

CHAPTER C23 - CRIMINAL PROCEDURE CODE

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Establishment of Criminal Procedure Code.
3. Saving pending proceedings.
4. Saving existing appointments.
5. Trial of offences under Penal Code and other laws.
6. Functions conferred on Federal officers.
7. Delegation of powers of Attorney-General.

SCHEDULE

Criminal Procedure Code

CRIMINAL PROCEDURE CODE

A Law to establish a Code of Criminal Procedure for Kwara State.

[NN 1963, Cap. 30. NN 2 of 1964, NN 12 of 1964, NN 14 of 1965, NN 20 of 1965, NN 20 of 1966, KWS 4 of 1968, KWS 10 of 1969, KWS 1 of 1973, KWS 10 of 1991, KWS LN 1 of 1982, No. 4 of 2006.]

[Date of commencement: 30th *September*, 1960]

1. Short title

This Law may be cited as the Criminal Procedure Code Law.

2. Establishment of Criminal Procedure Code

The provisions contained in the Schedule to this Law shall be the Law of the State with respect to the several matters therein dealt with and the said Schedule may be cited as, and is hereinafter called, the Criminal Procedure Code.

[Schedule.]

3. Saving pending proceedings

All proceedings instituted, commenced or taken in accordance with the provisions of the Criminal Procedure Ordinance or any other written law in respect of any criminal cause of matter pending at the date of the coming into force of this Law shall be valid and effectual and shall be continued in accordance with the provisions of the Criminal Procedure Ordinance or such other written law, as the case may be.

[Cap. 43(1948).]

4. Saving existing appointments

Nothing in this Law shall affect the status, appointment or tenure of office of—

- (a) any magistrate appointed as such within the State before the commencement of this Law, and such magistrate shall be deemed to have been appointed as such under this Law and shall exercise his duties in the magistrates' courts established under this Law in the district in which he was serving before the commencement of this Law, and shall thereafter be subject to the provisions of this Law;
- (b) any justice of the peace holding office as such within the State before the commencement of this Law, and such justice of the peace shall be deemed to have been appointed as such under this Law and thereafter to be subject to the provisions of this Law;
- (c) any officer performing duties in connection with a court constituted under any written law before the commencement of this Law, and such officer shall be deemed to have been appointed as such under this Law and shall thereafter be subject to the provisions of this Law.

5. Trial of offences under Penal Code and other laws

- (1) All offences under the Penal Code shall be investigated, inquired into and otherwise dealt with according to the provisions contained in the Criminal Procedure Code.
- (2) All offences against any other law shall be investigated, inquired into, tried and otherwise dealt with according to the same provisions, but subject to any law for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

[Cap. P4.]

- (3) Area courts to be bound by Criminal Procedure Code.—In any matter of a criminal nature an area court shall be bound by the provisions of this Criminal Procedure Code other than those provisions which relate only to any court other than an area court.
- (4) For the avoidance of doubt the following sections of the Criminal Procedure Code shall not apply to area courts, that is to say sections 167 to 184 inclusive, 270 to 273 inclusive, 292 to 301 inclusive and 332 to 338 inclusive.

6. Functions conferred on Federal officers

No function shall be deemed to be conferred by this Law upon any member of the Nigeria Police Force or any commissioned officer of the armed forces of the Federation unless and until the President shall have given his consent to the conferring of such function.

7. Delegation of powers of Attorney-General

The powers of the Attorney-General under this Law may be exercised by him in person or through members of his staff acting under and in accordance with his general or special instructions.

SCHEDULE

Criminal Procedure Code

PART I

Preliminary

CHAPTER I

SECTION

1. Interpretation.
2. Illegal omissions.
3. Words to have same meaning as in Penal Code.

PART II

The Constitution and Powers of Criminal Courts

CHAPTER II

The Constitution of Criminal Courts

4. Classes of criminal courts.
5. Power to divide the State into districts.
6. Establishment and jurisdiction of magistrate's court in each district.
7. Presiding officer not to exceed powers.
8. Appointment of magistrates.
9. Territorial jurisdiction of magistrates.
10. Power of chief magistrate to direct a subordinate magistrate.
11. Appointment and removal of justices of the peace.

CHAPTER III

The Powers of Criminal Courts

12. Offences under Penal Code and jurisdiction of area courts.
13. Offences under other laws.
14. Jurisdiction of High Court.

15. Jurisdiction of Chief magistrates to pass sentence.
- 15A. Jurisdiction of Senior Magistrates.
16. Jurisdiction of Magistrates of the first grade.
17. Jurisdiction of Magistrates of the second grade.
18.
19. Power of House of Assembly to increase jurisdiction of magistrate.
- 20.
21. Combination of sentences.
22. Imprisonment in default of payment of fine.
23. Power to inflict fine in lieu of imprisonment.
24. Sentences in case of convictions of several offences at one trial.
25. Power to bind parties to be of good behaviour.

PART III

Arrest and Process

CHAPTER IV

Arrest

A—Arrest

26. When police may arrest.
27. Powers in regard to suspected persons.
28. When private person may arrest.
29. Arrest for offence committed in presence of justice of the peace.
30. Arrest by or in presence of justice of the peace or superior police officer.
31. Resisting endeavour to arrest.
32. Power to seize offensive weapons.
33. When public are bound to assist in arrest.
34. Search of place entered by person sought to be arrested.
35. Pursuit of offender into other jurisdictions.
36. Power to break out of any place for purpose of liberation.
37. No unnecessary restraint to arrested persons.
38. Notification of cause of arrest.

B—Procedure after Arrest

39. Procedure after arrest by private person.
40. Person arrested to be taken before a court or officer in charge of police station.
41. Procedure when offender has refused to give his name and address.

- 42. Person arrested without warrant not to be detained more than twenty-four hours.
- 43. Police to report arrest.
- 44. Search of arrested person.
- 45. Discharge of arrested person.
- 46. Register of arrests.

CHAPTER V

Processes to Compel Appearance

A—Summons

SECTION

- 47.
- 48. Summons by whom served.
- 49. Manner of serving summons.
- 50. Service on corporation.
- 51. Service on Local Government.
- 52. Service when person summoned cannot be found.
- 53. Inability of person served to sign or seal.
- 54. Service of summons outside local limits.
- 55. Proof of service.

B—Warrant of Arrest

- 56. Form of warrant of arrest.
- 57. Court may direct security to be taken.
- 58. Warrant to whom directed.
- 59. Re-direction of warrant.
- 60. Notification of substance of warrant.
- 61. Power to arrest without warrant.
- 62. Person arrested to be brought before court without delay.
- 63. Where warrant may be executed.
- 64. Warrant forwarded for execution outside jurisdiction.
- 65. Procedure for arrest executed outside jurisdiction.
- 66. Procedure on arrest under warrant outside jurisdiction.

C—Public Summons and Attachment

- 67. Public summons for person absconding.
- 68. Attachment of property of person absconding.
- 69. Restoration of attached property.

D—Other Rules regarding Process

- 70. Issue of warrant in lieu of or in addition to summons.
- 71. Power to take bond for appearance.
- 72. Provisions of this chapter generally applicable to summons and warrant.

CHAPTER VI

*Means to Secure the Production or Discovery of Documents or Other Things and for the
Discovery and Liberation of Persons Unlawfully Confined*

A—Summons to Produce

- 73. Summons to produce document or other thing.

B—Searches and Orders for Production and Liberation of Persons

- 74. Issue of search warrant by court or justice of the peace.
- 75. Application for search warrant.
- 76. Search for stolen property, etc.
- 77. Search for person wrongfully confined.
- 78. Search to be made in presence of witnesses.
- 79. Searching of womens' quarters.
- 80. Occupant of place searched may attend.
- 81. Search of person found in place.
- 82. Mode of searching woman.
- 83. Execution of search warrant outside jurisdiction.
- 84. Provisions as to warrants of arrest to apply to search warrants.
- 85. Justice of the peace may direct search in his presence.
- 86. Impounding of document, etc.

PART IV

The Prevention of Crime

CHAPTER VII

Security for Keeping the Peace and for Good Behaviour

A—Security for Keeping the Peace and for Good Behaviour on Conviction

87. Security on conviction.

B—Security for Keeping the Peace and for Good Behaviour in Other Cases

88. Security in other cases.
89. Security for good behaviour from habitual offenders.
90. Warrant for arrest may issue if breach of peace likely.
91. Contents of summons or warrant under section 88, 89 or 90.
92. Inquiry as to truth of information.
93. Order to give security.
94. Discharge of person informed against.

C—Proceedings in all Cases Subsequent to Order to Furnish Security

95. Commencement of period for which security is required.
96. Contents of bond.
97. Imprisonment in default of security.
98. Power to reject sureties.
99. Power to release persons imprisoned for failure to give security.
100. Power to cancel bond.

CHAPTER VIII

Unlawful Assemblies and Riots

SECTION

101. Assembly to disperse on command of justice of the peace, police or commissioned officer.
102. Use of civil force to disperse.
103. Protection against prosecution for acts done under this chapter.

CHAPTER IX

Public Nuisances

- 104. Conditional order for removal of nuisance.
- 105. Service of order.
- 106. Person to whom order is addressed to obey or appear before court.
- 107. Consequences of failure to obey order or to appear.
- 107. Procedure where person appears.
- 109. Consequences of disobedience to order made absolute.
- 110. Order pending inquiry.
- 111. Prohibition of repetition or continuance of nuisance.

CHAPTER X

Preventive Action by Police and Public

- 112. Prevention by police and others of offences and injury to public property.
- 113. Public to assist justice of the peace, etc.

CHAPTER XI

Duty of Public and of Area Heads to give Information

- 114. Public to give information of certain offences.
- 115. Area head bound to report certain matters.
- 116. Investigation by area head on receiving information under section 115.

PART V

Information to the Police and their Powers to Investigate

CHAPTER XII

A—Procedure in Cases where the Police may Arrest without a Warrant

- 117. Information in cases where the police may arrest without a warrant.
- 118. Procedure where warrant is not required for arrest.
- 119. Manner of submitting First Information Report.
- 120. Power of court on receiving First Information Report.
- 121. Case diary to be kept by police.
- 122. Use of case diary.
- 123. Power of police to summon and examine.
- 124. No inducement to be offered.

- 125. Confession to justice of the peace.
- 126. Confession to police officer.
- 127. Medical examination of suspect.
- 128. Taking of fingerprints, etc.
- 129. Remand of person in custody.
- 130. Procedure where police consider investigation should be terminated without inquiry or trial.
- 131. Procedure when police consider that investigation should be terminated upon inquiry or trial.
- 132. Attendance of accused and bonds for attendance of witnesses.

B—Procedure in Cases where the Police may not Arrest without a Warrant

- 133. Procedure where warrant is required for arrest.

PART VI

Proceedings in Prosecutions

CHAPTER XIII

Place of Inquiry and Trial

- 134. Ordinary place of trial.
- 135. Place of inquiry or trial when scene of offence is uncertain.
- 136. Offence committed on a journey.
- 137. Chief Judge to decide in case of doubt court in which trial shall take place.
- 138. Power to transfer.
- 139. Power to try offence committed beyond local jurisdiction.

CHAPTER XIV

Sanctions Necessary for the Initiation of Certain Proceedings

- 140. Prosecution for contempt of lawful authority of public servants.
- 141. Prosecution for breach of contract, defamation and offences against marriage.

142. Prosecution for adultery.

CHAPTER XV

Initiation of Judicial Proceedings before a Court

143. Cognisance of offences by court.
144. Power of court to give directions.
145. Power of court to advise person the subject of a complaint.
146. Examination of complaint.
147. Transfer of cases by court.
148. Power of court to order further investigation.
149. Inquiry by court of complaint by person other than police officer.
150. Court may refuse to proceed.
151. Procedure by court not competent to take cognisance of cases.
152. Inquiry or trial.
153. Presence of accused at trial.
154. Process to compel attendance of accused.

CHAPTER XVI

Summary Trials

155. Procedure in summary trials.
156. Substance of accusation to be stated.
157. Conviction on admission of truth of accusation.
158. Evidence for prosecution.
159. Discharge of accused.
160. Charge to be framed when offence appears to have been committed.
161. Plea.
162. Defence.
163. Process for compelling production of evidence at instance of accused.
164. Procedure after finding.
165. Absence of complainant.
166. Frivolous or vexatious accusations.

CHAPTER XVII

Preliminary Inquiry and Commitment for Trial to the High Court

167. Commitment.

- 168. Taking of evidence produced.
- 169. When accused to be discharged.
- 170. Transformation of inquiry into trial.
- 171. Procedure on transformation of inquiry into trial.
- 172. Framing of charge.
- 173. Charge to be explained and copy furnished to accused.
- 174. List of witnesses for defence at trial.
- 175. Power of magistrate to examine witnesses named in list given under section 174.
- 176. Order of commitment.
- 177. Summons to witnesses for defence when accused is committed.
- 178. Bonds of complainants and witnesses.
- 179. Detention in custody in case of refusal to execute bond.
- 180. Charge, etc., to be forwarded.
- 181. Power of Attorney-General to amend or alter charge.
- 182. Power to summon supplementary witnesses.
- 183. Custody of accused pending trial.
- 184. Continuation of inquiry by a different magistrate.

CHAPTER XVIII

Trials by the High Court

- 185. Trial by High Court.
- 186. Defence in capital cases.
- 187. Commencement of trial.
- 188. Plea of not guilty or no plea.
- 189. Presentation of case for prosecution.
- 190. Examination of accused at inquiry to be read.
- 191. Procedure after conclusion of evidence for prosecution.
- 192. Defence.
- 193. Right of accused as to examination and summoning of witnesses.
- 194. Prosecutor's right of reply.
- 195. Consideration of finding.
- 196. Announcement of finding.
- 197. Procedure on finding of guilty.
- 198. Sentence.
- 199. Recommendation to mercy.

CHAPTER XIX

Charges

- 200. Form of charges.
- 201. Contents of charges.
- 202. Particulars as to time, place and person.
- 203. Charge of criminal breach of trust, etc.
- 204. Charge of falsification of accounts.
- 205. When manner of committing offence must be stated.
- 206. Effect of errors.
- 207. Procedure on commitments without charge or with imperfect charge.
- 208. Court may alter charge.
- 209. When court may proceed with trial immediately after altering, adding to or framing charge.
- 210. When new trial may be directed or trial suspended.
- 211. Recall of witnesses when charge revised.
- 212. Separate charges for distinct offences.
- 213. Offences of like character may be charged together.
- 214. Acts forming the same transaction.
- 215. When it is doubtful on which occasion an offence has been committed.
- 216. When it is doubtful what offence has been committed.
- 217. When person charged with one offence may be convicted of another.
- 218. Conviction of lesser offence where greater charged.
- 219. Conviction for attempt not separately charged.
- 220. Withdrawal of remaining charges on conviction on one of several charges.
- 221. What persons may be charged jointly.
- 222. Effect of material error.

CHAPTER XX

Previous Acquittals and Convictions

- 223. Person once convicted or acquitted not to be tried for same offence.
- 224. Previous acquittal or conviction, when to be proved.

CHAPTER XXI

General Provisions as to Inquiries, Trials and Other Judicial Proceedings

- 225. Courts to be open.
- 226. Right of appearance of legal practitioner.

- 227. Representation of the State, Government Departments and local governments.
- 228. General procedure in inquiries and trials by magistrates' courts and area courts.
- 229. Oath.
- 230. Witness not compelled to take oath or make affirmation.
- 231. Manner of making oath or affirmation.
- 232. Swearing of Moslems.
- 233. Protection of witnesses.
- 234. Taking and recording of evidence.
- 235. Power to examine the accused.
- 236. Evidence of accused.
- 237. Power to summon material witnesses or call persons present.
- 238. Evidence of persons confined.
- 239. When evidence given at preliminary inquiry admissible at trial.
- 240. Admissibility of statements by accused.
- 241. Language not understood by accused.
- 242. Interpreter bound to interpret truthfully.
- 243. View.
- 243A. Determination of age.
- 244. Power to take evidence of persons dangerously ill.
- 245. Commission to take evidence.
- 246. Examination of witnesses on commission.
- 247. Return of commission.
- 248. Evidence taken abroad by interrogatories.
- 249. Deposition of medical witness.
- 250. Report of scientific expert.
- 250A. Reports under sections 249 and 250 of Procedure Code.
- 251. Record of evidence in absence of absconding accused.
- 252. Record of evidence when offender unknown.
- 253. Stay of proceedings by Attorney-General.
- 254. No influence to be used to induce disclosure.
- 255. Power to postpone or adjourn proceedings.
- 256. Procedure of court in cases it cannot dispose.
- 257. Procedure when court cannot pass sentence sufficiently severe.
- 258. Conviction on other charges pending.
- 259. Joint trial may be stayed and accused tried separately.
- 260. Reference on points of law.
- 261. Procedure when accused does not understand proceedings.
- 262. Delivery of judgment when judge, etc., unavoidably absent.

- 263. Opinion of majority to prevail.
- 264. Procedure where court evenly divided.
- 265. Every member to give opinion.
- 266. Order of taking opinions.

CHAPTER XXII

The Judgment

- 267. Definition for Chapter XXII.
- 268. Language and mode of delivering judgment.
- 269. Contents of judgment.
- 270. Death sentence not imposed in certain circumstances.
- 271. Procedure where woman convicted of capital offence alleged to be pregnant.
- 272. Procedure where person is convicted of a capital offence committed while under seventeen.
- 273. Sentence of death.
- 274. Cases in which appeal lies.
- 275. Court not to alter judgment.
- 276. Copy of judgment or translation to be given to accused on application.
- 277. Original judgment to be filed.

PART VII

Proceedings Subsequent to Judgment

CHAPTER XXIII

Appeal and Review

- 278. Appeals from area courts.
- 279. Appeal from magistrate's court.
- 280. Procedure on appeal from magistrate's court.
- 281. Memorandum of grounds of appeal from magistrate's court.
- 282. Grounds of appeal from magistrate's court.
- 283. Giving security to prosecute appeal from magistrate's court.
- 284. Appeals from High Court.
- 285. Power of Chief Judge to examine proceedings.
- 286. Accused, etc., not entitled to be heard on examination of proceedings under section
- 285.
- 287. Sentence to take effect pending appeal.
- 288. Appellate court not to send back judgment for technical error in procedure.
- 289. Enforcing of judgment.

- 290. Court member not to hear appeals from judgments.
- 291. Abatement of appeals.

CHAPTER XXIV

Execution

- 292. Definitions for Chapter XXIV.
- 293. Repealed.
- 294. High Court to report death sentence to Governor.
- 295. Recommendation of pardon or reprieve.
- 296. When death sentence to be carried into effect.
- 297. Governor to inform High Court.
- 298. Order for execution of death sentence.
- 299. Copy of order to be sent to Sheriff.
- 300. When woman sentenced to death is alleged to be pregnant.
- 301. Procedure for granting of pardon.
- 302. Execution of sentence of imprisonment.
- 303. Condition attaching to detention during pleasure.
- 304. Warrant for levy of fine.
- 305. Who may issue a warrant.
- 306. Powers of court when offender sentenced to fine only.
- 307. Execution of sentence of Haddi lashing.
- 308. Execution of sentence of caning.
- 309. Stay of execution of sentence of caning.
- 310. Stay of execution of sentence of caning to allow time for appeal.
- 311. Execution of sentence on escaped convict.
- 312. Sentence on offender already sentenced for another offence.
- 313. Return of warrant on execution of sentence.

PART VIII

Special Proceedings

CHAPTER XXV

Proceedings in case of Certain Offences affecting the Administration of Justice

- 314. Procedure in cases mentioned in section 140.
- 315. Procedure in certain cases of contempt.
- 316. Record of certain cases of contempt.
- 317. Discharge of offender on submission or apology.

- 318. Imprisonment or commitment of officer's custody of person refusing to answer or produce document.
- 319. Appeals from convictions in contempt cases.

CHAPTER XXVI

Persons of Unsound Mind

- 320. Procedure when accused is suspected to be of unsound mind.
- 321. Certificate of medical officer.
- 322. Release of person of unsound mind pending investigation or trial.
- 323. Resumption of inquiry or trial.
- 324. Resumption of proceedings under section 320.
- 325. When accused appears to have been of unsound mind.
- 326. Judgment of acquittal on ground of mental disorder.
- 327. Safe custody of person acquitted.
- 328. Observation of prisoners of unsound mind.
- 329. Procedure where person of unsound mind reported fit for discharge.
- 330. Transfer from one place of custody to another.
- 331. Delivery of person of unsound mind to care of relatives.

CHAPTER XXVII

Proceedings relating to Corporations

- 332. Definitions for Chapter XXVII.
- 333. Plea by corporation.
- 334. Committal of corporation for trial.
- 335. Powers of representative.
- 336. Matters to be read or said or explained to representative.
- 337. Non-appearance of representative.
- 338. Saving.

PART IX

Supplementary Provisions

CHAPTER XXVIII

The Compounding of Offences

- 339. Compounding offences.

CHAPTER XXIX

Bail

- 340. When bail to be granted.
- 341. When bail may be taken in respect of non-bailable offence.
- 342. Power of high Court to direct release on bail.
- 343. Power to arrest person released on bail.
- 344. Power of High Court to order reduction of bail.
- 345. Bond of accused and sureties.
- 346. Discharge from custody.
- 347. Deposit instead of bond.
- 348. Bond required from a person under eighteen years.
- 349. Amount of bond not to be excessive.
- 350. Reconsideration of bail.
- 351. Discharge of sureties.
- 352. Discharge of surety's estate.
- 353. When person fails to find surety.
- 354. Procedure on forfeiture of bond.
- 355. Arrest on breach of bond for appearance.

CHAPTER XXX

The Disposal of Property

- 356. Order for custody and disposal of property pending trial.
- 357. Order for disposal of property after trial.
- 358. Payment to the innocent purchaser of money found on accused.
- 359. Destruction of defamatory and other matter.
- 360. Power to restore possession of immovable property.
- 361. Procedure upon seizure of property taken under section 44 or stolen.
- 362. Procedure where owner of property seized unknown.
- 363. Power to sell perishable property.

CHAPTER XXXI

Miscellaneous

- 364. Expenses of complainants and witnesses.
- 365. Power of court to order payment of expenses or compensation in addition to a fine.
- 366. Payments to be taken into consideration in subsequent suit.
- 367. Monies ordered to be paid recoverable as fines.
- 368. Copies of proceedings.
- 369. Power of police to seize property suspected to be stolen.

- 370. Powers of superior police officers.
- 371. Compensation to persons groundlessly given in charge.
- 372. Saving as to other forms and procedure.
- 373. Power to make rules.
- 374. Case in which member of court is personally interested.
- 375. Proceeding by or against officer of court.
- 376. Public servant concerned in sales not to purchase or bid for property.
- 377. Protection of judicial officers.
- 378.

CHAPTER XXXII

Irregular Proceedings

- 379. Irregularities which do not vitiate proceedings.
- 380. Irregularities which vitiate proceedings.
- 381. Effect of omission to prepare charge.
- 382. Finding or sentence when reversible by reason of error or omission in charge or other proceedings.
- 383. Process valid notwithstanding death or vacation of office of person issuing.
- 384. Errors and omissions in orders and warrants.
- 384A.
- 385.

CHAPTER XXXIII

Trials in Area Courts

- 386. Area courts to be guided by Criminal Procedure Code.
- 387. Formal charge not necessary in area courts.
- 388. Records in area courts.
- 389. Duties of Justice of the Peace.

PART I

Preliminary

CHAPTER I

1. Interpretation

In this Criminal Procedure Code—

[KWS LN 1 of 1982.]

"accused person" includes an arrested person, and a person the subject of a complaint or a First Information Report or a police report, even though any such person may not be the subject of a formal charge;

"area court" means a court established or deemed to have been established under the Area Courts Law;

[Cap. A9.]

"area head" means a person appointed as district, village or ward head under the Local Government Law;

[Cap. L9.]

"complaint" means the allegation made orally or in writing to a court with a view to its taking action under this Criminal Procedure Code that some person whether known or unknown has committed an offence, but except where the context otherwise requires it does not include a police report;

"court" means any court of civil or criminal jurisdiction established by any law or deemed to be so established;

"High Court" means the High Court of Justice of Kwara State;

[No. 4 of 2006.]

"inquiry" includes every inquiry, other than a trial, conducted under this Criminal Procedure Code by a justice of the peace or court;

"investigation" includes all proceedings under Chapter XII or section 149 for the collection of evidence by a police officer;

"local limits of the jurisdiction" of a justice of the peace or court means the local limits of the administrative province, division or district or judicial division or magisterial district in which the justice of the peace or court ordinarily exercises his or its functions, but a justice of the peace except in so far as his powers are limited by the terms of his appointment or

otherwise may exercise his powers in any part of the State in which he happens to be;

"officer in charge of a police station" or "officer in charge of the police station"

includes, when the officer in charge of the police station is absent from the station building or unable for any reason to perform his duties, the police officer present at the station building who is next in seniority to, or who in the absence of such officer in charge performs the duty of such officer;

"Penal Code" means the Penal Code established by the Penal Code Law;

[Cap. P4.]

"police district" means a police province;

"police officer" means any member of the Nigeria Police;

"superior police officer" shall have the same meaning as in section 2 of the Police Act;

[Cap. 154(1958).]

"State" means the Kwara State of Nigeria;

"take cognisance" with its grammatical variations means take notice in an official capacity.

2. Illegal omissions

Words which refer to acts done also extend to illegal omissions.

3. Words to have same meaning as in Penal Code

All words and expressions used herein and defined in the Penal Code shall have the meanings attributed to them by that Code.

[Cap. P4.]

PART II

The Constitutions and Powers of Criminal Courts

CHAPTER II

The Constitution of Criminal Courts

4. Classes of criminal courts

There shall be eight classes of criminal courts in the State namely—

[KWS 10 of 1991.]

- (1) the High Court;
- (2) courts of Chief Magistrates of the first grade;
- (3) courts of Chief Magistrates of the second grade;
- (4) courts of Senior Magistrates of the first grade;
- (5) courts of Senior Magistrates of the second grade;
- (6) courts of Magistrates of the first grade;
- (7) courts of Magistrates of the second grade;
- (8) area courts established or deemed to have been established in the State under any law.

[No. 4 of 2006.]

5. Power to divide the State into districts

The Chief Judge may—

- (a) divide the State, or any portion thereof, into magisterial districts for the purposes of establishing magistrates' courts;
- (b) constitute any part of the State a magisterial district for the purpose of establishing a magistrate's court;
- (c) distinguish such magisterial districts by such names or numbers as he may think proper; and
- (d) vary the limits of any such magisterial districts.

6. Establishment and jurisdiction of magistrate's court in each district

- (1) In each magisterial district there shall be and there is hereby established a court, to be called the magistrate's court.
- (2) A magistrate's court shall have such jurisdiction as is conferred upon it by this Criminal Procedure Code or any other written law subject nevertheless to the limitations imposed by the Constitution.

7. Presiding Officer not to exceed powers

- (1) Subject to the provisions of this Criminal Procedure Code—

- (a) the magistrate of each magisterial district shall be the presiding magistrate of the court of such district wherein he shall have and exercise all the jurisdiction and

powers conferred upon him by his appointment; and

(b) no magistrate either as presiding officer or otherwise shall exercise any jurisdiction or powers in excess of those conferred upon him by his appointment.

(2) When the Chief Judge assigns two or more magistrates to any magisterial district, each magistrate shall be a presiding officer of the court of such district, and each sitting separately shall have and exercise all the jurisdiction and powers conferred upon him by his appointment.

8. Appointment of magistrates

(1) Magistrates shall be—

[KWS 10 of 1991.]

- (a) chief magistrates of the first grade;
- (b) chief magistrates of the second grade;
- (c) senior magistrates of the first grade;
- (d) senior magistrates of the second grade;
- (e) magistrates of the first grade;
- (f) magistrates of the second grade;
- (g)

[No. 4 of 2006.]

(2) The Judicial Service Commission may appoint any person to the office of magistrate:

Provided that no person shall be appointed a magistrate unless he is qualified to practice as a legal practitioner in Nigeria.

[No. 4 of 2006.]

(3) The appointment of magistrates shall be made in compliance with the provisions of the Constitution of the Federal Republic of Nigeria and of any legislation made in accordance therewith.

9. Territorial jurisdiction of magistrates

Every magistrate shall have jurisdiction throughout the state unless his appointment is specifically limited to the area of any magisterial district, or group of magisterial districts.

10. Power of chief magistrate to direct a subordinate magistrate

Notwithstanding the provisions of section 9, a chief magistrate who is assigned to a group of magisterial districts may direct a magistrate in one district within the group to assist another magistrate within the group and may direct to the best advantage the movements of any additional magistrate within the group.

11. Appointment and removal of justices of the peace

The Attorney-General shall have power to appoint persons to the office of Justice of the Peace and to dismiss and exercise control over such persons.

[KWSLN 1 of 1982.]

CHAPTER III

The Powers of Criminal Courts

12. Offences under the Penal Code and jurisdiction of area courts

(1) Subject to the other provisions of this Criminal Procedure Code, any offence under the Penal Code may be tried by any court by which such offence is shown in the sixth column of Appendix A to be triable or by any court other than an area court with greater powers.

[KWS LN 1 of 1982.]

(2) Any offence under the Penal Code, other than sections 94 (b), 97 (1), 97 (2), 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 274, 282, 283, 284, 294, 295, 301, 302, 304, 350, 357, 362, 363, 364, 365, 366, 367, 368, 369, 370 and 390, may be tried by any area court by which such offence is shown in the seventh column of Appendix A to be triable or by any area court with greater powers.

[Appendix A. Cap. P4.]

(3) Subject to the provisions of subsection (2), the jurisdiction of area courts shall be governed by the provisions of the Area Courts Law.

[Cap. A9.]

13. Offences under other laws

(1) Any offence under any law other than the Penal Code may be tried by any court

given jurisdiction in that behalf in that law or by any court with greater powers.

[KWS 10 of 1991.]

(2) When no court is so mentioned such offence may be tried by the High Court or any court constituted under this Criminal Procedure Code:

Provided that in trying any such offence—

- (a) (i) a chief magistrate of the first grade shall not try an offence punishable with imprisonment for a term which may exceed fifteen years or with a fine exceeding twenty thousand naira;
- (ii) a chief magistrate of the second grade shall not try an offence punishable with imprisonment for a term which may exceed twelve years or with a fine exceeding fifteen thousand naira;
- (b) (i) a senior magistrate of the first grade shall not try an offence punishable with imprisonment for a term which may exceed seven years or with a fine exceeding ten thousand naira;
- (ii) a senior magistrate of the second grade shall not try an offence punishable with imprisonment for a term which may exceed seven years or with a fine exceeding ten thousand naira;
- (c) (i) a magistrate of the first grade shall not try an offence punishable with imprisonment for a term which may exceed five years or with a fine exceeding five thousand naira;
- (ii) a magistrate of the second grade shall not try an offence punishable with imprisonment for a term which may exceed three years or with a fine exceeding five thousand naira;
- (iii)
- (d) an Area Court shall not try an offence under any law unless jurisdiction to try the offence has been conferred upon the Area Court by the Law creating the offence.

[No. 4 of 2006.]

(3) Nothing in subsection (2) shall be deemed to confer upon any court any jurisdiction in excess of that conferred upon that court by sections 15 to 25.

14. Jurisdiction of High Court

The High Court may pass any sentence authorised by law.

15. Jurisdiction of Chief magistrates to pass sentence

(1) A chief magistrate of the first grade may pass the following sentences—

[KWS 10 of 1991.]

- (a) imprisonment for a term not exceeding ten years;
- (b) fine not exceeding twenty thousand naira;
- (c) caning; and
- (d) detention under section 71 of the Penal Code.

[No. 4 of 2006.]

(2) A chief magistrate of the second grade may pass the following sentences—

- (a) imprisonment for a term not exceeding eight years;
- (a) fine not exceeding twenty thousand naira;
- (a) caning; and
- (a) detention under section 71 of the Penal Code.

[No. 4 of 2006.]

15A. Jurisdiction of senior magistrate

(1) A senior magistrate of the first grade may pass the following sentences—

- (a) imprisonment for a term not exceeding six years;
- (b) fine not exceeding ten thousand naira;
- (c) caning; and
- (d) detention under section 71 of the Penal Code.

[No. 4 of 2006.]

(2) A senior magistrate of the second grade may pass the following sentences—

- (a) imprisonment for a term not exceeding five years;
- (b) fine not exceeding ten thousand naira;
- (c) caning; and
- (d) detention under section 71 of the Penal Code.

[No. 4 of 2006.]

16. Jurisdiction of magistrate of the first grade

A magistrate of the first grade may pass the following sentences—

- (a) imprisonment for a term not exceeding four years;
- (a) fine not exceeding six thousand naira;
- (a) caning; and
- (a) detention under section 71 of the Penal Code.

[No. 4 of 2006.]

17. Jurisdiction of magistrate of the second grade

A magistrate of the second grade may pass the following sentences—

- (a) imprisonment for a term not exceeding two years;
- (a) fine not exceeding five thousand naira;
- (a) caning; and
- (a) detention under section 71 of the Penal Code.

