

CHAPTER 31
CRIMINAL PROCEDURE LAW

Arrangement of sections

CHAPTER 1 — PRELIMINARY

Section

1. Short title
2. Interpretation
3. Application
4. Saving of other forms and procedure
5. Construction of provisions relating to punishment
6. Intel-State Service of Process

CHAPTER 2 — ARREST

7. Arrest how made
8. No unnecessary restraint
9. Notification of cause of arrest
10. Search of arrested persons
11. Search of place entered by person sought to be arrested
12. Power to break out of any house for purpose of liberation
13. Arrested persons to be taken at once to police -station
14. Arrests by police officer without warrant
15. Refusal to give name and residence
16. Arrest by owners of property
17. Arrest by private persons
18. Disposal of person arrested by private person
19. Offence committed in presence of judge or magistrate
20. Arrest by magistrate
21. General authority to issue warrant
22. Contents of a warrant
23. Warrant issued on complaint only if on oath
24. Warrant may issue on any day
25. Warrant to whom directed, and duration

- 26. Warrant of arrest may in exceptional cases be directed to other persons
- 27. Execution of warrant and procedure thereon
- 28. Power of arrest on warrant but without the warrant
- 29. Procedure on arrest of persons outside division or district of court issuing warrant
- 30. Recapture of person escaping
- 31. Provisions of section 11 mid 12 to apply to arrest under section 30
- 32. Assistance to judge, magistrate or police officer
- 33. Arrest on breach of recognizance for appearance

CHAPTER 3— SEARCH WARRANT

- 34. Cases in which search warrants may be issued
- 35. Discharge of suspected person

Section

- 36. (1) Search warrant to be signed by magistrate
- (2) Duration
- 37. Search warrant to whom directed
- 38. Time when search warrant may be issued and executed
- 39. Persons in charge of closed place to allow ingress
- 40. Detention of articles seized
- 41. Perishable articles may be disposed or by court
- 42. Search for and disposal of gun powder
- 43. Destruction of forged banknotes
- 44. Disposal of counterfeit coin and certain other things
- 45. Transmission to court of another State

CHAPTER 4. — PREVENTION OF OFFENCES

- 46. Police to prevent offences and prevent injury in public property
- 47. Information of design to commit such offences
- 48. Arrest to prevent such offences
- 49. Power to make regulations
- 50. Power of magistrate to require execution of recognizance for keeping the peace
- 51. Security for good behavior for suspected persons
- 52. Security for good behaviour for habitual offenders

- 53. Order to be made
- 54. Procedure in respect of person present in court
- 55. Summons or warrant in case of person not so present
- 56. Copy of order under section 53 to accompany summons or warrant
- 57. Power to dispense with personal attendance
- 58. Inquiry as to truth of information
- 59. Order to give security
- 60. Discharge of person informed again
- 61. Commencement of period for which security is required
- 62. Conditions of recognizance
- 63. Power to reject sureties
- 64. Procedure on failure of person to give security
- 65. Power to release person imprisoned for failure to give security
- 66. Power of High Court to cancel recognizance
- 67. Discharge of sureties

CHAPTER 5. — BAIL AND RECOGNIZANCE

- 68. Release on bail of a person arrested without warrant
- 69. Power to release on bail before charge is accepted
- 70. Discharge of person for want of evidence
- 71. Police to report apprehensions
- 72. Court may direct particulars of security to be taken on execution of warrant
 - (1) When bail may be granted by High Court only
 - (2) When discretionary
 - (3) When to be ordinarily granted

Section

- 74. Bail in respect of matters other than offences
- 75. Amount of bail
- 76. Recognizance in respect of minors
- 77. Securities
- 78. Admission to bail after its refusal
- 79. Notice of right to apply for bail

- 80. Judges may vary bail fixed by magistrate on notice
- 81. Before whom recognizance may be executed
- 82. Mode of entering into recognizance
- 83. Continuous bail
- 84. Discharge from custody
- 85. Person bound by recognizance absconding may be committed to prison
- 86. Reconsideration of amount of bail on application by state coursed or police
- 87. Power to revoke or require higher bail
- 88. Variation of a recognizance if surety suitable
- 89. Discharge of sureties for appearances of another
- 90. Order of fresh security upon original order
- 91. Surety dying, estate discharged
- 92. Forfeiture of recognizance
- 93. Mitigation of forfeiture
- 94. Forfeiture on conviction
- 95. Where recognizance forfeited warrant may issue
- 96. Payment on recognizance
- 97. Appeal

CHAPTER 6 — ENFORCING APPEARANCE IN COURT OF ACCUSED PERSONS AND WITNESSES

- 98. General authority to bring persons before courts
- 99. Compelling appearance of an accused person
- 100. Issue of summons and contents thereof
- 101. Hearing by consent before return date of summon
- 102. Summons with immediate return date in special circumstances
- 103. Discretion in exparte application
- 104. Summons to be in duplicate
- 105. Issue and service on any day
- 106. Service of summons
- 107. Normal methods of effecting service
 - (a) On an individual

(b) On a firm or corporation

108. Service, other than personal service No. 9 of 1982

109. Service on Government servant

110. Service outside local division or district

111. Proof of service when serving officer not present

112. Receipt of service of summons

113. Person refusing to give receipt may be apprehended

114. Summons disobeyed warrant may issue

115. Issue of warrant for defendant in the first instance

116. Application of certain sections to such warrant

117. Warrant may issue before or after return date of summons

118. Power of court to order prisoner to be brought before it

119. Issue of summon for witnesses

120. Service of summon on witnesses

121. Warrant for witnesses after summon

122. Issue of warrant for witness in first instance

123. Mode of dealing with witness arrested under warrant

124. Penalty on witnesses refusing to attend

125. Non-attendance of witness on adjourned hearing

126. Persons in court may be required to give evidence though not summoned

127. Expenses of witnesses for prosecution

128. Expenses of witnesses for accused

129. Adjournment may be granted subject to costs to witnesses

130. Ascertainment of expenses of witnesses

CHAPTER 7— REMAND

131. Court may remand defendant for eight days

132. Court may bring up prisoner during remand

133. Magistrate may adjourn where accused cannot appear

134. Place of commitment

CHAPTER 8— EFFECT OR ERRORS IN THE COURT PROCESS

135. Irregularity in summons warrant service or arrest

- 136. Variation between charge and complaint
- 137. Process valid notwithstanding death or vacation of office of person issuing
- 138. Validity of process
 - (a) Warrant of commitment
 - (b) Warrant of distress
- 139. General addressee of process for issue and execution
- 140. Certain provisions applicable to all summons and warrant in criminal matters

CHAPTER 9, - CONTROL OF CRIMINAL PROCEEDINGS

- 141. Nolle Prosequi in criminal proceedings
- 142. Nolle Prosequi during the preparation of proofs of evidence
- 143. Withdrawal of prosecution against a person
- 144. Law officer may require case to be adjourned or dealt with specially
- 145. General control of prosecution by the Attorney - General
- 146. Names under which prosecution could be instituted

CHAPTER 10. - INSTITUTION OF CRIMINAL CASE

- 147. Right of making complaint
 - 148. Form and requisite of complaint
 - 149. Form of document in criminal proceedings
 - 150. Making of complaint and issue of process thereon
- Section
- 151. Limitation of period for making a private complaint
 - 152. Information by the Attorney-General
 - 153. Different methods of instituting criminal proceedings
 - 154. Particulars of instituting criminal proceedings in Magistrates' court
 - 155. Summons and warrant
 - 156. Venue
 - (a) Place of jurisdiction and where offence committed
 - (b) place where act has been done or emitted to be done, etc
 - (c) when offence constituted by relation to another offence
 - (d) when place uncertain or offence distributed
 - (e) offence committed on a journey,

- (f) offence at sea or out of Nigeria
- 157. judge to decide in case of doubt of venue
- 158. (1) Accused person to be remitted in certain case to another magistrate
- (2) Courts having concurrent jurisdiction
- (3) Transmission of document
- 159. Removal under warrant
- 160.(1) Transfer of case where cause of complain has arisen out of district of court
- (2) Complaint and recognizance to be transmitted
- (3) Defendant not retained or placed in custody
- 161. Courts may assume jurisdiction under certain conditions
- 162. Assumption of jurisdiction after commencement of proceedings

CHAPTER II— METHODS OF CRIMINAL TRIAL

- 163. (1) (a) In the High Court
- (b) In the Magistrates Courts.

CHAPTER 12 — SUMMARY TRIAL

- 164. Summary Trials
- 165. Application of parts of the Law to processes under this chapter
- 166. Time and place of hearing
- 167. Non-appearance of complainant
- 168. Non-appearance of defendant
- 169. Non-appearance of both parties
- 170. Appearance of both parties
- 171. Withdrawal of complaint
- 172.(1) Manner of hearing
- (2) When defendant pleads guilty
- (3) Witnesses in general to be out of hearing
- (4)Hearing of complainant and witnesses
- (5)Asking of questions
- (6)Unrepresented of defendant
- 173. Discharge of accused when no case to answer
- 174. When a prima facie case has been made out.

Section

- 175. Saving as to section 174(1)(a)
- 176. New matter by defendant
- 177. Power to take evidence of persons dangerously ill
- 178. Notice to be given to parties
- 179. Transmission of statement
- 180. (1) When statement may be used in evidence
- (2) Signature, etc, prima facie proof
- 181. (1) Note of evidence to be taken
- (2) Inspection not right
- (3) Record as evidence of proceeding
- 182. Cross complaints
- 183. Joinder of complaints
- 184. Procedure where offence appears unsuitable for determination by court of limited jurisdiction
- 185. Giving of decision upon conclusion of hearing
- 186. Power to bind parties to be of good behaviour
- 187. Effect of judgment of dismissal on merits "not on merits" and without prejudices

CHAPTER 13 - SUMMARY PROCEDURE IN PERJURY

- 188. Perjury Summary procedure
- 189. Decision to try summarily
- 190. (1) When a person is ordered to be imprisoned or fined
- (2) Issue of warrant of commitment or order for payment offline
- 191. Bar to other proceedings

CHAPTER 14— SUMMARY TRIAL BY MAGISTRATE OF ADULT CHARGED WITH AN INDICTABLE OFFENCE

- 192. Summary trial by magistrate of indictable cases
- 193. Procedure for obtaining consent to summary trial
- 194. Trial without consent void
- 195. Summary trial by a magistrate of indictable offence etc
- 196. Power to remand person charged

197. Adjournment for law officers' decision

198. General provisions as to dealing summarily with indictable offence

199. Security for keeping peace in indictable cases triable summarily

CHAPTER 15 — SUMMARY TRIAL BY MAGISTRATE OF CHILD OR YOUNG PERSONS CHARGED WITH AN INDICTABLE OFFENCE

200. Summary trial of child by magistrate for Indictable offence

201. Charge to be reduced to writing when offence tried summarily

202. No trial of an infant

203. whipping in accordance with chapter 35

Section

CHAPTER 16 — TRIAL ON INFORMATION

204. Trial on information

205. Certain cases to be tried by jury

206. Judge to decide in certain cases

207. Form of information

208.(1) Contents of information and indictment

(2) Forms in Third Schedule

209. Application of sections 255 to 317 to information

210. Procedure on information of offenders

211. When information should be preferred

212. Information liable to be quashed

213. Signing of information

214. Information by private person

215. Condition for private prosecutors

216. Venue

217. Change of venue; Cause commenced in wrong division

218. Effect of change of venue

219. Form of notice of trial

220. Copy of information and notice of trial to be delivered to sheriff

221. Time and mode of summoning parties on information

222. Return of service

- 223. Bench warrant where accused person does not appear
- 224. Counsel for state and defence in capital cases.
- 225. Arraignment
- 226. Attendance of witness bound by recognizance to attend
- 227. Warrant for apprehension of witness not attending on recognizance
- 228. Warrant for apprehension of witness disobeying summons
- 229. Fine for non-attendance of witness
- 230. Writs of subpoena
- 231. Service of subpoena
- 232. Application of Chapter to trials under this chapter
- 233. Application of law to trials under this chapter
- 234. Recording of judgment and sentence

CHAPTER 17—PREPARATION AND USE OF PROOFS OF EVIDENCE

- 235. Application
- 236. Interpretation
- 237. Preliminary inquiry case to apply in the state
- 238. Proofs of evidence to replace preliminary inquiry
- 239. Proofs of evidence by law officers
- 240. Cases to which taking of proofs of evidence applicable
- 241. Capital offences, offences punishable with imprisonment for life, and other indictable offence
- 242. Indictable cases on election of accused
- Section
- 243. Procedure by magistrate after charge read or election made
- 244. Duty of police to transmit case file to Attorney-General
- 245. Where to transmit records and police case file
- 246. Preparation of proofs of evidence
- 247. Contents of proofs of evidence
- 248. Verification of statement witness
- 249. Binding over of witnesses
- 250. Marking of exhibits

- 251. Prima facie case- information to be preferred
- 252. Discharge of accused when there is no prima facies case
- 253. Evidence by prosecutor
- 254. Information and proofs of evidence to be transmitted to High Court

CHAPTER 18 — THE CHARGE

- 255. Form of charges in Second Schedule to be used and adapted
- 256. Name of the offence
- 257. Absence of name of the offence
- 258. Written Law
- 259. Effect of making a charge
- 260. Previous conviction
- 261. Particulars of charge
- 262. Fraud. etc
- 263. Description of the offence
- 264. Insufficient particulars
- 265. Sense of words used in charge
- 266. Ownership or description of property, owner and value of property need not be named unless specifically required
- 267. Joint owners
- 268. Coin and bank or currency notes
- 269. Proof of registered title
- 270. Provision as to statutory offences
- 271. Provision as to negative provisions in offence
- 272. Description of persons
- 273. Description of document
- 274. General rule as to description - indictment
- 275. Statement of intent
- 276. When person may be charged jointly
- 277. Separate charges for distinct offences
- 278. Three offences of the same kind within twelve months may be charged together
- 279. Where an attempt in an offence

- 280. Trial for more than one offence
- 281. Offences falling within two definitions
- 282. Acts constituting one offence but constituting when combined a different offence
- 283. Where it is doubtful which offence committed
- 284. Procedure on commitment on imperfect charge
- 285. Court may alter charge
- 286. Procedure on alteration of charge
- 287. Recall of witnesses when charge altered
- 288. Effect of error
- 289. Objection cured by verdict
- 290. Objection cured by verdict
- 291. Full offence charged; attempt proved
- 292. Attempt charged, full offence proved
- 293. Liability as to further prosecution
- 294. Person tried for misdemeanour not to be acquitted if felony proved unless court so directs
- 295. When stealing is charged and receiving proved
- 296. Person charged with burglary may be convicted of kindred offence
- 297. Conviction of false pretences on charge of stealing
- 298. Conviction of stealing on charge of false pretences
- 299. On charge under section 203 of Chapter 37 conviction of indecent assault may follow
- 300. On charge under section 203 Chapter 37 conviction of indecent may follow
- 301. Where murder or infanticide is charged, and concealment of birth is proved
- 302. Where murder is charged, and infanticide proved
- 303. Where offence proved is included in offence charged
- 304. Where a lesser offence is proved conviction may follow
- 305. Withdrawal of remaining charges on conviction on one of several charges
- 306. Court may proceed upon withdrawn charges in certain circumstances

CHAPTER 19 - DESCRIPTION OF PROPERTY AND PERSONS IN THE COURT PROCESS

- 307. Methods of stating ownership of property

- 308. Joint owners
- 309. Joint stock companies, companies and associations
- 310. Public department
- 311. Places of worship
- 312. The control of public offence
- 313. Public building, works or institutions
- 314. Married women's property
- 315. Description of persons in criminal process
- 316. Remedies of married woman against her husband and others in respect of property
- 317. Husband and wife competent witness

CHAPTER 20, — ACCUSED PERSON - ATTENDANCE TO COURT REPRESENTATION BY COUNSEL

- 318. Power to dispense with personal attendance of accused in certain cases
- 319. Warrant may issued in default of attendance
- 320 Recovery of fine by distress or imprisonment
- 321. Allegation of previous conviction
- 322. Cost of attendance in default
- 323. Position in court of person summoned.
- 324. Presence of accused at trial
- 325. Counsel for complainant and for defendant
- 326. Access to legal practitioners

CHAPTER 21 —DETERMINATION OF AGE OF ACCUSED’S

- 327. Presumption and determination of age
- 328. Offence by non-adult.

CHAPTER 22 — RIGHT OF THE PUBLIC TO ATTEND COURT SITTINGS

- 329. Public to have access to hearing
- 330. Court may be cleared whilst child or young person is giving evidence in certain
- 331. Order under section 329 or 330 not to apply to press and certain others
- 332. Prohibition on children being present in court during the trial of other persons

CHAPTER 23 - PLEA TO THE CHARGE

- 333. Pleading to indictment or charge

- 334. Proceedings on charge or count of previous conviction
- 335. When one cannot plead in respect of the previous conviction.
- 336. When one can plead in respect of the previous conviction.
- 337. Proof of previous conviction.
- 338. Plead of *autrefois acquit* or convict pardon.
- 339. Failure to plead due to malice or otherwise.
- 340. Effect or plea of guilty.
- 341. Plea when offence admitted is include in offence charged.
- 342. Effect of plea of not guilty.

CHAPTER 24. — ADDUCING EVIDENCE AND EXAMINATION OF WITNESSES

- 343. Opening of case for the prosecution
- 344. Rule as to statement of exception
- 345. Application of the Evidence Law
- 346. Witness refusing to be sworn or produce documents
- 347. power to call or recall witness
- 348. Certificates of certain Government technical officers

CHAPTER 25 — VISIT TO LOCUS

- 349. Local Inspection
 - 350. View by court of locus
- Section
- 351. No communication between accused and witness during visit to locus
 - 352. What applies if the trial is with assessor or with jury.

CHAPTER 26. — ADDRESSES

- 353. In certain cases, prosecution has no right of reply.
- 354. Cases in which prosecution may reply
- 355. Reply by law officer
- 356. Right of reply.

CHAPTER 27, --- JUDGMENT

- 357. Deliberation by court.

- 358. Judgement to be in writing.
- 359. Accused to be discharged if found not guilty
- 360. Accused to be asked whether he has anything to say before sentence.
- 361. Sentence
- 362. Conviction on other charges pending
- 363. Delivery of judgment when judge or magistrate unavoidably absent

CHAPTER 28 – USPENDED SENTENCE

- 364. Security for coming up for judgment

CHAPTER 29 — CAPITAL SENTENCE

- 365. Death sentence - how inflicted
- 366. Death sentence - how pronounced
- 367. Prior formalities generally.
- 368. Where pregnancy is found
- 369. Where offender is a young person
- 370. Authority for detention
- 371. Application of sections 372 to 379
- 372. Judge to report to Governor
- 373. Judge to send copy of proceedings to Advisory committee.
- 374. Governor to make order
- 375. Copy of order to be sent to the Judge
- 376. Form of Governor order fourth schedule.
- 377. Endorsement on the order by specified officer
- 378. Copy of order to be sent to Sheriff
- 379. Order to be fulfilled authority
- 380. Procedure where woman convicted of capital offence is alleged to be pregnant
- 381. Court determines whether the woman is pregnant
- 382. Court pronounces sentence on the woman if she is not pregnant.
- 383. A Court of Appeal may quash the sentence
- 384. Substitution of death sentence
- 385. Court reports to council

Section

CHAPTER 30 – IMPRISONMENT

- 386. Imprisonment to be with hard labor unless otherwise order.
- 387. Power to order detention for one day in precincts of the court.
- 388. Consecutive sentences of imprisonment.
- 389. Date from which sentence commences.
- 390. Power to inflict the fine in lieu of imprisonment.
- 391. Escaped prisoners, effect of escape on punishment.
- 392. Direct imprisonment.
- 393. Authority for carrying out sentences not capital.
- 394. Error or omission not affect legality of act.

CHAPTER 31 - FINES

- 395. Fines imprisonment in default of
- 396. General power of awarding imprisonment in default of payment of penalty.
- 397. (1) Scale imprisonment for non-payment of money adjusted to be paid
- (2) Limitation of imprisonment in default of payment of fine
- 398. Payment and allocation of fines fees
- 399. Power to commit defendant in certain cases
- 400. Allowance of further time and payment by installments
- 401. Default in one payment renders all payable.
- 402. Surrender before committal date
- 403. Power to promote issue of warrant of commitment
- 404. Time and condition
- 405. Limit of three months
- 405. Execution of warrants
- 407. Payment of penalty to person executing warrant
- 408. Commencement of imprisonment.
- 409. Varying of or discharging order for sureties.
- 410. Right of person imprisoned in default to be released on paying sum.
- 411. Application of a sum received from prisoner
- 412. Part payment after commitment.
- 413. Fines may be ordered to be recoverable by distress.

- 414. Warrant of distress
- 415. Procedure on the execution of distress warrants
- 416. Part payment reduces period or imprisonment in proportion

CHAPTER 32 — COSTS AND COMPENSATION

- 417. Costs against accused
- 418. Against private prosecutor
- 419. Order may not be made under certain conditions
- Section
- 420. Costs may be awarded
- 421. Meaning of private prosecutor
- 422. Compensation in case of false and vexatious charge
- 423. Enforcement of award of compensation.
- 424. Saving of express procedure for awarding costs and compensation.
- 425. Order to paycost appealable.
- 426. Injured person may refuse to accept compensation payment of compensation is bar to further liability.

CHAPTER 33, —DAMAGES IN CASES OF DISHONESTY.

- 427. Wrongful conversion or detention of property
- 428. Damages recoverable or penalty.

CHAPTER 34. — PROBATION

- 429. Conditional release of offenders
- 430. Compensation for loss or injury and costs may be awarded
- 431. Restitution of stolen property
- 432. Probation orders and conditions of recognizance.
- 433. Content of recognizance.
- 434. The court makes a notice in writing.
- 435. Relieving probation officer of his duties.
- 436. Duties of probation officers.
- 437. Variation of terms and conditions of probation.
- 438. Provision in case of offender failing to observe conditions of release.

439. Offender may be brought before another court

440. Bail or Remand

441. Committed to prison during remand

442. Conviction of original offence.

CHAPTER 35. — WHIPPING

443. To be whipped once only

444. Persons who are not to be sentenced to whipping

445. Whipping with a light rod and not more than twelve strokes

446. Whipping of juvenile offender.

447. Infliction of sentences of corporal punishment.

448. Where court may order the arrest of juvenile offender.

CHAPTER 36 - SEIZURE, RESTITUTION, FORFEITURE AND DISPOSITION OF PROPERTY

449. Order for disposal property regarding which offence committed

450. Seizure of things Intended to be used in commission of offence.

451. Destruction of seditious prohibited or obscene publications and of obscene objects.

Section

452. Unfit for adulterated food

453. Search warrant may be used to search for things subject to section 450 and 451

454. Restoration of immovable property

455. Effect of the order.

456. payment to innocent person of money found on accused

457. Restitution and disposition of property found on person arrested

458. Restitution of property stolen

459. Exception to restitution orders

460. Destruction of articles relating to counterfeiting where charge is laid

461. Destruction of articles relating to counterfeiting where no charge is laid

462. Mode of dealing with forfeiture not peculiarly

CHAPTER .37 — DETENTION DURING THE GOVERNOR'S PLEASURE

463. Conditions attaching to detention during pleasure.

464. Discharge of detainees by licence

465. Form of licence

466. Revocation of licence.

CHAPTER 38 —PERSONS OF UNSOUND MIND

467. Interpretation

468. Procedure when accused is accepted to be unsound mind

469. Procedure for investigation in absence of the accused

470. Accused is detained for observation if the court is not satisfied.

471. The medical officer shall certify his finding

472. Detention of the accused by medical officer for observation

473. Certificate of medical officer

474. Court postpones trial under certain circumstances.

475. The evidence proving soundness of mind is deemed a part of trial.

476. Evidence of medical certificate.

477. Accused may not attend court

478. Release of person of unsound mind pending investigation or trial

479. Magistrate informs the accused of his right to apply to a judge for bail

480. Procedure are when offence is not bailable.

481. Resumption of trial.

482. Resumption of proceedings.

483. When accused appears to have been of unsound mind.

484. Judgment of acquittal on ground of mental disorder.

485. Safe custody of person acquitted.

486. Observation or prisoner of unsound mind

487. Courts power to try the certified prisoner of sound mind

488. Procedure when person of unsound mind reported fit for discharge

489. Transfer from one place of custody to another

490. Delivery of person of unsound mind to care of retrieve.

Section

CHAPTER 39. — TRI AL OF CORPORATIONS

491. Application of this chapter

- 492. Interpretation
- 493. Plea by corporation
- 494. Information against a corporation.
- 495. Joinder of courts in same information
- 496. Powers of representative
- 497. Matters to be read or -said or explained to representative
- 498. Non-appearance of representative
- 499. Saving
- 500. Joint charge against corporation and individual
- 501. Service on corporation

CHAPTER 40. — PREVIOUS ACQUITTALS OR CONVICTIONS

- 502. Interpretation
- 503. Person once convicted or acquitted not to be retried.
- 504. May be tried again on separate charge in certain cases
- 505. Consequences supervening or not known as previous trial
- 506. Where court at first trial was not competent
- 507. Dismissal or discharge

CHAPTER 41.—INQUIRIES BY DIRECTION OF ATTORNEY – GENERAL

- 508. Inquiries by direction of Attorney-General
- 509. Conduct of inquiry
- 510. Report
- 511. Procedure
- 512. Person charged entitled to copy of deposition
- 513. Statement of witness privileged

CHAPTER 42 —MISCELLANEOUS

- 514. Use of forms in First Schedule
- 515. Use of forms in First, Second and Third Schedules
- 516. No committal for trial by corner.
- 517. Payment of fees
- 518. Court may Waive fees

519. Store not required to pay fees

520. Power to make rules of court.

CHAPTER 31

CRIMINAL PROCEDURE LAW

A Law to make provisions for the procedure to be followed in Criminal Cases in the High Court and in Magistrates Courts.

ANSL
CAP 37

27th August 1991

CHAPTER 1 —PRELIMINARY

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

Short title

2.In this Law, —

Interpretation

“Act” means an enactment of Parliament of the National Assembly or any other enactment which has effect as such:

"adult" means a person who has attained the age of seventeen years or over; ‘Charge" means the statement of offences with which an accused is charged in a summary trial before a court;

“Chief judge” and "judge" mean the Chief judge and judge, respectively of the High Court of the State; “child” means any person who has not attained the age of fourteen years:

"complaint” means allegation that any named person has committed an offence made before a magistrate for the purpose of moving him to issue process under this Law.

"Court" includes High Court and a Magistrate's Court;

"Constitution" means the Constitution of the Federal Republic of Nigeria;

"defendant" means any person against whom a complaint is made;

"district" means magisterial district created under the provisions of the Magistrate's Courts Law; "division" means judicial division created under the provision of the High Court law;

“Federal Law" means any Act.

“felony” means an offence conviction for which a person can, without proof of his having been previously convicted of an offence, be sentenced to death or to imprisonment for three years or more, or which is declared by law to be a felony.

"fine" includes any pecuniary penalty or pecuniary forfeiture or pecuniary compensation payable under a conviction;

"future Law" means any law passed after the commencement of this Law.

"High Court" means High Court established for the State under the indictable offence” means any offence —

(a) which on conviction may be punished by a term of imprisonment exceeding two years; or

(b) which on conviction may be punished by imposition of a fine exceeding four hundred naira; or

(c) which is not declared by the written law creating the offence to be punishable on summary conviction;

“indicted” means the filing of an information against a person after the preparation of proofs of evidence;

“infant” means person who has not attained the age of seven years;

“judge” means judge of the High Court

“Justice of the peace” means any person appointed under any written law to be a justice of the peace; in Enugu State

“Juvenile offender” means offender who has not attained the age of seventeen years;

“Law” means an enactment of the Legislature of the State or any other enactment which has effect as such an enactment;

“magistrate” means a Chief Magistrate, or a magistrate appointed under the Magistrate Courts Law;

“offence” means offence against any Law or Act including any regulation, order, rule or proclamation made under any Law or Act;

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

“open court” means any room or place in which any court is sitting to hear and determine any matters within its jurisdiction and to which room or place the public may have access so far as the same can conveniently contain them;

“order” includes any conviction in respect of a summary conviction offence;

“penalty” includes any pecuniary fine, forfeiture, costs, or compensation recoverable or payable under an order;

“police officer” includes any member of the police force established by the Police Act;

“prescribed” means prescribed by rules made under the authority of this Law;

“registrar” includes the Chief Registrar and a registrar of the High Court and of a magistrate’s court;

“rules” or “rules of court” means any rules of court relating to the practice and procedure of the High Court or of the magistrates’ courts in the exercise of their criminal jurisdiction;

“sentenced to imprisonment” shall include a case where imprisonment is imposed by a court on any person either with or without the option of a fine, or in respect of the non-payment of any sum of money, or for failing to do or abstaining from doing, any act or thing required to

be done or left undone, and the expression "sentence of imprisonment" shall be construed accordingly;

“sheriff” means sheriff within the meaning of the Sheriffs and Civil Process Law and includes a deputy sheriff and any person authorized by the sheriff or deputy sheriff to execute process of court;

"State" means Enugu State of Nigeria and a "State" means any other state of the Federation or the Federal Capital Territory

"Summary conviction offence" means any offence punishable by a magistrate's court on summary conviction, and includes any matter in respect of which a magistrate's court can make an order in the exercise of its summary jurisdiction;

“summary court” means, unless the same is expressly or by necessary implication qualified means —

(a) a judge of the High Court when sitting in court and presiding over a summary trial; and

(b) any magistrate when sitting in open court to hear and determine any matters within his power and jurisdiction either under the provisions of this Law or any other written Law;

and such judge when so sitting and presiding and such magistrate when so sitting shall be deemed to be a “court” or “summary court” within the meaning of this Law,

"Summary trial" means any trial by a magistrate and a trial by a judge not on information;

“Superior police officer” has the same meaning as in the Police Act; “young person” means a person who has attained the age of fourteen but has not attained the age of seventeen years.

Application 3. The general provisions of this law shall apply to all criminal trials and other criminal proceedings in the High Court and Magistrates' Courts except when express provision is made in this Law or in any Law in respect of any particular court or form of trial.

Saving of other forms and procedure 4. Nothing in this Law shall affect the use or validity of any special forms in respect of any procedure or offence specified under any other written law or the validity of any other procedure provided by any other written law.

Construction of provisions relating to punishments 5. The provisions of Chapters 28, 29, 30, and 35 shall apply subject to the provisions of any written law relating to any specific offence or class of offences and to the jurisdiction conferred on any court or any person presiding over such court

Inter- state service of process 6. Nothing in this Law shall be construed to authorize—

(a) the service outside the State of a summons to enforce the appearance before a court of an accused person, surety, or parent of an accused person;

(b) the service outside the State of a subpoena, summons or notice of hearing to compel the attendance of a witness before a court;

(c) the execution outside the State of a warrant for the arrest of any person or of a search warrant;

(d) the issue of an order to compel the production of any person confined in a prison outside the State;

- (e) the execution outside the State of a warrant of distress; or
- (f) the execution outside the State of a warrant of committal issued in accordance with section 399

CHAPTER 2. —ARREST

7. In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

8. A person arrested shall not be handcuffed, otherwise bound or be subjected to unnecessary restraint except by order of the court a magistrate or justice of the peace or unless there is reasonable apprehension of violence or of an attempt to escape or unless the restraint is considered necessary for the safety of the person arrested.

9. Except when the person arrested is in the actual course of the commission of a crime or is pursued immediately after the commission of a crime or escapes from lawful custody the police officer or other person making the arrest shall inform the person arrested of the cause of the arrest.

10.(1) Whenever a person is arrested by a police officer or a private person, the police officer making the arrest or to whom the private person makes over the person arrested, may search such person, using such force as may be reasonably necessary for such purpose, and place in safe custody all articles other than necessary wearing apparel found upon him:

Provided that whenever the person arrested is admitted to bail and bail is punished, such person shall not be subject to the provisions of subsection (6) be searched unless there are reasonable grounds for believing that he has about his person any

- (a) stolen articles; or
- (b) instruments of violence or poisonous substance; or
- (c) tools connected with the kind of offence which he is alleged to have committed; or
- (d) other articles which may furnish evidence against him in regard to the offence which he is alleged to have committed.

(2) Whenever it is necessary to cause a woman to be searched the search shall be made by another woman.

(3) Notwithstanding the other provisions of this section, any police officer or other person making an arrest may in any case take from the person arrested any offensive weapons which he has about his person.

