror. Such challenge must be made in the same form, and determined in the same manner, as if made to a juror." Challenge when jurors summoned but not drawn.

"SEC. 176k. If, either upon an exception to the challenge or a denial of the facts, the challenge is allowed, the court must discharge the jury so far as the trial in question is concerned. If it is disallowed, the court must direct the jury to be impaneled." Discharge of jury when challenge allowed. Impaneled, when disallowed.

"SEC. 176l. Before a juror is called, the defendant must be informed by the court, or under its direction, that if he intends to challenge an individual juror he must do so when the juror appears, and before he is sworn." Defendant to be informed of right to challenge.

"SEC. 176m. A challenge to an individual juror is either— Kinds of challenges to juror.

"1. Peremptory; or

"2. For cause."

"SEC. 176n. It must be taken when the juror appears, and before he is sworn to try the cause; but the court may for cause permit it to be taken after the juror is sworn, and before the jury is completed." When taken.

"SEC. 176o. A peremptory challenge can be taken by either party, and may be oral. It is an objection to a juror for which no reason need be given, but upon which the court must exclude him."

"SEC. 176oo. Upon a trial by jury, each side shall be entitled to six peremptory challenges. A waiver of a challenge by either party shall preclude such party, except by consent of court, from thereafter challenging peremptorily any juror then in the jury box, and the remaining challenges of such party shall be limited to jurors thereafter called."

"SEC. 176p. A challenge for cause may be taken by either party. It is an objection to a particular juror, and is either—

"1. General—that the juror is disqualified from serving in any case; or

"2. Particular—that he is disqualified from serving in the action on trial."

"SEC. 176q. General causes of challenge are: General causes of challenge.

"1. A conviction for felony;

"2. A want of any of the qualifications prescribed by law to render a person a competent juror;

"3. Unsoundness of mind, or such defect in the faculties of the mind or organs of the body as to render him incapable of performing the duties of a juror."

"SEC. 176r. Particular causes of challenge are of two kinds: Particular causes.

"First. For such a bias as, when the existence of the facts is ascertained, in judgment of law disqualifies the juror, and which is known in this code as implied bias.

"Second. For the existence of a state of mind on the part of the juror in reference to the case, or to either of the parties, which will prevent him from acting with entire impartiality and without prejudice to the substantial rights of either party, which is known in this code as actual bias."

Challenges for implied bias.

"SEC. 176s. A challenge for implied bias may be taken for all or any of the following causes, and for no other:

"1. Consanguinity or affinity within the fourth degree to the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or to the defendant.

"2. Standing in the relation of guardian and ward, attorney and client, master and servant, or landlord and tenant, or being a member of the family of the defendant, or of the person alleged to be injured by the offense charged or on whose complaint the prosecution was instituted, or in his employment on wages.

"3. Being a party adverse to the defendant in a civil action, or having complained against or been accused by him in a criminal prosecution.

"4. Having served on a trial jury which has tried another person for the offense charged.

"5. Having been one of a jury formerly sworn to try the same charge, and whose verdict was set aside, or which was discharged without a verdict after the case was submitted to it.

"6. Having served as a juror in a civil action brought against the defendant for the act charged as an offense.

"7. If the offense charged be punishable with death, the entertaining of such conscientious opinions as would preclude his finding the defendant guilty; in which case he must neither be permitted nor compelled to serve as a juror."

Exemption not cause of.

"SEC. 176t. An exemption from service on a jury is not a cause of challenge, but the privilege of the person exempted."

Stating causes of.

"SEC. 176u. In a challenge for implied bias, one or more of the causes stated in section 176s must be alleged. In a challenge for actual bias, the cause stated in the second subdivision of section 176r must be alleged; but no person shall be disqualified as a juror by reason of having formed or expressed an opinion upon the matter or cause to be submitted to such jury, founded upon public rumor, statements in public journals, or common notoriety; provided it appear to the court, upon his declaration, under oath or otherwise, that he can and will, notwithstanding such an opinion, act impartially and fairly upon the matters to be submitted to him. The challenge may be oral, but must be entered in the minutes of the court or of the reporter."

Exceptions to challenge and denial.