[No. 4 of 2006.]

18

[No. 4 of 2006.]

19. Power of House of Assembly to increase jurisdiction of magistrate

(1) The House of Assembly may, on the recommendation of the Chief Judge, by Law authorise an increased jurisdiction in criminal matters, to be exercised by any magistrate to such extent as the Chief Judge may on such recommendation specify and such Law may at any time be revoked by the House of Assembly.

[No. 4 of 2006.]

(2) The Law under subsection (1) may authorise such increased jurisdiction in respect of—

- (a) offences under a named Act or Law;
- (b) offences specifically referred to under a named Act or Law; or
- (c) a particular offence for which a person is then charged or a particular offence of which a court has taken cognisance.

[No. 4 of 2006.]

20

[NN 12 of 1962.]

21. Combination of sentences

Any court may pass any lawful sentence combining any of the types of sentences which it is authorised by law to pass.

22. Imprisonment in default of payment of fine

Any court may award any term of imprisonment in default of payment of a fine which is authorised by section 74 of the Penal Code.

[Cap. P4.]

Provided that the term of imprisonment shall not be in excess of the powers of the court under sections 15 to 21.

23. Power to inflict fine in lieu of imprisonment

- (1) Where a court has authority under any written law to impose imprisonment for any offence and has not specific authority to impose a fine for that offence the court may in its discretion impose a fine in lieu of imprisonment.
- (2) The amount of the fine shall not be in excess of the power of the court to impose fines under sections 15 to 21.
- (3) No term of imprisonment imposed in default of payment of such fine shall exceed the maximum fixed in relation to the amount of the fine by section 74 of the Penal Code.

[Cap. P4.]

- (4) In no case shall any term of imprisonment imposed in default of payment of such fine exceed the maximum term authorised as punishment for the offence by the written law.
- (5) The provisions of this section shall not apply in any case where a written law provides a minimum period of imprisonment to be imposed for the commission of an offence.

24. Sentences in case of convictions of several offences at one trial

- (1) When a person is convicted at one trial of two or more distinct offences, the court may, subject to the provisions of section 76 of the Penal Code, sentence him for such offences to the several punishments prescribed therefor which such court is competent to inflict; such punishments, when consisting of imprisonment, to commence the one after the expiration of the other in such order as the court may direct, unless the court directs that such punishments shall run concurrently.

[Cap. P4.]

- (2) In cases falling under this section a court shall not be limited by the provisions of sections 15 to 21 but a court shall not impose consecutive sentences exceeding in the aggregate twice the amount of punishment which it is in the exercise of its ordinary jurisdiction competent to inflict.

26. Power to bind parties to be of good behaviour

A court may, whether the accused is discharged or not, bind over the complainant or accused, or both, with or without sureties, to be of good behaviour and may order any person so bound, in default of compliance with the order, to be imprisoned for a term not exceeding three months in addition to any other punishment to which that person is liable.

PART III

Arrest and Process

CHAPTER IV

Arrest

A—Arrest

26. When police may arrest

Any police officer may arrest—

(a) any person who commits an offence in his presence notwithstanding any provision in the third column of Appendix A that an arrest may not be made without a warrant;

[Appendix A.]

(b) any person for whose arrest a warrant has been issued or whom he is directed to arrest by a justice of the peace or superior police officer under section 29 or section 30;

(c) any person who has been concerned in an offence for which, in accordance with the third column of Appendix A or under any other Act or Law for the time being in force in any part of Nigeria, the police may arrest without warrant, or against whom a reasonable complaint has been made or credible information has been received or reasonable suspicion exists of his having been so concerned;

[Appendix A.]

(d) any person the order for whose discharge from prison has been cancelled by a judge of the High Court under section 99;

(e) any person whom he reasonably suspects to be designing to commit an offence for which the police may arrest without a warrant, if it appears to him that the commission of the offence cannot be otherwise prevented;

(f) any person required to appear by a public summons published under section 67;

(g) any person found taking precautions to conceal his presence in suspicious circumstances or who being found in suspicious circumstances has no ostensible means of subsistence or cannot give a satisfactory account of himself;

(h) any person in whose possession property is found which may reasonably be suspected to be stolen property or property in respect of which an offence has been committed under section 115, 116, 118, 119, 120, 121, 122, 168 or 169 of the Penal Code, or who may reasonably be suspected of having committed an offence with reference to such property;

[Cap. 94(1994).]

- (i) any person who obstructs a police officer while in the execution of his duty;
 - (j) any person who has escaped or attempts to escape from lawful custody;
 - (k) any person reasonably suspected of being a deserter from any military force for the time being serving in Nigeria;
 - (l) any person who in his presence has committed or been accused of committing any offence for which the police may not, according to the third column of Appendix A arrest without a warrant if, on his demand, such person refuses to give his name and address or gives a name and address which he believes to be a false one;
- [Appendix A.]
- (m) any person failing to obey a direction of the Governor issued under section 303.

27. Powers in regard to suspected persons

Any police officer may require any person whom he has reasonable grounds for suspecting to have committed an offence of any kind to furnish him with his name and address, and he may require any such person to accompany him to the police station.

28. When private person may arrest

Any private person may arrest—

- (a) any person for whose arrest he has a warrant or whom he is directed to arrest by a justice of the peace under section 29 or by a justice of the peace or a superior police officer under section 30;
- (b) any person who has escaped from his lawful custody;
- (c) any person required to appear by a public summons published under section 67;
- (d) any person committing in his presence an offence for which the police are authorised to arrest without a warrant.

29. Arrest for offence committed in presence of justice of the peace

- (1) Any justice of the peace may arrest or direct the arrest of any person committing any offence in his presence and shall thereupon hand him over to a police officer or take security for his attendance before a court at a specified time.
- (2) Notwithstanding the provisions of subsection (1), a justice of the peace shall not direct a superior police officer under this section.

30. Arrest by or in presence of justice of the peace or superior police officer

(1) Any justice of the peace or superior police officer may at any time arrest or direct the arrest in his presence of any person for whose arrest a warrant might lawfully be issued.

(2) A justice of the peace making an arrest under subsection (1) shall thereupon hand over the person arrested to a police officer or take security for his attendance before a court at a specified time.

31. Resisting endeavour to arrest

If a person liable to arrest resists the endeavour to arrest him or attempts to evade the arrest, the person authorised to arrest him may use all means reasonable to effect the arrest.

[No. 4 of 2006.]

32. Power to seize offensive weapons

The person making an arrest may take from the person arrested any offensive weapon which he has about his person and shall deliver all weapons so taken to the court or officer before whom the person arrested is required by the warrant of arrest or by this Criminal Procedure Code to be produced.

33. When public are bound to assist in arrest

Every person is bound to assist a justice of the peace, police officer or other person reasonably demanding his aid in arresting or preventing the escape of any person whom such justice of the peace, police officer or other person is authorised to arrest.

34. Search of place entered by person sought to be arrested

(1) If anyone who is authorised to arrest any person has reason to believe that such person has entered into or is within any place, he may enter such place and there search for the person to be arrested.

(2) The person residing in or being in charge of such place shall on demand allow free ingress thereto and afford all reasonable facilities for search.

(3) If on demand such ingress is refused, the person authorised to make the arrest may effect an entry by force.

(4) The provisions of this section shall be subject to the provisions of section 79.

35. Pursuit of offender into other jurisdictions

Any person authorised to effect the arrest of any other person may for the purpose of effecting the arrest pursue him into any part of the State.

36. Power to break out of any place for purpose of liberation

Any police officer or other person authorised to make an arrest may break out of any place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

37. No unnecessary restraint to arrested persons

An arrested person shall not be subjected to more restraint than is necessary to prevent his escape.

38. Notification of cause of arrest

Except when the person arrested is in the actual course of committing a crime, or is pursued immediately after committing a crime or escaping from lawful custody, the person making the arrest shall inform the person arrested of the cause of arrest.

B—Procedure after Arrest

39. Procedure after arrest by private person

(1) Any person, except a police officer or a justice of the peace, making an arrest without a warrant or an order of a justice of the peace shall without unnecessary delay take the person arrested to the nearest police station or hand him over to a police officer.

(2) If the arrested person appears to be one whom a police officer is authorised to arrest, the police officer shall re-arrest him; otherwise the arrested person shall be at once released.

40. Person arrested to be taken before a court or officer in charge of police station

A police officer making an arrest without warrant or a re-arrest under section 39 shall without unnecessary delay take or send the person arrested before a court competent under Chapter XV to take cognisance of the case or before the officer in charge of a police station.

41. Procedure when offender has refused to give his name and address

Any person arrested for refusing to give his name and address or for giving a false name or address shall—

- (a) if he is found to have given his true name and address, be released;
- (b) when his true name and address are ascertained, be released on his executing a bond, with or without sureties, to appear before a court if and when required;
- (c) should his true name and address not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond or, if so required, to furnish

sufficient sureties, be forthwith brought before the nearest court competent under Chapter XV to take cognisance of the case.

42. Person arrested without warrant not to be detained more than twenty-four hours

No police officer shall detain in custody a person arrested without warrant for a longer period than in the circumstances of the case is reasonable; and such period shall not, in the absence of an order of a court under section 129, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the court and of any intervening public holiday.

43. Police to report arrest

An officer in charge of a police station shall report as soon as reasonably possible to the appropriate local government or superior police officer every case of arrest without warrant within his district.

[KWS LN J of 1982.]

44. Search of arrested person

(1) A police officer making an arrest or receiving an arrested person from a person by whom the arrest has been made may search the arrested person or cause him to be searched.

(2) A police officer searching a person shall place in safe custody such articles, other than necessary wearing apparel, as he thinks fit, and shall make a list of the same, and shall permit the arrested person to retain all articles not so placed in safe custody.

(3) When the arrested person is a woman, the search shall not be made except by a woman.

45. Discharge of arrested person

No person who has been arrested by a police officer or re-arrested under section 39 shall be discharged except on his own bond or on bail or under the special order of a court.

46. Register of arrests

A register of arrests shall be kept in the prescribed form at every police station and every arrest made within the local limits of the station shall be entered therein by the officer in charge of the police station so soon as the arrested person is brought to the station.

CHAPTER V

Processes to Compel Appearance

A—Summons

1. (1) *Power to issue summons.*—A summons to appear or attend before a court may be issued by any court competent to inquire into an offence or by any justice of the peace.

(2) *Form of summons.*—Every summons so issued shall be in writing, in duplicate and signed or sealed by the court or justice of the peace.

48. Summons by whom served

The summons shall be served by a police officer or by any officer of the court issuing it or other public servant who, under any law for the time being in force, may be authorised to serve summonses.

49. Manner of serving summons

(1) The summons shall if practicable be served personally on the person summoned by delivering or tendering to him one of the duplicates of the summons.

(2) The person served shall, if so required by the serving officer, sign or make his mark on a receipt therefor on the back of the other duplicate.

50. Service on corporation

Service of a summons on an incorporated company or other body corporate may be effected by service on the secretary, local manager or other principal officer of the corporation at any office of the corporation in the State.

51. Service on Local Government

Service of a summons on a local government shall be effected in accordance with the provisions of the Local Government Law.

[Cap. L9.] [KWS LN 1 of 1982.]

52. Service when person summoned cannot be found

Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, who shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate, or by affixing one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides.

53. Inability of person served to sign or seal

Where the person on or with whom a summons is served or left is unable to sign his name

or make his mark, the summons shall be served or left in the presence of a witness.

54. Service of summons outside local limits

A summons required to be served outside the local limits of the jurisdiction of the court or justice of the peace issuing it shall ordinarily be sent in duplicate to a court within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

55. Proof of service

An affidavit or declaration purporting to be made before a court by the serving officer or by a witness to the service that a summons has been served and a duplicate of the summons purporting to be endorsed, in manner provided by section 49 or section 52, by the person to whom it was delivered or tendered or with whom it was left shall be admissible in evidence and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

B—Warrant of Arrest

56. Form of warrant of arrest

- (1) Every warrant of arrest issued under this Criminal Procedure Code by a court or justice of the peace shall be in writing, signed or sealed by the court or the justice of the peace.
- (2) Every such warrant shall remain in force until it is cancelled by the court or justice of the peace issuing it or until it is executed.

57. Court may direct security to be taken

- (1) A court or justice of the peace issuing a warrant for the arrest of any person shall have discretion to direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the court or justice of the peace at a specified time and thereafter until otherwise directed, the person to whom the warrant is directed shall, on receiving security, release such person from custody.
- (2) The endorsement referred to in subsection (1) shall state—
 - (a) the number of sureties;
 - (b) the amount in which the sureties and the person for whose arrest the warrant is issued are to be respectively bound; and
 - (c) the time and place at which the person for whose arrest the warrant is issued is to attend.
- (3) Whenever security is taken under this section, the person to whom the warrant is directed shall forward the bond to the appropriate court.

58. Warrant to whom directed

(1) A warrant of arrest shall ordinarily be directed to one or more police officers or other public servants who may be authorised to make an arrest, but the court or justice of the peace issuing the warrant may, if its immediate execution is necessary and no police officer or other public servant so authorised is immediately available, direct it to any other person or persons.

(2) When a warrant is directed to more persons than one, it may be executed by all or by any one or more of them.

59. Re-direction of warrant

A warrant of arrest directed to a police officer may also be executed by any other police officer whose name is endorsed upon the warrant by the police officer to whom it is directed or endorsed.

60. Notification of substance of warrant

The person executing a warrant of arrest shall notify the substance thereof to the person to be arrested and, if so required, shall show him the warrant.

61. Power to arrest without warrant

A warrant of arrest may be executed notwithstanding that it is not in the possession at the time of the person executing the warrant, but the warrant shall, on the demand of the person apprehended, be shown to him as soon as practicable after his arrest.

62. Person arrested to be brought before court without delay

The person executing a warrant of arrest shall, subject to the provisions of section 57 as to security, without unnecessary delay bring the person arrested before the court specified in the warrant.

63. Where warrant may be executed

A warrant of arrest may be executed at any place in the State.

64. Warrant forwarded for execution outside jurisdiction

(1) When a warrant of arrest is to be executed outside the local limits of the jurisdiction of the court or justice of the peace issuing it, such court or justice of the peace may, instead of directing such warrant as laid down in section 58, forward it by post or otherwise to any court within the local limits of whose jurisdiction it is to be executed.

(2) Such court shall endorse the warrant and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of its jurisdiction.

65. Procedure for arrest executed outside jurisdiction

When a warrant of arrest is to be executed beyond the local limits of the jurisdiction of the court or justice of the peace issuing it, the person to whom it is directed shall take it for endorsement to a court within the local limits of whose jurisdiction the warrant is to be executed.

66. Procedure on arrest under warrant outside jurisdiction

(1) When a warrant of arrest is executed outside the local limits of the jurisdiction of the court or justice of the peace issuing it the person arrested shall, unless security is taken under section 57, be taken before a court within the local limits of whose jurisdiction the arrest was made and such court shall, if the person arrested appears to be the person intended by the court or justice of the peace issuing the warrant, either—

- (a) take security for his appearance in accordance with the provisions of Chapter **XXIX** or as directed by any endorsement of the warrant under section 57 and forward the bond or bonds to the court or justice of the peace issuing the warrant; or
- (b) direct his removal in custody to such court or justice of the peace.

(2) Notwithstanding the provisions of subsection (1), the arrested person may be taken directly before the court or justice of the peace issuing the warrant if this course is more convenient having regard to conditions of time, place and other circumstances.

C—Public Summons and Attachment

67. Public summons for person absconding

(1) If a judge of the High Court has reason to believe, whether after taking evidence or not, that a person, against whom a warrant of arrest has been issued by himself or by any court or justice of the peace, has absconded or is concealing himself so that such warrant cannot be executed, such judge may publish a public summons in writing requiring that person to appear at a specified place and a specified time not less than thirty days from the date of publishing the public summons.

(2) The public summons shall be published as follows—

- (a) it shall be publicly read in some conspicuous place in the town or village in which the person in respect of whom it is published ordinarily resides;
- (b) it shall be affixed to some conspicuous part of the house or homestead in which

such person ordinarily resides or to some conspicuous place in such town or village; and
(c) a copy thereof shall be affixed to some conspicuous part of the High Court building.

(3) A statement in writing by the judge of the High Court to the effect that the public summons was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with and that the public summons was published on such day.

68. Attachment of property of person absconding

(1) A judge of the High Court may at any time after action has been taken under section 67 order the attachment of any property, movable or immovable or both, belonging to a person the subject of a public summons.

(2) An order under subsection (1) shall authorise any public servant named in it to attach any property belonging to a person the subject of a public summons within the area of jurisdiction of the judge by seizure or in any other manner in which for the time being property may be attached by way of civil process.

(3) If a person the subject of a public summons does not appear within the time specified in the public summons, the property under attachment shall be at the disposal of the High Court; but it shall not be sold until the expiration of three months from the date of the attachment unless it is subject to speedy and natural decay or the judge considers that the sale would be for the benefit of the owner, in either of which cases the judge may cause it to be sold whenever he thinks fit.

69. Restoration of attached property

If, within one year from the date of the attachment, any person, whose property is or has been at the disposal of the High Court under section 68, appears voluntarily or being arrested is brought before the High Court and proves to its satisfaction that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant and that he had not such notice of the public summons as to enable him to attend within the time specified therein, that property, so far as it has not been sold, and the net proceeds of any part thereof which has been sold shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

D—Other Rules regarding Process

70. Issue of warrant in lieu of or in addition to summons

(1) A court or justice of the peace empowered by this Criminal Procedure Code to issue a summons for the appearance of any person may, after recording reasons in writing, issue

a warrant for his arrest in addition to or instead of the summons—

- (a) if, whether before or after the issue of such summons, the court or justice of the peace sees reason to believe that he has absconded or will not obey the summons; or
- (b) if at the time fixed for his appearance he fails to appear and the summons is proved to have been duly served in time to admit of his appearing and no reasonable excuse is offered for his failure to appear.

(2) A court or justice of the peace empowered by this Criminal Procedure Code to issue a warrant for the arrest of any person may issue a summons in place of a warrant if it or he thinks fit.

71. Power to take bond for appearance

When any person for whose appearance or arrest a summons or warrant may be issued is present before a court or justice of the peace, the court or justice of the peace may require him to execute a bond, with or without sureties, for his appearance before a court.

72. Provisions of this chapter generally applicable to summons and warrant

The provisions contained in this chapter relating to summonses and warrants and their issue, service and execution shall so far as may be apply to every summons and every warrant issued under this Criminal Procedure Code.

CHAPTER VI

*Means to Secure the Production or Discovery of Documents or Other Things and for the
Discovery and Liberation of Persons Unlawfully Confined*

A—Summons to Produce

73. Summons to produce document or other thing

When a court or justice of the peace considers that the production of any document or other thing is necessary or desirable for the purpose of any investigation, inquiry, trial or other proceeding under this Criminal Procedure Code by or before such court or justice of the peace, the court or justice of the peace may issue a summons to any person in whose possession or power the document or thing is believed to be, requiring him to attend and produce it or to cause it to be produced at the time and place stated in the summons or

order.

B—Searches and Orders for Production and Liberation of Persons

74. Issue of search warrant by court or justice of the peace

Where for any reason it appears to a court or justice of the peace that it is impossible or inadvisable to proceed under section 73 or that a search or inspection would further the purposes of any investigation, inquiry, trial or other proceeding under this Criminal Procedure Code, the court or justice of the peace may issue a search warrant authorising the person to whom it is addressed to search or inspect the place or places mentioned in the warrant for any document or thing specified or for any purpose described in the warrant and to seize any such document or thing and to dispose of it in accordance with the terms of the warrant.

75. Application of search warrant

Where an investigation under this Criminal Procedure Code is being made by a police officer, he may apply to any court or justice of the peace within the local limits of whose jurisdiction he is, for the issue of a search warrant under section 74.

76. Search for stolen property, etc.

(1) Where upon information and after such inquiry, if any, as it thinks necessary a court or justice of the peace has reason to believe that any place is used for the deposit or sale of stolen property or that there is kept or deposited in any place any property in respect of or by means of which an offence has been committed or which is intended to be used for any illegal purpose, the court or justice of the peace may issue a search warrant authorising any police officer—

- (a) to search the place in accordance with the terms of the warrant and to seize any property appearing to be of any description above mentioned and to dispose of it in accordance with the terms of the warrant; and
- (b) to arrest any person found in the place and appearing to have been or to be a party to any offence committed or intended to be committed in connection with the property.

(2) In this section and section 77 "offence" includes an offence against a law of the Federation or any State which would be punishable in the State if it had been committed in Nigeria.

77. Search for person wrongfully confined

(1) Where a court upon information and after such inquiry, if any, as it thinks necessary has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, it may issue a search warrant authorising the person to whom it is addressed to search for the confined person and to bring him before the court and upon the appearance of the confined person the court shall make such order as seems proper.

(2) Upon complaint made on oath to a court of the abduction for any unlawful purpose or of the unlawful detention of any person the court may after such inquiry, if any, as it thinks necessary make an order for the production of that person or for the immediate restoration of that person to his liberty or if he is under fourteen years of age for his immediate restoration to his parent, guardian or other person having lawful charge of him and may compel compliance with an order made under this subsection using such force as may be necessary and upon the production of the person who is the subject of the order the court shall make such order as seems proper.

78. Search to be made in presence of witnesses

(1) Searches under Part B of this chapter shall, unless the court or justice of the peace owing to the nature of the case otherwise directs, be made whenever possible in the presence of two respectable inhabitants of the neighbourhood to be summoned by the person to whom the search warrant is addressed.

(2) A list of all things seized in the course of search and of the places in which they are found shall be drawn up by the person carrying out the search and shall be signed or sealed by the witnesses.

79. Searching of woman's quarters

If any place to be searched is an apartment in the actual occupancy of a woman, not being the person to be arrested, who, according to custom, does not appear in public, the person making the search shall, before entering the apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then enter the apartment.

80. Occupant of place searched may attend

The occupant of any place searched or some person on his behalf shall be permitted to be present at the search and shall, if he so requires, receive a copy of the list of things seized therein signed or sealed by the witness referred to in section 78.

81. Search of person found in place

(1) Where any person in or about a place which is being searched is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched.

(2) A list of all things found on his person and seized shall be prepared and witnessed in manner mentioned in section 78 and a witnessed copy of the list shall be delivered to the person searched, if he so requires.

82. Mode of searching woman

Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

83. Execution of search warrant outside jurisdiction

Every person executing a search warrant beyond the local limits of the jurisdiction of the court or justice of the peace issuing it shall before doing so apply to some court within the local limits of whose jurisdiction search is to be made and shall act under its directions.

84. Provisions as to warrants of arrest to apply to search warrants

The provisions of section 34 as to ingress and all other provisions hereinbefore contained as to warrants of arrest shall, so far as applicable, apply to search warrants.

85. Justice of the peace may direct search in his presence

Any justice of the peace may direct a search to be made in his presence of any place for the search of which he is competent to issue a search warrant.

86. Impounding of document, etc.

Any court may, if it thinks fit, impound any document or thing produced before it under the Criminal Procedure Code.

PART IV

The Prevention of Crime

CHAPTER VII

Security for Keeping the Peace and for Good Behaviour

A—Security for Keeping the Peace and for Good Behaviour on Conviction

87. Security on conviction

Whenever any person is convicted by a court of any offence involving or likely to cause a disturbance of the public peace or a breach of the peace and the court is of opinion that it is expedient to require that person to execute a bond for keeping the peace and being of good behaviour, it may at the time of passing sentence on such person order him to execute a bond for sum proportionate to his means and with or without sureties for keeping the peace and being of good behaviour for any period not exceeding three years in the case of the High Court and not exceeding two years in the case of any other court.

B—Security for Keeping the Peace and for Good Behaviour in Other Cases

88. Security in other cases

(1) Whenever a court or justice of the peace is informed that any person is likely to commit a breach of the peace or to disturb the public peace or to do any illegal act which may probably cause a breach of the peace or disturb the public peace, the court or justice of the peace may issue a summons requiring that person to attend before a court to execute a bond with or without sureties for keeping the peace or refraining from illegal acts likely to disturb the public peace for any period not exceeding one year or to show cause why he should not execute such bond.

(2) Proceedings shall not be taken under this section unless—

- (a) the person informed against is in the State; and
- (b) either—

- (i) the person informed against is within the area of jurisdiction of the court before which he is required to attend; or

- (ii) the place where the breach of the peace or disturbance is apprehended is within the area of jurisdiction of the court before which the person informed against is required to attend.

89. Security for good behaviour from habitual offenders

Whenever a court receives information that any person within the local limits of its jurisdiction—

(a) habitually commits any offence punishable under sections 273 to 281 of the Penal Code; or

[Cap. P4.]

(b) is by habit a robber, house-breaker or thief; or

(c) is by habit a receiver of stolen property knowing the same to have been stolen; or

- (d) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property; or
- (e) habitually commits mischief, extortion or cheating or the counterfeiting of coin, notes or revenue stamps or attempts so to do; or
- (f) habitually commits or attempts to commit or abets the commission of offences involving a breach of the peace; or
- (g) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such court may issue a summons requiring that person to attend before the court to execute a bond with sureties for his good behaviour for any period not exceeding two years or to show cause why he should not execute such bond.

90. Warrant for arrest may issue if breach of peace likely

Whenever it appears to a justice of the peace or court acting under section 88 or section 89, as the case may be, upon the report of a police officer or upon other information that there is reason to fear the commission of a breach of the peace or disturbance of the public peace and that such breach of the peace or disturbance of the public peace cannot be prevented otherwise than by the immediate arrest of any person, such justice of the peace or court shall record the substance of the report or information and may at any time issue a warrant for the arrest of such person and for his production before a court.

91. Contents of summons or warrant under section 88,89 or 90

A justice of the peace or court when issuing a summons or warrant under section 88, 89 or 90, as the case may be, shall therein set forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force and the number, character and class of sureties, if any, required.

92. Inquiry as to truth of information

(1) When any person has appeared or is brought before the court in compliance with a summons or warrant under section 88, 89 or 90, the court shall proceed to inquire into the truth of the information upon which action has been taken and to take such further evidence as may appear necessary.

(2) An inquiry under subsection (1) shall be made as far as practicable in the manner hereinafter laid down for conducting trials and recording evidence in summary trials by magistrates except that—

- (a) no charge need be framed nor shall any witness be recalled for cross-examination

except with the permission of the court; and

(b) the court may refuse to release on bail any person arrested under section 90 unless he executes a bond to the nature specified in the warrant of arrest but limited in time to the conclusion of the inquiry.

(3) For the purposes of this section the fact that a person is a habitual offender or is so desperate and dangerous as to render his being at large without security hazardous to the community may be proved by evidence of general repute.

93. Order to give security

(1) If on inquiry under section 92 it is proved that it is necessary for keeping the peace or preserving the public peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond with or without sureties the court shall make an order accordingly.

(2) Notwithstanding the provisions of subsection (1)—

(a) no person shall be ordered to give security of a nature different from or of an amount larger than or for a period longer than any specified in the summons or warrant issued under section 88, 89, or 90;

(b) the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive;

(c) when the person in respect of whom the inquiry is made is under eighteen years of age, the bond shall be executed only by his sureties.

94. Discharge of person informed against

If on inquiry under section 92 it is not proved that it is necessary for keeping the peace or preserving the public peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, the court shall make an entry on the record to that effect and if such person is in custody only for the purpose of the inquiry shall release him or if he is not in custody shall discharge him.

C—Proceedings in all cases Subsequent to Order to Furnish Security

95. Commencement of period for which security is required

(1) If any person in respect of whom an order requiring security is made under section 87 or section 93 is at the time the order is made subject to a sentence of imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

(2) In other cases the period for which security is required shall commence on the date of the order unless the court for sufficient reason fixes a later date.

96. Contents of bond

The bond to be executed by any person in respect of whom an order requiring security is made under section 87 or section 93 shall bind him to keep the peace or to refrain from illegal acts likely to disturb the public peace or to be of good behaviour, as the case may be, and in the last case the commission or attempt to commit or the abetment of an offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

97. Imprisonment in default of security

If any person ordered to give security under section 87 or section 93 does not give the security on or before the date of the commencement of the period for which the security is to be given, he shall be committed to prison or if he is already in prison be detained in prison until such period expires or until within such period he gives the security ordered.

98. Power to reject sureties

(1) The court may refuse to accept any surety offered or any surety previously accepted on the ground that the surety is an unfit person for the purposes of the bond.

(2) Before so refusing to accept or before rejecting any such surety the court shall hold an inquiry into his fitness and the court shall, before holding the inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall in making the inquiry record the substance of the evidence adduced before it.

(3) If the court is satisfied after considering the evidence adduced before it that the surety is an unfit person for the purposes of the bond, it shall make an order refusing to accept or rejecting, as the case may be, such surety and record its reasons for so doing.

99. Power to release persons imprisoned for failure to give security

(1) Whenever a judge of a High Court is of opinion that any person imprisoned for failing to give security under this chapter may be released without hazard to the public or to any person, he may order the person imprisoned to be discharged.

(2) Whenever any person has been imprisoned for failure to give security under this chapter, a judge of the High Court may make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

(3) An order under subsection (1) may direct the discharge of the person imprisoned either without conditions or upon any conditions which that person accepts.

(4) If any condition upon which any person imprisoned for failing to give security under this chapter is discharged is in the opinion of a judge of the High Court not fulfilled

he may cancel the order of discharge and thereupon such person shall be recommitted to prison until the expiry of the period for which he was originally ordered to give security, unless before that time he gives such security.

100. Power to cancel bond

A judge of the High Court may at any time cancel any bond for keeping the peace or refraining from illegal acts likely to disturb the public peace or for good behaviour executed under this chapter.

CHAPTER VIII

Unlawful Assemblies and Riots

101. Assembly to disperse on command of justice of the peace, police or commissioned officer

Any justice of the peace or police officer of or above the rank of assistant superintendent or any commissioned officer of the armed forces of the Federation may command any unlawful assembly or any assembly of five or more persons likely to cause a disturbance of the public peace to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

102. Use of civil force to disperse

If, upon being commanded in accordance with the provisions of section 101, any unlawful assembly or any assembly of five or more persons likely to cause a disturbance of the public peace does not disperse or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, or if force or violence is used by it or by any member thereof in prosecution of the common object of such assembly, any justice of the peace or police officer of or above the rank of assistant superintendent or any commissioned officer of the armed forces of the Federation may proceed to disperse such assembly by force and may require the assistance of any male person for the purpose of dispersing such assembly and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law and any such person whose assistance is so required shall be bound to render such assistance.

103. Protection against prosecution for acts done under this chapter

- (1) No prosecution against any person for any act purporting to be done under this chapter shall be instituted in any criminal court except with the sanction of the Attorney-General.
- (2) No justice of the peace, police officer or commissioned officer of the armed forces of the Federation acting under this chapter in good faith shall be deemed to have thereby committed an offence.
- (3) No act lawfully done under this chapter shall be called in question in any civil proceedings.

CHAPTER IX

Public Nuisances

104. Conditional order for removal of nuisance

(1) Whenever a court considers on receiving a police report or other information and on taking such evidence, if any, as it thinks fit that an offence under section 191, 192, 194, 196 or 197 of the Penal Code is being committed, such court may make a conditional order requiring the offender within a time fixed in the order to cease committing such offence and to amend or remove the causes thereof in such manner as in the order specified or to appear before the court at a time and place to be fixed by the order and apply to have the order set aside or modified in manner hereinafter provided.

[Cap. P4.]

(2) No order duly made by a court under this section shall be called in question in any civil proceedings.

105. Service of order

(1) An order made under section 104 shall if practicable be served on the person against whom it is made in manner provided for the service of a summons.

(2) If an order referred to in subsection (1) cannot be served in the manner laid down in that subsection it may be served by registered letter through the post addressed to the person against whom it is made at his last known address or, if his last address is not known, then by affixing a notice thereof in some conspicuous place in the town or village in or near which the nuisance or offence is being committed.

106. Person to whom order is addressed to obey or appear before court

A person against whom an order under section 104 is made shall—

- (a) perform within the time and in the manner specified in the order the act directed thereby; or

(b) appear in accordance with the order and apply to have the same set aside or modified.

107. Consequences of failure to obey order or to appear

If a person against whom an order under section 104 is made does not perform the act specified in the order or appear and apply to have the order set aside or modified he shall be liable to the penalty prescribed in that behalf in section 152 of the Penal Code, and the order shall be made absolute.

108. Procedure where person appears

(1) If a person against whom an order under section 104 is made appears and applies to have the order set aside or modified the court shall take evidence in the matter in the same manner as in a summary trial.

(2) If the court is satisfied that the order with or without modification is reasonable and proper the court shall make it absolute with such modification, if any, as the court shall think fit.

(3) If the court is not so satisfied it shall cancel the order.

109. Consequences of disobedience to order made absolute

(1) If the act directed by an order under section 104 which is made absolute under section 107 or subsection (2) of section 108 is not performed within the time fixed and in the manner specified therein, the court may cause it to be performed and may recover the cost of performing it either by the sale of any building, goods or other property removed by its order or by seizure and sale of any other movable property of the person against whom the order under section 104 was made in manner hereinafter prescribed for the recovery of a fine.

