

## THE CRIMINAL PROCEDURE ACTS, 1965

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FIRST SCHEDULE

SECOND SCHEDULE

Assented to in Her Majesty's name this 6th day of our Lord October, 1965.

H.J.L. Boston  
Governor-General

L S

No. 32



1965

The Criminal Procedure Act. 1965

Being An Act to Consolidate and Amend the Law Relating to Criminal Procedure.

[7th October, 1965]

Be it enacted by the Queen's Most Excellent Majesty, by and with P.N. 70 of The advice and consent of the House of Representatives in this 1964 Present Parliament assembled, and by the authority of the same, as follows:—

Date of commencement.

1. This Act shall come into operation on such date as the Commencement Prime Minister may by Order appoint:

Provided that the Prime Minister may if he deems it expedient either By one Order or by different Orders appoint different dates for the coming into operation of different provisions hereof.

Interpretations.

2. In this Act, unless a contrary intention appears –

“ accused ” means a person charged with a crime but does not include a defendant;



“ charge ” includes complaint;

“ child ” means a person under the age of fourteen years;

“ committed for trial ” used in relation to any person, means committed to prison with a view to his being tried before the Supreme Court and includes a person who is admitted to bail upon a recognisance to appear and take his trial before the said Court;

“ corporation ” includes a statutory corporation as defined in subsection (9) of section 32 of the Constitution, a company formed and registered under the Companies Act or the Companies Act, 1924, and any Company to which Part IX of the Companies Act applies;

Cap. 249 “ Court ” means any Court of criminal jurisdiction established by law in Sierra Leone other than a Local Court in the Provinces administered under the Local Courts Act;

“ defendant ” means a person charged with a summary offence and appearing before a Magistrate in answer to a summons;

No. 20 of 1963 “ indictment ” means a document containing the charge against the accused signed by a Law Officer and every indictment purporting to have been signed as aforesaid shall be Presumed to be so signed until the contrary is shown;

“ information ” means a document containing the charge or charges against the accused or the defendant and signed by the prosecutor and includes an indictment;

“ inquiry ” includes preliminary investigation;

“ Judge ” means a judge of the Supreme Court;

“ Law Officer ” means the Attorney-General, the Solicitor-General, the First Parliamentary Counsel and every other Crown Counsel or Parliamentary Counsel;

“ Minister ” means the Minister charged, for the time being with responsibility for matters relating to Social Welfare;

No. 2 of 1963. “ prosecutor ” includes complaint and means a person who gives information or causes information to be given on his behalf against the accused or the defendant and who intentionally associates himself with the prosecution of however that the mere signing of an indictment or ..... sheet by a law officer or other person authorised that behalf by the Attorney-General shall not make the person a prosecutor;

“ Registrar ” means any person appointed to perform the duties of a Registrar in any Court;

“ young person ” means a person who is fourteen years of age or upwards and under the age of seventeen years.

#### PART I – GENERAL PROVISIONS PROCEDURE

Procedure for Offences. 3. Without prejudice to the provisions of any enactment, all criminal offences shall be enquired into, tried and otherwise dealt with according to the provisions of this Act.

#### ARREST GENERALLY

Arrest how made. 4. (1) In making an arrest the constable 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.

(2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such constable or other person may use sufficient force to effect the arrest but no more.

(3) Nothing in this section gives a right to cause the death of any person except when a constable or private person is legally attempting to arrest the person killed, upon a charge or treason, felony or inflicting a dangerous wound and the arrest of such person cannot otherwise be accomplished.

(4) If a constable is assaulted or obstructed when making any arrest, it shall be the duty of any private person, on whom he may call for aid, to go to his assistance.

Search of place entered by person sought to be arrested.

5. If any person acting under a warrant of arrest, or any constable 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 in or being in charge of such place, shall on demand of the person so acting or such constable, allow him free entry thereto and afford all reasonable facilities for a search therein.

Procedure where entry not obtainable.

6. If entry to such a place cannot be effected under section 5 it shall be lawful in any such case as is therein mentioned for such person acting under a warrant of arrest or such person acting under a warrant of arrest or such constable having authority to arrest to enter such place and search therein and, in order to effect entrance into such place, to 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, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.

Power to break open doors and windows for purposes of liberation.

7. Any constable or other person authorised 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.

No unnecessary restraint.

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

Power to take offensive weapons or property of evidentiary value from arrested persons.

9. (1) The constable or other person making an arrest may take from the person arrested any offensive weapons which he has about his person, or anything found in his possession likely to afford material evidence for the prosecution in respect of the offensive weapons which he has about his person, or anything found in his possession likely to afford material evidence for the prosecution in respect of the offence for which the offender has been arrested. Anything so taken from an arrested person shall be produced before the Court.

(2) The constable or other person who arrests any person on a charge of an offence against the person of another may cause the person arrested by him to be examined by a medical practitioner:

Provided that any person so examined shall have the right to require that such examination shall be made in the presence of his own medical practitioner or of some other person selected by him.

All arrested persons to be brought before a Court without delay.

10. Subject to the provisions of section 80, all arrested persons shall be brought as soon as possible before the Court having jurisdiction in the case, or the Court within the local limits of whose jurisdiction any such person was arrested.

#### ARREST WITHOUT WARRANT

Private person may arrest without warrant.

11. Any person may arrest without a warrant –

- a. any person who in his presence commits a felony;
- b. any person whom he suspects of having committed a felony, if such felony had actually been committed and such private person has reasonable grounds to believe that the person arrested has committed that felony;
- c. any person offering to sell, pawn or deliver any property which such private person has reasonable grounds to believe to be stolen property;
- d. any person about to commit an act which would manifestly endanger another person's life;

- e. any person detaining or suspected of detaining any other person with the intent to kidnap or unlawfully remove him from Sierra Leone.

Person arrested to be handed over to constable.

12. When a private person arrests any person under section 11 he shall deliver the person arrested, and the property, if any, taken into possession by him, as soon as may be to a constable.

When constable may arrest without warrant.

13. (1) Any constable may without a warrant arrest –

- a. any person who commits any offence involving violence or dishonesty in his presence;
- b. any person whom any other person positively accuses of having committed any felony or any larceny, embezzlement, false pretences or receiving;
- c. any person whom any other person suspects of having committed any felony or any misdemeanour mentioned in paragraph (b), if the suspicion of such other person appears to the constable to be well founded and he shall declare his name and place of residence to the constable and accompany the latter to the nearest police station or lock up, if required to do so;
- d. any person whom he has reasonable cause to suspect of having committed or being about to commit any felony;
- e. any person whom he finds between the hours of six in the evening and six in the morning lying or loitering in any street, highway, yard, compound or other place, and not giving a satisfactory account of himself;
- f. any loose, idle or disorderly person whom he finds in any way disturbing the peace, whether in a public or private place, or causing annoyance to any person.

