

CHAPTER 44 - DISTRICT COURTS

ARRANGEMENT OF SECTIONS

SECTION

PART I—PRELIMINARY

1. Short title.
2. Interpretation.

PART II—ESTABLISHMENT OF DISTRICT COURTS

3. Power to divide the State into districts.
4. Establishment of District Courts.
5. Jurisdiction of District Courts.
6. Two or more District Judges in district.

PART III—OFFICERS OF THE COURT

- 7 Appointment of District Judges.
- 7A. Classes of District Courts.
8. Territorial jurisdiction of District Judges.
9. Duties of a Senior District Judge.
10. Procedure when District Judge personally interested in case before him.
11. Control of Registrar.
12. Duties of Registrar.

PART IV—JURISDICTION OF THE COURTS

13. Jurisdiction of Chief District Judge of the first grade.
- 13A. Jurisdiction of Chief District Judge of the second grade.
- 13B. Jurisdiction of Senior District Judge of the first grade.
- 13C. Jurisdiction of Senior District Judge of the second grade.
14. Jurisdiction of District Judges of the first, second and third grades.
15. Jurisdiction of District Judge where there is set-off.
16. Special jurisdiction in certain cases.
17. Power of Governor to increase jurisdiction of District Judge.
18. General powers of District Judge.
19. Acts of District Judge not affected by error as to venue.
20. District Judge to have process of High Court executed.
21. Proceedings by or against office of the court.
22. Administration of oaths.

Law to be Administered

- 23. Application of English law.
- 24. Law and equity to be concurrently administered, but equity to prevail in certain cases.
- 25. Application of customary laws.

Reconciliation

- 26. Courts to promote reconciliation.
- 27. Pending civil cases.
- 28. Repealed.

Power to Transfer

- 29. Transfer between District Judges in same district.
- 30. District Judge may report causes for transfer.
- 31. Transfer to area court.
- 32. Restriction on transfer.
- 33. Transfer of cause by judge of the High Court.
- 34. Effect of order of transfer.
- 35. No appeal from order of transfer.

PART V—SITTINGS OF THE COURT

- 36. Fixing of times and places for sittings of courts.
- 37. Adjournment of the court.
- 38. Adjournment over Sunday or holiday.
- 39. Change of place of hearing.

Venue

- 40. Venue.

PART VI—PRACTICE AND PROCEDURE OF THE COURT

- 41. Practice and procedure.
- 42. Case of second action for same cause.
- 43. Completion by District Judge of process begun by predecessor.
- 44. Process of District Judge valid.
- 45. Issue of process.
- 46. Inspection.

Determination by District Judge

- 47. District Judge to be sole judge.

Recording of Proceedings

- 48. District Judge to keep notes of evidence and minutes of proceedings.
- 49. Examination of witnesses.
- 50. Powers of District Judge to refer to arbitration.

51. Powers of District Judge to refer to referee.

Witnesses

52. Service of summons to witnesses.

53. Forfeiture for neglecting witness summons.

54. Evidence of prisoners.

Absconding Defendant

55. Apprehension of absconding defendant and procedure thereon.

56. Defendant may be freed by nearest District Judge if arrested outside of jurisdiction.

Interim Attachment of Property

57. Interim attachment of property.

Addresses

58. Addresses.

Giving of Judgment

59. Giving of judgment on conclusion of hearing.

60. Judgment in action for recovery of chattel.

61. What orders may be made.

62. Decree to be obeyed without demand.

63. Payment and suspension of judgments and orders.

64. Execution and power to stay execution.

Finality of Judgment

65. Judgments how far final.

Costs

66. Appointment and payment of costs.

Setting Aside of Judgment and New Trial

68. Relisting of causes struck out.

Unclaimed Money in Court

69. Suitors' money unclaimed for six years to be forfeited and go to general revenue.

Evidence of Record of Proceedings

70. Entries of copies intended to be admissible as evidence.

PART VII—APPEALS

71. Right of appeal from decision and judgment of District Judge.

72. Appeal not to operate as stay of execution.

Right of Appeal

73. Right of appeal.

74. Procedure on appeal from ex parte order.

Procedure on Appeal

75. Civil appeals to be in accordance with rules.

Hearing and Judgment

76. Mode of taking additional evidence.

77. Enforcing of judgment.

Miscellaneous

78. Reservation of question of law for opinion of High Court.

79. Power to make rules of court.

PART VIII—MISCELLANEOUS PROVISIONS

Fees and Costs

80. Fees and costs.

81. By whom fees payable.

82. All fees and moneys received in court to be subject to the foregoing provisions.

Protection of District Judges and Officers of District Courts

83. Protection of judicial officers.

Representation of Parties

84. Right of appearance of legal practitioners.

85. Representation of the state and Government departments.

86. Award of costs where public officer represented by law officer, etc.

87. Representation of local government.

88. Representation of first and second class chiefs.

PART IX—RULES OF COURT

89. Rules of court.

CHAPTER 44

DISTRICT COURTS

A LAW FOR THE ESTABLISHMENT OF DISTRICT COURTS FOR THE STATE, AND FOR THE APPOINTMENT OF DISTRICT JUDGES AND OF OTHER COURT OFFICERS, AND FOR OTHER PURPOSES RELATING TO THE ADMINISTRATION OF CIVIL JUSTICE

[30 September 1960]

1. This Law may be cited as the District Courts Law.

2. In this Law:—

"action" means a civil proceeding commenced by summons or in such other manner as may be prescribed by rules of court made under this Law but does not include a criminal proceeding;

"Attorney-General" means the Attorney-General of the State;

"cause" includes any action, suit or other original proceeding between a plaintiff and a defendant, but does not include any criminal proceeding;

"Chief Judge" means the Chief Justice of the State;

"civil proceedings" means all civil actions triable by a District Judge and all proceedings in relation to the making of an order for the payment of a sum of money, or for the doing or abstaining from doing of any act or thing not enforceable by fine or imprisonment in the first instance;