"SEC. 176v. The adverse party may except to the challenge in the same manner as to a challenge to the panel, and the same proceedings must be had thereon as are prescribed in section 176g, except that if the exception be allowed the juror must be excluded. The adverse party may also orally deny the facts alleged as the ground of challenge."

Trial of.

"SEC. 176w. If the facts are denied, the challenge must be tried by the court."

Examination of challenged juror.

"SEC. 176x. Upon the trial of a challenge to an individual juror, the juror challenged may be examined as a witness to prove or disprove the challenge and must answer every question pertinent to the inquiry."

Rules governing admissibility of evidence.

"SEC. 176y. Other witnesses may also be examined on either side, and the rules of evidence applicable to the trial of other issues govern the admission or exclusion of evidence on the trial of the challenge."

Decision.

"SEC. 176z. The court must allow or disallow the challenge, and its decision must be entered in the minutes of the court."

Rebutting test'mony.

SEC. 56. That the word "respectfully" in subsection 3 of section 177 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read "respectively."

SEC. 57. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 184, a new section numbered 184a, to read as follows:

"SEC. 184a. The rules of evidence in civil actions are applicable also to criminal actions, except as otherwise provided in this code." Rules of evidence.

SEC. 58. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 184a, a new section numbered 184b, to read as follows:

"SEC. 184b. Perjury must be proved by the testimony of two witnesses, or of one witness and corroborating circumstances." Perjury, how proved.

SEC. 59. That section 199 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 199. When, in the opinion of the court, it is proper that the jury should view the place in which the offense is charged to have been committed, or in which any other material fact occurred, it may order the jury to be conducted in a body, in the custody of the marshal, to the place, which must be shown to them by a person appointed by the court for that purpose; and the marshal must be sworn to suffer no person to speak or communicate with the jury, nor to do so himself, on any subject connected with the trial, and to return them into court without unnecessary delay or at a specified time." Viewing of premises by jury.

SEC. 60. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202, a new section numbered 202a, to read as follows:

"SEC. 202a. When the jury have agreed upon their verdict they must be conducted into court by the officer having them in charge. When the jury appear they must be asked by the court, or clerk, whether they have agreed upon their verdict, and if the foreman answers in the affirmative, they must, on being required, declare the same." Return of jury when agreement on verdict reached.

SEC. 61. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202a, a new section numbered 202b, to read as follows:

"SEC. 202b. The jury may render a general verdict, or, when they are in doubt as to the legal effects of the facts proved, they may, except upon a trial for libel, find a special verdict." Verdict. General or special.

SEC. 62. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202b, a new section numbered 202c, to read as follows:

"SEC. 202c. A special verdict is that by which the jury find the facts only, leaving the judgment to the court. It must present the conclusions of fact as established by the evidence, and not the evidence to prove them, and these conclusions of fact must be so presented as that nothing remains to the court but to draw conclusions of law upon them." "Special verdict" defined.

SEC. 63. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202c, a new section numbered 202d, to read as follows:

"SEC. 202d. The special verdict must be reduced to writing by the jury, or in their presence entered upon the minutes of the court, read to the jury and agreed to by them, before they are discharged." Reduced to writing.

SEC. 64. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202d, a new section numbered 202e, to read as follows:

"SEC. 202e. The special verdict need not be in any particular form, but is sufficient if it present intelligibly the facts found by the jury." Form.

SEC. 65. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202e, a new section numbered 202f, to read as follows:

Judgment upon.

"SEC. 202f. The court must give judgment upon the special verdict as follows:

"1. If the plea is not guilty, and the facts prove the defendant guilty of the offense charged in the information, or of any other offense of which he could be convicted under that information, judgment must be given accordingly. But if otherwise, judgment of acquittal must be given.

"2. If the plea is a former conviction or acquittal of the same offense, the court must give judgment of acquittal or conviction, as the facts prove or fail to prove the former conviction or acquittal."

SEC. 66. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202f, a new section numbered 202g, to read as follows:

New trial to be ordered if defective.

"SEC. 202g. If the jury do not, in a special verdict, pronounce affirmatively or negatively on the facts necessary to enable the court to give judgment, or if they find the evidence of facts merely, and not the conclusions of fact, from the evidence, as established to their satisfaction, the court must order a new trial."

SEC. 67. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202g, a new section numbered 202h, to read as follows:

Reconsideration by jury.