(2) No suit shall lie in respect of anything done in good faith under this section.

110. Order pending inquiry

(1) If the court making an order under section 104 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, it may issue such further order to the person against whom the order was made as is required to obviate or prevent such danger or injury pending the determination of the matter.

(2) In detail of the person referred to in subsection (1) forthwith obeying the further order referred to in that subsection or if notice thereof cannot by the exercise of due diligence be served upon him immediately, the court may use or cause to be used such means as it thinks fit to obviate the danger or to prevent the injury.

(3) No suit shall lie in respect of anything done in good faith under subsection (2).

111. Prohibition of repetition of continuance of nuisance

Any court may in any proceedings under this chapter or in any criminal proceedings in respect of a public nuisance order any person not to repeat or continue the public nuisance.

CHAPTER X

Preventive Action by Police and Public

112. Prevention by police and others of offences and injury to public property

Every police officer, area head or other public servant charged with responsibility for maintaining law and order may intervene for the purpose of preventing and shall to the best of his ability prevent the commission of any offence, for which he is authorised to arrest without a warrant, or any damage to any public property movable or immovable.

[KWS LN 1 of 1982, KWS 10 of 1991.]

113. Public to assist justice of the peace, etc.

Every person shall be bound to assist a justice of the peace, police officer, area head or other public servant charged with responsibility for maintaining law and order reasonably demanding his aid in the suppression of a breach of the peace or in the prevention of any damage to any public property movable or immovable or to any railway, canal, water supply, telegraph, telephone or electrical installation or in the prevention of the removal of any public landmark or buoy or other mark used for navigation.

[KWS 10 of 1991.]

CHAPTER XI

Duty of Public and of Area Heads to give Information

114. Public to give information of certain offences

Every person—

- (a) who has reason to believe that any other person has committed suicide or has been killed by another or by an accident of any kind whatsoever or that a dead body has been found; or
- (b) who is aware of the commission of or of the intention of any other person to commit any offence punishable under section 221, 224, 248 (2), 250, 274, 278, 290, 298, 300, 301, 302, 305, 306, 307, 336, 337, 350, 351, 356 or 357 of the Penal Code,

[Cap. P4.]

shall in the absence of reasonable excuse, the burden of proving which shall lie upon the person making such excuse, forthwith give information to the nearest local government,

court or police officer of such death, dead body, commission or intention.

115. Area head bound to report certain matters

Every area head not being a person competent under Chapter XV to take cognisance of an offence shall forthwith communicate to the nearest court so competent or to the local government, which shall then inform the appropriate police officer, or to the nearest police officer any information which he may possess or obtain respecting—

[KWS LN 1 of 1982, KWS 10 of 1991.]

- (a) the permanent or temporary residence of any notorious receiver or vendor of stolen property; or
- (b) the resort to or passage through his village, ward or district of any person whom he knows or reasonably suspects to be a murderer, robber, escaped convict or person required to appear by a summons published under section 67; or
- (c) the occurrence within his village, ward or district of the death of any person or the disappearance from his village, ward or district of any person in circumstances which lead to a reasonable suspicion that the death or disappearance is the result of an offence committed in respect of such person; or
- (d) any matter likely to affect the maintenance of order or the prevention of crime or the safety of persons or property respecting which the local government has directed him to report.

116. Investigation by area head on receiving information under section 115

(1) An area head to whom information has been given under paragraph (c) of section 115 or who suspects the existence of such facts as are set out in that paragraph shall after forwarding the information either to the local government which shall then inform the appropriate police officer, or in any other manner prescribed in that section, proceed to the place where the body of the deceased is and shall there in the presence of two or more persons whom he shall summon for the purpose, and who also shall be bound to attend, make an investigation and draw up a report of the apparent cause of death describing such wounds, fractures and other marks of injuries as may be found on the body and stating in what manner or by what weapon or instrument those marks appear to have been inflicted and such other information relating to the death as he can discover.

[KWS 10 of 1991.]

(2) Notwithstanding the provisions of subsection (1), when the police officer to whom information has been given under paragraph (c) of section 115 undertakes the investigation the area head on being so notified shall cease further to investigate the same as directed by

the police officer.

(3) Where practicable the person making an investigation under subsections (1) and (2) shall be accompanied by a medical officer or dispensary attendant.

(4) Where there is any doubt regarding the cause of death or where for any other reason the person making the investigation considers it expedient and practicable to do so or where the medical officer or dispensary attendant attending such investigation so directs, the body shall be brought to the nearest hospital or to some other convenient place for further examination.

(5) Except in case of necessity the burial shall not take place until leave has been obtained from a justice of the peace.

(6) The person making the investigation under this section shall have the powers and duties of a police officer under sections 123 and 124.

(7) On completion of the investigation the area head shall forward his report and the record, if any, of his investigation to the local authority which shall then inform the appropriate police officer.

(6) Nothing in this section shall operate to relieve any police officer from any obligation or duty conferred upon him under Chapter XII to undertake and carry out any investigation.

PART V

Information to the Police and their Powers to Investigate

CHAPTER XII

A—Procedure in Cases where the Police may Arrest without a Warrant

117. Information in cases where the police may arrest without a warrant

(1) When information is given to the officer in charge of a police station concerning the commission of an offence for which according to the third column of Appendix A the police are authorised to arrest without a warrant and which under the provisions of Chapter XIII may be tried by a court within the local limits of whose jurisdiction the police station is situated he shall if it is given orally reduce the information or cause it to be reduced to writing in the prescribed form called the First Information Report and shall read it or cause it to be read over to the informant; and every such information whether given in writing or reduced to writing as aforesaid shall be signed or sealed by the person giving it if he is able so to do and such officer shall enter or cause to be entered the information in a book to be kept in the form prescribed by the Commissioner of Police for the State.

Provided that if the officer is satisfied that no public interest will be served by a prosecution

he may refuse to accept the information and notify in writing the informant of his right to complain to a court under section 143.

[Appendix A]

(2) When on any other grounds the officer in charge of a police station has reason to suspect the commission of an offence referred to in subsection (1) he shall enter or cause to be entered the grounds of his suspicion in a First Information Report and the substance thereof in the book referred to in that subsection.

(3) Notwithstanding the provisions of subsection (1), the officer in charge of a police station may, if in his view the matter might more conveniently be investigated by an officer in charge of another police station, transfer the information or refer the information to such other police station.

118. Procedure where warrant is not required for arrest

(1) After complying with the provisions of section 117 the officer in charge of a police station shall act as follows—

- (a) he shall send to the appropriate court in the manner set out in section 119 the First Information Report;
- (b) (i) he shall forthwith proceed to the spot and investigate the case and if the offender is not already in custody take such steps as may be necessary for his discovery and arrest, or he may depute a police officer subordinate to him to do so and to report to him;
- (ii) in cases involving death or serious injury to any person, the officer in charge of the police station shall arrange, if possible, for a medical officer or dispensary attendant to examine the body or the person injured, and if the officer in charge of the police station or a police officer deputed by him under this subsection so directs, the body or the person injured shall be brought to the nearest hospital for such further examination as he or the medical officer or dispensary attendant considers necessary and the burial shall not take place except in case of necessity until leave has been obtained from a court or justice of the peace;
- (c) if the information is given against a person by name and the alleged offence is not of a serious character the officer in charge of a police station need not make or direct the investigation on the spot; and
- (d) if it appears to the officer in charge of a police station that there is not sufficient ground or reason for entering upon the investigation he need not investigate the case.

(2) In the cases mentioned in paragraphs (c) and (d) of subsection (1) the officer in charge of a police station shall record in the book referred to in section 117 and in his First Information Report to the court his reasons for not entering on an investigation or

for not making or directing the investigation on the spot or not investigating the case.

119. Manner of submitting First Information Report

(1) Every First Information Report sent to a court shall be submitted through such officer of police, if any, as the Commissioner of Police for the State shall direct.

(2) An officer through whom a First Information Report is submitted under the provisions of subsection (1) may give such instructions as he thinks fit to the officer submitting the report and shall after recording such instructions, if any, on the First Information Report pass the same to the court without delay.

120. Power of court on receiving First Information Report

(1) After receiving the First Information Report the court may—

- (a) direct that the police shall proceed with the investigation; or
- (b) if it thinks fit proceed to hold an inquiry into or otherwise deal with the case as provided in Chapter XV.

(2) In the event of the court electing to proceed in accordance with paragraph (b) of subsection (1) it shall forthwith inform the officer in charge of the police station of its intention so to do and thereupon the police shall act according to the direction of the court.

121. Case diary to be kept by police

(1) Every officer in charge of a police station conducting an investigation under section 118, or any police officer deputed by the officer in charge of a police station to conduct such investigation, shall keep a case diary in which he shall set forth in chronological order—

- (a) the time when he began his investigation;
- (b) any information received by him in connection with the investigation;
- (c) the time when such information reached him;
- (d) the places visited by him;
- (e) any action required to be taken or directions given by a court in the course of the police investigations or the inquiry by the court, and any facts ascertained as a result thereof;
- (f) any report made by any police officer acting on his instructions;
- (g) the statement of any witness, if reduced to writing;
- (h) a statement of the circumstances ascertained through his investigation;
- (i) the time when he closed the investigation.

(2) The First Information Report or a copy thereof shall in all cases be attached to and form part of the case diary.

122. Use of case diary

(1) Nothing in any way included in or forming part of a case diary shall be admissible in evidence in any inquiry or trial unless it is admissible under the provisions of the Evidence Law or of this Criminal Procedure Code or of rules made thereunder, but—

[NN 2 of 1961, NN 1963, Cap. 40 (now Federal).]

(a) a court may if it shall think fit order the production of the case diary for its inspection under the provisions of section 144;

(b) the Attorney-General may at any time order the submission of the case diary to himself;

(c) any relevant part of the case diary may be used by a police officer who made the same to refresh his memory if called as a witness.

(2) Save to the extent that—

(a) anything in any way included in or forming part of a case diary is admitted in evidence in any inquiry or trial in pursuance of the provisions of subsection (1); or

(b) the case diary is used for the purposes set out in paragraph (c) of subsection (1),

the accused or his agent shall not be permitted to call for or inspect such case diary or any part thereof but, where for the purposes of paragraph (a) or (b) any such inspection is permitted, such inspection shall be limited to the part of the case diary referred to in paragraph (a) or (b) as the case may be.

123. Power of police to summon and examine

(1) A police officer making an investigation under section 118 may require the attendance before him of any person being within the limits of his own police district, whose evidence appears likely to be of assistance in the case, and may examine such person orally.

(2) A person referred to in subsection (1) shall be bound to attend and to answer the questions put to him except that he shall be warned that he is not bound to answer if his answer would tend to expose him to a criminal charge or a penalty other than a charge of failing to give information under Chapter XI.

(3) No person giving evidence in an investigation under section 118 shall be required to take an oath.

124. No inducement to be offered

- (1) No police officer or person in authority shall make use of any threat or of any promise of an advantage towards any person in an investigation under this chapter in order to influence the evidence he may give.
- (2) No police officer or other person shall prevent any person from making in the course of the investigation any statement in accordance with any rules made under section 373 which of his own free will he may be disposed to make.

125. Confession to justice of the peace

- (1) If any person in the course of an investigation under section 118 or at any time after the close of the investigation but before the commencement of any inquiry or trial confesses to the commission of an offence in connection with the subject matter of the investigation he may be taken before a justice of the peace, when available, for his statement to be recorded by such justice of the peace and thereafter placed in the case diary.
- (2) When a justice of the peace records such confession he shall do so in detail in his own handwriting in the presence of the person making the confession and after reading over to him such record the justice of the peace shall sign it.
- (3) No justice of the peace shall record any such confession unless after questioning the person making it he is satisfied that it is made voluntarily.
- (4) No oath shall be administered to any person making such confession.
- (5) The record of such confession in the case diary if made by a justice of the peace in accordance with this section shall be admissible as evidence against the person who made the confession and if so admitted shall be read out in court and it shall not be necessary to call as a witness the justice of the peace who recorded it.

Provided that the court trying the case may if the court thinks fit either on the application of the accused or of its own motion call the justice of the peace who recorded the confession as a witness to the contents and to prove the circumstances in which it was recorded.

126. Confession to police officer

- (1) If any person in the course of an investigation under section 118 or at any time after the close of the investigation but before the commencement of any inquiry or trial confesses to the commission of an offence in connection with the subject matter of the investigation, a police officer may, instead of taking the person before a justice of the peace, record such confession in the case diary in his own handwriting in the presence of the person making the confession and after reading over to that person such record shall require him to sign or seal it and the police officer shall also sign it.

(2) No police officer shall record any such confession unless after questioning the person making it he is satisfied that it is made voluntarily.

(3) No oath shall be administered to any person making such confession.

(4) Subject to the provisions of the Evidence Law and of any rules made under paragraph (/) of subsection (1) of section 373 of this Code, the record of a confession in the case diary if made by a police officer in accordance with this section shall be admissible as evidence against the person who made the confession and if so admitted shall be read out in court.

[NN 1963 Cap 40 (now Federal).]

127. Medical examination of suspect

(1) A person under arrest upon reasonable suspicion of having been concerned in an offence punishable with imprisonment may be required by any justice of the peace or police officer to submit to a medical examination by a medical officer or if no medical officer is available by a dispensary attendant.

(2) Such a medical examination shall only be required if it is so desirable in the interests of justice.

128. Taking of fingerprints etc.

(1) A court holding a trial or inquiry or a police officer conducting an investigation may cause the fingerprints, photograph or measurements of any person to be taken if satisfied that it is desirable in furtherance of the purposes of the trial, inquiry or investigation.

(2) All fingerprints, photographs or records of measurements taken under this section may be kept for six months but if not already destroyed shall then be destroyed unless the person in respect of whom they were taken has been convicted of an offence.

(3) Notwithstanding the provisions of subsection (2), when a person who has not previously been convicted of an offence is discharged by the court or acquitted upon his trial or is not charged, all fingerprints, photographs and records of measurements taken under this section shall forthwith be destroyed.

129. Remand of person in custody

(1) Whenever it appears that an investigation under section 118 cannot be completed within twenty-four hours of the arrival of the accused or suspected person at the police station, the officer in charge of the police station shall release or discharge him under section 340, or send him as soon as practicable to the nearest court competent under Chapter XV to take cognisance of the offence.

(2) The court may from time to time, on the application of the officer in charge of a police station, authorise the detention of the person under arrest in such custody as it thinks

fit for a time not exceeding fifteen days, and shall record its reasons for so doing.

(3) If the court refuses to authorise detention of the accused under arrest it shall make an order of discharge under section 45.

(4) If the police investigation is not completed within fifteen days and the court considers it advisable that the accused should be detained in custody pending further investigation it shall remand the accused as provided in section 255.

130. Procedure where police consider investigation should be terminated without inquiry or trial

(1) If in the course of an investigation under section 118 it appears to the officer in charge of a police station by or under whom an investigation is being made that such investigation should be terminated without an inquiry or trial, he shall, after entering in the case diary a summary of the case and his reasons for terminating the investigation, close the case diary and terminate the investigation.

Provided that nothing in this subsection shall prevent the officer in charge of a police station from re-opening the case diary and continuing the investigation if further information is given to him concerning the commission of the offence.

(2) When an investigation has been terminated or re-opened under the provisions of this section, the officer in charge of a police station shall forthwith inform the court and the court shall thereupon endorse upon the First Information Report the fact of such termination or re-opening and the reasons therefor.

Provided that the court may, if it is not satisfied from the information given that the investigation has been properly terminated, order that the investigation be continued and the case diary be re-opened; and if the court shall think fit may send a copy of the First Information Report endorsed as aforesaid together with the reasons stated by the officer in charge of a police station to the Attorney-General with any comments that it may think fit to make.

(3) When any person has been taken into custody in the course of an investigation and such investigation has been terminated under the provisions of subsections (1) and (2) the officer in charge of a police station shall on such termination forthwith release him, or, if he has been remanded in custody by the court, shall cause an application to be made to the court for an order that such person be released.

(4) Nothing in this section shall affect the power of the police to release an arrested person under section 45.

(5) Notwithstanding the provision of this section, an officer in charge of a police station shall not order the termination of an investigation which has been instituted by direction of the Attorney-General.

131. Procedure when police consider that investigation should be terminated upon inquiry or trial

If, upon an investigation under this chapter, it appears to the officer in charge of a police station that there is sufficient evidence or reasonable ground or suspicion to justify sending the accused to a court empowered to take cognisance of the offence, he shall send the accused to such court which may fix a day for the inquiry or trial, or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such court on a day to be fixed, and thereafter for his attendance from day to day before such court until otherwise directed.

132. Attendance of accused and bonds for attendance of witnesses

(1) If under the provisions of section 131 the court fixes a day for an inquiry or trial the officer in charge of a police station shall subject to any orders or directions of the court—

- (a) require the complainant, if any, and all persons likely to be required as witnesses to execute bonds without sureties to appear before the court as thereby directed and to prosecute or give evidence, as the case may be, in the matter of the inquiry or trial;
- (b) arrange for the accused whether in custody or on bail to be before the court on the day fixed for the inquiry or trial.

(2) A copy of a bond executed under subsection (1) shall be handed to the person executing the same and the original shall be forwarded to the court for filing.

(3) If any person required to execute a bond under this section refuses to do so, he may be sent in custody to the court which may order his detention until he executes the bond or until the hearing of the case is concluded.

B—Procedure in cases where the Police may not Arrest without a Warrant

133. Procedure where warrant is required for arrest

(1) When any information is received by an officer in charge of a police station of facts pointing to the commission of an offence for which the police may not arrest without a warrant, he shall enter the substance of the information in a book in the form prescribed in accordance with subsection (1) of section 117 and either in a First Information Report or in

such other report as may be prescribed in respect of the offence and thereupon refer the informant, if other than a public servant acting in the exercise of his public duties, to a justice of the peace and send the First Information Report or such other report to the same justice of the peace and the justice of the peace on receipt thereof shall, if the police show sufficient cause, issue a warrant.

(2) No investigation of such an information shall be made by any police officer without the order of a justice of the peace or superior police officer unless the circumstances appear to be such that the delay which would be caused by submitting the report may seriously prejudice the interests of justice, in which case the investigation may be commenced forthwith but a report shall be sent as soon as possible to a justice of the peace or superior police officer giving the reasons for the action taken and on the receipt of the report of the justice of the peace or superior police officer may give such orders or direction as he thinks fit.

(3) The functions conferred on a superior police officer by subsection (2) may be exercised by such other police officers as the Commissioner of Police for the State may by office appoint.

(4) Any investigation of such an information undertaken by a police officer either by direction of a justice of the peace or superior police officer under subsection (2) or without such direction under subsection (2) shall be conducted in such manner and with such powers as are set out in this chapter save that no arrest of a suspected person shall be made without a warrant.

PART VI

Proceedings in Prosecutions

CHAPTER XIII

Place of Trial

134. Ordinary place of trial

Every offence shall ordinarily be tried by a court within the local limits of whose jurisdiction—

- (a) the offence was wholly or in part committed, or some act forming part of the offence was done; or
- (b) some consequence of the offence has ensued; or
- (c) some offence was committed by reference to which the offence is defined; or

(d) some person against whom, or property in respect of which, the offence was committed is found, having been transported thither by the offender or by some person knowing of the offence.

Illustrations. (a) *A posts in Oro a letter addressed to B in Ilorin threatening to accuse B of an offence in order to extort money from him.*

(b) *A stabs B at Oro and B dies ten days later at Ilorin in consequence of the wound.*

(c) *A in Oro abets an offence committed by B at Ilorin.*

(d) *A abducts B at Oro and carries him to Ilorin, where he is found.*

(e) *A steals property at Oro and the property is taken by B, who knows it to be stolen, to Ilorin where it is found.*

In all above cases A may be tried either at Oro or at Ilorin.

135. Place of trial when scene of offence is uncertain

When it is uncertain in which of several districts an offence was wholly or in part committed, the offence may be tried by a court having jurisdiction over any of such districts.

136. Offence committed on a journey

An offence committed by a person whilst he is in the course of performing a journey or voyage may be tried by a court through or into the local limits of whose jurisdiction he, or the person against whom, or the thing in respect of which, the offence was committed, resides, is or passed in the course of that journey or voyage.

[NN 12 of 1964.]

137. Chief Judge to decide in case of doubt court in which trial shall take place

Whenever a question arises as to which of two or more courts ought to try any offence it shall be decided by the Chief Judge.

138. Power to transfer

(1) The Chief Judge may, whenever it appears to him that the transfer of a case will promote the ends of justice or will be in the interests of the public peace, transfer any case from one court to another at any stage of the proceedings.

[KWS LN 1 of 1982.]

(2) Nothing in this section shall affect powers of transfer under the provisions of the Area Courts Law.

[Cap. A9.]

139. Power to try offence committed beyond local jurisdiction

Subject to section 147, when a court has reason to believe that any person within the local limits of its jurisdiction has committed without such limits an offence which cannot under the provisions of section 134 or any other law for the time being in force, be tried within such local limits but is under any law for the time being in force, triable in the Kwara State of Nigeria, it may take cognisance of the offence as if it had been committed within the local limits of its jurisdiction and compel such person in manner hereinbefore provided to appear before it and send him to a court having jurisdiction to try the offence, or, if the offence is bailable may take a bond with or without sureties for his appearance before such a court.

CHAPTER XIV

Sanctions Necessary for the Initiation of Certain Proceedings

140. Prosecution for contempt of lawful authority of public servants

(1) No court shall take cognisance—

[KWS 10 of 1991.]

(a) of any offence punishable under sections 134 to 152 of the Penal Code, except with the previous sanction or on the complaint of the public servant concerned or of some public servant to whom he is subordinate;

[Cap. P4.]

(b) of any offence punishable under section 155, 158, 159, 160, 161, 164, 165, 174, 175, 176, 179, 180 or 182 of the Penal Code when such offence is committed in or in relation to any proceeding in any court, except with the previous sanction or on the complaint of such court;

[Cap. P4.]

(c) of any offence described in section 363 of the Penal Code or punishable under section 366 or section 369 of the Penal Code, when such offence has been committed by a party to any proceeding in any court in respect of a document produced or given in evidence in such proceeding, except with the previous sanction or on the complaint of such court;

(d) of any offence punishable under paragraph (a) of section 111 of the Penal Code where the circumstances are such as to constitute an offence under section 6 of the Public Order Act, except with the sanction of the Attorney-General;

[No. 5 of 1979.]

(e) of any offence punishable under section 97B of the Penal Code except with the

sanction of the Attorney-General.

[NR 20 of 1960.]

- (2) The provisions of subsection (1), with reference to the offences named therein, apply also to the abetment of such offences and attempts to commit them.
- (3) The sanction referred to in this section may be expressed in general terms and need not name the accused person, but it shall, so far as practicable, specify the place where and the occasion on which the offence was committed.
- (4) When sanction is given in respect of any offence referred to in this section, the court taking cognisance of the case may frame a charge of any other offence so referred to which is disclosed by the facts.
- (5) Any sanction given or refused under this section may be revoked or granted by any authority to which the authority giving or refusing it is subordinate.

141. Prosecution for breach of contract defamation and offences against marriage

No court shall take cognisance of any offence falling under Chapter XXI or Chapter XXIII of the Penal Code or under sections 383 to 386 of the same Code, except upon a complaint made by some person aggrieved by such offence, but where the person so aggrieved is a woman who according to the customs and manners of the country ought not to be compelled to appear in public or where such person is under the age of eighteen or is an idiot or lunatic or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the court, make a complaint on his or her behalf and in the case of an offence under section 393 of the Penal Code where the party so aggrieved is the Government or a local government the Attorney-General may make a complaint on behalf of the Government, and a member of the local government may make a complaint on behalf of such local government and in the case of an offence under section 393 of the Penal Code where the party so aggrieved is other than the Government, or local government, a police officer may, in the public interest and with the sanction of the Attorney-General, make a complaint on behalf of such party.

[Cap. P4.]

[KWS LN 1 of 1982.]

142. Prosecution for adultery

- (1) No court shall take cognisance of an offence under section 387, 388 or 389 of the Penal Code except—

[Cap. P4.]

- (a) upon a complaint made by the husband of the woman or in his absence by some person who had care of such woman on his behalf at the time when the offence was committed; or
- (b) in the case of the woman being unmarried upon a complaint made by her father or guardian or in his absence by some person who had care of such unmarried woman on his

behalf at the time when the offence was committed.

(2) Where the husband, father or guardian referred to in subsection (1) is under the age of eighteen years, or is an idiot or lunatic or is from sickness or infirmity unable to make a complaint some other person may, with the leave of the court, make a complaint on his behalf.

CHAPTER XV

Initiation of Judicial Proceedings before a Court

143. Cognisance of offences by court

Subject to the provisions of Chapters XIII and XIV, a court may take cognisance of any offence committed within the local limits of its jurisdiction—

- (a) when an arrested person is brought before it under section 40 or 41;
- (b) upon receiving a First Information Report under section 118, or from any other court;
- (c) upon receiving a complaint in writing from the Attorney-General;
- (d) upon receiving a complaint of facts which constitute the offence;
- (e) if from information received from any person other than a police officer it has reason to believe or suspect that an offence has been committed.

144. Power of court to give directions

When the accused person appears before a court taking cognisance of an offence, the court may require the police officer, if any, in charge of the investigation, or any police officer acting on his behalf, to state a summary of the case and, if the court shall think fit, to produce the case diary for its inspection; and upon the application of any such police officer or of its own motion, the court may give such directions as to the matters to be proved and how they are to be proved, and what documents or other exhibits are to be produced as the court may think fit.

145. Power of court to advise person the subject of a complaint

When a court has exercised its powers under section 144 it shall inform the accused person that he is not required to say anything at that stage, but that if he wishes to inform the court of the substance of his defence he can do so in order that the court may give him such advice as it may think fit.

146. Examination of complaint

(1) A court taking cognisance of an offence on complaint shall, subject to the exercise of its powers under sections 144 and 145, thereupon examine the complainant and reduce his

complaint and the substance of the examination to writing, and the writing shall be signed or sealed by the complainant if he is able so to do.

(2) A court may in its discretion conduct such examination on oath.

(3) When the complaint is made in writing and signed by a public servant acting or purporting to act in the execution of his official duties, the court may, if it thinks fit, and shall when the complaint is made by a court under section 314 proceed with the inquiry into or trial of the case without examining the complainant under this section.

147. Transfer of cases by court

If an offence of which a court takes cognisance ought properly to be inquired into or tried by another court or if in the opinion of the court taking cognisance thereof the offence might be more conveniently inquired into or tried by another court, it shall send the case to such other court.

148. Power of court to order further investigation

If a court taking cognisance of an offence under the provisions of section 143 is of the opinion that an investigation or further investigation should be conducted under the provisions of Chapter XII, the court shall order that such an investigation or further investigation shall be made, and such investigation or further investigation shall be conducted in the same manner and with the same powers as are set out in Chapter XII; and at the time when such order is made or at any stage of the investigation or further investigation the police officer in charge of the investigation, or any police officer acting on his behalf, may appear before the court and apply for directions as to the matters to be proved and how they are to be proved, and what documents, if any, are to be produced.

149. Inquiry by court of complaint by person other than police officer

(1) A court taking cognisance of an alleged offence on the complaint of any person other than a police officer may, for reasons to be recorded in writing, make an inquiry into the case or direct any subordinate court to do so or refer the matter to any police officer for investigation.

(2) An investigation by a police officer under the provisions of subsection (1) shall be conducted so far as may be in the manner and with the powers in and with which an investigation under Chapter XII is conducted, and shall, if the police have already investigated the case, be deemed to be a continuation of that investigation.

150. Court may refuse to proceed

(1) A court taking cognisance of an alleged offence may refuse to proceed with the case if after examining the complainant, if any, and considering the result of any investigation

held under Chapter XII or section 149 there is in its opinion no sufficient ground for proceeding; and it shall thereupon briefly record its reasons for so refusing.

(2) If the accused is in custody or on bail, he shall be discharged when the court refuses under this section to proceed.

(3) A person aggrieved by a refusal of a court to proceed with a case may apply to the appropriate appeal court with an affidavit setting out the facts for an order directing the transfer of the case to another court with jurisdiction to hear and determine the cause or matter.

151. Procedure by court not competent to take cognisance of cases

(1) If a First Information Report or a complaint in writing is received by a court which is not competent to take cognisance of the offence, the court shall return the First Information Report or complaint for presentation to the proper court with an endorsement to that effect.

(2) If a complaint not in writing is made to a court which is not competent to take cognisance of the offence the court shall direct the complaint to the proper court.

152. Inquiry or trial

When a court taking cognisance of an offence is satisfied that there is sufficient ground for proceeding, it shall after causing process to issue for the attendance of the accused person, if he is not already in custody or on bail, proceed either to hold an inquiry into the offence or to try the offence provided that it is competent so to do.

153. Presence of accused at trial

Every accused person shall, subject to the provisions of section 154, be present in court during the whole of his trial unless he misconducts himself by so interrupting the proceedings or otherwise as to render their continuance in his presence impracticable.

154. Process to compel attendance of accused

(1) Process to compel the attendance of the accused person shall ordinarily be a summons or a warrant according as in the opinion of the court a summons or a warrant should according to the fourth column of the Appendix A issue in the first instance.

[Appendix A.]

(2) When a summons is issued the court may if it sees reason to do so dispense with the personal attendance of the accused.

Provided that—

(a) he is represented by counsel; or

(b) he pleads guilty in writing.

(3) Notwithstanding the provisions of subsection (2), the court shall not without adjourning for his personal attendance sentence the accused to any term of imprisonment or to any other form of detention or order him to be subject to any disqualification.

CHAPTER XVI

Summary Trials

155. Procedure in summary trials

The procedure laid down in this chapter shall be observed by magistrates' courts and area courts.

156. Substance of accusation to be stated

When the accused appears or is brought before the court the particulars of the offence of which he is accused shall be stated to him and he shall be asked if he has any cause to show why he should not be convicted.

157. Conviction on admission of truth of accusation

(1) If the accused admits that he has committed an offence of which he is accused his admission shall be recorded as nearly as possible in the words used by him and if he shows no sufficient cause why he should not be convicted the court may convict him accordingly, and in that case it shall not be necessary to frame a formal charge.

(2) The maximum sentence of imprisonment or the maximum fine which any grade or class of magistrate may impose on a conviction under this section are as follows—

- (a) the High Court may pass any sentence authorised by law;
- (b) chief magistrate of the first grade — five years imprisonment or a fine of ten thousand naira;
- (c) chief magistrate of the second grade — five years imprisonment or a fine of ten thousand naira;
- (d) senior Magistrate of the first grade — four years imprisonment or a fine of eight thousand naira;
- (e) senior Magistrate of the second grade — four years imprisonment or a fine of eight thousand naira;
- (f) magistrate of the first grade — three years imprisonment or a fine of six thousand naira;
- (g) magistrate of the second grade — two years imprisonment or a fine of four

thousand naira.

[No. 4 of 2006.]

(3)

[No. 4 of 2006.]

158. Evidence for prosecution

(1) When the court decides not to convict the accused under section 157 or when an accused person states that he intends to show cause why he should not be convicted the court shall proceed to hear the complainant, if any, and take all such evidence as may be produced in support of the prosecution.

(2) The court shall ascertain from the complainant or otherwise the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution and shall summon to give evidence before the court such of them as the court thinks necessary.

(3) The accused shall be at liberty to cross-examine the witnesses for the prosecution and, if he does so, the prosecutor may re-examine them.

159. Discharge of accused

(1) If upon taking all the evidence referred to in section 158 and making such examination, if any, of the accused as may be made in accordance with section 235 the court finds that no case against the accused has been made out which if not rebutted would warrant his conviction the court shall discharge him.

(2) The court may discharge the accused at any previous stage of the case, if for reasons to be recorded by the court it considers the charge to be groundless.

(3) A discharge under this section shall not be a bar to further proceedings against the accused in respect of the same matter.

(4) No oath shall be administered to the accused for the purposes of an examination under this section.

160. Charge to be framed when offence appears to have been committed

If when the evidence referred to in section 158 and the examination referred to in section 159 have been taken and made or at any previous stage of the case the court is of opinion that there is ground for presuming that the accused has committed an offence triable under this chapter, which such court is competent to try and which in the opinion of the court could be adequately punished thereby, the court shall frame a charge declaring with what offence the accused is charged and shall then proceed as hereinafter provided.

161. Plea

(1) If the court is of opinion that the offence is one which having regard to section 160 it should try itself, the charge shall then be read and explained to the accused and he shall be asked whether he is guilty or has any defence to make.

(2) If, in proceedings in a magistrate's court, at any stage before the signing of judgment in the trial of a case under this chapter it appears to the magistrate that the case is one which ought to be tried by the High Court, he shall in like manner frame a charge against the accused and, in so far as he has not already done so, shall complete the procedure laid down in Chapter XVII for inquiry into cases triable by the High Court down to the framing of the charge and the magistrate shall thereafter observe the procedure prescribed in that chapter to be followed after the framing of the charge.

