

ACT 5

An Act Relating to the Courts.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 213 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) Section 213-2.5 is hereby added thereto and to read as follows:

"Section 213-2.5. Public notice; nominations and interim appointments of judges. Public notice of nominations and interim appointments of supreme court justices and circuit court judges, by the governor as required by Section 3 of Article V of the Constitution, shall be by publication, once, in a newspaper of general circulation; provided, that in the case of supreme court justices, the newspaper shall be one of general circulation in the State and in the case of circuit court judges, the newspaper shall be one of general circulation in the county which constitutes or is included in the circuit for which the nomination or appointment is made."

(b) Section 213-3 is hereby amended to read as follows:

"Section 213-3. Disqualification of judge; relationship, pecuniary interest, previous judgment, bias or prejudice. (a) No person shall sit as a judge in any case in which his relative by affinity or consanguinity within the third degree is counsel, or interested either as a plaintiff or defendant, or in the issue of which the said judge has, either directly or through such relative, any pecuniary interest; nor shall any person sit as a judge in any case in which he has been of counsel or on an appeal from any decision or judgment rendered by him.

(b) Whenever a party to any suit, action or proceeding, whether at law, in equity, criminal or special proceeding, makes and files an affidavit that the judge before whom the action or proceeding is to be tried or heard has a personal bias or prejudice either against him or in favor of any opposite party to the suit, such judge shall be disqualified from proceeding therein. Every such affidavit shall state the facts and the reasons for the belief that bias or prejudice exists and shall be filed before the trial or hearing of the action or proceeding, or good cause shall be shown for the failure to file it within such time. No party shall be entitled in any case to file more than one affidavit; and no affidavit shall be filed unless accompanied by a certificate of counsel of record that the affidavit is made in good faith. Any judge may disqualify himself by filing with the clerk of the court of which he is a judge a certificate that he deems himself unable for any reason to preside with absolute impartiality in the pending suit or action."

SECTION 2. Chapter 214 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) Section 214-1 is hereby amended to read as follows:

"Section 214-1. How constituted. The supreme court, pursuant to section 2 of Article V of the Constitution, shall consist of a chief justice and four associate justices."

(b) Section 214-2 is hereby amended to read as follows:

“Section 214-2. Absence, disability, etc., of chief justice. Wherever, by the provisions of any law of the State, any act is required to be performed by the chief justice of the supreme court, such act may (unless otherwise expressly provided) be performed, in case of a vacancy in the office of chief justice, or if he is ill, absent or otherwise unable to serve, by an associate justice of the court designated in accordance with the rules of the supreme court.”

(c) Section 214-13, as amended by Act 259 of the Session Laws of Hawaii 1959, is hereby further amended by deleting from the first sentence thereof the words “consistent with existing laws” as it appears twice in said sentence and by further deleting therefrom the second sentence.

(d) Section 214-16 is hereby amended by deleting therefrom the words “by law or by any of the general rules of civil procedure”.

(e) Section 214-20 is hereby amended by deleting therefrom the words “by law or by any of the general rules of criminal procedure”.

SECTION 3. Section 215-29 of the Revised Laws of Hawaii 1955 is hereby amended by deleting therefrom the words “in all matters not expressly provided by law” and substituting therefor the words “in all matters not otherwise expressly provided”.

SECTION 4. Chapter 221 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) Section 221-2 is hereby amended to read as follows:

“Section 221-2. Disqualified when. No person shall sit as a juror in any case in which his relative by affinity or by consanguinity within the third degree is interested, either as a plaintiff or defendant, or in the issue of which the said juror has, either directly or through such relative, any pecuniary interest; nor shall any person sit as a juror who does not possess the qualifications prescribed by section 221-1; nor shall any person sit as a juror who has been convicted of any felony or of a misdemeanor involving moral turpitude.”

(b) Section 221-16 is hereby amended by deleting from the third sentence of the last paragraph thereof the words “chief justice” and substituting therefor the words “supreme court”.

SECTION 5. Section 229-17 of the Revised Laws of Hawaii 1955 is hereby amended by deleting therefrom the words “not inconsistent with the provisions hereof”.

SECTION 6. Inferior courts. All inferior courts established by the Territorial legislature are hereby declared to be inferior courts established by the State legislature pursuant to section 1 of Article V of the Constitution.

SECTION 7. Style of process. The style of process in the State courts shall hereafter run in the name of “The State of Hawaii,” and all prosecutions shall be carried on in the name and by the authority of the State of Hawaii.

SECTION 8. Repeal of prior laws. Sections 11 and 84 of the Hawaiian Organic Act, as amended, which are embraced without change in this Act are hereby repealed and this Act shall be in force in lieu thereof.

ACT 5

SECTION 9. Construction of this Act. Provisions in this Act shall be construed as continuations or amendments of applicable or corresponding provisions of previously existing laws and not as new enactments. In case of a conflict between two or more provisions, or in any case of a latent or patent ambiguity or obvious clerical error in any provision of this Act, reference may be had to the previously existing laws for the purpose of applying the rules of construction relating to repeal by implication or for the purpose of resolving the ambiguity or correcting the error.

SECTION 10. This Act shall take effect upon its approval.

(Approved November 13, 1959.) **S.B. 2.**