(2) Nothing in this section shall in any way effect or derogate from any other powers conferred on constables by this or any other Act.

Refusal to give name and residence.

14. (1) Where any person, other than a person liable to be arrested without a warrant, who has been accused of committing an offence refuses on demand of a constable to give his name and place of residence, or gives a name or place of residence which the constable has reason to believe to be false, he may be arrested by the constable in order that his name and place of residence may be ascertained.

(2) When the true name and place of resident have been ascertained he shall be released on his executing a bond, with or without sureties, to appear before a court if so required.

(3) Should the true name and place of residence of that person be not ascertained within twenty-four hours from the time of arrest, or should he fail to execute the bond, or if so required, to furnish sufficient sureties, he shall forthwith be brought before the nearest Court having jurisdiction.

Prisoner to be told cause of arrest.

15. Except where the person arrested is in the actual course of the commission of a crime or is pursued immediately after escape from lawful custody, the constable or other person making the arrest shall inform the person arrested of the cause of the arrest, and if the constable or other person is acting under the authority of a warrant, shall notify the substance thereof to the person to be arrested, and if so required shall show him the warrant.

#### PROCESS AGAINST THE ACCUSED OR DEFENDANT

Summons or Warrant.

16. (1) In every case the Court may proceed either by way of Summons to the accused or the defendant or by way of warrant for the arrest of the accused in the first instance, according to the nature and circumstances of the case.

Forms 3 and 4 in Schedule II.

(2) If the accused is undergoing imprisonment, a warrant to bring him before the Court may be directed to the Keeper of any prison within which the accused is confined.

Form of charge for summons.

17. For the issuing of a summons the information need not be put in writing or be sworn to unless the Court so directs.

The Laws of Sierra Leone on the Sierra Leone Web  
The Criminal Procedure Acts, 1965

For warrant.	<p>18. A warrant shall not be issued in the first instance, unless the Information is in writing and on the oath of the person laying the same or of some witness in that behalf.</p> <p>Provided that a Justice of the Peace may issue a warrant upon an unsworn information if there is no Judge or Magistrate available within the area of jurisdiction of the Magistrate's Court having jurisdiction in the area and the person applying for the warrant makes a statutory declaration that to the best of his knowledge and belief no Judge or Magistrate is available within that area.</p>
Service of summons.	<p>19. (1) The constable or an officer of the Court to whom a summons is delivered for service shall serve the same upon the person to whom it is directed by delivering it to him personally or by leaving it with some other person for him at his last or usual place of residence.</p> <p>(2) If service in the manner provided in subsection (1) cannot by the exercise of due diligence be effected, the serving constable or person shall affix the same to some conspicuous part of such last or usual place of residence of the person summoned and thereupon the summons shall be deemed to have been duly served.</p>
Proof of service outside local limits of jurisdiction.	<p>20. When a Magistrate's Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall send the same to the Magistrate's Court having jurisdiction in that place, and such Court shall cause the said summons to be served and shall send an affidavit of service to the issuing Court, which affidavit shall be evidence of service and the person effecting service shall not ordinarily be required to attend and give evidence as to service.</p>
Form 6 in Schedule II.	
Power of dispenses with personal attendance of accused.	<p>21. Whenever a Magistrate's Court issues a summons in respect of any offence other than a felony, it may if it sees reason to do so, and shall when the offence with which the defendant is charged is punishable only by a fine or by imprisonment not exceeding three months (whether with or without a fine) dispense with the personal attendance of the defendant, provided that he pleads guilty in writing or is represented by a legal practitioner.</p> <p>(2) The Magistrate's Court enquiring into or trying any case may in its discretion at any subsequent state of the proceedings, direct the personal attendance of the defendant, and, if necessary, enforce such attendance in manner hereinafter provided.</p> <p>(3) If a Magistrate's Court imposes a fine on a defendant whose personal attendance has been dispensed with under this section and the fine is not paid within the time prescribed, the court may forthwith issue a summons calling upon the defendant to show cause why he should not be committed to prison. If the defendant does not attend upon the return, the court may forthwith issue a warrant and commit him to prison for such term as the court may then fix.</p> <p>(4) If in any case in which the attendance of defendant is dispensed with under this section, previous convictions are alleged against him and are not admitted in writing, the court may adjourn the proceedings and direct the personal attendance of the defendant and, if necessary, enforce such attendance in manner hereinafter provided.</p>
Warrant when issued.	<p>22. Notwithstanding the issuing of a summons, a warrant may be issued at any time before or after the time appointed in the summons for the appearance of the accused.</p>
Where summons not obeyed.	<p>23. If the person issued with a summons does not appear at the time and place appointed in and by the summons and his personal attendance has not been dispensed with under section 21 the Court may issue a warrant to arrest him and cause him to be brought before such court.</p>
Form, contents and duration of warrant.	<p>24. (1) Every warrant of arrest shall be under the hand of the Judge, Magistrate or Justice of the Peace issuing it.</p> <p>(2) Every such warrant shall state shortly the offence with which the person against whom it is issued is charged and shall name or otherwise describe such person and it shall order the person or persons to whom it is directed to apprehend the person against whom it is issued and bring him before the Court issuing the warrant or before some other court having jurisdiction in the case to answer to the charge therein mentioned and to be further dealt with</p>

according to law.