(3) No person may be committed for trial to the High Court under this section until all witnesses for the prosecution have been heard, and until the accused, if he so desires, has had an opportunity of calling evidence for the defence, though he may reserve his defence.

162. Defence

(1) If the accused pleads not guilty or makes no plea or refuses to plead, he shall be required to state whether he wishes to cross-examine or further cross-examine any, and if so which, of the witnesses for the prosecution whose evidence has been taken.

(2) If the accused wishes to cross-examine or further cross-examine under the provisions of subsection (1) the witnesses named by him shall be recalled and after cross-examination and re-examination, if any, they shall be discharged.

(3) The evidence of any remaining witnesses for the prosecution shall next be taken and after cross-examination and re-examination, if any, they also shall be discharged.

(4) The accused shall then be called upon to enter upon his defence and produce his evidence.

(5) If the accused puts in any written statement, the court shall file it with the record.

(6) The complainant or prosecutor may cross-examine any witnesses produced for the defence and the accused may re-examine them.

163. Process for compelling production of evidence at instance of accused

(1) The accused may apply to the court to issue any process for compelling the attendance of any witness for the purpose of examination or the production of any document or other thing and the court shall issue such process unless for reasons to be recorded by it in writing it considers that the application is made for the purpose of vexation or delay or of defeating the ends of justice.

(2) The court may before summoning any witness on an application under subsection (1) require that reasonable expenses incurred by such witness in attending for the purposes of the trial be deposited in court.

164. Procedure after finding

- (1) If in any case under this chapter in which a charge has been framed the court finds the accused not guilty, it shall record an order of acquittal.
- (2) If in any case under this chapter in which a charge has been framed the court finds the accused guilty, it shall announce its finding and shall thereafter, if the accused has not previously called any witness to character, call upon him to produce such witness if he so desires and, if he wishes, to make a statement in mitigation of punishment.
- (3) The record of the accused's previous convictions, if any, if it has not already been put in evidence, shall be produced and if necessary proved by the police.
- (4) The court shall then pass sentence upon the accused according to law.

165. Absence of complainant

When the proceedings have been instituted upon complaint and upon any day fixed for the hearing of the case the complainant is absent, the court may in its discretion notwithstanding anything hereinbefore contained at any time before the charge has been framed discharge the accused.

166. Frivolous or vexatious accusations

- (1) If, in any case instituted by complaint as defined in this Criminal Procedure Code or upon information given to a police officer or a court and heard under this chapter, the court discharges or acquits the accused and is satisfied that the accusation against him was frivolous or vexatious, the court may in its discretion by its order of discharge or acquittal direct the complainant or informant to pay to the accused, or to each of the accused where there are more than one, such compensation not exceeding fifty naira to each such accused as the court thinks fit and may award a term of imprisonment not exceeding three months in the aggregate in default of payment, and the provisions of sections 74 and 75 of the Penal Code shall apply as if such compensation were a fine.

[Cap. P4.]

[NN 12 of 1964, KWS LN 1 of 1982.]

- (2) Before making any decision under subsection (1) the court shall—
 - (a) record and consider any objection which the complainant or informant may urge against the making of the direction; and
 - (b) state in writing in its order of discharge or acquittal its reasons for awarding the

compensation.

- (3) Compensation awarded under this section may be recovered as if it were a fine.
- (4) Any person directed to make a payment of compensation under this section may appeal from the direction as if he had been convicted after trial by the court.

CHAPTER XVII

Preliminary Inquiry and Commitment for Trial to the High Court

167. Commitment

- (1) No person shall be committed for trial to the High Court except by a magistrate and after a preliminary inquiry has been held.
- (2) Nothing in this section shall prevent the High Court trying a case summarily under paragraph (b) or (c) of section 185.

168. Taking of evidence produced

- (1) When the accused appears or is brought before him the magistrate shall proceed to hear the complainant, if any, and to take all such evidence as may be produced in support of the prosecution or on behalf of the accused or as may be called for by the magistrate.
- (2) The magistrate shall ascertain from the complainant or otherwise the names of any persons likely to be acquainted with the facts of the case and be able to give evidence for the prosecution and shall summon to give evidence before him such of them as he thinks necessary.
- (3) If the complainant or prosecutor or the accused applies to the magistrate to issue process to compel the attendance of any witness or the production of any document or thing, the magistrate shall issue such process unless for reasons to be recorded by him in writing he deems it unnecessary to do so.
- (4) The accused may cross-examine the witnesses for the prosecution and in such case the complainant or prosecutor may re-examine them, and in like manner the complainant or prosecutor may cross-examine any witnesses produced for the defence and the accused may re-examine them.
- (5) Where any person able to give material evidence, is from illness or injury, unable to attend before the magistrate, the magistrate may take the deposition of that person at the place where that person is and the prosecutor and the accused shall have the right to attend and cross-examine him.
- (6) The magistrate shall cause the documents and other articles exhibited by any witnesses to be listed and labelled, or otherwise marked, in the presence of the person producing the same.
- (7) The magistrate shall sign the deposition of every witness and the statement made by the accused on examination by the court or any statement made voluntarily by the accused

to the court, and the signature of the magistrate shall authenticate such deposition or statement.

(8) The accused shall be informed by the magistrate that he is not obliged to say anything at this stage and that he may reserve his defence until the trial by the High Court.

(9) Where the accused has not reserved his defence under subsection (8) the magistrate may at this stage examine him generally on the case for the purpose of enabling him to explain any circumstances in the evidence and to discover his line of defence but nothing in this examination shall be in the nature of a general cross-examination for the purpose of establishing the guilt of the accused.

169. When accused to be discharged

(1) If, upon taking all the evidence referred to in section 168 and making an examination, if any, of the accused in accordance with section 235, the magistrate finds that there are not sufficient grounds for committing the accused for trial to the High Court or for the trial of the accused by himself or some other magistrate, he shall record his reasons and discharge him.

(2) The magistrate may discharge the accused at any previous stage of the case if for reasons to be recorded he considers the charge to be groundless.

(3) A discharge under this section shall not be a bar to further proceedings against the accused in respect of the same matter.

(4) No oath shall be administered to the accused for the purposes of an examination under this section.

170. Transformation of inquiry into trial

If, after the evidence and examination, if any, referred to in section 169 have been taken and made or at any previous stage of the inquiry, the magistrate is of opinion that the case is not one that should be tried by the High Court but that there is ground for presuming that the accused has committed an offence which should be tried by himself or some other court, he shall, if he has jurisdiction, proceed himself to try the accused under Chapter XVI or shall stay proceedings and submit the case to the proper court as laid down in section 256.

171. Procedure on transformation of inquiry into trial

When pursuant to section 170 the magistrate elects to try the accused himself under Chapter XVI he shall forthwith frame a charge under his hand against the accused and shall proceed in manner laid down in the said chapter as upon the framing of a charge in a trial by a magistrate.

172. Framing of charge

If, after the evidence referred to in section 168 and the examination, if any, referred to in section 169 have been taken and made, the magistrate is satisfied that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand declaring with what offence the accused is charged.

173. Charge to be explained and copy furnished to accused

When the charge has been framed in accordance with section 172 it shall be read and explained to the accused and a copy of it shall if he so requires be given to him free of cost.

174. List of witnesses for defence at trial

(1) Immediately after the framing of the charge the accused shall be required to give to the magistrate orally or in writing a list of the persons, if any, whom he wishes to be summoned to give evidence at his trial.

(2) The magistrate may in his discretion allow the accused to submit any further list of witnesses at a subsequent time.

175. Power of magistrate to examine witnesses named in the list given under section 174

The magistrate may in his discretion and with the consent of the accused summon and examine any witness named in any list given to him under section 174.

176. Order of commitment

(1) If the magistrate after hearing any witness summoned under section 175 is satisfied that there are not sufficient grounds for committing the accused, he may withdraw the charge and discharge the accused or he may proceed as laid down in section 170.

[NN 12 of 1964.]

(2) If the magistrate deems unnecessary to summon and examine all or any of the witnesses named in any list given to him under section 174 or if after hearing under section 175 any of such witnesses he is still satisfied that there are sufficient grounds for committing the accused, he shall make an order committing the accused for trial to the High Court and shall briefly record his reasons for the commitment.

177. Summons to witnesses for defence when accused is committed

(1) When the accused has given any list of witnesses under section 174 and has been committed for trial, the magistrate shall summon the witnesses to appear before the court to which the accused has been committed.

(2) Subject to the provisions of section 364, before the issue of any summons referred to in subsection (1) the accused shall pay to the registrar the prescribed fees for the issue and service of the summons and shall deposit in court the reasonable expenses of the witness required to attend before the court and the magistrate shall explain to the accused that no witnesses named in his list or in any future list submitted under subsection (2) of section 174 will be summoned unless such payment and deposit are made.

178. Bonds of complainants and witnesses

(1) Where any witnesses named in a list of witnesses submitted by the accused under section 174 have appeared before the magistrate at the preliminary inquiry and the magistrate has exercised his powers under section 364 in respect of those witnesses, those witnesses shall execute bonds binding themselves to be in attendance at the trial to give evidence.

(2) Complainants and witnesses for the prosecution, whose attendance at the trial is necessary and who appear before a magistrate, shall execute before him bonds binding themselves to be in attendance if and when called upon at the trial to give evidence.

179. Detention in custody in case of refusal to execute bond

If any complainant or witness refuses to execute a bond referred to in section 178, the magistrate may detain him in custody until he executes the bond or until his attendance at the trial is required.

180. Charge, etc., to be forwarded

When the accused is committed for trial the magistrate shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence to the court which is to try the case and shall also send the charge and a copy of the record to the Attorney-General and to the accused.

181. Power of Attorney-General to amend or alter charge

At any time after the completion of the inquiry and before the commencement of the trial in the High Court the Attorney-General may, by notice to the High Court, amend the charge as framed at the inquiry or substitute for that charge such other charge or charges as he may see fit.

182. Power to summon supplementary witnesses

(1) The committing magistrate or in his absence any other magistrate may, if he thinks fit, and shall, if required by the Attorney-General, summon and examine supplementary witnesses after the commitment and before the commencement of trial and bind them over

in manner hereinbefore provided to appear and give evidence.

(2) Such examination shall if possible be taken in the presence of the accused and if not so taken the record thereof shall be read over to the accused before the trial.

(3) A copy of such record shall be given to the accused free of cost.

183. Custody of accused pending trial

The magistrate shall, subject to the provisions of this Criminal Procedure Code regarding the taking of bail, commit the accused by warrant to custody until and during the trial.

184. Continuation of inquiry by a different magistrate

Whenever any magistrate after having heard and recorded the whole or part of the evidence in an inquiry is succeeded or temporarily replaced in his office by another magistrate, the magistrate so succeeding may act on the evidence so recorded by his predecessor or partly recorded by his predecessor and partly recorded by himself, or he may of his own motion or on the reasonable demand of the accused resubmit all or any of the witnesses or recommence the inquiry.

CHAPTER XVIII

Trials by the High Court

185. Trial by High Court

No person shall be tried by the High Court unless—

- (a) he has been committed for trial to the High Court in accordance with the provisions of Chapter XVII; or
- (b) a charge is preferred against him without the holding of a preliminary inquiry by leave of a judge of the High Court; or
- (c) a charge of contempt is preferred against him in accordance with the provisions of section 314 or section 315.

186. Defence in capital cases

Where a person is accused of an offence punishable with death if the accused is not defended by a legal practitioner the court shall assign a legal practitioner for his defence.

187. Commencement of trial

(1) When the High Court is ready to commence the trial the accused shall appear or be brought before it and the charge shall be read out in court and explained to him and he shall be asked whether he is guilty or not guilty of the offence or offences charged.

(1) If the accused pleads guilty the plea shall be recorded and he may in the discretion of the court be convicted thereon unless the offence charged is punishable with death when

the presiding judge shall enter a plea of not guilty on behalf of the accused.

188. Plea of not guilty or no plea

If the accused pleads not guilty or makes no plea or refuses to plead or if the judge enters a plea of not guilty on behalf of the accused, the court shall proceed to try the case.

189. Presentation of case for prosecution

- (1) After a plea of not guilty has been taken or no plea has been made the prosecutor may open the case against the accused person stating shortly by what evidence he expects to prove the guilt of the accused.
- (2) The prosecutor or if there is no prosecutor the court shall then examine the witnesses for the prosecution who may be cross-examined by the accused or his counsel and thereafter re-examined by the prosecutor.

190. Examination of accused at inquiry to be read

After the witnesses for the prosecution have been heard the examination of the accused duly recorded by or before the committing magistrate shall be produced and read out in court.

1. Procedure after conclusion of evidence for prosecution

- (1) After the reading of the examination of the accused, in accordance with the provisions of section 190, the accused may be examined as provided in section 235 and he shall then be asked—

[NN 12 of 1964.]

- (a) whether he wishes to give evidence on his own behalf as provided in section 236;and

- (b) whether he means to call witnesses other than witnesses to character.

- (2) If the accused says that he does not intend to call any witness other than witnesses to character, the prosecutor, if any, may sum up his case against the accused and the court will then call upon the accused to enter upon the defence.

- (3) Notwithstanding the provisions of subsection (2), the court may, after hearing the evidence for the prosecution if it considers that the evidence against the accused or any of several accused is not sufficient to justify the continuation of the trial, record a finding of not guilty in respect of such accused without calling upon him or them to enter upon the defence and such accused shall thereupon be discharged and the court shall then call up the remaining accused, if any, to enter upon the defence.

- (4) If the accused or any one of several accused says that he intends to call any witness

other than a witness to character, the court shall call upon the accused to enter upon the defence.

(5) Notwithstanding the provisions of subsection (4), the court may, before calling upon the accused to enter upon the defence, call upon the prosecutor to sum up his case against any one or more of the accused against whom it considers that the evidence is not sufficient to justify the continuation of the trial and, after hearing the summing up, if any, may in its discretion record a finding of not guilty in respect of any such accused or call upon any of them to enter upon his or their defence.

192. Defence

When the court calls upon the accused to enter upon the defence the accused or his counsel may open his case stating the facts or law on which he intends to rely and making such comments as he thinks necessary on the evidence for the prosecution, and the accused may then give evidence on his own behalf, examine his witnesses, if any, and, after their cross-examination and re-examination, if any, the accused or his counsel may sum up his case.

193. Right of accused as to examination and summoning of witnesses

(1) The accused shall be allowed to examine any witness not previously named by him if such witness is in attendance, but he shall not, except as provided in section 211, be entitled of right to have any witness summoned other than the witnesses named in the list or lists delivered to the magistrate by whom he was committed for trial.

(2) If the accused wishes to call a witness who is not present in court and in respect of whom he has not given notice under section 174 and if the court is satisfied that the absence of the witness is not due to any fault or neglect of the accused and that it is likely that such witness could if present give factual evidence the court may adjourn and take steps to compel the attendance of such witness.

194. Prosecutor's right of reply

(1) If the accused or any of the accused calls any witness other than to character or any document other than a document relating to character is put in evidence for the defence the prosecutor shall be entitled to reply.

(2) If the accused has called only evidence for character, the prosecutor may at the close of the case for the defence adduce evidence of previous convictions of the accused.

(3) Notwithstanding the provisions of subsections (1) and (2), in any case with the leave of the court the prosecutor may be heard in reply on a point of law or, where none of the accused has called evidence other than to character but any of them has introduced new

matter in his statement to the court, on such new matter.

195. Consideration of finding

When the case for the defence and the prosecutor's reply, if any, are concluded and the court does not desire to put any further questions to the accused, the court shall retire or adjourn to consider its finding.

196. Announcement of finding

After the court has made its finding the court shall announce that finding.

197. Procedure on finding of guilty

(1) If the finding is guilty the accused shall, if he has not previously called any witnesses to character, be asked whether he wishes to call any such witnesses and after such witnesses, if any, have been heard he shall be asked whether he desires to make any statement in mitigation of punishment.

(2) After the accused has made his statement, if any, in mitigation of punishment the prosecution shall, unless such evidence has already been given, produce evidence of any previous convictions of the accused.

198. Sentence

When the provisions of section 197 have been complied with the court may retire or adjourn to consider the sentence and the court shall, having determined the sentence, announce the same in open court.

[NN 12 of 1964.]

199. Recommendation to mercy

The court may in any case in recording sentence make a recommendation to mercy but in such case shall give the reasons for its recommendation.

CHAPTER XIX

Charges

200. Form of charges

Charges may be as in the forms set out in Appendix B modified in such respects as may be necessary to adapt them to the circumstances of each case.

[Appendix B.]

201. Contents of charge

- (1) Every charge under this Criminal Procedure Code shall state the offence with which the accused is charged.
- (2) If the Law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.
- (3) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.
- (4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.
- (5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charge was fulfilled in the particular case.

202. Particulars as to time, place and person

The charge shall contain such particulars as to the time and place of the alleged offence and the person, if any, against whom, or the thing, if any, in respect of which, it was committed as are reasonably sufficient to give the accused notice of the matter with which he is charged.

203. Charge of criminal breach of trust, etc.

When the accused is charged with criminal breach of trust or criminal misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed and the dates between which the offence is alleged to have been committed without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of a single offence.

204. Charge of falsification of accounts

When the accused is charged with falsification of accounts under section 371 of the Penal Code it shall be sufficient to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud or any particular day on which the offence was committed.

[Cap. P4.]

205. When manner of committing offence must be stated

When the nature of the case is such that the particulars mentioned in sections 203 and 204 do not give the accused sufficient notice of the matter with which he is charged, the charge

shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations, *(a) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.*

(b) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(c) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

206. Effect of errors

No error in stating either the offence or the particulars required to be stated in the charge and no omission to state the offence or those particulars shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission and it has occasioned a failure of justice.

Illustrations, *(a) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge or is set out incorrectly. A defends himself, calls witnesses and gives his own account of the transaction. The court or the appellate authority may infer from this that the omission to set out the manner of the cheating is not material.*

(b) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred and offered no defence. It may be inferred from such facts that the omission to set out the manner of the cheating was in this case a material error.

(c) A is charged with the murder of Audit Kano on the 21st January, 1960. In fact the murdered person's name was Audu Karo and the date of the murder was the 20th January, 1960. A was only charged with one murder and was present at the inquiry before the magistrate, which referred exclusively to the case of Audu Karo. It may be inferred from these facts that A was not misled and that the errors in the charge were immaterial.

(d) A was accused of murdering Audu Karo on the 20th January, 1960, and Audu Kano (who tried to arrest him for that murder) on the 21st January, 1960. He was, upon a charge referring to the murdered man as Audu Karo, tried for the murder of Audu Kano. The

witnesses present in his defence were witnesses in the case of Audu Karo. It may be inferred from this that A was misled and that the error was material.

207. Procedure on commitments without charge or with imperfect charge

When any person is committed for trial without a charge or with an imperfect or erroneous charge the court may frame a charge or add to or otherwise alter the charge, as the case may be, having regard to the provisions of this Criminal Procedure Code as to the form of charges.

Illustrations, *(a) A is charged with receiving stolen property knowing it to be stolen. During the trial it incidentally appears that he has in his possession house breaking implements. A charge of lurking with house breaking implements under 360 of the Penal Code cannot be added.*

(b) A is charged with forging a valuable security under section 364 of the Penal Code. A charge of fabricating false evidence under section 158, 159 or 160 of the Penal Code, as the case may be, may be added.

208. Court may alter charge

- (1) Any court may alter or add to any charge or frame a new charge at any time before judgment is pronounced.
- (2) Every such alteration or addition or new charge shall be read and explained to the accused and his plea thereto shall be taken.

209. When court may proceed with trial immediately after altering, adding to or framing charge

If the charge as revised under section 207 or 208 is such that proceeding immediately with the trial is not likely in the opinion of the court to prejudice the accused in his defence or the prosecutor, if any, in the conduct of the case, the court may in its discretion forthwith proceed with the trial as if the charge so revised had been the original charge.

210. When new trial may be directed or trial suspended

If the revised charge is such that proceeding immediately with the trial is likely in the opinion of the court to prejudice the accused in his defence or the prosecutor, if any, in the conduct of the case, the court may either direct a new trial or adjourn the trial for such period as may be necessary.

211. Recall of witnesses when charge revised

Whenever a charge is revised by the court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon and examine with reference to such revision any witness who may have been examined and also to call any further witness whom the court may consider to be material.

212. Separate charges for distinct offences

For every distinct offence of which any person is accused there shall be a separate charge and every such charge shall be tried separately, except in the cases mentioned in sections 213, 214, 215, 216 and 221.

Illustration. *A is accused of theft on one occasion and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and for causing grievous hurt.*

213. Offences of like character may be charged together

Where a person is accused of several offences of the same or similar character he may be charged with and tried at one trial for any number of them; but if the court, before the trial or at any stage of the trial before judgment is pronounced, considers that he may be prejudiced or embarrassed in his defence by such procedure or that for any other reason it is desirable to do so, the court may order a separate trial of any one or more of such charges.

214. Acts forming the same transaction

(1) If a series of acts so connected together as to form the same transaction is alleged, the accused may be charged with and tried at one trial for every offence which he would have committed if all of such acts or some one or more of them without the rest were proved.

(2) In passing sentence the court shall have regard to section 76 of the Penal Code.

[Cap. P4.]

Illustrations, *(a) A, an accountant, commits criminal breach of trust and to conceal his offence falsifies his accounts. A may be separately charged with and tried at one trial for criminal breach of trust under section 314 of the Penal Code and falsification of accounts under section 371 of the Penal Code.*

(b) A commits robbery on B and in doing so voluntarily causes hurt to him. A may be separately charged with and tried at one trial for offences under sections 246, 298 and 300 of the Penal Code.

215. When it is doubtful on which occasion an offence has been committed

If a series of acts is of such a nature that it appears that an offence was committed on one of several occasions but it is doubtful whether the facts which can be proved will show on which occasion an offence was committed the accused may be charged with having committed an offence alternatively on one or other of such occasions.

Illustration. *A states on oath before the magistrate at the inquiry that he saw B hit C with a club. Before the High Court A states on oath that B never hit C. A may be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of these contradictory statements was false.*

216. When it is doubtful what offence has been committed

If a single act or series of acts is of such a nature that it is doubtful which of several different offences the facts which can be proved will constitute, the accused may be charged with having committed all or any one or more of such offences and any number of such charges may be tried together; or he may be charged in the alternative with having committed someone or other of the said offences.

Illustration. *A is accused of an act which may amount to theft or receiving stolen property or criminal breach of trust. He may be charged (a) with theft and receiving stolen property and criminal breach of trust; or (b) with theft or receiving stolen property or criminal breach of trust alternatively; or (c) with one or two of these offences omitting the others or other of them.*

217. When person charged with one offence may be convicted of another

If in the case mentioned in section 216 the accused is charged with one offence and it appears in evidence that he committed a different offence with which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed although he was not charged with it.

Illustrations, (a) *A is charged with stealing a bicycle. It is proved that he received the bicycle knowing it to have been stolen. A may be convicted of receiving stolen property although he was not charged with that offence.*

(b) *A is charged with stealing a wireless set and it is proved in evidence that he obtained the wireless set by means of a criminal breach of trust. A may be convicted of criminal breach of trust although he was not charged with that offence.*

(c) A is charged with rape and it is proved in evidence that he committed an act of gross indecency. A may be convicted of committing an act of gross indecency although he was not charged with that offence.

(d) A, a woman, is charged with culpable homicide punishable with death; in fact it is apparent in evidence that she killed her child who was under the age of twelve months while the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child. A may be convicted of culpable homicide not punishable with death.

(e) A is charged with causing grievous hurt to Z and it is proved in evidence that A in fact abetted B to cause the grievous hurt to Z. If at the time of framing the charge A could have been charged with abetting the offence A may be convicted of abetment.

218. Conviction of lesser offence where greater charged

(1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete lesser offence, and such combination is proved but the remaining particulars are not proved, he may be convicted of the lesser offence though he was not charged with it.

(2) When a person is charged with an offence and facts are proved which reduce it to a lesser offence, he may be convicted of the lesser offence although he is not charged with it.

219. Conviction for attempt not separately charged

When a person is charged with an offence he may be convicted of an attempt to commit such an offence although the attempt is not separately charged.

220. Withdrawal of remaining charges on conviction on one of several charges

(1) When more than one charge is framed against the same person, and when a conviction has been obtained on one or more of them, the complainant or the officer conducting the prosecution may, with the consent of the court, withdraw the remaining charge or charges, or the court of its accord may stay the trial of such charge or charges.

[KWS 10 of 1991.]

(2) A withdrawal under subsection (1) shall have the effect of an acquittal on the remaining charge or charges referred to in that subsection unless the conviction be set aside on appeal or on review in which case the court, subject to any order of the court setting aside the convictions, may proceed with the inquiry into or trial of the charge or charges so withdrawn.

221. What persons may be charged jointly

The following persons may be charged and tried together, namely—

- (a) persons accused of the same offence committed in the course of the same transaction;
- (b) persons accused of an offence and persons accused of abetment or of an attempt to commit the same offence;
- (c) persons accused of more than one offence of the same or similar character, committed by them jointly;
- (d) persons accused of different offences committed in the course of the same transaction;
- (e) persons accused of offences which include theft, extortion or criminal misappropriation and persons accused of receiving or retaining or assisting in the disposal or concealment of property, the possession of which has been transferred by offences committed by the first named persons, or of abetment of or attempting to commit any of the last named offences;
- (f) persons accused of offences under sections 317 and 319 of the Penal Code or either of those sections in respect of stolen property the possession of which has been transferred by one offence; and

[Cap. P4.]

- (g) persons accused of offences committed during a fight or series of fights arising out of another fight, and persons accused of abetting any of these offences,

and the provisions contained in the former part of this chapter shall, so far as may be, apply to all such charges.

Illustrations, (a) *A and B are accused of the same homicide. A and B may be charged and tried together for that homicide.*

(b) *A and B are accused of housebreaking by night in the course of which A commits culpable homicide with which B has nothing to do. A and B may be tried together on a charge, charging both of them with housebreaking by night and A on a separate charge with culpable homicide.*

(c) *A and B are both charged with theft and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be tried together on a charge charging both with the one theft and B alone with the two other thefts.*

222. Effect of material error

- (1) If any appellate court is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge, or by an error in the charge, and it has

occasioned a failure of justice, it may direct that the trial be recommenced upon a charge framed in whatever manner it thinks fit.

(2) If the court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts it shall quash the conviction.

Illustration. *A is convicted under section 161 of the Penal Code of an offence of using as genuine evidence which he knew to be false. The charge omits to state that he knew the evidence, which he used or attempted to use as true or genuine, was false or falsified. If the court thinks it probable that A had such knowledge and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but if it appears probable from the proceedings that A had no such knowledge it shall quash the conviction.*

CHAPTER XX

Previous Acquittals and Convictions

223. Person once convicted or acquitted not to be tried for same offence

(1) A person who has once been tried by a court of competent jurisdiction for an offence and convicted or acquitted of that offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 216 or of which he might have been convicted under section 217.

(2) A person convicted of any offence constituted by any act causing consequences, which together with such act constituted a different offence from that of which he was convicted, may be afterwards tried for such last mentioned offence, if the consequences had not happened or were not known to the court to have happened at the time when he was convicted.

(3) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with and tried for the same or any other offence constituted by the same acts which he may have committed, if the court by which he was first tried was not competent to try the offence with which he was charged.

Illustrations, (a) *A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged upon the same facts either with theft as a servant or with the theft simply or with criminal breach of trust.*

(b) *A is tried upon a charge of culpable homicide and acquitted. There is no charge of*

robbery; but it appears from the facts that A committed robbery at the time when the killing was committed. He may afterwards be charged with and tried for robbery.

(c) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(d) A is charged before the High Court and convicted of culpable homicide not punishable with death in respect of B. A may not while the conviction remains in force afterwards be tried on the same facts for culpable homicide punishable with death in respect of B.

(e) A is charged with and convicted of voluntarily causing hurt to B. A may not while the conviction remains in force afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within subsection (2).

224. Previous acquittal or conviction, when to be proved

A previous acquittal or conviction may be pleaded or proved at any stage of any inquiry into or trial for the same offence or any other offence to a charge of which it is a bar; upon its being proved, the accused shall be discharged.

CHAPTER XXI

General Provisions as to Inquiries, Trials and Other Judicial Proceedings

225. Courts to be open

(1) The place in which any court is held for the purpose of inquiring into or trying any offence shall be deemed to be an open court, to which the public generally may have access, so far as the same can conveniently contain them.

(2) Notwithstanding the provisions of subsection (1), a court may if it thinks fit order at any stage of any inquiry into or trial of any particular case that the public generally or any particular person shall not have access to or be or remain in such place.

EXPLANATION. Acting under subsection (2) the court may exclude any witness from the court at any stage of the proceedings or may clear the court whilst a child or young person is giving evidence.

226. Right of appearance of legal practitioner

A legal practitioner shall have the right to practice in the High Court or in a magistrate's court in accordance with the provisions of the Legal Practitioners Act.

[KWS 10 of 1991. No 15 of 1975, No. 4 of 2006.]

(2)

227. Representation of the state, Government Departments and local governments

(1) In the case of a prosecution in the High Court or in a magistrate's court by or on behalf of the state or by any public servant in his official capacity or by any local government, the state or that public servant or local government may be represented by a law officer, the Attorney-General, state counsel, a police officer, or by any legal practitioner or other person duly authorised in that behalf or by or on behalf of the Attorney-General or, in revenue cases, authorised by the head of the department concerned.

[KWS LN 1 of 1982.]

(2) In any cause, matter or appeal, to which a local government is a party, the local government may be represented at any stage of the proceedings by any member or officer of the local government who shall satisfy the court that he is duly authorised in that behalf.

(3) In any criminal case by or against a first or second class chief in either his official or personal capacity the chief may be represented in the court at any stage of the proceedings by any indigene of his chieftom who shall satisfy the court that he has the authority to represent the chief.

(4) Where any person other than the Attorney-General prosecutes on behalf of the state or any public servant prosecutes in his official capacity such person or public servant shall prosecute the case subject to such directions as may be given by the Attorney-General in any prosecution for an offence under a Law of the State.

228. General procedure in inquiries and trials by magistrates' courts and area courts

Except as otherwise provided in this Criminal Procedure Code the general order of procedure in inquiries and trials before a magistrate's court or area court shall, so far as may be, be the same as is provided in Chapter XVIII for trials by the High Court.

229. Oath

(1) Every witness giving evidence in any inquiry or trial under this Criminal Procedure Code may be called upon to take an oath or make a solemn affirmation that he will speak the truth.

(2) The evidence of any person, who by reason of youth or ignorance or otherwise is in the opinion of the court unable to understand the nature of an oath, may be received without the taking of an oath or making of an affirmation if in the opinion of the court he is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

230. Witness not compelled to take oath or make affirmation

No witness, if he refuses to take an oath or make a solemn affirmation, shall be compelled to do so or asked his reason for so refusing but the court shall record in such a case the nature of the oath or affirmation proposed, and the fact of the refusal of the witness together with any reason which the witness may voluntarily give for his refusal.

231. Manner of making oath or affirmation

A witness shall take an oath or make a solemn affirmation in such a manner as the court considers binding on his conscience.

232. Swearing of Muslims

No person of the Islamic faith shall be required to take an oath in any court unless—

- (a) he has been given an opportunity to complete the ablutions prescribed by the Islamic faith for persons taking oath on the **Holy Qu'ran**; and
- (b) the oath is administered by a person of the Islamic faith; and
- (c) the oath is taken upon a copy of the **Holy Qu'ran** printed in the Arabic language.

233. Protection of witnesses

The court shall prevent the putting of irrelevant questions to witnesses and shall protect them from any language, remarks or gestures likely to intimidate them; and it shall prevent the putting of any question of an indecent or offensive nature unless such question bears directly on facts which are material to the proper appreciation of the facts of the case.

234. Taking and recording of evidence

- (1) Save as otherwise provided in subsection (2) of section 154, all evidence in every inquiry and trial shall be taken in the presence of the accused.
- (2) Save as otherwise provided in the Criminal Procedure Code, the evidence of each witness and the examination and statement, if any, of the accused shall be recorded in writing by or under the superintendence of the court.
- (3) The record shall ordinarily be in the form of a narrative and not in the form of question and answer, but in the discretion of the court any particular question and answer may be taken down in full.
- (4) After recording the evidence of a witness the court may also record or cause to be recorded such remarks as it thinks material respecting the demeanour of such witness whilst under examination.

235. Power to examine the accused

- (1) For the purpose of enabling the accused to explain any circumstances appearing in

the evidence against him the court may, if the accused so agrees, at any stage of a trial, after explaining to the accused the effect of subsections (2) and (3), put such questions to him as the court considers necessary and in such case shall for the purpose aforesaid question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence.

(2) The accused shall not render himself liable to punishment by refusing to answer such questions or by giving false answers to them; but the court may draw such inference from such refusal or answers as it thinks just.

(3) The answers given by the accused may be taken into consideration in the inquiry or trial.