"court" means the court of a District Judge established under the provisions of this Law;

"customary law" includes Islamic law;

"defendant" includes every person served with any summons or process, or served with notice of, or entitled to attend, any proceedings in a civil cause;

"district" means any district which may be constituted under the provisions of this Law;

"first class chief means a chief duly graded as first class under the provisions of the Chiefs (Appointment and Deposition) Law;

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

"judge of the High Court" includes the Chief Judge of the State;

"judgment debtor" includes every person ordered by a judgment or order in a civil cause to pay money or to do or abstain from doing an act;

"plaintiff includes every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether summons, petition or otherwise;

"registrar" means a registrar appointed under the provisions of this Law and shall include a deputy registrar;

"second class chief means a chief duly graded as second class under the provisions of the Chiefs (Appointment and Deposition) Law;

"State" means Gongola State;

"suit" includes action, and means a civil proceeding commenced by summons or in such other manner as may be prescribed by rules of court, but does not include a criminal proceeding;

PART II—ESTABLISHMENT OF DISTRICT COURTS

3. The Chief Judge may:—

- (a) divide the State, or any portion thereof, into districts for the purposes of this Law;
- (b) constitute any part of the State a district for the purposes of this Law;
- (c) distinguish such districts by such names or numbers as he may think proper; and
- (d) vary the limits of any such districts.

4. In each district there shall be and there is hereby established a court for the administration of civil justice to be called the District Court.

5. —(1) Every District Court shall have such jurisdiction as is conferred upon it by this Law or any other written law.

(2) No District Judge shall exercise any jurisdiction and powers in excess of those conferred upon him by his appointment.

6. When two or more District Judges are assigned to any district, each shall be a presiding officer of the District Court, and each sitting separately shall have and exercise the jurisdiction conferred upon him by his appointment.

PART III—OFFICERS OF THE COURT

7. There shall be seven classes of District Court namely:—

- (a) Courts of Chief District Judge of the first grade;
- (b) Courts of Chief District Judge of the second grade;
- (c) Courts of Senior District Judge of the first grade;
- (d) Courts of Senior District Judge of the second grade;
- (e) Courts of District Judge of the first grade;
- (f) Courts of District Judge of the second grade; and
- (g) Courts of District Judge of the third grade.

8. —(1) Every District Judge shall have jurisdiction throughout the State unless his appointment is specifically limited to the area of any district, or group of districts, but may be assigned to any specified district or transferred from one district to another by the Chief Judge.

(2) A Chief District Judge of the first grade may be assigned by the Chief Judge to a specified district and, in addition, to a group of districts of which such specified district forms part.

9. —(1) In addition to any other duty conferred by this Law it shall be the duty of a Senior District Judge who is assigned to a group of districts to ensure as far as is practicable the even distribution of work and the expeditious disposal of all legal business pending in the districts within his group, and to take such steps as may be necessary to relieve congestion in any court within such group.

(2) Notwithstanding the provisions of subsection (1) of section 8, a Chief District Judge of the first grade who is assigned to a group of districts may direct a District Judge in one district within the group to assist another District Judge in another district within the group, and may direct to the best advantage the movements of any additional District Judge within the group, who is assigned to assist in the disposal of arrears of cases.

10. Where a District Judge is a party to any cause or matter, or is unable, from personal interest or for any other sufficient reason, to adjudicate on any cause or matter, the Chief Judge shall direct some other District Judge to act instead of such aforesaid District Judge for the hearing and determination of such particular cause or matter, or may direct that such cause or matter shall be heard and determined in a court of any other district.

11. There shall be for each District Court a registrar who shall subject to the general supervision and control of the Chief Judge be under the immediate direction and control of the District Judge.

12. The duties of the registrar shall be:—

- (a) to attend at such sittings of the court as the District Judge shall direct;
- (b) to fill up or cause to be filled up summonses, warrants, orders, writs of execution and other documents and submit the same for the signature of the District Judge;
- (c) to make or cause to be made copies of proceedings when required to do so by the District Judge and to record the judgments and orders of the court;
- (d) to receive or cause to be received all fees, fines and penalties, and all other moneys paid or deposited in respect of proceedings in the court and to keep or cause to be kept accounts of the same; and
- (e) to perform or cause to be performed such other duties connected with the court as may be assigned to him by the District Judge.

PART IV—JURISDICTION OF THE COURTS

13.—(1) *Subject to the provisions of this Law and of any other written law, a Chief District Judge of the first grade shall have and exercise jurisdiction in civil causes or matters:—

- (a) in all personal suits, whether arising from contract, or from tort, or from both, where the debt or damage claimed, whether as balance claimed or otherwise, is not more than ten thousand naira;
- (b) in all suits between landlord and tenant for possession of any lands or houses claimed under agreement or refused to be delivered up, where the annual value or rent does not exceed ten thousand naira;

(c) in all actions for the recovery of any penalty, rates, expenses, contributions or other like demand which is recoverable by virtue of any written law for the time being in force, if:-

(i) it is not expressly provided by that or any other written law that the demand shall be recoverable only in some other court; and

(ii) the amount claimed in the action does not exceed ten thousand naira.

Provided that for the purposes of this paragraph the expression "penalty" shall not include a fine to which any person is liable on conviction for a criminal offence;

(d) in all civil proceedings in respect of which jurisdiction has been conferred upon a District Court by the Land Use Act where the amount claimed or the capital value of the land the subject matter of the proceedings, as the case may be, does not exceed ten thousand naira;

2. For the jurisdiction of rent tribunals in certain suits in respect of residential accommodation, see the Rent Control and Recovery of Premises Law (Cap. 118).

(e) in any civil proceedings in respect of which jurisdiction has been conferred upon a District Court by any other written law or which by virtue of any other written law may be instituted in a District Court where the amount claimed or the value of the subject matter of the proceedings, as the case may be, does not exceed ten thousand naira;

(f) to appoint guardians ad litem and to make such orders and to issue and give directions relating thereto;

(g) to grant in any suit instituted in the courts injunctions or orders to stay waste or alienation or for the detention and preservation of any property the subject of such suit, or to restrain branches of contracts or torts.