"SEC. 202h. When there is a verdict of conviction, in which it appears to the court that the jury have mistaken the law, the court may explain the reason for that opinion and direct the jury to reconsider their verdict, and if, after the reconsideration, they return the same verdict, it must be entered; but when there is a verdict of acquittal, the court can not require the jury to reconsider it. If the jury render a verdict which is neither general nor special, the court may direct them to reconsider it, and it can not be recorded until it is rendered in some form from which it can be clearly understood that the intent of the jury is either to render a general verdict or to find the facts specially and to leave the judgment to the court."

SEC. 68. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202h, a new section numbered 202i, to read as follows:

Judgment on informal verdict.

"SEC. 202i. If the jury persist in finding an informal verdict, from which, however, it can be clearly understood that their intention is to find in favor of the defendant upon the issue, it must be entered in the terms in which it is found, and the court must give judgment of acquittal. But no judgment of conviction can be given unless the jury expressly find against the defendant upon the issue, or judgment is given against him on a special verdict."

SEC. 69. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202i, a new section numbered 202j, to read as follows:

Polling of jury.

"SEC. 202j. When a verdict is rendered, and before it is recorded, the jury may be polled, at the request of either party, in which case they must be severally asked whether it is their verdict, and if anyone answer in the negative, the jury must be sent out for further deliberation."

SEC. 70. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 202j, a new section numbered 202k, to read as follows:

Recording verdict.

"SEC. 202k. When the verdict given is such as the court may receive, the clerk must immediately record it in full upon the minutes, read it to the jury, and inquire of them whether it is their verdict. If any juror disagree, the fact must be entered upon the minutes and the jury again sent out; but if no disagreement is

expressed, the verdict is complete, and the jury must be discharged from the case."

SEC. 71. That section 206 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Previous convictions. Jury to find on, when charged in information and denied.

"SEC. 206. Whenever the fact of a previous conviction of another offense is charged in an information, the court or jury, if it finds a verdict of guilty of the offense with which he is charged, must also, unless the answer of the defendant admits the charge, find whether or not he has suffered such previous conviction. The verdict of the court or jury upon a charge of a previous conviction may be: 'The charge of previous conviction is true,' or 'The charge of previous conviction is not true.'"

SEC. 72. That section 207 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Conviction for lesser offense, or attempt.

"SEC. 207. The court or jury may find the defendant guilty of any offense, the commission of which is necessarily included in that with which he is charged, or of an attempt to commit the offense."

SEC. 73. That section 208 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Verdict as to some defendants.

"SEC. 208. On an information against several, if the court or jury can not agree upon a verdict as to all, they may render a verdict as to those in regard to whom they do agree, on which a judgment must be entered accordingly, and the case as to the others may be retired."

Retirement as to others.

SEC. 74. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 209, a new section numbered 209a, to read as follows:

Signing and sealing of verdict.

"SEC. 209a. The court may, without regard to the consent or objection of parties, direct the jury, in case they should agree, to sign the verdict, place it in an envelope, and return it into open court, or may direct the marshal to permit the jury, upon agreement, to sign and seal their verdict and return it into open court the following morning, or, upon the jury's coming into court to report agreement, counsel being absent, may instruct the jury to seal their verdict and return it into court on the following day."

SEC. 75. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 209a, a new section numbered 209b, to read as follows:

Number of jurors. Criminal cases.

"SEC. 209b. All criminal cases in the district court in which a jury is had, shall be tried by a jury of twelve, all of whom must concur to render a verdict."

SEC. 76. That section 210 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"Exception" defined.

"SEC. 210. An exception is an objection upon a matter of law to a decision made by a court, tribunal, judge, or other judicial officer in an action or proceeding. Except as provided in section 212, the exception must be taken at the time the decision is made. Rulings of the court upon minor discretionary matters, such as adjournments, postponements of trials, and the like, shall not be subject to exception."

When taken.

Rulings on minor discretionary matters.

SEC. 77. That section 212 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

What deemed to have been excepted to.