(4) Where any property has been taken under this section from a person charged before a court of competent jurisdiction with any offence, a report shall be made by the police to such court of the fact of such property having been taken from the person charged and of the particulars of such property, and the court shall, if of opinion that the property or any portion thereof can be returned consistently with the interests of justice and with the safe custody of the person charged, direct such property or any portion thereof to be returned to the person charged or to such other person as he may direct.

Arrest how made

No unnecessary restraint

Notification of cause of arrest

Search of arrested person

(5) Where any property has been taken from a person under this section, and the person is not charged before any court but is released on the ground that there is no sufficient reason to believe that he has committed any offence, any property so taken from him shall be restored to him

(6) When a person is in lawful custody upon a charge of committing any offence of such a nature and alleged to have been committed in such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of the offence it shall be lawful for a qualified medical practitioner, acting at the request of police officer, or if no such practitioner is procurable, then for such police officer, and for any person acting in good faith in aid and under the direction of such practitioner or police officer, as the case may be, to make such an examination of the person so in custody as is reasonably necessary in order to ascertain the facts which may afford such evidence, and to use such force as is reasonably necessary for that purpose.

Search of
place enter
sought to
be arrested

11.(1) If any person or police officer acting under a warrant of arrest or otherwise having authority to arrest has reason to believe that the person to be arrested has entered into or is within any place, the person residing or being in charge of such place shall, on demand of such person acting as aforesaid or such police officer, allow him free ingress thereto and afford all reasonable facilities to search therein for the person sought to be arrested

(2) If ingress to such place, cannot be obtained under subsection (1), any such person or police officer may enter such place and search therein for the person to be arrested, and in order to effect an entrance into such place, may break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person or otherwise effect entry into such house or place, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.

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

Power to
break out of
any house for
purpose of
liberation

13. Any person who is arrested, whether with or without a warrant, shall be taken with all reasonable despatch to a police station, or other place for the reception of arrested persons, and shall without delay be informed of the charge against him. Any such person while in custody shall be given reasonable facilities for obtaining legal advice, taking steps to furnish bail, and otherwise making arrangements for his defence or release.

Arrest person
to be taken a
once to the
police station

14. (1) Any police officer may, without an order from a magistrate and without a warrant, arrest—

Arrest by
police
officer
without
warrant

(a) any person whom he suspects upon reasonable grounds of having committed an indictable offence against a federal law or against the law of the State or against the law of any other State, unless the written law creating the offence provides that the offender cannot be arrested without warrant.

(b) any person who commits any offence in his presence;

(c) any person who obstructs a police officer while in the execution of his duty, or who has escaped or attempts to escape from lawful custody;

(d) any person in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to such thing.

(e) any person whom he suspects upon reasonable grounds of being a deserter from the Nigerian Army or Navy or Air Force

(f) any person whom he suspects upon reasonable grounds of having been concerned in any act committed at any place out of Nigeria which, if committed in Nigeria, would have been punishable as an offence, and for which he is, under any written law in force in Nigeria liable to be apprehended and detained in the State;

(g) any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house breaking;

(h) any person for whom he has reasonable cause to believe a warrant of arrest has been issued by a court of competent jurisdiction in Nigeria;

(i) any person who has no ostensible means of subsistence and who cannot give a satisfactory account of himself, and

(j) any person found in the State taking precautions to conceal his presence in circumstances which afford reason to believe that as is taking such precaution with a view to committing an offence which is a felony or cannot be arrested without a warrant

(2) The authority given to a police officer to arrest a person who commits an offence in his presence shall be exercisable in respect of offences committed in such officers presence notwithstanding that the written law creating the offence provides that the offender cannot be arrested without a warrant.

15. (1) When any person who in the presence of a police officer has committed or has been accused of committing a non-indictable offence refuses on demand of such officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained he shall be released on his executing a recognizance, with or without sureties, to appear before a magistrate if so required:

Provided that if such person is not resident in Nigeria the recognizance shall be secured by a surety or sureties resident in Nigeria

(3) Should the true name and residence of such person not be ascertained within 24 hours from the time of arrest, or should he fail to execute the recognizance or, if so required to furnish sufficient sureties, he shall forthwith be forwarded to the nearest magistrate having jurisdiction.

16. Any private person may arrest any person in the street who in his view commits an indictable offence, or whom he reasonably suspects of having committed an offence which is a felony or of having committed by night an offence which is a misdemeanor

Arrested
by private
person

Arrested by
the owner of
the property

Refusal to give
name and
residences

17. Persons found committing any offence involving injury to property may be arrested without a warrant by the owner of the property or his servants or persons authorized by him.

18. (1) Any private person arresting any other person without a warrant shall without unnecessary delay make over the person so arrested to a police officer, or in the absence of a police officer shall take such person to the nearest police station

(2) If there is reason to believe that such person comes under the provisions of subsection {1} of section 14, a police officer shall re-arrest him

(3) If there is reason to believe that he has committed an indictable offence and he refuses on the demand of a police officer to give his name and residence or gives a name or residence which such Officer has reason to believe to be false, he shall be dealt with under of section 15.

(4) If there is no sufficient reason to believe that he has committed any offence he shall be at once released.

19. When any offence is committed in the presence of a judge or magistrate within the division or district in which such judge is sitting or to which such magistrate is assigned such judge or magistrate may himself arrest or order any person to arrest the offender and may thereupon, subject to the provisions herein contained as to bail commit the offender to custody.

20. (1) Within the district to which he is assigned, any magistrate may arrest or direct the arrest in his presence of any person whose arrest upon a warrant he could have lawfully ordered if the facts known to him at the time of making or directing the arrest had been stated before him on oath by some other person

(2) Where a person is arrested in accordance with the provisions of either section 19 or 20 the judge or magistrate making or directing the making of such arrest may deal with the person so arrested in the same manner as if such last named person had been brought before him by or under the directions.

21. Where under any written law, whether passed before or after the commencement of this Law there is power to arrest a person without warrant a warrant for his arrest may be issued.

22. (1) Every warrant of arrest issued under this Law, or unless the contrary is expressly provided under any other written law shall bear the date of the day of issue, shall contain all necessary particulars and shall be signed by the judge or magistrate by whom it is issued.

(2) Every such warrant shall state concisely the offence or matter for which it is issued and shall name or otherwise describe the person to be arrested, and it shall order the police officers or officers to whom it is directed to apprehend such person and bring him before the court to answer the complaint or statement, or to testify or otherwise, according to the circumstances of the case, and to be further dealt with according to law.

23. No warrant of arrest shall be issued in the first instance in respect of any complaint or statement, unless such complaint or statement be on oath either by the complainant himself or by a material witness.

Disposal
of person
arrested
by private
person

Offence
committed in
presence of
judge or
magistrate

General
authority to
issue
warrant

Contents
of warrant

Arrest by
magistrate

Warrant
issued on
complaint
only if on
oath

Warrant
may issue
on any day

24. A warrant of arrest may be issued on any day including a Sunday or public holiday.

25. (1) A warrant of arrest may be directed to a police officer by name or to all police officers or to a police officer by name and to all police officers.

(2) It shall not be necessary to make any such warrant returnable at any particular time and a warrant shall remain in force until it is executed or until it is cancelled by a judge or magistrate, as the case may be.

26.(1) Any court issuing a warrant of arrest may, if its immediate execution is necessary and no police officer is immediately available, direct it to some other person or persons and such person or persons shall execute the same.

(2) Any such person, when executing a warrant of arrest directed to him, shall have all the powers, rights, privileges and protection given to or afforded by law to a police officer executing a warrant of arrest and shall conform with the requirements placed by law on such a police officer.

27. (1) Every warrant of arrest may be executed on any day including a Sunday or public holiday.

(2) Every such warrant may be executed by any police officer at any time and in any place in Anambra State other than within the actual court room in which a court is sitting.

(3) The person executing any such warrant shall, before making the arrest, inform the person to be arrested that there is a warrant for his apprehension unless there is reasonable cause for abstaining from giving such information on the ground that it is likely to occasion escape, resistance or rescue.

(4) Every person arrested on any such warrant shall, subject to the provisions of sections 29 and 72 be brought before the court which issued the warrant as soon as practicable after he is so arrested.

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

29.(1) Where a warrant of arrest is executed in Anambra State outside the division or district of the court by which it was issued, the person arrested shall, unless security is taken under section 72, be taken before the court within the division or district in which the arrest was made.

(2) Such court shall if the person arrested, upon such inquiry as the court deems necessary, appears to be the person intended to be arrested by the court which issued the warrant, direct his removal in custody to such court.

Provided that if such person has been arrested in respect of any matter other than an offence punishable with death:

(a)and is ready and willing to give bail to the satisfaction of the court within the division or district of which he was arrested: or

Warrant to
whom
directed and
duration

Warrant of
arrest may in
exceptional
cases be
directed to

Execution of
warrant and
produce
thereon

Power to
arrest on
warrant

Procedure on
arrest of
person
outside
division or
district of
court issuing
warrant

(b) if a direction had been endorsed under section 72 on the warrant and such person is ready and willing to give the security required by such direction;

the court shall take bail or security, as the case may be, and shall forward the recognizance, if such be entered into, to the court which issued the warrant.

(3) Nothing in this section shall be deemed to prevent a police officer from taking security under section 72.

Recapture
of person
escaping

30. If a person in lawful custody escapes or is rescued, the person from whose custody he escapes or is rescued may pursue and arrest him in any place in Nigeria.

Provisions of
section 11 and
12 to apply to
arrest under
section 30

31. The provisions of sections 11 and 12 shall apply to arrests, under section 30, although the person making any such arrest is not acting under a warrant and is not a police officer having authority to arrest.

32. Every person is bound to assist a judge or magistrate or police officer reasonably demanding his aid —

(a) in the taking or preventing the escape of any other person whom such judge, magistrate or police officer is authorized to arrest;

(b) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any telegraph or public property.

34. When any person who is bound by any recognizance entered into under this Law to appear before the court does not so appear, the officer presiding in such court may issue a warrant directing that such person be arrested and brought before him.

Arrest on breach
of recognizance
for appearance

CHAPTER 3: — SEARCH WARRANTS

34. (1) Where a magistrate is satisfied by information upon oath and in writing that there is reasonable ground for believing that there is in Enugu State in any building, ship, carriage, receptacle or place—

Cases in which
search warrant may
be issued.

(a) anything upon or in respect of which any offence has been or is suspected to have been committed; or

(b) anything which there is reasonable ground for believing will afford evidence as to the commission of any offence; or

(c) anything which there is reasonable ground for believing is intended to be used for the purpose of committing any offence,

the magistrate may at any time issue a warrant called a search warrant, authorizing an officer of the court, member of the police force, or other person therein named —

(i) to search such building, ship, carriage, receptacle or place for any such thing, and to seize and carry such thing before the magistrate issuing the search warrant or some other magistrate to be dealt with according to law; and

(ii) to apprehend the occupier of the house or place where the thing was found if the magistrate thinks fit so to direct on the warrant.

(2) In this section and section 35 "offence" includes an offence against a law of any other State of Nigeria, which would be punishable in Enugu State if it had been therein committed.

35. If the occupier of any building or the person in whose possession anything named in a search warrant is found is brought before a magistrate

Discharge of
suspected
person

36. (1) Every search warrant shall be under the hand of the magistrate issuing the same.

(2) Every such warrant shall remain in force until it is executed or until it is cancelled by the court which issued it.

37. A search warrant may be directed to one or more persons and when directed to more than one it may be executed by all or by any one or more of them.

38. (1) A search warrant may be issued and executed on any day including a Sunday or public holiday, it shall be executed between the hours of five o'clock in the forenoon and eight o'clock at night but the court may, in its discretion, authorize by the warrant the execution of the warrant at any hour.

(2) Where a magistrate authorizes the execution of a search warrant at any hour other than between the hours of five o'clock in the forenoon and eight o'clock at night such authorization may be contained in the warrant at the time of issue or may be endorsed thereon by any magistrate at any time thereafter prior to its execution.

39. (1) Whenever any building or other thing or place liable to search is closed any person residing in or being in charge of such building thing or place shall, on demand of the police officer or other person executing the search warrant, allow him free ingress thereto and afford all reasonable facilities for a search therein.

(2) If ingress into such building, thing or place cannot be so obtained the police officer or other person executing the search warrant may proceed in the manner prescribed by section 11 and 12.

(3) When any person in or about such building, thing or place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched, If the person to be searched is a woman she shall if practicable be searched by another woman and may be taken to a police station for that purpose.

40.(I) When upon the execution of a search warrant anything referred to in section 34 is seized and brought before any magistrate, he may detain or cause it to be detained, taking reasonable care that it is preserved until the conclusion of the trial and if an information is preferred against any person after the preparation of the proofs of evidence, or if any appeal is made, he may order it further to be detained in such manner and place and by such person as he may direct for the purpose of the trial or pending the hearing of the appeal, If no information is preferred against any person after preparation of proofs of evidence or no appeal is made, the magistrate shall, except in the cases hereinafter mentioned, unless he is authorized or required by law to dispose of it otherwise, direct —

Detention
of articles
seized.

(a) that the property or a part thereof be restored to the person who appears to the magistrate to be entitled thereto, and if he be the person charged, that it be restored either to him or to such other person as the person charged may direct; or

Search warrant
to be signed by
magistrate

Duration.

Search
warrant to
whom
directed.

Time when
search warrant
may be issued
and executed.

Person in
charge of
closed place
to allow
ingress.

(b) that the property or a part thereof be applied to the payment of any costs or compensation directed to be paid by the person charged.

41. Where anything seized under a search warrant and brought before a magistrate is of a perishable or noxious nature such thing may be disposed off forthwith in such manner as the court may direct.

Perishable articles may be disposed of by court.

42. If the thing to be searched for under a search warrant is gun-powder or any other explosive or dangerous or noxious substance or thing, the person making the search shall have the powers and protection as are given by any written law for the time being in force to any person lawfully authorized to search for any such thing and the thing itself shall be disposed of in the same manner as directed by any such written law, or, in default of such direction, as the Commissioner of Police may either generally or in any particular instance order.

Search for and disposed of gun power

43. If, in consequence of the execution of a search warrant there is brought before any magistrate any forged banknote, banknote paper, instrument or other thing, the possession of which, in the absence of lawful excuse is an indictable offence according to any enactment for the time being in force, the magistrate (if the accused elects a summary trial or if he elects to be tried by the High Court but no information is filed) or the judge (if an information is preferred after the preparation of the proofs of evidence) may cause such thing to be defaced or destroyed.

Destruction of forged banknotes.

44. If, under any such warrant, there is brought before any magistrate any counterfeit coin or other thing, the possession of which, with knowledge of its nature and without lawful excuse, is an indictable offence according to any law for the time being in force, every such thing shall be delivered up to the Commissioner of Police or to any person authorized by him to receive the same, as soon as it has been produced in evidence and is no longer required as such or as soon as it appears that it will not be required to be so produced:

Provided that a magistrate may in his discretion instead of so delivering up such coins or things order that they be destroyed in his presence.

45. where a search warrant is issued in respect of an offence against the law of any other State and a summons has been issued for that offence by, or any person has been charged with that offence before a court of that State, the magistrate issuing the search warrant may unless he has disposed of the thing in accordance with section 41, transmit anything seized and brought before him to that court and in relation to anything so transmitted the functions conferred upon a magistrate by sections 40, 41, 43 and 44 shall be excised and performed by that court instead of by the magistrate who issued the search warrant.

CHAPTER 4. —PREVENTION OF OFFENCE

46.(1) Every police officer may interpose for the purpose of preventing, and shall to the best of his ability, prevent the commission of any offence.

(2) A police officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, movable or immovable, or the removal of or injury to, any public landmark or buoy or other mark used for navigation.

47. Every police officer receiving information of design to commit any offence shall communicate such information to the police officer to whom he is subordinate, and to any

Disposal of counterfeit coin and certain order things.

Transmission to court of another State.

Police to prevent offences and prevent injury to public property.

Information of design to commit such offences.

other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

48. Notwithstanding the provisions of this or any other written law relating to arrest, a police officer knowing of a design to commit any offence may arrest, without order from a magistrate and without a warrant, the person so designing, if it appears to such officer ~~that~~that the commission of the offence cannot otherwise- be prevented.

Arrest to prevent such offences.

49. The Commissioner may make regulations for all or any of the following purposes -

Power to make regulations.

(a) providing for the registration and photographing of criminals and persons detained by the police or in custody awaiting trial, and the manner, form and places in which registers of criminals and such other persons shall be kept;

(b) prescribing the duties of officers of police or officers in charge of prisons in connection with the registration and photographing of criminals and persons detained or in custody awaiting trial;

(c) Providing for the taking by any authorized person of the fingerprints of criminals and persons charged with or being suspected of having committed any felony, misdemeanour, or other offence punishable by imprisonment for one month or more and for the taking of the finger prints, for comparison, of any person reasonably suspected of having made a finger impression on any document or object likely to become an exhibit in a criminal case;

Power of magistrate to require execution of recognizances for keeping the peace.

(d) generally, for the purpose of giving effect to the objects and purposes of this Law.

50. (1) Whenever a magistrate is informed on oath that any person is likely to commit a breach of the peace or disturb the public tranquility, or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility, the magistrate may in manner hereinafter provided, require such person to show cause why he should not be ordered to enter into a recognizance, with or without sureties for keeping the peace for such period, not exceeding one year, as the magistrate thinks fit.

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

(a) the person informed against is in Enugu State; and

(b) such person is within the district to which the magistrate is assigned or the place where the breach of the peace or disturbance apprehended is within the district to which the magistrate is assigned.

Security for good behavior for suspected persons.

51. Whenever a magistrate is informed on oath that any person is taking precautions to conceal his presence within the local limits of such magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, such magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to enter into a recognizance, with sureties, for his good behavior for such period, not exceeding one year, as the magistrate thinks fit.

Security for good behavior for habitual offenders.

52. Whenever a magistrate is informed on oath that any person within the local limits of his jurisdiction —

(a) is by habit a robber, housebreaker, or thief, or

- (b) is by habit a receiver of stolen property, knowing the same to have been stolen; or
- (c) habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property; or
- (d) habitually commits or attempts to commit, or aids or abets in the commission of, any offence punishable under Chapter 33, 34, 35 or 40 of die Criminal code; or
- (e) habitually commits or attempts to commit or aids or abets in the commission of, offences involving a breach of the peace; or
- (f) is so desperate or dangerous as to render his being at large without security hazardous to the community; such magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to enter into a recognizance, with sureties, for his good behavior for such period, not exceeding three years as the magistrate thinks fit.

53. When a magistrate acting under section 50,51, or 52 deems it necessary to require any person to show cause under such section, he shall make an order in writing setting forth —

- (a) the substance of the information received;
- (b) the amount of the recognizance to be executed;
- (c) the term for which it is to be in force; and
- (d the number, character, and class of sureties, if any, required.

54. If the person in respect of whom such order is made is present in court, it shall be read over to him or, if be so desires, the substance thereof shall be explained to him,

55. If such person is not present in court the magistrate shall issue a summons requiring him to appear, or when such person is in custody, a warrant directing the officer in whose custody he is to bring him before the court:

Provided that whenever it appears to such magistrate, upon the report of a police officer or upon other information, the substance of which report or information shall be recorded by the magistrate, that there is reason to fear the commission of a breach of the peace, and that such, breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the magistrate may at any time issue a warrant for his arrest.

56. Every summons or warrant issued under the last proceeding section shall be accompanied by a copy of the order made under section 53. and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with or arrested under the same.

57 The magistrate may if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to enter into a recognizance for keeping the peace, and may permit him to appear by a legal practitioner.

58. (1) When on order under section 53 has been read or explained under section 54 to a person in court or when any person appears or is brought before a magistrate in compliance with or in execution of a summons or warrant issued under section 55. the magistrate shall proceed to inquire into the truth of the information upon which the action has been taken, and to take such further evidence as may appear necessary.

Order to
be made.

Procedure
respect of
person
present in
court.

Summons or
warrant in
case of person
not so present

Copy of
order under
section53 to
accompany
summons or
warrant.

Power to
dispense
with personal
attendance

Inquiry as to
truth of
information

(2) Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trials and recording evidence in trials before magistrates' courts

(3) Pending the completion of the inquiry under subsection (1) the magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 53 has been made to enter into a recognizance, with or without sureties, for keeping the peace or maintaining good behavior until the conclusion of the inquiry, and may detain him in custody until such recognizance is entered into or, in default of execution, until the inquiry is concluded Provided that —

(a) no person against whom proceedings are being taken under section 50 shall be directed to enter into a recognizance for maintaining good behavior; and

(b) the conditions of such recognizance, whether as to the amount thereof or as to the provisions of sureties or the number thereof or the pecuniary extent of their liability shall not be more onerous than those specified in the order under section 53; and

(c) no person shall be remanded in custody under the powers conferred by this section for a period exceeding fifteen days at a time.

(4) For the purpose of this section the fact that a person comes within the provisions of section 52 may be proved by evidenced general repute or otherwise.

(5) Where two or more persons have been associated together in the matter under inquiry, they, may be dealt with in the same or separate inquiries as the magistrate thinks fit.

59. (1) if upon such inquiry it is proved that it is necessary for keeping the peace or maintaining good behavior, as the case may be, that the person in respect of whom the inquiry is made should enter into a recognizance, with or without sureties, the magistrate shall make an order accordingly: Provided that

(a) no person shall be ordered to give security of a nature different from, or of an amount larger than, or for period longer than, that specified in the order made under section 53;

(b) the amount of every recognizance 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 a minor, the recognizance shall be entered into as provided in section 76.

(2) Any person ordered to give security for good behavior under this section may appeal to the High Court.

60. If on an inquiry under section 58 it is not proved that it is necessary for keeping the peace or maintaining good behavior, as the case may be, that the person in respect of whom the inquiry is made should enter into a recognizance, the magistrate 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 such person is not in custody, shall discharge him.

Discharge of
person
informed
against

Order to give
security.

61. (1) If any person in respect of whom an order requiring security is made under section 59 is, at the time such order is made, sentenced to or undergoing a sentence of imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

Commencement of period for which security is required.

(2) In other cases, such period shall commence on the date of such order unless the magistrate, for sufficient reason, fixes a later date

62. The recognizance to be entered into by any such person shall bind him to keep the peace or to be of good behavior, as the case may be, and in the latter case the commission or attempt to commit or the aiding, abetting, counselling, or procuring the commission anywhere within Enugu State at any time during the continuance of the recognizance, of any offence punishable with imprisonment, wherever it may be committed, shall be a breach of the recognizance.

Condition of recognizance

63. A magistrate may refuse to accept any surety offered under any of the preceding sections on the ground that, for reasons to be recorded by the magistrate, such surety is an unfit person.

64. If any person ordered to give security as aforesaid does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case mentioned in subsection (2) be committed to prison, or, if he is already in prison, be detained in prison until such period expires or until within such period, he gives the security to the court or magistrate who made the order requiring it.

(2) When such person has been ordered by a magistrate to give security for a period exceeding one year, such magistrate shall, if such person does not give such security as aforesaid issue a warrant directing him to be detained in prison pending the orders of the High Court, and the proceedings shall be laid as soon as conveniently may be, before such court.

(3) The High Court after examining such proceedings and requiring, from the magistrate any further information or evidence which it thinks necessary, may make such order in the case as it thinks fit

(4) The period, if any, for which any person is imprisoned for failure to give security in any specified amount shall not exceed the term prescribed in respect of a like sum in the scale of imprisonment set forth in section 397,

(5) If the security is tendered to the officer in charge of the prison, he shall forthwith refer the matter to the court or magistrate who made the order and shall await the order of such court or magistrate.

65. Whenever a magistrate is of opinion that any person imprisoned for failing to give security may be released without hazard to the community, such magistrate shall make an immediate report of the case for the order of the High Court, and such court may, if it thinks fit, order such person to be discharged.

66. The High Court may at any time, for sufficient reasons to be recorded in writing, cancel any recognizance for keeping the peace or for good behavior executed under any of the preceding sections by order of any court.

Power of High Court to cancel recognizance

Power to reject sureties

Procedure on failure of person to give security.

Power to release persons imprisoned for failure to give security.

67. (1) Any surety for the peaceable conduct or good behavior of another person may at any time apply to a magistrate to discharge any recognizance executed under any of the preceding sections within the district to which the magistrate is assigned.

Discharge of sureties.

(2) On such application being made, the magistrate shall if satisfied that there is good reason for the application, issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound, to appear or to be brought before him.

(3) When such person appears or is brought before the magistrate such magistrate after hearing such person may discharge the recognizance and, in such event, order such person to give, for the unexpired portion of the term of such recognizance, fresh security of the same description as the original security. Every such order shall for the purposes of sections 62.63, 64 and 65 be deemed to be an order under section 59.

CHAPTER 5. —BAIL AND RECOGNIZANCE

68. When any person has been taken into custody without a warrant for an offence other than an offence punishable with death, any officer in charge of a police station may, in any case, and shall, if it will not be practicable to bring such person before a magistrate or justice of the peace having jurisdiction with respect to the offence charged within twenty-four hours after he was so taken into custody, inquire into the case, and, unless the offence appears to such officer to be of a serious nature, discharge the person upon his entering into a recognizance with or without sureties for a reasonable amount to appear before a court at the time and place named in the recognizance, but where such person is retained in custody he shall be brought before a court or justice of the peace having jurisdiction with respect to the offence or empowered to deal with such person as soon as practicable whether or not the police inquiries are completed.

Release on bail of a person arrested without warrant.

69. If, on a person being so taken into custody as aforesaid, it appears to the officer aforesaid that the inquiry into the case cannot be completed forthwith. he may discharge the said person on his entering into a recognizance, with or without sureties for a reasonable amount, to appear at such police station and at such times as are named in the recognizance, unless he previously receives notice in writing from the officer or police in charge of that police station that his attendance is not required, and any such recognizance may be enforced as if it were a recognizance conditional for the appearance of the said person before a magistrate's court for the place in which the police station named in the recognizance is situated.

70. When any person has been taken into custody without, a warrant, for an offence other than an offence punishable with death, the officer in charge of the police station or other place for the reception of arrested persons to which such person is brought shall, if after the inquiry is completed, he is satisfied that there is no sufficient reason to believe that the person has committed any offence, forthwith release such person.

71. Officers in charge of police stations, shall report to the nearest magistrate the cases of all persons arrested without warrant within the limits of their respective stations whether such persons have been admitted to bail or not.

72.(1) Any court, on issuing a warrant for the arrest of any person in respect of any matter other than an offence punishable with death may, if it thinks fit, by endorsement on the warrant direct that the person named in the warrant be released on arrest on his entering into such a recognizance for his appearance as may be required in the endorsement.

Power to release on bail before charge is accepted.

Discharge of person for want of evidence.

Police to report apprehension

Court may direct particulars of security to be taken on execution of warrant

(2) The endorsement shall specify —

(a) the number of sureties, if any.

(b) the amount in which they and the person named in the warrant are respectively to be bound;

(c) the court before which the person arrested is to attend: and

(d) the time at which he is to attend, including an undertaking to appear at a subsequent time as may be directed by any court before which he may appear.

(3) Where such an endorsement is made, the officer in charge of any police station to which on arrest the person named in the warrant is brought, shall discharge him upon his entering into a recognizance, with or without sureties approved by that officer, in accordance with the endorsement, conditioned for his appearance before the court and at the time and place named in the recognizance.

(4) Where security is taken under this section the officer who takes the recognizance shall cause it to be forwarded to the court before which the person named in the recognizance is bound to appear.

(5) The provisions of subsections (3) and (4) shall not have effect with respect to a warrant executed outside Enugu State.

73. (1) A person charged with any offence punishable with death shall not be admitted to bail, except by a judge of the High Court.

When bail may be granted by High Court only

(2) Where a person is charged with any felony other than a felony punishable with death, the court may, if it thinks fit, admit him to bail.

When discretionary.

(3) Where a person is charged with any offence other than those referred to in the two last preceding subsections, the court shall admit him to bail, unless it sees good reason to the contrary.

When to be ordinarily granted

74. Where any person is brought before a court on any process in respect of any matter not included within section 73, such person may, in the discretion of the court, be released upon his entering, in the manner hereinafter provided, into a recognizance conditioned for his appearing before such court or any other court at the time and place mentioned in the recognizance.

Bail in respect of matters other than the offences.

75. The amount of bail to be taken in any case shall be in the discretion of the court by whom the order for the making of such bail is made, shall be fixed with due regard to the circumstances of the case and shall not be excessive.

76. Where in any case the person in respect of whom the court makes an order requiring that a recognizance be entered into is a minor, the minor shall not execute the recognizance but the court shall require a parent, legal guardian or other fit person, with or without sureties, to enter into a recognizance that the minor shall do what is required under the court's order.

77. An accused admitted to bail may be required to produce such surety or sureties as, in the opinion of the court admitting him to bail, will be sufficient to ensure his appearance as and when required and shall with him or them enter into a recognizance accordingly.

Search warrant to be signed by magistrate

Amount of bail

Recognizance in respect of minors.

Securities.

Admission to bail after its refusal

78. A Judge of the High Court may, if he thinks fit, admit any person charged before a court in Enugu State subject to the jurisdiction of the High Court to bail although the court before whom the charge is made has not thought fit to do so.

79. An application by or on behalf of an accused person to a judge of the High Court for bail in any case where a magistrate has refused bail to the accused or where the offence is not bailable by a magistrate, shall be made by a motion on notice to the prosecution;

80. Notwithstanding the provisions of sections 74 and 75, a judge of the High Court may in any case direct that any person in custody in Enugu State be admitted to bail or that the bail required by a magistrate's court or police officer be reduced.

81. When as respects any recognizance the court has fixed the amount in which the sureties, if any, are to be bound, the recognizance need not be entered into before the said court, but may be entered into by the parties before any other court, or before any registrar, or before any superior officer of police or officer in charge of a police station, or where any of the parties is in a Government prison before the superintendent or other person in charge of such prison, and thereupon all the consequences of law shall ensue and the provisions of this Law with respect to recognizance before a court shall apply as if the recognizance had been entered into before the said court.

82. Where as a condition of the release of any person he is required to enter into a recognizance with sureties the recognizance of the sureties may be taken separately and either before or after the recognizance of the principal, and if so, taken the recognizance of the principal and sureties shall be as binding as if they had been taken together and at the same time.

83. Where a person is remanded on bail the recognizance may be conditioned for his appearance at every time, and place to which during the course of the proceedings the hearing may be from time to time adjourned, without prejudice, however, to the power of the court to vary the order at any subsequent hearing.

84. (1) Where the entering into of a recognizance is a condition of the release of any person, that person shall be released as soon as the recognizance has been entered into and if he is in prison or police custody, the court shall issue an order of release to the officer in charge of the prison or other place of detention and such officer on receipt of the order shall release him.

(2) Nothing in this section or in any other section relating to bail shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the recognizance was entered into or to which the bail relates.

85. If it is made to appear to any court by information on oath by a complainant, surety or other person that any person bound by recognizance to appear before any court or police officer is about to leave Enugu State or, for the purpose of evading justice, is about to leave or has left the division or district of the court before which he is to appear or in which he normally resides, the court may cause him to be arrested and may commit him to prison until the trial unless the court shall see fit to admit him to bail upon further recognizance.

86. Where an accused person has been admitted to bail and circumstances arise which, if the accused person had not been admitted to bail would, in the opinion of a law officer, state

Notice of
right to apply
for bail

Judges may
vary bail
fixed by
magistrate.

Before
whom
recognizance
may be
executed.

Mode of
entering into
recognizance

Constitution
bail.

Discharge
from
custody

Person bound
by
recognizance
absconded
maybe
committed to
prison

Reconsidered
on amount of
bail on
application by
State council
or police

counsel or police officer, justify the court in refusing bail or in requiring bail of greater amount, a judge or magistrate, as the case may be may, on the circumstances being brought to his notice by a law officer or state counsel or police officer, issue his warrant for the arrest of the accused person and, after giving the accused person an opportunity of being heard may either commit him in prison to await trial or admit him to bail for the same or an increased amount as the judge or magistrate may think just.

87.(1) When an accused person who has been admitted to bail by a magistrate is indicted by a law officer or state counsel for an offence which is not bailable by a magistrate, the magistrate shall, on being informed of the fact by any superior police officer, issue his warrant for the arrest of the accused person and commit him to prison.

(2) For purposes of this section, a person shall be deemed to be indicted when the information against him has been filed in the High Court

88. If at any time after a recognizance has been entered into it appears to the court that for any reason the surety or sureties are unsuitable, such Court may issue a summons or warrant for the appearance of the principal, and upon his coming to the court may order him to execute a fresh recognizance with other surety or sureties, as the case may be.

89. (1) Any surety for the appearance of a person may at any time apply to the court to discharge the recognizance either wholly or so far as it applies to the applicant.