- Time for execution. 25. A warrant shall remain in force until cancelled or executed. The cancellation of a warrant may be effected by the Court issuing it, or by a Court to which such issuing Court is subordinate.
- Warrant by whom executed. 26. When a warrant is directed to more officers or persons than one it may be executed by all or by any one or more of them.
- Execution of warrant. 27. A warrant may be executed by the arrest of the accused at any place in Sierra Leone.
- Removal and bail. 28. When a warrant of arrest is executed outside the local limits of the jurisdiction of the Court issuing the warrant, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest or is nearer than the Court within whose jurisdiction the arrest was made, be taken before such last-mentioned Court which shall deal with him in the same way as if brought before it under section 37.
- Court may direct security to be taken. 29. (1) Any Court issuing a warrant for the arrest of any person in respect of any offence other than murder or treason may, in its discretion, direct by endorsement on the warrant that, if such person enter into a recognisance with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed by the Court, the officer to whom the warrant is directed shall take such security and shall released such person from custody.
- Form 4 in Schedule II. (2) The endorsement shall state –
- a. the number of sureties;
  - b. the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound;
  - c. the Court before which the person arrested it to attend; and
  - d. the time at which he is to attend before the Court including an undertaking to appear at such subsequent times as may be directed by the Court.
- (3) Where such an endorsement is made, the officer in charge of any police station which on arrest the person named in the warrant is brought shall release him upon his entering into such recognisance with sureties approved by that officer in accordance with endorsement, conditioned for his appearance before the Court and at the time and place named in the recognisance.
- (4) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the recognisance to the Court.
- Issue of search warrants and proceedings thereunder. 30. (1) Any Judge, Magistrate or Justice of the Peace who is satisfied by information on oath that there is reasonable ground for believing that there is in any building, vessel, vehicle, receptacle or place –
- a. anything upon or in respect of which any offence has been or is suspected have been committed;
  - b. anything which there is reasonable ground for believing will afford evidence as to the commission of any such offence, may at any time issue a warrant under his hand authorising any constable or other person named therein to enter any constable or other person named therein to enter any such building, vessel, vehicle, receptacle or place (which shall be named in the warrant) if necessary by force and to search the same and every person found therein and if anything searched for be found, to seize the same and arrest the occupier or owner of the said building, vessel, vehicle, receptacle or place if the Magistrate of Justice of the Peace thinks fit so to direct.
- (2) Whenever any such building, vessel, vehicle, receptacle or other place is closed, any person residing in or being in charge of the building, vessel, vehicle, receptacle or place shall on the demand of the constable or other person executing the search warrant, allow him free entry thereto and afford all reasonable facilities for a search therein.

(3) If entry into the building, vessel, vehicle, receptacle or place cannot be so obtained, the constable or other person executing the search warrant may, if the warrant empowers him so to do, enter forcibly, or break-open such building, vessel, vehicle, receptacle or other place.

(4) The search warrant shall be executed by the constable or other person who shall have charge thereof; but he may be accompanied by any other persons necessary to assist him.

(5) A search warrant shall ordinarily be executed between the hours of five o'clock in the morning and ten o'clock at night, but the Judge, Magistrate or Justice of the Peace issuing the same may by an order endorsed thereon, give authority for its execution at any other time.

Search without a warrant in cases where articles are being conveyed, etc.

31. In addition to and independently of the facilities provided by section 30, it shall be lawful for any constable to detain any person carrying or conveying along any square, street, highway, quay or avenue or other public place any animal, matter or thing which such constable shall suspect of having been stolen or otherwise unlawfully obtained, or in respect of which he shall suspect that any criminal offence has been, is being or is about to be committed, and to examine any box, parcel, basket, bundle, or other package carried or conveyed by such person which he may reasonably suspect to contain any such animal, matter or thing as aforesaid; and if such person does not give a satisfactory account of himself and of any animal, matter or thing such examination may discover, to arrest such person and cause him to be taken before a Court as soon as practicable to be dealt with according to law.

Judge only may authorize search in Post and Telegraph Offices.

32. Nothing in sections 30 and 31 shall authorise any person, other than a Judge, to grant a warrant to search for a document in the custody of the Postal or Telegraph authorities or of any Telegraph Company.

Power to search for strangers in Diamond Protection Areas.

33. (1) A constable may, without warrant, enter by force if necessary any premises within a Diamond Protection Area for the purpose of searching for any person whom he has reasonable grounds to believe is a stranger:

Provided that the authority given by this section shall not entitle him to search for any other person or thing unless he is lawfully so entitled apart from this section.

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(2) Every constable acting under this section shall before entering any premises by virtue of subsection (1) deliver or offer to deliver to the owner or occupier a statement in writing signed by him to the effect that he is entering the premises because he has reasonable grounds to believe that there is a stranger thereon.

(3) For the purposes of this section the expressions "Diamond Protection Area" and "stranger" and shall bear the meanings assigned to them in section 2 of the Diamond Industry Protection Act.

Return of search warrant.

34. When any search warrant has been executed the person who executed it shall return the warrant, together with everything seized thereunder, to the Court, Judge, Magistrate or Justice of the Peace which issued the warrant. Upon the receipt of the search warrant and of all the things seized thereunder the Court, Judge, Magistrate or Justice of the Peace may make an order as to the immediate custody of the said things and, at any time thereafter, may make such an order as to their disposal as may seem proper.

Search warrants may be executed outside jurisdiction of Court issuing them in certain cases.

35. A search warrant issued by a Court, Judge, Magistrate or Justice of the Peace in the Western Area, or by a Court, Judge, Magistrate or Justice of the Peace in any district in the Provinces, for the discovery of any property stolen or otherwise unlawfully obtained may be executed in any part of the Western Area, or in any district of the Provinces, although such part or district is outside the jurisdiction of the Court, Judge, Magistrate or Justice of the Peace issuing the said warrant, and in every case in which any property alleged to have been stolen or otherwise unlawfully obtained is seized in pursuance of this section, it shall be lawful for the constable or other person to whom the search warrant was directed, without any special authority in that behalf, to arrest the person on whose premises the property was at the time of seizure, or the person from whom it was taken, if other than the person on whose premises it was, and take him before the Court within whose jurisdiction the seizure was made, to account for his possession of such property; and in every such case the Court before whom such person shall be brought shall have jurisdiction to hear and determine the matter notwithstanding that the alleged offence was committed outside the jurisdiction of the said Court.

GENERAL AUTHORITY OF THE COURTS

General authority of Courts to bring accused persons before them.

36. (1) Every Court has authority to cause to be brought before it any person who is within the local limits of its jurisdiction and is charged with an offence committed within Sierra Leone, or which according to law may be dealt with as if it had been committed within Sierra Leone, and any person within such limits against whom a complaint is made on which the Court has power to make any order for the payment of money or otherwise, and to deal with all such persons according to its jurisdiction.

(2) The Supreme Court has in addition authority to cause to be brought before it any person who is within Sierra Leone if he is charged with an offence over which the Supreme Court has jurisdiction.

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

37. (1) A Court (in this section and section 38 referred to as the Remitting Court) before which any person who is within the local limits of its jurisdiction and is charged with having committed an offence within the local limits of the jurisdiction of another Court is brought, shall unless authorised to proceed in the case, send him in custody to the Court within the local limits of whose jurisdiction 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.

(2) The Remitting Court shall send to the Court to which the person charged is remitted for trial an authenticated copy of the information, summons, warrant and all other process or documents in its possession relative to such person.

Removal under warrant.

38. Where any person is to be sent in custody in pursuance of section 37, a warrant shall be issued by the Remitting Court and that 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 for trial.

Form 1 in trial schedule II.

PLACE OF ENQUIRY AND TRIAL

Courts other than the Supreme Court.