"SEC. 212. The verdict of the jury, the final decision in an action or proceeding, an interlocutory order or decision finally determining the rights of the parties or some of them, an order or decision from which an appeal may be taken, an order sustaining or overruling a demurrer, granting or refusing a motion to set aside an information, a motion in arrest of judgment, a motion for a new trial, making or refusing to make an order after judgment affecting any substantial

rights of the parties, refusing to grant a change of the place of trial, allowing or refusing to allow an amendment to a pleading, striking out a pleading or a portion thereof, an order made upon ex parte application, an order or decision made in the absence of a party, and instructions given or refused, are deemed to have been excepted to."

SEC. 78. That section 214 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Bill of exceptions. Preparation, delivery, etc.

"SEC. 214. Where a party desires to have the exceptions settled in a bill of exceptions, the draft of a bill must be prepared by him and presented, upon notice of at least two days to the adverse party, to the judge for settlement within ten days after the announcement of the verdict, unless further time is granted by the judge, or within that period the draft must be delivered to the clerk of the court for the judge. When received by the clerk, he must deliver it to the judge, or transmit it to him at the earliest period practicable. When settled, the bill must be signed by the judge and filed with the clerk of the court. If the judge in any case refuses to allow an exception in accordance with the facts, the party desiring the bill settled may apply by petition to the United States Circuit Court of Appeals for the Fifth Circuit to prove the same. The application may be made in the mode and manner and under such regulations as that court may prescribe; and the bill, when proven, must be certified by the court as correct, and filed with the clerk of the court in which the action was tried, and when so filed, it has the same force and effect as if settled by the judge who tried the cause. If the judge who presided at the trial ceases to hold office before the bill is tendered or settled, he may nevertheless settle such bill, or the party may, as provided in this section, apply to the Circuit Court of Appeals for the Fifth Circuit to prove the same."

SEC. 79. That section 215 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Contents and form.

"SEC. 215. A bill of exceptions must contain only so much of the evidence as may be necessary to present clearly the questions of law involved in the rulings to which exceptions are reserved, and such evidence as is embraced therein shall be set forth in condensed and narrative form, save as a proper understanding of the questions presented may require that parts of it be set forth otherwise."

SEC. 80. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 215, a new section numbered 215a, to read as follows:

Matter not to be included.

"SEC. 215a. No bill of exceptions shall be allowed which shall contain the charge of the court at large to the jury, upon any general exception to the whole of such charge. But the party excepting shall be required to state distinctly the several matters of law in such charge to which he excepts; and those matters of law, and those only, shall be inserted in the bill of exceptions and allowed by the court."

SEC. 81. That section 219 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Motion for new trial. When may be made.

"SEC. 219. A motion for a new trial shall be made only after verdict of the jury or decision by the court, and before judgment. Such motion shall be filed within five days after verdict of the jury or decision by the court, unless, for good cause shown, the court or judge, within such five-day period, extends such time. Such motion shall be in writing and must set out specifically the grounds upon which the same is made. When a ground of a motion is the insufficiency of the evidence to justify the verdict or decision, the motion must specify the particulars in which the evidence is alleged to be insufficient. If a ground of the motion be error in law occurring

Writing, etc.

at the trial and excepted to by the moving party, the motion must specify the particular errors upon which the party will rely, and in the case of a question as to the admissibility of evidence the question, objection or motion, ruling, and exception thereto must be fully set out. Such motion shall be heard and determined as speedily as possible after the same is filed."

SEC. 82. That section 237 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Imprisonment until fine paid.

"SEC. 237. A judgment that the defendant pay a fine and costs may also direct that he be imprisoned until the fine and costs be satisfied. But the judgment must specify the extent of the imprisonment, which must not exceed one day for every dollar of the fine and costs, nor extend in any case beyond the term for which the defendant might be sentenced to imprisonment for the offense of which he has been convicted."

Papers to be filed.

SEC. 84. That subsection 1 of section 241 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 241. * * *

1. The information, and a copy of the minutes of the plea or demurrer."

Papers filed when judgment upon conviction rendered.

SEC. 84a. That section 242 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Execution of judgment other than of death.

"SEC. 242. When a judgment, other than death, has been pronounced, the clerk shall forthwith furnish a mittimus to the officer whose duty it is to execute the judgment, and no other warrant or authority is necessary to justify or require its execution."

SEC. 85. That section 243 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Attachments.

"SEC. 243. If the judgment is for a fine and costs alone, execution may be issued thereon attaching the property of the defendant."