(2) (a) Subject to the provisions of paragraph (d) of subsection (1) and of any other written law a Senior District Judge shall not exercise original jurisdiction in any suit or matter which:-

(i) raises any issue as to the title to land, or to any interest in land;

(ii) raises any issue as to the validity of any devise, bequest or limitation under any will or settlement;

(iii) is subject to the jurisdiction of an area court relating to marriage, family status, guardianship of children, inheritance or disposition of property on death.

(b) the provisions of paragraph (a) shall have effect except:-

(i) in so far as the Governor may by Order otherwise direct;

(ii) in suits transferred to the court of a District Judge under the provisions of the Area Courts Law.

14. District Judges of the first, second and third grades shall have and exercise jurisdiction in civil causes or matters similar in all respects to that set out in subsections (1) and (2) of section

13 save that such jurisdiction shall be limited to causes or matters where the amount claimed or the value of the subject matter of the proceedings, or where the subject matter is land the capital value of such land, does not exceed five thousand naira in the case of a District Judge of the first grade, four thousand naira in the case of a District Judge of the second grade, and one thousand naira in the case of a District Judge of the third grade.

15. Where in any action the debt or demand consists of a balance not exceeding:-

- (a) ten thousand naira;
- (b) eight thousand naira;
- (c) six thousand naira;
- (d) four thousand naira;
- (e) two thousand naira;
- (f) one thousand naira;
- (g) two hundred naira;

after an admitted counterclaim is set off of any debt or demand claimed or recoverable by the defendant from the plaintiff, a District Judge shall have jurisdiction and power to hear and determine such action within the limits of his personal jurisdiction and power.

16. Where any cause or matter arises over which a District Judge has jurisdiction in any ship, boat or canoe, such cause or matter may be heard or determined either by the District Judge exercising jurisdiction over the place where the ship, boat or canoe may be at the time when the cause or matter arose, or by the District Judge exercising jurisdiction over any place at which the ship, boat or canoe may call after the cause or matter has arisen.

17. The Governor may, on the recommendation of the Chief Judge, increase the jurisdiction in civil matters of any District Judge to such extent as the Chief Judge may on such recommendation specify, and such increase of jurisdiction may at any time be revoked by the Governor.

18. Every District Judge shall have power to issue writs of summons for the commencement of actions in the High Court, to administer oaths and take solemn affirmations and declarations, to accept production of books and documents and to make such decrees and orders and issue such process and exercise such powers, judicial and administrative, in relation to the administration of justice, as shall from time to time be prescribed by any written law or subject thereto by any special order of the Chief Judge.

19.—(1) No act done by or under the authority of a District Judge shall be void or impeachable by reason that such act was done, or that any act or matter in respect of, or in relation to which such act was done, occurred or was situated beyond the limits of the jurisdiction of such court.

(2) If the defendant in any civil cause or matter wherein any objection as to venue might but

for this enactment be of force, shall at or before, but not after the time when he is required to state his answer or to plead in such cause or matter before the court, allege specially any such objection, the court shall consider the same, and if it appears that the objection is valid the court shall report such cause or matter to a judge of the High Court who shall make an order directing where the cause or matter shall be heard and determined, and such order shall not be subject to appeal.

20. Every District Judge shall, when required by the High Court, cause to be executed any writ or order or process issuing from the High Court, and shall take security from any person named in a writ or order for his appearance in the High Court, and shall, in default of security being given or when the High Court so orders, send the person to the place named in the writ.

21. Subject to the provisions of section 10, any civil proceedings by or against any District Judge or officer of a District Court for any cause or matter cognizable by a District Court may be brought in the court of any other district, before a District Judge having jurisdiction and power in the case of any particular proceeding.

22.—(1) Every District Judge is hereby authorised to administer all oaths which may be required to be taken before him in the exercise of any of the jurisdiction and powers conferred upon him by this Law and any other written law.

(2) Any such oath may also be administered by the registrar or other officer of the court under the direction and in the presence of the District Judge.

Provided that an oath shall only be administered to a Moslem by a Moslem.

*23. Subject to the provisions of any written law and of this section:—

(a) the common law;

(b) the doctrines of equity; and

(c) the statutes of general application which were in force in England on the 1st day of January, 1900,

shall, in so far as they relate to any matter with respect to which the Legislature of the State is for the time being competent to make laws, be in force within the jurisdiction of the courts constituted by this Law.

*24.—(1) In every civil cause or matter before any of the courts constituted by this Law, law and equity shall be administered concurrently.

(2) A District Judge in the exercise of the jurisdiction vested in him by this Law shall have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as shall

seem fit, all such remedies or relief whatsoever, interlocutory or final, as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim or

defence properly brought forward by them respectively, or which shall appear in such cause or matter; so that as far as possible all matters in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided.

(3) In all causes or matters in which there is any conflict or variance between the rules of equity and the rules of common law with reference to the same subject the rules of equity shall prevail.

25.—(1) A District Judge shall observe and enforce the observance of every customary law which is not repugnant to natural justice, equity, and good conscience, not incompatible either directly or by implication with any law for the time being in force, and nothing in this Law shall deprive any person of the benefit of such customary law.

*SS, 23, 24 and 25. The application of English Law throughout the Federal Republic is now conditioned by legislation under passage in all States to replace English Law and Statutes with Nigerian legislation and interpretation of common law and equity.

(2) Such laws and customs shall be deemed applicable in causes and matters where the parties thereto are Nigerians, and also in causes and matters between Nigerians and non-Nigerians and where it may appear to the court that substantial injustice would be done to either party by a strict adherence to the rules of English law.

(3) No party shall be entitled to claim the benefit of any customary law, if it shall appear either from express contract or from the nature of the transactions out of which any suit or question may have arisen, that the party agreed that his obligations in connection with such transactions should be regulated exclusively by English law or that such transactions are transactions unknown to customary law.