(2) On such application being made the court shall issue a warrant of arrest directing that the principal to the recognizance be brought before the court.

(3) On the appearance of such principal pursuant to the warrant, or on his voluntary surrender, the court shall direct the recognizance to be discharged either wholly or so far as it relates to the applicant or applicants and shall call upon the person previously bound to find other sufficient surety or sureties and enter into a fresh recognizance and if he fails to do so may deal with him in the same manner as if he were a person who has failed to comply with an order to enter into a recognizance, with or without sureties, as the case may be.

90. When any surety to a recognizance becomes insolvent or dies or when any recognizance is forfeited under the provisions of section 92, the court may order the person from whom such recognizance was demanded to furnish fresh security in accordance with the directions of the original order and, if such security is not furnished, such court may proceed as if there has been default in complying with such original order.

91. Where a surety to a recognizance dies before the recognizance is forfeited his estate shall be discharged from all liability in respect of the recognizance.

92. Where it is proved to the satisfaction of a court that a recognizance entered into under the provisions of this Law has been forfeited the court shall record the facts and by order declare the recognizance to be forfeited.

93. The court may at any time cancel or mitigate the forfeiture, upon the person liable under the recognizance applying and giving security, to the satisfaction of the court, for the future performance of the condition of the recognizance, and paying, or giving security for the payment of the costs incurred in respect of the forfeiture or upon such other conditions as the court may think just.

Order of
fresh security
upon original
order.

Surety dying
estate
discharged

Forfeiture of
recognizance

Mitigation of
forfeiture

Variation of a
recognizance if
surety
unsuitable

Discharge of
sureties for
appearances
of another.

	94. (1) Where a recognizance to keep the peace and to be of good behavior or not to do or commit some act or thing has been entered into by any person as principal or as surety before a court, a court may, upon proof of the conviction of the person bound as principal by such recognizance of any offence which is by law a breach of the condition of the same, by order, adjudge such recognizance to be forfeited and adjudge the persons bound thereby, whether as principal or as sureties, or any of such persons to pay the sums for which they are respectively bound. (2) A certified copy of the judgment of the court by which such person was convicted of such offence may be used as evidence in proceedings under this section and, if such certified copy is so used, the court shall presume such offence was committed by such person until the contrary is proved.	Forfeiture on conviction
	95. Where any recognizance is declared or adjudged to be forfeited, the court having jurisdiction over the matter of the complaint may, forthwith or at any time after such declaration, Issue a warrant of commitment against any person liable, whether as principal or surety under such recognizance, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set forth in section 397 with or without hard labour, unless the amount due under such recognizance is sooner paid.	Where recognizance forfeited warrant
Payment on recognizance	96. All sums paid or recovered in respect of any recognizance declared or adjudged by a court in pursuance of section 95 to be forfeited shall be paid to the proper officer of the court.	
Appeal.	97. Any order of forfeiture made under section 92 or 94 shall be subject to appeal in the case of magistrate's order to the High Court and in the case of a judge's order to the Court of Appeal.	
	CHAPTER 6. —ENFORCING APPEARANCE IN COURT OF ACCUSED PERSONS AND WITNESSES.	
General authority to bring persons before court	98. Every court has authority to cause to be brought before it any person who is within the jurisdiction and is charged with an offence committed within the State, or which according to law may be dealt with as it such offence had been committed within the jurisdiction and to deal with such person according to law	
Compelling appearance of an accused	99. A magistrate may issue a summons or warrant to compel the appearance before him of any person accused of having committed in any place, whether within or outside Nigeria, any offence triable in the State.	
Issue of summons and content thereof.	100. Whereupon a complaint being made before a magistrate as provided in section 150 and the magistrate decides to issue a summons in the first instance such magistrate shall issue a summons directed to the person complained against stating concisely the substance of such complaint and requiring him to appear at a certain time and place being not less than forty-eight hours after the service of such summons before the court to answer to the said complaint and to be further dealt with according to law.	
	101. The court may, if it thinks fit and with the consent of the parties, hear and determine a complaint notwithstanding that the time within which the defendant was required to appear may not have elapsed.	Hearing by consent before return date of summons.
	102. Where upon a complaint being made before a magistrate a provided in section 150 and the magistrate decides to issue a summons in the first instance the accused may be	Summons with immediate returned date in special circumstances
		Discretion in exparte

directed to appear forthwith in cases where an affidavit is made by the complainant either at the time of making the complaint or subsequently that such defendant is likely to leave the district within forty-eight hours.

103. Nothing contained in sections 100,101 or 102 shall oblige any magistrate to issue any such summons in any case where the application for an order may by law be made *ex parte*.

104. Every summons issued by a court under this Law shall be in writing, in duplicate, signed by the presiding officer of such court or by such other officer as the Chief Judge may from time to time prescribe.

Summons
to be in
duplicate

105. A summons may be issued or served on any day including a Sunday or public holiday.

Issue and
service on
any day.

106. Every summons shall be served by a police officer or an officer of the court issuing it or other public servant.

Service of
summons.

107. The person effecting service of a summons shall effect it by delivering it—

Normal
methods of
effecting
service

(a) if on an individual, to him personally; or

(b) if on a firm or corporation—

On an
individual

(i) to one of the partners, or

(ii) to a director, or

(iii) to the secretary, or

On an firm
corporation.

(iv) to the chief agent within the jurisdiction, or

(v) by leaving the same at the principal place of business in Nigeria of the firm or corporation; or

(vi) to anyone having, at the time-of-service control of the business of the firm or corporation; or

(c) if on a local government in accordance with the provisions of the Local Government Law, relating to service of a summon.

Service other
than personal
service.

108. If service in the manner provided by paragraph (a) of section 107 cannot be conveniently effected, the court may order that service be effected either—

(a) by affixing one of the duplicates of the summons to a conspicuous place in the premises where the person to be served ordinarily resides; or

(b) where the court is satisfied that the person to be served is literate by publication of the summons in the State Official Gazette or in a newspaper circulating within the jurisdiction of the court from which the summons issued provided that before the court makes the order the court shall also be satisfied that the person to be served ordinarily resides within the State.

Service on
Government
servant

109. (1) Where the person summoned is in the service of Government, the court issuing the summons may send it in duplicate to the head officer of the department in which such person is employed for the purpose of being served on such person if it shall appear to the court that it may be most conveniently so served, and such head officer shall thereupon cause the summons to be served in the manner provided by paragraph (a) of section 107 and shall

return the duplicate to the court under his signature, with the endorsement required by section 111. Such signature shall be evidence of the service

(2) Notwithstanding the provisions of subsection (1), a person in the service of Government may, by order of the court, be served, in any of the modes set out in section 108.

110. Where a court desires that a summons issued by it shall be served at any place outside the division or district in which it is issued the court shall send such summons in duplicate to a court within the division or district in which the person summoned resides or is to be there served.

111.(1) Where the officer who served a summons is not present at the hearing of the case, proof of such service, if within the division or district of the court issuing the summons, may be by endorsement on the duplicate of such summons and when service has been effected outside the division or district of the issuing court, proof of service shall be by affidavit made before a magistrate or other prescribed person and such endorsement and affidavit shall form part of the record.

(2) Such endorsement and affidavit shall show the manner in which such summons was served and in the case of an affidavit may be attached to the duplicate of the summons and returned to the issuing court.

112. (1) Where a summons has been served upon the person to whom it is addressed or is delivered to any other person, the person to whom it is addressed or the person to whom it is handed, as the case may be, shall sign a receipt thereof on the back of the duplicate.

(2) Where service is not effected by handing the summons to an individual but by some other method approved by this Law, the person effecting service shall endorse on the duplicate particulars of the method by which has effected service.

113. Every person who is required to sign a receipt on the back of a duplicate summons to the effect that he has received he summons and fails to sign such receipt may be arrested by the person serving the summons and taken before the court which issued the summons and may be detained in custody or committed to prison for such time not exceeding fourteen days as the court may think necessary.

114. If the court is satisfied that the accused has been served with a summons and the accused does not appear in the time and place appointed in and by the, summons and his personal attendance has not been dispensed with under section 318 the court may issue a warrant to apprehend him and cause him to be brought before such court.

115. Where upon a complaint being made before a magistrate as provided in section 23 and such magistrate decides to issue a warrant in the first instance such magistrate Shall issue a warrant to apprehend the person complained against and to bring him before the court to answer the said complaint and be dealt with according to law.

116. Where a warrant of arrest is issued in consequence of a complaint on oath as aforesaid the provisions of sections 22 to 28, and 72 shall apply to such warrant.

117. Notwithstanding the issue of a summons as provided in section 150 a warrant may be issued at any time before or after the time appointed for the appearance of the accused.

Proof of service when serving officer not present

Receipt of service of summons

Person refusing to give receipt may be apprehended

Summons disobeyed, warrant may issue

Issue of warrant for defendant in the first instance

Application of certain sections to such warrant

Warrant may issue before or after returned date of summons.

118(1) Where any person for whose appearance or arrest a court is empowered to issue a summons of warrant is confined in any prison the court may issue an order to the officer in charge of such prison requiring him to cause such prisoner to be brought in proper custody at a time to be named in the order before such court.

[2] The officer so in charge, on receipt of such order, shall act in accordance therewith and shall provide for the safe custody of the prisoner during his absence from the prison for the purpose aforesaid.

119. (1) if the court is satisfied that any person is likely to give material evidence for the prosecution or for the defence the court may issue a summons for such person requiring him to attend, at a time and place to be mentioned therein, before the court to give evidence respecting the case and to bring with him any Specified documents or things and any other documents or things relating thereto which may be in his possession or power or under his control.

(2) If the prosecutor is not a public officer the person to whom such summons is addressed shall not be bound to attend unless his travelling expenses are tendered to him.

120. Every such summons shall be served upon the person to whom it is directed in the same manner as is set out in section 107 or 109 or, with leave of the court, section 108 and the provisions of sections 110 to 113 shall apply to such summons

121. If the person to whom any such summons is directed does not attend before the court at the time and place mentioned therein, and there does not appear to the court on inquiry to be any reasonable excuse for such non-attendance, then, after proof to the satisfaction of the court on that the summons was duly served or that the person to whom the summons is directed wilfully avoids service the court, on being satisfied that such person is likely to give material evidence may issue a warrant to apprehend him and to bring him at a time and place to be mentioned in the warrant, before the court in order to testify as aforesaid

122 If the court is satisfied in the first instance, by proof upon oath, that any person likely to give material evidence, either for the prosecution or for the defence, will not attend to give evidence without being compelled so to do, then instead of issuing a summons, it may issue a warrant to the first instance for the apprehension of such person.

123.(1) Every witness arrested under a warrant issued in the first instance shall, if practicable and the hearing of the case for which his evidence is required is appointed for a time which is more than twenty-four hours after the arrest, be taken before a magistrate, and the magistrate on his furnishing security by recognizance to the satisfaction of the magistrate for his appearance at such hearing, order him to be released from custody, or shall, on his failing to furnish such security, order him to be detained for production at such hearing.

(2) The provisions of sections 29 and 72 relating to bail of accused persons and of sections 118 and 140 shall apply to witnesses.

(3) A witness arrested or detained under this section shall not be kept in the same room or place as the defendant, if the defendant is in custody

Provided that non-compliance with this subsection shall not vitiate any proceedings.

124. Any witness who —

Issue of warrant for witness in first instance.

Mode of dealing with witness, arrested under warrant

Penalty on witnesses refusing to attend

Power of court to order prisoner to be brought before it.

Issue of summons for witness.

Service of summons on witness.

Warrant for witness after summons

(a) refuse or neglects, without reasonable cause, to attend at a court in compliance with the requirements of a summons duly served in the manner prescribed by law; or

(b) departs from the precincts of the court without the leave of the judge or magistrate holding the same; shall be liable on summary conviction, to a penalty not exceeding forty naira, or to imprisonment for any term not exceeding two months.

Provided that no complaint shall be made for any offence under this section except by the order of the court made during the hearing of the case for which the evidence of the witness is required.

125. Every witness who is present when the hearing or further hearing of a case is adjourned, or who has been duly notified of the time and place to which such hearing or further hearing is so adjourned, shall be bound to attend at such time and place, and, in default of so doing, may be dealt with in the same manner as if he had refused or neglected to attend before the court in obedience to a summons to attend and give evidence

126. Any person present in court and compellable as a witness, whether a party or not in a cause, may be compelled by the court to give evidence, and produce any document in his possession, or in his power, in the same manner and subject to the same rules as if he had been summoned to attend, and give evidence, or to produce such document and may be punished in like manner for any refusal to obey the order of the court.

127 Where any person appears before the court on summons, recognizance or by virtue of a warrant to give evidence against any person accused of any offence the court may order payment, in accordance with any rules of the court, of the costs and expenses of such witness together with compensation for his trouble and loss of time.

128 The court may in its discretion, at the request of any person who appears before such court on summons, recognizance or by virtue of a warrant to give evidence on behalf of an accused person, order payment in accordance with the provisions of any rules of court to such witness of such sum of money as to the court seems reasonable and sufficient to compensate him for the expenses, trouble and loss of time which he incurred or sustained in attending before the court.

129 In addition to any other power conferred on a court the court may, if it considers it proper so to do on adjournment granted at the request of either or any party, direct that the amount payable to any witnesses in accordance with the provisions of this Law and any rules of court, or such sum not exceeding such amount aforesaid as the court may fix, shall be paid by the party requesting the adjournment to such witnesses as may be present and whose evidence it has not been possible to take owing to the granting of the adjournment.

130. The amount of the expenses and compensation payable to any witness attending before the court shall be ascertained by the registrar, certified under his hand and shall be paid out of general revenue to the witness by the Account General.

CHAPTER 7. —REMAND

131. If during any proceedings before a court it becomes necessary to adjourn the hearing of the same, the court may from time to time adjourn such proceedings after or without hearing the evidence, if it thinks fit, to a certain time and place, to be then appointed in the hearing of the parties or the legal practitioners representing them and if the defendant is in custody

Non-attendance of witness on adjourned hearing

Person in court may required to give evidence though not summons

Expenses of witness for prosecution

Expenses of the witness for accused

Adjournment may be granted subject to costs to witnesses

Ascertainment of expenses of witness

Court may remand defendant for eight days

the court may admit him to bail, as in this Law provided, or by its warrant remand him to prison or other suitable place of security for any time not normally exceeding eight days, but if necessary for such longer period as the court may consider advisable, and if such remand shall not be for longer than three clear days the court may order the person in whose custody the person remanded is, or any other fit officer or person, to continue keep the accused in his custody, and to bring him again before the court at the time appointed for continuance of the case.

132. During remand the court may nevertheless order the accused to be brought before it.

133. If a court is satisfied that an accused person who has been remanded is, by reason of illness or accident, unable to appear personally before the court at such adjournment as in section 131 mentioned, such court may, in the absence of the accused person, order him to be further remanded for such time as may be deemed reasonable and cause him to be so informed in writing.

Magistrate may adjourn where accused cannot appear.

134. All persons committed to prison under this Law shall be committed to a Government prison or other place of safe custody.

Place of commitment

CHAPTER 8. —EFFECT OF ERRORS IN THE COURT PROCESS

Irregularity in summons, warrant, service or arrest

135. When any accused person is before a magistrate whether voluntarily, or upon summons, or after being apprehended with or without warrant, or while in custody for the same or any other offence, the proof of evidence may be prepared or trial held notwithstanding any irregularity, illegality, defect, or error in the summons or warrant, or the issuing, service, or execution of the same, and notwithstanding the want of any complaint upon oath, and notwithstanding any defect in the complaint, or any irregularity or illegality in the arrest or custody of the accused person.

Variation between charge and complaint.

136. No variance between the charge contained in the summons or warrant and the offence alleged in the complaint, or between any of them and the evidence adduced on the part of the prosecution, shall affect the validity of any proceedings at or subsequent to the trial.

Process valid notwithstanding death or vacation of office of person issuing

137. A summons, warrant of any description or other process issued under any written law shall not be invalidated by reason of the person who signed the same dying, ceasing to hold office or have jurisdiction.

Validity of process

138. The following provisions shall have effect in respect of warrants of commitment and warrants or distress

(a) warrant of commitment shall not be held void by reason only of any defect therein, if it is therein alleged that the offender has been convicted, or ordered to do or to abstain from doing any act or thing required to be done or left undone, and there is a good and valid order to sustain the same;

(b) a warrant of distress shall not be held void by reason only at any defect therein, if it is therein alleged that an order has been made, and there is a good and valid order to sustain the same, and a person acting under a warrant of

Warrant of commitment

Warrant of distress

distress shall not be deemed a trespasser from the beginning by reason only of any defect in the warrant or of any irregularity in the execution of the warrant; but this enactment shall not prejudice the right of any person to satisfaction for any special damage caused by any defect in or irregularity in the execution of a warrant of distress.

139. (1) In addition to the provisions of section 25 and 26 in respect of warrants of arrest, all summonses, warrants of every description and process of whatever description shall be sufficiently addressed for service or execution by being directed to the sheriff.

General addresses of process for issue and execution.

(2) Notwithstanding the provisions of subsection (1) any such document may be addressed to a person by name or to an officer by his official designation

(3) Where a warrant of arrest is addressed to the sheriff such warrant may be executed by any police officer or officer of a court.

140. The provision, contained in section 22, 24, and 27 in respect of warrants of arrest, and the provisions contained in this Chapter relating to summonses, warrants of any description and other process and their issue, service, enforcement and execution shall, so far as may be, apply to every summons, warrant of any description and other process issued in respect of matters within the criminal jurisdiction of the court under any written law.

Certain provisions applicable to all summonses and warrants in criminal matters.

CHAPTER 9. CONTROL OF CRIMINAL PROCEEDINGS

141. (1) In any criminal proceedings and at any stage thereof before judgement the Attorney-General may enter a *nolle prosequi*, either by stating in court or informing the court in writing that the State intends that the proceedings shall not continue and thereupon the accused shall be at once discharged in respect of the charge or information for which the *nolle prosequi* is entered.

Nolle prosequi in criminal proceedings

(2) If the accused has been committed to prison he shall be released, or if on bail the recognizance shall be discharged, and, where the accused is not before the court when such *nolle prosequi* is entered, the registrar or other proper officer of the court shall forthwith cause notice in writing of the entry of such *nolle prosequi* to be given to the officer in charge of the prison or other place in which the accused may be detained and such notice shall be sufficient authority to discharge the accused or If the accused be not in custody shall forthwith cause such notice in writing to be given to the accused and his sureties and shall in either case cause a similar notice in writing to be given to any witnesses bound over to prosecute.

(3) Where A *nolle prosequi* is entered in accordance with the provisions of this section the discharge of an accused person shall not operate as a bar to any subsequent proceedings against him on account of the same facts

Nolle prosequi during the preparation of proofs of evidence

142. (1) During the preparation of the proofs of evidence in a charge in respect of an offence against a law of the State, the Attorney-General may enter a *nolle prosequi* by informing the magistrate in whose court the accused was charged that he intends that the proceedings shall not continue, and thereupon the accused shall be at once discharged in respect of the charge for which the *nolle prosequi* is entered.

(2) Where a *nolle prosequi* is entered under this section the provisions of subsection (2) of section 141 shall apply and the court shall cause the appropriate action to be taken.

(3) Where a *nolle prosequi* is entered in accordance with this section the discharge of an accused person shall not operate as a bar to any subsequent proceedings against him on account of the same fact.

143. (1) in any trial before a magistrate's court or during the preparation of the proofs of evidence in a criminal charge, any prosecutor with the consent of the court may, or on the instruction of the Attorney-General in the case of any offence against a Law of Enugu State shall, at any time before judgment is pronounced or an information is preferred withdraw from the prosecution of any person either generally or in respect of one or more of the offences with which such person is charged and upon such withdrawal if it is made in the course of a trial —

- (a) before the accused is called upon to make his defence, he shall be discharged in respect of such offence; or
- (b) after the accused person is called upon to make his defence, he shall be acquitted in respect of such offence:

Provided that in any trial before a magistrate in which the prosecutor withdraws in respect of the prosecution of any offence before the accused is called upon to make his defence the magistrate may in his discretion order the accused to be acquitted if he is satisfied upon the merits of the case that such order is a proper one and when any such order of acquittal is made the magistrate shall endorse his reasons for making Such order on the record.

(2) Where any private prosecutor withdraws from a prosecution for any offence under the provisions of this section the magistrate may in his discretion, award costs against such prosecutor.

(3) A discharge of an accused person under this section shall not operate as a bar to subsequent proceedings against him on account of the same facts.

144. A law officer, where any charge of an indictable offence is being proceeded, with summarily by a magistrate under the provisions of chapter 14 may, at any time before the decision thereof, by order in writing under his hand, require such magistrate to stop further proceedings and to transfer the case to another magistrate within the same chief magisterial district or to transmit the case file and all statements and documents mentioned in section 243 made or tendered during the hearing, to the Attorney-General for the purpose of preparing the proofs of evidence in respect of the charge with a view to preferring an information.

145. Where any person other than the Attorney-General prosecutes in any criminal proceedings for an offence against a law of Enugu State, on behalf of the State or any public officer prosecutes in his official capacity in any such criminal proceedings, such person or public officer shall prosecute such case subject to such general or specific directions as may be given by the Attorney-General.

146. Where proceedings in respect of any offence against a Law of Enugu State within the criminal jurisdiction of a court are brought by a police officer in the exercise of his official duty and it is not provided by any written law that such proceedings shall only be brought by or in the name of some specified persons, such proceedings may, subject to any special or general directions given by the Attorney-General, be brought in the name of the public officer

Withdrawal
of
prosecution
against a
person

Before
whom
recognizance
may be
executed.

Law officer
may require
case to be
adjourned or
dealt with
specially.

General
control of
prosecution
by the
Attorney-
General

Names
under
which
prosecution
could be
instituted.

or police officer instituting the proceedings or making the arrest if any, or in the case of a member of the police force in the name of the Commissioner of Police.

CHAPTER 10— INSTITUTION OF CRIMINAL CASES

147. (1) Any person may make a complaint against any other person alleged to have committed or to be committing an offence, unless it appears from the enactment on which the complaint is founded that any complaint for such offence shall be made only by a particular persons or class of persons, in which case only the particular person or person of the particular class may make such a complaint.

Right of making complaint

(2) Notwithstanding anything to the contrary contained in any law a police officer may make a complaint in a case of assault even though the party aggrieved declined or refuses to make a complaint.

Form and requisites of complaint.

148. (1) It shall not be necessary that any complaint shall be in writing, unless it is required to be so by the enactment on which it is founded, or by some other enactment If a complaint is not made in writing, the court or registrar shall reduce it into writing.

(2) Subject to the provisions of Section 23, every complaint may, unless some enactment otherwise requires, be made without oath

(3) Every such complaint may be made by the complainant in person, or by a legal practitioner representing him, or by any person authorised in writing in that behalf, and shall be heard in private.

(4) Every such complaint shall be for one offence only but such complaint shall not be avoided by describing the offence or any material act relating thereto in alternative words according to the language of the enactment constituting such offence.

149. Every complaint, summons, warrant or other document laid, issued or made for the purpose of or in connection with any proceedings before a court for any offence, shall be sufficient if it contains a statement of the specific offence with which the accused person is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

Form of document in criminal proceedings.

150. Subject to the provisions of section 147 any person who believes from a reasonable or probable cause that an offence has been committed by any person whose appearance a magistrate has power to compel may make a complaint thereof to a magistrate who shall consider the allegations of the complainant and may, in his discretion, refuse to issue process recording his reasons for such refusal, or may issue a summons or warrant as he shall deem fit to compel the attendance of the accused person before a magistrate's court in the district.

Making of complaint and issue of process thereon

(2) The magistrate shall not refuse to issue such summons or warrant only, because the alleged offence is one for which an offender may be arrested without warrant.

151. In every case where no time is specially limited for making a complaint for a summary conviction offence in the law relating to such offence, such complaint if made other than by a person in his official capacity shall be made within six months from the time when the matter of such complaint arose, and not after.

Limitation of period for making a private complaint.

152. (1) Notwithstanding anything in this Law contained, the Attorney-General may exhibit to the High Court information for all purposes regarding the enforcement of the Criminal Code or any other written law creating offences and prescribing penalties therefor.

Information
by Attorney-
General.

(2) Such proceedings may be taken upon every such information so far as the circumstances of the case and the practice and procedure of the High Court will admit.

153. Subject to the provisions of any Act or other Law, criminal proceedings may in accordance with the provisions of this Law be instituted.

Different
methods of
instituting
criminal
proceedings.

(a) in magistrate's courts on a complaint whether or not on oath, and

(b) in the High Court

(i) by information of the Attorney-General in accordance with the provisions of section 152,

(ii) by information filed in the court after the accused has been summarily committed for perjury by a judge or magistrate under the provisions of Chapter 13, and

(iii) by information filed in the court after the preparation of the proofs of evidence, and

(iv) on complaint whether on oath or not.

154. Where proceedings are instituted in a magistrate's court, they may be instituted in either of the following ways: —

Particulars of
instituting
criminal
proceedings in
Magistrate's
courts.

(a) upon complaint to the court, whether or not on oath, that an offence has been committed by any person whose presence the such person, or

(b) by bringing a person arrested without a warrant before the court upon a charge contained in a charge sheet specifying the name and occupation of the person charged, the charge against him and the time and place where the offence is alleged to have been committed. The charge sheet shall be signed by the police officer in charge of the case.

Summons
and warrant

155. In every case, the court may. Proceed either by way of summons to the defendant or by way of warrant for his apprehension in the first instance according to the nature and circumstances of the case.

Venue.

156. Subject to the powers of transfer contained in the law constituting any court the place for the trial of offences by such court shall be —

Place of
jurisdiction
and where
offence

(a) the division or district in which the court has jurisdiction and such offences being those committed within such division or district;

Place where
act has been
done or
omitted to be
done etc.

(b) when a person is accused of the commission of any offence by reason of anything which has been done, or of anything which has been omitted to be done, and of any consequence which has ensued, such offence may be tried by a court having jurisdiction in the division or district in which any such thing has been done or omitted to be done, or any such consequence has ensued;

When offence
is constituted
by relation to
another
offence.

(c) when an act is an offence by reason of its relation to any other act which is also an offence, a charge of the first mentioned offence may be tried by a court having jurisdiction in the division or district either in which it happened, or in which the offence, with which it was so connected happened;

When place uncertain offence distributed.

- (d) (i)when it is uncertain in which of several divisions or district an offence was committed, or
- (ii) when an offence is committed partly in one division or district and partly in another, or
- (iii)when an offence is a continuing one, and continues to be committed in more divisions or districts than one, or
- (iv) when it consists of several acts committed in different divisions or districts.

it may be tried by a court having jurisdiction in any of such divisions or districts;

(e) an offence committed while the offender is in the course of performing a journey or voyage may be tried by a court in or through or into the division or district of whose jurisdiction the offender or the person against whom or the thing in respect of which the offence was committed resides, is or passed in the course of that journey or voyage;

Offence committed on a journey

(f) an offence committed as sea or elsewhere out of Nigeria, which according to law may be tried in Nigeria, may be so tried in the State to which the accused person is first brought, or to which he may be taken thereafter.

157. (1) Whenever any doubt arises as to the magistrate's court before which any offence shall be charged or tried, a judge shall, upon the application of a magistrate or the accused, decide in which magistrate's court the offence shall be charged or tried.

Judge to decide in case of doubt of venue.

(2) Any such decision of a judge shall be final and conclusive except that it shall be open to an accused person to show that no magistrate's court in the State has jurisdiction in the case.

158. (1) A magistrate, in this section and in section 159 referred to as the remitting magistrate, before whom any person who is within the magisterial district of such magistrate and is charged with having committed an offence within the magisterial district of another magistrate is brought shall. Unless himself authorized to proceed in the case, send him in custody to the court within the magisterial district in which the offence was committed, or require him to give security for his surrender to such last-mentioned court, there to answer the charge and to be dealt with according to law,

Accused person to be remitted in certain cases to another magistrate.

(2) If such offence as is mentioned in subsection (1) shall have been committed in a district within which one or more courts shall have concurrent jurisdiction, the remitting magistrate shall, unless himself authorized to proceed in the case, send the person charged in custody to such one of the courts having concurrent jurisdiction as can most conveniently deal with the case, or require him to give security for his surrender to such last mentioned court, there to answer the charge and to be dealt with according to law.

Courts having concurrent jurisdiction

(3) The remitting magistrate shall send to the court to which the person charged is remitted for trial an authenticated copy of the of the information, summons, warrant, and all other process or documents in his possession, relative to such person.

Transmission of documents.

Removal under warrant

159. (I) Where any person is to be sent in custody, a warrant shall be issued by the remitting magistrate, and the warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him and deliver him up to the court to which the person charged is remitted trial.

(2) The person to whom the warrant is directed shall execute it according to its tenor without any delay.

Transfer of case of complaint has arisen out of district of court.

160. (1) If the defendant is in custody and the magistrate directing such transfer thinks it expedient that such custody should be continued, or, if he is not in custody, that he should be placed in custody, the magistrate shall, by his warrant, commit the defendant to prison until he can be taken before a magistrate of the district wherein the cause of complaint arose.

(2) The complaint and recognizance, if any, taken by such first named magistrate under the Law shall be by him transmitted to the magistrate before whom the defendant is to be taken; and such complaint and recognizance, if any, shall be treated to all intents and purposes as if they had been taken by such last-mentioned magistrate.

(3) If the defendant is not retained or placed in custody as aforesaid, the magistrate shall inform him that he has directed the transfer of the case as aforesaid, and thereupon the provisions of the last proceeding subsection relating to the transmission and use of the documents in the case shall apply.

161. (1) Notwithstanding sections 156, 157 and 158 a judge or magistrate of a division or district in which a person is apprehended who is charged with an offence, alleged to have been committed in another division or district, may, if he considers that the ends of justice would be better served by hearing the charge against such person in the division or district in which he has been apprehended and having regard to the accessibility and convenience of the witnesses, proceed to hear the charge and the person charged may be proceeded against, tried and punished in any division or district in which he was apprehended, or is in custody on a charge for the offence, or has appeared in answer to a summons lawfully issued charging the offence, as if the offence had been committed in that division or district, and the offence shall, for all purposes incidental in or consequential on the prosecution, trial or punishment thereof, be deemed to have been committed in that division or district.

Provided that if at any time during the course of any proceedings taken against any person before any court in pursuance of this subsection it appears to the court that the accused would suffer hardship if he were proceeded against and tried in the division or district aforesaid the court shall forthwith, but without prejudice to a magistrate's powers under section 158, cease to proceed further in the matter under this subsection.

(2) Where any person is charged with two or more offences, he may be proceeded against, tried and punished in respect of all those offences in any division or district in which he could be proceeded against, tried or punished in respect of any one of those offences, and all the offences with which that person is charged shall, for all purposes incidental To or consequential on the prosecution, trial or punishment thereof, be deemed to have been committed in that division or district.

162. In case any cause is commenced in any other division or district than that in which it ought to have been commenced, the judge or magistrate as the case may be, may assume jurisdiction in accordance with the provisions of section 161 and all acts performed and all decisions given by the judge or magistrate during the trial or inquiry shall be deemed to be valid in all respect as if the jurisdiction has been assumed prior to the performance of the said acts and the giving of the said decisions.

CHAPTER 11.— METHOD OF CRIMINAL TRIAL

163. (1) Trials shall be held
(a) in the High Court

Complaint and recognizance to be transmitted.

Defendant not retained or placed in custody.

Court may assume jurisdiction under certain conditions

Assumption of jurisdiction after commencement of proceedings.

Assumption of jurisdiction after commencement of proceedings.

In the High Court

- (i) on the information, after the preparation of proofs of evidence either by the Attorney-General or by a private prosecutor as the case may be such information being filed by the Attorney-General or private prosecutor in accordance with the provisions of Chapter 16, or
 - (ii) on information, filed in the court after the accused has been summarily committed for perjury by a judge or magistrate under the provisions of Chapter 13; or
 - (iii) on information exhibited by the Attorney-General under section 152; or
 - (iv) summarily in accordance with the provision of Chapter 12; or
- (b) in magistrates, courts summarily in accordance with the provisions of Chapter 12.
- (2) When trials are being held with a jury the provisions of the Jury Law so far as provided therein, shall apply.

CHAPTER 12.— SUMMARY TRIAL

164. The provisions of this chapter shall apply to offences triable summarily, that is to say

- (a) to all trials in the High Court other than on information, and
- (b) to all trials in the High Court in respect of offences for which it is provided, and a trial can be held in the High Court otherwise than on information and for which no special procedure is provided, and
- (c) to all trials in any Magistrate's Court to the extent of the jurisdiction of the magistrate adjudicating, and
- (d) for all offences declared by any written law to be triable summarily or on summary conviction or in a summary manner or by a magistrate.