SEC. 86. That section 244 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Imprisonment.

"SEC. 244. If the judgment is for imprisonment, or a fine and costs and imprisonment until they be paid, the defendant must forthwith be committed to the custody of the proper officer, and by him detained until the judgment is complied with."

SEC. 87. That section 289 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Admission to bail, when not judgment of death.

"SEC. 289. After conviction of an offense not punishable with death, a defendant who has appealed may be admitted to bail—

"1. As a matter of right, when the appeal is from a judgment imposing a fine only.

"2. As a matter of right, when the appeal is from a judgment imposing imprisonment in cases of misdemeanor.

"3. As a matter of discretion in all other cases."

SEC. 88. That section 290 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Bailable offenses, before conviction.

"SEC. 290. If the offense is bailable, the defendant may be admitted to bail before conviction—

"1. For his appearance before a magistrate for trial or for preliminary investigation in cases triable in the district court.

"2. To appear at the court to which the magistrate is required to return the complaint and warrant, upon the defendant being held to answer after investigation.

"3. After the information is filed either before the bench warrant is issued for his arrest, or upon any order of the court committing him, or enlarging the amount of bail, or upon his being surrendered

by his bail, to answer the information in the court in which it is found or to which it may be transferred for trial.

"And after conviction, and upon appeal—

Upon appeal.

"4. If the appeal is from a judgment imposing a fine only, on the undertaking of bail that he will pay the same, or such part of it as the appellate court may direct, if the judgment is affirmed or modified, or the appeal is dismissed.

"5. If judgment of imprisonment has been given, that he will surrender himself in execution of the judgment, upon its being affirmed or modified, or that in case the judgment be reversed and the cause be remanded for a new trial, that he will appear in the court to which said cause may be remanded, and submit himself to the orders and process thereof."

SEC. 88–A. That the Code of Criminal Procedure for the Canal Zone is hereby amended by adding after section 291 thereof a section reading as follows:

Deposit of bond, when arrest in misdemeanor case.

"SEC. 291a. When an arrest is made, either with or without a warrant, in a misdemeanor case triable in a magistrate's court, and for any reason the officer making the arrest is unable to take the offender forthwith before a magistrate, he may take such offender forthwith to the nearest police station and the officer in charge thereof may accept bond, or a cash deposit in lieu thereof, in a sum not exceeding $500, to secure the appearance of the offender before the magistrate having jurisdiction of the case, and the offender shall then be released from custody, and the bond, or cash deposit in lieu thereof, shall be delivered to the magistrate having jurisdiction of the case, and a receipt for such bond or deposit shall be given to such officer by said magistrate.

Disposition of money deposit.
Post, p. 897.

"When a money deposit is made in lieu of bail bond the deposit shall be held and disposed of in accordance with the provisions of sections 305, 306, 307, 310, and 311."

SEC. 89. That section 293 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Form of undertaking when held to answer after preliminary hearing.

"SEC. 293. Bail upon being held to answer after a preliminary investigation is a written undertaking, executed by two sufficient sureties (with or without the defendant, in the discretion of the court or magistrate), and acknowledged before the court or magistrate in substantially the following form:

"'An order having been made on the —— day of ——— A. D. 19—, by ——— (as the officer may be), that ——— be held to answer upon a charge of (stating briefly the nature of the offense) upon which he has been admitted to bail in the sum of ——— dollars; we, ——— and ——— of ——— (stating their place of residence and occupation), hereby undertake that the above-named ———, will appear and answer any information growing out of the charge above mentioned, in whatever court it may be prosecuted, and will at all times hold himself amenable to the order and process of the court, and if convicted, will appear for judgment, and render himself in execution thereof; or, if he fails to perform either of these conditions, that we will pay to the Government of the Canal Zone, the sum of ——— dollars (inserting the sum in which the defendant is admitted to bail).'"

Qualifications of sureties.
Residence.

SEC. 90. That subdivision 1 of section 294 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"1. Each of them must be a resident of the Canal Zone."

SEC. 91. That section 297 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Continuance of bail for appearance in district court, etc.

