CRIMINAL

PROCEDURE

CODE

CRIMINAL PROCEDURE CODE

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The original numbering of the sections has been retained

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CRIMINAL PROCEDURE CODE

A LAW TO ESTABLISH A CODE OF CRIMINAL PROCEDURE FOR NORTHERN NIGERIA.

N R

11 of I960.

20 of I960.

N.N

48 of 1961.

33 of 1962.

39 of 1962.

54 of 1963.

3 of 1963.

27 of 1963.

N.N.L.N

7 of 1961.

46 of 1961.

186 of 1963.

211 of 1963.

Date of

commencement

[30th September, 1960]

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

2. The provisions contained in the Schedule to this Law shall be the Law of Northern Nigeria 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.

3. 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 or 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.

4.Nothing in this Law shall affect the status, appointment or tenure

Of Office Of-

(a) any magistrate appointed as such within Northern Nigeria 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 Northern Nigeria 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. (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.

(3) Notwithstanding the provisions contained in subsection (1) and (2) a native court shall only be bound of the provisions of the Criminal Procedure Code to the extent specified in Chapter XXXIII thereof.

6. 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 be given his consent to the conferring of such function.

7. 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

PART 1

PRELIMINARY

@@#CHAPTER 1#@@

1. In this Criminal Procedure Code -

"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;

"charge" includes any head of charge when the charge contains more heads than one;

"complaint" means the allegations 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 were 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 Northern Nigeria;

"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 tar as his powers are limited by the terms of his appointment or otherwise may exercise his powers in any part of Northern Nigeria in which he happens to be;

"native court" means a court established or deemed to have been established under the Native Courts Law;

"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 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,

"Police district" means -

(a) in the case of the Nigeria Police, a police province; and

(b) in the case of native authority police, the ara of the jurisdiction of the native authority;

"police force' includes a police force established and constituted by a native authority under any written law or deemed to have been so constituted;

"Police force" includes a police force established and constituted by a native authority under any written law or deemed to have been so constituted;

"police officer' means any member of a police force;

"superior police officer" shall have the same meaning as in section 2

of the Police Act;

"sub-area head" means a person appointed by a native authority to be head of an administrative sub-area;

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

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

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

PART II

THE CONSTITUTION AND POWERS OF CRIMINAL COURTS

CHAPTER II

THE CONSTITUTION OF CRIMINAL COURTS

4. There shall be six classes of criminal courts in Northern Nigeria, namely-

(1) the High Court;

(2) courts of Chief Magistrates;

(3) courts of magistrates of the first grade;

(4) courts of magistrates of the second grade;

(5) courts of magistrates of the third grade;

(6) Native courts established or deemed to have been established in Northern Nigeria under any law.

5. The Chief Justice may -

(a) divide Northern Nigeria, or any portion thereof, into magisterial districts for the purposes of establishing magistrates' courts;

(b) constitute any part of Northern Nigeria a magisterial district for the purpose of establishing a magistrate's court;

(c) distinguish such magisterial districts by such names or numbers he may think proper; and

(d) Vary the limits of any such magisterial districts.

6. (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 of Northern Nigeria.

7. (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 Justice 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 excise all the jurisdiction and powers conferred and exercise all the jurisdiction and powers conferred upon him by his appointment.

8. (1) Magistrates shall be Chief Magistrates or first, second or third grade magistrates.

(2) The Public Service Commission may appoint any person to the office of magistrate.

(3) The appointment of magistrates shall be made in compliance with the provisions of the constitution of Northern Nigeria and of a legislation made in accordance therewith.

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

10. 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. The appointment of a justice of the peace shall be made

in compliance with the provisions of the Constitution of Northern

Nigeria.

CHAPTER III

THE POWERS OF CRIMINAL COURTS.

12. (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 a native court with greater powers.

(2) Any offence under the Penal Code may be tried by any native court by which such offence is shown in the seventh column of Appendix A to be triable or by any native court with greater powers but (subject to the provisions of section 59 of the Native Courts Law) not by a Provincial Court.

Provided that any such native court shall try such offence only if jurisdiction so to do has been conferred upon it by its court warrant.

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

13. (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.

(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) a Chief Magistrate shall not try an offence punishable with imprisonment for a term which may exceed ten years or with fine exceeding five hundred pounds:

(b) a magistrate of the first grade shall not try an offence punishable with imprisonment for a term which may exceed five years or with fine exceeding two hundred pounds;

(c) a magistrate of the second grade shall not try an offence punishable with imprisonment for a term which may exceed five years or with fine exceeding one hundred pounds;

(d) a magistrate of the third grade shall not try an offence punishable with imprisonment for a term which may exceed three months or with fine exceeding twenty-five pounds;

(e) a native court shall not try an offence under any other law unless jurisdiction to try the offence has been conferred upon that native court.

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

14. The High Court may pass any sentence authorised by law.

15. A Chief Magistrate may pass the following sentences -

(a) imprisonment for a term not exceeding five years;

(b) fine not exceeding five hundred pounds;

(c) Caning;

(d) detention under section 71 of the Penal Code.

16. A magistrate, of the first grade may pass the following sentence -

(a) imprisonment for a term not exceeding three years;

(b) fine not exceeding three hundred pounds;

(c) caning;

(d) detention under section 71 of the Penal Code.