165. The provisions of this Law, other than those relating to the preparation of proofs of evidence where necessary, shall apply to trials under this chapter save that where the provisions of this chapter conflict with the provisions so applied, the provisions of this chapter shall prevail.

166. On the day and at the place mentioned in tire summons or on the day and at the place on and to which the defendant is brought before the court under a warrant, as the case may be, the case with respect to which the complaint has been made shall be called for hearing in the court

167. If, subject to the provisions of section 318, when the case is called the defendant appears voluntarily in obedience to the summons or is brought before the court under a warrant, and the complainant having, to the satisfaction of the court, had due notice of the time and place of hearing does not appear in person or in the manner authorized by any written law the court shall dismiss the complaint unless the court, having received a reasonable excuse for the non-appearance of the complainant or his representative or for other sufficient reason, think fit to adjourn the hearing of the same to some future day upon such terms as the court may think just.

168. (1) when a summons case is called the defendant does not appear, or plead guilty under section 135, and no sufficient excuse is offered for his absence then the court, if satisfied that the summons, if any, has been duly served, may issue a warrant, called a bench warrant, for his arrest or if not satisfied that the summons has been duly served or if a warrant had been issued, in the first instance, for the apprehension of the defendant the court may adjourn the hearing of the case to some future day, in order that proper service may be effected or until the defendant be apprehended, as the case may be.

Summary trials

Application of parts of Law to processes under this chapter.

Time and place of hearing.

Non-appearance of complainant

Non appearance of defendant

(2) If the defendant is afterwards apprehended on a bench warrant or other warrant as aforesaid, he shall be brought before the magistrate who shall thereupon commit him by warrant to prison or to such other place of safe custody as he may think fit, and order him to be brought at a certain time and place before the court; and of such time and place the complainant shall, by direction of the magistrate, be served with due notice.

169. (1) If, when the case is called neither the complainant nor the defendant appears, the court shall make such order as the justice of the case requires.

Non-appearance of both parties.

(2) In such order the court may include such direction as to payment of costs as the court shall deem fit, and the payment of such costs may be enforced in the manner and subject to the conditions set forth in Chapter 31 as if it were a fine.

170. If, when the case is called both the complainant and the defendant appear, the court shall proceed to hear and determine the case.

Appearance of both Parties.

171. If a complainant at any time before a final order is made in any case under this chapter satisfies the court that there are sufficient grounds for permitting him to withdraw his complaint the court may permit him to withdraw the same and shall thereupon acquit the accused unless the court directs that the accused instead of being acquitted shall be discharged.

Withdrawal of complaint.

172. (I) At the commencement of the hearing, the court shall state or cause to be stated to the defendant the substance of the complaint, and shall ask him whether he is guilty or not guilty.

Manner of leaving

When defendant pleads guilty

(2) If the defendant says that he is guilty and the court is satisfied that he intends to admit the offence and shows no cause or no sufficient cause why sentence should not be passed the court shall proceed to sentence.

(3) If the defendant says that he is not guilty the court shall direct that all witnesses shall leave the court and upon such direction the provisions of section 186 of the Evidence Law shall apply.

Witnesses in general to be out of hearing.

Provided that; —

(a) the judge or magistrate may in his discretion permit professional and technical witnesses to remain in court,

(b) failure to comply with this subsection shall not invalidate the proceedings.

(4) The court shall then proceed to hear the complainant and such witnesses as he may call and such other evidence as he may adduce in support of his complaint, and also to hear the defendant and such witnesses as he may call and such other evidence as he may adduce in his defence and also, if the court thinks fit, to hear such witnesses as the complainant may call in reply if the defendant has called any witnesses or given any evidence.

Hearing of complaint and witnesses.

(5) The complainant and the defendant may put questions to each witness called by the other side and where the defendant gives evidence he may be cross-examined.

Asking of questions.

(6) If the defendant is not represented by a legal practitioner the court shall at the close of the examination of each Witness for the prosecution ask the defendant whether he wishes to put any questions to that witness, and shall record his answer on the minutes.

Unrepresented defendant.

Discharge of accused when no case to answer.	173. If at the close of the evidence in support of the charge it appears to the court that a case is not made out against the defendant sufficiently to require him to make a defence the court shall, as to that particular charge, discharge him.	
When a prima facie case has been made out.	174. (I) At the close of the evidence in support of the charge if it appears to the court that a prima facie case is made out against the defendant sufficiently to require him to make a defence the court shall call upon him for his defence and — (a) if the defendant is not represented by a legal practitioner, the court shall inform him that he has three alternative, open to him, namely- (i) he may make a statement, without being sworn, from the place where he then is; in which case he will not be liable to cross-examination; or (ii) he may give evidence in the witness-box, after being sworn as a witness, in which case he will be liable to cross-examination. or (iii) he need say nothing at all, if he so wishes, and in addition the court shall ask him if he has any witnesses to examine or other evidence to adduce in his defence and the court shall then hear the defendant and his witnesses and other evidence, if any; and (b) if the defendant is represented by a legal practitioner, the court shall call upon the legal practitioner to proceed with the defence. (2) If the defendant or his legal practitioner states that he has witnesses to call but they are not present, the court may, in the circumstances set forth in sections 119 to 126 take the steps therein mentioned to compel their attendance. 175. Failure to comply with the requirements of paragraph 1(a) in section 174 shall not of itself vitiate the trial provided that the court called upon the section defendant for his defence and asked him if he had any witnesses and heard the defendant and his witnesses and other evidence, if any. 176. If the defendant adduces in his defence new matter which the complainant could not foresee the complainant may, with the leave of the court, adduce evidence to rebut such first mentioned evidence. 177. Whenever it appears to the court that any person who is so dangerously ill or hurt that there is a possibility he may not recover is able and willing to give material evidence relating to any offence triable summarily and it shall not be practicable to take the evidence in accordance with the provisions of this Law of the person so ill or hurt, such court may take in writing the statement on oath affirmation of such person, and shall subscribe the same and certify that it contains accurately the whole of the statement made by such person, and shall add a statement of his reason for taking the same and of the date and place when and where the same was taken, and shall preserve such statement and file it for record.	Witnesses for the defendant. Saving as to section 173(1) (a). New matters by defendant. Power to take evidence of persons dangerously ill.
Notice to be given to parties.	178. The court shall cause reasonable notice of the intention to take the same and of the time and place where it is to be taken to be served upon the prosecutor and accused and if the accused is in custody, he shall be brought by the person in whose charge he is under an order in writing of the magistrate, to the place where the statement is to be taken.	
Transmission of statement.		

179. If the statement relates to an offence in respect of which proofs of evidence are subsequently prepared, it shall be transmitted to the Attorney-General.

180. (1) Such statement so taken may afterwards be used in evidence on the trial of any person accused of an offence to which the same relates in accordance with the provisions of section 35 of the Evidence Act.

(2) The signature and attestation of the judge or magistrate shall be sufficient *prima facie* proof of any statement, and that the same was taken in all respects according to law and such attestation and signature shall be admitted without further proof unless the court shall see reason to doubt the genuineness thereof.

181. (1) The court shall, in every case take notes in writing of the oral evidence, or so much thereof as it considers is material, in a book to be kept for that purpose and such book shall be signed by the judge or magistrate at the conclusion of each day's proceeding.

(2) No person shall be entitled, as of right, to inspection of or to a copy of the record so kept as aforesaid save as may be expressly provided for by the rules.

(3) The record so kept as aforesaid or a copy thereof purporting to be signed and certified as a true copy by the judge or magistrate shall at all times, without further proof, be admitted as evidence of such proceedings and of the statements made by the witnesses.

182. Where a complaint is made by one or more parties against another party or parties and there is a cross-complaint by the defendant or defendants in such first named case either by himself or themselves or together with another person or persons against the complainant or complainants in the first named case either by himself or themselves or together with another person or persons and such cross-complaints are with reference to the same matter the court may, if it thinks fit, hear and determine such complaints at one and the same time.

183. Where two or more complaints are made by one or more parties against another party or parties and such complaints refer to the same matter, such complaints may if the court thinks fit, be heard and determined at one and the same time.

184. (1) If, in the course of the hearing, circumstances should appear which cause the court to be of the opinion that the offence, on account of its aggravated character or other sufficient reason, is not suitable to be disposed of by such court, then such court may instead of adjudicating, either of its own motion or on the direction of the Attorney-General, transmit the documents, statements or matters mentioned in section 243 and all other documents before the court pertaining to the case to the Attorney-General.

(2) The Attorney -General shall thereupon cause proofs of evidence to be prepared in respect of the charge and may thereafter, prefer an information against the accused person.

185. Upon the conclusion of the hearing the court shall either at the same or at an adjourned sitting give its decision on the case either by dismissing or convicting the accused and may make such other order as may seem just.

186. On any summary trial the court may, whether the complaint be dismissed or not, bind over the complainant or defendant, or both or any of them, with or without a surety or sureties, to be of good behaviour, and may order any person so bound, in default of

Joinder of complaint.

Procedure where offence appears unsuitable for determination by court of limited jurisdiction.

Giving of decision upon conclusion of hearing.

Power to bind parties to be of good behaviour.

When statement may be used in evidence

Signature, etc, *prima facie* proof

Notes of evidence to be taken.

Inspection not a right.

Record as evidence of proceeding.

Cross complaint

compliance with the order, to be imprisoned for any term not exceeding three months, with or without hard labour, in addition to any other punishment to which such person is liable.

187 (1) Where a complaint is dismissed and such dismissal is stated to be on the merits such dismissal shall have the same effect as an acquittal.

(2) Where a complaint is dismissed and such dismissal is stated to be not on the merits or to be without prejudice such dismissal shall not have the same effect as an acquittal

Effects of judgement of dismissal 'on merits, 'not on merits and 'without prejudice

CHAPTER 13—SUMMARY PROCEDURE IN PERJURY

Perjury summary procedure.

188. If it appears to a court that a person has been guilty of perjury in any proceeding before it, the court, subject to the provisions of section 189 and in addition to the case of a magistrate to section 190. May--

- (a) commit him for trial upon information of perjury and bind any person by recognizance to give evidence at his trial, or
- (b) try him summarily as for a contempt of court and if he is found guilty commit him to prison for six months or fine him—
 - (i) if in the High Court, a sum of one hundred naira, and
 - (ii) if in the Magistrate's Court, a sum of fifty naira.

Decision to try summarily.

189. Where a judge or magistrate decides to try a person summarily under section 188 as for a contempt of court such judge or magistrate shall record in the evidence book the fact of such decision, shall specify the perjury alleged and shall direct the attention of the person to be charged to the inconsistencies upon which such charge is based and shall require him to give his explanation thereof and shall record such explanation in the book aforesaid.

When a person is ordered to be imprisoned or fined.

190. (1) If a magistrate orders a person to be imprisoned or to pay a fine under section 188 he shall neither issue his warrant of commitment nor make an order for imprisonment for non-payment of the fine but shall either remand such person or release him on a recognizance with or without sureties to come up before the court when called upon and shall forth with forward to the Chief Judge or such judge as the Chief Judge may direct a certified copy of the proceedings and the Chief Judge or judge as aforesaid may without hearing argument and in the absence of the person concerned set aside or confirm such order or reduce the sentence of imprisonment or the amount of the fine and shall inform the magistrate as soon as practicable thereafter of his decision.

(2) If the Chief Judge or judge does not wholly set aside the magistrates order the magistrate shall forthwith issue his warrant of commitment or make the necessary order for payment of the fine in accordance with the terms of the Chief Judge's or judge's order.

191. Any imprisonment or fine ordered or imposed under this chapter shall be a bar to any other proceedings for the same offence except where the order of a magistrate has been wholly set aside.

Bar to other proceedings.

CHAPTER 14.—SUMMARY TRIAL BY MAGISTRATE OF ADULT CHARGED WITH AN INDICTABLE OFFENCE

192. When a person who is an adult is charged before a Magistrate's Court with any indictable offence other than a capital offence or an offence punishable with imprisonment for life, the court, may subject to the provisions of this Law or any other law for the time

Summary trial by magistrate of indictable cases.

Issue of warrant of commitment or order for payment of fine.

being in force and to the extent of the jurisdiction of the magistrate adjudicating, deal summarily with the offence.

193. If a magistrate at any time during the hearing of a charge for such an indictable offence as aforesaid against a person who is an adult becomes satisfied that it is expedient to deal with the case summarily the magistrate shall thereupon, for the purpose of proceedings under this section, cause the charge to be reduced into writing, if this has not been already done, and read to the accused and shall address to him a question to the following effect—

Procedure for obtaining consent to summary trial.

“Do you desire to be tried by a judge of the High Court or with a jury, as the case may be, or do you consent to the case being dealt with summarily by this court?” with a statement, if the magistrate thinks such a statement desirable, of the meaning of the case being dealt with summarily and of the sitting of the High Court at which he is likely to be tried, if an information is preferred and, if the accused consents to be tried summarily, shall forthwith ask him the following question—

“Do you plead guilty or not guilty?”

194. If the magistrate fails to inform the accused of his right to be tried by a judge of the High Court or with a jury, as the case may be, the trial shall be null and void *ab initio* unless the accused consents at any time before being called upon to make his defence to be tried summarily by magistrate in which case the trial shall proceed as if the accused a magistrate in which case the trial shall proceed as if the accused had Consented to being tried summarily by a magistrate before the magistrate proceeded to hear evidence in the ease.

Trial without consent void

195. Any written law in force at the commencement of this Law which relates to the summary trial by a magistrate of indictable offences or which refers to indictable offences which are triable summarily by a magistrate shall, subject to the provisions of this section, be construed, as the case may be, as applying to summary trial by a magistrate of indictable offences under this section or as referring to all indictable offences which are triable summarily by a magistrate thereunder.

Summary trial by a magistrate of indictable offence etc.

196. (1) A magistrate, without prejudice to any other power which he may possess may, for the purposes of ascertaining whether it is expedient to deal with a case summarily, either before or during the hearing of the case, adjourn the case and remand the person charged. (2) A person may be remanded under this section in like manner in all respects as a person accused or an indictable offence may be remanded.

Power to remand person charged.

197. Where an adult charged with an indictable offence is being tried summarily by a magistrate such magistrate shall, at the request of any person in charge of the prosecution made at any time before the decision in the case, adjourn the hearing of the charge in order that a law officer may be consulted with a view to obtaining an order as in section 144 to have the case dealt with as one for trial on information in accordance with the provisions of Chapter 16.

Adjournment for law officer's decision.

198. Where an indictable offence is in the circumstances mentioned in this chapter authorized to be dealt with summarily by a magistrate—

(a) the procedure shall, until the court assumes the power to deal with the offence summarily be the same in all respects as if the offence were to be dealt with throughout as an indictable offence, but when and so soon as the court assumes the power to deal with such offence

General provisions as to dealing summarily with indictable offence.

summarily, the procedure shall be the same from and after that period as if the offence were a summary conviction offence and not an indictable offence, and the other provisions of this Law shall apply accordingly:

Provided that nothing herein contained shall be construed to prevent the court from dealing thereafter with the offence as an indictable offence, if it thinks fit so to do;

(b) the evidence of any witness taken before the court assumed the power to deal with the offence summarily need not be taken again but even such witness shall, if the defendant so requires, be recalled for the purpose of cross-examination;

(c) the conviction for any such offence shall be of the same effect as a conviction on indictment for the offence;

(d) where the court has assumed the power to deal with the offence summarily and dismisses the complaint on the merits it shall, if required, deliver to the person charged a copy, certified under the hand of the magistrate, of the order of dismissal, and such dismissal shall be of the same effect as an acquittal on a trial on indictment for the offence.

199. Any person convicted of any indictable offence tried summarily may, instead of or in addition to any punishment to which he is liable, be ordered to enter into his own recognizance, with or without sureties, in such amount as the court thinks fit that he shall keep the peace and be of good behaviour for a time to be fixed by the court and may he ordered to be imprisoned until such recognizance, with sureties if so directed, is entered into but so that the imprisonment for not entering into the recognizance shall not together with the fixed term of imprisonment, if any, extend for a term longer than the longest term for which he might be sentenced to prison without fine.

Security for keeping the peace, in indictable cases triable summarily.

CHAPTER 15. — SUMMARY TRIAL BY MAGISIRATE OF CHILD OR YOUNG PERSON CHARGED WITH INDICTABLE OFFENCE

200. Where a child or young person is charged before a magistrate with any indictable offence, other than a capital offence, the magistrate, if he thinks it expedient so to do, may subject to the extent of his jurisdiction and without consulting the parent or guardian, deal summarily with the offence and, in case of the child or young person being found guilty, inflict the same description of punishment as might have been inflicted if the case had been tried on indictment.

Provided that in the case of a child

(a) where a penalty is awarded, the amount shall not in any case exceed four naira.

(b) when the child is male. the court may, either in addition to or in lieu of any other punishment orders the child to undergo corporal punishment, or to be sent to a Government establishment on institution or to both undergo corporal punishment, or to be sent to a Government establishment or an institution, or to both undergo corporal punishment, and be sent to a Government establishment or on institution;

(c) when the child is a female, the magistrate may, either in addition in or in lieu of any other punishment, order the child to be sent to a Government establishment or an institution.

Summary trial of child by magistrate for indictable offence

Charged to be reduced to writing when offence tried summarily

201. For the purpose of proceedings under this chapter the magistrate shall, at any time during the hearing of the case at which he becomes satisfied by the evidence that it is expedient to deal with the case summarily cause the charge to be reduced into writing if this has not been already done

202. Nothing in this Chapter shall be construed as authorizing the trial of an infant.

203. Where a court orders a child or young person to undergo corporal punishment such punishment shall be carried out in accordance with the provisions of chapter 35 relating to corporal punishment.

CHAPTER 16. – TRIAL ON INFORMATION

204 Where a trial is to take place in the High Court after the preparation of proofs of evidence in respect of the charge such trial shall, be on information.

205 The Executive Council may by order direct that any offence or class of offences arising in any place or district specified in such order and charged against any person or class of persons as may also be specified in such order shall be tried with a jury and any person charged with an offence directed by such order to be tried with a jury shall, subject to section 206, be so tried in accordance with the provisions of this Law and the Jury law.

206 Where a person is charged in one information with two or more offences one or more of which are triable with a jury and one or more by a judge with or without assessors, the trial shall be with a jury unless the principal offence charged is triable without a jury and the judge shall direct that the trial of all the charges shall be heard without a jury or that the offences triable with a jury shall be tried separately from the other offences.

207 Every information shall bear the date of the day when the same is signed and, with such modifications as shall be necessary to adapt it to the circumstances of each case, may commence in the following form

The State v A.B.

In the High Court of Enugu State

TheJudicial Division

At the sessions holden aton the.....day of..... 20.....
the court is informed by the Attorney-General (or A.B.) on behalf of the State that C.D. is charged with the following offence (or offences)

208 (I) Where an information is exhibited to the High Court under the provisions of this Law

(a) a description of the offence charged in such information or where more than one offence is so charged, of each offence so charged, shall be set out in the information in a separate paragraph called a count.

(b) a count of an information shall commence with a statement of the offence charged called the statement of offence;

(c) the statement of offence shall describe the offence shortly in ordinary language, avoiding as far as possible the use of technical terms and without necessarily stating all the essential elements of the offence, and if the offence charged is one created by a written law, shall contain a reference to that written law;

(d) after the statement of offence, particulars of that offence shall be set out in ordinary language.

Provided that where any written law limits the particulars of an offence which are required to be given in an information nothing in this paragraph shall require any more particulars to be given than those so required.

(e) where an information contains more than one count, the counts shall be numbered consecutively.

(2) The forms set out in the Third Schedule hereto or forms conforming thereto as nearly as may be, shall be used in the cases to which they are applicable and in other cases forms to the like effect or conforming thereto as nearly as may be shall be used, the statement of offence and the particulars of offence being varied according to the circumstances of each case.

209. The provisions of sections 255 to 317 shall apply mutatis mutandis to counts of an information save that no other charge shall be joined with a charge punishable with death and not more than one charge punishable with death shall be charged in the same information.

210. Subject to the provisions of this section an information charging any person with an indictable offence may be preferred by any person before the High Court charging any person with an indictable offence for which that person may lawfully be included and wherever an information has been so preferred the registrar shall, if he is satisfied that the requirements of section 211 have been complied with, file the information and it shall thereupon be proceeded with accordingly

Provided that if the registrar shall refuse to file an information, a judge, if satisfied that the said requirements have been complied with, may, on the application of the prosecutor on his own motion, direct the registrar to file the information and it shall be filed accordingly

211. Subject as hereinafter provided no information charging any person with an indictable offence shall be preferred unless either

(a) the information is preferred after the preparation of the proofs of evidence in the charge, or

When
information
should be
preferred

Forms in
third
Schedule

Application
of sections
255 to 317 to
information

Procedure on
information
of offenders

(b) the information is preferred pursuant to an order made under Chapter 3 to prosecute the person charged for perjury, or

(c) the information is preferred in cases other than those mentioned in paragraph (a) or (b) where because of the special Circumstances of such cases the Attorney-General considers that an information should be filed without recourse to the procedure referred to in paragraph (a):

Provided that where the information is preferred after the preparation of the proofs of evidence it may include either in substitution for or in addition to counts charging the offence for which the proofs of evidence have been prepared, any counts founded in facts or evidence disclosed in the proofs of evidence being counts which may lawfully be joined in the same information

212. If an information preferred otherwise than in accordance with the provisions of sections 211 has been filed by the registrar the information shall be liable to be quashed

Information
to be
quashed

Provided that —

(a) If the information contains several counts, and the said provisions have been complied with as respects one or more of them, those counts only that were wrongly included shall be quashed under this section; and

(b) where a person is convicted on an information, or on any count of an information, preferred under paragraph (a) or (h) of section 211, information or count shall not be quashed under this section in any proceedings on appeal unless application was made at the trial that it should be so quashed.

Signing of
information

213 All information shall subject to the provisions of section 214, be signed by the Attorney-General, or by any law officer in the Public Prosecutions Division of the State Ministry of Justice.

Information
by private
person

214. The Registrar shall receive an information from a private person if -

(a) it has endorsed thereon a certificate by the Attorney-General to the effect that he has seen such information and declines to prosecute at the public instance the offence therein set forth: and

(b) such private person has entered into a recognizance in the sum of one hundred naira, together with one surety to be approved by the registrar in the like sum, to prosecute the said information to conclusion at the times at which the accused shall be required to appear and to pay such costs as may be ordered by the court, or in lieu of entering into such recognizance shall have deposited one hundred naira in court to abide the same conditions

Conditions
for private
prosecutors

215. Where any private person has complied with the provisions of section 214 the information shall be signed by such person and not by the Attorney General and such person shall be entitled to prosecute the information.

Venue

216. The place of trial shall be determined to accordance with the provisions section 156

Change of
venue : Cause
commenced
in wrong
division

217. Notwithstanding the provision of section 116—

(a) where any cause is commenced in any other division than that in which it ought to have been commenced, it may notwithstanding, be tried therein, unless the defendant shall object thereto not or before the time when he is called upon to plead or to state his answer in such cause: and

(b) either the prosecutor or the accused, whenever he considers that the ends of justice so require, in any case may apply to the court either to transfer the hearing from one division to another part of the same division-

218. Where any case shall be transferred from one place in a division to another place in the same division or to another division such case shall be tried and determined at the place or in the division to which it has been so transferred; and all recognizances, subpoenas, and proceedings in or relating to the case shall thereupon be deemed to be returnable at such latter place or division and all witnesses who are bound by recognizance or summoned to attend the trial shall be informed accordingly and shall attend at such latter place or division.

Effect of
change of
venue

219. The registrar or his deputy, or any other person directed by the court, shall endorse on, or annex to, every information and every copy delivered to the sheriff or proper Officer, for service thereof a notice of trial, which notice shall specify the particular sessions at which the party is to be tried on the said information and shall be in the following form, or as near thereto as may be.

Form of
notice of
trial

A.B. Take notice that you will be tried on the information whereof, this is a true copy, at the sessions to be held at.....on theday of20.....

220. The registrar or either proper officer shall deliver, or cause to be delivered, to the sheriff or proper officer serving the information, a copy thereof, with the notice of trial endorsed on the same or annexed thereto, and if there are more parties charged than one then as many copies as there are parties, together with a similar notice for service on each witness bound to attend the trial.

Copy of
information
and notice of
trial to be
delivered to
sheriff

221. (1) The Sheriff or other proper officer aforesaid shall, as soon as may be after he has received a copy of the information and notice of trial, and three days at least before the day specified therein for trial, or within such lesser time as the court may for good cause order, by himself or his deputy or other officer, deliver to the party charged the said copy and notice and explain to him the nature thereof, and when the said party is not in custody or shall have been admitted to bail and cannot readily be found he shall leave a copy of the said information and notice of trial With some one of his household, for him at his dwelling-house, or with someone of his bail, for him, and if none of such can be found, shall affix the said copy and notice to the outer or principal door of the dwelling-house of the party charged or of any of his bail.

Time and
mode of
summoning
parties on
information

Provided that —

(a) nothing herein contained shall prevent any person in custody or awaiting trial at (lie opening of or during any sessions from being tried thereat, if he shall have been served with a copy of the information and notice of trial not less than three days before the date on which he is to be tried;

Prisoner may
be tried at
once

(b) such last mentioned period of three days may be reduced to a shorter period if such person shall express his assent thereto and no special objection be made thereto on the part of the State

(2) The Sheriff or other proper officer shall in like manner deliver like each witness the said notice of trial

Return
of
service

222. The officer serving the copy of the said information and notices shall forthwith make to the registrar or other proper officer a return of the mode of Service thereof.

Bench warrant
where accused
person does not
appear

223. Where any person against whom an information has been duly preferred, and who is then at large, does not appear to plead to such information, whether he is under recognizance to appear or not, the court may issue a warrant for his apprehension.

Counsel for
state and
defence in
capital cases

224 Where a person is accused of it capital offence the State shall, if practicable, be represented by a law officer, state counsel or legal practitioner and if the accused is not defended by a legal practitioner the court shall, if practicable, assign a legal practitioner for his defence.

Assignment

225 The person to be tried upon an information shall h. arraigned in accordance with the provisions contained in Chapter 23 relating to the taking of pleas and the procedure thereon

Warrant for
apprehension
of witness not
attending on
recognizance

226 Every person who is bound by recognizance to attend at any criminal sessions as a witness, whether for the prosecution or for the defence, in any case to be tried at such sessions, shall, if he has received a subject to or notice, be bound to attend the court on the day appointed for the trial of such case, and on subsequent days of the sessions, until he has been disposed of or until he has been discharged by the court from further attendance

227. If any person who has been bound by recognizance to attend as a witness, whether for the prosecution or for the defence, at the trial of any case does not attend the court on the day appointed for the trial of such case after having been served with notice of the trial, and no reasonable excuse is offered for such non-attendance, the court may issue a warrant to apprehend such person, and to bring him at a time to be mentioned in the warrant, before the court in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

Warrant for
apprehension
of witness not
attending on
recognizance

228. If any person to whom any writ of subpoena is directed does not attend the court at the time and place mentioned therein, and no reasonable excuse is offered for such non-attendance, then, upon the court being satisfied that the writ was duly served or that the person to whom the writ is directed wilfully avoids service and that such person is likely to give material evidence, the court may issue a warrant to apprehend such person, and to bring him, at a time to be mentioned in the warrant, before the court in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

Warrant
for
apprehen
on of
witness
disobeyi
summar
Fine
non-
atten
of witness

229. Every person who makes default in attending as a witness in either of the cases mentioned in the two last preceding sections shall be liable, on the summary order of the court, to a fine of forty naira, and in default of payment to imprisonment for a term of two months.

230. Every person whose attendance as a witness, whether for the prosecution or for the defence, is required in any case, and who has not been bound by recognizance to attend as a witness at the criminal sessions at which such case is to be tried may be summoned by a writ of subpoena.

Writs of
subpoena

231. The registrar, on being furnished with the names and places or abode of any witnesses on behalf of the prosecution or defence whose attendance is required to be secured by subpoena, shall prepare and deliver to the sheriff for service 3 writ or writs of subpoena directed to such witnesses, together with as many copies thereof as there may be witnesses named in such writ or writs and when application shall be made to postpone any trial by reason of the absence of any witness stated to be material it shall be taken as *prima facie* evidence that the party applying for such postponement has not exercised all due and necessary diligence to secure the attendance of such witness if it shall appear that no subpoena to such witness was issued out four clear days at the least before the first day of the criminal sessions.

Service of
subpoena

Application
of chapter 6
to trials
under the
chapter

232. In addition to the provisions hereinbefore in this Chapter provided in respect of witnesses the provisions contained in Chapter 6 shall *mutatis mutandis* apply to witnesses required to give evidence in a case triable under this chapter.

Application
of law to
trials under
this part

233. In addition to the provisions of this chapter and to the other express provisions of this or any other law relating to trials of indictable offences the provisions of this Law relating to evidence, adjournment, addresses, the discharge and sentencing of convicted persons, the awarding of compensation, costs and the directing and ordering of forfeitures and also all other incidental matters relating to the trial of a case other than those specifically applicable to trial with a jury, shall be applicable to a trial on information.

Recording of
judgement and
sentence

234. The judgment and subsequent sentence of the court shall be endorsed by the registrar on the information.

CHAPTER 17. —PREPARATION AND USE OF PROOFS OF EVIDENCE

Application

235. This chapter shall apply in respect of any charge relating to a criminal offence created by or under the provisions of a Law or any other enactment whatsoever which is in force in the State, being a charge in respect of which a preliminary investigation or preliminary as provided in the Criminal Procedure Law (Cap. 31) of the Laws of Western Nigeria, 1963 was by the said Law required or intended or by the said Law could have been required or intended to be conducted.

Interpretation

236. In this chapter—

“Attorney General” means the Attorney-General of the State;

“capital offence” means an offence carrying a death sentence;

“investigating police officer” means the police officer who investigated or is investigating a case the subject of the charge before a magistrate;

“law officer” includes the Director of Public Prosecutions and every State Counsel of any grade, in the Public Prosecutions Division of the Ministry

“Ministry” means the state ministry of Justice

“proofs of evidence” shall have the meaning assigned thereto in section 246:

"State" means the Enugu State of Nigeria

"verification" in relation to the evidence of a witnesses mean* the admission or adoption, by the witness, of the statement of the witness as recorded in the proofs of evidence in with or without any modification, amendment or correction) in accordance with the procedure prescribed in section 248 and "verity" or "Verified" shall be construed accordingly.

237, Subject 10 the provisions of this chapter, the procedure whereby a preliminary inquiry or preliminary investigation into a criminal charge is conducted by a magistrate with a view to determining whether or not an accused person is to be committed to the High Court for trial shall cease to apply in the State.

Preliminary inquiries cease to apply in the state

238. Where formerly there is in the Criminal Procedure Law or any other of existing law any provision which required or had the effect of requiring the evidence to holding of a preliminary inquiry or preliminary investigation (howsoever worded or expressed) by a court or magistrate in any criminal charge, then inquiry instead of such preliminary investigation, there shall, in respect of any such charge be prepared the proofs of evidence for the purpose of determining whether or not an information may be preferred.

Proofs of evidence to replace preliminary enquiry

239. The proofs of evidence in respect of a criminal charge shall, subject to the direction and control of the Attorney General, be prepared by law officers in the Ministry or, in the case of a private prosecution, by the private prosecutor in accordance with the provisions of this, chapter.

Proofs of evidence by law officers

240. Proofs of evidence shall be prepared in all charges relating to —

(a) capital offences;

(b) offence punishable with imprisonment for life; and

(c) any indictable offence in respect of which the accused person has elected to be tried by the High Court

Cases to which taking of proof of evidence is applicable

241. In capital offences and offences punishable with imprisonment for life proofs of evidence in respect of a charge shall be prepared after the charge has been read to the accused person.

Capital offences punishable with imprisonment for life and other indictable offences

242. To indictable offences other than those mentioned in paragraphs (a) and (b) of section 240, proofs of evidence shall be prepared if and after die accused person has elected to be tried by the High Court.

Procedure by
magistraite after
charge read or
election made

243. (1) After the charge has been read or after the accused person has elected to be tried by the High Conn, as the case may be, the magistrate before whom die charge is pending shall record —

- (a) the charge against the accused;
 - (b) the fact that the accused has elected to be tried by the High Court;
 - (c) whether bail was granted or refused to the accused and, where bail was refused, the fact that the accused was informed of his right to apply to the High Court for bail, and
 - (d) any other lac: or matter relevant to the charge which transpired in the proceedings before the magistrate, and shall there after direct the prosecuting police officer to transmit forthwith to the Attorney - General —
 - (i) the police case file relating to the charge, and
 - (ii) the inventory of all exhibits relating to the charge.
- (2) It shall be the duty of the magistrate as soon ns may be after recording the matters mentioned in subsection (I) to transmit u copy of such record to the Attorney-General.