"SEC. 297. The bail fixed by a magistrate under sections 292 to 296 upon holding the defendant to answer for an offense triable in

the district court, shall be construed to continue so as to require the defendant to appear and answer the information filed in the district court and to at all times render himself amenable to the orders and process of the court, and if convicted to appear for judgment and render himself in execution thereof."

SEC. 92. That section 302 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Increasing, etc., amount of bail when information filed.

"SEC. 302. After the filing of an information, the court in which the charge is pending, may fix, or, upon good cause shown, either increase or reduce the amount of bail. If the amount be increased, the court may order the defendant to be committed to actual custody, unless he give bail in such increased amount. If application be made by the defendant for a reduction of the amount, notice of the application must be served on the district attorney."

SEC. 93. That section 304 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Additional requirements.

"SEC. 304. The sureties must possess the qualifications, and the bail must be put in, in all respects as provided in sections 292 to 296 except that the undertaking must be conditioned as prescribed in section 290 for undertakings of bail on appeal."

SEC. 94. That section 305 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Cash deposit in lieu of bail bond.

"SEC. 305. The defendant in a criminal proceeding may make a cash deposit in lieu of a bail bond and a certificate of deposit shall be issued to the defendant in each case by the magistrate or clerk of the district court as the case may be."

SEC. 95. That section 307 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Application of, in satisfaction of fine.

"SEC. 307. When money has been deposited, if it remains on deposit at the time of a judgment for the payment of a fine, the magistrate, or the clerk of the district court under the direction of the court, as the case may be, must apply the money in satisfaction thereof, and after satisfying the fine and costs, must refund the surplus, if any, to the defendant. If the defendant be not found within a period of two years from the date of the judgment, the magistrate or the clerk of the district court, as the case may be, shall turn over such surplus to the collector of the Panama Canal to be accounted for by him in the same manner as fines are accounted for."

Refund or deposit of balance.

SEC. 96. That section 313 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Forfeiture of deposit on failure to appear.

"SEC. 313. If, by reason of the neglect of the defendant to appear, money deposited instead of bail is forfeited, and the forfeiture is not discharged or remitted, the magistrate, or the clerk of the district court, as the case may be, with whom it is deposited must pay over the same to the collector of the Panama Canal in the manner prescribed for the paying over of other funds."

SEC. 97. That section 315 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Recommitment of defendant after bail given.

"SEC. 315. The court to which the magistrate commits the defendant, or in which an information or appeal is pending, or to which a judgment on appeal is remitted to be carried into effect, may, by an order entered upon its minutes, direct the arrest of the defendant and his commitment to the officer to whose custody he was committed at the time of giving bail, and his detention until legally discharged, in the following cases:

In what cases had.

"1. When, by reason of his failure to appear, he has incurred a forfeiture of his bail, or of money deposited instead thereof.

"2. When it satisfactorily appears to the court that his bail, or either of them, are dead or insufficient, or have removed from the Canal Zone."

SEC. 98. That section 320 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 320. When the defendant is admitted to bail, the bail may be taken by any magistrate."

"Subpœna" defined.

SEC. 99. That section 322 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 322. The process by which the attendance of a witness before a court or magistrate is required is a subpœna. It may be signed and issued by:

Who may sign and issue.

"1. A magistrate before whom a complaint is made, for witnesses in the Canal Zone, either on behalf of the Government or of the defendant.

"2. The judge of the district court.

"3. The clerk of the district court upon application of either the district attorney or the defendant.

"4. A magistrate or the clerk of the district court must, at any time and without charge, issue subpœnas for witnesses for the defendant upon his request."

SEC. 100. That section 323 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Form of.

"SEC. 323. A subpœna authorized by the preceding section must be substantially in the following form:

"'The government of the Canal Zone:

"'You are commanded to appear before (the district court or the magistrate) of (division or subdivision) (or as the case may be) at (naming the place) on (stating the day and hour), as a witness in a criminal action prosecuted by the government of the Canal Zone.

"'Given under my hand this day of A. D. 19 . (Magistrate, or "By order of the court, clerk," or as the case may be).' If books, papers or documents are required, a direction to the following effect must be contained in the subpœna: 'And you are required also to bring with you the following (describing intelligibly the books, papers, or documents required).'"

SEC. 101. That section 325 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Witness' expenses.