17. A magistrate of the second grade may pass the following sentences -

(a) imprisonment for a term not exceeding eighteen months;

(b) fine not exceeding two hundred pounds;

(c) caning;

(d) detention under section 71 of the Penal Code.

18. A magistrate of the third grade may pass the following sentences -

(a) imprisonment for a term not exceeding nine months;

(b) fine not exceeding one hundred pounds.

19. (1) The Government may, on the recommendation of the Chief Justice by order authorise an increased jurisdiction in criminal matters, to be exercised by any magistrate to such extent as the Chief Justice may on such recommendation specify and such order may at any time be revoked by the Governor by writing under his hand.

(2) An order 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 cognizance

20. (Repealed by N.N. 12 of 1962.)

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

22. 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:

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

23. (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.

(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. (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 therefore 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.

(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 excise of its ordinary jurisdiction competent to inflict.

25. 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 bond, 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. Any police officer may arrest-

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

(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 I 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;

(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 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 sections 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.

(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;

(I) 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;

(m) any person failing to obey a direction the Governor issued under section 303.

27. 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. 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. (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. (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. 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 necessary to effect the arrest.

32. The person making an arrest may take from the person arrested any offensive weapon which he has about his person and shall deliver all weapon 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. 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. (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 entered 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. 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 Northern Nigeria.

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

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

41. 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 bound, 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 cognizance of the case.

42. No police officer shall detain in custody a person arrested without warrant for a long 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 any intervening public holiday.

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

44. (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. 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. 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

47. (1) 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) Every summons so issued shall be in writing, in duplicate and signed or sealed by the court or justice of the peace

48. 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. (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 police served shall, if so required by the serving officer, sign or make his mark on a receipt therefore on the back of the other duplicate.

50. 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 Northern Nigeria.

51. Service of a summons on a native authority shall be effected in accordance with the provisions of the Native Authority Law.

52. When 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 therefore 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. 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. 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. 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.

Warrant of Arrest

56. (1) Every warrant of arrest issued under this Criminal Procedure Code by a court or the 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. (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 to 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. (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 authorized 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. 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. 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. A warrant of arrest may be executed notwithstanding that 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. 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. A warrant of arrest may be executed at any place in Northern Nigeria

64. (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. 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. (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, to 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 an 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 havingregard to conditions of time, place and other circumstances.

C- Public Summons and Attachment

67. (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 hereof 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. (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 authorize 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 that 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. 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, appear 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 therefore 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. (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. 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. 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 DOCUMENT OR OTHER THINGS AND FOR

THE DISCOVERY AND LIBERATION OF PERSONS

UNLAWFULLY CONFINED

A - Summons to Produce

73. 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. 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, 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. 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. (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 anyplace 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 authorizing 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 Region which would be punishable in Northern Nigeria if it has been committed in Northern Nigeria.

77. (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. (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 the person carrying out the search and shall be signed or sealed by the witnesses.

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

81. (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. 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. 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 it directions.

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

85. 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. Any court may, if it thinks fit, impound any document or thing produced before it under this 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. 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 a 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. (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 Northern Nigeria; 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. 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

(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 to 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. Whenever it appear 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 the court.

91. 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. (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 refused to release on bail any person arrested under section 90 unless he executes a bond of 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. (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 warrants 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. 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. (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. 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. 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 security ordered.

98. (1) The court may refuse to accept any surety offered or may reject 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 order 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 purpose 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. (1) Whenever a judge of the High Court is of opinion that any

person imprisoned for falling 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 re-committed 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. 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. 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 dispense accordingly.

102. 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 it, 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 person for the purpose of dispersing, such assembly and, if necessary, arresting and confining the persons with 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. (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 hereby 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. (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 sections 191, 192, 194, 196 and 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.

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

105. (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 this 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. 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. 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. (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. (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 time.

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

110. (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 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 default of the person referred to in subsection (1) forthwith obeying the further order referred to in that subsection or if notice thereof cannot be 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 is respect of anything done in good faith under

subsection (2).

111. 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. Every police officer, sub-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.

113. Every person shall be bound to assist a justice of the peace, police officer, sub-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 land mark or buoy or other mark used for navigation.

CHAPTER XI

DUTY OF PUBLIC AND OF SUB-AREA HEADS TO GIVE INFORMATION

114. 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.

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

115. Every sub-area head not being a person competent under chapter XV to take cognizance of an offence shall forthwith communicate to the nearest court so competent or to the native authority, which shall then inform the appropriate police officer, or to the nearest police officer any information which he may possess or obtain respecting -

(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 person or property respecting which the Provincial Commissioner or native authority has directed him to report.

116. (1) A sub-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 native authority which shall then inform the appropriate police officer, or in any 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 who he shall summon for the purpose, and who also shall be bound to attend, make an investigation and draw up 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.

(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 sub-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 sub-area head shall forward his report and the record, if any, of his investigation to the native authority which shall then inform the appropriate police officer.

(8) 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. (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 XII 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 Northern Nigeria:

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.

(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 inquired into by an officer in charge of another police station, transfer the information or refer the information to such other police station.