39. Subject to the provisions of the Courts Act, 1965, and to the powers of transfer conferred by the section 43, the place for the investigation and trial of offences by Courts other than the Supreme Court shall be determined according to the following rules—

- a. An offence shall be enquired into and tried in the Judicial District in which it was committed.
- 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 enquired into or tried in any district in which any such thing has been done or omitted to be done, or any such consequence has ensued.
- c. When an act is an offence by reason of its relation to another act which is also an offence, or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be enquired into or tried in the District in which either act was done.
- d. In any of the following cases, that is to say—
  - i. when it is uncertain in which of several Districts an offence was committed; or
  - ii. when an offence is committed partly in one District and partly in another; or
  - iii. when an offence is a continuing one, and continues to be committed in more Districts than one; or
  - iv. (when it consists of several acts done in different Districts,

the offence may enquired into and tried in any one of such Districts.

Offence committed on a journey.

40. An offence committed whilst the offender is in the course of performing a journey or voyage may be enquired into or tried in a District through or into which the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

Offences at sea or

41. When a person is accused of the commission of an offence at sea or elsewhere out of Sierra Leone, which

elsewhere out of Sierra Leone.

according to law may be dealt with in Sierra Leone, the offence may, subject to the provisions of section 53, be enquired into and tried at any place in Sierra Leone to which the accused person is first brought or to which he may taken thereafter.

Offences by public officers abroad and offences on aircraft.

42. (1) Any public officer, who commits outside Sierra Leone, when acting or purporting to act in the course of his duties, any act, which if committed in Sierra Leone would be an offence shall be guilty of an offence of the same nature, and subject to the same punishment, as if the act had been committed in Sierra Leone.

(2) Any person who commits on an aircraft operated by or on behalf of a company registered in Sierra Leone, any act which, if committed in Sierra Leone would be an offence shall be guilty of an offence of the same nature, and subject to the same punishment, as if the act had been committed in Sierra Leone.

No. 22 of 1964. 1965.

(3) Any person may be proceeded against, tried and punished for an offence under this section in any part of Sierra Leone in which he is apprehended or is in custody as if the offence had been committed in that part of Sierra Leone and the offence shall for all purposes incidental to or consequential on the trial or punishment thereof, be deemed to have been committed in that part of Sierra Leone.

Power of Judge to transfer cases.

43. Whenever it is made to appear to a Judge, by summons —

- a. that some question of law is likely to arise, which it is desirable should be decided by the Supreme Court;
- b. that an order under this section will tend to the general convenience of the parties or witnesses; or
- c. that such an order is otherwise expedient for the ends of Justice,

the Judge may order —

- i. that an offence be enquired into or tried by the Supreme Court or any subordinate Court not empowered by sections 39 and 40 but in other respects competent to enquire into or try such offence;
- ii. that an accused person committed to the Supreme Court or trial;
- iii. that an accused person committed to the Supreme Court for trial instead of being tried at the place where he would but for the order have been tried, be tried by the Supreme Court at such other place as may be specified in the order.

(2) The Judge may act on the application of any party interested after due notice to all other interested parties.

(3) When an accused person makes an application under this section, the Judge may before granting the same, direct him to enter into a recognisance, with or without sureties, conditioned that he will, if convicted, pay the costs of the prosecution.

(4) If, in any criminal cause, before any evidence is taken a Law Officer, the accused, or any person having the conduct of the prosecution or the defence, notifies to the Court before which the cause is pending his intention to make an application under this section in respect of the cause, the Court shall adjourn the cause to such a date as will afford a reasonable time for the application being made, and an order being obtained thereon before the accused is called on for his defence.

#### CONTROL OF ATTORNEY-GENERAL OVER CRIMINAL PROCEEDINGS

Control of Attorney-General over Criminal Proceedings.

44. (1) In any criminal case, and at any stage thereof before verdict or judgement, the Attorney-General may enter a *nolle prosequi* either by stating in Court or by informing the Court in writing that, the Crown intends that the proceedings shall not continue and thereupon the accused or the defendant as the case may be shall be at once discharged in respect of the charge for which the *nolle prosequi* is entered, and if he has been committed to prison shall be released or if on bail his recognisances shall be discharged; but such discharge of an accused person shall not operate as a bar to any subsequent proceedings against him on account of the same facts.



(2) If the accused or the defendant, as the case may be, is not before the Court when such *nolle prosequi* is entered, the Court shall forthwith cause notice in writing of the entry of such *nolle prosequi* to be given to the keeper of the prison in which such accused may be detained, and also shall forthwith cause a similar notice in writing to be given to any witnesses bound over to prosecute and to their sureties (if any), and also to the accused and his sureties in case he shall have been admitted to bail.

Attorney-General may delegate certain powers to *nolle prosequi*, etc.

45. (1) The Attorney-General may order in writing that the power expressly vested in him by section 44 be vested for the time being any other Law Officer and the exercise of these powers by such other Law Officer shall then operate as if they had been exercised by the Attorney-General, so however that the power to enter a *nolle prosequi* in any proceedings preliminary to the committal of the accused for trial on indictment shall not be vested in any person other than the Attorney-General.

(2) The Attorney-General may in writing revoke any order made by him under this section.

Powers of Director of Public Prosecutions.

46. (1) Notwithstanding the provisions of section 44 and 45 when a Director of Public Prosecutions shall have been appointed, he shall have power in any case in which he considers it desirable so to do—

- a. to institute and undertake criminal proceedings against any person before any court in respect of any offence against the law of Sierra Leone;
- b. to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and
- c. to discontinue at any stage before judgment is delivered any such criminal proceedings.

(2) The powers conferred upon the Director of Public Prosecutions by paragraphs (b) and (c) of subsection (1) shall be vested in him to the exclusion of any other person or authority:

Provided that, where any other person or authority has instituted criminal proceedings nothing in this paragraph shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the Court.

(3) In the exercise of the powers conferred upon him by his section the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority.

(4) For the purposes of this section, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved, for the purposes of any such proceedings, to any other court shall be deemed part of those proceedings.

(5) Until an appointment is made to the office of Director of Public Prosecutions the powers conferred upon the Director Public Prosecutions by this section shall be exercised by the Attorney-General.

#### PREVIOUS ACQUITTAL OR CONVICTION

Persons convicted or acquitted.

47. A person, who has been once tried for an offence and convicted or acquitted of such offence, shall not be liable to be tried against on the same facts for the same offence or any other offence of which he could have been lawfully convicted at the first trial, unless a retrial is ordered by a Court having power to do so.

Consequences supervening or not known at time of former trial.

