

Criminal Procedure Code (Archives) Tome XXV

Revision by Mr. R. Guyon
(January - February 1935)¹

Abbreviations and References

Section 161 – Corresponds to the actual practice

Section 162 – Corresponds to the actual practice

Section 163 – Corresponds to the actual practice

Section 164 – Corresponds to the actual practice

Section 165 – Str. Sett. 162

Section 166 – parag. 1 Cpr. Str. Sett. 186.

parag. 3 Present practice

Section 167 – Present practice

Section 168 – Present practice

Section 169 – Present practice

Memorandum on the draft criminal procedure code

III

Corrections of Wording

Section 162 begins by “ At the preliminary investigation” In fact this is closely connected with the provisions of section 161 paragraph2. It should be transferred there and read: “ in case where there is an preliminary investigation as a foresaid.....” because preliminary investigation may not exist in all cases.

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Section 165 the word “ in the case stated above ” are misleading It should be safer and easier to say: “ This shall not bar.....”

Section 166 paragraph 2 says that at the Preliminary Investigation “ the accused is refused the right to adduce any evidence ” This admitted, it may be sometimes to the advantage of the accused, for instance when the case is frivolous and the court will discuss the change at once under section 168 but it remains that , in its present wordings, the provision seems to the reader a strong prohibition against the accused, which may be said to have no opportunity to clear himself at once. It is suggested to redraft in order to avoid unjustified criticisms and to say : “ The accused is not entitled to adduce evidence in the course of Preliminary Investigation, but this shall not bar him to have the assistance of a counsel.....etc.....”

IV

Additions

“ Prima facie ” evidence is an expression which belongs exclusively to English Law. Its meaning is quite clear to English lawyers, to mean some evidence, presumptions, etc, which will prevail if not rebutted or disproved. But the expression has no similar correspondence in Continental law. Where it is practically unfamiliar to, if not unknown from, continental lawyers, If the Siamese Code uses freely the words “ Prima facie ” in several places, it should be useful to define it in Section 2. Otherwise, there may be misunderstanding by those who known only continental law. It is suggested to add the following definition in Section 2 :

“ Prima facie ” evidence means some evidence which at a first sight stands good and will prevail if not rebutted or disproved subsequently according to law.

This will apply by analogy to “ prima facie case ”