118. (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 sport 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;

(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 the is not sufficient ground or reason for entering upon the investigation he need not investigate the case.

(2) In the case mentioned in paragraph (c) and (d) of subsection (I) 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 sport or not investigating the case.

119. (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 Northern Nigeria 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. (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 unto 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. (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 dosed 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. (1) Save in so ar as expressly permitted in this Criminal Procedure Code a case diary shall not be admissible as evidence against any accused person in any inquiry or trial, but -

(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 to which the case diary is used for the purposes set out in paragraph (c) of subsection (1) the accused or his agent shall not be entitled to call for or inspect such case diary or any part thereof.

123. (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 to 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. (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. (1) If any person in the course of an investigation under section 118 or at any time after the dose 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 it 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 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. (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 hand writing 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 (f) of subjection (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.

127. (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. (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 measurement 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 measurement taken under this section shall forthwith be destroyed.

129. (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 cognizance 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. (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 there-upon endorse upon the First Information Report the fact of such termination or re-opening and the reasons therefore:

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 it 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 subsection (1) and (2) the officer in charge of a police station shall on such termination forthwith release him, or, 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 provisions 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. If, upon an investigation under this chapter, it appears to the office in charge of a police station that there is sufficient evidence or reasonable ground or suspicious to justify sending the accused to a court empowered to take cognizance 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 shall until otherwise directed.

132. (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 before the court 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 filling.

(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. (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 report 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 case, 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 the justice of the peace or superior police officer may give such orders or directions as he thinks fit.

(3) 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 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 INQUIRY AND TRIAL

134. Every offence shall ordinarily be inquired into and tried by a

court within the local limits of whose jurisdiction-

(a) the offence was wholly or in part committed, or some

art forming part of the offence was done; or

(b) some consequence of the offence has ensured; 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.

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

136. An offence committed by a person whilst he is in course of performing a journey or voyage may be inquired into or 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, passed in the course of that journey or voyage.

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

138. (1) The Chief Justice 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.

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

139. 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 inquired into or tried within such local limits but is under any law for the time being in force triable in Northern Nigeria, it may inquire into 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 inquire into the offence or, if the offence is bailable, may take a bond with or without sureties for his appearance before such court.

CHAPTER XIV

SANCTIONS NECESSARY FOR THE INITIATION OF CERTAIN PROCEEDINGS

140. (1) No court shall take cognizance -

(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;

(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;

(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 a paragraph (a) of section 111 of the Penal Code where the circumstances are such as to constitute an offence under section 4 or 5 of the Public Order Law, except with the sanction of the Attorney-General.

(e) of any offence punishable under section 97B of the Penal Code except with the sanction of the Attorney-General.

(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 cognizance 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. No court shall take cognizance 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 native authority or a local government authority the Attorney-General make may a complaint on behalf of the Government, and a member of the native authority or local government authority may make a complaint on behalf of such native authority or local government authority

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

(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 of-fence 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. Subject to the provisions of chapter XIII and XIV and to any limitation on the powers of the court, a court may take cognizance of an offence -

(a) when an arrested person is brought before it under section 40 or 41;

(b) upon receiving a First Information Report under section 118;

(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. When the accused person appears before a court taking cognizance 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. When a court has exercised its power under section 144 it shall inform the accused person that he is not required to say anything at that stage, but 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. (1) A court taking cognizance of an offence on complaint shall, subject to the exercise of its powers under sections 144 and 145, thereupon examine the complaint 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. If an offence of which a court takes cognizance ought properly to be inquired into or tried by another court or if in the opinion of the court taking cognizance thereof the offence might be more conveniently inquired into or tried by another court, it shall send the case to such other court.

148. If a court taking cognizance of an offence under the provisions of section 143 is of the opinion that an investigation or further investigations 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 at any stage of the investigation, or any police officer acting on his behalf, may appear before the court and apply for direction as to the matters to be proved and how they are to be proved, and what documents, if any, are to be produced.

149. (1) If a court taking cognizance of an alleged offence on the complaint of any person other than a police officer is not satisfied that the offence has been committed or if for any other reason the court deems it expedient so to do, it may 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 a 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. (1) A court taking cognizance of an alleged offence may refuse to proceed with the case if after examining the complaint, 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 is 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. (1) If a First Information Report or a complaint in writing is received by a court which is not competent to take cognizance 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 cognizance of the offence the court shall direct the complaint to the proper court.

152. When a court taking cognizance 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 it provided that the court is competent so to do.

153. 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. (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 Appendix A issue in the first instance.

(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. Subject to the provision of chapter XXXIII the procedure down in the chapter shall be observed by magistrates' courts and native courts.

156. 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. (1) If the accused admits that he has committed the 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 normal change.

(2) The Governor in Council may by order specify the maximum sentence of imprisonment or the maximum fine which any grade or class of court may impose on a conviction under this section.

(3) No court shall exercise any powers under subsection (1) unless an order under subsection (2) has been made in respect of that grade or class of court.

158. (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 complaint, 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 give evidence from the court such of them as the court thinks necessary.

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

159. (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 295 the court finds that no case against the accused has been made out which if not rebutted would warrant his convicted 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. (1) 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.

(2) If, in proceedings in a magistrates' 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 a 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.