48. A person convicted or acquitted of any act causing consequences, which together with such act constitute a different offence from that for which such person was convicted or acquitted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened or were not known to the Court to have happened at the time when he was acquitted or convicted.

Proof of previous conviction.

49. In any information or indictment against any person in which evidence of the previous conviction, or acquittal of such person for any offence is relevant to the issue, a certificate containing the substance and effect only (omitting

the formal part) of the information or indictment and conviction or acquittal for such offence, purporting to be signed by the officer having the custody of the records of the Court where the offender was convicted or acquitted, or by his deputy, shall, upon proof of the identity of the person convicted or acquitted be sufficient evidence of the said conviction or acquittal without proof of the signature or official character of the person appearing to have signed the same.

#### RULES AS TO INFORMATIONS AND INDICTMENTS

Rules as to informations and charges.

50. The rules contained in the First Schedule with respect to informations and indictments shall have effect as if enacted in this Act, but those rules may be added to, varied, revoked, or replaced by further rules made by the Chief Justice with the approval of the House of Representatives, and the Chief Justice is hereby empowered to make such further rules.

General provisions as to informations and charges.

51. (1) Every information or indictment shall contain, and shall be sufficient if it contains, a statement of the specific offence or offences with which the accused is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

(2) Notwithstanding any rule of law or practice, an information or indictment shall, subject to the provisions of this Act, not be open to objection in respect of its form or contents if it is framed in accordance with the rules under this Act.

Joinder of charges and defendants.

52. (1) Subject to the provisions of rules made under section 50, charges for more than one felony or for more than one misdemeanour, and charges for both felonies and misdemeanours may, if those charges are founded on the same facts or form or are a part of a series of offences of the same or a similar character, be joined in the same complaint, information or indictment and tried at the same time, but where under the provisions of this section a felony is tried together with a misdemeanour in the Supreme Court, then if the trial is with a jury, the jury shall be sworn and the person accused shall have the same right of challenging jurors as if all the offences charged in the indictment were felonies.

(2) The following persons shall be charged and tried together, namely—

- a. persons accused of the same offence committed in the course of the same transaction;
- b. persons accused of an offence and persons accused of aiding and abetting or being an accessory to or of attempting to commit such offence;
- c. persons accused of different offences where all such offences are founded on the same facts or form or are part of a series of offences of the same or a similar character;
- d. persons accused of different offences committed in the course of the same transactions.

#### OFFENCES BY NON-CITIZENS WITHIN THE TERRITORIAL SEA

Conditions precedent to trial of foreigners for offences committed in territorial sea.

53. (1) Subject to subsection (2), proceedings for the trial of any person, who is not a citizen of Sierra Leone for an offence committed within the territorial sea of Sierra Leone, shall not be instituted in any court except with the consent of the Attorney- General and upon his certificate that it is expedient that such proceedings should be instituted.

(2) (a) Proceedings before a Magistrate previous to the committal of an offender for trial or to the determination of the Magistrate that the offender is to be put on trial, shall not be deemed proceedings for the trial of the offence committed by such offender for the purposes of the said consent and certificate under this section.

(b) It shall not be necessary to aver in any information or indictment that the certificate of the Attorney-General required by this section has been given; and the fact of the same having been given shall be presumed unless disputed by the defendant at the trial; and the production of a document purporting to be signed by the Attorney-General and containing such consent and certificate shall be sufficient evidence of the consent and certificate required by this

section.

(3) This section shall not prejudice or affect the trial of any act of piracy as defined by the law of nations.

#### COMPENSATION AND COSTS

Compensation may be ordered.

54. (1) When any person is convicted of an offence and the facts constituting the offence amount also to a tort against the person or property of the prosecutor, the Court before which such person is convicted may, on the application of the prosecutor and after taking any such further evidence as it deems necessary, order the person convicted to pay the prosecutor such sum as appears to the Court to be reasonable compensation (not exceeding in the case of a summary conviction one thousand Leones) in addition to or in lieu of any other punishment.

(2) Where a prosecutor has actually received the compensation awarded under the provisions of subsection (1) or any part thereof the convicted person shall be released from all further or other proceedings by the prosecutor whether civil or criminal for the same cause.

Costs payable by party convicted.

55. The Court may order any person convicted before it to pay all or any specified part of the expenses of his prosecution.

Costs to be paid by prosecutor, in certain cases.

56. Where it appears to the Court that a charge is malicious, frivolous or vexatious, the Court may order the prosecutor to pay all or any specified part of the expenses of the prosecution or of the defence.

Payments to parties.

57. When exercising the powers conferred upon it by section 55 or 56, the Court may order that the whole, or such portions as the Court thinks fit, of the expenses so paid be paid over to the prosecutor or to the accused or defendant, as the case may be.

Recovery of damages, etc., as a judgement debt.

58. Any compensation or expenses awarded under section 54 to 57 or paragraph (b) of subsection (1) of section 60 shall not be regarded as a penalty, but shall be recoverable as a judgment debt in the Court by which the order for payment is made:

Provided that nothing in this section contained shall in any way affect or limit the powers conferred upon the Court by sections 59 and 60.

Return of property found on person arrested, and release of property returned in Courts.

59. (1) Where upon the arrest of a person charged with an offence any property is taken from him, the Court before which he is charged may order that the property or a part thereof be restored to the person who appears to the Court to be entitled thereto.

(2) Where property is retained in court pending an appeal on application by release of summons any Judge of the Court to which an appeal has been made or in which notice of leave to appeal has been entered, may if he considers that the property is not necessary for the determination of the questions raised in the appeal order the property or any part thereof to be returned to the person who appears to him to be entitled thereto.

Restitution of property stolen or its value.

60. (1) Where any person is convicted of having stolen or otherwise obtained any property dishonestly by means of any felony or misdemeanour, the Court convicting him may—

- a. order that the property or 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 then is, of any sum named in such order;
- b. make an assessment as to the value of such property at the time it was so stolen or otherwise obtained as aforesaid and order that the sum so assessed be paid by the person convicted to the person who appears to it to be the owner of the property.

(2) This section shall 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 or money 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 had been stolen or otherwise dishonestly obtained; or
- c. any offence against sections 20, 21 and 22 of the Larceny Act, 1916.

(3) On the restitution of any stolen property if it appears to the Court by the Evidence that the person convicted has sold the stolen property to any person, and that such person has had no knowledge that the same was stolen, and that any moneys have been taken from the person convicted on his apprehension and not returned to him under section 59, the Court may, on the application of such purchaser, order that out of such moneys a sum not exceeding the amount of the proceeds of such sale be delivered to the said purchaser.