Duty of police
to transmit
case file to
attorney
general

244. It shall be the duty of the police officer to whom a direction was given in that regard under section 243 or any other police office; acting under the general or special instruction of the State Commissioner of Police to transmit forthwith to the Attorney-General the police case file and the inventory of exhibits to which the direction relates.

Where to
transmit
records and
police case
file

245 For the avoidance of doubt, and notwithstanding anything to die contrary contained in this Chapter, any magistrate or police officer having a duty under sections 243 and 244 to transmit any records or any police case file and inventory of exhibits, as the case may he, to the Attorney General's office, shaft where the Magistrate's Court is situated outside Enugu, transmit such records or such case file and inventory- of exhibits, as the case may be, to the office of the Director of Public Prosecutions in the town designated for that purpose by the Attorney-General and the receipt 245 For the avoidance of doubt, and notwithstanding anything to die contrary contained in this Chapter, any magistrate or police officer having a duty under sections 243 and 244 to transmit any records or any police case file and inventory of exhibits, as the case may he, to the Attorney General's office, shaft where the Magistrate's Court is situated outside Enugu, transmit such records or such case file and inventory- of exhibits, as the case may be, to the office of the Director of Public Prosecutions in the town designated for that purpose by the Attorney-General..

Preparation of
proofs of
evidence

246. Upon the receipt by the Attorney-General of the police case file, the record of the facts or matters and other, documents made under section 243 (hereinafter in this chapter referred to as “statements or documents mentioned in section 243”), it shall be the duty of the Director of Public Prosecutions of the State and other law officers in the Public Prosecutions Division of the Ministry, acting under and in accordance with the general or special instructions of the Attorney-General, to prepare the proofs of evidence in respect of the charge.

247. The proofs of evidence shall consist of—

- (a) a statement of the charge against the accused person;
- (b) where the accused person has a right of election, a statement that he elected to be tried by the High Court;
- (c) the name, address and statement of any material witness whom the prosecution intends to call;
- (d) the name, address and statement of any material witness whom the prosecution does not intend to call: Provided that the submission of such names shall not prevent the prosecution from calling any such witness at the trial if the prosecution later so desires;
- (e) the copy of any report, if available, made by a doctor about the state of mind of an accused person in custody;
- (f) records of convictions, if any, affecting the credibility of any witness for the prosecution;
- (g) statements of the accused person;
- (h) an inventory of all the exhibits to be produced to the court at the trial, and
- (i) any other statement or document which the prosecution may consider relevant to the case,

248.(1) After the preparation of the proofs of evidence the Attorney General may, if he deems it necessary or expedient so to do remit or cause to be remitted to the magistrate before whom the charge was laid, or to any other magistrate, the statement of any witness for the purpose of verification.

(2) The magistrate shall thereupon fix a date when the witness and the accused person shall be summoned before him for the purpose of the verification of the statement of such witness.

(3) On the date fixed under subsection (2), the clerk of court shall read out the statement of the witness in the presence of the witness and the accused person and the witness shall then verify such statement on oath.

(4) After the verification of the statement of the witness the magistrate shall inform the accused of his right, and shall give him the opportunity to cross-examine the witness.

(5) The accused person or his counsel may then proceed to cross examine the witness if he desires to do so. and the answers of the witness to such cross-examination as well as the fact that the accused was informed of his right and given the opportunity to cross-examine (where he or his counsel did not elect to do so) shall be recorded by the magistrate, and shall form part of the proofs of evidence

(6) Such verified proofs of evidence which include the witness's answer; given in cross-examination and the fact that the accused was informed of his right and given the opportunity to cross-examine. Shall be remitted back to the Attorney-General by the magistrate.

Binding
over of
witnesses

249. (1) The magistrate shall, after the charge has been read or after the accused person has elected to be tried by the High Court, as the case may be, or at any time thereafter bind over every witness present in court or brought before him subsequently to attend to give evidence at the trial of the accused person before the High Court, whether or not the prosecution intends to call all such witnesses (2) Subject to the provisions of any other written law if among the witnesses bound over under subsection (1), there be any that the prosecution does not intend to call at the trial such witness shall nevertheless continue to be present at the trial for such reasonable period as might enable the accused or his counsel to make up his mind as to whether or not he will call any of them to give evidence for the defence.

(3) Every witness bound over under this section shall enter into a recognizance and such recognizance shall specify the name and surname of the person entering into it, his occupation or profession, if any. And his address

(4) The recognizance shall be acknowledged by the person entering into it and be subscribed by the magistrate before whom it is acknowledged.

(5) A witness who refuses, without reasonable excuse, to enter into such recognizance may by a warrant by the magistrate be committed to prison or to other place of safe custody, there to be kept until after the trial, or until the witness enters into a recognizance before a magistrate: Provided that if the accused person is afterwards discharged any magistrate may order any such witness to be discharged forthwith

250. The magistrate before whom the accused person is charged shall direct the prosecuting police officer to make inventory of label, or otherwise make all articles, if any, connected with the charge and it shall be the duty of such police officer or any other police officer generally or specially instructed in that behalf by the State Commission net of Police to comply with such direction.

Marking
of
exhibits

251. If at the conclusion of the taking of the proofs of evidence the Attorney-General is satisfied there is prima facie evidence from the record to put the accused person on trial on all or any of the charges against him, he shall prefer an information against the accused person in respect of such charge or charges,

Prima-facie
case
information
to be
preferred

252 If the record of the proofs of evidence does not in the opinion of the Attorney-General disclose sufficient evidence to support the charge or charges against the accused person, the Attorney-General shall so inform the magistrate in writing, and the magistrate shall, as soon as possible thereafter, summon the accused person to the court and discharge him

Discharge of
accused where
there is no
prima facie case

253 Nothing contained in this chapter shall prevent the prosecutor in any case from giving in evidence of the trial any admission or confession or other statement of the accused made at any time which in law is admissible in evidence.

Evidence by
prosecutor

Information
and proofs of
evidence to be
transmitted to
high courts

254. (I) Subject to subsection (3) where die Attorney-General prepares an information, after the preparation of the proofs of evidence under this chapter, he shall cause sufficient copies of the information and of the proofs of evidence to be transmitted to the registrar of the High Court in which the trial is to take place.

(2) Upon the receipt of the documents mentioned in subsection II). die registrar shall proceed in accordance with Chapter 16 of this Law and any other law for the time being in force in the State in that regard, and shall furnish every accused person, free of charge, a copy of the information and of die proofs of evidence.

(3) The records transmitted to the registrar of the High Court under subsection (I) shall not include any particulars of the accused's previous convictions Such particulars shall be supplied to the High Court after the accused has been convicted.

CHAPTER 18. — THE CHARGE

Form of charges
in second
schedule to be
used and adopted

255 Charges may be as in the form set out in the Second Schedule and may be modified in such respects as may be necessary adapt them to the circumstances of each case.

Name of the
offence
section

256. Every charge shall state the offence with which the accused is charged and if the written law creating the offence gives it any specific name die offence may be described in the charge by that name only;

Absence of
name of the
offences

257. If the written law which creates the offence does not give it any specific name so much of die definition of die offence must be stated as to give the accused notice of the matter with which he is charged.

Written law

258 The written law and the section of the written law against which the offence is said to have been committed shall be set out in the charge.

Effect of
making a
charge

259. The fact that a charge is made equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

260 If the accused has previously been convicted of any offence and it is intended to prove such previous conviction for the purpose of affecting the punishment which the court may award, the subsequent offence shall first be charged and then, if the previous offence is one, which under the provisions of any written law, may be so charged a statement of such previous offence containing the fact, date and place of such previous conviction shall be added Provided that when the trial is heard before a judge and jury or a judge with assessors the statement of such previous offence shall not be read out or charged save in accordance with the provisions of section 334.

Previous
conviction

261 The charge shall contain such particulars as to the time and place of the 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-

Particulars
of charge

262 Where the accused is charged with criminal breach of trust, fraudulent appropriation of property, fraudulent falsification of accounts or fraudulent conversion it shall be sufficient to specify that gross sum in respect of which the offence is alleged to have been committed and the dates between which the offence is alleged to have been committed whether specifying particular items or exact dates and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 277.

Fraud
etc

263 The particulars in the charge shall describe the offence shortly in ordinary language avoiding as far as possible the use of technical terms.

Decomposition of
the offence

264 Where the nature of the offence is such that the particulars required by sections 256 to 258 do not give the accused sufficient notice of the matter with which he is charged, the charge shall after contain such particulars of the manner in which the offence was committed as will be sufficient for its purpose

Insufficient
particulars

265. (1) In every charge word used in describing an offence shall be deemed to have been used in the sense attached to them respectively in the written law creating such offence.

Some of
words in
charge

(2) Figures and abbreviations may be used for expressing anything which is commonly expressed thereby.

Ownership or
description of
property,
owner and
value of
property need
not be named
unless
specifically
required

266 The description of property in charge shall be in ordinary language and such as to indicate with reasonable clearness the property referred to and if the property is so described it shall not be necessary. except when required for the purpose of describing an offence depending on any special ownership to the property or special value of property, to name the person to whom the property belongs or the value of the property.

Joint owners

267 Where property is vested in more than one person and the owners of that property are referred to in the charge the property may be described as being owned in accordance with the appropriate provision set out in sections 307 to 314.

Coins and
Bank or
currency
notes

268 Coin and bank or currency notes may be described as money and any averment as to any money, so far as regards the description of the property. shall be sustained by proof of any amount of coin or of any bank or currency note, although the particular species of coin of which such amount was composed or the particular nature of the bank to currency note shall not be proved, and in case dealing and defrauding by false pretences, by proof that the accused dishonestly appropriated or obtained any coin or any bank or currency note, or any portion of the value thereof, although such coin or bank or currency note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same or to any other person, and such part shall have been returned accordingly.

Proof of
registered title

269. Where the ownership of any property is described under section 309 as being in any joint-stock company association or society by its registered title proof of the registration of the company, association or society shall not be required unless the court decides that such proof shall be given, in which case the further hearing may be adjourned for the purpose or the

court may, in its discretion, amend the proceedings by substituting the name of some person or persons for such registered title.

Provisions as
to statutory
offences

270. Where a written laws constituting an offence states the offence to be the omission to do any one of any different acts in the alternative, or the doing or the omission to do any act in one of any different capacities or with any one of any different intentions, or state any part of the offence in the alternative, the acts. Omission, capacities, or intern ions, or other matters stated in the alternative in the written law, may be stated in the alternative in the charge.

Provision as
to negative
provisions
in offences

271. It shall not be necessary in any charge where the offence is one constituted by a written law to negative any exception or exemption from or qualification to the operation of the written law creating the offence

272 The description or designation of the accused in a charge or of any other person to whom reference is made therein may be described in the manner set forth in section 315

Description
of persons

273. Where it is necessary to refer to any document or instrument in charge, it shall be sufficient In describe it by any name or designation by which it is usually known, or by the purport thereof, without setting out any copy thereof.

Description
of document

274 Subject to any other provisions of this Law, it shall he sufficient to describe any place, time, thing, matter, act, or omission whatsoever to which it is necessary to refer in any charge in ordinary language in such a manner as to indicate with reasonable clearness the place, time, thing, matter, act or omission referred to.

General rule
as to
description
indictment

275. It shall not lie necessary in stating any intent to defraud, deceive or injure to state an intent to defraud, deceive or injure any particular person, where the written law creating the offence does not make an intern lo defraud, deceive or injure a particular person an essential ingredient of the offence.

Statement
of intent

276. When more person than one are accused of the same offence or of different offences committed in the same transaction or when a person is accused of committing an offence and another of abetting or being accessory to or attempting to commit such offence or when a person is licensed of any offence of theft, criminal misappropriation criminal breach of trust and another of receiving nr retaining or assisting in the disposal in concealment of the subject-matter of such offence, they may be charged and tried together or separately as the court thinks fit.

When a
person may
be charged
jointly

277. For every distinct offence with which any person is accused there shall be a separate charge and every such charge shall he tried separately except in the cases mentioned injections 278 to 283.

Separate for
distinct
offences

278 When a person is accused of more offenses than one committed within the period of twelve months from the first to the last of such offences whether in respect to the same person or thing or not he may he charged with and tried at one trial for any number of them not exceeding three,

Three
offences of
the same kind
within twelve
months may
be charged
together

Where an attempt is in offence	279 Any offence shall be deemed to be an offence of the same kind as an attempt to commit such an offence where such attempt is itself an offence	
Trial for more than one offence	280. If in one series of acts or omissions so connected together as to form the same transaction or which form or are part of a series of offences of the same or a similar character more offences than one are committed by the same person charges for such offences, whether felonies, misdemeanors or simple offences, may be joined and the person accused tried therefore on one trial.	
Offences falling within two definitions	281 If the acts or omissions alleged constitute an offence falling within two or more separate definitions in any written law for the time being in force under which offences are defined or punished the person accused of them may be charged with and tried at one trial for each of such offences	
Acts constituting one offence but constituting when combined a different offence	282 If several acts or omissions, of which one or more than one- would by itself or themselves constitute an offence, constitute when combined in a different offence the person accused of them may be charged with and tried at one trial for the offence constituted by any one or more of such acts.	
When it is doubtful which offence committed	283. If a single act or omission or series of acts or omissions is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences and any number of such charges may be tried at once or he may be charged in the alternative with having committed all or any of such offences and any number of such charges may be tried at once or he may be charged in the alternative with having committed some one of the said offences,	
	284 When any person is arraigned for trial on an imperfect or erroneous charge the court may permit or direct the framing of a new charge or add to or otherwise alter the original charge.	Procedure on commitment on imperfect charge
	285. Any court may alter or add to any charge at any time before judgment is given or verdict returned and every such alteration or addition shall be read and explained to the accused.	Court may also alter charge
	286. (1) If a new charge is framed or alteration made to a charge under the provisions of section 284 or section 285 the court shall forthwith call upon the accused to plead thereto and to state whether he is ready to be tried on such charge or altered charge.	Procedure on alteration of charge
	(2) If the accused declares that he is not ready the court shall consider the reasons he may give and if proceeding immediately with the trial is not likely in the opinion of the court to prejudice the accused in his defence or the prosecutor in his conduct of the case the court may proceed with the trial as if the new or altered charge had been the original charge.	

(3) If the new or altered charge is such that proceeding immediately with the trial is likely, in the opinion of the court, to prejudice the accused or the prosecutor the court may either direct a new trial or adjourn the trial for such period as the court may consider necessary

(4) When a charge is so amended, a note of the order for amendment shall be endorsed on the charge, and the charge shall be treated for the purpose of all proceedings in connection therewith as having been filed in the amended form.

287 When a charge is altered by the court after the commencement of the trial the prosecutor and the accused shall be allowed to recall or re-summon any witness who may have been examined and examine or cross examine such witness with reference to such alteration.

Recall of witnesses when charged altered

288 No error in stating the offence or the particulars required to be stated in the charge and no omission to state the offence or those particulars shall be regarded at any stage of the case as material unless the accused was in fact misled by such error or omission.

Effect of error

Objection to charge to be taken at plea

289 Any objection to a charge for any formal defect on the face thereof shall be taken immediately after the charge has been read over to the accused and not later.

Objection cured by verdict

290 No judgment shall be stayed or reversed on the ground of any objection which if stated after the charge was read over to the accused or during the progress of the trial might have been amended by the court nor—

(a) because of any error committed in summoning or swearing the jury or assessors or any of them, nor

(b) because any person who served upon the jury or as an assessor was not qualified to sit as a juror or assessor, nor

(c) because of any objection which might have been stated as a ground of challenge of any juror, nor for an informality in swearing a juror or witness or any of them, nor

(d) because of any variance between the charge or any process relating thereto and the evidence adduced in support of the charge as to the time at which the cause of complaint is alleged to have arisen if it is proved that such complaint was in fact made within the time, if any, limited by law for making the same, nor

(e) because of any variance between the charge or any process relating thereto and the evidence adduced in support of the charge as to the place in which the cause of complaint is alleged to have arisen, nor

(f) because of any alleged defect in substance or in form between any complaint, warrant or other process relating to the charge and the evidence adduced in respect of the charge.

Full offences charged attempt proved

291. Where a person is charged with an offence but the evidence - establishes an attempt to commit the offence he may be convicted of having attempted to commit that offence although the attempt is not separately charged.

Attempt charged, full offences proved

292. Where a person is charged with an attempt to commit an offence but the evidence establishes the commission of the full offence the accused person shall not be entitled to an acquittal but he may be convicted of the attempt and punished accordingly.

293. Where a person has been convicted of an attempt under section 291 – 292 such person shall not subsequently be liable to be prosecuted for the offence for which he was convicted of attempting to commit

Liability as to further prosecution

294. If upon the trial of any person for any misdemeanors or simple offence it shall appear that the facts proved in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanors or simple offence and no person tried for such misdemeanors or simple offence shall be liable to be afterwards prosecuted for felony on the same facts, unless the court shall think fit, in its discretion, to stop the trial and if it is a trial with a jury to discharge the jury from giving any verdict and to direct such person to be indicted or charged for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanors or simple offence

Person tried for mis-demeanour not to be acquitted if felony proved unless court so directs

When stealing is charged and receiving proved

295. When a person is charged with stealing anything and it is proved that he received the thing knowing the same to have been stolen, he may be convicted of receiving stolen property under section 393 of the Criminal Code although he was not charged with that offence.

When stealing is charged and receiving proved

296. If on any trial for any of the offences mentioned in chapter 36 of the Criminal Code the facts proved in evidence justify a conviction for some other of the said offences and not the offence with which the defendant is charged, he may be found guilty of the said other offence and thereupon he shall be punished as if he had been convicted on a charge or an information charging him with such offence.

Person charged with burglary may be convicted of kindred offence

297. When a person is charged with stealing anything and it is proved that he obtained the thing in any such manner as would amount under the provisions of the Criminal Code to obtaining it by false pretences with intent to defraud he may be convicted of obtaining it by false pretences with intent to defraud although he was not charged with that offence.

Conviction of false pretences on charge of stealing

298. When a person is charged with obtaining anything by false pretences with intent to defraud and such thing is capable of being stolen and it is proved that the defendant stole the thing he may be convicted of stealing it although he was not charged with that offence.

Conviction of stealing on charge of false pretences

On charge of rape conviction under section 203 of chapter 34 or not indecent assault may follow

299. If on any trial for rape or for defilement of a girl under the age of eleven years the facts proved in evidence authorize, a conviction under section 203 of the Criminal Code or for an indecent assault and not the offence with which the accused is charged, he may be convicted of an offence under section 203 of the Criminal Code or indecent assault, as the case may be and acted upon he shall be punished as if he had been convicted on a charge or an information charging him with such offence or indecent assault

On charge under section 203 of Chapter 34 conviction of indecent assault may follow

300. If on any trial for an offence under section 203 of Criminal Code the facts proved in evidence warrant a conviction for an indecent assault and not the offence wherewith the accused is charged the accused may be convicted of indecent assault although he was not charged with that offence.

Where murder or infanticide is charged and concealment of birth is proved

301. Where upon the trial of any person for the murder of any child or for infanticide it appears upon the evidence that such person was not guilty of murder or infanticide, as the case may be, but was guilty of the offence specified in section 284 of the Criminal Code, such person may be found guilty of that offence.

Where murder charged and infanticide proved

302. (1) Where upon the trial of a woman for the murder of her newly born child it appears upon the evidence that having regard to the provisions of section 282 of the Criminal Code she was not guilty of murder but was guilty of infanticide she may be found guilty of infanticide.

(2) Nothing in this section shall be deemed to preclude a woman who is tried for the murder of her newly-born child from being convicted of manslaughter, or being found guilty but insane, or being found guilty of concealment of birth, in pursuance of section 301

303. In addition to the provisions hereinbefore specifically made whenever a person is charged with an offence constituting 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 such lesser offence or may plead guilty thereto although he was not charged with it

Where offence proved is included in offence charged

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

Where a lesser offence is proved conviction may follow

305. When more charges than one are made against a person and a conviction has been had on one or more of them the prosecutor may, with the consent of the court, withdraw the remaining charge or charges or the court, of its own motion, may stay the trial of such charge or charges

Withdrawal of remaining charges on conviction of one several charges

306. Such withdrawal shall have the effect of an acquittal on such charge or charges unless the conviction which has been had is set aside in which case subject to any order of the court setting aside such conviction, the court before which the withdrawal was made may, on the request of the prosecutor, proceed upon the charge or charges so withdrawn.

Court may proceed upon withdrawn charges in certain circumstances

CHAPTER 19.—DESCRIPTION OF PROPERTY AND PERSONS IN THE COURT PROCESS

Methods of stating ownership of property

307. Where in any complaint, summons, warrant of any description, charge sheet, information or any document whatsoever issued by a court in the exercise of its criminal jurisdiction it is necessary to refer to the ownership of any property whether movable or immovable which belongs to or is in the possession of more than one person the provisions of sections 308 to 314 shall apply.

308. If the property belonged to or was in the possession of more than one person whether as partners in trade or otherwise, joint tenants, tenants in common or other joint owners or possessors it may be described in the name of any of such person and another or others.

309. Property of a joint-stock company, company, association, club or society having a recognized manager, agent or secretary in Nigeria may, subject to the provisions of any other written law be described as the property of such manager, agent or secretary without naming such manager, agent or secretary or alternatively the property of any joint-stock company, company, association, club or society which has a legal or registered title may be declared as belonging to such joint-stock company, association, club or society by its legal or registered title.

310 Property belonging to or provided for the use of any public establishment, service or department may be described as the property of the State.

311 Where it is necessary to state the ownership of any church, chapel mosque or building or place set apart for religious worship or of anything belonging to or being in the same, it may be stated that such church, chapel, mosque, or building or place, or such thing is the property of any clergyman, minister or other person officiating therein or of the clergyman or churchwardens of such church, chapel or building, or place, without its being necessary to name him or them.

312 Where it is necessary to state the ownership of any money or other property whatsoever in charge, custody, or under the control of any public officer such money or property may be stated to be the money or property of the State.

313. Where it is necessary to state the ownership of any work or building made, erected or maintained either wholly or in part at the expense of the public revenue of Nigeria or of any part thereof, or of any local government council, or of anything belonging to or being in or used in relation to the same, or of anything provided for the use of any part or of any public institutions or establishment, or of any materials or tools provided or used for repairing any such work or building or any public road or highway, or of any other property whatsoever, whether movable or immovable as aforesaid, it shall be sufficient to state that such property is the property of the State or of the town or village, or of any local government council is the case may be, without naming any of the inhabitants of any such areas or jurisdictions.

314. Property belonging to a woman who has contracted a marriage under the Marriage Act or a marriage recognized as a valid marriage under the law of any country may be stated as belonging to such married woman.

315. Where in any complaint, summons, warrant of any description, charge sheet, information or any document whatsoever issued by a court in the exercise of its criminal jurisdiction it is necessary to refer to any person the description or designation of that person shall be such as is reasonably sufficient to identify him, without necessarily stating his correct name, or his

Joint-stock
companies.
Companies and
association

Public
department

Places of
worship

The control
of public
officers

Public
building
works or

Joint owner

Public building
works or
institutions

Description of
persons in
criminal process

abode, style, degree, or occupation, and it owing to the name of the person not being known or for any other reason it is impracticable to give such a description or designation, such description of designation shall be given as is reasonably practicable in the circumstances, or such person may be described as "a person unknown".

Provided that no person who is accused of an offence shall be described as "a person unknown" except to the case of a verdict found upon a coroner's inquisition.

316. Every woman who has contracted a marriage under the Marriage Act or a marriage recognized as a valid monogamous marriage under the law of any country- shall have in her own name against all persons whatsoever, including the husband of such marriage, subject as regards her husband to the provision hereinafter contained, the same remedies and redress by way of criminal proceedings for the protection and security of her own separate property as if such property belonged to her as an unmarried woman.

Remedies of married woman against her husband and others in respect of property

Provided that any proceedings by one spouse against the other shall be governed by the provisions of section 26 of the Criminal Code.

317. In any proceeding taken under the provisions of section 316 the husband and wife shall be competent and compellable witnesses in accordance with the provisions of Part 9 of the Evidence Law.

Husband and wife competent witnesses

explained to him to the satisfaction of the court by the registrar or other officer of the court, and such person shall be called upon to plead instantly thereto, unless where the person is entitled to service of a copy of the information he objects to the want of such service and the court finds that he has not been duly served therewith.

334. Where an accused person is charged with having previously been convicted he shall not when called upon to plead to the other charges or counts be required to plea to such charges unless he pleads guilty to the rest of the charge or counts on which he is to be tried or is found guilty on one or more of such charge or count

Proceeding on charge or account of previous

335 Where the trial is with a jury or with assessors charge or count of a previous conviction shall not be read out or charged until a verdict has been returned or a decision given in respect of the charge relating to the subsequent offence and if such verdict or decision is one of not guilty he shall not be called upon to plead in respect of the previous conviction.

When one cannot plead in respect of the previous conviction

336. Where a person may properly be called upon to plead to a charge or count of a previous conviction he shall be asked if he has been previously convicted as charged or not and if he admits that he has been so previously convicted the court may find him guilty and proceed to sentence him but if he denies that he has been previously so convicted or stands mute of malice or does not answer directly to such question the court shall inquire concerning such previous conviction.

When one can plead in respect of the previous conviction

337. A previous conviction may be proved in the manner set out in Part II of the Evidence Law or otherwise to the satisfaction of the court

Proof of previous conviction

338. (1) Any accused person against whom a charge or information is filed may plead—

(a) that he has been previously convicted or acquitted, as the case may be, of the same offence; or

(b) that he has obtained a pardon for his offence.

(2) If either of such pleas is pleaded in any case and denied to be true in fact, the court shall try whether such plea is true in fact or not.

Pleas of *outrafois* acquit or convict pardon

(3) If the court holds that the facts alleged by the accused do not prove the plea, or if it finds that it is false in fact, the accused shall be required to plead to the charge or information.

339. If the accused person when called upon to plead shall stand mute of malice or will not or cannot answer directly when called upon to plead to the charge the court shall enter or cause to be entered a plea of not guilty on behalf of such person and the plea so entered shall have the same, or else the court shall thereupon proceed to try whether the accused person be of sound or unsound mind in accordance with the provisions of Chapter 38 and if he shall be found to be of sound mind shall proceed with his trial.

340 If the accused pleads guilty to any offence with which he is charged the court shall record his pleas as nearly as possible in the words used by him and if satisfied that he intended to admit the truth of all the essentials of the offence of which he has pleaded guilty the court shall convict him of that offence and pass sentence upon or make an order against him unless there shall sufficient cause to the contrary.

341 If the accused when called upon to plead to a charge of information for any offence can lawfully be convicted on such charge or information of some other offence not stated in such charge or information he may plead not guilty of the offence stated in the charge or information but guilty of such other offence and the court, if satisfied as in the last preceding section provided, shall record his admission as nearly as possible in the words used by him, and may in its discretion, convict the accused of the offence of which he has plead guilty and precede as in the last preceding section provided, unless the prosecution states its desire to proceed with the trial of the accused for any offence stated in the charge or information

342. Every person by pleading generally the plea of not guilty shall without further form be deemed to have put himself upon his trial.

CHAPTER 24-ADDUCING EVIDENCE AND EXAMINATION OF WITNESSES

343. After the accused person has pleaded not guilty to the charge or information the person appearing for the prosecution may open the case against the accused person and then adduce evidence in support of the charge.

344 Any exception, exemption, proviso, condition, excuse, or qualification, whether it does not in any enactment creating an offence accompany in the same section the description of the offence, may be proved by the defendant, but need not be specified or negatived in the complaint, and if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the complainant.

345 Subject to the provisions of any other written law the examination of witnesses shall in accordance with the provisions of Parts 9 and 10 of the Evidence Law,

346. (1) When any person attending either in obedience to a summons or after notification as in section 193 mentioned or by virtue of a warrant or being present in court and being verbally required by the court to give evidence in any case—

(a) refuses to be sworn, as a witness, or

(b) having been so sworn, refuses to answer any question put to him by the sanction of the court, or

(c) refuses or neglects to produce any documents which lie is required by the court to produce;

Failure to
plead due to
malice or
otherwise

Effect of
plea of
guilty

Plea when
offence
admitted is
included in
offence

Effect of
plea of not
guilty

Opening of
case for the
prosecution

Proceedings
charge or
account of
previous
conviction

Application
of Evidence
law

Witness
refusing to
be sworn
or produce
document

without in any such case offering any sufficient excuse for such refusal or neglect, the court may, if it thinks fit, adjourn the hearing of the case for any period not exceeding eight days where practicable, and may in the meantime, by warrant commit such person to prison or to other place of safe custody, unless he sooner consents to do what is so required of him.

(2) If such person, upon being brought before the court at or before such adjourned hearing again refuses to do what is so required of him, the court may if it thinks fit, again adjourn the hearing of the case, and commit him for the like period, and so again from time to time until such person consents to do what is so required of him.

(3) Nothing herein contained shall affect the liability of any such person to any other punishment or proceeding for refusing or neglecting to do what is so required of him, or shall prevent the court from disposing of the case to the meantime according to any other sufficient evidence taken by it.

347. The court or any stage of any trial, or other proceedings under this Law may either of its own motion or on the application of either party to the proceedings call any person as a witness or recall and re-examine any such person if his evidence appears to the court to be essential to the just decision of the case.

348 Certificates signed by a Government chemist a government pathologist or entomologist or superintendent of a forensic science laboratory, or the Accountant-General shall be admissible in evidence in accordance with the provisions of sections 41 to 43 of the Evidence Law

Power to call
and recall
witnesses

Certificate of
certain
Government
technical
officers

CHAPTER 25.—VISIT TO LOCUS

349. It shall be the duty of a court trying a case summarily to make or cause to be made such local inspection as the circumstances of the case may require.

Local
inspection

350. (1) Where it appears to the court that in the interest of justice the court should have a view of any place, person or thing connected with the case the court may, where the view relates to a place, either adjourn the court to that place and there continue the proceedings or adjourn the case and proceed to view the place, person or thing concerned.

View of
court of

(2) the accused shall be present at the view.

351 In the case of any view being had the court shall give such directions as may seem requisite for the purpose of presenting communication between the witness and the accused: Provided that a breach of any such directions shall not affect the validity of the proceedings unless the court otherwise directs

No
communication
between
accused and
witnesses
during visit to
locus

352. If a trial is with assessors, the assessors shall accompany the judge on the view and if the trial is with a jury the provisions of the judge Law shall be complied with.

What applies
the trials is
with assessors
or with jury

CHAPTER 26.—ADDRESSES

353. After the case for the prosecution is concluded the accused or the legal practitioner representing him, if any, shall be entitled to address the court at the commencement or conclusion of his case, as he thinks fit. and if no witnesses have been called for the defence, other than the accused himself or witnesses solely as to the evidence for the defence, the person appearing for the prosecution shall not be entitled to address the court a second time but if in opening the case for the defence the person appearing for the accused has in

In certain
cases
prosecution
has no right of
reply

addressing the court introduced new matter without supporting it by evidence the court, in its discretion, may allow the person appearing for the prosecution to reply.

354. If any witness, other than the accused himself of witnesses solely as to the character of the accused, is called or any document is put in as evidence for the defence, the person appearing for the accused shall be entitled after evidence on behalf of the accused has been adduced to address the court a second time on the whole case and the person appearing for the prosecution shall have a right of reply.

Cases which
prosecution
may reply

355. The provisions of sections 353 and 354 shall not affect the right of reply by a law officer.

Reply by
law officer

356. In case where the right of reply depends upon the question whether evidence has been called for the defence the fact that the person charged has been called as a witness shall not of itself confer on the prosecution the right of reply:

Right of reply

Provided that a law officer when appearing personally as counsel for the prosecution shall in the cases have the right of reply.

CHAPTER 27.—JUDGMENT

357. When the case for both sides is closed the court shall consider its verdict and to that purpose may adjourn the trial.

Deliberation
by court

358. The judge or magistrate shall record his judgement in writing and every such judgment shall contain the point or points for determination, the decision thereon and the reasons for the decision and shall be dated and signed by the judge or magistrate at the time of pronouncing it:

Judgment to
in writing

Provided that in the case of a magistrate in lieu of writing such judgment it shall be a sufficient compliance under this section if the magistrate —

- (a) records briefly in the book his decision thereon and where necessary his reasons for such decision and delivers an oral judgment or
- (b) records such information in a prescribed form.