161. (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 the accused pleads guilty, the court shall record the plea and may in its discretion convict him thereon.

(3) The Court shall before convicting on a plea of guilty satisfy itself that he accused has clearly understood the meaning of the charge in all its details and essentials and also the effect of his plea.

162 (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 discharge.

(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. (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. (1) If in any case under this chapter in which a charge has Procedure after 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. 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. (1) If, in any case instituted by complaint as defined in the Criminal Procedure Code or upon information given to a member of a police force or a court and heard under the 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 when there are more than one, such compensation not exceeding twenty-five pounds to each such accusation 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.

(2) Before making any decision under subsection (l)the court

shall-

(a) record and consider any objection which the complainant or informant if present at the hearing 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.

CHAPTER XVII

PRELIMINARY INQUIRY AND COMMITMENT FOR TRIAL TO THE HIGH COURT

167. (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. (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 to 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 complaint 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 necessary 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 all 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 statements.

(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 guilty of the accused.

169. (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. 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 tine proper court as laid down in section 256.

171. 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. 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. 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. (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, who 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. The magistrate may in his discretion and with the consent of the accused summon and examine any witnesses named in any list give to him under section 174.

176. (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.

(2) If the magistrate deems it unnecessary to summon and examine the witnesses named in any list given to him under section 174 or if after hearing such witnesses she 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. (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 subjection (1) and accused shall pay to the registrar the prescribed fees for the issued and service of the summons and shall deposit in court the reasonable expenses of the witnesses 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. (1) When 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. 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. 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. 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. (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 in the presence of the accused and if not so taken the record hereof 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. 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. Whenever any magistrate after having heard and recorded the whole or any 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 resummon all or any of the witnesses or recommence the inquiry.

CHAPTER XVIII

TRIALS BY THE HIGH COURT

185. 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. 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. (1) When the High Court is ready to commence the trial Commencement 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.

188. 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. (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 guilty 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. 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.

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

(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 shall 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 upon 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, calls 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.

192. 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 upon his case.

193. (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 entitled of right to have any witness summoned other than the 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 shall 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. (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 persecutor 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 subsection (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 order than to character but any of them has introduced new matter in his statement to the court, on such new matter.

195. When the case for the defence and the prosecutor's reply, if any, 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. After the court has made its finding the court shall announce Announcement that finding.

197. (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 desire 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 or any previous convictions of the accused.

198. When the provisions of section 197 have been complied with the court shall retire or adjourn to consider and determine the sentence and shall then announce the same in open court.

199. 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. 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.

201. (1) Every charge under this Criminal Code Procedure Code shall state the offence with which the accused is charged.

(2) If the law which creates the offence gives it any specific names, 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 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 charged was fulfilled in the particular case.

202. 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. 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 without specifying particular items or exact date, and the charge so framed shall be deemed to be a charge of a single offence.

204. 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 of which the offence was committed.

205. 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.

206. No error in stating either the offence or the particulars required to be stated in the charge and on 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.

207. 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 the criminal Procedure Code as to the form of charges.

208. (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. If the charge as revised under section 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. 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. 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. 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.

213. 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. (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 the Penal Code.

215. 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.

216. 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.

217. 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.

218. (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 through he was not charged with it.

219. 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. (1) When a charge containing more heads than one 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 own accord may stay the inquiry into, or trial of such charged or charges.

(2) A withdrawal, under subsection (1) shall have 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. 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) person 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 offence under sections 317 and 319 of the Penal Code or either of those sections in respect of stolen property the possession of which of which has been transferred by one offence; and

(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 for as may be, apply to all such charges.

222. (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 proved it shall quash the conviction.

CHAPTER XX

PREVIOUS ACQUITALS AND CONVICTIONS

223. (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 acquittal remains in force, not be liable to be tried against 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 from 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 act, 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.

224. A previous acquittal or conviction may be pleaded or proved at any stage of an 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. (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.

226. (1) A legal practitioner shall have the right to practise in the High Court or in a magistrate's court in accordance with the provisions of the Legal Practitioners Act, 1962.

(2) The expression "legal practitioner" shall have the same meaning as in the Legal Practitioners Act, 1962

227. (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 native authority the state or that public servant or native authority may be represented by a law officer, the Attorney-General, state counsel, an administrative officer, a public officer, 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.

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

(3) In any criminal case brought by or against a first or second chief in either his official or personal capacity the chief may be represented in the court at stage of the proceedings by any native of his chiefdom 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 Northern Nigeria.

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

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

232. No person of the Moslem 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 Moslem faith for persons taking oath on the Holy Qu'ran; and

(b) the oath is administered by a person of the Moslem faith; and

(c) the oath is taken upon a copy of the Holy Qu'ran printed in the Arabic language.

233. 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 materials to the proper appreciation of the facts of the case.

234. (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 this 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. (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 an inquiry or trial, after explaining to the accused the effect of subsection (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 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 he court may draw such inference form such refusal or answers as it thinks just.

(3) The answers giving 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 dear 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 general cross-examination for the purpose of establishing the guilty of the accused.

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

236. (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 person, and his evidence may be used in proceedings against any person or persons tried jointly with him; and the following provision shall have effect –

(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, it he does so, his evidence may be used at the inquiry or trials;

(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 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 inquiry into or trial for any other offence which such deposition of such answers may tend to show he has committed.