(4) The sole purpose of such examination shall be to discover the line of defence and to make clear to the accused the particular points in the case for the prosecution which he has to meet in his defence and there shall be nothing in the nature of a general cross-examination for the purpose of establishing the guilt of the accused.

(5) No oath shall be administered to the accused for the purposes of an examination under this section.

236. Evidence of accused

(1) An accused person shall be a competent witness on his own behalf in any inquiry or trial, whether he is accused solely or jointly with another person or persons, and his evidence may be used in proceedings against any person or persons tried jointly with him; and the following provisions shall have effect—

[NN 14 of 1965.]

(a) the accused shall not be examined as a witness except at his own request;

(b) before giving evidence the accused shall be warned by the court that he is not bound to give evidence, and that, if he does so, his evidence may be used at the inquiry or trial;

(c) the failure of the accused to give evidence shall not be made the subject of any comment by the prosecution, but the court may draw such inference as it thinks just;

(d) the accused shall not be asked in cross examination, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of or been charged with an offence other than that wherewith he is then charged, or is of bad character, unless—

(i) the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence wherewith he is then charged; or

(ii) he has personally or by his legal practitioner asked questions of the witnesses for the

prosecution with a view to establishing his own good character or has given evidence of his good character or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or the witnesses for the prosecution;

(iii) he has in his evidence made statements against any other persons tried jointly with him;

(e) no prosecution in respect of such evidence for the offence of giving false evidence shall be instituted against the accused except with the sanction of a judge of the High Court.

(2) The deposition, if any, of the accused recorded under subsection (1) may be put in evidence in any other trial for any other offence which such deposition or such answers may tend to show he has committed.

237. Powers to summon material witnesses or call persons present

(1) Any court may at any stage of any trial or other judicial proceeding under this Criminal Procedure Code summon any person as a witness or call as a witness any person in attendance though not summoned as a witness, and shall summon or call any such person—

[NN 12 of 1964.]

(a) if his evidence appears to the court to be essential to the just decision of the case; or

(b) on the application of the Attorney-General, and if such application is made, the accused shall have a similar right, on applying to the court, to have any person summoned or called as a witness by the court.

(2) The court may examine or allow the prosecutor or complainant or the accused, as the case may require, to examine any person summoned or called as a witness under this section, and shall allow the prosecutor or the accused, as the case may require, to examine any person so summoned or called under paragraph (b) of subsection (1).

(3) Any person summoned or called as a witness under the provisions of this section may—

(a) if examined by the prosecutor or complainant be cross-examined by the accused and then re-examined by the prosecutor or complainant;

(b) if examined by the accused be cross-examined by the prosecutor or complainant and then be re-examined by the accused.

(4)

(5) The powers conferred by this section may be exercised whether or not the person to be summoned or called and examined has already been examined as a witness in the proceedings.

238. Evidence of persons confined

(1) In any proceedings pending before a court, the court may upon application either orally or in writing by any party, issue a warrant or order for bringing up before the court any person confined in any place under sentence or under commitment for trial or otherwise, to be examined as a witness in the proceedings.

(2) The person mentioned in any such order shall be brought before the court under custody.

239. When evidence given at preliminary inquiry admissible at trial

(1) The evidence of a witness given on oath and duly recorded in writing in any judicial proceeding under this Criminal Procedure Code may in the discretion of the court be read and accepted as evidence in any subsequent proceedings concerning the same cause or matter against the same accused or in a later stage of the same proceedings, if the witness is dead or cannot be found or is incapable of giving evidence or if his presence cannot be obtained without an amount of delay, expense or inconvenience which the court considers unreasonable in the circumstances of the case, provided that the questions in issue are substantially the same on each occasion and that if the witness is a witness for the prosecution, the accused had the right and opportunity to cross-examine the witness.

Illustration. *Where A is tried and convicted of causing grievous hurt to B and B subsequently dies of his injuries, A may be tried again for culpable homicide punishable with death. B's evidence at the first trial may be used in the second trial, B being dead and the questions in issue at each trial substantially the same.*

(2) If a witness is produced and examined in any judicial proceeding under this Criminal Procedure Code, his evidence given on oath and duly recorded in writing at any like proceeding previously held against the same accused in which the questions in issue were substantially the same or in a previous stage of the same judicial proceeding may be read out after the evidence in chief has been given and he may be examined and cross-examined upon it and it may be accepted as evidence in court.

(3) The court may, when it thinks that a witness has told the truth at a previous stage

and is lying before it, ignore the evidence given before it and rely on the evidence given previously.

240. Admissibility of statements by accused

Where there are several accused, the statements of each made in answer to examination under section 235 or made under section 192 or given in evidence under section 236 may be taken into consideration by the court and shall be admissible for or against himself and any of the other accused at the same or any subsequent stage of the same proceedings, but such statements made by one of the accused shall not be admitted at the trial of the other accused unless the accused person who made such statements is being tried jointly with the other accused and the statements were made in the presence of the other accused who shall have had an opportunity of cross-examining the accused who made them.

241. Language not understood by accused

When any evidence is given in a language not understood by the accused and the accused is present in court, it shall be interpreted to him in a language understood by him.

242. Interpreter bound to interpret truthfully

(1) When the services of an interpreter are required by any court or justice of the peace for the interpretation of any evidence, statement or other proceedings, he shall be bound by oath or solemn affirmation to state the true interpretation of the evidence, statement or other proceedings.

[NN 12 of 1964.]

(2) When the services of an interpreter are used in any proceedings by a court or justice of the peace the record of the proceedings shall state the name of the interpreter, the languages which and in which he interprets, and the fact that he has been bound in accordance with the provisions of subsection (1) to state the true interpretation of the evidence, statement or other proceedings.

243. View

Whenever in the course of any judicial proceeding under this Criminal Procedure Code the court thinks it advisable to view the place where the offence is alleged to have been committed or any other place, the court may either adjourn to that place and there continue the proceedings or adjourn the case and proceed to view the place concerned accompanied by the accused and may cause any witness to be conducted thither and may take any evidence or hear any statement or explanation by the accused on the spot, and the prosecutor and the counsel for the accused, if any, shall have the right to be present at the

view.

243A. Definition of age

(1) Where the age of any person, or whether a person is under or above a specified age, is in question in any judicial proceeding under this Criminal Procedure Code, the court may determine such question by taking into account one or both of the following, namely

[NN 12 of 1964.]

- (a) the apparent physical appearance of the person concerned;
- (b) any evidence, in relation to the age of the person concerned, received by the court in accordance with the provisions of the Evidence Law or this Criminal Procedure Code.

[NN 1963, Cap. 40 (now Federal).]

(2) The evidence of a witness, who is not an expert within the meaning of section 56 of the Evidence Law shall be admissible for the purposes of this section.

244. Power to take evidence of persons dangerously ill

(1) Whenever it appears to a court that a person who is so dangerously ill that there is a possibility that he may not recover is able and willing to give evidence relating to any offence the court may take in writing the statement of such person and may invite him to take an oath as to the truth of the statement.

(2) When a statement is taken in accordance with subsection (1) the court shall certify that the statement is a correct record of the statement made by such person.

(3) The court shall record its reason for proceeding under this section and shall also record thereon the date and place of taking the statement.

245. Commission to take evidence

Whenever in the course of any judicial proceeding under this Criminal Procedure Code it appears to the court that the examination of a witness is necessary for the ends of justice and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which in the circumstances of the case would be unreasonable, such court may dispense with his attendance and may issue a commission to any court within the local limits of whose jurisdiction such witness resides to take his evidence.

246. Examination of witnesses on commission

(1) The court issuing a commission under section 245 may send any interrogatories in writing submitted by the prosecution or the defence or prepared by itself which it deems relevant to the questions at issue to the court to which the commission is directed which

shall examine the witness upon such interrogatories.

(2) The prosecutor and the accused may appear in person or by counsel before the court taking evidence on commission and examine, cross-examine or re-examine, as the case may be such witness.

[No. 4 of 2006.]

(3) A commission shall be addressed to a court and not personally to an officer of the court and, if the record or extracts from the record are not sent with the commission, sufficient information shall be given to enable the examining court to understand the points upon which the evidence of the witness is required.

247. Return of commission

(1) After any commission issued under section 245 has been duly executed it shall be returned together with the deposition of the witness examined there under to the court out of which it issued; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection by the prosecution or defence and subject to all just exceptions may be read in evidence in the case and shall form part of the record.

(2) Any deposition of a witness examined under a commission issued under section 245 may also be received in evidence at any subsequent stage of the same case before another court.

248. Evidence taken abroad by interrogatories

(1) Wherever in the course of any judicial proceedings under this Criminal Procedure Code, it appears to a court that for the purpose of ascertaining the nature, source or other attribute of identification of any article the examination of a witness who is abroad is necessary for the ends of justice and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which in the circumstances of the case would be unreasonable the court, after hearing the prosecutor, if any, and the accused or his counsel may dispense with his attendance and may settle such interrogatories in writing to be answered by such witness as may be necessary for the aforesaid purpose.

(2) Where such interrogatories are settled by a court other than the High Court leave to serve such interrogatories shall be obtained from a judge of the High Court.

(3) The interrogatories settled by the court under subsections (1) and (2) may be answered by affidavit duly sworn by the witness in question or in such other manner as a judge of the High Court may order.

249. Deposition of medical witness

(1) The evidence of any medical officer or registered medical practitioner taken on oath

before a court in the presence of the accused may be read in evidence in any trial or other proceeding under the Criminal Procedure Code although he is not called as a witness.

[NN 12 of 1964.]

(2) The court may if it thinks fit summon such medical officer or registered medical practitioner to appear before it as a witness.

(3) (a) A written report by any medical officer or registered medical practitioner after he has examined any person or the body of any person may at the discretion of the court be admitted in evidence for the purpose of proving the nature of any injuries received by such person or, where such person has died, the nature of the injuries received by such person and, where possible, the physical cause of his death;

(b) on the admission of such report the same shall be read over to the accused and he shall be asked whether he disagrees with any statement therein and any such disagreement shall be recorded by the court; and

(c) if by reason of any such disagreement or otherwise it appears desirable for the ends of justice that such medical officer or registered medical practitioner shall attend and give evidence in person the court shall summon such medical officer or registered medical practitioner to appear as a witness.

250. Report of scientific expert

(1) Any document purporting to be a report under the hand of the Accountant-General or Auditor-General or any expert in bacteriology, physiology, biology, pathology, chemistry or other branch of scientific knowledge in the service of any Government of Nigeria upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Criminal Procedure Code may be used as evidence in any inquiry, trial or other proceeding under this Criminal Procedure Code.

[No. 4 of 2006.]

(2) The court may if it appears desirable for the ends of justice summon any person making a report under subsection (1) to give evidence in person.

250A. Reports under sections 249 and 250 of Procedure Code

(1) The court shall, in the absence of evidence to the contrary, presume that the signature to any report or document referred to in section 249 or section 250 is genuine and that the person signing it held the office or the qualifications which he professed at the time when he signed it.

[NN 12 of 1964.]

(2) Where any such report or document is intended to be produced by either party to

the proceedings, a copy thereof shall be sent to the other party at least ten clear days before the day appointed for the hearing and, if it is not so sent, the court may, if it thinks fit, adjourn the hearing on such terms as it may think proper.

251. Record of evidence in absence of absconding accused

(1) If it is proved that an accused person has absconded and that there is no immediate prospect of arresting him, the court competent to try or commit for trial such person for the offence alleged may in his absence examine any witnesses produced on behalf of the prosecution and record their depositions.

(2) Any such deposition may on the arrest of such person be given in evidence at the inquiry into or trial for the offence with which he is charged if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which in the circumstances of the case would be unreasonable.

252. Record of evidence when offender unknown

(1) If it appears that an offence punishable with death or imprisonment for ten years and upwards has been committed by some person or persons unknown, any court may hold an inquiry and examine any witness who can give evidence concerning the offence.

(2) Any depositions taken under subsection (1) may be given in evidence when any person is subsequently accused of the offence if the deponent is dead or incapable of giving evidence or beyond the limits of the State.

253. Stay of proceedings by Attorney-General

(1) At any time after the completion of an investigation under this Criminal Procedure Code into any alleged offence and before the commencement of any inquiry or trial resulting therefrom the Attorney-General may by writing under his hand exercise his power to inform the court which has taken cognisance of such offence that he does not, in respect of all or any of the alleged offences, intend to prosecute the person or any one or more of the persons accused.

(2) At any stage in any inquiry or at any stage before the finding in any trial under this Criminal Procedure Code the Attorney-General may in writing or in person exercise his power to inform the court conducting such inquiry or trial that he does not in respect of all or any of the offences alleged or charged intend to prosecute or further to prosecute the person or any one or more of the persons accused.

(3) When the Attorney-General exercises the powers referred to in subsection (2) all proceedings in respect of the offence alleged or charged shall be stayed and the person accused shall be discharged of and from the same, but such discharge shall not operate as a

bar to any subsequent proceedings against the person accused on account of the same facts.

254. No influence to be used to induce disclosure

No influence by means of any promise or threat or otherwise shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

255. Power to postpone or adjourn proceedings

(1) If from the absence of a witness or any other reasonable cause it becomes necessary or advisable to postpone the commencement of or adjourn any trial, the court may if it thinks fit by order in writing stating the reasons therefore from time to time postpone or adjourn the same on such terms as it thinks fit for such time as it considers reasonable and may by a warrant remand the accused if in custody.

(2) Notwithstanding the provisions of subsection (1), no court shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

256. Procedure of court in cases it cannot dispose

(1) If in the course of an inquiry or trial before a court the evidence appears to warrant a presumption that the case is one that should be tried or committed for trial by some other court the court holding the trial or inquiry shall stay proceedings and submit the case with a brief report explaining its nature to a court which has jurisdiction or to the High Court.

(2) The court to which the case is submitted may either try the case itself or commit the accused for trial or refer the case for trial or commitment to any court subordinate to it which has jurisdiction.

(3) If the court to which the case is submitted or referred considers that the accused should be committed for trial, such court shall follow the procedure laid down in Chapter XVII save that it shall not be bound to take again any of the evidence already recorded.

(4) If the court to which the case is submitted or referred decides that the case should be tried the trial shall be begun afresh.

257. Procedure when court cannot pass sentence sufficiently severe

(1) Whenever a court having jurisdiction—

- (a) finds a person guilty after hearing the evidence for the prosecution and the defence; or
- (b) accepts a plea of guilty from a person,

and after convicting such person is of the opinion that he ought to receive a punishment different in kind from, or more severe than that which such court is empowered to inflict, it may record such opinion and submit the proceedings and send the accused to a court

having the necessary powers of punishment or to the High Court.

(2) The court to which proceedings are submitted under subsection (1) shall pass such sentence or order in the case as it thinks fit and is according to law.

(3) When more accused than one are being tried together and the court considers it necessary to proceed under subsection (1) in regard to all the accused it shall forward all the accused who are in its opinion guilty to the appropriate court.

Explanation. A court may where several persons are charged before it sentence some of the accused and forward the others under this section to an appropriate court for sentence.

258. Conviction on other charges pending

(1) When an accused person is found guilty of an offence the court may in passing sentence take into consideration any other offence of the accused person, whether or not a court has taken cognisance of such offence, if the accused admits the other offence and desires that it be taken into consideration and if the Attorney-General consents.

(2) In exercising its powers under subsection (1) a court shall not pass a greater sentence than the maximum sentence—

(a) which it could have passed on the accused person on conviction for the offence—

(i) in respect of which he has been found guilty; or

(ii) which he has admitted; and

(b) which it has jurisdiction to pass.

(3) Where the accused expresses a desire and the Attorney-General gives consent under subsection (1) the court shall enter or cause an entry to that effect to be made on the record and upon sentence being pronounced the accused shall not, unless the conviction is set aside, be liable to be charged or tried in respect of any such offence so taken into consideration.

259. Joint trial may be stayed and accused tried separately

(1) The court at any stage of the trial where there are several accused may by order in writing stating the reasons therefor stay the proceedings of the joint trial and may continue the proceeding against each of any of the accused separately.

(2) Where it appears that the evidence of one of the accused is required for the prosecution of another accused the accused whose evidence is required shall be acquitted

or convicted before his evidence is taken.

260. Reference on points of law

(1) Any court may, and when so required by the Attorney-General shall, refer for the opinion of the High Court any question of law which arises in the hearing of any case pending before it or may give judgment in any such case subject to the High Court's decision, and pending such opinion or decision, as the case may be, may either commit the accused to prison or release him on bail to appear when called on.

(2) A reference to the High Court by a lower court under subsection (1) shall set out—

- (a) the charge or complaint;
- (b) the facts found to be admitted or proved;
- (c) any submission of law made by or on behalf of the complainant or the accused;
- (d) any question of law which the court desires to be submitted for the opinion of the High Court; and
- (e) any question of law which the Attorney-General requires to be submitted for the opinion of the High Court.

(3) Upon the High Court notifying its opinion or decision the case shall be dealt with in accordance with such opinion or decision.

261. Procedure when accused does not understand proceedings

If the accused though not insane cannot be made to understand the proceedings the court shall proceed to try the issue of his fitness to plead and if it is established that he is not fit to plead he shall be treated in like manner as a person incapable of making his defence by reason of unsoundness of mind as provided in Chapter XXVI.

262. Delivery of judgment when judge, etc., unavoidably absent

Where a judge or magistrate or area court judge or president of an area court having tried a case is prevented by illness or other unavoidable cause from delivering the judgment or sentence of the court, such judgment and the sentence, if the same has been reduced into writing and signed by the judge or magistrate or an area court judge or president of an area court, may be delivered and pronounced in open court in the presence of the accused by any other judge or magistrate or area court judge or member of the area court as may be appropriate.

263. Opinion of majority to prevail

In all cases where the opinions of the members of the court differ, the opinion of the

majority shall prevail.

264. Procedure where court evenly divided

Where a court is constituted of an even number of judges and such court is evenly divided on any matter for decision the matter shall be referred for hearing before a court constituted of an uneven number of judges not less than three.

265. Every member to give opinion

Every member of a court shall give his opinion on every question which the court has to decide and he shall give his opinion as to the sentence even though he was in favour of acquittal.

266. Order of taking opinions

The opinions of the members of the court shall be taken in succession beginning with the junior in rank.

CHAPTER XXII

The Judgment

267. Definition for Chapter XXII

In this Chapter—

[KWS LN 1 of 1982.]

"**Commissioner**" means such State Commissioner as the Governor may from time to time designate in that behalf.

268. Language and mode of delivering judgment

(1) The judgment in every trial in a court shall be in writing and shall be pronounced, and the substance of it explained in a language understood by the accused in open court either on the day on which the hearing terminates or at some subsequent time of which due notice shall be given.

(2) If the accused is in custody he shall be brought up to hear judgment delivered; if he is not in custody he shall be required to attend to hear judgment delivered unless his presence is dispensed with by the court.

(3) No judgment delivered by any court shall be deemed to be invalid by reason only of the absence of any party or his counsel on the day or from the place notified for the delivery thereof, or of any omission to serve or defect in service on the parties or their counsel or any of them of the notice of such day and place.

269. Contents of judgment

(1) Every judgment shall contain the point or points for determination, the decision thereon and the reasons for the decision and shall be dated and signed or sealed by the court in open court at the time of pronouncing it.

(2) If the judgment is a judgment of conviction it shall specify the offence of which and the section of the Penal Code or other law under which the accused is convicted and the punishment to which he is sentenced.

[Cap. P4.]

(3) If the judgment is a judgment of acquittal it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

270. Death sentence not imposed in certain circumstances

No sentence of death shall be imposed on a person who is under seventeen years of age or on a pregnant woman.

271. Procedure where woman convicted of capital offence alleged to be pregnant

(1) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the court by which a woman is convicted thinks fit so to do, the court shall, before sentence is pronounced upon her, determine the question whether or not she is pregnant.

[KWS LN 1 of 1982.]

(2) The question whether the woman is pregnant or not shall be determined by the court on such evidence as may be given or put before it on the part of the woman or on the part of the prosecution, and the court shall find that the woman is not pregnant unless it is proved affirmatively to the satisfaction of the court that she is pregnant.

(3) Where under the provisions of subsection (2) it is proved affirmatively to the satisfaction of the court that the woman is pregnant, the court shall find accordingly and shall pass upon her a sentence of imprisonment for life.

(4) Where under the provisions of subsection (2) it is not proved affirmatively to the satisfaction of the court that the woman is pregnant, the court shall find accordingly and shall pronounce sentence of death upon her:

Provided that an appeal shall lie against the finding of the court to the Court of Appeal, and, if the finding is reversed on appeal, the sentence of death shall be quashed and a sentence of imprisonment for life shall be substituted therefor.

[No. 4 of 2006.]

(5) The court of trial shall report to the Commissioner any case in which a sentence of imprisonment for life is passed or is substituted for a sentence of death under the preceding provisions of this section.

272. Procedure where person is convicted of a capital offence committed while under seventeen

(1) Where a person is convicted of an offence punishable with death and it appears to the court by which he is convicted that he was under the age of seventeen when he committed the offence the court shall order that he be detained during the Governor's pleasure, and if the court so orders, he shall be detained in accordance with the provisions of section 303, notwithstanding anything to the contrary in any written law.

(2) The court shall report to the Commissioner every case in which an order has been made under the provisions of subsection (1).

273. Sentence of death

When a person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

274. Cases in which appeal lies

When a judgment of conviction is one from which an appeal lies, the court shall inform the convicted person that he has a right to appeal and of the period within which if he desires to appeal his appeal is to be presented.

275. Court not to alter judgment

No court when it has signed its judgment shall alter or review the same, except as provided in section 309 or section 317 or to correct a clerical error.

276. Copy of judgment or translation to be given to accused on application

On the application of the accused a copy of the judgment, or when he so desires a translation in his own language if practicable, shall be given to him without delay and such copy shall be given free of cost.

277. Original judgment to be filed

The original judgment shall be filed with the record of the proceedings.

PART VII

Proceedings subsequent to Judgment

CHAPTER XXIII

Appeal and Review

278. Appeals from area courts

Appeals from area courts in criminal matters shall be in accordance with the Area Courts Law or the High Court Law or this Criminal Procedure Code, or any rules made under any of such Laws.

[Cap. A9, Cap. H2.]

[KWS LN 1 of 1982.]

279. Appeal from magistrate's court

(1) Appeals from a magistrate's court to the High Court shall be in accordance with the High Court Law or this Criminal Procedure Code or any rules made under either of such Laws.

[NN 12 of 1964.]

(2) Where the accused person has been acquitted or an order of discharge made by a magistrate's court the prosecutor may appeal to the High Court from such acquittal or discharge on the ground that it is erroneous in law or that the proceedings or any part thereof were in excess of the jurisdiction of the magistrate's court.

[KWS LN 1 of 1982.]

280. Procedure on appeal

(1) An appeal in accordance with the provisions of this chapter shall be commenced by the appellant giving to the registrar of the court from which the appeal is brought or to the registrar of the court to which the appeal is brought notice of such appeal, which may be verbal or in writing, and if verbal, shall be forthwith reduced to writing by the registrar and signed by the appellant, or by a legal practitioner if a legal practitioner is representing him.

(2) The notice of appeal shall be given in every case before the expiration of the thirtieth day or, where the appeal is against a sentence of caning, before the expiration of the fifteenth day after the day on which the court has made the decision appealed against.

(3) Where an appellant gives verbal notice of appeal at the time of the pronouncement of the decision and before the opposite party or the legal practitioner representing him has left the court such verbal notice of appeal shall be recorded by the court with a note of the presence of the respondent or the legal practitioner representing him and written notice of appeal shall not thereafter be necessary.

(4) If the appellant is in prison he may present his notice of appeal and the memorandum of the grounds of appeal required by section 281 to the officer in charge of the prison who shall thereupon forward such notice and memorandum to the registrar of the court from which the appeal is brought.

(5) An appellant shall file as many copies of this notice of appeal as there are parties to be served, in addition to the copies for the court and the Attorney-General.

281. Memorandum of grounds of appeal

(1) An applicant in an appeal brought in accordance with the provisions of this chapter shall within thirty days or, if the appeal is against a sentence of caning, within fifteen days of the day of the pronouncing of the decision appealed against file with the registrar of the court from which the appeal is brought a memorandum setting forth the grounds of his appeal which shall be signed by the appellant or the legal practitioner representing him.

(2) An appellant shall file as many copies of his memorandum of grounds of appeal, as there are parties to be served, in addition to the copies for the court and the Attorney-General.

282. Grounds of appeal

(1) In his memorandum of grounds of appeal the appellant shall set forth in a separate ground of appeal each error, omission, irregularity or other matter on which he relies or of which he complains with particulars sufficient to give the respondent due notice thereof.

(2) Without prejudice to the generality of subsection (1), the memorandum of grounds of appeal may set forth all or any of the following grounds, that is to say—

(a) that the lower court had no jurisdiction in the case; or
(b) that the lower court has exceeded its jurisdiction in the case; or
(c) that the decision has been obtained by fraud; or
(d) that the case has already been heard or tried and decided by or forms the subject of a hearing or trial pending before a competent court; or
(e) that admissible evidence has been rejected, or inadmissible evidence has been admitted, by the lower court, and that in the latter case there is not sufficient admissible evidence to sustain the decision after rejecting such inadmissible evidence; or

(f) that the decision is unreasonable or cannot be supported having regard to the evidence; or

(g) that the decision is erroneous in point of law; or

(h) that some other specific illegality, not hereinbefore mentioned and substantially

affecting the merits of the case, has been committed in the course of the proceedings in the case; or

(i) that the sentence passed on conviction is excessive or inadequate, unless the sentence is one fixed by law.

(3) Where the appellant relies upon the grounds of appeal mentioned in paragraph (d) of subsection (2) the name of the tribunal shall be stated and, if it is alleged that a decision has been made, the date of such decision.

(4) Where the appellant relies upon the ground of appeal mentioned in paragraph (g) of subsection (2) the nature of the error shall be stated and, where he relies upon the ground of appeal mentioned in paragraph (ft) of that subsection the illegality complained of shall be clearly specified.

283. Giving security to prosecute the appeal from a magistrate's court

(1) Within thirty days or, in the case of an appeal against a sentence of caning, within fifteen days after the pronouncing of the decision of the magistrate's court the appellant shall enter into a bond with or without a surety as the magistrate may require, in such sum as the magistrate may specify, or, in lieu of furnishing a surety or sureties, as the case may be, he may deposit with the magistrate the sum required.

(2) The condition of the bond shall be for the due prosecution of the appeal and for abiding the result thereof, including all costs of the appeal.

(3) If there shall be any breach of the bond the deposit, if any, shall be forfeited and shall be applied to discharging the condition of the bond.

(4) If the appellant is in custody he may at the discretion and on the order of a magistrate be released on bail on complying with the provisions of this section as to security for prosecuting the appeal and abiding the results thereof.

(5) If the appellant who is in custody is not within the district of the magistrate from whose decision the appeal is made, any magistrate of the district in which such appellant may be shall have the powers and functions given and assigned to the magistrate by this section.

284. Appeals from High Court

(1) Appeals from the High Court in criminal matters shall be in accordance with the provisions of the Constitution.

[KWS LN 1 of 1982.]

(2) The prosecutor may appeal as of right to the Court of Appeal on any question of law

from a decision of the High Court.

[No. 4 of 2006.]

(3) The prosecutor may appeal with leave to the Court of Appeal or of the High Court to the Court of Appeal on any question of fact or of mixed law and fact from a decision of the High Court.

[No. 4 of 2006.]

285. Power of Chief Judge to examine proceedings

(1) The Chief Judge may on his own motion call for and examine the record of any proceedings in any criminal cause or matter before any court for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of the proceedings of the court.

[NN 12 of 1964.]

(2) After the exercise of his powers under subsection (1) the Chief Judge may refer the record of the proceedings to the court to which an appeal from a decision of the court referred to in subsection (1) would lie and such appellate court shall treat such reference as if it were an appeal before it from the court referred to in subsection (1) at the instance of such party or person as the Chief Judge shall designate whether or not an appeal lies at the instance of such party or person.

(3) No reference shall be made under this section in respect of any finding of not guilty unless the record of the proceedings was called for within six months of the date of the delivery of the judgment.

(4) Whenever the record of a case comes before the Chief Judge under this section he may by an order in writing direct that a person in confinement be released on bail or on his own bond pending any further proceedings or order.

(5) The powers conferred upon the Chief Judge by this section shall not be exercised in respect of any proceedings where a party has instituted any appeal proceedings in respect thereof or any proceedings for a review have been instituted under the provisions of the Area Courts Law.

[Cap. A9.]

286. Accused, etc. not entitled to be heard on examination of proceedings under section 285

When the record of any proceedings in a criminal court is before the Chief Judge for

examination neither the accused nor the complainant or prosecutor shall be entitled to be heard either in person or by agent.

287. Sentence to take effect pending appeal

A sentence other than a sentence of death or caning shall take effect notwithstanding an appeal unless—

- (a) a warrant has been issued under section 304 when no sale of property shall take place until the sentence has been confirmed or the appeal decided; or
- (b) an order for release on bail pending any further proceedings has been made by a competent court when the time during which the convicted person had been so released shall be excluded in computing the period of any sentence which he has ultimately to undergo.

288. Appellate Court not to send back judgment for technical error in procedure

A court exercising appellate jurisdiction shall not in the exercise of such jurisdiction interfere with the finding or sentence or other order of the lower court on the ground only that evidence has been wrongly admitted or that there has been a technical irregularity in procedure, unless it is satisfied that a failure of justice has been occasioned by such admission or irregularity.

289. Enforcing of judgment

After the pronouncement of the judgment of an appeal court, the court from which the appeal came shall have the same jurisdiction and power to enforce, and shall enforce any decision which may have been affirmed, modified, amended or substituted by the appeal court, or any judgment which may have been pronounced by the appeal court, in the same manner in all respects as if such decision or judgment had been pronounced by itself.

290. Court member not to hear appeals from judgments

No judge, magistrate or member of an area court shall sit as a member of an appeal court when such appeal court is hearing an appeal from a finding, sentence or order passed by him or by a court of which he is a member.

291. Abatement of appeals

Every criminal appeal, other than an appeal from a sentence of fine shall finally abate on the death of the appellant.

CHAPTER XXIV

Execution

292. Definitions for Chapter XXIV

In this Chapter—

[KWS LN 1 of 1982.]

"**convicted person**" means a person convicted of an offence punishable with death.

293

[No. 4 of 2006.]

294. High Court to report death sentence to Governor

After a sentence of death has been pronounced in the High Court the presiding judge shall, as soon as may be convenient, forward to the Governor a copy of the trial proceedings including the judgment and sentence together with a report in writing containing any recommendation or observations on the case which he thinks fit to make.

[KWS LN 1 of 1982.]

295. Recommendation of pardon or reprieve

When any convicted person—

[KWS LN 1 of 1982.]

- (a) has been sentenced to death by the High Court; and
- (b)
 - (i) has not appealed within the time prescribed by law; or
 - (ii) has unsuccessfully appealed against the conviction; or
 - (iii) having filed a notice of appeal has failed to prosecute such appeal,

the Governor, after consultation with the advisory council of the State on the prerogative of mercy, shall decide whether or not he should exercise any power conferred on him by section 192 of the Constitution.

296. When death sentence to be carried into effect

If the Governor decides that he should not exercise a power referred to in section 295 in respect of a convicted person the sentence of death pronounced upon the convicted person shall be carried into effect in accordance with the provisions of this chapter.

[KWS LN 1 of 1982.]

297. Governor to inform High Court

The Governor shall communicate the decision referred to in section 296 to the High Court.

[KWS LN 1 of 1982.]

298. Order for execution of death sentence

(1) When the Governor has communicated his decision in accordance with the provisions of section 297 he shall by order either—

[KWS LN 1 of 1982.]

(a) direct that the sentence of death shall be executed and the order shall state the date, time and place for the sentence of death to be carried out and give directions as to the place of burial of the body; or

(b) direct that the execution shall take place at such date, time and place as shall be specified by some officer specified in the order and that the body of the person executed shall be buried at such place as shall be specified by such officer.

(2) When the date, time and place of carrying out the sentence of death and the place of burial is not stated in the Governor's order the officer specified in the order shall endorse thereon the date, time and place of carrying out the sentence of death and the place of burial.

(3) The Governor may make rules prescribing the form of any order, direction or specification mentioned in this section.

299. Copy of order to be sent to the sheriff

(1) A copy of the Governor's order shall be sent to the Sheriff and the Sheriff shall cause effect to be given thereto.

[KWS LN 1 of 1982.]

(2) If for any reason a copy of the Governor's order is not received by the Sheriff before the date fixed therein or endorsed thereon for execution the Sheriff shall nevertheless have the order carried into effect upon the earliest convenient day after the receipt thereof.

(3) The said copy of the Governor's order or the directions issued by the Sheriff under subsection (2) shall be sufficient authority to all persons to carry the sentence into effect in accordance with the terms thereof.