(4) In cases where no express rule is applicable to any matter in controversy, the court shall be governed by the principles of natural justice, equity and good conscience.

Reconciliation

26. A District Court shall, so far as there is proper opportunity, promote reconciliation among persons over whom such a court has jurisdiction, and encourage and facilitate the settlement in an amicable way and without recourse to litigation of matters in difference between them.

27. Where a civil suit or proceeding is pending the District Judge may promote reconciliation among the parties thereto and encourage and facilitate the amicable settlement thereof.

28. Omitted as inapplicable in present circumstances.

Power to Transfer

29. —(1) When the Chief Judge assigns two or more District Judges to any district, any such District Judge within such district may, at any stage of the proceedings before final judgment,

transfer, within the limits of such district, any cause or matter before him to any other such District Judge and such cause or matter shall be commenced afresh, inquired into, tried and disposed of, by any District Judge of competent jurisdiction to whom it has been transferred as if it had been instituted before him.

(2) Notwithstanding the provisions of subsection (1), no cause or matter which has been specifically transferred by the High Court for inquiry or trial by a particular District Judge shall again be transferred without leave of the Chief Judge.

30. A District Judge may, of his own motion, or on the application of any person concerned, report to a judge of the High Court any cause or matter which is pending before him and which in his opinion ought for any reason to be transferred from his court to any other District Court or to the High Court and such judge of the High Court shall direct in what mode and where the cause or matter shall be heard and determined.

31. Subject to the provisions of section 32, a District Judge may at any stage of the proceedings before final judgment by order direct that any cause or matter pending before him be transferred to an area court having jurisdiction in such cause or matter and the District Judge shall inform such area court in writing of his reasons for making such order.

32. —(1) A District Judge shall not transfer to an area court.—

(a) any matrimonial cause arising out of or in connection with a monogamous marriage; or

(b) a cause or matter which has been transferred to his court by the High Court.

(2) A District Judge shall not save by leave of a judge of the High Court retransfer to an area court a cause or matter which has been transferred to a District Court by an inspector of area courts in accordance with the provisions of the Area Courts Law.

33.—(1) A judge of the High Court may at any time and at any stage thereof before judgment transfer any cause or matter before a District Court to any other District Court or to the High Court and such cause may be transferred either entirely or in respect of any part thereof or procedure required to be taken therein.

(2) The power of transfer shall be exercised by means of an order under the hand of a judge of the High Court, and may apply either to any particular cause or matter either entirely or in respect of any part thereof or procedure required to be taken therein, or generally to all such causes or matters as may be described in such order, and in the latter case may extend to future causes or matters as well as to such as may at the time of making such orders be in dependence.

(3) A judge of the High Court may at all times cancel, alter, add to or amend any such order.

(4) A judge of the High Court may if it appears expedient, telegraph in the first instance the contents of any such order made by him, and such telegram shall, until receipt of the said

order, have the same validity and effect as if it were the said order.

34. Every order of transfer shall operate as a stay of proceedings before the District Judge from whom the proceedings are ordered to be transferred in any cause or matter to which the order extends or is applicable, and in the process and proceedings in every such cause or matter, and an attested copy of all entries in the books of the court relative thereto shall be transmitted to the court to which the same shall be transferred and thenceforth all proceedings in the cause or matter shall be taken in such court as if the cause or matter had been commenced therein.

35. No order made under the provisions of section 29, 30, 31 or 33 shall be subject to appeal.

PART V—SITTINGS OF THE COURT

36. The Chief Judge may, by notice, appoint the times and places for the sittings of District Courts and may in like manner alter any such times and places.

37. —(1) The District Judge may adjourn the court from day to day or to any convenient day.

(2) If a District Judge is not present at the time and place appointed for any sitting of the court, an officer of the court or any other person authorised in that behalf by the District Judge may, by public notice written or oral, adjourn the sitting until such time and to such place as may have been communicated to him by the District Judge and, in the absence of any such communication, to such time and to such place as may be convenient; and all persons bound to be present at the sitting so adjourned shall be equally bound to be present at the time and place appointed by such notice.

(3) In the absence of any such notice and of any notification to the contrary, all such persons shall be bound to be present at the next succeeding time appointed as aforesaid or otherwise for the sitting of the court in the same place.

(4) In all cases of adjournment a District Judge may summon the parties to appear before the court before the expiration of the period to which the case was adjourned.

38. When any day appointed for the sitting or adjourned sitting of the court falls on a Saturday, Sunday or public holiday, the District Judge shall in such case, if practicable, attend and transact the business appointed to be heard at such sitting as aforesaid on the day (not being a Saturday, Sunday or a public holiday) next after the day appointed for such sitting.

39. Subject to the provisions of section 36, the court shall be held only at a place appointed for the sitting of the court; but, on the application of either party or otherwise, the hearing of any case appointed for one such place may, in the discretion of the District Judge, be appointed to be taken by him at another such place within or without the district.

Venue

40.—(1) Subject to the provisions of this Law and of any other written law proceedings shall be

commenced in the court of a District Judge having jurisdiction in the district in which. –

(a) the defendant or any one of the defendants resides or carries on his business at the time of commencing the action; or

(b) the cause of action or claim arose, wholly or in part; or

(c) the subject matter of the action is located.

(2) In any case where, under the provisions of section 30 or section 33, an order has been made for the transfer of any proceedings from the court in which they were instituted or commenced to any other court, such last-mentioned court shall, notwithstanding anything contained in subsection (1) of this section, have jurisdiction to hear and determine those proceedings.

PART VI—PRACTICE AND PROCEDURE OF THE COURT

41.—(1) The practice and procedure of a District Court shall be regulated by rules of court made by the Chief Judge.

(2) The practice and procedure of a District Court where any claim is made to any immovable property taken in execution under the process of the court shall be as prescribed in any written law relating thereto.