237. (1) Any court may at any stage of any inquiry, trial or other judicial proceeding under this Criminal Procedure Code summon any person as a witness or examine any person in attendance though not summoned as a witness, or recall and re-examine any person already examined; and the court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

(2) A court shall on the application of the Attorney-General at any stage of any inquiry, trial or other judicial proceeding under this Criminal Procedure Code summon any person as a witness or examine any

person in attendance though not summoned as a witness, or recall and re-examine any person already examined.

238. (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. (1) The evidence of a witness 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 within 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 had the right and opportunity to cross-examine the witness.

(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 previously.

240. 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 and 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 of the other accused unless the accused person who made such statements s 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. 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. (1) When the services of an interpreter are required by any court or justice of the peace for the interpretation of any evidence or statement, he shall be bound by oath or solemn affirmation to state the true interpretation of the evidence or statement.

(2) Whenever the service of an interpreter are used the court or justice of the peace shall include in the record of any evidence or statement so interpreted certificate that the evidence or statement was interpreted by an interpreter duly sworn in accordance with the provisions of subsection (1).

243. 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 the court 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 sport, and the prosecutor and the counsel for the accused, if any, shall have the right to be present at the view.

244. (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. 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, expose or inconvenience which in, the circumstance 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. (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, as the case may be, such witness;

Provided that where the court taking evidence on commission is a native court no counsel shall be entitled to appear.

(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. (1) After any commission issued under section 245 has been duly executed it shall be returned together with the deposition of the witness examined thereunder 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. (1) Whenever 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 hi 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 have to serve such interrogatories shall be obtained from a judge of the High Court.

(3) The interrogatories settled by the court under subsection (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. (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 inquiry; trial of other proceeding under this Criminal Procedure Code although he is not called as a witness.

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

(3) (a) A written report by any medical officer or registered medical practitioner may at the discretion of the court be admitted in evidence for the purpose of proving the nature of any injuries received by and the physical cause of the death of any person who has been examined by him.

(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.

(c) If any 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. (1) Any document purporting to be a report under the hand of the Accountant-General or Director of Audit 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.

(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.

251. (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 dispositions.

(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. (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 Northern Nigeria.

253. (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 head exercise his power to inform the court which has taken cognizance of such 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 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. (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 inquiry or 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 awarrant 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. (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 is 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. (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 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 submitted under subsection (1) shall pass such sentence or order in the case as it think ft 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.

258. (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 cognizance 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. (1) The court at any stage of the trial where there are several accused may by order in writing stating the reasons therefore stay the proceedings of the joint trial and may continue the proceedings against each or 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. (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 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. 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 trusted in like manner as a person incapable of making his defence by reason of unsoundness of mind as provided a chapter XXVI.

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

263. In all cases where the opinions of the members of the court differ, the opinion of the majority shall prevail.

264. Where a court is constituted of an even number of judge 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 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. The opinions of the members of the court shall be taken in

succession beginning with the junior in rank.

@@#CHAPTER XXII#@@

THE JUDGMENT

267. In this chapter -

"Minister" means the member of the Executive Council designated under subsection (2) of section 46 of the Constitution of Northern Nigeria.

268. (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 part 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. (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.

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

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

271. (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 so convicted thinks fit so to do, the court shall, before sentence is pronounced upon her, determine the question whether or not she is pregnant.

(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 Supreme Court, 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 therefore.

(5) The court of trial shall report to the Minister 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. (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 years 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 Minister every case in which an order has been made under the provisions of subsection (1)

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

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

275. 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. 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. 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 native courts in criminal matters shall be in accordance with the Native Courts Law or the High Court Law or this Criminal Procedure Code, or any rules made under any of such Laws.

279. (1) Appeal from a magistrate a court to the High Court shall be in accordance with section 53 the Constitution of Northern Nigeria.

(2) Where an accused person has been acquitted or an order of dismissal made by a magistrate's court the prosecutor may appeal to the High Court from such acquittal or dismissal 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.

280. (1) An appeal in accordance with the provisions of this chapter shall be commenced by the appellant giving to the appeal registrar of the court from 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 files many copies of his notice of appeal as there are parties to be served, in addition to the copies for the court and the Attorney-General.

281. (1) An appellant 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 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. (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 ground of appeal may set forth all or any of the following grounds, that is to say-

(a) that the lower court has 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 in-adequate, 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, 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 (h) of that subsection the illegality complained of shall be clearly specified.

283. (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 I magistrate the sum required.

(2) The condition of the bond shall be for the due prosecuting 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 a 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. (1) Appeals from the High Court in criminal matters shall be in accordance with the provisions of the Constitution of the Federation.

(2) The prosecutor may appeal as of right to the Supreme Court on any question of law from a decision of the High Court sitting at First instance.

(3) The prosecutor may appeal with leave of the Supreme Court or of the High Court to the Supreme Court –

(a) on any question of fact or of mixed law and fact from a decision of the High Court sitting at first instance; or

(b) on any question of law or of fact or of mixed law and fact from a decision of the High Court in a criminal appeal from a magistrate's court or a native court

285. (1) The Chief Justice 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.