359. If the court finds the accused not guilty the accused shall forthwith be discharged and an order of acquittal recorded.

360. If the court convicts the accused person or if he pleads guilty, it shall be the duty of the registrar to ask the accused whether he has anything to say why sentence should not be passed on him according to law but the omission of the registrar so to ask him or his being so asked by a judge or magistrate instead of the registrar shall have no effect on the validity of the proceedings.

361. If the court finds the accused guilty the court shall either pass sentence on the accused or make an order or reserve judgment and adjourn the case to some future day.

362. (1) Where an accused person is found guilty of an offence the court may in passing sentence take into consideration any other charge and pending against the accused if the accused admits the other charge and desires that it be taken into consideration and if the prosecution of the other charge consents

(2) Where such a desire is expressed and consent given 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

Accused to be
discharged if
found guilty

Accused to be
asked whether
he has
anything to say
before
sentence.

Sentence

Conviction on
other charges
pending

Delivery of
judgement
when judge or

not. subject to the provisions of sections 504 to 506 or unless the conviction which has been had is set aside, be liable to be charged or tried in respect of any such offence so taken into consideration.

363. Where a judge or magistrate having tried a case is presented by illness or other unavoidable cause from delivering his judgment or sentence, such judgment and the sentence, if the same has been reduced into writing and signed by- the judge or magistrate, may be delivered and pronounced in open court in the presence of the accused by any other

CHAPTER 28.—SUSPENDED SENTENCE

364. When a person is convicted of any offence the court may, instead of passing sentence, discharge the offender upon his entering into his own recognizance, with or without sureties, in such sum as the court may think fit, conditioned that he shall appear and receive judgment at some future sitting of the court or when called upon.

CHAPTER 29.—CAPITAL. SENTENCE

365. The punishment of death is inflicted by hanging the offender by the neck till he be dead

366. Sentence of death shall be pronounced in the following form — "The sentence of the court upon you is that you be hanged by the neck until you be dead and may the Lord have mercy on your soul".

367. Where sentence of death has been passed such sentence shall only be carried out in accordance with the provisions of this chapter.

368. Where a woman found guilty of a capital offence is found in accordance with the provisions of section 380 to be pregnant the sentence of death shall not be passed on her but in lieu thereof she shall be sentenced to imprisonment for life.

369. Where an offender who in the opinion of the court laid not attained the age of seventeen years at the time the offence was committed is found guilty of a capital offence of death shall not be pronounced or recorded but in lieu thereof the court shall order such offender to be detained during the Governor's pleasure and if so ordered he shall be detained in accordance with the provisions of Chapter 37 notwithstanding anything to the contrary in any written law.

370. A certificate under the hand of the registrar, or other officer of the court, that such sentence has been passed, and naming the person condemned, shall be sufficient authority for the detention of such person.

371. Section 372 to 379 shall apply where the sentence of death has been passed for an offence in respect of which the power of pardon is vested in the Governor

372. After the- sentence of death has been pronounced, the presiding judge shall, as soon as conveniently may be, forward to the governor a copy of the finding and sentence and of his notes of evidence taken on the trial together with a report in writing signed by him containing any recommendation or observations on the case which he thinks fit to make.

Security for
coming up for
judgment

Death
sentence. How
pronounced
Death sentence
how inflicted

Prior
formalities
generality

Where
pregnancy
is found

Where
offender is a
young person

Authority for
detention

Application of
sections 372 to
379

Judge to report
to Governor

Governor to
make order

373. The presiding judge shall at the same time send a copy of the finding and sentence and of the notes of evidence and of his report to the Secretary to the Advisory Council of the State on Prerogative of Mercy.

374. The Governor after receiving the advice of the said accused shall make such order as may be requisite.

375 The council shall send a copy of the Governor order to the Judge who presided over the trial or to his successor in office and such judge shall cause such order to be entered in the record of the court.

376 The Governor's order shall be under his hand and the Public Seal and shall be as in one of the forms set out in the Fourth Schedule or as near thereto as circumstances permit and if the sentence is to be carried out shall state the place and time where and when the execution is to be had and give directions as to the place of burial of the body or may direct that the execution shall take place at such time and at such place and the body of the person executed be buried at such time and not such place as shall be appointed by some officer specified in the order

377 When the place or time of execution or the place of burial is appointed by some person and is not stated in the Governor's order the speed find officer shall endorse on the order over his signature the place and time of execution and place of burial or someone or more of them according to the terms of the order.

378. A copy of the Governor's order under his hand and the Public Seal shall be sent to the sheriff of the area in which the execution is to be carried into effect and the sheriff shall have effect given thereto Provided: that; —

(a) if for any reason a copy of the Governor's order be not received by the sheriff before the date fixed therein or endorsed thereon for execution, the said sheriff shall nevertheless have the order carried into effect upon the earliest convenient day after receipt thereof;

(b) the substance of the Governor's order may in the first instance be communicated by telegraph by the designated commissioner to the sheriff of the area who shall then telegraph to or designated commissioner for a confirmatory telegraph, and on receipt of such confirmatory telegram, the sheriff shall issue directions to cause effect to be given to the terms of the Governor's order.

379 The said copy of the Governor's order under his hand and the Public Seal or the directions issued by the sheriff under the last preceding section shall be sufficient authority in law to all persons to carry the sentence into effect in accordance with the terms thereof.

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

381. The question whether the woman is pregnant or not shall be determined by the court on such evidence as may be laid before it on the part of the woman or on the part of the

Governor to
make order

Copy of
order to be
sent in the
Judge.

Form of
Governor's
order
Fourth
Schedule

Endorsement
on the order
by specified
officer

Copy of
order to be
sent to
sheriff

Order to the
sufficient
authority

Procedure
where woman
convicted of
capital
offence is
alleged to be
pregnant

Court
determines
whether the
woman is
pregnant

Court
pronounces
sentence on the
woman if she is
not pregnant

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.

382. Where the court finds the woman in question is not pregnant the court shall pronounce sentence of death upon her.

383. An appeal shall lie to the Court of Appeal against such finding and that court, if satisfied that the finding should be set aside, shall quash the sentence passed on her and in lieu thereof pass on her a sentence not imprisonment for life.

A court of
Appeal may
quash the
sentence

384. The rights conferred by above section on a woman convicted of an offence punishable with death shall be in substitution for the right of such a woman to appeal in stay of execution that she is quick with child the last mentioned right having ceased to exist.

Substitution
death sentence

385 The court shall report to the council any case in which the court passes a sentence of imprisonment for life under this section

Court to
council

CHAPTER 30.—IMPRISONMENT

(See also section 134)

386 Imprisonment, subject to the express provisions of any written law providing imprisonment as a punishment for an offence, may be either with or without hard labour as the court may order and where no specific order is made the imprisonment shall be with hard labour.

Imprisonment
to be with hard
labour unless
otherwise

Power to
order
detention for
one day in
precincts

387 Where the court has power to pass a sentence of imprisonment the court, in lieu of passing sentence of imprisonment, may order that the offender be detained within the precincts of the court or at any police station till such hour, not later than eight in the evening of the day on which he is convicted, as the court may direct:

Provided that the court shall, before making an order of detention under this section, take into consideration the distance between the place of detention and the offender's abode, if his abode is known to or ascertainable by, the court, and shall not make any such order of detention under this section as will deprive the offender of a reasonable opportunity of returning to his abode on the day on which such order of detention is made.

Consecutive
sentences of
imprisonment

388 Where a sentence of imprisonment is passed on any person by a court the court may order that the sentence shall commence at the expiration of any other term of imprisonment to which that person has been previously sentenced by any competent tribunal in Nigeria so however that where two or more sentences passed by a Magistrate's Court are ordered to run consecutively the aggregate term of imprisonment shall not exceed four years or the limit of jurisdiction of the adjudicating magistrate whichever is the greater.

Date from
which
sentence
commences

389 A sentence of imprisonment takes effect from and includes the whole of the day of the date on which it was pronounced.

Power to
inflict fine in
lieu of
imprisonment

390 (1) Subject to the other provisions of this section, 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) In the case of a conviction in the High Court, the amount of the fine shall be in the discretion of the court, and any term of imprisonment imposed in default of payment of the fine shall not exceed two years.

(3) In the case of a conviction in a Magistrate's Court-

a) the amount of the fine shall be in the discretion of the court but shall not exceed the maximum fine authorized to be imposed by the Magistrate by or under the Magistrates' Court Law and

(b) no term of imprisonment imposed in default of payment of the fine shall exceed the maximum fixed in relation to the amount of the fine by the scale specified in section 397,

(4) In no case shall any term of imprisonment imposed in default of payment of a fine which has been imposed by virtue of the power in that behalf contained in subsection (1) exceed the maximum term authorized 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.

391. A person who escapes from lawful custody while undergoing a sentence involving deprivation of liberty is liable upon recapture to undergo the punishment which he was undergoing at the time of his escape, for a term equal to that during which he was absent from prison, after the escape and before the expiration of the term of his original sentence, whether at the time of his recapture the term of that sentence has or has not expired.

Escaped
prisoners effect
of escape on
punishment

392. Where a sentence or conviction does not order the payment of money but orders that the offender be imprisoned the court shall issue a warrant of commitment accordingly.

Direct
imprisonment

393. A warrant under the hand of the judge or magistrate by whom any person shall have been sentenced or committed to prison for non-payment of a penalty or fine shall be full authority to the superintendent of any prison and to all other person for carrying into effect the sentence described in such warrant not being a sentence of death

Authority for
carrying out
sentence not
capital

394 The court may at any time amend any defect in substance or in form in any order or warrant of commitment and no omission or error as to time and place and no defect in form in any order or warrant and commitment given under this Law, shall be held to render void or unlawful any act done or intended to be done by virtue of such order or warrant if it is therein mentioned or may be inferred therefrom, that it is founded on a conviction or judgement sufficient to sustain the same

Error or
omission not
affect legality
of act

CHAPTER 31.—FINES

Fines
imprisonment
in default of

395 A person convicted of an offence punishable by-

(a) imprisonment as well as fine, and sentenced to pay a fine, whether with or without imprisonment or

(b) imprisonment or fine, and sentenced to pay a fine, may be ordered to suffer imprisonment, on default of payment of the fine, for a certain term, which imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.

396. Where by any written law the court is empowered to impose a penalty for a summary conviction offence it any, in the absence of express provision to the contrary in the same or any other written law, order a defendant who is convicted of such offence, in default of payment of the sum of money adjudged to be paid by the order, either forthwith or at the time specified in the order is the case may be to be imprisoned, with or without hard labour, in accordance with the scale set forth in section 397.

General power
of awarding
imprisonment
in default of
payment of
penalty

397 (1) Subject in every case to the provisions of the written law on which the order is founded, the period of imprisonment, whether with or without hard labour, which is imposed by the court in respect of the non-payment of any sum of money adjudged to be paid by the order shall be such period as in the opinion of the court will satisfy the justice of the case shall not exceed the maximum fixed in the following scale, that is in say—

Scale of
imprisonment
for non-
payment of
money adjudged
to be paid
adjudged to

Where the fine?	The period of imprisonment shall not exceed-
does not exceed one naira	seven days;
exceeds one naira and does not exceed two naira	fourteen days
exceeds two naira and does not exceed twenty naira	one month
exceeds twenty naira and does not exceed sixty naira	two month
exceeds sixty naira and does not exceed one hundred naira	four month
exceeds one hundred naira and does not exceed two hundred naira	six month
exceeds two hundred naira and does not exceed, four hundred naira	one year
exceeds four hundred naira	two year

(2) No commitment for non-payment of a fine shall be for a longer period than two years, except where the law under which the conviction has taken place enjoin or allow a longer period.

398. A court in fixing the amount of any fine to be imposed on an offender shall take into consideration, amongst other things the means of the offender so far as they appear or are known to the court and where a fine is imposed the payment of the court fees and police fees payable in the case up to and including conviction shall not be taken into consideration in fixing the amount of the fine or be imposed in addition to the fine, but the amount of the fine, or of such part thereof as may be paid or recovered, shall be applied as follows —

Payment of
allocation
fine and fee

(a) in the first place in the repayment to the informant or complainant of any court or other fees paid by him and ordered by the court to be repaid.

- (b) in the second place the payment of any court fees not already paid by the informant or complainant which may be payable under rules of court;
- (c) the balance, if any, remaining after the aforesaid payments have been made shall be paid into general revenue.

399. In every case where an order is made against any person for the payment of a sum of money and such person is liable to be imprisoned for a certain term unless such sum shall be sooner paid the court may do all or any of the following thereof:

- (a) issue a warrant of commitment forthwith;
- (b) allow time for the payment of the said sum;
- (c) direct payment of the said sum to be made by instalment or
- (d) direct that the person liable to pay the said sum shall be at liberty to give, to the satisfaction of the court security, either with or without a surety or sureties, for the payment of the said sum or any installment thereof.

400. Where time has been allowed for the payment of a sum adjudged to be paid by a conviction or order, further time may on an application by or on behalf of the person liable to pay such sum, be allowed by a court having jurisdiction to issue a warrant of commitment in respect of the non-payment of such sum as aforesaid, or such court may, subject as aforesaid, direct payment by installments of the sum so adjudged to be paid.

401 Where a sum of money is directed to be paid by instalments and default is made in the payment of any one installment, the same proceedings may be taken as if default had been made in the payment of all the installment then remaining unpaid.

402. If before the expiration of the time allowed the person convicted surrenders himself to the court having jurisdiction to issue a warrant of commitment in respect of the non-payment of such sum and sues that he prefers immediate committal in awaiting the expiration of the time allowed, the court may if it thinks fit forthwith issue a warrant committing him to prison.

403. If the person liable to pay any sum and to whom time has been given to pay either with or without a surety or sureties makes default in such payment or fails to enter into the security required by the court the court may issue its warrant of commitment requiring any police officer to take and convey such person to prison and there deliver him to the officer in charge of the prison to receive such person into the prison and there to imprison him with or without hard labour, as the case may be, for such time as may be directed and appointed by the warrant of commitment, unless the sum of money adjudged to be paid by the order and all so all other costs, charges, and expenses shall be sooner paid

404. Where application is made to the court for a warrant for committing a person to prison for non-payment or any sum of money adjudged to be paid by an order, the court may, if it deems it expedient so to do, postpone the issue of such warrant until such time and on such conditions if any, as to the court may seem just.

405 When the court orders the imprisonment of any person, the court may, if it thinks fit, order that such imprisonment shall not commence forthwith, but shall commence on any day not more than three months after the date of such order as the court may fix, and in such case the court may either suffer the person to go at large until such day or discharge him upon his entering into a recognizance, with or without sureties, conditioned for his reappearance on such day to undergo such imprisonment.

Power to
commit
defendant in
certain case

Allowance of
further time
and payment
by installments

Default in on
payment
renders all
payable

Surrender
before criminal
date

Power to
postpone issue
of warrant of
commitment

Time and
condition

Limit of
three months

Execution
of warrant

406 Any warrant of commitment issued under the provisions of sections 403 to 405 may be executed on any day including a Sunday or public holiday

407. In all cases where any person against whom a warrant of commitment for non-payment of any sum of any money adjudged to be paid by an order is issued, pays or tenders to the person having the execution of the same, the sum or sums in such warrant mentioned together with the amount of the expenses of such warrant up to the time of such a payment or tender, the person having the execution of such warrant shall cease to execute the same.

Payment of
penalty to
persons
executing

408 Where any person is brought to any prison to be imprisoned by virtue of a warrant of commitment there shall be endorsed on such warrant the day on which such person was arrested by virtue thereof and the imprisonment shall be computed from such day and inclusive thereof

409. Where any person has been committed to prison by the court for default in finding a surety or sureties the court may, on application made to it by such person or by some person acting on his behalf inquire into the case of such person, and if upon new evidence produced to the court or proof of a change of circumstances of the case that it is just so to do, the court may reduce the amount for which it was ordered that the surety or sureties should be bound, or dispense with the surety or sureties, or otherwise deal with the case as live court may think just,

410 Where any person has been committed to prison by the court for non-payment of any sum of money adjudged to be paid by an order, such person may pay or cause to be paid to the officer in charge of the prison the sum mentioned in the warrant of commitment together with the amount of the costs, charges and thereupon discharge such person, unless he is in his custody for some other matter

411 In any case where under the last proceeding section a sum has been received in part satisfaction of a sum due from a prisoner in consequence of the conviction of the court such sum shall be applied firstly; towards the payment in full or in part of any cost damages or compensation which the court may have ordered to be paid to the complainant and, secondly, towards the payment of the fine, if any, imposed on the prisoner.

412 Subject to the provisions of section 411 where, an amount is paid towards a fine the procedure as hereunder in this subsection set forth shall be followed—

(a) the imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which such person is committed as the sum so paid towards the fine bears to the amount of the fine for which such person is liable.

(b) the superintendent or other officer in charge of a prison in which is confined a person who has made such part payment shall as soon as practicable thereafter take such person before a court and such court shall certify the amount by which the term of imprisonment originally awarded is reduced by such payment in part satisfaction and shall make such order as is required in the circumstances:

Provided that where in the opinion of the superintendent or other officer as aforesaid the delay occasioned by taking such person before a court should be such that the person will be detained beyond the date upon which he should by reason of such part payment be released, such superintendent or other officer may release such person on the day which appears to

Commencement
of imprisonment

Varying of or
discharging order
for sureties

Right of person
imprison in default
to be released on
paying sum

Application of sum
received from
prisoner

Part payment after
commitment

such superintendent or other officer to be the correct day endorse the warrant accordingly and shall as soon as practicable thereafter inform the court of the action taken and such court shall thereupon make consider to required to the circumstances

(4) In reckoning the number of days by which any term of imprisonment would be reduced under this section, the first day of imprisonment shall not be taken into account and in reckoning the sum which will secure the reduction of a term of imprisonment, fractions of a kobo shall be omitted.

413. Where under the authority of any written law the court imposes a fine or any pecuniary penalty whether or not that fine or penalty is accompanied by a power to impose imprisonment and no special provision other than recovery by distress is made for the recovery of such fine or penalty the court may order such fine or penalty to be recoverable, by distress and. in default of such distress satisfying the amount of the fine or penalty as aforesaid, may order that the offender be imprisoned, with or without hard labour as the case may be. in accordance with the scale set forth in section 397.

Fines may be ordered to be recoverable by distress

414. Where the court orders a sum to be recoverable by distress the court shall issue its warrant of distress for the purpose of recovering the same, such warrant shall be in writing and signed by the court it shall authorize the person charged with the execution thereof to take any money as well as any goods of the person against whom distress is levied and any money so taken shall be treated as if it were the proceeds of sale of goods taken under the warrant.

Warrant of distress

415 In the execution of a distress warrant the following provisions shall have effect—

Procedure on the execution of distress warrant

- (a) a warrant of distress shall be executed by or under the direction of the sheriff;
- (b) if the person charged with the execution of the warrant is prevented from executing the same by the fastening of doors or otherwise, the magistrate may, by writing under his hand endorsed on the warrant, authorize him to use such force as may be necessary to enable him to execute the warrant.
- (c) the wearing apparel and beddings of the person and of his family, and to the value often naira the tools and implements of his trade, shall not be taken;
- (d) except as provided in paragraph (e) and so far as the person upon whose movable property the distress is levied consents in writing to an earlier sale the goods detained on shall be sold at public auction not less than five days and not more than fourteen days after the making of the distress; but where consent in writing is so given as aforesaid the sale may be in accordance with such consent;
- (e) subject as aforesaid, the goods distrained on shall be sold within the time fixed by the warrant, unless the sum for which the warrant was issued and also the charges, if any of taking and keeping the goods distrained on, are sooner paid;
- (f) if any person charged with the execution of a warrant of distress wilfully retains from the proceeds of any property sold to satisfy the distress, or otherwise exacts, any greater costs or charges than those to which he is for the time being entitled, by law, or make any improper charge, he shall be liable, on summary conviction before a magistrate, to a penalty not exceeding twenty naira

Provided that nothing herein contained shall affect the liability of any such person to be prosecuted and punished for extortion:

- (g) a written account of the costs and charge incurred in respect of the execution of any warrant of distress shall, as soon as practicable, be delivered by the person charged with the

execution of the warrant to the magistrate; and it shall be lawful for the person upon whose movable property the distress was levied, at any time within one month after the making of the distress, to inspect such account without payment of any fee or reward, at any time during office hours, and to take a copy of such account;

(h) a person charged with the execution of a warrant of distress shall sell the distress or cause the same to be sold, and may deduct out of the amount realized by such sale all costs and shall pay to the magistrate in effecting such sale, and shall pay to the magistrate or to some person specified by him, the remainder of such amount, in order that the same may be applied in payment of the sum for which the warrant was issued and of the proper costs and charges of the execution of the warrant, and that the surplus, if any, may be rendered to the person upon whose movable property the distress was levied

416. Where a part only of the amount ordered to be recovered by distress is so recovered the period of imprisonment ordered to be suffered in default of recovery of the amount imposed shall be reduced accordingly and shall bear the same proportion to the full period as the amount recovered bears to the total amount ordered to be recovered, the warrant of commitment shall be drawn up accordingly and after such committal the provisions of sections 410 to 412 shall apply.

CHAPTER 32.—COSTS AND COMPENSATION

417. A court may order any person convicted before it of an offence to pay to the prosecutor in addition to any penalty imposed such reasonable costs as to the court may seem fit.

418. A court that acquits or discharges a person accused of an offence, if the prosecution for such offence was originally instituted on a summons or a warrant issued by a court on the complaint of a private prosecutor, may order such private prosecutor to pay to the accused such reasonable costs as to the court may seem fit and the payment of such costs or any part thereof may be ordered by the court to be made out of any moneys taken from such person on his apprehension or may be recovered by distress.

419. No order as to costs as aforesaid may be made if the court considers that the private prosecutor had reasonable grounds for making his complaint and the cost award shall not exceed one hundred naira in the case of an award by a judge or fifty naira in the case of an award by a magistrate.

420. Costs may be awarded under this chapter and may be in addition to any compensation awarded and accepted under section 422.

421. In this chapter “private prosecutor” does not include any person prosecuting on behalf of the State, a public officer prosecuting in his official capacity or a police officer prosecuting in his official capacity.

Part
payment
reduces
period of
imprison-
ment in
proportion

Costs
against
accused

Against private
prosecutors

Order may not
be made under
certain
conditions.

Costs may be
awarded

Meaning of
“private
prosecutor”

422. If in any case before a court one or more persons is or are accused of any offence and the court by whom the case is heard discharges or acquits any or all of the accused and the judge or magistrate presiding over the court is of opinion that the accusation against any or all of them was false and either frivolous or vexatious the judge or magistrate may for reasons to be recorded, direct that compensation, to such an amount not exceeding twenty naira as he may determine, be paid to the accused or to each or any of them by the person upon whose complaint the accused was or were charged.

Compensation
in the case of
false and
vexation charge

423 Any sum so awarded as compensation shall be specified in the order of discharge or acquittal, as the case may be. and the court may order that to default of payment within such time as to the court seems proper of any sum awarded for compensation, the person making default be imprisoned, with or without hard labour, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set forth in section 397.

Enforcement
of award
of compensation

424 The provisions of sections 417 to 422 shall be subject to any express provision made in any written law relating to the procedure to be followed in the awarding of costs or compensation in respect of conditions specified in such written law

Saving of express
procedure for
awarding costs
and
compensation

425. An appeal shall lie against any order awarding costs under this chapter, if made by a magistrate to the High Court and if made by a judge to the Court of Appeal.

Order to pay
costs appealable

426 (1) The person to whom compensation is awarded may refuse to accept any such order for compensation but where any person receives compensation for an injury under the award of the court as above mentioned or where the offender having been ordered to make compensation, suffers imprisonment for non-payment thereof, the receipt of such compensation or the undergoing of such imprisonment, as the case may be shall be a bar to any action for the same injury.

Injured person
may refuse to
accept
compensation
payment of
compensation
is bar to
further
liability

(2) Before making an order under subsection (1) the court shall explain the full effect of that subsection to the person to whom compensation would be payable.

CHAPTER 33. —DAMAGES IN CASES OF DISHONESTY

427 Where in a charge of stealing or receiving stolen property, the court shall be of opinion that the evidence is insufficient to support that charge, but that it establishes wrongful conversion or detention of property, the court may order that such property be restored, and may also award damages:

Wrongful
conversion
or
detention
of
property

Provided that the value of such property and the amount of damages awarded shall not together amount in value to twenty naira.

428. The damages awarded under section 427 shall be recoverable in like manner as a penalty

Damages
recoverabl
as penalty

429 Where any person is charged before a court with an offence punishable by such court, and the court thinks that the charge is proved but is of opinion that having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence it is inexpedient to inflict any punishment or any other than a nominal punishment or that it is expedient to release the offender on probation the court may without proceeding to conviction make an order either—

Conditiona
release of
offenders

- (a) dismissing the charge; or
- (b) discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear at any time during such period not exceeding three years as may be specified in the order.

430. The court may, in addition to any such order, order the offender to pay such damages for injury or compensation for loss, not exceeding twenty naira or if a higher limit is fixed by any enactment relating to the offence that higher limit, and to pay such costs of the proceedings as the court thinks reasonable and if the offender has not attained the age of seventeen years and it appears to the court that the parent or guardian of the offender has conduced to the commission of the offence the court may under and in accordance with the provisions of Children and Young Persons Law after hearing such parent or guardian, order payment of such damages and costs by such parent or guardian.

Compensat
ion for loss
or injury
and costs
may be
rewarded

431. Where an order under this section is made the order shall for the purpose of re-vesting or restoring stolen property and of enabling the court to make orders as to the restitution of delivery of property to the owner and as to the payment of money upon or in connection with such restitution or delivery, have the like effect as a conviction.

Restitutio
of stolen
property

432 A recognizance ordered to be entered into under this chapter shall if the court so orders contain a condition that the offender be under the supervision of such person or persons of either sex, hereinafter called a probation officer, as may, with the consent of such probation officer, be named in the order during the period specified in the order, and an order requiring the insertion of such conditions as aforesaid in the recognizance is in this chapter referred to as a probation order.

Probation
orders and
conditions
recognizar

433 A recognizance under this chapter may contain such additional conditions with respect to residence, abstention from intoxicating liquor and any other matters as the court may, having

regard to the particular circumstances of the case, consider for preventing a repetition of the same offence or the commission of other offences.

The court makes a notice in writing

434 The court by which a probation order is made shall furnish to the offender a notice in writing stating in simple terms the conditions he is required to observe.

Relieving probation officer of his duties

435. The person named in a probation order may at any time be relieved of his duties and in any such case or in case of the death of the person so named another person may by consent be substituted by the court before which the offender is bound by his recognizance to appear for conviction or sentence.

Duties of probation officers

436 It shall be the duty of a probation officer, subject to the directions of the court—

(a) if the person on probation is not actually residing with the probation officer to visit or receive reports on the person under supervision at such reasonable intervals as may be specified in the probation order or subject thereto as the probation officer may think fit:

(b) to see that he observes the conditions of his recognizance,

(c) to report to the court as to his behaviour;

(d) to endeavour to find him suitable employment

Variation of and condition of probation.

437. The court before which any person is bound by recognizance under this chapter to appear for conviction and sentence or for sentence—

(a) may at any time if it appears to it upon the application of the probation officer that it is expedient that the terms or conditions of the recognizance to appear before it and if he fails to show cause why such variation should not be made vary the terms of the recognizance by extending or diminishing the duration thereof, so, however, that it shall not exceed three years from the date of the original order, or by altering the conditions thereof or by inserting additional conditions; or

(b) may on application being made by the probation officer, and on being satisfied that the conduct of the person bound by the recognizance has been such as to make it unnecessary that he be any longer under supervision, discharge the recognizance.

Provision in case of offender failing to observe conditions of recognizance

438 If the court before which an offender is bound by his recognizance under this chapter to appear for conviction or sentence is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension or may if it thinks fit instead of issuing a warrant in the first instance issue a summons to the offender and his sureties, if any, requiring him or them to attend at such court and at such time as may be specified in the summons.

Offender may be brought before another court

439. The offender when apprehended shall if not brought forthwith before the court before which he is bound by his recognizance to appear for conviction or sentence be brought before the last mentioned court.

Bail or Remand

440 The court before which an offender on apprehension is brought or before which he appears in pursuance of such summons as aforesaid may if it is not the court before which he is bound by his recognizance to appear for conviction or sentence remand him to custody or on bail until he can be brought before the last mentioned court.

Committed to prison during remand

441. An offender so remanded in custody may be committed during remand to any prison to which the court having to convict or sentence him has power to commit prisoners.

In the case of a child or young person he shall, if remanded, be dealt with wherever practicable in accordance with the provisions of the Children and Young Persons Law.

Conviction for original offence

442. A court before which a person is bound by his recognizance to appear for conviction and sentence on being satisfied that he has failed to observe any conditions of his recognizance may forthwith, without further proof of his guilt, convict and sentence him for the original offence

.

CHAPTER 35.—WHIPPING

To be whipped once only

443 No juvenile offender shall be sentenced to be whipped more than once for the same offence.

Persons who are not to be sentenced to whipping

444 Notwithstanding the provisions of any written law, no sentence of whipping shall be passed on any female or on any male other than a juvenile offender.

Whipping with a light rod and not more than twelve strokes

445. Whipping shall be with a light rod or cane or birch or whip, and the number of strokes shall be specified in the sentence and shall not exceed twelve. A whip means a whip of a pattern approved by the Commissioner for Justice.

Whipping of juvenile offender.

446 Where a juvenile offender is convicted of one or more offences at one trial the total number of strokes awarded shall not exceed twelve.

Infliction of sentences of corporal punishment

447, In the case of sentence or order involving corporal punishment such punishment shall be carried out at such place as the court may direct and as soon as practicable unless the juvenile offender convicted gives notice of appeal or of his intention to apply for leave to appeal, as the case may be, in which case such punishment shall not be carried out until the

determination or the appeal, or in case where application, and pending the determination of the application to appeal or the appeal, as the case may be, the accused shall be kept in custody or may be released on bail as the court may order

Where court
may order
the arrest of
juvenile
offender

448. Where a sentence or order of corporal punishment has upon appeal been confirmed or varied the sentence or order of corporal punishment as confirmed or varied, as the case may be, shall be carried out as soon as practicable thereafter and if the juvenile offender upon whom the sentence or order is to be carried out is on bail and does not surrender to his bail, or if not in custody does not voluntarily surrender him self, the court which convicted such person may issue a warrant to arrest the said juvenile offender who shall thereupon be apprehended and the sentence or order of corporal punishment shall thereafter be carried out as soon as practicable.

CHAPTER 36.—SEIZURE, RESTITUTION. FORFEITURE AND DISPOSITION OF PROPERTY

449 (1) Either before a charge is preferred or during or at the conclusion of any trial the court may make such order as it thinks fit for the disposal whether by way of forfeiture, confiscation, delivery to any person or otherwise of any property produced before it regarding which any offence appears to have been committed or which has been used for the commission of any offence.

Order for
disposal of
property
regarding
which offence
committed

(2) Where the court orders the forfeiture or confiscation of any property as provided in subsection (1) but does not make an order for its destruction or for its delivery to any person the court may direct that the property shall be kept or sold and that the same or, if sold, the proceeds thereof shall be held as it directs until some person establishes to the court's satisfaction a right thereto. If no person establishes such a right within six months from the date of forfeiture or confiscation such property or the proceeds thereof shall be paid into and form part of the general revenue.

(3) The power conferred by subsections (1) and (2) upon the court shall include the power to make an order for the forfeiture or confiscation or for the destruction or for the delivery to any person of such property, but shall be exercised subject to any special provisions regarding forfeiture, confiscation, destruction, detention or delivery contained in the written law under which the conviction was had or in any other written law applicable to the case.

(4) When an order is made under this section in a case in which an appeal lies such order shall not except when the property is livestock or is subject to speedy and natural decay, be earned out until the period allowed for presenting such appeal has passed or when such appeal is entered until the disposal of such appeal.

(5) In this section, the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same has been converted or exchanged and anything acquired by such conversion or exchange. Whether immediately or otherwise.

450. The court may order the seizure of any instruments, materials or things which there is reason to believe are provided or prepared, or being prepared, with a view to the commission of any offence triable by the court and may direct the same to be forfeited, confiscated, held or otherwise dealt with in the same manner as property under section 449

...Seizure of things intended to be used in commission of offence

451. On a conviction under section 90, or 21 of the Criminal Code the court may order the confiscation and 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 and also all those which remain in the possession or power of the person convicted.