42.—(1) If any party sues another in any District Court for any cause of action for which he has already sued him and for which judgment other than a judgment of non-suit has been given in the same or any other court, upon proof of such former action having been brought and judgment having been given, the party so suing shall not be entitled to recover in such section action, and may, if the court thinks fit, be adjudged to pay three times the costs of such second action to the opposite party.

(2) A judgment of the Supreme Court or of any court which is or may be established within any part of the Federation of Nigeria in favour of any party to any cause or matter before that court may in respect of the same subject-matter be pleaded as a defence to any proceedings commenced in any District Court in the State by the unsuccessful party to such cause or matter.

43. Where a District Judge has issued any summons or warrant, or otherwise taken or commenced any civil proceeding or matter under any authority however conferred, and subsequently ceases to act as such District Judge, it shall be lawful for the person in whose hands such summons or warrant may be to execute or serve the same in the same manner as if the District Judge who issued the summons or warrant had not ceased to act as such and any successor of the District Judge or any person acting from him may hear, determine, execute, enforce and carry to completion any proceeding or matter so commenced as aforesaid, save that such District Judge shall commence the trial of any such cause or matter afresh.

44. All summonses, warrants, orders, judgments, writs of execution, or other civil process or

proceeding, issued and taken by or by the authority of any District Judge respecting any cause or matter within his jurisdiction shall have full force and effect, and may be served or executed, anywhere within the State, by a bailiff of a court or by a member of a police force to whom the same are directed or by any other member of a police force, or outside the State in such manner as may be prescribed by any Federal Act or by the law of any other part of the Federation:

Provided that the functions conferred by this section upon members of the Nigeria Police Force shall not be exercisable by them unless and until the President shall have given his consent to the exercise of those functions by them.

45.—(1) All summonses, warrants, orders and other process in civil proceedings shall be signed by a District Judge or such other officer as may be prescribed by rules of court made under section 89.

(2) Every summons or other process in a civil proceeding shall be signed either by a District Judge or, if the District Judge shall so direct, by the registrar of the District Court.

46. In any cause or matter a court may on the application of either party, or of its own motion, make such order for the inspection by the court, the parties or witnesses, of any movable or immovable property, the inspection of which may be material to the proper determination of the question in dispute, and give such direction regarding such inspection as the court may think fit.

Determination by District Judge

47. Subject to the provisions of this Law, the District Judge shall be the sole judge in all proceedings brought in the court, and shall determine all questions of fact as well as law.

Recording of Proceedings

48. —(1) At the hearing of any proceedings the District Judge shall take notes in writing:—

- (a) of any question of law or equity raised at the hearing; and
- (b) of any legal submission made, together with any authorities quoted in support of the same; and
- (c) of the purport of all oral evidence given before the court; and
- (d) of his decision thereon and of his determination of the proceedings,

and such notes shall be signed by the District Judge at the conclusion of each day's proceedings.

(2) Where such a note has been taken, the District Judge or, if the District Judge shall so direct, the registrar, shall, whether notice of appeal has been given or not, on the application of any party to the proceedings, and on payment by that party of such fees as may be prescribed, furnish him with a copy of the note, and shall sign the copy, and the copy so signed shall be admitted as evidence of such proceedings and of the statements made by the witness.

49. The District Judge after an opening address, if any, shall then proceed to hear the plaintiff and such witnesses as he may examine and such other evidence as he may adduce in support of his plaint and also to hear the defendant and such witnesses as he may examine and such other evidence as he may adduce in his defence and also to hear such other witnesses as the plaintiff may, with leave of the court, examine in reply.

Arbitration

50.—(1) The District Judge may, with the consent of the parties to any civil proceedings, order such proceedings to be referred to arbitration, whether with or without other matters within the jurisdiction of the court in dispute between the parties, to such person or persons and in such manner and on such terms as he thinks just and reasonable.

(2) No such reference shall be revocable by any party except with the consent of the District Judge.

(3) On any such reference the award of the arbitrator, arbitrators or umpires shall be entered as the judgment in the proceedings and shall be as binding and effectual as if given by the District Judge.

(4) Notwithstanding the provisions of subsection (3), the District Judge may, if he thinks fit, on application made to him at the first convenient court held after the expiration of one week after the entry of the award, set aside the award, or may, with the consent of the parties, revoke the reference or direct another reference to be made in the manner aforesaid.

(5) In this section the expression "award" includes an interim award.

51.—(1) The District Judge may refer to a referee for inquiry and report:—

(a) any civil proceeding which requires any prolonged examination of documents or any scientific or local investigation which cannot, in the opinion of the District Judge, conveniently be made before him;

(b) any civil proceeding where the question in dispute consists wholly or in part of matters of account;

(c) with the consent of the parties in respect of any other matter arising out of the civil proceedings before him in which, for reasons to be recorded by him, he is satisfied that it is proper so to do.

(2) Where any civil proceeding or question is referred as afore-said, the District Judge may direct how the reference shall be conducted, and may remit any report for further inquiry and report, and on consideration of any report or further report may give such judgment or make such order in the proceeding as may be just.

(3) The District Judge may refer to the registrar any mere matter of account which is in dispute between the parties in civil proceedings and when the District Judge reaches judgment he may

use the report presented to him by the registrar as if such report were facts found by him in the course of the trial.

(4) Subject to any order to be made by the court ordering the inquiry, evidence shall be taken at any inquiry before a referee or the registrar, and every such inquiry shall be conducted in the same manner as nearly as circumstances will admit as trials before a court, but not so as to make the tribunal of the referee or registrar a public court of justice.

(5) For the purposes of an inquiry under this section the referee or the registrar shall have power to issue summonses to enforce the attendance of witnesses and compel the production of documents and if any such summons is disobeyed or if a witness so summoned refuses to answer questions or give evidence the referee or the registrar shall report the matter to the District Judge concerned who may take any action as he may deem necessary as if any such summons had issued from his court or as if such witness had refused to answer questions or give evidence in his court.