(2) After the exercise of his power under subsection (1) the Chief Justice may refer the record of proceeding to the court to which an appeal would lie from the decision of the trial court and the appellant court shall treat such reference as if it were an appeal before it from the trial court.

(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 Justice 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 Justice 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 Native Courts Law.

286. When the record of any proceedings in a criminal court is before the Chief Justice for examination neither the accused nor the complainant or prosecutor shall be entitled to be heard either in person or by agent.

287. 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 I 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. 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. 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. No judge magistrate or member of a native 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. Every criminal appeal, other than an appeal from a sentence of fine shall finally abate on the death of the appellant.

CHAPTER XXIV

EXECUTION

"convicted person" means a person convicted of an offence punishable with death;

"Minister" means the member of the Executive Council designated under subsection (2) of section 46 of the Constitution of Northern Nigeria;

"Province" include Kaduna Capital Territory;

"Provincial Commissioner'' in respect of Kaduna Capital Territory means the Administrator of Kaduna.

293. Nothing in section 294 to 301 inclusive shall affect the procedure prescribed in section 394 to be followed by a native court having jurisdiction over capital offences.

294. (1) 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 Minister 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.

(2) Where an appeal against a sentence of death passed by a native court has been made to the High Court the presiding judge of the High Court shall, when such appeal is not allowed, forward to the Minister a copy of the proceedings before the high court together with the proceedings of the lower court and any recommendation or observation which the High Court think fit to make.

295. When any convicted person -

(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 Minister after carrying out the functions imposed on him by the Constitution of Northern Nigeria, or any legislation amending or replacing the same, shall decide whether or not he should recommend to the Governor by section 46 of the Constitution of Northern Nigeria.

296. If the Minister decides not to recommend to the Governor that he should 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.

297. The Minister shall communicate the decision referred to in section 296 to the High Court or where an appeal from a native court has been heard in the High Court to the High Court and the trial court.

298. (1) when the Minister has communicated his decision in accordance with the provisions of section 297 he shall be order either -

(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 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 Minister'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 Government may make rules prescribing the form of any order, direction or specification mentioned in this section.

299. (1) A copy of the Minister's order shall be sent to Provincial Commissioner in charge of the province in which the sentence of death is to be carried into effect and the Provincial Commissioner shall cause effect to be given thereto.

(2) If for any reason a copy of the Minister's order is not received by the Provincial Commissioner before the date fixed therein or endorsed the-eon for execution the Provincial Commissioner shall nevertheless direct that the order shall be carried into effect upon the earliest convenient day after receipt thereof.

(3) The said of the Minister's order or the directions issued by the Provincial Commissioner under subsection (2) shall be sufficient authority to all persons to carry the sentence into effect in accordance with the terms thereof.

300. (1) If a woman sentenced to death is subsequently alleged to be pregnant the Provincial Commissioner of the province in which she is detained shall report such allegation to the Minister who shall thereupon order the sentence of death to pregnant be postponed until a medical officer to be appointed in writing by the Minister has determined whether or not the woman is pregnant, and made a report in writing of his finding to the Minister.

301. (I) If the Minister decides to recommend to the Governor that he should exercise a power referred to in section 295 he shall forthwith communicate such decision to the Governor.

(2) When the Governor exercises such a power he shall issue an order, which shall be countersigned by the Minister, 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 subject to any condition as may be specified therein.

(3) The Minister 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 the Governor in accordance with the provisions of this section.

(4) The Superintendent or other officer in charge of the prison in which the convicted person is confined shall comply with and given effect to every such order sent to him under the provisions of this section.

302.(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 subjection (1) shall be directed to the official 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. (1) When any person is ordered to be detained during the Government's pleasure he shall notwithstanding anything in this Criminal Procedure Code or in any written law be liable to be detained in such place and under such conditions as the Government 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 arid taken to such place.

304. (1) When an offender is sentenced to pay a fine the court passing the sentence to him may, in its discretion although the sentence directs that in default of payment of the fine the offender shall be imprisoned, issues a warrant for the levy of the amount-

(a) by the secure 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 Tenure Law by attachment and sale of any immovable property of the offender situated within the jurisdiction of the court.

(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. 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. (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 installments;

(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 made 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 the 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 installment 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. (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 in Council.

(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.

308. (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 an administrative officer or person prescribed by the Provincial Commissioner.

(3) No sentence of caning shall be executed by installments.

(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. (1) If before the execution of sentence of caning it appears to the administrative officer or person 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 a sentence of caning it appears to the administrative officer or person present in accordance with the provisions of subsection (2) of section 308 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.

(2) In either case the court shall be informed of the stay of execution.

310. (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 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. 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. When a person already undergoing a sentence of imprisonment is sentenced to imprisonment, such imprisonment shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the court directs that the subsequent sentence shall run concurrently with such previous sentence.

313. 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 VII

SPECIAL PROCEEDINGS

CHAPTER XXV

PROCEEDING IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE

314. (1) When any court is of opinion that any 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. (1) When any such offence is as described in sections 137,141,142,143, or 155 of the Penal Code is committed In the views or presence of any criminal 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 cognizance of the offence and sentence the offender to a fine not exceeding ten pounds and in default of payment to imprisonment for a term which may extend to one month, unless such fine be sooner paid.