300. When woman sentenced to death is alleged to be pregnant

If a woman sentenced to death is subsequently alleged to be pregnant the superintendent or other officer in charge of the prison in which she is detained shall report such allegation to the Governor who shall thereupon order the sentence of death to be postponed until a medical officer to be appointed in writing by the Governor has determined whether or not the woman is pregnant, and made a report in writing of this finding to the Governor.

[KWS LN 1 of 1982.]

301. Procedure for granting of pardon

(1) When the Governor exercises a power referred to in section 295 he shall issue an order, directing that the execution be not proceeded with, and, as the case may be, that the convicted person be released, or that he be imprisoned for such a term as may be specified in the order, or that he be otherwise dealt with as may be specified in the order subject to any condition as may be specified therein.

[KWS LN 1 of 1982.]

(2) The Governor shall send to the superintendent or other officer in charge of the prison in which the convicted person is confined a copy of any order issued by the Governor in accordance with the provisions of this section.

(3) The superintendent or other officer in charge of the prison in which the convicted person is confined shall comply with and give effect to every such order sent to him under the provisions of this section.

302. Execution of sentence of imprisonment

(1) When an accused person is sentenced to imprisonment, the court passing the sentence shall forthwith issue a warrant committing him to prison and shall send the warrant and prisoner to the prison in which he is to be confined.

(2) Every warrant referred to in subsection (1) shall be directed to the officer in charge of the prison or other place in which the prisoner is to be confined and shall be lodged with the official in charge of such prison or place.

303. Conditions attaching to detention during pleasure

(1) When any person is ordered to be detained during the Governor's pleasure he shall notwithstanding anything in this Criminal Procedure Code or in any other written law be liable to be detained in such place and under such conditions as the Governor may direct and whilst so detained shall be deemed to be in legal custody.

(2) A person detained during the Governor's pleasure may at any time be discharged by the Governor on licence.

(3) A licence may be in such form and may contain such conditions as the Governor may direct.

(4) A licence may at any time be revoked or varied by the Governor and where a licence has been revoked the person to whom the licence relates shall proceed to such place as the Governor may direct and if he fails to do so, may be arrested without warrant and taken to such place.

304. Warrant for levy of fine

(1) When an offender is sentenced to pay a fine the court passing the sentence may, in its discretion although the sentence directs that in default of payment of the fine the offender shall be imprisoned, issue a warrant for the levy of the amount—

- (a) by the seizure and sale of any movable property belonging to the offender; or
- (b) by the attachment of any debts due to the offender; or
- (c) subject to the provisions of the Land Use Act 1978 by the attachment and sale of any immovable property of the offender situated within the jurisdiction of the court.

[No. 6 of 1978.]

(2) A warrant for seizure and sale of the movable property of an offender shall be addressed to the court within the local limits of whose jurisdiction it is to be executed.

(3) When execution of a warrant is to be enforced by attachment of debts or by sale of immovable property, the warrant shall be sent for execution to any court competent to execute decrees for the payment of money in civil suits and such court shall follow the procedure for the time being in force for the execution of such decrees.

305. Who may issue a warrant

Except in the case of a sentence of death a warrant for the execution of any sentence or other order of a criminal court shall be issued by the court which passed such sentence or order.

306. Powers of court when offender sentenced to fine only

(1) When an offender has been sentenced to a fine only with or without a sentence of imprisonment in default of payment of the fine, the court authorised by section 305 to issue a warrant may exercise all—or any of the powers following, that is to say—

- (a) allow time for payment of the fine;
- (b) direct that the fine be paid by instalments;
- (c) postpone the issue of a warrant under section 304;
- (d) without postponing the issue of a warrant under section 304, postpone the sale of any property seized under such warrant;
- (e) postpone the execution of the sentence of imprisonment in default of payment of the fine.

(2) Any order made in the exercise of the powers referred to in subsection (1) may be subject to the offender giving such security as the authority making the order thinks fit by means of a bond with or without sureties, and such bond may be conditioned either for the

payment of the fine in accordance with the order or for the appearance of the offender as required in bond or both.

(3) In like manner the court or any person authorised as aforesaid may order that the execution of the sentence of imprisonment upon an offender who has been committed to prison in default of payment of a fine be suspended and that he be released but only subject to the offender giving security as set forth in subsection (2).

(4) In the event of the fine or any instalment thereof not being paid in accordance with an order under this section the authority making the order may enforce payment of the fine or of the balance outstanding by any means authorised in this chapter and may cause the offender to be arrested and may commit or recommit him to prison under the sentence of imprisonment in default of payment of the fine.

307. Execution of sentence of Haddi lashing

(1) When the accused is sentenced to a Haddi lashing the sentence shall be executed at such time as the court may direct in the presence of an official of the court and the sentence shall be inflicted by such instrument and in such manner and at such place as shall be prescribed by order by the Governor.

(2) Nothing herein contained shall be deemed to authorise the infliction of a Haddi lashing upon any person other than a Moslem and in accordance with the provisions of subsection (2) of section 68 of the Penal Code.

[Cap. P4.]

308. Execution of sentence of caning

(1) When the accused is sentenced to caning, the sentence shall be executed at such place and time as the court may direct.

(2) The caning shall be inflicted in the presence of the registrar of the court.

(3) No sentence of caning shall be executed by instalments.

(4) No sentence of caning shall be inflicted on—

(a) females;

(b) males sentenced to death; or

(c) males whom the court considers to be more than forty-five years of age.

(5) The sentence shall be inflicted with a light rattan cane.

309. Stay of execution of sentence of caning

(1) If before the execution of sentence of caning it appears to the registrar of the court referred to in subsection (2) of section 308 that the offender is not in a fit state of health to undergo the sentence, he shall stay the execution, and the court which passed the sentence

may either—

- (a) after taking a medical opinion again order the execution of the sentence; or
- (b) substitute for it any other sentence which it could have passed at the trial.

(2) If during the execution of caning it appears to the registrar of the court that the offender is not in a fit state of health to undergo the remainder of the sentence, the caning shall immediately be stopped and the remainder of the sentence be remitted.

(3) In either case the court shall be informed of the stay of execution.

310. Stay of execution of sentence of caning to allow time for appeal

(1) When the accused is sentenced to caning the court shall forthwith ask him whether he intends to appeal and if he expresses such an intention the caning shall not be inflicted until fifteen days after the date of sentence or, if an appeal is made within that time, unless and until the appellate court confirms the sentence.

(2) When the accused is sentenced to caning only and states to the court his intention to appeal in accordance with the provisions of subsection (1) the court shall release him pending the expiry of the period of fifteen days or, if an appeal is made within that time, the disposal of the appeal by the appellate court on his furnishing bail to the satisfaction of the court for his appearance at such time and place as the court may direct for the execution of the sentence if such sentence is to be carried out.

(3) When the accused is sentenced to caning only and furnishes bail to the satisfaction of the court for his appearance at such time or place as the court may direct for the execution of the sentence the court shall release him pending such appearance.

311. Execution of sentence on escaped convict

When sentence of imprisonment is passed on an escaped convict, such sentence shall take effect after he has suffered imprisonment for a further period equal to that which at the time of his escape remained unexpired of his former sentence.

312. Sentence on offender already sentenced for another offence

Subject to the provisions of section 24, when a person is sentenced to imprisonment such imprisonment shall not commence before the expiration of any imprisonment to which he has been previously sentenced, unless the court directs that the imprisonment shall run concurrently with any such previous imprisonment.

313. Return of warrant on execution of sentence

When a sentence has been fully executed, the officer executing it shall return the warrant

to the court in which the trial took place with an endorsement under his hand certifying the manner in which the sentence has been executed.

PART VIII

Special Proceedings

CHAPTER XXV

Proceedings in case of Certain Offences affecting the Administration of Justice

314. Procedure in cases mentioned in section 140

(1) When any court is of opinion that an offence referred to in section 140 and committed before it or brought to its notice in the course of any judicial proceeding should be inquired into or tried, such court, after making any preliminary inquiry which it thinks fit, may send the case for inquiry or trial to the nearest court of competent jurisdiction and may send the accused in custody or take sufficient security for his appearance before such court of competent jurisdiction; and may bind over any person to appear and give evidence at such inquiry or trial.

(2) The court of competent jurisdiction shall thereupon proceed according to law and as if upon complaint made and recorded under section 146.

(3) Where it is brought to the notice of a court of competent jurisdiction to which the case may have been transferred under this section that an appeal is pending against the decision arrived at in the judicial proceedings out of which the matter has arisen, it may if it thinks fit adjourn the hearing of the case until such appeal is decided.

315. Procedure in certain cases of contempt

(1) When any such offence as described in section 137, 141, 142, 143 or 155 of the Penal Code is committed in the view or presence of any court, the court may instead of proceeding under section 314 cause the offender to be detained in custody; and at any time before the rising of the court on the same day may if it thinks fit take cognisance of the offence and sentence the offender to a fine not exceeding two thousand naira and in default of payment to imprisonment for a term which may extend to one month, unless such fine be sooner paid.

[Cap. P4.]

[No. 4 of 2006.]

(2) No court shall impose a sentence under this section which it is not competent to impose under the provisions of Chapter III.

[No. 4 of 2006.]

316. Record of certain cases of contempt

(1) When any court takes cognisance under section 315 of an offence it shall record the fact constituting the offence with the statement, if any, made by the offender as well as the finding and sentence.

(2) If the offence is under section 155 of the Penal Code the record shall show the nature and stage of the judicial proceedings in which the court interrupted or insulted was sitting and the nature of the interruption or insult.

[Cap. P4.]

317. Discharge of offender on submission or apology

When any court has under section 315 sentenced an offender to punishment for refusing or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the court may in its discretion discharge the offender or remit the punishment on his submission to the order or requisition of the court or an apology being made to its satisfaction.

318. Imprisonment or commitment to officer's custody of person refusing to answer or produce document

If any witness or any person called to produce a document or thing before a court unlawfully refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the court requires him to produce and does not offer any reasonable excuse for such refusal, the court may for reasons to be recorded in writing sentence him to imprisonment or by warrant of the court commit him to the custody of an officer of the court for any term not exceeding seven days unless in the meantime he consents to be examined and to answer or to produce the document or thing and in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 314 or section 315.

[No. 4 of 2006.]

319. Appeals from convictions in contempt cases

(1) Any person sentenced by any court under section 315 or section 318 may, notwithstanding anything hereinbefore contained, appeal to the court to which judgments or orders made in the trial court are appealable.

(2) Any person sentenced by any court under section 315 or section 318 may, notwithstanding anything hereinbefore contained, ask for a review by the reviewing authority, if any, which ordinarily has a power of review over such courts.

CHAPTER XXVI

Persons of Unsound Mind

320. Procedure when accused is suspected to be of unsound mind

(1) When a court holding a trial or an inquiry has reason to suspect that the accused is of unsound mind and consequently incapable of making his defence the court shall in the first instance investigate the fact of such unsoundness of mind.

(2) An investigation under subsection (1) may be held in the absence of the accused person if the court is satisfied that owing to the state of the accused's mind it would be in the interests of the accused or of other persons or in the interests of public decency that he should be absent.

(3) If the court is not satisfied that the accused is capable of making his defence, the court shall adjourn the trial or inquiry and shall remand such person for a period not exceeding one month to be detained for observation in some suitable place.

(4) A person detained in accordance with subsection (3) shall be kept under observation by a medical officer during the period of his remand and before the expiry of that period the medical officer shall give to the court his opinion in writing as to the state of mind of that person, and if he is unable within the period to form any definite opinion shall so certify to the court and shall ask for a further remand and such further remand may extend to a period of two months.

(5) Any court before which a person suspected to be of unsound mind is accused of any offence may, on the application of the Attorney-General made at any stage of the proceedings prior to the trial, order that such person be sent to some suitable place for observation.

321. Certificate of medical officer

(1) If a medical officer reports under section 320 that the accused person is of sound mind and capable of making his defence, the court shall, unless satisfied that the accused person is of unsound mind, proceed with the inquiry or trial.

(2) If the medical officer should report under section 320 that such person is of unsound mind and incapable of making his defence, the court shall if satisfied of the fact, find accordingly, and thereupon the inquiry or trial shall be adjourned.

322. Release of persons of unsound mind pending investigation or trial

(1) Whenever an accused person is found to be of unsound mind and incapable of making his defence the court, if the offence charged is not punishable with death, may in its discretion release him on sufficient security being given by his guardians that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other

person, and for his appearance when required before the court or such officer as the court appoints in that behalf.

[NN 12 of 1964.]

(2) If the offence charged is one punishable with death or if a court has refused to take security under subsection (1) or if no application is made for bail or if an application for bail is refused the court shall report the case to the Governor who after consideration of the report may, in his discretion, order the accused to be confined in a suitable place of safe custody.

(3) Pending the order of the Governor the accused may be committed to a suitable place of safe custody.

323. Resumption of inquiry or trial

Whenever an inquiry or trial is adjourned under section 320 or section 321 the court may at any time re-open the inquiry or commence the trial and require the accused to appear or be brought before such court.

324. Resumption of proceedings under section 320

When the accused has been released under section 322 the court may at any time require the accused to appear or be brought before it and may again proceed under section 320.

325. When accused appears to have been of unsound mind

When the accused appears to be of sound mind at the time of any preliminary inquiry before a court and the court is satisfied from the evidence given before it that there is reason to believe that the accused committed an act which if he had been of sound mind would have been an offence and that he was at the time when the act was committed by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the court shall proceed with the case and, if the accused ought otherwise to be committed to the High Court, send him for trial.

326. Judgment of acquittal on ground of mental disorder

Whenever any person is acquitted upon the ground that at the time at which he is alleged to have committed an offence he was by reason of unsoundness of mind incapable of knowing the nature of the act alleged as constituting the offence or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

327. Safe custody of person acquitted

(1) Whenever the finding states that the accused person committed the act alleged, the

court before which the trial has been held shall, if such act would but for incapacity be found to have constituted an offence, order such person to be kept in safe custody in such place and manner as the court thinks fit and shall report the case for the order of the Governor.

(2) The Governor may order such person to be confined in a suitable place of safe custody during the Governor's pleasure.

328. Observation of prisoners of unsound mind

When any person is confined under section 322 or section 327 a responsible medical officer shall keep him under observation in order to ascertain his state of mind and such medical officer shall make a special report as to the state of mind of such person for the information of the Governor at such time or times as the Governor shall require.

329. Procedure where person of unsound mind reported fit for discharge

If the responsible medical officer referred to in section 328 certifies that in his opinion a person confined under section 322 or section 327 may be discharged without danger to himself or to any other person, the Governor may thereupon order him to be discharged or to be detained in custody and he may appoint two medical officers to report on the state of mind of such person and on receipt of such report the Governor may order his discharge or detention as he thinks fit.

330. Transfer from one place of custody to another

Where a person is confined in any place the Governor may direct his transfer from one place to another place as often as may be necessary.

331. Delivery of person of unsound mind to care of relatives

(1) Whenever any relative or friend of any person confined under section 322 or section 327 applies to the Governor that such person shall be delivered over to his care and custody, the Governor may in his discretion order such person to be delivered to such relative or friend upon the relative or friend giving sufficient security that—

- (a) the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person; and
- (b) if at any time it shall appear that the person delivered is capable of making his defence the relative or friend shall produce such person for trial; and
- (c) the person delivered shall be produced for the inspection of such officer and at such times as the Governor directs.

332. Definitions for Chapter XXVII

(1) In this Chapter—

"corporation" means any body corporate, incorporated in Nigeria or elsewhere;

"representative" in relation to a corporation means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this chapter authorised to do, but a person so appointed shall not by virtue only of being so appointed be qualified to act on behalf of the corporation before any court for any other purpose.

(2) A representative for the purposes of this chapter need not be appointed under the seal of the corporation, and a statement in writing purporting to be signed by a managing director of the corporation or by any person having, or being one of the persons having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this chapter shall be admissible without further proof as evidence that the person has been so appointed.

333. Plea by corporation

Where a corporation is called upon to plead to any charge it may enter in writing by its representative a plea of guilty or not guilty or any plea which may be entered under the provisions of section 224, and if either the corporation does not appear by a representative or, though it does so appear, fails to enter as aforesaid any plea, the court shall order a plea of not guilty to be entered and the trial shall proceed as though the corporation had duly entered a plea of not guilty.

334. Committal of corporation for trial

A magistrate may commit a corporation for trial to the High Court.

335. Powers of representative

A representative may on behalf of a corporation—

- (a) make a statement before a magistrate holding a preliminary inquiry;
- (b) state whether the corporation is ready to be tried on a charge or altered charge to which the corporation has been called on to plead under the provisions of section 208.

336. Matters to be read or said or explained to representative

Where a representative appears, any requirement of this Criminal Procedure Code that anything shall be done in the presence of the accused, or shall be read or explained to the accused, shall be construed as a requirement that that thing shall be done in the presence of the representative or read or said or explained to the representative.

337. Non-appearance of representative

Where a representative does not appear any such requirement as is referred to in section 336 shall not apply.

338. Saving

Subject to the provisions of this chapter, the provisions of this Criminal Procedure Code relating to the inquiry into and trial of offences shall apply to a corporation as they apply to a natural person *sui juris* and of full age.

PART IX

Supplementary Provisions

CHAPTER XXVIII

The Compounding of Offences

339. Compounding offences

(1) The offences punishable under the sections of the Penal Code described in the first two columns of Appendix C may, subject to the subsequent provisions of this section, be compounded by the persons mentioned in the third column of that Appendix.

[Appendix C. Cap. P4.]

(2) When any offence is compoundable under this section the abetment of such offence or an attempt to commit such offence, when such attempt is itself an offence, may be compounded in like manner.

(3) When the person who would otherwise be competent to compound an offence under this section is under eighteen years of age, an idiot or a lunatic, any person competent to contract on his behalf may compound the offence.

(4) The offences mentioned in Part 1 of Appendix C may be compounded without the leave of the court at any time before the accused person has been convicted by the court or committed for trial to the High Court.

[Appendix C]

(5) The offences mentioned in Part II of Appendix C may be compounded before the

accused person has been convicted by a court or committed for trial only with the consent of the court which has jurisdiction to try the accused person for the offence or to commit him for trial.

[Appendix C]

- (6) After a commitment for trial an offence shall not be compounded except—
 - (a) with the leave of the committing magistrate where the trial has not commenced; or
 - (b) with the leave of the court trying the case where the trial has commenced and has not been concluded.
- (7) After a trial has been concluded an offence shall not be compounded except with the leave of the court to which an appeal would lie.
- (8) The compounding of an offence under this section shall have the effect of an acquittal of the accused.
- (9) No offence shall be compounded except as provided by this section.

CHAPTER XXIX

Bail

340. When bail to be granted

- (1) When any person accused of an offence punishable with imprisonment whether with or without fine for a term not exceeding three years or with fine only is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a court and is prepared at any time while in the custody of that officer or before that court to give such security as may seem sufficient to the officer or court, such person shall be released on bail unless the officer or court for reasons to be recorded in writing considers that by reason of the granting of bail the proper investigation of the offence would be prejudiced or a serious risk of the accused escaping from justice be occasioned.

[KWS LN 1 of 1982.]

- (2) The officer or court referred to in subsection (1) if he or it thinks fit may instead of accepting security from such person discharge him on his executing a bond without sureties for his appearance as provided in sections 345 and 346.

341. When bail may be taken in respect of non-bailable offence

- (1) Persons accused of an offence punishable with death shall not be released on bail.

[NN 12 of 1962.]

- (2) Persons accused of an offence punishable with imprisonment for a term exceeding

three years shall not ordinarily be released on bail; nevertheless the court may upon application release on bail a person accused as aforesaid if it considers—

- (a) that by reason of the granting of bail the proper investigation of the offence would not be prejudiced; and
- (b) that no serious risk of the accused escaping from justice would be occasioned; and
- (c) that no grounds exist for believing that the accused, if released, would commit an offence.

(3) Notwithstanding anything contained in subsections (1) and (2) if it appears to the court that there are not reasonable grounds for believing that a person accused has committed the offence, but that there are sufficient grounds for further inquiries, such person may, pending such inquiry, be admitted to bail.

342. Power of High Court to direct release on bail

- (1) Where any person is accused of an offence a single judge of the High Court may, subject to the provisions of section 341, direct that such person be admitted to bail.
- (2) When any person is convicted of an offence in a court and appeals from such court to the High Court, the High Court or a single judge thereof may, subject to the provisions of section 341, direct that such person be admitted to bail.

343. Power to arrest person released on bail

Any court may at any subsequent stage of any proceeding under this Criminal Procedure Code cause any person who has been released under section 340, 341 or 342 to be arrested and may commit him to custody.

344. Power of High Court to order reduction of bail

A judge of the High Court may in any case direct that the bail required by an officer in charge of a police station or any court be reduced.

345. Bond of accused and sureties

Before any person is released under section 340, 341 or 342 he shall execute a bond for such sum of money as the officer in charge of the police station or the court thinks sufficient on condition that such person shall attend at the time and place mentioned in the bond and shall continue so to attend until otherwise directed by the court and if he is released on bail the sureties shall execute the same or another bond or other bonds containing conditions to the same effect.

346. Discharge from custody

- (1) As soon as a bond referred to in section 345 has been executed, the person for

whose appearance it has been executed shall be released; and, if he is in prison, the court admitting him to bail shall issue a written order of release to the official in charge of the prison and such official on receipt of the order shall release him.

(2) Nothing in this section, section 340 or section 341 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

347. Deposit instead of bond

When any person is required by any court or officer in charge of a police station to execute a bond with or without sureties, the court or officer may, except in the case of bonds to be executed under Chapter VII, permit him to deposit a sum of money to such amount as the court or officer may think fit in lieu of executing such bond.

348. Bond required from a person under eighteen years

When the person required to execute a bond is under eighteen years of age, a bond executed by a surety or sureties only may be accepted.

349. Amount of bond not to be excessive

(1) The amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(2) If, through mistake, fraud or otherwise, insufficient sureties have been accepted or if the sureties afterwards become insufficient, the court may issue a warrant for the arrest of the person on whose behalf the sureties executed the bond and, when that person appears, the court may order him to find sufficient sureties and on his failing to do so may make such order as in the circumstances is just and proper.

350. Reconsideration of bail

Where a person has been admitted to bail and circumstances arise which in the opinion of the Attorney-General would justify the court in cancelling the bail or requiring bail of greater amount, a court may, on application being made by the Attorney-General, issue a warrant for the arrest of the person and, after giving him an opportunity of being heard, may either commit him to prison to wait trial, or admit him to bail for the same or an increased amount.

351. Discharge of sureties

(1) All or any sureties to a bond may at any time apply to the court which caused the bond to be taken to discharge the bond either wholly or so far as relates to the applicants.

(2) On an application under subsection (1) the court shall issue a warrant for the arrest

of the person on whose behalf the bond was executed and upon his appearance shall discharge the bond either wholly or so far as relates to the applicants and shall require such person to find other sufficient sureties and, if he fails to do so, may make such order as in the circumstances is just and proper.

352. Discharge of surety's estate

When a surety to a bond dies before his bond is forfeited, his estate shall be discharged from all liability under the bond, but the person on whose behalf such surety executed the bond may be required to find a new surety; and in such case the court may issue a warrant for the arrest of such person and upon his appearance may require him to find a new surety and, if he fails to do so, may make such order as in the circumstances is just and proper.

353. When person fails to find surety

If a person required by a court to find sufficient sureties under section 349, 351 or 352 fails to do so the court, unless it is just and proper in the circumstances to make some other order, shall make—

- (a) in the case of person ordered to give security for good behaviour under section 87 or section 88, an order committing him to prison for the remainder of the period for which he was originally ordered to give surety or until he finds sufficient sureties; or
- (b) in the case of a person accused of an offence and released on bail under section 340 an order committing him to prison until he is brought to trial or discharged.

353. Procedure on forfeiture of bond

- (1) Whenever it is proved to the satisfaction of the court by which a bond has been taken or, when the bond is for appearance before a court to the satisfaction of such court, that a bond has been forfeited, the court shall record the grounds of such proof and may call upon any person bound by the bond to pay the penalty thereof or to show cause why it should not be paid.
- (2) If sufficient cause is not shown and the penalty is not paid, the court may proceed to recover the same from any person bound or from his estate if he is dead in the manner laid down in section 304 for the recovery of fines.
- (3) A surety's estate shall only be liable under this section if the surety dies after the bond is forfeited.
- (4) If the penalty is not paid and cannot be recovered in manner aforesaid, the person bound shall be liable by order of the court which issued the warrant under section 304 to imprisonment for a term which may extend to six months.
- (5) The court may at its discretion remit any portion of the penalty and enforce payment in part only.

355. Arrest on breach of bond for appearance

When a person who is bound by any bond to appear before a court does not so appear, the court will issue a warrant for his arrest.

CHAPTER XXX

The Disposal of Property

356. Order for custody and disposal of property pending trial

When any property regarding which any offence appears to have been committed or which appears to have been used for the commission of any offence is produced before any court during any inquiry or trial, the court may make such order as it thinks fit for the proper custody of that property pending the conclusion of the inquiry or trial and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

[No. 4 of 2006.]

357. Order for disposal of property after trial

(1) When an inquiry or trial in any criminal case is concluded, the court may make such order as it thinks fit for the disposal by destruction, confiscation or delivery to any person appearing to be entitled to the possession thereof or otherwise of any movable property or document produced before it or in its custody or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) When an order is made under this section in a case in which any appeal lies, such order shall not, except when the property is livestock or is subject to speedy and natural decay, be carried out until the period allowed for presenting such appeal has passed or, when such appeal is presented within such period, until such appeal has been disposed of.

(3) Notwithstanding the provisions of subsection (2), the court may in any case make an order under the provisions of subsection (1) for the delivery of any property to any person appearing to be entitled to the possession thereof on his executing a bond with or without sureties to the satisfaction of the court engaging to restore such property to the court, if the order made under this section is modified or set aside by the appellate court.

358. Payment to the innocent purchaser of money found on accused

When any person is convicted of any offence which includes or amounts to theft or receiving stolen property and it is proved that any other person has bought the stolen property from him without knowing or having reason to believe that the same was stolen and that any money has on his arrest been taken out of the possession of the convicted

person, the court may, on the application of the purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by the purchaser be delivered to him.

359. Destruction of defamatory and other matter

(1) On a conviction under section 202, 394 or 395 of the Penal Code the court may order the confiscation or destruction of all the copies of the thing in respect of which the conviction was had and which are in the custody of the court or remain in the possession or power of the person convicted.

(2) The court may, in like manner, on a conviction under section 184, 185, 186, 187, 188, 189 or 190 of the Penal Code order the food, drink, drug or medical preparation in respect of which the conviction was obtained to be destroyed.

[Cap. P4.]

360. Power to restore possession of immovable property

(1) Whenever a person is convicted of an offence attended by criminal force or show of force or criminal intimidation and it appears to the court that thereby any person has been dispossessed of any immovable property, the court may if it thinks fit order that person to be restored to the possession of the same.

(2) No order under subsection (1) shall prejudice any right or interest to or in such immovable property which any person may be able to establish in a civil suit.

361. Procedure upon seizure of property taken under section 44 or stolen

(1) The seizure by the police of property taken under section 44 or alleged or suspected to have been stolen or found in circumstances which create a suspicion of the commission of an offence shall be forthwith reported to a court which shall make such order as it thinks fit respecting the disposal of the property or its delivery to the person entitled to the possession thereof on such conditions as the court thinks fit, or, if such person cannot be ascertained, respecting the custody and production of such property.

(2) If the person entitled to the possession of property referred to in subsection (1) is unknown, the court may detain it and shall in such case issue a public notice in such form as it thinks fit specifying the articles of which the property consists and requiring any person who may have a claim thereto to appear before the court and establish his claim within six months from the date of the notice.

362. Procedure where owner of property seized unknown

(1) If no person within the period referred to in section 361 establishes his claim to

property referred to in that section and if the person in whose possession such property was found is unable to show that it was lawfully acquired by him, such property shall be at the disposal of the court and may be sold in accordance with the orders of the court.

(2) At any time within two years from the date of the property coming into the possession of the police the court may direct the property or the proceeds of the sale of the property to be delivered to any person proving his title thereto on payment by him of any expenses incurred by the court in the matter.

363. Power to sell perishable property

If the person entitled to the possession of property referred to in section 361 is unknown or absent and the property is subject to speedy and natural decay or if the court to which its seizure is reported is of opinion that its sale would be for the benefit of the owner, the court may at any time direct it to be sold and the provisions of section 361 and 362 shall as nearly as may be practicable apply to the net proceeds of such sale.

CHAPTER XXXI

Miscellaneous

364. Expenses of complainants and witnesses

Subject to any rules made by the Chief Judge under section 373 any court may if it thinks fit remit the fees for the issue and service of any witness summons and order payment on the part of the Government at the reasonable expenses of any complainant or witness attending for the purpose of any trial, inquiry or other proceeding before such court under this Criminal Procedure Code or before the High Court where the witness is to be summoned under section 177.

[No. 4 of 2006.]

365. Power of court to order payment of expenses or compensation in addition to a fine

(1) Whenever under any law in force for the time being a court imposes a fine, the court may, when passing judgment, order that in addition to a fine a convicted person shall pay a sum—

[NN 12 of 1964.]

- (a) in defraying expenses properly incurred in the prosecution;
- (b) in compensation in whole or in part for the injury caused by the offence committed, where substantial compensation is in the opinion of the court recoverable by civil suit;
- (c) in compensating an innocent purchaser of any property in respect of which the

offence was committed who has been compelled to give it up;

(d) in defraying expenses incurred in medical treatment of any person injured by the accused in connection with the offence.

[No. 4 of 2006.]

(2) If the fine referred to in subsection (1) is imposed in a case which is subject to appeal, no such payment additional to the fine shall be made before the period allowed for presenting the appeal has elapsed or, if an appeal is presented, before the decision on the appeal.

366. Payments to be taken into consideration in subsequent suit

At the time of awarding compensation in any subsequent civil suit relating to the same matter the court shall take into consideration any sum paid or recovered as compensation under section 365.

367. Monies ordered to be paid recoverable as fines

Any compensation adjudged to be payable under section 78 of the Penal Code and the payment of any money, other than a fine, payable by virtue of any order under this Criminal Procedure Code, may be enforced as if it were a fine.

[NN 12 of 1964.]

368. Copies of proceedings

(1) If any person affected by a judgment or order passed by a court desires to have a copy of any order or deposition or other part of the record other than the judgment, he shall on applying for such copy be furnished therewith.

[No. 4 of 2006.]

(2) An application under subsection (1) shall be made within a period of two years from the date of judgment or order affecting the applicant.

(3) The applicant shall pay such fee, if any, for the copy as may be prescribed, unless the court or appellate court in any case on account of the poverty of the appellant or for some special reason directs that the copy be furnished without fee.

369. Power of police to seize property suspected to be stolen

Any police officer may seize any property which may be alleged or suspected to have been stolen or which may be found in circumstances which create suspicion of the commission of any offence and such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.

370. Powers of superior police officers

Any superior police officer may exercise the same powers throughout the local area to which he is appointed as may be exercised by an officer in charge of a police station within the limits of his station.

371. Compensation to persons groundlessly given in charge

(1) When any person causes the arrest of another person and it appears to the court by which the case is inquired into or tried that there was no sufficient ground for causing such arrest, the court may in its discretion direct the person causing the arrest to pay to the arrested person or each of the arrested persons, if there are more than one, such compensation not exceeding ten thousand naira to each such person as the Court thinks fit and may award a term of imprisonment not exceeding three months in the aggregate in default of payment; and the provisions of sections 74 and 75 of the Penal Code shall apply as if such compensation were a fine.

[Cap. P4.]

[NN 12 of 1964, No. 4 of 2006]

(2) Before making any direction under subsection (1) the court shall—

- (a) record and consider any objection which the person causing the arrest, if present, may urge against the making of the direction; and
- (b) state in writing its reasons for awarding the compensation.

(3) Compensation awarded under this section may be recovered as if it were a fine.

(4) Any person directed to make a payment of compensation under this section may appeal from the direction as if he had been convicted after trial by the court.

372. Saving as to other forms and procedure

Nothing in this Criminal Procedure Code shall affect the use or validity of any special forms in respect of any procedure or offence specified under the provisions of any other written law nor the validity of any other procedure provided by any other written law.

373. Power to make rules

(1) The Chief Judge with the approval of the Governor may make rules of court for all or any of the following purposes;

- (a) prescribing fees or expenses to be charged for or in respect of any act or thing done under this Criminal Procedure Code;
- (b) prescribing the books and forms of account to be used in magistrates' courts and the

keeping of the same;

- (c) requiring the making and forwarding of returns of cases decided in magistrates' courts to the Chief Judge or to any judge of the High Court and prescribing the forms of and terms of forwarding such returns;
- (d) prescribing the imposition of penalties on any person who fails to take any action required by a rule of court or who disobeys any rule of court;
- (e) prescribing forms for process, warrants, summonses, orders of court, bonds, notices, certificates and receipts;
- (f) prescribing the conditions under which statements may be made to the police by accused and other persons and under which such statements may be admitted in evidence;
- (g) generally for the better carrying into effect of the provisions and objects and intentions of this Criminal Procedure Code.