"SEC. 325. When a person attends before a magistrate or court as a witness in a criminal case, upon a subpœna or in pursuance of an undertaking to testify on behalf of the prosecution, and it appears that he has come from a place more than three miles distant from the place where he is to appear, or that he is poor and unable to pay the expenses of such attendance, the court, in its discretion, if the attendance of the witness be upon a trial, by an order upon its minutes, or in any other case, the judge, at his discretion, by a written order, may direct the clerk of the court to pay the witness a reasonable sum to pay his expenses, which shall be charged against his per diem.

SEC. 102. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 328, a new section numbered 328a, to read as follows:

Rules to determine competency of witnesses.

"SEC. 328a. The rules for determining the competency of witnesses in civil actions are applicable also to criminal actions and proceedings except as otherwise provided in this code."

SEC. 103. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 328a, a new section numbered 328b, to read as follows:

Husband and wife.

"SEC. 328b. Neither husband nor wife is a competent witness for or against the other in a criminal action or proceeding to which one or both are parties, except with the consent of both, or in case of criminal actions or proceedings for a crime committed by one against the person or property of the other, or in cases of criminal violence upon one by the other, or in cases of criminal actions or proceedings for bigamy, or adultery, or in cases of criminal actions or proceedings brought under provisions of law requiring the husband to furnish proper maintenance and support to wife and minor children and providing for punishment for abandonment of wife or minor children."

SEC. 104. That the Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 328b, a new section numbered 328c, to read as follows:

Defendant as witness.

"SEC. 328c. A defendant in a criminal action or proceeding can not be compelled to be a witness against himself; but if he offers himself as a witness, he may be cross-examined by the counsel for the government as to all matters about which he was examined in chief. His neglect or refusal to be a witness can not in any manner prejudice him nor be used against him on the trial or proceeding."

SEC. 105. That section 329 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Conditional examinations.

"SEC. 329. When defendant has been held to answer a charge for a public offense either or both defendant and the government may, either before or after an information, have witnesses examined conditionally in his or its behalf, as prescribed in this chapter."

SEC. 106. That section 330 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

When may be had.

"SEC. 330. When a material witness for the defendant, or for the Government, is about to leave the Canal Zone, or is so sick or infirm as to afford reasonable grounds for apprehension that he will be unable to attend the trial, the defendant or the Government may apply for an order that the witness be examined conditionally."

SEC. 107. That section 331 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Application for.

"SEC. 331. The application must be made upon affidavit stating:

"1. The nature of the offense charged;

"2. The state of the proceedings in the action;

"3. The name and residence of the witness, and that his testimony is material to the defense or the prosecution of the action;

"4. That the witness is about to leave the Canal Zone, or is so sick or infirm as to afford reasonable grounds for apprehending that he will not be able to attend the trial.

"The application may be made to the district court or the judge thereof, and in case of his absence or inability to act may be made to a magistrate, and must be made upon three days' notice to the opposite party."

SEC. 108. That section 332 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Order to issue.

"SEC. 332. If the court, judge, or magistrate is satisfied that the examination of the witness is necessary, an order must be made that the witness be examined conditionally, at a specified time and place, and before a magistrate designated therein."

SEC. 109. That section 333 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Right of defendant to be present in person.

"SEC. 333. The defendant has the right to be present in person and with counsel at such examination, and if the defendant is in

custody, the officer in whose custody he is, must be informed of the time and place of such examination and must take the defendant thereto and keep him in the presence and hearing of the witness during the examination."

When conditions on which order for examination based do not exist.

SEC. 110. That section 334 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

"SEC. 334. If, at the time and place so designated, it is shown to the satisfaction of the magistrate that the witness is not about to leave the Canal Zone, or is not sick or infirm, or that the application was made to avoid the examination of the witness on the trial, the examination can not take place."

Dismissal of actions.

Information not filed within 20 days, etc.

SEC. 111. That the word "sixty" in subsection 1 of section 362 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read "twenty."

SEC. 112. That section 366 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Order of dismissal as bar to subsequent prosecution for same offense.

"SEC. 366. An order for the dismissal of the action, as provided in this chapter, is a bar to any other prosecution for the same offense, if it is a misdemeanor, unless such order is explicitly made for the purpose of amending the complaint in such action, in which instance such order for dismissal of the action shall not act as a bar to a prosecution upon such amended complaint; but an order for the dismissal of the action is not a bar if the offense is a felony."