Destruction of seditious, prohibition or obscene publication and of obscene objects

452 The court may on a conviction for an offence under section 241 of the Criminal Code order the food or drink in respect of which conviction was had and also all other unfit or adulterated food or drink which remain in the possession or power of the person convicted to be destroyed

Unfit or adulterated food.

453. Where a magistrate is satisfied by information on oath that there is reasonable ground for believing that there is in any building, ship, carriage, receptacle or place anything in respect of which an order may be made under section 450 or 451 such magistrate may issue a search warrant to search for any such thing and if such thing to be found the same shall be brought before any court and dealt with as the court may think proper.

Search warrant may be used to search for things subject to section 450 and 451

454. Whenever a person is convicted of an offence attended by criminal force and it appears to the court that by such force any person has been dispossessed of any immovable property the court may, if it thinks fit order the possession of the same to be restored to such person.

Restoration of possession of immovable property

455. No order under section 454 shall prejudice any right or interest to or in such immovable property which any person, including the person convicted, may be able to establish in a civil suit.

Effect of the order

456. When any person is convicted of any offence which includes or amounts to stealing or receiving stolen property and it is proved that any other person is bought the stolen property from him without knowing or having reason to believe that the same was stolen, and that any money has on the arrest of the convicted person been taken out of his possession, the court may, on the application of such purchaser and on the restitution of the stolen property to the

Payment to innocent person of money found on accused

person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser shall be delivered to him.

Restitution and
disposition of
property found
on person
arrested

457. Where, upon the apprehension of a person charged with an offence, any property, other than that used in the commission of the offence, is taken from him, the court before which he is charged may order—

(a) that the property or a part thereof be restored to the person who appears to the court to be entitled thereto, and, if he be the person charged, that it be restored either to him or to such other person as he may direct; or

(b) that the property or a part thereof be applied to the payment of any costs or compensation directed to be paid by the person charged.

Restitution
of property
stolen

458 Where any person is convicted of having stolen or having received stolen property, the court convicting him may order that such property or a part thereof be restored to the person who appears to it to be the owner thereof, either on payment or without payment by the owner to the person in whose possession such property or a part thereof is, of any sum named in such order.

Exceptions
to
restitution
orders

459 Section 458 shall not apply to—

(a) any valuable security which has been bona fide paid or discharged by any person liable to pay or discharge the same; or

(b) any negotiable instrument which shall have been bona fide received by transfer or delivery by any person for a just and valuable consideration without notice or without any reasonable cause to suspect that it has been stolen.

Destruction
articles
relating to
counterfeiti
ng where
charge is
laid

460 Where any person is charged with an offence relating to counterfeit coin and in that person's possession, actual or constructive, was found any counterfeit coin or any matter or thing intended to be used for the purpose of making counterfeit coins then, whether such charge proceeds to conviction or not, such coin or matter or thing shall not be returned to the person charged or to the person from whom the same was taken but shall be destroyed in such manner as the court may order and failing any such order they shall be delivered by the court to any administrative officer or to any officer of the Accountant General's Department, not below the grade of an Assistant Accountant, or to a police officer not below the rank of superior police officer to be destroyed in such manner as such officer may see fit.

Destruction
of articles
relating to
counterfeiti
ng where no
charge is
laid

461 Where any person comes into possession of any coin which he believes to be counterfeit or any matter or thing which in his opinion is to be used for the purpose of making counterfeit coins he may hand such coin, matter or thing to any administrative officer, officer of the Accountant-General's Department not below the grade of an Assistant Accountant or to any

police officer not below the rank of sub-inspector, and such administrative officer, of the Accountant-General's Department or police officer—

(a) if satisfied that such coin is not counterfeit, or that any of such articles are not intended to be used for the purpose of making counterfeit coins, shall return the coin or such articles, as the case may be, to the person purporting to be the owner thereof, if known; and

(b) if satisfied that such coin is counterfeit or such matter or thing is intended to be used for the purpose of making counterfeit coins and if no charge is to be preferred against any person in connection with any such coin, matter or thing, may destroy or cause to be destroyed such coin, matter or thing in such manner and by such person as may be approved by the Commissioner for Finance.

Provided that—

(i) notice shall have been given to the person who appears to be the owner of such coin, matter or thing, if such person is known and can easily be found, that such coin, matter or thing will be destroyed at the end of a specified number of days unless such owner shows that the coin is not counterfeit or that the matter or thing is not intended to be used for the purpose of making counterfeit coin; and

(ii) a reasonable time was allowed such person for providing such proof as aforesaid and the person who alleges that he is the owner or is otherwise entitled to such coin, matter or thing shall have no claim against such administrative officer in the Accountant-General's Department, police officer or the Government in respect of any such coin matter or thing so destroyed.

Mode of
dealing
with
forfeiture
not
pecuniary

462, Subject to the express provisions of any written law relating thereto every article, not pecuniary, forfeited in respect of a summary conviction offence or the seizure, forfeiture or disposition of which may be enforced by the court may be sold or disposed of in such manner as the court may direct, and the proceeds of such sale shall be applied in the like manner as if the proceeds were a penalty imposed under the written law on which the proceeding for the forfeiture is founded

CHAPTER 37.—DETENTION DURING THE GOVERNOR'S PLEASURE

463. When any person is ordered to be detained during the Governor's pleasure he shall notwithstanding anything in this Law or in any other written law contained be liable to detained in such place and under such conditions as the Governor may direct and whilst so detained shall be deemed to be in legal custody.

Condition
attaching
detention
during
pleasure

464. A person detained during the governor's pleasure may at any time be discharged by the Governor on licence.

465. A licence may be in such form and may contain such conditions as the Governor may direct.

466. A licence may at any time be revoked or varied by the governor and where a licence has been revoked the person to whom the licence relates shall proceed to such place as the Governor may direct and if he fails to do so, may be arrested without warrant and taken to such place.

CHAPTER 38 —VERSIONS OF UNSOUND MIND

467. For the purpose of this chapter unless the context otherwise requires—

Interpretation

“asylum” includes a lunatic asylum, a mental or other hospital, a prison and any other suitable place of safe custody for medical observation; “medical officer” means the medical officer attached to any asylum or any medical officer from whom a court requires an opinion.

468. When a judge holding a trial or a magistrate holding a trial has reason to suspect that the accused is of unsound mind and consequently incapable of making his defence the judge, jury or magistrate, as the case may be, shall in the first instance investigate the fact of such unsoundness of mind.

Procedure
when accused
is suspected
be of unsound
mind

469. The investigation may be held in the absence of the accused person if the court is satisfied that owing to the state of the accused's mind it would be in the interests of the safety of the accused or of other persons or in the interests of public decency that he should be absent, and the court may receive as evidence a certificate in writing signed by a medical officer to the effect that such accused person is in his opinion of unsound mind and incapable of making his defence or is a proper person to be detained for observation in an asylum, or the court may if it sees fit, take oral evidence from a medical officer on the state of mind of such accused person.

Procedure
investigation
in the absence
of the accused

470. If the judge, jury or magistrate, as the case may be, is not satisfied that such person is capable of making his defence, the court shall postpone the trial and shall discharge the jury, if any, and shall remand such person for a period not exceeding one month to be detained for observation in an asylum.

Accused is
detained for
observation if
the court is
not satisfied

471. The medical officer shall keep such person under observation during the period of his remand and before the expiry of such period shall certify under his hand to the court his

The medical
officer shall
certify his
finding

opinion as to the state of mind of such person, and if he is unable within the period to form any definite conclusion, shall so certify to the court and shall ask for a further remand. Such further remand may extend to a period of two months

472 Any court before which a person suspected to be of unsound mind is accused of any offence may, on the application of a law officer or state counsel, made at any state of the proceedings prior to the trial, order that such person be sent to ;an asylum for observation. The medical officer may notwithstanding any other provision of law detain any such accused person for such period, not exceeding one month, as may be necessary to enable him to form an opinion as to the state of mind of such person, and shall forward a copy of his opinion, in writing, to the court.

Detention of
the accused
by medical
officer for
observation

473 In such medical officer shall certify that the accused person is of sound mind and capable of making his defence, the court shall, unless satisfied by the defence that the accused person is of unsound mind, proceed with the trial.

474. If such medical officer shall certify that such person is of unsound mind and incapable of making his defence, the judge, jury or magistrate shall, if satisfied of the fact, find accordingly, and thereupon the trial shall be postponed, and the jury, if any, shall be discharged If the judge, jury or magistrate is satisfied that the accused person is of sound mind and capable of making his defence the court shall proceed with the trial.

475. The trial of the issue as to whether or not the accused person is of unsound mind and capable of making his defence shall, if the finding is that he is of sound mind and capable of making his defence, be deemed to be part of his trial before the court.

476 The certificate of the medical officer shall be receivable as evidence under this section.

477 If the accused person is certified to be of unsound mind and incapable of making his defence it shall not be necessary for him to be present in court during proceedings under this chapter.

478. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the court, if the offence charged is bailable by the court, may, in its discretion release him on sufficient security being given that he shall be properly taken care of an shall be prevented from doing injury to himself or to any other person, and of his appearance when required before the court or such officer as the court appoints in that behalf.

Certificate
of medical
officer

Court may
postpones
trial under
certain
circumstan

The evidence
proving
soundness of
mind is
deemed a part
of trial

Evidence of
medical
certificate

Magistrate
informs the
accused of his
right to apply to
a judge for bail

Release of
person of
unsound mind
pending
investigation or
trial

Magistrate
informs the
accused of his
right to apply
to a judge for
bail

479. If such an accused person is before a magistrate charged with an offence which is bailable by a judge but not by a magistrate or if the offence is bailable by a magistrate but the magistrate refuses to grant bail such magistrate shall inform the accused of his right to apply to a judge for

Procedure when
offence is not
bailable

480 (1) If the offence charged is not bailable by the Magistrate's Court or if a judge has refused bail under section 478 or after an application made under section 479 or if sufficient security is not given or if no application is made for bail the judge shall report the case to the Commissioner of Justice who after consideration of the report may, in his discretion, order the accused to be confined in a lunatic asylum or other suitable place of safe custody and the judge shall give effect to such order.

(2) Pending the order of the Commissioner of Justice the accused may be committed to prison or other suitable place of safe custody for safe custody.

481 Whenever a trial is postponed under section 470 the court may at any time commence the trial de novo and require the accused to appear or be brought before such court

482. When the accused has been released under section 478 the court may at any time require the accused to appear or be brought before it and may again proceed under section 470.

Resumption
of
proceeding

483 The Attorney-General may prefer an information against an accused person who at the time of being charged to court appears to the magistrate to be of sound mind, if from the proofs of evidence the act done by the accused would have been an offence, although at the time he committed the act he was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law.

When
accused
appears to
have been
of unsound
mind

484 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.

Judgment of
acquittal on
ground of
mental
disorder

485 (I) 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 Commissioner of Justice.

Safe custody
person
acquitted

(2) The Commissioner may order such person to be confined in a lunatic asylum, prison or other suitable place of safe custody.

486 When any person is confined under sections 478 to 480 or section 485 the medical officer of the prison if such person is confined in a prison, or the medical officer attached to the asylum if he is confined in any asylum shall keep him under observation in order to ascertain his state of mind and such medical officer shall make a special report to the Commissioner of Justice as to the state of mind of such person at such time or times as the Commissioner shall require.

Observation of
prisoners of
unsound mind.

487 When any person is, under the provisions of sections 478 to 481 confined in a prison or asylum and is certified by the medical officer thereof to be capable of making his defence such person shall proceed with the trial and the aforesaid certificate shall be receivable as evidence.

Courts power
to try the
certified
prisoner of
sound mind

488. If the medical officer of prison or the medical officer attached to an asylum in which a person is confined under sections 478 to 480 or section 485 shall certify that such person to his judgment may be discharged without danger of his doing injury to himself or to any other person the Commissioner of Justice may thereupon order him to be discharged or to be detained in custody or prison or to be transferred to an asylum if he has not already been sent to such an asylum, and in case he orders him to be transferred to such an asylum may require the chief medical officer to appoint two medical officers to report on the state of mind of such person and upon any other facts the Commissioner may require and on receipt of such report the Commissioner may order his discharge or detention as he thinks fit.

Procedure
when person
of unsound
mind reported
fit for
discharge

489. Where a person is confined in a prison or an asylum the Commissioner may direct his transfer from one prison or asylum to any other prison or asylum as often as may be necessary

Transfer from
one place of
custody to
another

490 (1) Whenever any relative or friend of any person confined under sections 478 to 480 or 485 desires that such person shall be delivered over to his care and custody, the Commissioner upon the application of such relative or friend and on his giving security to the satisfaction of the Commissioner that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may in his discretion order such person to be delivered to such relative or friend.

Provided that if such person is confined under the provisions of sections 478 to 480, the Commissioner may further require such relative or friend to give security to the satisfaction of the Commissioner that if at any time it shall appear to the Commissioner that such person is capable of making his defence, such relative or friend shall produce such person for trial.

Delivery of
person of
unsound
mind to care
of relative

(2) Whenever such person is so delivered to the care and custody of any person it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Commissioner directs.

(3) Sections 486 and 488 shall mutatis mutandis apply to persons delivered to the care and custody of persons under this section.

CHAPTER 39.—TRIAL OF CORPORATION

Application of
this chapter

491 The provisions of this chapter shall apply to all trials held under this Law and where there is a conflict between the provisions of this chapter and any other provisions of this Law, the provisions of this chapter shall prevail.

Interpretation

492.(1) In this chapter “representative” in relation to a corporation means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this chapter authorized 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 (by whatever name called) 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 purpose of this chapter, shall be admissible without further proof as prima facie evidence that the person has been so appointed

Plea by
corporation

493. Where a corporation is called upon to plead to any charge or information (including a new charge or information framed under the provisions of section 284. or charge or information added to or altered under the provisions of section 284 or section 285 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 338. and if either the corporation does not appear by a representative or, though it does so appear, fails to enter as aforesaid any plea, the court shall order a plea of not guilty to be entered and the trial shall proceed as though the corporation had duly entered a plea of not guilty.

494. An information may be preferred against a corporation after the preparation of the proofs of evidence relating to the charge.

Information
against a
corporation

Joinder of
counts in same
information

495. An information under section 494 may include, either in substitution for or in addition to court charging the offence for which proofs of evidence have been prepared counts which may be lawfully joined in the same information and are founded on facts or evidence disclosed in the proofs of evidence.

496 A representative may on behalf of a corporation-

- (a) consent or object to summary trial,
- (b) state whether the corporation is ready to be tried on a charge or information or altered charge or, information to which the corporation has been called on to plead under the provisions of subsection (1) of section 286.
- (c) consent to the hearing and determination of a complaint before the return date of a summons in accordance with section 101;
- (d) express assent to the trial of the corporation on information in accordance with the provision to section 221, notwithstanding that a copy of the information and notice of trial have not been served on the corporation three days or more before the date on which the corporation is to be tried.

497. Where a representative appears, any requirement of this Law 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:

Provided that paragraph (a) of subsection (1) of section 174 shall be sufficiently complied with if the representative is asked if he has any witnesses to examine or other evidence to adduce for the defence, and if the witnesses and other evidence if any are heard.

498. Where a representative does not appear, any such requirement as is referred to in section 497 and any requirement that the consent of the accused shall be obtained for summary trial, shall not apply.

499 Subject to the preceding provisions of this chapter, the provisions of this Law relating to the inquiry into and trial of offences shall apply to a corporation as they apply to an adult.

500. Where a corporation is charged jointly with an individual with an offence before a magistrate then if the offence is not a summary conviction offence, but one that may be tried summarily with the consent of the accused, the magistrate shall not try either of the accused summarily unless each of them consents to be so tried.

Powers of
representative

Matters to be
read or said
or explained
to
representative

Non-
appearance of
representative

Saving

Joint charge
against
corporation and
individual

501. The provisions of paragraph (b) of section 107 shall apply to the service on a corporation of any information, notice or other document which is by this Law required to be served upon or delivered to a person charged as they do to the service of a summons.

Service on
corporation

CHAPTER 40.—PREVIOUS ACQUITTALS OR CONVICTIONS

Interpretation

502..In this chapter “offence” includes an offence against the law of any other State in Nigeria

Person once
convicted or
acquitted not
to be tried

503. In addition to the provisions of section 293 a person who has once been tried by a court of competent jurisdiction for an offence and acquitted or convicted or such offence shall not, while such acquittal or conviction remains in force, be liable to be tried again for the same offence not on the same facts for any other offence for which a different charge from the one made against him might have been made before the court by which he was acquitted or convicted.

May be tried
again on
separate
charge in
certain cases

504. A person acquitted or convicted of any offence may afterwards be tried for any distinct offence for which a separate charge might have been made against him on the previous trial under the provisions of section 280.

Consequences
supervening
or not known
at previous
trial

505. A person acquitted or convicted of any offence constitute by any act or omission causing consequences which together with such act or omission constitute a different offence from that for which he was acquitted or convicted may afterwards be tried for such last mentioned offence if the consequences create the offence of murder or manslaughter.

Where court
at first trial
was not
competent

506. A person acquitted or convicted of any offence constituted by any act or omission may notwithstanding such acquittal or conviction, be subsequently charged with and tried for the same or any other offence constituted not Competent by the same acts or omissions if the court by which he was first charged was not competent to try the offence with which he was first charged.

Dismissal or
discharge

507 The dismissal of a complaint or the discharge of the accused is not an acquittal for the purposes of sections 503 to 506.

CHAPTER 41.—INQUIRIES BY DIRECTION OF ATTORNEY

GENERAL

Inquiries
by
direction
of
Attorney-
General

508 Where a sworn information is made before any magistrate that an offence against a Law of .Anambra State has been committed, the Attorney-General may, whether or not any known person be charged with the commission of the offence, direct any magistrate to hold an inquiry under this chapter and may, .if he thinks fit, direct that such inquiry be held in camera.

509 The officer so directed shall then examine on oath concerning such offence any person whom he has reason to believe to be able to give material evidence concerning it. other than a person confessing himself to be the offender, and shall take the deposition of such witness and. if he sees cause, bind such witness by his own recognizance to appear and give evidence at any place where, and at any time when, he may be called upon to do so.

510 At the conclusion of an inquiry under this chapter the said officer shall forward to the Attorney-General the original depositions and recognizance of the witnesses together with his report upon the proceedings, and shall state in such report his opinion as to the persons implicated in the commission of such offence.

511 The provisions contained in this Law, relating to summoning witnesses, and to compelling their attendance and to their examination on oath, and to binding them over to give evidence, shall apply for the purposes of an enquiry under this chapter.

512. If a person is put upon his trial for an offence respecting which an inquiry under this chapter has been held, he shall, if he so requests, be supplied free of charge, at least three days before such trial, with an authenticated copy of all depositions taken at such inquiry'.

513 A witness examined at such inquiry shall not be excused from answering any question on the ground that the answer thereto may incriminate or lend to incriminate him but any confession or answer by a person to a question put at such examination shall not, except in the case of any criminal proceeding for perjury committed at or after the holding of such inquiry, be in any proceeding admissible in evidence against him.

CHAPTER 42.—MISCELLANEOUS

514, Subject to the express provisions, if any, of the rules, the forms contained in the First Schedule may, in accordance with any instructions contained in the said forms, and with such variations as the circumstances of the particular case may require, be used in the cases to which they apply, and. when so used, shall be good and sufficient in law.

Procedure

Person
charged
entitled to
copy of
deposition

Use of forms in
First Schedule

Use of forms
in First Second
and Third
Schedule

Conduct of
inquiry

Report

515 (1) Subject to the express provisions, if any, of the rules, the forms and precedents contained in the First, Second, and Third Schedules may, in accordance with any instructions contained in the said forms, and with such variations as the circumstances of the particular case may require, be used in the cases to which they apply and, when so used, shall be good and sufficient in law.

(2) The forms in the said Schedules may be added to, revoked, replaced or varied by the rules in all respects as if they had originally been so made.

516. From and after the coming into operation of this Law no person shall be committed for trial on a coroner's inquisition.

No commitment
for trial by
coroner

517. Subject to the provisions of sections 518 and 519, in every proceeding had before any court such fees as may be prescribed under this Law shall be paid.

Payment of
fees

518 A court may in any proceeding in which good cause appears to the court for so doing, suspend payment of any fees payable therein until the conclusion of such proceeding and the court may then direct such fees to be paid as costs by any party to the proceeding by whom the court has power to order costs to be paid or remit the payment of such fees.

Court waive fees

519. The provisions of this Law relating to fees and to the giving of security shall not apply to the State or to any public officer acting in his official capacity.

State not
required to pay
fees

520. (1) The Chief Judge may with the approval of the Governor make rules in respect of any or all of the following matters

Power to
make rules
of court

(a) fees to be paid under this Law.

(b) forms to be used for the process and procedure of the courts;

(c) accounts to be rendered of moneys received by any person under this Law;

(d) the method of issue of process under this Law; and the manner of receipt of and accounting for fees in respect of such process.

(e) regulating the procedure in connexion with information filed by the Attorney-General under the provisions of section 152;

(f) prescribing anything or any person required to be prescribed under the provisions of this Law, and

(g) generally for carrying into effect the purpose of this Law

(2) Where rules are made under this section separate rules shall be made in respect of the practice and procedure in the High Court and in Magistrates Courts, save where the procedure prescribed by such rules applies equally to the High Court and to Magistrates' Courts.

FIRST SCHEDULE

Section 514.

FORMS

FORM I

GENERAL FORM OF TITLE OF PROCEEDINGS

(For use in the High Court)

IN THE HIGH COURT OF ENUGU STATE OF NIGERIA

In the High Court of the -----Judicial Division

Criminal Case No -----20 -----

BETWEEN

----- Prosecutor

AND

-----Defendant

(Form use in Magistrates' Courts)

IN THE MAGISTRATE'S COURT

In the Magistrate a Court of the -----Magisterial
District

Charge No -----, 19 -----

Between -----

Complainant

and

Defendant

FORM 2
ORDER OF RECOGNIZANCE TO KEEP THE PEACE,
AND BE OF GOOD BEHAVIOUR
(General Title—Form 1)

Before the High Magistrate's Court of the -----

Judicial Division/Magisterial District sitting at -----

The -----day of -----20 -----

A.B, having made a complaint that C D, hereinafter called the defendant, on the -----
day of

-----at -----, in the -----aforesaid, did -----

FIRST SCHEDULE. - continued

FORM 2 -continued

It is adjudged that the defendant do forthwith to the satisfaction of -----
enter into a recognizance in the sum of ----- (each) to keep the peace
and be of good behaviour towards the Governor and all persons, and especially towards the
complainant, for , the term of ----- now next ensuing.

And it is adjudged that if the defendant fail to comply with this order he be imprisoned in the
prison at -----for the space of -----unless he sooner
complies with the order.

If costs are ordered, add —

And it is ordered that the defendant pay to the said -----the sum of -----

for costs (by instalments of ----- for every ----- days,
the first instalment to be paid) forthwith(or on the ----- day, of -----
-----)

And in default of payment it is ordered that the sum due be levied by distress and sale of the
defendant's goods, and in default of sufficient distress that the defendant be imprisoned in the

said prison for the space of -----commencing at the termination of the imprisonment before ordered, unless the said sum (and all costs and charges of the (said distress and commitment) be sooner paid).

Magistrate

FORM 3
COMPLAINT

(General Title—Form 1)

The complaint of C.D (address and description), who upon oath (or affirmation) states that A B of (address and description) on the -----day of -----20 -----
---- at ----- in the aforesaid, did -----

-----Taken before the this -----

Judge (Magistrate)

FIRST SCHEDULE -continued

FORM 4

SUMMONS TO DEFENDANT

(General Title — Form 1)

TO A.B. of-----

Complaint has been made this day by ----- for that you
on the ----- day of -----at ----- in
the ----- aforesaid did -----

You are therefore hereby summoned to appear before the -----
Magistrate's Court sitting at ----- on the -----
-- day of ----- at the hour of ----- in the noon to answer
to the said compliant.

Dated this ----- day of ----- 20 -----

State
concisely th
substance o
the complai

FORM 5

WARRANT FOR APPREHENSION OF DEFENDANT WHO HAS DISOBEYED

SUMMONS

(General Title—Form I)

To -----Police Officer or To each and all Police
Officers

Information has been filed. Complaint has been made on the -----
day of -----that A B hereinafter called the defendant on the -----
-----day of -----,at ----- in the aforesaid did --

FIRST SCHEDULE -continued

FORM 5 -continued

And the defendant was thereupon summoned to appear before the High Magistrate's Court of
the -----Judicial Division/Magisterial District sitting at ----- on the ---
-----day of -----at the hour of ----- in the -----
----- noon, to plead to the said information to answer to the charge -----

An oath has been made that the defendant was duly served with the summons, but did not
appear, and that such complaint is true.

You are therefore hereby commanded to bring the defendant before the High Magistrate's
Court of the-----Judicial Division Magisterial District sitting at -----
forthwith to plead to the said information to answer to the said complaint and be further dealt
with according to law

Dated the-----day of -----20-----

Judge (or Magistrate)

Section 22

Section 11

State
concisely
the
substance
for the
complain

WARRANT FOR APPREHENSION OF DEFENDANT IN FIRST INSTANCE

(General Title-Form I)

To-----Police
Officer

Complaint on oath has been made on the-----
day

of-----by-----that A.B, hereinafter called the
defendant, on the-----day of-----
-,at -----in the-----aforesaid, did*-----
-----,

You are therefore hereby commanded to bring the defendant before the Magistrate's Court of
the-----Magisterial District sitting at-----
----forthwith to answer the said complaint and be dealt with according to Law.

Dated this-----day of-----20-----
--

Judge (or Magistrate)

FIRST SCHEDULE —continued

FORM 7

SUMMONS TO WITNESS

(General Title —Form I)

TO EF-----

Information has been preferred against A.B/A.B has been has been charged by-----for
that he on the----- day of-----at-----in the
aforesaid, did-----
-----and it appearing to me by the oath of-----that you are
likely to give material evidence therein on behalf of the informant (or complainant or
defendant).and will not voluntarily appear for that purpose.

You are therefore hereby summoned to appear before the High Magistrate's Court of the-----
--Judicial Division Magisterial District sitting at----- day the-----day
of

-----at the hour of-----in
the-----noon, to testify what you know in such matter.

State
concisely the
substance of
the complaint

State
concisely
the
substance
of the case

Dated the-----day of -----20-----

Judge (or Magistrate)

Nonappearan
ce of
representative

FORM 8
CONVICTION (FORFEITED RECOGNIZANCE)
(General Title-Form I)

Before the High Magistrate's Court of the-----
Judicial Division/Magisterial District sitting at-----
-----The-----day of-----20--

Section 94

Saving

A.B. hereinafter called the defendant, was by his recognizance entered into the-----
-----day of -----, bound in the
sum of -----and his sureties C.D and E.F in the sum of-----
-----each, the condition of he recognizance
being that the said defendant should-----
-----And it being now proved that the defendant was on the-----
-----day of

FIRST SCHEDULE -continued

FORM 8. -continued

-----, convicted of the offence of having-----
-----the same being, a breach of the said condition:

It is therefore adjudged that the said recognizance be forfeited, and that the said -----
pay to-----the sum of-----and the further sum of-----
for costs (by instalments of----- for every-----days, the
first instalment to be paid) forthwith (or on the-----day of-----
-----)

And in default of payment it is ordered that the sum due from the said-----under
this adjudication be levied by distress and sale of his goods, and in default of sufficient
distress that he be imprisoned in the prison at -----for the space of-----
-----unless the said sum(and all costs and charges of the (said distress
and)commitment) be sooner paid.

Judge (or Magistrate)

FORM NO 9
WARRANT FOR APPREHENSION OF A WITNESS
(General Title Form I)

To-----Police Constables or to each and all the constables
of

E.F, was duly summoned to appear before the High Court/Magistrate Court of the-----
----Judicial Division/Magisterial District sitting at -----on the -----
-----day the----- day of-----at the hour of-----
----- in the

-----,noon, to testify what he should know concerning a certain
information preferred against A.B/ a certain complaint against A.B

.And he has neither appeared thereto, nor offered any just excuse for his neglect And it has
been proved on oath that the summons has been duly served on him (and that a reasonable
sum has been paid (or tendered) to him for his costs and expenses in that behalf).

You are therefore hereby commanded to bring him before the High Magistrate's Court of the-
-----Judicial Division/Magisterial District sitting at-----forthwith to
testify what he knows concerning the said matter.

Dated the-----day of-----,20-----
--

Judge (or Magistrate)

FIRST SCHEDULE Continued
FORM 10
WARRANT FOR APPREHENSION OF WITNESS IN FIRST INSTANCE
(General Title-Form 1)

To-----

Section 12

State
concisely
the
substance
of the
complaint

Information has been preferred against A.B/A.B has been charged by-----for
that he on the-----day of -----aforesaid did -----

And it appearing to me by the oath of----- that E,F. is likely to give
material evidence concerning the said matter, and that it is probable he will not attend to give
evidence unless compelled so to do:

You are therefore hereby commanded to bring him before the High/ Magistrate's Court of the
-----Judicial Division/Magisterial District sitting at -----
forthwith to testify what he knows concerning the said matter.

Dated the-----day of -----20-----

Judge (or Magistrate)

FORM II

Section 232

Section 346

WARRANT OF COMMITMENT OF WITNESS

(General Title-Form 1)

To-----and to the Superintendent of-----
prison.

E F-----having appeared or being brought before the High/Magistrate's Court
of the----- Judicial Division/Magisterial District sitting at-----
----on

-----day the -----day of -----to testify what he
should know concerning a certain matter against A.B refused to take an oath (or having taken
an oath) refused to answer any a certain) question put to him concerning the premises and did
not offer any just excuse for his refusal

You the said Police Officer ore hereby commanded to convey the said E.F safely to the said
prison, and there deliver him to the Superintendent thereof, together with this warrant, and
you. the Superintendent of the sold prison, to receive him into your custody, and keep him for
the space of -----, unless he in the meantime consents to be examined and answer
concerning the premises.

Dated the-----day of -----20-----

Judge (or Magistrate)

FORM 12

Section 131

COMMITMENT ON REMAND

(General Title-Form 1)

To-----and to the Superintendent of-----
prison,

A B hereinafter called the defendant being brought before the High 'Magistrate's Court of the
-----Judicial Division/Magisterial District sitting at-----
-----information having been filed that/charged with having-----

The hearing of the case being adjourned:

You the said Police Officer are hereby commanded to convey the defendant to the said
prison, and there to deliver him to the Superintendent thereof together with this warrant, and
you, the Superintendent of the said prison, to receive him into your custody, and keep him
until the-----day of -----20-----, and on that day to convey him before
the High/Magistrate's Court of the -----Judicial Division/Magisterial District
sitting at -----at ----- at the hour of -----in the
-----noon, to be further dealt with according to law.

Date the -----day of -----20-----

Judge (or Magistrate)

ENDORSEMENT WHERE BAIL IS ALLOWED

I hereby certify that I consent to the defendant being bailed, himself in -----
-, naira and -----sureties in -----naira each.

Judge (or Magistrate)

FORM 13

Section 233

CONVICTION (WITH SECURITY)

(General Title-Form 1)

Before the High/Magistrate's Court of the -----
judicial Division/Magisterial District sitting at -----
-----the, ----- day of -----20-----

A.B. hereinafter called the defendant, is this day convicted for that he on the-----
day of -----at-----in the-----aforesaid, did-----

But the court being of opinion that the said offence was of so trifling a nature that it is
inexpedient to inflict any (or any other than a nominal) punishment and the defendant having
given security to the satisfaction of this Court to appear for sentence when called upon (or to
be of good behaviour), he is discharged.

FIRST SCHEDULE—continued

FROM 13—continued

(General Title – Form 1)

If costs are ordered, add:

And it is ordered that the defendant pay to the said -----the sum of-----
---for costs (by instalments of-----for every----- days, the first
instalment to be paid) forthwith (or on the-----day of-----)

And in default of payment it to ordered that the sum due be levied by distress and sale of the
defendant's goods, and in default of sufficient distress that the defendant be imprisoned in the
prison at-----for the space of -----unless the said sum (and all costs and
charges of the (said distress and) commitment be sooner paid).

Judge (or Magistrate)

FORM NO. 14

CONVICTION (IMPRISONMENT)

(General Title—Form I)

Before the High/Magistrate's Court of the-----
Judicial Division/Magisterial District sitting at-----

Section 2

Section 3

The -----day of. -----20-----
----A.B, hereinafter called the defendant, is this day convicted for that he, on the -----
-----day of -----at-----

And it is adjudge that the defendant, for his said offence, be imprisoned in the prison at-----
----and there kept to hard labour (or without hard labour) for the space of -----if
costs are ordered, add:

And it is ordered that the defendant pay to-----the sum of -----for costs
(by instalment of -----for every-----days, the first instalment to be paid)
forthwith) or on the -----day of-----)

And in default of payment it is ordered that the sum due be levied by distress and sale of the
defendant's goods, and in default of sufficient distress that the defendant be imprisoned in the
said prison for the space of -----commencing at the termination of the
imprisonment before adjudged, unless the said sum (and all costs and charges of the (said
distress and) commencement be sooner paid).