#### PRESERVATION OF TESTIMONY IN CERTAIN CASE

Power to take depositions of persons dangerously ill.

61. Whenever it appears to any Court that any person dangerously ill or hurt, and not likely to recover, is able and willing to give material information relating to any offence, and it shall not be practicable to take the depositions of the person so ill or hurt . in accordance with the provisions of Part III in relation to preliminary investigation, the Court may take in writing the statement on oath or 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 the 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.

Notices to be given in certain cases.

62. If the statement taken in writing under section 61 relates or is expected to relate to an offence for which any person is under a charge or committal for trial, reasonable notice of the intention to take the same shall 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 Court, to the place where the statement is to be taken.

Form 13 in Schedule II.

Transmission of statement.

63. Where such statement relates to an offence for which any person is then or subsequently committed for trial, it shall be transmitted to the Court in which such person is to be tried, and a copy thereof shall be transmitted to the Attorney-General.

When statement may be used in evidence.

64. (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, if the person who made the statement be dead, or the court is satisfied that for any sufficient cause his attendance cannot be procured, and if reasonable notice of the intention to take such statement was served upon the person against whom it is to be read in evidence and he had or might have had, if he had chosen to be present, full opportunity of cross-examining the person making the same.

(2) The signature and attestation of the Judge or Magistrate by whom such statement was taken 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 proof unless the Court shall see reason to doubt the genuineness thereof.

#### DEPOSITION AND STATEMENTS

Depositions admissible in certain cases.

65. Where any person has been committed for trial for any offence, the deposition of any person taken before the committing Magistrate may, if the conditions hereinafter set out are satisfied, without further proof be read as evidence on the trial of that person, whether for that offence or for any other offence arising out of the same transaction, or set or circumstances, as that offence. The conditions hereinbefore referred to are the following—

- a. the deposition must be the deposition of a witness whose attendance at the trial is stated to be unnecessary in accordance with the provisions of section 127, or of a witness who cannot be found, or whose attendance cannot be procured without an amount of delay, expense or inconvenience which in the circumstances of the case, the court considers unreasonable, or who is proved at the trial by the oath of a credible witness to be dead or insane, or so ill as not to be able to travel, or to be kept out of the way by means of the procurement

- of the accused or on his behalf;
- b. it must be proved at the trial either by a certificate purporting to be signed by the Magistrate before whom the deposition purports to have been taken or by the clerk to such Magistrate, that the deposition was taken in the presence of the accused and that the accused or his advocate had full opportunity of cross-examining the witness;
- c. the deposition must purport to be signed by the Magistrate before whom it purports to have been taken: Provided that the provisions of this section shall not have effect in any case in which it is proved—
  - i. that the deposition, or, where the proof required by paragraph (b) is given by means of a certificate, that the certificate was not in fact signed by the Magistrate by whom it purports to have been signed; or
  - ii. where the deposition is that of a witness whose attendance at the trial is stated to be unnecessary as aforesaid, that the witness has been duly notified that he is required to attend the trial.

Deposition of medical practitioner may be read as evidence.

66. (1) The deposition of a medical practitioner or other medical witness, taken and attested by a Magistrate in the presence of the accused person, may be read as evidence, although the deponent is not called as a witness.

(2) The Court, may if it thinks fit, and on the application of the accused person shall, summon and examine such deponent as to the subject matter of his deposition.

(3) The provisions of this section shall be in addition to and not in derogation of any other provisions of this Act.

Statement of accused on examination.

67. Any statement made by the accused at the preliminary investigation may be given in evidence if admissible according to the rules of evidence.

Proof of depositions and statement.

68. The signature and attestation of the Magistrate holding the preliminary examination shall be sufficient *prima facie* proof of any deposition or statement and that the same was taken in all respects according to law, and such attestation and signature shall be admitted without proof, unless the court shall see reason to doubt the genuineness thereof.

Dying declaration.

69. (1) In a trial on indictment for murder or manslaughter, the declaration of a *deceased* person, whether it be made in the presence of the accused person or not, may be given in evidence if the *deceased* person at the time of making such declaration believed himself in danger of imminent death and entertained at the time of making it no hopes of recovery.

(2) In a trial otherwise than upon indictment for murder or manslaughter where the cause of death of a *deceased* person comes into question, the declaration of the *deceased* whether it be made in the presence of the accused or not, may, at the discretion of the Court be given in evidence if the *deceased* at the time of making the declaration believed himself to be in danger of approaching death although he may have entertained at the time of making it, hopes of recovery.

Certain scientific reports to be evidence.

70. (1) Any document purporting to be an original report under the hand of any public officer who is a medical practitioner, dental surgeon, analyst, chemical examiner or geologist, or of any assayer or mineralogist recognized by the Minister of Mines for the purposes of this section by notification published in the Gazette, upon any substance or thing submitted to him for examination or analysis and report, may, if it is directed to the court or is produced by any constable to whom it is directed or someone acting on his behalf, be used as evidence of the facts therein stated in any enquiry, trial or other proceeding under this Act.

(2) Any document purporting to be an original report under the hand of a qualified medical practitioner or dentist relating to the nature or extent of the injuries of any person certified to have been examined by such practitioner or dentist, may if it is directed to the Court or is produced by any constable to whom it is addressed or by someone acting on his behalf, be admitted as evidence of the facts therein stated in any preliminary investigation or trial before a Magistrate's Court.

(3) Any document purporting to be an original report under the hand of a person gazetted as an examining officer

relating to the condition of any motor vehicle or trailer, may, if it is directed to the Court or produced by any constable to whom it is addressed or by someone acting on his behalf, be admitted as evidence of the facts therein stated in any preliminary investigation or trial before a Magistrate's Court. For the purposes of this subsection the expression "examining officer", "motor vehicle" and "trailer" shall have the meanings respectively assigned to them under the Road Traffic Act, 1964.

Act No. 62 of 1964.

(4) The Court may presume that the signature to any such document is genuine, and that the person signing it held the office which he professed to hold or was recognized as an assayer or mineralogist at the time when he signed it.

(5) Upon receiving such report in evidence the Court shall, if it thinks such a course proper for the ends of justice, summon and examine such medical practitioner, dentist, analyst, chemical examiner, geologist, assayer, or mineralogist, or person gazetted as an examining officer in accordance with the provisions of subsection (3), as a witness or cause his evidence to be taken on commission as the case shall require.

#### LUNACY OF ACCUSED AND DEFENCE OF LUNACY

Inquiry by Court.