Witnesses

52. Either of the parties to any cause or matter may obtain from the registrar of the court summonses to witnesses, with or without a clause requiring the production of the books, deeds, papers and writings in the possession or control of the person summoned as a witness and such summons shall be served in accordance with the provisions of rules of court made under this Law.

53.—(1) Subject to the provisions of the Evidence Act, any person summoned as a witness in a court who:—

(a) refuses or neglects, without sufficient cause, to appear or to produce any documents required by the summons to be produced; or

(b) refuses to be sworn or make an affirmation or give evidence, shall forfeit such sum not exceeding one hundred naira as the District Judge may direct.

(2) Notwithstanding the provisions of subsection (1), no person so summoned shall forfeit a sum as aforesaid unless there has been paid or tendered to him at the time of the service of the summons such amount in respect of his expenses, including such compensation for loss of time, as may be prescribed for the purposes of this section.

(3) Any person present in court who is required to give evidence but refuses without sufficient cause to be sworn or make an affirmation or to give evidence shall forfeit such a sum as aforesaid.

(4) The District Judge may in his discretion direct that the whole or any part of any such sum, after deducting the costs shall be applicable toward indemnifying the party injured by the refusal or neglect.

54.—(1) In any proceedings pending before a District 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 prisoner mentioned in any such order shall be brought before the court under the same custody, and shall be dealt with in the same manner in all respects as a prisoner required by warrant to be brought before the High Court and examined therein as a witness.

(3) The person having the custody of the prisoner shall not be bound to obey the order unless there is tendered to him a reasonable sum for the conveyance and maintenance of a proper officer or officers and of the prisoner in going to, remaining at and returning from the court.

Absconding Defendant

55.—(1) Where the plaintiff, at any time before final judgment, proves, by evidence upon oath or affirmation to the satisfaction of a District Judge, that the plaintiff has a good cause of action against the defendant for an amount within the jurisdiction of the court, and that there is probable cause for believing that the defendant is about to quit Nigeria or the State unless he is apprehended, and that the absence of the defendant from Nigeria or the State will prejudice the plaintiff in the recovery of what is claimed, the District Judge shall issue a warrant for the apprehension of the defendant, who, if arrested, shall be served with a duplicate of the plaint at the time of arrest, unless he has been previously served therewith.

(2) The defendant shall, on his arrest, be brought as soon as practicable before a District Judge and, subject to the provisions of section 56, the action shall then be heard and determined and all proceedings consequent thereon be immediately taken, or the District Judge may, if he thinks fit, adjourn the hearing for a reasonable time, whereupon he may liberate the defendant in either of the following cases, but not otherwise, that is to say:—

(a) if the defendant deposits with the District Judge by way of security, a sum equivalent to the sum claimed, and the costs of the action and otherwise; or

(b) if the defendant gives security to the plaintiff by bond of the defendant and one sufficient surety, to be approved by a District Judge, in a penalty double the sum claimed and costs, conditioned for the defendant's appearance at the hearing; and the bond shall remain in the custody of the registrar.

(3) If an adjournment is made and the defendant fails to make the deposit or to give the security aforesaid, then the District Judge may commit him to prison for safe custody until the action is finally heard and determined.

Provided that:—

(a) no such commitment shall be for a term exceeding seven days, but without prejudice to the

power of the District Judge to remand the defendant from time to time, save that no such imprisonment shall exceed one month; and

(b) upon the final adjudication of the action the District Judge shall order the liberation of the defendant if he is then in custody.

(4) If judgment is given for the plaintiff at the hearing, the District Judge may pay to the plaintiff out of the sum, if any, deposited as security by the defendant, the amount of the debt and costs and shall repay the surplus, if any, to the defendant.

(5) If a bond be given as aforesaid and the defendant does not appear at the hearing, then, if judgment is given for the plaintiff, execution may be levied on the bond to recover the amount of the judgment and costs awarded by the District Judge.

(6) Notwithstanding the provisions of subsection (5), if the defendant appears at the hearing of the action, the District Judge shall in such case, when judgment has been given, cancel the bond and deliver it up to the defendant.

56.—(1) If the defendant is arrested outside the jurisdiction of the District Judge who issued the warrant to arrest him, he shall on his application be brought as soon as practicable before the nearest District Judge who may liberate him if he complies with the provisions of subsections (2) and (3) of section 55.

(2) The District Judge by whom the defendant has been liberated shall cause the deposit made or the bond entered into by the defendant to be sent with all convenient despatch to the District Court which has jurisdiction to hear and determine the cause.

Interim Attachment of Property

57. The court may on the application of the plaintiff in any suit and at any stage before final judgment and in such circumstances as may be specified in rules of court made under this Law order the defendant to furnish sufficient security to fulfil any decree that may be made against him in the suit or direct that any property movable or immovable belonging to the defendant shall be attached until the further order of the court.

Addresses

58.—(1) The party on whom the burden of proof lies shall be entitled to address the court at the commencement of the case.

(2) When the party who began has closed his case, his opponent shall, provided there is any case to meet, announce whether he intends to adduce evidence or not; and if he announces that he does not intend to call evidence the party beginning shall be entitled to address the court for a second time, for the purpose of summing up his evidence, and his opponent shall have a right of reply.

(3) When the party beginning has concluded his case, if the opponent decides to call witnesses,

he shall be at liberty in his turn, to open his case, call his witnesses and sum up and comment not only on his own evidence but on the whole case.

(4) If the party opposed to the party who begins adduces evidence, the party beginning shall be at liberty to reply generally on the whole case.

59. On the conclusion of the hearing the court shall:—

(a) either at the same or at a subsequent sitting deliver judgment in the cause and formal judgment shall be entered in the appropriate form; and

(b) if so required by the plaintiff or defendant and on payment of the prescribed fee, cause to be delivered to the plaintiff or defendant, as the case may be, a certified copy of the judgment so delivered.

60. If the plaintiff in an action for the recovery of any chattel or thing establishes his claim, judgment shall be given either for the delivery of the chattel or thing or for payment of the value thereof as proved at the hearing, as the court may think fit, and in either case the court may award in addition such damages as the justice of the case may require.