(2) Rules of court made under this section shall apply to all proceedings by the state.

374. Case in which member of court is personally interested

- (1) No person shall try or commit for trial or sit as a member of the court which tries any case to or in which he is a party or personally interested without the consent of the Chief Judge.
- (2) A person shall not be deemed to be a party to or personally interested in any case within the meaning of this section by reason only that he is concerned therein in a public capacity or by reason only that he has viewed the place in which an offence is alleged to have been committed or any other place in which any other transaction material to the case is alleged to have occurred or made or held an inquiry in connection with the case.

375. Proceeding by or against officer of court

Subject to the provisions of section 374, any criminal proceeding by or against any officer of a court for any offence or matter cognisable by a court may be brought in any court having jurisdiction in respect of any particular proceeding.

376. Public servant concerned in sales not to purchase or bid for property

A public servant having any duty to perform in connection with the sale of any property under this Criminal Procedure Code shall not purchase or bid for the property.

377. Protection of judicial officers

- (1) No judge of the High Court, magistrate or justice of the peace or president or member of an area court shall be liable for any act done or ordered to be done by him in the

course of any proceeding before him whether or not within the limits of his jurisdiction provided that at the time he, in good faith, believed himself to have jurisdiction to do or order to be done the act complained of.

(2) No person required or bound to execute any warrant or order issued by a court or by a justice of the peace shall be liable in any action for damages in respect of the execution of such warrant or order unless it be proved that he executed either in an unlawful manner.

378.

[KWS 1 of 1973.]

CHAPTER XXXII

Irregular Proceedings

379. Irregularities which do not vitiate proceedings

If any court or justice of the peace not empowered by law to do any of the following things, namely—

- (a) to issue a search warrant under section 74;
- (b) to direct, under section 120, the police to investigate an offence;
- (c) to take cognisance of an offence under section 143,

erroneously in good faith does any such thing, the proceedings shall not be set aside merely on the ground that the court or justice of the peace was not so empowered.

380. Irregularities which vitiate proceedings

If any court or justice of the peace not being empowered by law in this behalf, does any of the following things, namely—

- (a) attaches and sells property under section 68;
- (b) demands security to keep the peace;
- (c) demands security for good behaviour;
- (d) discharges a person lawfully bound to be of good behaviour;
- (e) cancels a bond to keep the peace;
- (f) makes an order under section 104 as to a public nuisance;
- (g) prohibits, under section 111, the repetition or continuance of a public nuisance;
- (h) tries an offender;
- (i) decides an appeal,

such proceedings shall be void.

381. Effect of omission to prepare charge

(1) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of an appeal court or reviewing authority a failure of justice has in fact been occasioned thereby.

(2) If an appeal court or reviewing authority thinks that a failure of justice has been occasioned by an omission to frame a charge, it may order that a charge be framed and that the trial be recommenced from the point at which the appeal court or reviewing authority considers the charge should have been framed.

382. Finding or sentence when reversible by reason of error or omission in charge or other proceedings

Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a court of competent jurisdiction shall be reversed or altered on appeal or review on account of any error, omission or irregularity in the complaint, summons, warrant, charge, public summons, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Criminal Procedure Code unless the appeal court or reviewing authority thinks that a failure of justice has in fact been occasioned by such error, omission or irregularity.

[NN 3 of 1963.]

EXPLANATION. In determining whether any error, omission or irregularity in any proceeding under this Criminal Procedure Code has occasioned a failure of justice, the court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

383. Process valid notwithstanding death or vacation of office of person issuing

A summons, warrant or other process under any written law shall not be invalidated by reason of the person who signed the same dying or ceasing to hold office or have jurisdiction.

384. Errors and omissions in orders and warrants

A court may at any time amend any defect in substance or in form in any order or warrant issued by such court, and no omission or error as to time and place, and no defect in form in any order or warrant given under this Criminal Procedure Code, shall be held to render void or unlawful any act done or intended to be done by virtue of such order or warrant, when it is therein mentioned, or may be inferred therefrom, that it is founded on conviction or judgment, and there is a valid conviction or judgment to sustain the same.

384.

[KWS LN 1 of 1982.]

385.

[KWS LN 1 of 1982.]

CHAPTER XXXIII

Trials in Area Courts

386. Area courts to be guided by Criminal Procedure Code

(1) In any matter of criminal nature an area court shall be guided in regard to practice and procedure by the provisions of this Criminal Procedure Code other than those provisions which relate only to any court other than an area court.

[KWS LN 1 of 1982.]

(2) Notwithstanding the provisions of subsection (1), all area courts shall be bound by the provisions of section 388.

(3) The fact that an area court has not been guided or properly guided by the provisions of this Criminal Procedure Code shall not entitle any person to be acquitted or any order of the court to be set aside.

(4) Where an area court has not been guided or properly guided by the provisions of this Criminal Procedure Code an appellate court or reviewing authority shall apply to the case the principles contained in sections 288 and 382 of this Criminal Procedure Code and the provisions of the Area Courts Law.

387. Formal charge not necessary in Area courts

Notwithstanding the provisions of this Criminal Procedure Code, it shall be sufficient in any trial before an area court to have, instead of a formal charge, a statement of the offence complained of.

388. Records in area court

(1) In the trial of a criminal matter an area court shall make a record of the proceedings in the prescribed form and shall record the following particulars—

- (a) the serial number of the case;
- (b) the name, tribe or nationality, residence, occupation and age of the accused;
- (c) the name, tribe or nationality, residence and occupation of the complainant, if any;
- (d) the offence complained of and the offence, if any, proved, and, where relevant, the value of the property in respect of which the offence has been committed;

- (e) the date and place of commission of the offence and the date of arrest;
- (f) the date of the complaint or First Information Report;
- (g) the names of the witnesses for the prosecution and defence and a record of their evidence in narrative form;
- (h) the plea of the accused and his examination;
- (i) the finding and, in the case of a conviction, reasons therefor with a reference to the Penal Code or other Act or Law;
- (j) the sentence or other final order;
- (k) the date on which the proceedings terminated.

(2) The judge of the court shall sign or seal the record of the proceedings.

[No. 4 of 2006.]

389. Duties of justice of the peace

A judge of an area court appointed a justice of the peace under the provisions of this Criminal Procedure Code shall be bound to observe the provisions of this Criminal Procedure Code in the exercise of his powers as a justice of the peace.

[No. 4 of 2006.]

APPENDIX A

Tabular Statement of Offences

[No. 4 of 2006, Schedule]

CHAPTER V

Abetment

Explanatory Notes --- 1. The entries in the second and fifth columns of this appendix, headed respectively "Offence" and "Punishment under the Penal Code", are not intended as definitions of the offences and punishment described in the several corresponding sections of the Penal Code or even as abstracts in these sections, but merely as references to the subject of the section, the number of which is given in the first column.

2. By virtue of section 12 of the Criminal Procedure Code any offence may be tried by any court with greater powers than those of the court mentioned in column 6.

2	3	4	5	6	
<i>Offence</i>	<i>Whether the police may arrest without warrant or not (see section 26)</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	<i>Punishment under the Penal Code</i>	<i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>Arrest power</i>
giving unlawful oath to commit	Shall not arrest without warrant	Warrant	Imprisonment for seven years or fine or both	Chief Magistrate	U
an offence punishable with	ditto	ditto	Imprisonment for life or less term or fine or both	High Court	
<i>Offence</i>	<i>Whether the police may arrest without warrant or not (see section 26)</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	<i>Punishment under the Penal Code</i>	<i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>Arrest power</i>
of any offence, if the act committed in consequence and express provision is made for its	May arrest without warrant if arrest for the offence abetted may be made without warrant but not otherwise.	According as a warrant or summons may issue for the offence abetted	The same punishment as for the offence abetted	Same court as the offence abetted	Same
of any offence, if the person is the act with a different from that of the abettor	Ditto	ditto	The same punishment as for the offence intended to be abetted	ditto	
of any offence, when one act is and a different act is done	Ditto	ditto	The same punishment as for the offence committed	ditto	
able to cumulative punishment intended and act done	ditto	ditto	Punishment for each offence as under section 85 and section 87		
of any offence, when an effect by the act abetted different intended by the abettor	ditto	ditto	The Same punishment as for the offence committed	ditto	
of any offence, if the abettor in offence is committed	ditto	ditto	ditto	ditto	
of any offence, punishable with imprisonment for life, if the not committed in consequence ment.	ditto	ditto	Imprisonment for seven years and fine	ditto	
or is a public servant whose prevent the offence	ditto	ditto	Imprisonment for fifteen years and fine	ditto	
of an offence punishable with ent, if the offence be not its consequence of the	May arrest without warrant if arrest for the offence abetted may be made without warrant but not otherwise	According as a warrant or summons may issue for the offence abetted	Imprisonment extending to a quarter of the longest term provided for the offence or fine or both	Same court as the offence abetted	Same
or be a public servant whose prevent the offence	ditto	ditto	Imprisonment extending to half of the longest term provided for the offence or fine or both	ditto	
the commission of an offence by or by more than ten persons	ditto	ditto	Imprisonment for three years or fine or both	ditto	

2	3	4	5	6	
<i>Offence</i> to commit offence punishable onment and in such attempt ct towards the commission of g or obstructing public servant en suppressing riot, etc.	<i>Whether the police may arrest without warrant or not (see section 156)</i> According as the offence is one in respect of which the police may arrest without warrant or ditto	<i>Whether a warrant or a summons shall ordinarily issue in the first instance one in respect of which a summons or warrant shall (see section 154)</i> Warrant ordinarily issue	<i>Punishment under the Imprisonment extending to half of the longest term provided for the offence or imprisonment for five years or fine or both</i>	<i>Court with least powers by which triable (but see The same court as the Explanatory Note 2 at head of Appendix)</i>	<i>Arrest The power of</i>
turbance of public peace	ditto	CHAPTER VII	Imprisonment for two years or fine or both	Magistrate of the Second Grade	<i>Arrest</i>
Conspiracy ---- mit offence punishable with Imprisonment	Shall not arrest without warrant	Warrant	The same as for a member of a public servant as for abetment of offence	High Court	
Imprisonment	ditto	ditto	Imprisonment for three years or with fine not exceeding one thousand naira	ditto	
other case	ditto	ditto	Imprisonment for five years or fine or both	Magistrate of the Second Grade	
or membership of unlawful	ditto	ditto	Imprisonment for ten years or fine or both	Chief Magistrate	<i>U</i>
		CHAPTER X	years or fine or both		
Official trust pecting to be a public servant ication is made or to a gratification, other than muneration in respect of an official act.	Shall not arrest without warrant	<i>Offences by or relating to public servants</i> Warrant	Imprisonment for fourteen years and fine	High Court Chief Magistrate	
other case	Ditto	Summons	Imprisonment for two years and fine or both	Magistrate of the first Grade	<i>U</i>

CHAPTER IX
Offences against the Public Peace

ber of an unlawful assembly	May arrest without warrant	Summons	Imprisonment for one year or fine or both	Magistrate of the Second Grade	<i>Arrest</i>
ber of an unlawful assembly any deadly weapon	ditto	Warrant	Imprisonment for five years or fine or both	Magistrate of the First Grade	<i>Arrest</i>
continuing in an unlawful knowing that it has been d to disperse	ditto	ditto	Imprisonment for five years or fine or both	ditto	
	ditto	ditto	Imprisonment for three years or fine or both	ditto	<i>Arrest</i>
ed with a deadly weapon	ditto	ditto	Imprisonment for seven years or fine or both	Chief Magistrate	<i>U</i>
assisting the promotion of an sembly	ditto	Summons, or as for any offence committed by any member of the assembly	The same as for a member of such assembly and for any offence committed by any member of such assembly	The court by which the offence is triable	<i>The</i>
continuing in any assembly of e persons knowing that it has anded to disperse	ditto	Summons	Imprisonment for one mouth or with fine not exceeding one thousand naira	Magistrate of the Second Grade	<i>Arrest</i>
d carrying of emblem, flag,	May arrest without warrant	Summons	Imprisonment for six months or fine not exceeding one thousand naira	ditto	

Public servant acting in judicial or carrying out duties of police officer	ditto	ditto	Imprisonment for fourteen years or fine or both	High Court	
Gratification in order to influence a public servant	ditto	ditto	ditto	ditto	
by public servant of an offence section 116 with reference to himself	ditto	ditto	ditto	ditto	
For giving gratification to public in respect of official set or in order to influence him	ditto	ditto	ditto	Chief Magistrate	
Public servant obtaining any valuable without consideration from a person concerned in any proceeding or transaction transacted with such public servant	ditto	ditto	Imprisonment for seven years or fine or both	ditto	
For giving valuable thing to public servant without consideration	Shall not arrest without warrant	Warrant	Imprisonment for five years or fine or both	Magistrate of the First Grade	
Person profiting by gratification or benefit obtained by public servant	ditto	ditto	Imprisonment for two years or fine or both	ditto	
Public servant dishonestly receiving money or property not due	ditto	ditto	Imprisonment for five years or fine or both	ditto	
Public servant disobeying a direction of the court with intent to cause injury or to save himself from punishment or property from forfeiture	ditto	Summons	Imprisonment for five years or fine or both	ditto	
Public servant framing an incorrect record or giving false evidence or misrepresenting facts or mistranslating document with intent to cause injury	ditto	Warrant	Imprisonment for five years or fine or both	ditto	
Public servant in a judicial proceeding or pronouncing a report, order, or decision which he knows to be contrary to law	ditto	ditto	Imprisonment for ten years	High Court	
2 <i>Offence</i>	3 <i>Whether the police may arrest without warrant or not (see section 26)</i>	4 <i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	5 <i>Punishment under the Penal Code</i>	6 <i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>Any power</i>
Public servant for trial or confinement by a person having authority who knows that he is acting contrary to law	ditto	ditto	ditto	ditto	
Public servant willfully omitting to perform duty, if such omission causes danger, etc.	ditto	ditto	ditto	ditto	
Public servant wrongfully abandoning duty	ditto	ditto	ditto	ditto	
Public servant unlawfully buying or bidding for property	ditto	ditto	ditto	ditto	
Public servant sonating a public servant	ditto	Warrant	Imprisonment for three years or fine or both	ditto	
Public servant dressing or carrying token used by public servant with intent that it may be taken as such that the offender is such public servant	ditto	Summons	Imprisonment for six months or fine of –N- 2,000.00 or both	ditto	
Public servant going to avoid service of summons or other proceeding from a public servant	Shall not arrest without warrant	Summons	Imprisonment for one month or fine of –N- 1,000.00 or both	ditto	
Public servant summons or notice requires appearance, in person, etc., in a court of justice	ditto	ditto	Imprisonment for three months or fine of –N- 2,000.00 or both	ditto	
Public servant refusing the service or the affixing of summons or notice or the removal of stamp has been affixed or preventing a public summons	Shall not arrest without warrant	Summons	Imprisonment for one month or fine of –N- 1,000.00 or both	ditto	
Public servant summons, etc., requires attendance in person, etc., in a court of justice	ditto	ditto	Imprisonment for three months or fine of –N- 2,000.00 or both	ditto	

obeying a legal order to attend at a place in person or by agent or failing to do so or failing to appear therefrom without authority	ditto	ditto	Imprisonment for one month or fine of –N-1,000.00 or both	ditto	
the summons, etc., requires attendance, or attendance by agent in a court of justice	ditto	ditto	Imprisonment for three months or fine of –N-2,000.00 or both	ditto	
intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	ditto	ditto	Imprisonment for one month or fine of –N-2,000.00 or both	ditto	
notice or information required for the commission of an offence, etc.	ditto	ditto	Imprisonment for three months or fine of –N-2,000.00 or both	ditto	
intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information	ditto	ditto	Imprisonment for one month or fine of –N-2,000.00 or both	ditto	
notice or information required for the commission of an offence, etc.	ditto	ditto	Imprisonment for three months or fine of –N-2,000.00 or both	ditto	
2 <i>Offence</i>	3 <i>Whether the police may arrest without warrant or not (see section 26)</i>	4 <i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	5 <i>Punishment under the Penal Code</i>	6 <i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>Arrest powers</i>
Knowingly furnishing false information to a public servant	ditto	ditto	Imprisonment for three months or fine of –N-2,000.00 or both	ditto	
information required respects commission of an offence, etc.	ditto	ditto	Imprisonment for two years or fine or both	ditto	
giving false information to a public servant in order to cause him to do or to refrain from doing something or to use his lawful power to the injury or annoyance of any person	Shall not arrest without warrant	Summons	Imprisonment for six months or fine of –N-2,000.00 or both	ditto	
Swearing oath when duly required to take oath by public servant	ditto	ditto	Imprisonment for six months or fine of –N-2,000.00 or both	ditto	
Refusing to answer questions when legally bound to answer	ditto	ditto	Imprisonment for six months or fine of –N-2,000.00 or both ditto	ditto	
Refusing to sign a statement made to a public servant when legally required	ditto	ditto	Imprisonment for three months or fine of –N-1,000.00 or both	ditto	
Obstructing the taking of property by lawful authority of a public servant	ditto	ditto	Imprisonment for six months or fine of –N-2,000.00 or both	ditto	
Refusing sale of property offered for sale by authority of a public servant	ditto	ditto	Imprisonment for one month or fine of –N-1,000.00 or both	ditto	
Refusing property under lawful seizure	ditto	ditto	Imprisonment for three years or fine or both	ditto	
Refusing purchase or bid for property offered for sale by authority of public servant.	ditto	ditto	Imprisonment for one month or fine of –N-1000.00 or both	ditto	
Refusing public servant in discharge of his public functions	ditto	ditto	Imprisonment for three months or fine of –N-2,000.00 or both	ditto	
Refusing public servant in discharge of duty under written law	ditto	ditto	Imprisonment for two years or fine or both	ditto	
Refusing to assist public servant when legally bound to give such assistance	ditto	ditto	Imprisonment for six months or fine of –N-2,000.00 Or both	ditto	
Disobeying a convention of residence order	May arrest without warrant	ditto	Imprisonment for six months or fine of –N-	Magistrate of the Second Grade	A

			5,000.00 or both		
disobedience to an order lawfully decreed by a public servant –					
such disobedience causes inconvenience, annoyance or injury to persons lawfully employed.	Shall not arrest without warrant	ditto	Imprisonment for three months or fine of –N- 2,000.00 or both	Magistrate of the Second Grade	A
disobedience causes danger to human life, etc.	ditto	ditto	Imprisonment for six months or fine of –N- 5,000.00 or both	ditto	A
2	3	4	5	6	
<i>Offence</i>	<i>Whether the police may arrest without warrant or not (see section 26)</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	<i>Punishment under the Penal Code</i>	<i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>Applicable provisions</i>
injuring a public servant with injury to one in whom he is interested to induce him to do or forbear to do any official act	ditto	ditto	Imprisonment for two years or fine or both	ditto	A
inducing any person to induce him to refrain from applying for protection to a public servant	ditto	ditto	Imprisonment for one year or fine or both	ditto	
causing insult or interruption to a public servant sitting in any stage of a judicial proceeding	ditto	ditto	Imprisonment for six months or fine of –N- 2,000.00 or both	ditto	
CHAPTER XII					
<i>False Evidence and Offences relating to the Administration of justice</i>					
<i>Offences relating to Evidence</i>					
giving or fabricating false evidence in a judicial proceeding	Shall not arrest without warrant	Warrant	Imprisonment for fourteen years and fine	Chief Magistrate	
giving or fabricating false evidence in any other case	ditto	ditto	Imprisonment for seven years and fine	ditto	
giving or fabricating false evidence with intent to cause any person to be acquitted of an offence punishable with death	ditto	ditto	Imprisonment for life and fine	High Court	
that person be thereby convicted and executed	ditto	ditto	Death	ditto	
giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment	Shall not arrest without warrant	Warrant	The same as for the offence	Chief Magistrate	
giving or fabricating false evidence in a judicial Proceeding evidence known to be false or fabricated	ditto	ditto	The same as for giving or fabricating false evidence	The same court as may try giving fabricating the false evidence	
knowingly issuing or signing a false certificate relating to any fact of which the certificate is by law admissible in evidence	ditto	ditto	The same as for giving false evidence	The same court as may try giving false evidence	
knowingly giving or signing a false certificate one known to be false in a material point	ditto	ditto	ditto	ditto	
knowingly giving or signing a false certificate made in any declaration known to be false by law receivable as evidence	ditto	ditto	ditto	ditto	
knowingly giving or signing a false certificate any such declaration known to be false	ditto	ditto	ditto	ditto	
knowingly giving or signing a false certificate translation for use in judicial proceeding	ditto	ditto	ditto	ditto	
knowingly giving or signing a false certificate or destroying any document to prevent its production as evidence	ditto	Warrant	Imprisonment for two years or fine or both	Magistrate of the Second Grade	
Screening of offenders					
knowingly concealing or destroying or causing the disappearance of evidence of an offence committed to screen offender or to prevent the production of evidence touching it to prevent the offender or prevent his arrest	Shall not arrest without warrant	Warrant	Imprisonment for five years and fine		A

2	3	4	5	6	
Offence harbouring an offender	Whether the police may arrest without warrant or not (see section 26)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)	An power
2	3	4	5	6	
<i>Offence</i>	<i>Whether the police may arrest without warrant or not (see section 26)</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	<i>Punishment under the Penal Code</i>	<i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>An power</i>
Justification to screen an offender from punishment	ditto	ditto	ditto		
Justification in consideration of screening offender	Shall not arrest without warrant	Warrant	Imprisonment for seven years and fine	Chief Magistrate	
Attacking robbers or brigands	May arrest without warrant	ditto	Imprisonment for ten years and fine	ditto	
Force or obstruction to the lawful detention of another person or rescuing him from lawful confinement or custody	May arrest without warrant	Warrant	Imprisonment for seven years or fine or both	ditto	
Execution under sentence of death	ditto	ditto	Imprisonment for life and fine	High Court	
Force or obstruction by a person to arrest for an offence with which he is charged or of which he has been convicted or escape from custody in respect of such offence	ditto	ditto	Imprisonment for seven years or fine or both	Chief Magistrate	
Force or obstruction to arrest or escape in other cases	ditto	ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	A
Force or dishonest dealing with property to prevent its seizure or its production according to law	Shall not arrest without warrant	Warrant	Imprisonment for five years or fine or both	Magistrate of the First Grade	
Refusing to suffer a decree to pass for a debt due, or suffering decree to be set aside after it has been satisfied	ditto	ditto	ditto	Magistrate of the First Grade	
Refusing to obtain a decree for a sum of money due, or causing a decree to be set aside after it has been satisfied	ditto	ditto	ditto	ditto	
Refusing execution of deed of transfer or obtaining a false statement of consideration	ditto	ditto	ditto	ditto	
<i>Miscellaneous</i>					
Possession of information respecting an offence committed	Shall not arrest without warrant	Warrant	Imprisonment for five years or fine or both	Magistrate of the First Grade	
Obtaining property for the purpose of any act or proceeding in a suit or criminal prosecution	ditto	ditto	Imprisonment for three years or fine or both		A
Commission of offence made with intent to injure	ditto	ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	A
Offence charged be punishable	ditto	ditto	Imprisonment for seven years or fine or both ditto	Chief Magistrate	
Refusing to help recover movable property of which a person has been deprived by an offence without endeavouring to cause offender to be brought to justice	ditto	ditto	ditto	ditto	
Obstructing course of justice	ditto	Summons	Imprisonment for five years or fine or both	Magistrate of the First Grade	

2	3	4	5	6	
<i>Offence</i>	<i>Whether the police may arrest without warrant or not (see section 26)</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	<i>Punishment under the Penal Code</i>	<i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>Arrest powers</i>
CHAPTER XIII <i>Public Nuisance</i>					
ing, etc., food or drink intended without notice to purchaser	Shall not arrest warrant	Summons	Imprisonment for two years or fine of –N-10,000.00	Senior Magistrate	
d or drink not corresponding to description	ditto	ditto	Fine of –N-5,000.00	Magistrate of the Second Grade	A
g adulterated food or drink	ditto	ditto	Imprisonment for one year or fine of –N-10,000.00 or both	Senior Magistrate	
any article as food or drink, ing the same to be noxious	ditto	ditto	Imprisonment for five years or fine or both	Magistrate of the Second Grade	A
erating any drug or medical ion intended for sale so as to its efficacy or to change its tion or to make it noxious	Shall not arrest without warrant	Summons	Imprisonment for five years or fine of –N-10,000.00 or both	Senior Magistrate	
ng for sale or issuing from a nsary any drug or medical ration known to have been adulterated	ditto	ditto	ditto	ditto	
ngly selling or issuing from a nsary any drug or medical n as a different drug or medical preparation	ditto	ditto	ditto	ditto	
the water of a public well or reservoir	ditto	ditto	Imprisonment for five years and with fine	magistrate of the First Grade	
atmosphere noxious to health	ditto	ditto	Imprisonment for two years and with fine	Magistrate of the Second Grade	
n of a false light, mark or buoy	May arrest without warrant	Warrant	Imprisonment for seven years or fine or both	Chief Magistrate	
obstruction in any public way or line of navigation	ditto	Summons	Imprisonment for two years or fine or both	Magistrate of the Second Grade	A
es engaged on work of public ceasing work without notice	Shall not arrest without warrant	ditto	Imprisonment for six months or fine or both	ditto	A
or negligent act or conduct angering human life, etc.	May arrest without warrant	ditto	Imprisonment for one year or fine of –N-10,000.00 or both	Senior Magistrate	
mitting to control any animal in ession, so as to guard against human life or of grievous hurt from such animal	ditto	ditto	Imprisonment for one year or fine of –N-5,000.00 or both	Magistrate of the Second Grade	A
mitting a public nuisance	Shall not arrest without warrant	Summons	Imprisonment for one year or fine or both	ditto	
ce of nuisance after injunction to discontinue	May arrest without warrant	ditto	Imprisonment for three years or fine or both	ditto	
bscene or indecent acts	ditto	Warrant	Imprisonment for two years or fine or both	ditto	
Keeping a brothel	ditto	Summons	Imprisonment for two years or fine or both	ditto	
c., of obscene books, etc., or ch books in possession for sale or exhibition	ditto	Warrant	Imprisonment for two years or fine or both	ditto	
2	3	4	5	6	
<i>Offence</i>	<i>Whether the police may arrest without warrant or not (see section 26)</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	<i>Punishment under the Penal Code</i>	<i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>Arrest powers</i>
Obscene songs, etc.	ditto	ditto	Imprisonment for six months or fine or both	ditto	

CHAPTER XIV
Lotteries and Gaming Houses

gaming-house or lottery office	Shall not arrest without warrant	Summons	Imprisonment for two years or fine or both	ditto	
offences relating to lotteries	ditto	ditto	Imprisonment for six months or fine or both	ditto	
CHAPTER XV <i>Cruelty to Animals</i>					
treating domestic animals	May arrest without warrant	Summons	Imprisonment for three months or fine of –N-1,000.00 or both	ditto	
riding or neglecting animal	ditto	ditto	Imprisonment for one year or fine of –N-2,000.00 or both Ditto	ditto	
CHAPTER XVI <i>Offences relating to Religion</i>					
insulting religious creed	May arrest without warrant	Summons	Imprisonment for two years or fine or both	ditto	
g, damaging or defiling a place or sacred object with intent to religion of any class of persons	ditto	ditto	ditto	ditto	
a disturbance to an assembly aged in religious worship	ditto	ditto	Imprisonment for two years or fine or both	ditto	
ing in place of worship or burial ing funeral, with intention to the feelings or to insult the any person or offering indignity to a human corpse	ditto	ditto	Imprisonment for two years or fine or both	ditto	
Trial by ordeal	May arrest without warrant	Warrant	Imprisonment for ten years or fine or both	Chief Magistrate	
uch trial results in death	ditto	ditto	Death	High Court	
relating to witchcraft and juju	ditto	ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	
Criminal charms	ditto	ditto	Imprisonment for five years or fine or both	Magistrate of the First Grade	A
Cannibalism	ditto	ditto	Imprisonment for five years or fine or both	ditto	
ul possession of human head	ditto	ditto	Imprisonment for ten years or fine or both	Chief Magistrate	
CHAPTER XVIII <i>offences affecting the human Body</i>					
homicide punishable with death	May arrest without warrant	Warrant	Death	High Court	
homicide not punishable with death	ditto	ditto	Imprisonment for life or fine or both	ditto	
death when intention is to cause hurt or grievous hurt only	ditto	ditto	Imprisonment for fourteen years or fine or both	ditto	
caused in act of committing offence	ditto	ditto	Imprisonment for ten years or fine or both	ditto	
2 Offence	3 <i>Whether the police may arrest without warrant or not (see section 26)</i>	4 <i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	5 <i>Punishment under the Penal Code</i>	6 <i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>An pow</i>
of suicide committed by a child or delirious person or idiot or a r idiot or a person intoxicated	ditto	ditto	Death	ditto	
g the commission of suicide	ditto	ditto	Imprisonment for ten years and fine	ditto	
to commit culpable homicide punishable with death	ditto	ditto	Imprisonment for life or fine or both	ditto	
pt by life convict to commit e homicide punishment with death, if hurt is caused	ditto	ditto	Death	ditto	
ot to commit culpable homicide t punishable with death	ditto	ditto	Imprisonment for five years or fine or both	ditto	
(b) If hurt is caused	ditto	ditto	Imprisonment for ten	ditto	

			years or fine or both		
tempt to commit suicide	ditto	ditto	Imprisonment for two years or fine or both	ditto	
<i>Causing Miscarriage, Injuries to Unborn children, Exposure to Infants, Cruelty to Children, and the Concealment of Births</i>					
Causing miscarriage	Shall not arrest without warrant	Warrant	Imprisonment for fourteen years or fine or both	High Court	
Used by an act done with intent to cause miscarriage	ditto	ditto	Imprisonment for fourteen years and fine	ditto	
Done without woman's consent	ditto	ditto	Imprisonment for life and fine	ditto	
Causing miscarriage unintentionally	ditto	ditto	Imprisonment for three years or fine or both	ditto	
When doctor knew woman to be with child	ditto	ditto	Imprisonment for five years and with fine	ditto	
Done with intent to prevent a child to be alive or to cause it to die after his birth	ditto	ditto	Imprisonment for fourteen years or fine or both	ditto	
Death of a quick unborn child by unlawfully causing culpable homicide	ditto	ditto	Imprisonment for life or fine or both	ditto	
Death of a child under twelve years of age or person having care of it by neglect or wholly abandoning it	May arrest without warrant	ditto	Imprisonment for ten years or fine or both	ditto	
a) Cruelty to children	Shall not arrest without warrant	Summons	Imprisonment for two years or fine or both	Magistrate of the Second Grade	A
Causing grievous injury caused to health of child	ditto	ditto	Imprisonment for five years or fine or both		A
Concealment of birth by secret disposal of dead body	May arrest without warrant	Warrant	Imprisonment for five years or fine or both	Magistrate of the First Grade	A
<i>Hurt</i>					
Unlawfully causing hurt on grave and without provocation, not intending to hurt more than the person who gave the provocation	Shall not arrest without warrant	Summons	Imprisonment for three months or fine of –N-2,000.00 or both	Magistrate of the Second Grade	A
2 <i>Offence</i>	3 <i>Whether the police may arrest without warrant or not (see section 26)</i>	4 <i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	5 <i>Punishment under the Penal Code</i>	6 <i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>Applicable provisions</i>
Unlawfully causing grievous hurt on grave and without provocation, not intending to hurt more than the person who gave the provocation	May arrest without warrant	ditto	Imprisonment for one year or fine or –N-3,000.00 or both	Magistrate of the Second Grade	A
Unlawfully causing grievous hurt without provocation	Shall not arrest without warrant	ditto	Imprisonment for two years or fine of –N-5,000.00 or both	Magistrate of the Second Grade	A
Unlawfully causing grievous hurt without provocation	May arrest without warrant	ditto	Imprisonment for seven years and fine	Chief Magistrate	
Unlawfully causing hurt by dangerous weapon or means	ditto	ditto	Imprisonment for three years and with fine	Magistrate of the First Grade	A
b) If the hurt be grievous	ditto	Warrant	Imprisonment for fourteen years and fine	High Court	
Unlawfully administering stupefying drug with intent to cause hurt, etc.	ditto	ditto	Imprisonment for ten years and fine	ditto	
Unlawfully causing hurt to extort property or right of title or to constrain to do anything which is illegal or which may be the commission of an offence	ditto	ditto	Imprisonment for ten years and fine	Chief Magistrate	
c) If the hurt be grievous	ditto	ditto	Imprisonment for fourteen years and fine	High Court	
Unlawfully causing hurt to extort property or right of title or to compel a person to do anything or information or to compel	ditto	ditto	Imprisonment for seven years and fine	Chief Magistrate	

destruction of property, etc.					
If the hurt be grievous	ditto	ditto	Imprisonment for ten years and fine	ditto	
causing hurt to deter public servant from his duty	ditto	ditto	Imprisonment for three years or fine or both	Magistrate of the First Grade	A
If the hurt be grievous	ditto	ditto	Imprisonment for ten years and fine	Chief Magistrate	
hurt by an act which endangers human life, etc.	ditto	ditto	Imprisonment for one year or fine or both	Magistrate of the Second Grade	
If the hurt be grievous	ditto	ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	a
<i>Wrongful Restraint and wrongful Confinement</i>					
Wrongfully restraining any person	May arrest without warrant	Summons	Imprisonment for one month or fine of –N-2000.00 or both	Magistrate of the Second Grade	
Wrongfully confining any person	ditto	ditto	Imprisonment for one year or fine of –N-5000.00 or both	Magistrate of the Second Grade	A
Wrongful confinement continues for more than three days	ditto	ditto	Imprisonment for three years or fine or both	Magistrate of the Second Grade	A
Wrongfully confining any person in wrongful restraint, knowing that a warrant or order has been issued	ditto	ditto	Imprisonment for two years in addition to imprisonment under any section	Chief Magistrate	
Wrongful confinement in secret	ditto	ditto	ditto	ditto	
2 <i>Offence</i>	3 <i>Whether the police may arrest without warrant or not (see section 26)</i>	4 <i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	5 <i>Punishment under the Penal Code</i>	6 <i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>Arrest powers</i>
Wrongful confinement for the purpose of extortion or property or constraining to an illegal act, etc.	ditto	ditto	ditto	ditto	
Wrongful confinement for the purpose of confession or information or of restoring property, etc.	ditto	ditto	ditto	ditto	
<i>Criminal Force and Assault</i>					
Use of criminal force otherwise than on grave provocation	May arrest without warrant	Summons	Imprisonment for one year or fine or both	Magistrate of the Second Grade	A
If hurt is grievous	ditto	ditto	Imprisonment for three years or fine or both	ditto	A
Use of criminal force on grave provocation	ditto	ditto	Imprisonment for three months or fine of –N-2,000.00 or both	ditto	A
Use of criminal force to deter a servant from discharge of his duty	ditto	Warrant	Imprisonment for three years or fine or both	ditto	A
Use of criminal force to a woman with intent to outrage her modesty	ditto	ditto	ditto	ditto	A
Use of criminal force in attempt to steal property worn or carried by a person	ditto	ditto	ditto	ditto	A
Use of criminal force in attempt to wrongfully to confine a person	ditto	ditto	Imprisonment for two years or fine or both	ditto	A
<i>Kidnapping, abduction and Forced Labour</i>					
Kidnapping	May arrest without warrant	Warrant	Imprisonment for ten years and fine	Chief Magistrate	
Abducting or abducting in order to commit culpable homicide	ditto	ditto	Imprisonment for fourteen years and fine	High Court	
Procurement of minor girl	ditto	ditto	Imprisonment for ten years and fine	Chief Magistrate	
Importation of girl from foreign country	ditto	ditto	ditto	ditto	

ing or keeping in confinement a apped or abducted person	May arrest without warrant	Warrant	The same punishment as for kidnapping or abducting	Court by which the kidnapping or abduction could be tried	
elling, hiring or letting to hire a purposes of prostitution, etc.	ditto	ditto	Imprisonment for ten years and fine	Chief Magistrate	
ing or disposing of slave	ditto	ditto	Imprisonment for fourteen years and fine	High Court	
lawful compulsory labour	ditto	ditto	Imprisonment for one year or fine or both	Magistrate of the Second Grade	
Traffic in women	ditto	ditto	Imprisonment for seven years and fine	Chief Magistrate	