Judge (or Magistrate).

FIRST SCHEDULE.-continued

FORM 15

ORDER FOR MONEY (NOT A CIVIL DEBT)

(General Title-Form 1)

Before the High/Magistrate's Court of the-----
-----Judicial

Division Magisterial District sitting at-----

The-----day of-----20-----

Information having been filed/A.B. having made a complaint that C.D. hereinafter called the
defendant, on the-----day of-----at-----
within the-----aforesaid did -----On trial of
the aid defendant/on hearing the said complaint, it is ordered that the defendant pay to the
said----- the sum of-----, and also the sum of-----
----for costs (by instalments of -----for every -----days, the
first instalments to be paid) forthwith (or on the -----day of -----
-----)

And in default of payment it is ordered that (the said sum due be levied by distress and sale of
the defendant's goods, and in default of sufficient distress that) the defendant be imprisoned
in the prison at-----and there kept to hard labour (or without hard labour) for the

space of -----unless the said sum (and all costs and charges of the [said distress and) commitment be] sooner paid.

Judge (or Magistrate)'

Section
185

FIRST SCHEDULE.-continued

FORM 16

ORDER OF DISMISSAL WITH DAMAGES

General Title - Form I)

Before the Magistrate's Court of the -----
---- Magisterial District sitting at-----

The----- day of-----20-----

Complaint having been made by A.B that C.D hereinafter called the defendant, on the-----
-----day of -----at -----in the-----
-----aforesaid did-----

And the Court being of opinion that, though the said charge is proved, the offence is of so trifling a nature that it is inexpedient to inflict any punishment doth hereby dismiss the said information:-

Bui doth order that the defendant do pay the complainant-----for damages and --
----- for costs (by instalments of-----for every-----
-----days, the first instalment to be paid) forthwith (or on the-----
---day of-----)

And in default of payment it is ordered that the sum due be levied by distress and sale of the defendant's goods, and in default of sufficient distress that the defendant be imprisoned in the prison-----for the space of-----unless the said sum (and all costs and charges of the (said distress and) commitment be sooner paid).

Magistrate

Section
185

FORM 17

FIRST SCHEDULE -continued

ORDER FOR OTHER MATTERS

(General Title-Form 1)

Before the High/Magistrate's Court of the-----
Judicial

Division/Magisterial District sitting at-----
--

The-----day of-----20-----

Information having been preferred against C.D./A.B, having made a complaint that C.D.
hereinafter called the defendant on the-----day of-----
at-----in the----- aforesaid, did-----

On trial of the said defendant on hearing the said complaint, it is ordered that the defendant
do-----
-----If imprisonment is order, add:-

And it is adjudged that if the defendant neglect or refuse to obey this order, he be imprisoned
in the prison at -----for the space of-----
days (or unless the said order be sooner obeyed).

If costs are ordered, add: -

And it is ordered that the defendant pays to the said-----the sum
of -----

for costs [by instalments of -----for every-----days,
the first instalments to be paid] forthwith [or on the -----day of-----
-----]

And in default of payment it is ordered that sum due be levied by distress and sales of the
defendant's goods, and in default of sufficient distress that the defendant be imprisoned in the
said prison for the space of ----- commencing at the termination of the
imprisonment before adjudged, unless the said sum (and all costs and charges of the (said
distress and) commitment) be sooner paid)

Judge (or Magistrate

FORM 18

ORDER OF DISMISSAL

(General Title-Form 1

Before the High/Magistrate's Court of the-----
-----Judicial

Division/Magisterial District sitting at-----

The-----day of-----20-----

Compliant having been made by -----that A.B. hereinafter
called the

defendant, on the-----day of----- at-----
in the -----aforesaid did-----

On its merits
or without
prejudice to
its being
brought again

This Court having heard and determined the said complaint doth dismiss the same:

If costs are ordered, add •

And it is ordered that the complaint pay to the defendant the sum of -----
--for costs (by instalments of-----for every -----
---days, the first instalment to be paid) forthwith (or on the-----day
of-----)

And in default of payment it is ordered that the sum due be levied by distress and sale of the
complainant goods, and in default of sufficient distress that the complainant be imprisoned in
the prison-at-----for the space of -----unless the: said sum
(and all costs and charges of the (said distress and) commitment) be sooner paid).

Magistrate

Cap 37

FIRST SCHEDULE -continued

FORM 19 -continued

FORM 19

ORDER UPON FINDING CHILD OR YOUNG PERSON GUILTY OF AN INDICTABLE OFFENCE

(General Title-Form I)

Before the High//Magistrate's Court of the-----
-----Judicial Division/Magisterial District sitting at-----

The-----day of-----20-----

A.B. hereinafter called the defendant being a child/young person within the meaning of the
Criminal Procedure Law and above the age of 7/14 years, is this day found guilty of the
offence of -----without objection of the parent or guardian, for that he on
the -----day of-----at -----in the-
-----aforesaid did.-----

And it is adjudged that (proceed as in other forms of conviction, if whipping is ordered insert either in addition to or in substitution for any other punishment- And that the defendant being a male under the age of 17 years be, as soon as practicable, privately whipped with-----
----- stokes of -----)-

Judge (or Magistrate)

FORM 20

SUMMARY CONVICTION (BY CONSENT) FOR INDICTABLE OFFENCE

Section
192

(General Title—Form 1)

Before the Magistrate's Court of the -----
Magisterial District sitting at-----

The----- day of-----20-----

A.B. hereinafter called the defendant within the meaning of the Criminal Procedure Law is
this day charged for that he, on the-----day of-----
----at-----within the-----aforesaid do--

The defendant, having consented to be dealt with summarily, is convicted of the said offence;
And it is adjudged that (Proceed as in other forms of conviction)

Judge (or Magistrate)

FIRST SCHEDULE -continued

FORM 21 - continued

FORM 21

CONVICTION (ON PLEA OF GUILTY) FOR INDICTABLE OFFENCE

(General Title—Form I)

Before the High/Magistrate's Court of the-----
---- Judicial Division /Magistrate's District sitting at-----

The----- day of----- 20-----

A.B. hereinafter called the defendant, is this day arraigned/charged for that he, on the-----

day of -----, at -----within the -----
-----aforesaid did -----

And the defendant having pleaded guilty to such information/the charge is convicted of the
offence, and is adjudged to be imprisoned in the prison at-----
--- and there kept to hard labour (or without hard labour) for the space of-----

If costs are ordered, add -

And in default of payment it is ordered dial the sum due be levied by distress and sale of the
defendant's goods, and in default of sufficient distress that the defendant be imprisoned in the
said prison for the space of-----commencing at the
termination of the imprisonment before adjudged, unless the said sum [and all costs and
charges of the (said distress and) commitment] be sooner paid.

Judge (or Magistrate)

Section
399

FORM 22

CONVICTION OR PENALTY. AND. IN DEFAULT PAYMENT, IMPRISONMENT

(General Title-Form1)

Before the High/Magistrate's Court of the-----
-- Judicial Division/Magisterial District sitting at-----

The -----day of-----20-----

A.B. hereinafter called the defendant, is this day convicted for that he, on the-----
----- day of-----at-----
within the-----aforesaid, did -----

And it is adjudged that the defendant for his said offence do forfeit and pay the sum of-----
-----and do also pay the farther sum of-----for compensation and
for costs [by installments of -----for every-----days, the first instalment to
be paid] forthwith (or on the-----in default of payment it is adjudged that [the
sums due under that] the defendant be imprisoned in the prison at-----
-----[and all cost and charges of the (said distress and) commitment] be sooner paid

Judge (or Magistrate)

ENDORSEMENT WHERE SECURITY FOR PAYMENT IS PERMITTED

It is ordered that the defendant be at liberty to give to the satisfaction of (this court) security in the sum of -----with-----
-----surety-----in the sum of----- (each) for the due payment of the said sums as adjudged.

Judge (or Magistrate)

FORM 23

WARRANT OF DISTRESS (FOR PENALTY)

(General Title-Form1)

To-----

A.B. hereinafter called the defendant, was on the -----day of-----
----- convicted before the High/Magistrate's Court of summary jurisdiction sitting at-----for that he on the-----day of-----
-----at -----in the-----
aforesaid, did-----

And it is adjudged that the defendant for his said offence should be imprisoned [for forfeit and pay the sum of-----], and should also pay the sum of-----
[for compensation and -----] for costs [by installments of -----
for every-----days, the first instalment to be paid] for costs [by instalments of -----
-----for every -----days, the first instalment to be paid] forthwith
[or on the-----day of-----[and that in default the said sum [or sums]
should be levied by distress,-----and default having been made in payment.

You are hereby commanded forthwith to make distress or the goods of the defendant except the wearing apparel and bedding of him and his family, and, to the value of -----
naira, the tools and implements of his trade; and if within the space of 5 clear days next' after the making of such distress, unless he consents in writing to an earlier sale, the sum stated at the foot of this warrant, together with the reasonable costs and charges of the making and keeping of the said distress, be not paid, then to sell the said goods, and pay the money arising therefrom to the registrar of that court, and if no such distress can be found, to certify the same to that court.

Dated the-----day of-----20 -----

Judge (or Magistrate)

N K

Amount adjudged-----

Paid-----

Remaining due-----

Cost of issuing this warrant-----

Total amount to be levied-----

SECOND SCHEDULE

CHARGES

UNDER CRIMINAL CODE WITH ONE HEAD

1. That you on the -----day of-----at-----

Being employed in the public service, and being charge with the performance of a duty by virtue of such employment, not being a duty touching the administration of justice corruptly asked, received or obtained, or attempted to receive or obtain, any property or benefit of any kind for yourself or any other person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by you in the discharge of the duties of your office-and thereby committed an offence punishable under section 98(a) of the Criminal Code.

2.. That you, on the-----day of-----at-----

being a witness upon the trial of a case in the Magistrate's Court of the-----
Magisterial District sitting at----- in which one ----- was
complainant and one-----was defendant, knowingly falsely swore that
you saw on M.N. snatch a leather wallet from one Y.Z. in a street culled Ogui Road Awka on
the-----of-----and thereby committed an offence punishable
under section 146 of the Criminal Code.

3. That you. on the-----day of----- at-----
with intent to mislead the court in the court of the trial of ----- fabricated
evidence by means other than perjury to wit ----- and thereby committed
an offence against section 148 of the Criminal Code.

Section 148

4. That you, being a Common prostitute, on the day of-----at-----,-
behaved in an indecent manner by exposing your naked person in Owerri Road and thereby
committed an offence punishable under section 249 (a) (i) of the Criminal Code

Section
247(a)(i)

5. That you, on the -----day of unlawfully killed -----and thereby
committed an offence punishable under section 325 of the Criminal Code.

Section 279

Section 255
and 515

Criminal
Code section
125(a)

Criminal
Code section
146

6. That you, on the-----day of -----at-----
aided A.B in killing himself and thereby committed an offence punishable under section
326 (c) of the Criminal Code. Section 280(c)

7. That you, on the -----day of-----at----- Section 288(a)
unlawfully wounded C.D with intent to maim, disfigure or disable or to do some grievous
harm or to resist the lawful arrest of yourself and thereby committed an offence punishable
under section 332 (a) of the Criminal Code. Section 297(a)

That words not applicable must be deleted and the nature of the property or benefit must be
specified

8. That you, on the-----day of -----at-----, Section 255
unlawfully wounded-----and thereby committed an offence punishable
under section 338 (a) of the Criminal Code.

9. That you, on the -----day of----- at----- Section 364
unlawfully and indecently assaulted M.S. and thereby committed an offence punishable
under section 360 of the Criminal Code

10. That you, on the -----day of-----at----- Section 364
, robbed C.D {state the thing} and thereby committed an offence punishable under section
402 of the Criminal Code

11. That you, on the ----- day of----- at-----
-----, with intent to defraud, obtained from S.P 4.57 metres of cloth by falsely
pretending that you were a servant to J.S and that you had then been sent by the said J.S to
S.P for the said cloth, and that you were then authorized by the said J.S. to receive the cloth
on behalf of the said J.S. and thereby committed an offence punishable under section 419 of
the Criminal Code

12. That you, on the-----day of-----20-----
at-----with intent to defraud, obtained from A.B-----by
falsely pretending that you were able to double money

Section 396 13. That you, on the-----day of -----at-----,
had in your possession one gold watch reasonably suspected of having been stolen or
Section 416 unlawfully obtained and thereby committed an offence punishable under section 430 (1) of
the Criminal Code

14. That you, on the -----day of-----at -----
wilfully and unlawfully set fire to a house and thereby committed an offence punishable
under action-433 of the Criminal Code.

Section 443 15. That you, on the ----- day of----- at-----
forged an accountable receipt purporting to be the receipt of C.D, and thereby committed an
offence contrary to section 467 (2) (a) of the Criminal Code

CHARGES WITH TWO OR MORE HEADS

Section 216

16. *First*, That you, on the----- day of-----at -----
---unlawfully supplied to C.D. (state thing supplied). knowing that it was intended to be
unlawfully used to procure the miscarriage of a woman and thereby committed an offence
punishable under section 230 of the Criminal Code

Secondly,

That you, on or about the----- day of-----at -----
--- unlawfully procured for C.D. (State thing procured) knowing that it was intended to be
unlawfully used to procure the miscarriage of a woman and thereby committed an offence
punishable under section 230 of the Criminal Code.

Section 246(a)

17. *First*, That you, on the -----day of-----at-----
sold matches made with white (yellow) phosphorus and thereby committed an offence
punishable under section 248 (a) of the Criminal Code

Section 353

18. *First*,
That you, on the----- day of-----at-----
stolen (state the thing stolen) the property of C.D. and thereby committed an offence
punishable under section 390 of the Criminal Code

Secondly

That you, on the----- day of-----at -----
--stole, (state the thing stolen) which had been entrusted to you by C.D. for you to retain in
safe custody and thereby committed an offence punishable under section 353(8) (b) of the
Criminal Code

Thirdly

That you, on the -----day of----- at-----
----- stole, (state the things stolen) which had been received by you for and on account
C.D and thereby committed an offence punishable under section 353 (8)(c) of the Criminal
Code

MISCELLANEOUS

19. That you, being the holder of a retail licence, on the-----day of -----
-----permitted drunkenness to take place on your premises situate at-----
-----and thereby committed an offence punishable under section 54(a)of the
Liquor Law.

Liquor Law
cap.83,
section
54(a)

20. That you, on the-----day of-----at-----
kept a dog over the age of 3months without a licence .and thereby committed an offence
against section 6 and punishable under section 19 of the Dogs Law

Dogs Law
Cap.42.
section 6

21. That you, on the -----day of-----being an
unlicensed person, for or in the hope of obtaining a reward offered to act as guide and
thereby committed an offence against section 5(1) and punishable under section 10 of the
Unlicensed Guides (Prohibition) Law

Unlicensed
Guides
(Prohibition)
Law Cap.141
section 44

22. That you on the-----day of-----at-----
drove a motor vehicle on the highway recklessly, having regard to all the circumstances of
the case and thereby committed an offence and punishable under section 44 of the Road
Traffic Law

THIRD SCHEDULE

1. STATEMENT OF OFFENCE

Perjury, contrary to section 118 of the Criminal Code

Particulars of offence

A.B., on the-----day of-----20-----

in the Division of -----being a witness upon the trial of an action in the High
Court of Imo State at Aba in which one-----
was plaintiff, the one-----was defendant, knowingly gave false testimony

2. STATEMENT OF OFFENCE

that he saw one M.W in the street called the New Market Road, Onitsha, on the -----
-----day of-----20-----

Uttering counterfeit coin, contrary to section 151 of the Criminal Code

Particulars of Offence

A.B. on the-----day of----- 20 -----at-----

Market in the District of-----uttered a counterfeit kobo,
knowing the same to be counterfeit.

3. STATEMENT OF OFFENCE

Murder, contrary to section 274 of the Criminal Code

Particulars of Offence

A.B., on the-----day of-----20----- the District of-----
-----murdered J.S.

4. STATEMENT OF OFFENCE

Accessory, after the fact to murder, contrary to section 322 of the Criminal Code.

Particulars of Offence

A.B., well knowing that one. H.C., did on the----- day of-----
20 -----in the Local government Area of-----
-- and on other days, thereafter receive, comfort, harbour, assist and maintain the said H.C.

5. STATEMENT OF OFFENCE

Manslaughter, contrary to section 325 of the Criminal Code

Particulars of Offence

A.B. on the ----- day of-----20 in the Local Government Area of ----
-----unlawfully killed J.S.

6. STATEMENT OF OFFENCE

Wounding, with intent, contrary to section 332 subsection (a) of the Criminal Code

Particulars of Offence

A.B., on the----- day of----- 20 -----in
the Local Government Area of-----,wounded C.D., with intent to
maim, disfigure or disable, or to do grievous harm, or to resist the lawful arrest of him the
said A..P.

STATEMENT OF OFFENCE — SECOND COUNT

Wounding, contrary to section 338, subsection (a) of the Criminal Code

Particulars of Offence

A.B., on the-----day of-----20 -----in the Local
Government Area of -----unlawfully wounded C.D.-----

7. STATEMENT OF OFFENCE

Rape, contrary to section 309 of the Criminal Code.

Particulars of Offence

A.B., on the -----day of-----20----- in the
Local Government Area of----- had carnal knowledge of E.F.
without her consent.

8. STATEMENT OF OFFENCE

Publishing defamatory matter, contrary to section 326 of the Criminal Code.

Particulars of offence

A.B., on the-----day of-----20-----in the Local
Government Area of-----published defamatory matter
affecting in the form of a letter [book, pamphlet, picture, or as the case may be].

9. STATEMENT Of OFFENCE -FIRST COUNT

Stealing, contrary to section 353 of the Criminal Code.

Particulars of Offence

A.B., on the-----day of-----20-----
--in the Local Government Area of-----stole a bag, the property of C.D.,

STATEMENT OF OFFENCE-SECOND COUNT

Receiving stolen goods, contrary to section 393 of the Criminal Code

Particulars of Offence

A.B., on the-----day of-----20----- in the Local Government Area of----- did receive a bag, the property of C.D., knowing the same to have been stolen.

10. STATEMENT OF OFFENCE

Stealing by clerks and servants. contrary to section 353 of the Criminal Code.

Particulars of Offence

A.B., on the-----day of----- 20-----in the Local Government Area of-----being clerk or servant to M.N., stole from the said M.N. ten meters of cloth

11. STATEMENT OF OFFENCE- FIRST COUNT

Stealing by agents and others contrary to section 353(h) of the Criminal Code

Particulars of Offence

A.B., on the-----day of-----20-----in the Local Government Area of-----stole two hundred naira which had been entrusted to him by H.S., for him, the said A.B., to retain in safe custody.

STATEMENT OF OFFENCE - SECOND COUNI

Stealing by agents and others, contrary to section 353 (8) (c) of the Criminal Code.

Particulars of Offence

A.B., on the ----- day of-----20----- in the Local Government Area of----- stole two hundred naira (N200) which had been received by him for and on account of L.M.

12. STATEMENT OF OFFENCE

Robbery with violence, contrary to section 364 of the Criminal Code.

Particulars of Offence

A.B., on the-----day of.-----20----- in Local Government Area of-----robbed C.D. of a watch, and at, or immediately before or immediately after, the time of such robbery did use personal violence to the said C.D.

13. STATEMENT OF OFFENCE

Demanding property by written threats, contrary to section 371 of the Criminal Code.

Particulars of Offence

A.B., on the-----day of-----20----- in the
Local Government Area of-----with intent to extort
money from C.D , caused the said C.D., to receive a letter containing threats of injury or
detriment to be caused to E.F.

14. STATEMENT OF OFFENCE

Attempt to extort by threats, contrary to section 373 of the Criminal Code.

Particulars of Offence

A.B., on the-----day of----- 20-----in the
Local Government Area of-----with intent to extort money from C.D. accused or
threatened to accuse the said C.D. of an unnatural offence.

15. STATEMENT OF OFFENCE

Obtaining goods by false pretenses, contrary in section 386 of the Criminal Code.

Particulars of Offence

A.B., on the-----day of.-----20=====in the
Local Government Area of----- with intent to defraud, obtained
from S.P. 4.57 metres of cloth by falsely pretending that he, the said A.B., was a servant to
J.S., and that he the said A B., had then been sent by the said J.S. to S.P. for the said cloth,
and that he the said A.D. was then authorized by the said J.S. to receive the said cloth on
behalf of the said J.S.

16. STATEMENT OF OFFENCE

Burglary, contrary to section 378, and stealing, contrary to section 353 (4)(b) of the Criminal
Code.

Particulars of Offence

A.B., in the night of the-----day of-----20-----in the
Local Government Area of -----did break and enter the dwelling-
house of C.D., with intent to commit a felony therein, namely to steal therein, and did steal
therein one watch, the property of S.T.

17. STATEMENT OF OFFENCE

Conspiracy to defraud, contrary to section 497 of the Criminal Code.

Particulars of Offence

A B. and C.D., on the-----day of-----20-----
and on divers days between that day and the ----- day of. 20-----
in the Division of.-----conspired together with intent to defraud by means of
an advertisement inserted by them, the said A B. and C.D. in H.S. newspaper falsely
presenting that A.B. and C.D. were then carrying on a genuine business as jewelers at-----
-----in the Division of.-----and that they were
then able to supply certain articles of jewelry to whomsoever would remit to them the sum of
four naira.

18. STATEMENT OF OFFENCE

Fraudulent false accounting, contrary to section 408 of the Criminal Code.

Particulars of Offence

A.B., on the-----day of-----20----- in the Local Government Area of-----being clerk or servant to C.D., with intent to defraud, made, or was privy to making a false entry in a cash book belonging to the said C.D., his employer, purporting to show that on the said day two hundred naira had been paid to L.M.

STATEMENT OF OFFENCE — SECOND COUNT

Fraudulent false accounting, contrary to section 408 of the Criminal Code

Particulars of Offence

A.B., on the-----day of-----20----- in the Local Government Area of-----being clerk or servant to C.D., with intent to defraud, omitted or was privy to omitting from a cash book belonging to the said C.D., his employer, a material particular, that is to say, the receipt on the said day of one hundred naira from H.S.

19. STATEMENT OF OFFENCE

Arson, contrary to section 416 of the Criminal Code.

Particulars of Offence

A.B., on the-----day of-----20-----in the Local Government Area of-----, wilfully and unlawfully set fire to a house.

20. STATEMENT OF OFFENCE.

A.B., Arson, contrary to section 416 of the Criminal Code. C.D., accessory before the fact to same offence,

Particulars of Offence

A.B., on the----- day of-----20-----in the Local Government Area of-----wilfully and unlawfully set fire to a house, C.D., on the same day, in the Local Government Area of -----did counsel or procure the said A.B., to commit the said offence.

21. STATEMENT OF OFFENCE

Damaging trees, contrary to section 410 of the Criminal Code

Particulars of Offence

A.B., on the-----day of-----20----- in the Local Government Area of -----wilfully and unlawfully damaged a cocoa tree there growing.

22. STATEMENT OF OFFENCE-FIRST COUNT

Forgery, contrary to section 443 (2) (f) of the Criminal Code

Particulars of Offence

A.B., on the-----day of-----20-----in the Local Government Area of -----forged a certain will purporting to be the will of C.D.

STATEMENT OF OFFENCE—SECOND COUNT

Uttering a false document, contrary to section 444 of the Criminal Code

Particulars of Offence

A.B., on the-----day of----- 20----- in the Local Government Area of-----knowingly and fraudulently uttered a certain forged will purporting to be the will of C.D.

23. STATEMENT OF PREVIOUS CONVICTION

Prior to the commission of the said offence, the said A.B., had been previously convicted of burglary on the-----day of----- 20----- at the Sessions held at Enugu

FOURTH SCHEDULE

ORDER FOR SENTENCE OF DEATH TO BE CARRIED OUT

ORDER FOR EXECUTION

WHEREAS at the session of the High Court holden at-----on .the-----day of -----20-----one-----was duly convicted of a capital offence and was sentenced to death.

AND WHEREAS a copy of the finding and sentence and his notes of evidence taken on the trial has been forwarded to me by the Presiding Judge, with a report in writing signed by him;

AND WHEREAS I have been advised by the member of the Executive Council designated in that behalf:

NOW THEREFORE I do hereby order that the said sentenced be carried put according to law, and that the said-----be executed at-----at the time to be appointed by the Sheriff of----- Local Government Area, and that the body of the said-----be buried in the usual place of interment for condemned criminals executed at the place of execution:

AND FOR SO DOING this shall be your Warrant.

GIVEN under my hand and the Public Seal of Enugu State, this day of-----20---

Governor of Enugu State

To the Sheriff of -----Local Government Area

ORDER FOR SENTENCE OF DEATH TO BE COMMUTED

ORDER FOR COMMUTATION OF SENTENCE

WHEREAS at the session of the High Court holden at-----on the-----
----- day of-----20 -----one-----was
duly convicted of a capital offence sentenced to death by the-----

AND WHEREAS a copy of the finding and sentence and of his notes of evidence taken on
the trial has been forwarded to me by the Presiding Judge, with a report in writing signed by
him:

AND WHEREAS I have been advised by the member of the Executive Council designated in
that behalf

NOW' THEREFORE I do hereby commute the sentence and direct that the said sentence be
not carried out, and that in lieu thereof the said----- be imprisoned for-----

GIVEN under my hand and the Public Seal of Enugu State of Nigeria, this -----
20-----

Governor of Enugu State of Nigeria

CRIMINAL PROCEDURE LAW

SUBSIDIARY LEGISLATION

Criminal Procedure Rules

Made under section 520

1. These rules may be cited as the Criminal Procedure Rules
2. The fees prescribed in the First Schedule shall, unless remitted or waived, be payable
by the party prosecuting a proceeding or asking for a service as therein provided in respect of
the proceedings or services to which they relate.
3. Allowances may be made to witnesses in accordance with the provisions of the High
Court Rules, or of the Magistrates' Courts Rules, according as they are summoned before the
High Court or a Magistrate's Court

Citation

Payment of
fees. First
schedule

4. The forms in the Second Schedule hereto shall (together with the tide of proceedings prescribed inform No.1 in the First Schedule to the Law, where the case so admits) be used in connexion with the proceeding.for which they are provided and may be varied to suit the circumstances of the case but so that no variation of substance shall be made

FIRST SCHEDULE

All fees, the appropriation of which is not specified are to be paid to the registrar and accounted for by him to the Accountant-General.

No fees are to be taken in respect of any proceeding where such fees would be payable by any Ministry or non-Ministerial Department of the Government or a Local Government Council.

Rule 2

Provided however that when any person is ordered to pay the costs of the State or of any Ministry or non-Ministerial department of the Government or a Local Government in any case, all fees which would have been payable but for the provisions of this rule shall be taken as paid and shall be recoverable from such person.

Fees may be waived or remitted by the court on the ground of the poverty of the person chargeable therewith where it appears that there are substantial grounds for his taking the proceeding or asking for the service to be rendered;

Provided however the court may, where the court so thinks fit, order any party to pay any fees so waived or remitted.

FEES PAYABLE

	N	K
1. On every summons (to include hearing fee)----- -----	10.	00
2. On every warrant to arrest (unless specially directed by the court to be issued)----- -----	10.	00
3. On search warrant----- -----	10.	00
4. On warrant of distress----- -----	10.	00
5. On every <i>subpoena</i> (unless specially directed by the court to be issued)	10.	00
6. On warrant for prisoner to give evidence----- -----	10.	00
7. For searching the archives, for each period of 6monthsor part thereof----	0.	25

- | | | |
|--|----|----|
| 8. For preparing a copy where authorized per folio of 72 words----- | 0. | 25 |
| 9 Service of any document: | | |
| Initial fee----- | 0. | 15 |
| ----- | | |
| Plus kilometre fee- | | |
| (a) If within 1.61 Kilometre from the court----- | 0. | 15 |
| ----- | | |
| (b) If beyond 1.61 Kilometre but beyond eight | | |
| (i) for the first kilometre----- | 0. | 15 |
| (ii) for every subsequent Kilometre or part thereof (one way)----- | 0. | 08 |
| (c) If beyond 8 Kilometres: per day or part thereof of the time needed for travelling----- | 0. | 40 |
| ----- | | |

Notes: Where an officer serves more than one document or writ on the same route one kilometre rate only is to be charged, and apportioned upon the documents or writs.

Where the sheriff, deputy or a registrar executes any duty in person by direction of the court he is entitled, instead of Kilometre fees, to his actual expenses and such travelling allowance as the court may allow

When a service is rendered by a person who is not an officer of the court or in the service of the Government or of a local government or a customary court the court may direct that the fee paid for such service be paid out of revenue to the person who has rendered the services.

*

In addition to the above fees, the party on whose behalf such services are to be performed shall be liable to pay such expenses of transport as the court may think reasonable. For the performing of any other duty not herein expressly provided for the officer may receive such fee as the court may allow.

SECOND SCHEDULE

FORM A

RECOGNIZANCE

(Title of proceedings)

By this recognizance the undersigned principal party [and surety (or sureties)] acknowledges himself [or acknowledge themselves] bound to forfeit to the Governor the sum of =N=-----

-----subject only to this condition, that if [here insert the condition of the recognizance]
then this recognizance shall be thereby discharged

Principal Party

-----}

} Sureties

-----}

Taken before me at-----this-----day of-----20-----

.

FORM B

WARRANT TO BRING A PRISONER BEFORE THE COURT

(Title of proceedings)

To the Keeper of the Prison at-----

Whereas-----

a prisoner under custody is required to be produced before the court:

You are hereby commanded to produce the said prisoner before the court at-----

-----on the-----day of-----20-----at
eight o'clock in the forenoon

Issued at-----on the -----day of-----20-----

Court Fees: Warrant-----

 Hearing-----

 Total-----.

Judge (or Magistrate)

FORM C

WARRANT REMITTING DEFENDANT TO ANOTHER COURT

(Title of Proceedings)

To----- and to the Superintendent of the-----
-----Prison

A.B.,-----hereinafter called the defendant, being brought before the
above court charged with having committed the following offence within the Magisterial
District of.-----namely-----
----- (state the offence)-----

You are hereby commanded to receive and detain the defendant and to carry him and deliver
him up to the-----court without any delay. Dated
the -----day of-----20-----

Magistrate

Note: This form may be varied to suit the case in section 158 (2) of the Law.

FORM D
SEARCH WARRANT

In the Magistrate's Court of the-----
----- Magisterial District.

To-----
and -----

Whereas information on oath and in writing has this day been made that there is reasonable
ground for believing that there is in (state the place to be search -----
and state what is to be searched for in terms of (a), (b) or (c) of section 34 of the Law)

You are hereby commanded in the Governor's name, with proper assistance, to enter the
above-named (state the place to be searched) and there diligently search for the things
aforesaid and if the same or any part thereof are found on search, to bring the things so found,
and also the said (name the occupier of the place to be searched) before this court to be dealt
with according to law,

This warrant shall be executed between the hours of five o'clock in the forenoon and eight
o'clock at night

*and may also be executed at any hour during day or night.

Issued at-----this-----day of-----20-----

Magistrate

Fees:

*Strike out if not authorized.

FORM E

**WARRANT TO ARREST A PERSON FAILING TO APPEAR
PURSUANT TO RECOGNIZANCE**

(Title of Proceedings)

To-----

and-----

Whereas-----of-----is bound by recognizance to
appear before this court on----- (state when) but has failed so to
appear:

You are hereby commanded to arrest the said -----and bring him before
me at-----without delay.

Judge (or Magistrate)

FORM F

WARRANT TO CARRY OUT SENTENCE

(Title of Proceedings)

To-----and to the Superintendent of Prison:

The defendant -----was on the day of-----20-----
, sentenced as follows—

No	Offence	Term, Fine, Compensation, Costs or Strokes	Term in default

The defendant has made default in payment of the above sum {or sums, or I" and 2" above-named sums, or as the case may be}

The imprisonment is to commence forthwith [upon the expiration of any other term of imprisonment which he defendant may be now serving]

The terms are to be concurrent [or consecutive, or concurrent as to the-----and -----and consecutive, as to or as the case may be]. [The imprisonment is to be without hard labour]

You are hereby commanded to take the said defendant [and imprison him] [and cause him to be whipped] in accordance with the above sentence and the law.

Dated the-----day of-----20-----

Judge [or Magistrate]