61. Subject to particular rules, the court may in all causes and matters make any order which it considers necessary for doing justice, whether such order has been expressly asked for by the person entitled to the benefit of the order or not.

62. A person directed to pay money or do any other act is bound to obey the order without any demand for payment or performance, and if no time is therein expressed he is bound to do so within two days after the order has been made, except as to costs if the amount thereof may require to be ascertained by taxation, unless the court shall enlarge the time by the same or any subsequent order.

63.—(1) When a judgment is given or an order is made by a court under which a sum of money of any amount is payable, whether by way of satisfaction of the claim or counter-claim in the proceedings or by way of costs or otherwise, the court may, as it thinks fit, order the money to be paid either:—

(a) in one sum, whether forthwith or within such period as the court may fix; or

(b) by such instalments payable at such times as the court may fix.

(2) If at any time it appears to the satisfaction of the District Judge that any party to any proceedings is unable from any cause to pay any sum recovered against him, whether by way of satisfaction of the claim or counter-claim in the proceedings or by way of costs or otherwise, or any instalment thereof, the District Judge may, in his discretion, suspend or stay any judgment or order given or made in the proceedings for such time and on such terms as the District Judge thinks fit, and so from time to time until it appears that the cause of inability has ceased.

64.—(1) The issue of any execution in any proceedings shall be in accordance with the provisions of the Sheriffs and Civil Process Law.

(2) If at any time it appears to the satisfaction of the District Judge that any party to any proceedings is unable from any cause to pay any sum recovered against him, whether by way of satisfaction of the claim or counter-claim in the proceedings or by way of costs or otherwise, or any instalment thereof, the District Judge may in his discretion, stay any execution issued in the proceedings for such time and on such terms as the District Judge thinks fit, and so from time to time until it appears that the cause of inability has ceased.

Finality of Judgment

65. Every judgment and order of the court shall, except as provided by this Law or any other written law, be final and conclusive between the parties; but the court shall have power to non-suit the plaintiff in every case in which satisfactory proof shall not be given entitling either the plaintiff or defendant to judgment.

Costs

66.—(1) All the fees and costs of any action or proceeding in the court, including any arbitration, not herein otherwise provided for, shall be paid by or apportioned between the parties in such manner as the court may think fit, and in default of any special direction, shall abide the event of such action or proceeding.

(2) Execution may issue for the recovery of any such fees and costs in like manner as for the amount of any judgment obtained in the said court.

(3) The court shall have power to refuse costs in whole or in part to either party.

Setting aside of Judgment and New Trial

67. The District Judge, at the same or any subsequent sitting of the court, may set aside any judgment or order given or made against any party in the absence of such party, and the execution thereupon, and may grant a new trial or hearing, upon such terms, if any, as he may think just, on application and on sufficient cause shown to him for that purpose.

68. Any cause struck out, may, by leave of the District Court, be replaced on the cause list on such terms as to the court may seem fit.

Unclaimed Money in Court

69.—(1) The registrar of every District Court shall in the month of March in each year make out a correct list of all sums of money belonging to suitors in the court which shall have been paid into court and which shall have remained unclaimed for five years before the 1st day of January then last past specifying the names of the parties for whom or on whose account the

same were so paid into court.

(2) A copy of such list shall be put up and remain during court hours in some conspicuous part of the most convenient court house within the relevant district.

(3) All sums of money which shall have been paid into any such court to the use of any suitors thereof and which shall have remained unclaimed for a period of six years on the 1st day of January next after the said list shall have been put up as aforesaid shall be accounted for by the registrar to the Accountant-General of the State and all such moneys which shall have remained so unclaimed shall be transferred by the Accountant-General of the State to the credit of the general revenue.

Evidence of Record of Proceedings

70. Any entry in any book required to be kept by this Law or for the purposes of any written law or rules of court made thereunder or under this Law or a copy of such entry purporting to be signed and certified a true copy by the registrar shall at all time without further proof be admitted in any court or place whatsoever as evidence of the entry and of the proceedings referred to thereby and of the regularity of that proceeding.

PART VII—APPEALS

71. Subject to any express provisions to the contrary in any other written law and to the provisions of this Law any person aggrieved by a decision or judgment of a District Judge may appeal therefrom to the High Court.

72. An appeal shall not operate as a stay of execution but the court below or the High Court may order a stay of execution either unconditionally or upon the performance of such conditions as may be imposed in accordance with rules of court made under the provisions of this Law or of any other written law.

Right of Appeal

73.—(1) Where a decision, judgment or order of a District Judge:—

(a) is given in respect of a sum of five hundred naira and upwards; or

(b) determines directly or indirectly a claim or question respecting money, goods or other property or any civil right or other matter of the amount or to the value of five hundred naira and upwards,

any person aggrieved may, subject to such conditions as may be prescribed, appeal therefrom to the High Court.

(2) Where in any civil proceedings a decision, judgment or order of a District Judge:—

(a) is given in respect of a sum of less than five hundred naira; or

(b) determines directly or indirectly a claim or question respecting money, goods or other property or any civil right or other matter of the amount or to the value of less than five hundred naira,

any person aggrieved may with the leave of the High Court appeal therefrom to the High Court.

74. An appeal shall not lie directly from an order made ex parte but any person aggrieved by such order may apply to the court to vary or discharge it and an appeal will lie from the decision on such application in a like manner as an appeal from other civil proceedings.

Procedure on Appeal

75. Subject to the provisions of this Law the procedure, practice and manner of appeals in civil proceedings, shall be in accordance with the rules made under this Law, the High Court and any other written law empowering the making of such rules.

Hearing and Judgment

76. —(1) When on the direction of the High Court under paragraph (b) of section 55 of the High Court Law additional evidence is to be taken by a District Judge and specific findings of fact reported he shall certify such evidence to the High Court which shall thereupon proceed to dispose of the appeal.

(2) Unless the High Court otherwise directs, the appellant or the legal practitioner representing him shall be present when the additional evidence is taken.