(2) No- criminal court shall impose a sentence under this section which it is not competent to impose under the provisions of chapter III.

316. (1) When any court takes cognizance 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.

317. 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. If any witness or any person called to produce a document or thing before a criminal 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.

319. (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. (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 owning 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 application of the proceedings prior to some suitable is accused of any offence may, on the Attorney-General made at any stage of the to the trial, order that such person be sent place for observation.

321. (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 shall 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. (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 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.

(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 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. Whenever an inquiry or trial is a 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. 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 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. 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. (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 found 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. When any person is confined under section 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. If the responsible medical officer referred to 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. Where a person is confined in any place the Governor may direct his transfer from one place to any other place as often as may be necessary.

331. (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.

CHAPTER XXVII

PROCEEDING RELATING TO CORPORATIONS

332. (1) In this chapter-

"corporation" means anybody 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 going 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. 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 and the trial shall proceed as though the corporation had duly entered a plea of not guilty.

334. A magistrate may commit a corporation for trial to the High Court.

335. 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. 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 said 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. Where a representative does not appear any such requirement as is referred to in section 336 shall not apply.

338. 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. (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.

(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 I 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.

(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.

(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. (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.

(2) When any person is convicted in any grade "B" C", or “D" native court and appeals from such conviction to a Provincial Court such Provincial Court may in any case direct that such person be admitted to bail.

(3) The officer or court referred to in subsection (1) or subsection (2) 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. (1) Persons accused of an offence punishable with death shall not be released on bail.

(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 inquiry, such person may, pending such inquiry, be released on bail.

342. (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. 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. 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. 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. (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 in respect of which the bond wasexecuted.

347. 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 bond 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. 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. (1) The amount of every bond shall be fixed with the 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. 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 as 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. (1) All or any sureties to a bond may at any time apply to the court which caused the bond to be taken to discharged 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. 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 tails to do so, may make such order as in the circumstances is just and proper.

353. 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 me case of a 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 security 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.

354. (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. Where a person who is bound by any bond to appear before a court does not so appear, the court may issue a warrant for his arrest.

CHAPTER XXX

THE DISPOSAL OF PROPERTY

356. 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 criminal 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.

357. (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 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 action is modified or set aside by the appellate court.

358. 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 not exceeding the price paid by the purchaser be delivered to him.

359. (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 184,185,185,187,188,189 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.

360. (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 properly, 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. (l)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. (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 any 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 the delivered to any person proving his title thereto on payment by him of any expenses incurred by the court in the matter.

363. 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 sections 361 and 362 shall as nearly as may be practicable apply to the net proceeds of such sale.

CHAPTER XXXI

MISCELLANEOUS

364. Subject to any rules made by the Chief Justice under section 373 any criminal 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 of 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.

365. (1) Whenever under any law in force for the time being a criminal court imposes a fine, the court may, when passing judgment, order that in addition to a fine a convicted person shall pay a sum-

(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.

(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. 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. Payment of any money, other than a fine payable by Moneys virtue of any order under this Criminal Procedure Code may be enforced as if it were a fine.

368. (1) If any person affected by a judgment or order passed by a criminal court desires to have a copy of any order proceedings. or deposition or other part of the record other than the judgment, he spall on applying for such copy be furnished therewith.

(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. 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, shall forthwith report the seizure to that office.

370. 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. (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 twenty-five pounds 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.

(2) Before making any direction under subsection (1) the court

shall--

(a) record and consider any objection with 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.

372. 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. (1) The Chief Justice 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 magistrate' courts and the keeping of the same;

(c) requiring the making and forwarding of returns of cases decided in magistrates' courts to the Chief Justice 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. (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 Justice.

(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. Subject to the provisions of section 374, any criminal proceeding by or against any officer of a court for any offence or matter cognizable by a court may be brought in any court having jurisdiction in respect of any particular proceeding.

376. 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. (1) No judge of the High Court, magistrate or justice of the peace or president or member of a native court 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 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. Notwithstanding the provisions of sections 120, 130, 144 and 148 nothing in this Criminal Procedure Code shall be deemed to empower a native court to give any direction to a police officer of the Nigeria Police Force except for the purpose of arranging for the time and place of the trial in a case brought before such court by a police officer of the Nigeria Police Force.

CHAPTER XXXII

IRREGULAR PROCEEDINGS

379. 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 cognizance 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. It 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.(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. Subject to the provisions hereinbefore contained, no findings, 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 on 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.

383. 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. 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 detect 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 a conviction or judgment, and there is a valid conviction or judgment to sustain the same.

CHAPTER XXXIII

TRIALS IN NATIVE COURTS

385. In this chapter-

“Minister" means the member of the Executive Council designated under subsection (2) of section 46 of the Constitution of Northern Nigeria;

"Provincial Commissioner" in respect of Kaduna Capital Territory means the Administrator of Kaduna.

386. (1) In any matter of a criminal nature a native 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 a native court.

(2) Notwithstanding the provisions of subsection (1), all native courts shall be bound by the provisions of sections 388, 389, 390, 391, 392, 393, 394 and 395.

(3) The fact that a native court has not been guided or property 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 a native 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 Native Courts Law.