71. (1) When in the course of a trial of preliminary investigation (but not an inquest) the Court has reason to believe that the accused or the defendant is of unsound mind and consequently unable to make his defence, it shall order the accused to be confined in a mental hospital for a period of thirty days for observation. Before or immediately upon the conclusion of this period the Chief Medical Officer shall cause a report on the condition of the accused or the defendant signed by two registered medical practitioners (which reports may, if such be the case, indicate that the practitioners who signed the same hold different opinions as to the accused's mental state) to be sent to the Court, which shall forthwith, after considering the report and taking such further evidence as it shall consider necessary, make a finding upon the state of mind of the accused.

(2) If the Court finds that the accused or the defendant is of unsound mind and consequently incapable of making his defence, it shall postpone further proceedings on the case.

(3) If the case is one in which bail may not be taken, the Court shall release the accused or the defendant on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any person or property, and for his appearance before the Court or such officer as the court may appoint in that behalf.

(4) If the case is one in which bail may not be taken, or if sufficient security is not given, the Court shall report to the Minister who may order the accused to be confined in a mental hospital, prison or other suitable place of safe custody, and the Court shall issue a warrant in accordance with such order.

Defence of lunacy at preliminary investigation.

72. (1) When the accused appears to be of sound mind at the time of the preliminary investigation, the Court, notwithstanding that it is alleged that at the time when the act was committed in respect of which the accused person is charged 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, shall proceed with the case, and if the accused ought to be committed for trial, the Court shall so commit him.

Defence of lunacy on trial.

73. (1) When any act is charged against any person as an offence, and it is given in evidence on the trial of such person for that offence that he was insane so as not to be responsible for his action at the time when the act was done then if it appears to the Court before whom such person is tried that he did the act but was insane as aforesaid at the time when he did it, the Court shall make a special finding to the effect that the accused or the defendant is not guilty by reason of insanity. When such special findings is made the Court shall order the accused or the defendant to be kept in custody as a criminal lunatic in such place and in such manner as the Court shall direct, and shall report the case for the order of the Minister.

(2) The Minister may order such person to be confined in a mental hospital, prison, or other suitable place of safe custody during pleasure.

Periodical report of criminal lunatics.

74. (1) The superintendent of a mental hospital, prison or other place in which any person (hereinafter referred to as a criminal lunatic) is detained by virtue of an order made under section 71 or section 73, shall make a report to the Minister which shall be accompanied by a report by a medical practitioner at such times (not being less than once a year) and containing such particulars as the Minister may require, of the conditions and circumstances of every criminal lunatic in such mental hospital prison or place; and the Minister shall, at least once in every three years during which a criminal lunatic is detained in any mental hospital, prison or other place, consider the condition, history and circumstances of such criminal lunatic and determine whether he ought to be discharged absolutely or conditionally or otherwise dealt with.

(2) Where a criminal lunatic is conditionally discharged in pursuance of this Act, a report of his condition shall be made to the Minister by such person, at such times and containing such particulars as may be required by the order of discharge.

(3) In this section the expression "superintendent" includes the Medical Superintendent of a mental hospital.

Transfer and discharge of criminal lunatics.

75. (1) The Minister may from time to time by order direct the transfer to a mental hospital, prison or other suitable place of safe custody of any criminal lunatic detained in any other mental hospital, prison or other suitable place of safe custody and such criminal lunatic shall accordingly be received and detained in the mental hospital, prison or other place of safe custody, to which he is so transferred.

(2) The Minister may by order absolutely discharge any criminal lunatic and may also discharge any criminal lunatic conditionally, that is to say, on such conditions as to the duration of such discharge and otherwise as the Minister may think fit.

(3) Where in pursuance of this section a criminal lunatic has been discharged conditionally, if any of the conditions of such discharge appear to the Minister to be broken or the conditional discharge is revoked, the Minister may by order direct him to be taken into custody and to be conveyed to some mental hospital, prison or other place of safe custody named in the order, and he may thereupon be taken in like manner as if he had escaped from such mental hospital, prison or other place of such custody, and shall be received and detained therein as if he had been removed thereto in pursuance of the foregoing provisions of this Act.

Resumption of trial or investigation.

76. Whenever any preliminary investigation or trial is postponed under sections 71 or 134, the Court may at any time resume the preliminary investigation or trial and require the accused to appear or be brought before such court, when, if the court considers him capable of making his defence, the preliminary investigation or trial shall proceed, but if the Court considers the accused to be still incapable of making his defence, the accused shall be dealt with as though the preliminary investigation or trial had not been resumed.

Certificate of superintendent of hospital to be evidence.

77. If a person is confined in a mental hospital under the provisions of section 71 and the medical superintendent of such hospital certifies that, in his opinion, the accused is capable of making his defence, such accused shall be taken before the court at such time as the court appoints, to be dealt with according to law, and the certificate of such medical superintendent shall be receivable in evidence.

Trial not to be continued in certain cases.

78. (1) Notwithstanding anything contained in sections 76 and 77 where it is certified by the superintendent of a mental hospital or other medical practitioner appointed for that purpose by the Chief Medical Officer, that the mental balance of the accused would be jeopardised by the strain of a trial, the proceedings against the accused shall not be continued unless the Attorney-General informs the court that he considers it essential in the public interest for the trial to proceed.

(2) Where the proceedings are discontinued in accordance with the provisions of subsection (1) the court shall discharge the accused and thereafter he shall be subject to the provisions of the Lunacy Act or any Act amending or replacing the same (so far as the same may be applicable to his case) in the same circumstances and to the same extent as a mental patient against whom no proceedings have been brought.

#### ADMISSION TO BAIL

When bail granted.

79. (1) A person charged with murder or treason shall not be admitted to bail, except by a Judge.
- (2) When a person is charged with any felony, other than murder or treason, the Court may, if it thinks fit, admit him to bail.
- (3) When a person is charged with any offence other than those referred to in subsections (1) and (2), the Court shall admit him to bail, unless it sees good reason to the contrary.
- (4) A person may be admitted to bail at any time, and thereupon shall be discharged from custody or prison if he is not detained for any other cause.
- (5) A Judge may, if he thinks fit, admit any person to bail although the Court before whom the charge is pending has not thought fit to do so.
- (6) The accused who is to be admitted to bail shall procure such surety or sureties as in the opinion of the Court will be sufficient to ensure his appearance as and when required, and shall with him or them enter into a recognisance accordingly.
- (7) The Court may dispense with sureties if, in its opinion, its so dispensing will not tend to defeat the ends of justice.
- (8) When the accused is required to procure a surety or sureties, the recognisances of the sureties may be taken separately and either before or after the recognisance of the accused.

Power of police to admit to bail.