(3) Evidence taken in pursuance of such direction shall be taken as if it were evidence taken at the trial before the District Court.

(4) When forwarding to the High Court any additional evidence taken in pursuance of such direction the District Judge may express his opinion on the demeanour of the witnesses and of the value of their evidence and may also, if he is the District Judge against whose decision the appeal has been made, state whether or not he would have come to a different decision had the additional evidence been brought forward at the trial.

77. After the pronouncement of the judgment of the High Court, and subject to the provisions in this section contained, the District Judge of 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 High Court, or any judgment which may have been pronounced by the High Court, in the same manner in all respects as if such decision or judgment had been pronounced by himself.

Miscellaneous

78. In addition to and without prejudice to the right of appeal conferred by this Law or any

other written law, any District Judge may reserve for consideration by the High Court on a case to be stated by him any question of law which may arise in any cause or matter before him or in any appeal before him and may give any judgment or decision subject to the opinion of the High Court.

79. The Chief Judge may, with the approval of the Governor, make rules of court prescribing anything required to be prescribed by the provisions of this Part, and for regulating the practice and procedure on appeals and the fees and costs thereon, and in particular for the waiving or remission of any fees in respect of appeals by poor persons.

PART VIII—MISCELLANEOUS PROVISIONS

Fees and Costs

80.—(1) The fees and costs set forth in the rules of court made under this Law may be demanded and received by the registrars or other persons appointed to receive such fees and costs for and in respect of the several matters therein mentioned.

(2) In the absence of the registrar or in the event of there being no registrar or other person appointed to receive such fees and costs, such fees and costs may be demanded and received by the District Judge.

81.—(1) All fees and costs payable under or by virtue of this Law shall in the first instance be paid by the party applying for the summons, warrant, or other process or document in respect whereof the same are payable.

(2) Notwithstanding the provisions of subsection (1), no fees shall be payable in any case instituted by a public officer when acting in his official capacity or in any case in which the District Judge endorses on the plaint his authority for the remission of fees on account of the poverty of the party or for any other sufficient reason, and in every such case such fees and costs shall, in the discretion of the District Judge, be recoverable from the other party if the decision be given against him.

82. Sections 80 and 81 shall apply to all moneys received by the registrar or other officer of the court under the provisions of this Law or any other written law, whether the same be fees, costs, forfeitures or money paid into court for any purpose, or received or recovered under or by virtue of any process of execution or distress.

Protection of District Judges and Officers of District Courts

83.—(1) No District Judge shall be liable for any act done or ordered to be done by him in the course of any proceedings 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 District Judge

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.

Representation of Parties

84. Subject to the provisions of this Law or any other written law all persons admitted to practise as legal practitioners in the Supreme Court shall have the right to practise as such in a District Court.

85.—(1) In any civil cause or matter in which the state or any Public officer in his official capacity is a party or in any civil cause or matter affecting the revenues of the Federation of Nigeria or of the State, the State or the officer may be represented by a law officer, State Counsel, or by any legal practitioner or other person duly authorised in that behalf by or on behalf of the Attorney-General, or in revenue cases authorised by the head of the department concerned.

(2) Nothing contained in this section shall be construed so as to restrict the right of any law officer or State Counsel of any part of the Federation to appear in any case in which he has been instructed to appear in any court in the State in which counsel may appear and no objection to his appearance may be taken or entertained in any court on any ground based solely on the provisions of this section.

86. In any cause or matter in which a public officer of the State in his official capacity is a party, and is represented by a law officer, State Counsel, or other person duly authorised in that behalf by or on behalf of the Attorney-General, the District Court may award costs either:—

- (a) to or against such public officer personally; or
- (b) to or against the Government of the State.

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

88. In any civil suit brought by or against a first or second class chief in either his official or personal capacity such chief may be represented in the District Court at any stage of the proceedings by any person of his chieftdom who shall satisfy the District Judge that he has the authority to represent such chief.

PART IX—RULES OF COURT

89.—(1) The Chief Judge with the approval of the Governor Rules of may make rules of court for all or any of the following purposes:—

- (a) regulating the practice and procedure of District Courts in civil proceedings in respect of which no specific provision is made in this Law or any other written law;

- (b) regulating the practice and procedure in appeals to the High Court from District Courts;
 - (c) regulating the books and forms to be used, and all matters connected therewith, in such civil proceedings and appeals and fees payable of such proceedings and appeals;
 - (d) the reference of civil proceedings to arbitration and all matters relating and incidental thereto, including the remuneration and fees of arbitrators and referees;
 - (e) the form in which civil proceedings and arbitrations arising therefrom are to be recorded;
 - (f) the preservation and destruction of records of civil proceedings;
 - (g) the costs, fees and amounts which may lawfully be demanded and received in respect of the service of process relating to civil proceedings;
 - (h) the acceptance, retention and disposal of fees and costs in civil proceedings;
 - (i) the receipt of moneys paid into District Courts, and moneys received or recovered under or by virtue of any process, execution or distress;
 - (j) the payment out of District Courts of all moneys to persons entitled to receive the same;
 - (k) the fees payable in respect of the inspection and copying of records of civil proceedings and documents and other matters relating to such records;
 - (l) the fixing of scales of fees and costs recoverable in respect of the appearance and services of legal practitioners in civil proceedings and the taxation of the same;
 - (m) the waiving and remission of fees payable by poor persons and the admission of persons to sue as paupers;
 - (n) the service and execution of any writ, summons, warrant, order or other process issuing out of or transmitted by a native court to a District Court; the conditions precedent to such service or execution either in respect of such process generally or in respect of any specified class of process; the procedure to be followed after the service or execution of such process, and the payment of allowances to persons affecting such service or execution;
 - (o) the imposition of penalties on any person who fails to take any action required by a rule of court or who disobeys any rules of court; and
 - (p) generally for the better carrying into effect of the provisions and objects and intentions of this Law.
- (2) Rules of court made under this section shall apply to all proceedings by or against the state.