Rape, and Unnatural and Indecent Offences against the Person

Rape	May arrest without warrant	Summons	Imprisonment for life and fine	High Court	
Unusual offence	ditto	ditto	Imprisonment for fourteen years and fine	ditto	
2	3	4	5	6	
Offence	<i>Whether the police may arrest without warrant or not (see section 26)</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	<i>Punishment under the Penal Code</i>	<i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>Arrest powers</i>
as indecency upon person	ditto	ditto	Imprisonment for seven years and fine	Chief Magistrate	
Theft	May arrest without warrant	Warrant	Caning and two thousand naira for subsequent offences	Magistrate of the Second Grade	<i>Arrest powers</i>
in a building, tent or vessel	ditto	ditto	Imprisonment for seven years or fine or both	Chief Magistrate of the First Grade	
clerk or servant of property in possession of master or employer	May arrest without warrant	Warrant	Imprisonment for five years or fine or both	Magistrate of the First Grade	<i>Arrest powers</i>
separation having been made for death or hurt or restraint, or fear of hurt or of restraint, in order to effect such theft or to escape after committing it or to retain property taken by it	ditto	ditto	Imprisonment for fourteen years and fine	Chief Magistrate	

Extortion

Extortion	Shall not arrest without warrant	Warrant	Imprisonment for five years or fine or both	Magistrate of the First Grade	<i>Arrest powers</i>
or attempting to put in fear of in order to commit extortion	ditto	ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	<i>Arrest powers</i>
by putting a person in fear of death or grievous hurt	ditto	ditto	Imprisonment for fourteen years and fine		
by threat of accusation of an offence punishable with death or imprisonment for ten years	ditto	ditto	ditto	ditto	

Robbery and Brigandage

Robbery	May arrest without warrant	Warrant	Imprisonment for twenty- one years	High Court	
committed by person armed with deadly or offensive weapon or instrument	ditto	ditto	Imprisonment for life and caning	ditto	
attempt to commit robbery	ditto	ditto	Imprisonment for fourteen years, fine and caning	ditto	
involuntarily causing hurt in committing or attempting to commit robbery or any other person jointly concerned in such robbery	May arrest without warrant	Warrant	Imprisonment for twenty- one years, fine and caning	High Court	
Brigandage	ditto	ditto	ditto	ditto	
Brigandage with culpable homicide	ditto	ditto	Death	ditto	
Robbery or brigandage with deadly weapon or grievous hurt	ditto	ditto	Death	ditto	

service uniform or equipment (ii) With service weapon (iii) with firearm	ditto ditto ditto	ditto ditto ditto	Death ditto ditto	ditto ditto ditto	
ing preparation to commit brigandage	ditto	ditto	Imprisonment for fourteen years with or without fine and caning	ditto	
2 Offence	3 <i>Whether the police may arrest without warrant or not (see section 26)</i>	4 <i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	5 <i>Punishment under the Penal Code</i>	6 <i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>Arrest powers</i>
ditto able under section 303(1)(b)	ditto	ditto	Imprisonment for not less than twenty-one years, fine and caning	ditto	
to a gang of persons associated urpose of habitually committing brigandage	ditto	ditto	Imprisonment for fourteen years and fine	ditto	
to a wandering gang of persons d for the purpose of habitually mitting thefts or robbery	ditto	ditto	imprisonment for ten years and fine	ditto	
one of five or more persons l for the purpose of committing brigandage	May arrest without warrant	Warrant	Imprisonment for ten years and fine	high Court	
<i>Criminal Misappropriation</i>					
riminal misappropriation	Shall not arrest without warrant	Warrant	imprisonment for two years or fine or both	Magistrate of the Second Grade	A
riminal misappropriation knowing roperty was in possession of a erson at his death and that it ince been in the possession of erson legally entitled to it	ditto	ditto	imprisonment for three years and fine	ditto	
clerk or servant of deceased	ditto	ditto	Imprisonment for seven years and fine	Chief Magistrate	
<i>Criminal Breach of Trust</i>					
riminal breach of trust	May arrest without warrant	Warrant	Imprisonment for seven years or fine or both	Chief Magistrate	
l breach of trust by a carrier, wharfinger, etc.	ditto	ditto	Imprisonment for ten years and fine	ditto	
l breach of trust by a clerk or servant	ditto	ditto	ditto	ditto	
reach of trust by public servant nker, merchant or agent, etc.	ditto	ditto	Imprisonment for fourteen years and fine	ditto	
<i>Receiving Stolen Property</i>					
stly receiving stolen property, nknowing it to be stolen	May arrest without warrant	Warrant	Imprisonment for fourteen years and fine	Chief Magistrate	
stly receiving stolen property ing that it was obtained by brigandage	May arrest without warrant	Warrant	Imprisonment for life and fine	High Court	
in concealment or disposal of roperty, knowing it to be stolen	ditto	ditto	Imprisonment for five years or fine or both	Magistrate of the First Grade	A
<i>Having Possession of Thing Reasonably Suspected of having been Stolen</i>					
possession of thing reasonably cted of having been stolen	May arrest without warrant	Warrant	Imprisonment for six months or fine or both	Magistrate of the Second Grade	
<i>Cheating</i>					
Cheating	Shall not arrest without warrant	Warrant	Imprisonment for three years or fine or both	Magistrate of the Second Grade	A
g a person whose interest the was bound either by law or by gal contract to protect	ditto	ditto	Imprisonment for five years or fine or both		A

2	3	4	5	6	
<i>Offence</i>	<i>Whether the police may arrest without warrant or not (see section 26)</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	<i>Punishment under the Penal Code</i>	<i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>Arrest powers</i>
Intimidating by personation	May arrest without warrant	ditto	ditto	Magistrate of the First Grade	Arrest powers
Stealing and thereby dishonestly converting delivery of property, or the alteration or destruction of a document of title	ditto	ditto	Imprisonment for seven years and fine	Magistrate of the First Grade	Arrest powers
<i>Mischief</i>					
Mischief	Shall not arrest without warrant	Summons	Imprisonment for two years or fine or both	Magistrate of the Second Grade	Arrest powers
Voluntarily killing, poisoning, maiming or rendering useless any animal	May arrest without warrant	ditto	Imprisonment for six months or fine or both	Magistrate of the second Grade	Arrest powers
Voluntarily killing, poisoning, maiming or rendering useless any camel, horse, etc.	May arrest without warrant	Warrant	Imprisonment for six months or fine or both	Magistrate of the First Grade	Arrest powers
Mischief in relating to water supply	ditto	ditto	ditto	Magistrate of the First Grade	Arrest powers
Voluntarily injury to public road, bridge, river or navigable channel and making it impossible or less safe for travelling or conveying property	ditto	ditto	Imprisonment for life or fine or both	High Court	Arrest powers
Mischief by causing inundation or obstruction to public drainage, attended with damage	ditto	ditto	Imprisonment for five years or fine or both	Magistrate of the First Grade	Arrest powers
Mischief in relation to electricity, telegraphs and telephones	ditto	ditto	ditto	Magistrate of the First Grade	Arrest powers
Mischief by destroying or moving, etc., a mark fixed by public authority	shall not arrest without warrant	ditto	Imprisonment for five years and with fine	Magistrate of the First Grade	Arrest powers
Mischief by fire or explosive substance with intent to cause damage	May arrest without warrant	ditto	Imprisonment for seven years and fine	Senior Magistrate	Arrest powers
Mischief by fire or explosive substance with intent to destroy a house, etc.	ditto	ditto	Imprisonment for life and fine	High Court	Arrest powers
Mischief to vessel	ditto	ditto	Imprisonment for fourteen years or fine or both	ditto	Arrest powers
Mischief described in section 338 committed by fire or any explosive substance	ditto	ditto	Imprisonment for life and fine	ditto	Arrest powers
Mischief by setting on fire a vessel ashore with intent to commit theft, etc.	ditto	ditto	Imprisonment for fourteen years and fine	ditto	Arrest powers
Mischief committed after preparation or causing death, or hurt, etc.	ditto	ditto	Imprisonment for five years and fine		Arrest powers
<i>Criminal Trespass</i>					
Criminal trespass	May arrest without warrant	Summons	Imprisonment for one year or fine of –N-2,000.00 or both	Magistrate of the Second Grade	Arrest powers
House trespass	ditto	Warrant	ditto	Magistrate of the Second Grade	Arrest powers
Trespass with intention to commit offence punishable with death	ditto	ditto	Imprisonment for fourteen years and fine	High Court	Arrest powers
Trespass to commit an offence punishable with fourteen years imprisonment	ditto	ditto	Imprisonment for ten years and fine	ditto	Arrest powers
Trespass to commit an offence punishable with Imprisonment	ditto	ditto	Imprisonment for seven years and fine	Senior Magistrate	Arrest powers
2	3	4	5	6	
<i>Offence</i>	<i>Whether the police may arrest without warrant or not (see section 26)</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	<i>Punishment under the Penal Code</i>	<i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>Arrest powers</i>
House trespass or house-breaking	ditto	ditto	Imprisonment for two years and fine	Magistrate of the Second Grade	Arrest powers
House trespass or house-breaking with intent to commit an offence punishable with	ditto	ditto	Imprisonment for fourteen years and fine	High Court	Arrest powers

imprisonment					
use trespass or house-breaking by night	ditto	ditto	Imprisonment for three years and fine	Magistrate of the Second Grade	A
use trespass or house-breaking in order to commit an offence punishable with imprisonment	ditto	ditto	Imprisonment for life and fine	High Court	
grievous hurt caused by one of persons jointly concerned in house-breaking by night, etc.	ditto	ditto	ditto	High Court	
house-breaking open or unfastening of receptacle containing or supposed to contain property	ditto	ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	A
property entrusted with any closed receptacle containing or supposed to contain property and fraudulently opening the same	May arrest without warrant	Warrant	Imprisonment for three years or fine or both	Magistrate of the Second Grade	A
house-breaking with house-breaking implements	ditto	ditto	imprisonment for three years	Magistrate of the Second Grade	A
use of false key or instrument	ditto	ditto	Imprisonment for five years and fine	Magistrate of the First Grade	A
CHAPTER XX <i>Forgery</i>					
Forgery	Shall not arrest without warrant	Warrant	Imprisonment for fourteen years or fine for both	Chief Magistrate	
Forgery of public seals, etc.	ditto	ditto	Imprisonment for life and fine	High Court	
possessing a genuine a forged document which is known to be forged	ditto	ditto	Punishment for forgery of such document	Same court as that by which the forgery is triable	
counterfeiting or counterfeiting a seal, plate, or with intent to commit forgery or with like intent any such seal, etc., knowing the same to be counterfeit	ditto	ditto	Imprisonment for fourteen years and fine	chief Magistrate	
possession of a forged record	ditto	ditto	ditto	ditto	
possessing a device or mark used for counterfeiting documents, or possessing counterfeit marked material	ditto	ditto	ditto	ditto	
intentionally destroying or defacing, or attempting to destroy or deface, or using a document of title, etc.	ditto	ditto	ditto	ditto	
falsification of accounts	ditto	ditto	Imprisonment for seven years or fine or both	ditto	
<i>Property and other marks</i>					
using a false property mark	Shall not arrest without warrant	Warrant	imprisonment for two years or fine or both	Magistrate of the Second Grade	
counterfeiting a property mark used by another	ditto	ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	A
2 <i>Offence</i>	3 <i>Whether the police may arrest without warrant or not (see section 26)</i>	4 <i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	5 <i>Punishment under the Penal Code</i>	6 <i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>Arrest powers</i>
counterfeiting a property mark used by a servant, or any mark used by him in the manufacture, quality, etc., of any property	ditto	Summons	Imprisonment for three years and fine		A
counterfeiting or having possession of any die, seal, or other instrument for counterfeiting any property mark and possession of a false property mark	ditto	ditto	Imprisonment for three years or fine or both		A
affixing a false mark upon any package or receptacle containing goods, with intent to be believed that it contains goods which it does not contain, etc.	ditto	ditto	ditto	Magistrate of the Second Grade	A
using use of any such false mark	ditto	ditto	Same punishment as for offence committed against	Magistrate of the Second Grade	A

			section 378		
g, destroying or defacing any mark with intent to cause injury	ditto	ditto	Imprisonment for one year or fine or both	Magistrate of the Second Grade	A
Adultery by a man	ditto	ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	
Adultery by a woman	ditto	ditto	ditto	Magistrate of the Second Grade	
r taking away or detaining with nal intent a married woman	ditto	ditto	ditto	Magistrate of the Second Grade	
Incest	ditto	ditto	Imprisonment for seven years and fine	High court	

CHAPTER XXIII
Defamation

Defamation	Shall not arrest without warrant	Warrant	Imprisonment for two years or fine or both	Magistrate of the Second Grade	
injurious falsehood	ditto	ditto	ditto	Magistrate of the Second Grade	
g or engraving, etc., matter wing it to be defamatory	ditto	ditto	ditto	Magistrate of the Second Grade	A
rinted or engraved substance defamatory matter, knowing it o contain such matter	ditto	ditto	ditto	Magistrate of the Second Grade	A

Criminal Intimidation, Insult and Annoyance and Drunkenness

Criminal intimidation	Shall not arrest without warrant	Warrant	Imprisonment for two years or fine or both	Magistrate of the Second Grade	A
be to cause death or grievous hurt, etc.	ditto	ditto	Imprisonment for seven years or fine or both	Senior Magistrate	
intimidation by anonymous nunication or having taken n to conceal whence the threat comes	ditto	ditto	imprisonment for two years in addition to the punishment under section 397	Magistrate of the Second Grade	
nded to provoke a breach of the peace	ditto	ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	
ny word or making any gesture ed to insult the modesty of a woman, etc.	ditto	ditto	Imprisonment for one year or fine or both	Magistrate of the Second Grade	
2 <i>Offence</i>	3 <i>Whether the police may arrest without warrant or not (see section 26)</i>	4 <i>Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)</i>	5 <i>Punishment under the Penal Code</i>	6 <i>Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)</i>	<i>An pow</i>
unkenness in a public place	ditto	Summons	Imprisonment for three months or fine of –N-1,000.00 or both	Magistrate of the Second Grade	
erson conducts himself in a disorderly manner, etc.	ditto	Warrant	Imprisonment for six months or fine of –N-2,000.00 or both	Magistrate of the Second Grade	
unk and disorderly in a private place	Shall not arrest without warrant	Warrant	Imprisonment for six months or fine of –N-2,000.00 or both	Magistrate of the Second Grade	
inking alcoholic drink	ditto	ditto	Imprisonment for one month or fine of –N-1,000.00 or both	Magistrate of the Second Grade	
f previous convictions under ctions 401, 402 and 403	ditto	ditto	Twice the maximum imprisonment or maximum fine prescribed for offence of which convicted	Magistrate of the Second Grade	
d of two or more such offences	ditto	ditto	Three times the maximum imprisonment or maximum fine aforesaid or both	Magistrate of the Second Grade	

CHAPTER XXV
Vagabonds

Conviction as idle person	Shall not arrest without warrant	Warrant	Imprisonment for one month or with fine or both	Magistrate of the Second Grade	
Conviction as a vagabond	ditto	ditto	Imprisonment for two years or with fine of two thousand naira	Magistrate of the Second Grade	
Incorrigible vagabond	ditto	ditto	Imprisonment for three years or with fine of two thousand or both	Magistrate of the Second Grade	A

APPENDIX B

[Section 200.]

[No. 4 of 2006.]

Form of Charges

[See Chapter XIX]

A—Single Charge

(1) (a) I[*name of presiding officer of court*] hereby charge you [name of accused person] as follows—

(b) That you on or about theday of....., 20
.....at

.....being a public servant in the Ministry of
.....

.....directly accepted from A. B. for yourself [*or for another person named C.D.*] a gratification other than lawful remuneration as a motive for forbearing to do an official act and thereby committed an offence punishable under section 115 of the Penal Code and triable by the High Court.

[Charge on section 115.]

(c) And I hereby direct that you be tried by such court on the said charge.

.....

*Signature or seal of the presiding
officer of court*

To be substituted for (b)—

(2) That you on or about theday of
20.....at

.....in the course of the trial of A.B.

before.....

stated in evidence thatwhich statement you either knew or believed to be false or did not believe to be true and thereby committed an offence punishable under section 158 of the Penal Code and triable by the High Court.

[Charge on section 158.]

(3) That you on or about theday of....., 20 at

.....committed culpable homicide not punishable with death by causing the death of A. B. and thereby committed an offence punishable under section 224 of the Penal Code and triable by the High Court.

[Charge on section 224.]

(4) That you on or about theday of, 20..... at

.....abetted the commission of suicide by A. B. while the said A. B. was in a state of intoxication and thereby committed an offence punishable under section 227 of the Penal Code and triable by the High Court.

[Charge on section 227.]

(5) That you on or about theday of 20atvoluntarily caused grievous harm to A.B. by

[*state details of grievous harm*] and thereby committed an offence punishable under section 247 of the Penal Code and triable by the High Court.

[Charge on section 247.]

(6) That you between theday of, 20..... and the

.....day of, 20being entrusted with did commit criminal breach of trust by dishonestly misappropriating a sum of –N– and thereby committed an offence punishable under section 312 of the Penal Code and triable by the High Court.

[Charge on section 312.]

(7) That you on or about theday of, 20.....atcheated A.B. by falsely pretending to be in the Government Service and thereby dishonestly induced him to deliver

.....[as the case may be] and thereby committed an offence punishable under section 324 of the Penal Code and triable by the High Court.

[Charge on section 324.]

Note— *In cases tried by a magistrate substitute "the court of a Chief magistrate" or "the court of a magistrate of thegrade" for "the High Court".*

B—Two or More Charges

(1) (a) I[name of presiding officer of court] hereby charge you[name of accused person] as follows—

(b) First—That you on or about theday of, 20.....

atcommitted culpable homicide punishable with death by causing the death of A. B. and thereby committed an offence punishable under section 221 of the Penal Code and triable by the High Court.

Secondly—That you on or about theday of, 20.....

atcommitted culpable homicide not punishable with death by causing the death of A.B. and thereby committed an offence punishable under section 224 of the Penal Code and triable by the High Court.

[Charges on section 221 and 224.]

(c) And I hereby direct that you be tried by such court on the said charges.

.....
*Signature or seal of the presiding
officer of court*

To be substituted for (b)—

(2) That you on or about theday of, 20.....at

..... in the course of the inquiry into beforestated in evidence that..... and that you on or about the..... day of ,

....., 20..... at
.....in the course of the trial of
..... beforestated in
evidence that, one of
which statements you either knew or believed to be false or did not believe to be true, and
thereby committed an offence punishable under section 158 of the Penal Code and triable
by the High Court.

[Alternative charges on section 158.]

(3) That you or on about theday of, 20
.....at
.....committed theft by stealing a horse the property of A B.
and thereby committed an offence punishable under section 287 of the Penal Code and
triable by the High Court.

(or)

That you on or about theday of, 20
.....at
.....being entrusted with the said horse committed criminal
breach of trust by dishonestly misappropriating it and thereby committed an offence
punishable under section 312 of the Penal Code and triable by the High Court.

(or)

That you on or about theday of, 20
....at
.....dishonestly received the said horse knowing or having
reason to believe that it was stolen property and thereby committed an offence punishable
under section 317 of the Penal Code and triable by the High Court.

[Alternative charges on section 287, 312 or 317.]

Note—*In cases tried by a magistrate substitute "the court of a Chief magistrate" or "the court
of a magistrate of thegrade" for "the High Court"*

APPENDIX C
[Section 339]
[No. 4 of 2006]

Offences which may be compounded

Offence	Section of Penal Code applicable	Person by whom the offence may be compounded
Causing hurt.	PART I 244, 246	The person to whom the hurt is caused.
Assault or use of criminal force	265, 266	The person assaulted or to whom criminal force is used.
Mischief, when the only loss or damage caused is loss or damage to a private person	327, 328	The person to whom the loss or damage is caused.
Criminal trespass	348	The person in possession of the property trespassed upon.
House trespass	349	
Adultery	387,388	
Enticing or taking away or detaining with a criminal intent a married woman	389	The husband of a married woman or the parent or guardian of an unmarried woman. The husband of the woman.
Defamation	392	The person defamed.
Printing or engraving, etc., matter knowing it to be defamatory.	394	
	395	

<p>Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.</p> <p>Criminal intimidation except when the offence is punishable with imprisonment for seven years</p> <p>Insult intended to provoke a breach of the peace</p> <p>Grievous hurt on provocation</p> <p>Grievous hurt without provocation</p> <p>Hurt, not grievous, by dangerous weapon.</p> <p>Hurt, or grievous hurt, by act endangering life or safety</p> <p>Wrongfully restraining or confining any person</p> <p>Unlawful compulsory labour</p>	<p>397</p> <p>399</p> <p>PART II</p> <p>245</p> <p>247</p> <p>248</p> <p>253</p> <p>256, 257</p> <p>280</p>	<p>The person intimidated.</p> <p>The person insulted.</p> <p>The person to whom hurt is caused.</p> <p>The person to whom hurt is caused.</p> <p>The person to whom hurt is caused.</p> <p>The person to whom hurt is caused.</p> <p>The person restrained or confined.</p> <p>The person compelled to labour.</p>
Offence	Section of Penal Code applicable	Person by whom the offence may be compounded
<p>Mischief in relation to water supply, when the only loss or damage caused is loss or damage to a private person</p> <p>House trespass to commit an offence (other than theft) punishable with imprisonment</p> <p>Uttering words or making gestures intending to insult the</p>	<p>331</p> <p>352</p> <p>400</p>	<p>The person to whom loss or damage is caused.</p> <p>The person in possession of the house trespassed upon.</p> <p>The woman whom it is intended to insult.</p>

modesty of a woman		
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CHAPTER C23

CRIMINAL PROCEDURE CODE LAW

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Criminal Procedure (Haddi Lashing) Order in Council.
2. Criminal Procedure (Statements to Police Officers) Rules.
3. Criminal Procedure (Applications for Leave to Prefer a Charge in the High Court) Rules.
4. Attorney-General (Delegation of Certain Statutory Powers) Notice.

CRIMINAL PROCEDURE (HADDI LASHING) ORDER IN COUNCIL

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Method of infliction of Haddi lashing.

SCHEDULE

Rules for the Infliction of Symbolic Haddi Lashing

CRIMINAL PROCEDURE (HADDI LASHING) ORDER IN COUNCIL

[Section 307 of Schedule.]

[NR LN 85 of 1960.]

[Date of commencement: 30th *September*, 1960]

1. Short title

This Order in Council may be cited as the Criminal Procedure (Haddi Lashing) Order in Council.

2. Method of infliction of Haddi lashing

Every sentence of symbolic Haddi lashing (hereinafter referred to as "the punishment") shall

be inflicted in accordance with the rules contained in the Schedule.

SCHEDULE

Rules for the Infliction of Symbolic Haddi Lashing

1. The punishment shall be administered in an enclosed space to which the public has a right of access or can be admitted for the occasion.
2. The punishment shall be administered with a soft single-thronged leather whip, and not with a hide whip or a club or cane.
3. The person who administers the punishment must be of moderate physique. He must hold the whip with the third, fourth and fifth fingers of the right hand. The thumb and index finger must not grasp the whip. The index finger must be folded to touch the palm and the thumb should cover the index finger. (This grip is known as the "Uguda Tissein"). He must adopt a striking position with the right foot advanced and must not raise his striking arm above the shoulder. To ensure that he does not do so, a book or similar object shall be placed under the right armpit of the striker and shall be kept there by him throughout the period of the administration of the punishment.
4. The punishment must not be heavy, and serious physical injury must be avoided. The punishment must be administered on the shoulders and back only and must not cause lacerations or wounds.
5. In considering whether to order any, and if so how much, of the punishment a court must take into consideration the health of the person to be punished and the season of the year.

CRIMINAL PROCEDURE (STATEMENTS TO POLICE OFFICERS) RULES

ARRANGEMENT OF RULES

RULE

1. Short title.
2. Questions by police officer.
3. Caution to be given when complaint to be made.
4. Form of caution.
5. Statement before time for caution.

6. Person making statement not to be cross-examined.
7. Statements by two or more persons.
8. Statements to be taken down in writing.
9. Statements as evidence.

SCHEDULE

Caution

CRIMINAL PROCEDURE (STATEMENTS TO POLICE OFFICERS) RULES

[Section 373 of Schedule.]

[NR LN 106 of 1960.]

[Date of commencement: 30th *September*, 1960]

1. Short title

These rules may be cited as the Criminal Procedure (Statements to Police Officers) Rules.

2. Questions by police officer

When a police officer is endeavouring to discover the author of a crime, he may put questions in respect thereof to any person, whether suspected or not, from whom he thinks that useful information can be obtained.

3. Caution to be given when complaint to be made

Whenever a police officer has decided to make a complaint against a person before a court, he shall first caution such person before asking him any question, or any further question as the case may be.

4. Form of caution

A caution under these rules shall be in the form set out in the Schedule.

[Schedule.]

5. Statement before time for caution

Where a person, against whom a police officer has decided to make a complaint, makes a statement before there is time to caution him he shall be cautioned as soon as possible thereafter.

6. Person making statement not to be cross-examined

A person against whom a police officer has decided to make a complaint and who makes a voluntary statement shall not be cross-examined, and no question shall be put to him about such statement except for the purpose of removing ambiguity in what he has actually said.

7. Statements by two or more persons

(1) When a police officer has decided to make the same complaint against two or more persons and their statements are taken separately, the police officer shall not read such statements to the other person or persons, but each of such persons shall be given by the police officer a copy of such statements and nothing shall be said or done by the police to invite a reply:

Provided that where such a person is an illiterate, the statement may be read over or interpreted to him apart by some person other than a police officer and anything said to such reader by such person when the statement is read shall not be admissible in evidence against him.

(2) If such a person desires to make a statement in reply, a caution shall be administered.

8. Statements to be taken down in writing

Any statement made in accordance with these rules shall, whenever possible, be taken down in writing and signed by the person making it after it has been read to him and he has been invited to make any corrections he may wish.

9. Statements as evidence

Save as provided in the Evidence Law, no statement made to a police officer by a person against whom he has decided to make a complaint shall be admissible in evidence in any court unless such statement is made in accordance with these rules.

SCHEDULE

[Rule 4.]

Caution

"I have decided to make a complaint against you before a court. Do you wish to make a statement? You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence."

CRIMINAL PROCEDURE (APPLICATIONS FOR LEAVE TO PREFER A CHARGE IN THE HIGH COURT) RULES

ARRANGEMENT OF RULES

RULE

1. Short title, commencement and application.
2. Oral application.
3. Written applications.
4. Presence of parties on hearing of applications.

CRIMINAL PROCEDURE (APPLICATIONS FOR LEAVE TO PREFER A CHARGE IN THE HIGH COURT) RULES

[KWS LN 4 of 1970.]

In exercise of the powers conferred by section 373 of the Schedule to the Criminal Procedure Code Law and of all other powers enabling in that behalf, the Chief Justice, with the approval of the Military Governor of the Kwara State of Nigeria, hereby makes the following rules of court.

[Date of commencement: 1st *April*, 1970]

1. Short title, commencement and application

(1) These rules may be cited as the Criminal Procedure (Applications for Leave to Prefer a Charge in the High Court) Rules, 1970, and shall be deemed to have come into operation on the 1st day of April, 1970.

(2) These rules shall govern applications to a judge of the High Court under paragraph (b) of section 185 of the Criminal Procedure Code for leave to prefer a charge against a person without the holding of a preliminary inquiry.

2. Oral application

(1) An application may be made orally—

(a) When the High Court sitting in its appellate jurisdiction has allowed an appeal in a criminal matter and has ordered a re-trial of the person in the High Court; or

(b) When a magistrate purports to commit a person for trial in the High Court after taking a preliminary inquiry but the preliminary inquiry is declared by the High Court to be a nullity.

(1) The applicant in every such application shall state the charge in respect of which leave is sought.

3. Written applications

(1) Every application, other than an application made under rule 2, shall be in writing signed by the applicant or his counsel and—

(a) shall be accompanied by the charge in respect of which leave is sought and, unless the application is made by or on behalf of the Attorney-General, shall also be accompanied by an affidavit by the applicant that the statements contained in the application are, to the

best of the deponent's knowledge, information and belief, true; and

(b) shall state whether or not any application has previously been made under these rules and whether or not any proceedings have been taken under Chapter XVII of the Criminal Procedure Code, and the result of any such applications or proceedings.

(2) Where no proceedings have been taken under Chapter XVII of the Criminal Procedure Code the application shall state the reason why it is desired to prefer a charge without such proceedings having been taken, and—

(a) there shall accompany the application proofs of the evidence of the witnesses whom it is proposed to call in support of the charge; and

(b) the application shall include a statement that the evidence shown in the proofs will be evidence which will be available at the trial and that the case disclosed by the proofs is, to the best of the knowledge, information and belief of the applicant, a true case.

(3) Where proceedings have been taken under Chapter XVII of the Criminal Procedure Code and the magistrate has refused to commit the accused for trial, the application shall be accompanied by—

(a) a copy of the depositions; and

(b) proofs of any evidence which it is proposed to call in support of the charges so far as that evidence is not contained in the depositions, and the application shall include a statement that the evidence shown by the proofs and the evidence shown by the depositions will be available at the trial and that the case disclosed by the depositions and proofs is, to the best of the knowledge, information and belief of the applicant, a true case.

4. Presence of parties on hearing of applications

It shall not be necessary for the applicant to appear before the judge when an application is made under rule 3 or for the respondent to be put on notice when an application is made under either rule 2 or rule 3.

Provided that the judge may, if he sees fit, order in any application under these rules that the respondent be put on notice and that he be served with a copy of the application and supporting papers; and in that event the judge shall give both parties an opportunity of being heard before reaching a decision on the application.