387. Notwithstanding the provisions of this Criminal Procedure Code, it shall be sufficient in any trial before a native court to have, instead of a formal charge, a statement of the offence complained of with the date and place, and when material, the value of the property in respect of the offence has been committed.

388. Where a native court charges an accused person in the manner provided in section 387 then in the case of a conviction the offence proved shall be stated with a reference to the appropriate section of the Penal Code or other Act or law under which in the opinion of the court an offence has been committed and a brief statement of the reasons for conviction shall be given.

389. Upon charging an accused person a native court shall call upon him to state his defence and to inform the court of the names and whereabouts of any witness whom he intends to call in his defence and the court shall procure the attendance of such witnesses and hear their evidence in like manner in all respects as a magistrate acting under section 163.

390. No legal practitioner shall be permitted to appear to act for or to assist any party before a native court.

391. (1) In taking evidence in any criminal matter a native court may test the credibility of any witness by examination.

(2) Notwithstanding the provisions of this Criminal Procedure Code or of any other written law, a native court may in its discretion invite any witness to take an oath as to the truth of his evidence or any part thereof either before he gives such evidence or at any subsequent stage of the proceedings and if such witness refuses to take any such oath the court may draw such inference from such refusal as it thinks just

(3) After hearing the evidence of any witness, a native court shall ask an accused person if there is any question which he wishes the court to put to the witness on his behalf and thereupon the court shall put to the witness any question which the accused person wishes the court to put on his behalf but shall not be bound to put to a witness any question which does not bear directly on facts which are material to the proper appreciation of the facts of the case.

392. A native court shall make its findings in any criminal matter upon the evidence which is before it and in making such finding nothing shall be taken into consideration which is not supported by the evidence.

393. A native court having jurisdiction over capital offences shall, before passing a sentence of death, invite the blood relatives of the deceased person, if they can be found and brought to court, to express their wishes as to whether a death sentence should be carried out and shall record such wishes in the record of the proceedings.

394. (1) A native court having jurisdiction over capital offences shall, as soon as possible after passing a sentence of death, send to the Minister a report upon the case together with all documents, minutes and notes of evidence taken in the case; and the sentence shall not be carried out unless and until it is confirmed by the Minister under this section.

(2) The native court which passed the sentence shall immediately notify the registrar of the High Court of such conviction and of the date on which the case was concluded in the native court.

(3) Where the person convicted in the native either -

(a) fails to exercise his right of appeal to the High Court and the conviction in the native court stands; or

(b) where he has appealed to the High Court and such appeal has been dismissed and he fails to exercise his right of appeal to the Supreme Court; or

(c) where he has appealed from the High Court to the Supreme Court and such appeal has been dismissed,

the Minister after considering the materials submitted to him by the native court under subsection (1) and any other relevant matters and after complying with the relevant provisions of the Constitution of Northern Nigeria or any legislation amending or replacing the same shall decide whether or not to recommend to the Governor that he should exercise any power conferred on the Governor by section 46 of the Constitution of Northern Nigeria.

(4) If the Minister in pursuance of his powers under subsection (3) decides not to recommend to the Governor that he should exercise a power referred to in subsection (3) in respect of a convicted person the sentence of death shall then be carried into effect in accordance with the provisions of this section.

(5) The Minister shall by order direct that the Provincial Commissioner shall fix-

(a) the place and time at which any sentence of death is to be carried into effect; and

(b) the place where the body of the person executed is to be buried.

(6) On receiving a copy of the Minister's order the Provincial Commissioner shall-

(a) cause the effect thereof to be entered on the record of the native court; and

(b) endorse on the reverse of the Minister's order a direction as to the place and time where and when the execution is to be held and the place where the body of the person executed is to be buried.

(7) If the Minister decides to recommend to the Governor that he should exercise a power referred to in subsection (3) he shall forthwith communicate such decision to be Governor.

(8) When the Governor on the recommendation of the Minister exercises a power referred to in subsection (3) he shall issue an order, which shall be countersigned by the Minister, directing that the execution be not proceeded with, and, as the case may be, that the person convicted be released, or that he be imprisoned for such term as may be specified in the order or that he may be otherwise dealt with as may be specified in the order subject to any condition as may be specified therein.

(9) The Minister shall thereupon send a copy of such order to the superintendent or other officer In charge of the prison in which the person convicted is confined.

(10) The superintendent or other officer in charge of the prison in which the person convicted is confined shall comply with and give effect to every order issued under the provisions of this section.

(11) If a woman sentenced to death is subsequently alleged to be pregnant the Provincial Commissioner of the province in which she is detained shall report such allegation to the Minister who shall thereupon order the sentence of death to be postponed until a medical officer to be appointed in writing by the Minister has determined whether or not the woman is pregnant, and made a report in writing of his finding to the Minister.

(12) The Governor may make rules prescribing the form of any order or direction mentioned in this section.

(13) If no forms shall be prescribed by rules made under this Criminal Procedure Code the appropriate forms used in the High Court or forms to the like effect may be used in proceedings under this section with such variations as circumstances may require.

395. (1) In the trial of a criminal matter a native 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 complaint, 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 of-fence 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, reason therefore 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 or president of the court shall sign or seal the record of the proceedings.

396. Any president or member of a native 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.