If offense a felony.

SEC. 113. That section 368 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Service of summons.

"SEC. 368. The summons must be served at least five days before the day of appearance fixed therein, by delivering a copy thereof and showing the original to the president or other head of the corporation, or to the secretary, cashier, or managing agent within the Canal Zone."

SEC. 114. That section 379 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Sale of unclaimed stolen, etc., property, after conviction of defendant.

"SEC. 379. If the property stolen or embezzled is not claimed by the owner before the expiration of six months from the conviction of a person for stealing or embezzling it, the court shall order it sold on such terms and under such conditions as the court shall direct. The officer making such sale shall return the proceeds into court, whereupon the court shall order the balance of such proceeds, after deducting therefrom the expenses incurred in the preservation and sale of the property, to be delivered to the collector of the Panama Canal to be covered into the Treasury of the United States as miscellaneous receipts."

SEC. 115. That section 399 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Writ of habeas corpus.

"SEC. 399. Any person who has been committed on a criminal charge may be brought before the district judge on a writ of habeas corpus."

SEC. 116. The Code of Criminal Procedure for the Canal Zone is hereby amended by inserting therein, following section 413, a new section numbered 413a, to read as follows:

Jurisdiction, etc., of magistrate in absence of judge.

"SEC. 413a. During the absence of the district judge, the powers conferred upon said judge and the jurisdiction conferred upon the district court by this chapter may be exercised by a magistrate or a magistrate's court: *Provided, however*, That the magistrate herein referred to must be one other than one who has committed the party to jail. In the event the magistrate or magistrate's court denies the

Proviso.
Restrictions.

writ, the proceedings may be begun and proceeded with de novo before the district judge or district court upon the return of the district judge."

SEC. 117. That section 427 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Stolen, etc., property. Disposition of.

"SEC. 427. When the property is delivered to a court, judge, or magistrate, he must, if it was stolen or embezzled, dispose of it as provided in sections 376 to 381, inclusive. If it was taken on a warrant issued on the grounds stated in the second and third subdivisions of section 415, he must retain it in his possession, subject to the order of the court to which he is required to return the proceedings before him, or of any other court in which the offense in respect to which the property taken is triable."

SEC. 118. That section 447 of the Code of Criminal Procedure for the Canal Zone is hereby amended to read as follows:

Transfer of prisoners.

"SEC. 447. In case in any penal institution there should not be sufficient room for the prisoners confined therein, or, in the cases of women prisoners or of prisoners under eighteen years of age, if the governor determines that the public welfare will best be subserved by their imprisonment elsewhere than at Gamboa, they shall be transferred to such penal institutions within the Canal Zone as the governor may designate.

"This transfer, however, will not aggravate or affect in any way the condition of the prisoners, who will serve in accordance with the penalty to which they have been sentenced."

Sections repealed.

SEC. 119. That the following sections of the Code of Criminal Procedure for the Canal Zone be, and they are hereby, repealed: Sections 13, 29, 39, 42, 54, 55, 56, 65, 68, 69, 91, 95, 98, 99, 100, 102, 104, 106, 120, 121, 130, 132, 152, 203, 211, 238, 240, 298, 299, 300, and 301.

Repeal of Executive order, No. 4276.

That the Executive order of July 28, 1925, prescribing rules of practice and procedure for the District Court of the Canal Zone, be, and it is hereby, repealed.

Applicability of Act.

SEC. 120. This Act shall apply to criminal actions and proceedings from the time it takes effect except that all such actions and proceedings theretofore commenced shall be conducted in the same manner as if this Act had not been passed.

Approved, February 21, 1933.

[CHAPTER 113.]

AN ACT

February 23, 1933.
[S. 5588.]
[Public, No. 367.]

Authorizing the acceptance of title to sites for public building projects subject to the reservation of ore and mineral rights.

Public building sites. Acceptance of title, subject to mineral, etc., reservations. *Ante*, p. 722, amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title to sites and additional land for the construction thereon of public building projects authorized by the Emergency Relief and Construction Act of 1932 and subsequent Acts, may be acquired subject to the reservation of title in and the right to mine ores and minerals on such sites and land.

Approved, February 23, 1933.