80. (1) Notwithstanding anything contained in section 79 any constable in charge of a police station may take bail by recognisance conditioned for the appearance of an accused person before the Magistrate's Court, on a day and at a place to be mentioned in such recognisance, there and then to be dealt with according to law, in the following cases—
- a. When an accused person is arrested without warrant on a charge of having committed any offence other than murder or treason; and
  - b. When an accused person is arrested under a warrant endorsed for bail as provided by section 29.
- (2) A recognisance so taken shall be of full and equal obligation on the parties entering into the same, and liable to all proceedings for the forfeiture and levy of recognisances provided by section 129.
- (3) Such constable as aforesaid shall enter in a book, kept for that purpose in every police station in the Western Area and lock-up in the Provinces, the name, residence and occupation of the person entering into recognisance, and of his surety or sureties, if any, with the condition of the recognisance, and the sums deposited or acknowledged.
- (4) Such book shall be laid before the Magistrate present at the time when and place where the recognisor is required to appear, and such Magistrate may enlarge the recognisance to such further time as he may appoint.

#### CONVICTION FOR OFFENCE OTHER THAN CHARGED

The person accused of any offence may be convicted of attempt.

81. (1) If on the trial of any person charged with any offence it shall appear upon the evidence that the defendant or accused did not complete the offence charged, but was guilty of attempting to commit the same, or to cause such offence to be committed, such defendant or accused shall not be acquitted, but a verdict may be returned of not guilty of the offence charged, but guilty of an attempt to commit the same, and thereupon the defendant or accused shall be punished as if convicted on an information or indictment for attempting to commit such offence; and no person so tried as herein last mentioned shall be afterwards prosecuted for an attempt to commit the offence for which he was so tried.
- (2) If a person is charged with an attempt to commit an offence and the evidence establishes the commission of the full offence, the accused or defendant may not be convicted of the full offence but may nevertheless be convicted of



the attempt.

Conviction of manslaughter on charge of murder.

82. When a person is charged with murder he may, if the evidence so warrants, be acquitted of murder and convicted of manslaughter although he was not charged with that offence.

Conviction of assault with intent to rob on charge of robbery.

83. When a person is charged with robbery and it is proved that he committed an assault with intent to rob, he may be acquitted of robbery and convicted of an assault with intent to rob although he was not charged with that offence.

Persons charged with burglary, etc., may be convicted of kindred offence.

84. (1) If on any trial for any of the offences mentioned in sections 25, 26, 27 and 28 of the Larceny Act, 1916, the facts proved in evidence authorize the conviction for some other of the said offences and not the offence wherewith the accused or 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 information or an indictment charging him with such offence, except that no person shall be convicted under this subsection of an offence, the maximum punishment for which is greater than that prescribed for the offence charged.

(2) When a person charged with any offence against section 17 of the Larceny Act, 1916 (relating to embezzlement) and it is proved that he stole the property in question, he may be convicted of stealing it although he was not charged with that offence; and when a person is charged with stealing any chattel, money or valuable security he may, in like manner, be convicted of embezzlement, or of fraudulent application or disposition as the case may be.

(3) When a person is charged with stealing any chattel, money or valuable security, and it is proved that he received the thing knowing it to have been stolen, he may be convicted of receiving although he was not charged with that offence.

(4) When a person is charged with stealing and it is proved that he obtained the chattel, money or valuable security in question in any such manner as would amount under the provisions of the Larceny Act, 1916, to obtaining it by false pretences with intent to defraud, he may be convicted of obtaining it by false pretences although he was not charged with that offence.

(5) When a person is charged with obtaining any chattel, money or valuable security by false pretences with intent to defraud and it is proved that he stole the property in question, he may be convicted of stealing it although he was not charged with that offence.

(6) When two or more persons are charged with jointly receiving any property, and it is proved that one or more of such persons separately received any part of such property, such of the said persons as are proved to have received any part of such property may be convicted upon such charge.

Persons charged with misdemeanour not to be acquitted if offence proved felony.

85. If, on any trial for misdemeanour, the facts given in evidence amount to felony, the defendant shall not be therefore acquitted of such misdemeanour; and no person tried for such misdemeanour shall be liable afterwards to be prosecuted for felony on the same facts.

#### EVIDENCE OF HUSBAND AND WIFE

Evidence of person married otherwise than by Civil or Mohammedan Marriage.

86. Where a person charged with an offence is married to another person by a marriage other than a Civil or Mohammedan marriage, such last-named person shall be a competent and compellable witness on behalf either of the prosecution or of the defence.

Competency of person charged and husband or wife of person charged to give evidence.

87. Every person charged with an offence, and the wife or husband, as the case may be, of the person so charged, shall be a competent witness for the defence at every stage of the proceedings, whether the person so charged is charged solely or jointly with any other person:

Provided as follows—

- a. A person so charged shall not be called as a witness in pursuance of this Act except upon his own

application.

- b. The failure of any person charged with an offence, or of the wife or husband, as the case may be, of the person so charged, to give evidence shall not be made the subject of any comment by the prosecution.
- c. The wife or husband of the person charged shall not, save as in this Act mentioned, be called as a witness in pursuance of this Act except upon the application of the person so charged.
- d. Nothing in this Act shall make a husband compellable to disclose any communication made to him by his wife during the marriage, or a wife compellable to disclose any communication made to her by her husband during the marriage.
- e. A person charged and being a witness in pursuance of this Act may be asked any question in cross-examination, notwithstanding that it would tend to criminate him as to the offence charged.
- f. A person charged and called as a witness in pursuance of this Act shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of or been charged with any offence other than that wherewith he is then charged, or is of bad character, unless—
  - i. the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence wherewith he is then charged; or
  - ii. he has personally or by his advocate asked questions of the witnesses for the prosecution with a view to establishing his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to invite imputations on the character of the prosecutor or the witnesses for the prosecution; or
  - iii. he has given evidence against any other person charged with the same offence.
- g. Every person called as a witness in pursuance of this Act shall, unless otherwise ordered by Court, give his evidence from the witness box or other place from which the other witnesses give their evidence.
- h. Nothing in this Act shall effect the provisions of section 18 of the Indictable offences Act, 1848, or other right of the person charged to make a statement without being sworn.

Evidence of person charged.

88. When the only witness to the facts of the case called by the defence is the person charged, he shall be called as a witness immediately after the close of the evidence for the prosecution.

Right of reply.

89. In cases 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.

Calling of husband and wife in certain cases.

90. (a) The wife or husband of a person charged with an offence under sections 48 to 55 of the Offences against the Person Act, 1861, may be called as a witness either for the prosecution or defence and without the consent of the person charged.

(b) Nothing in this Act shall affect a case where the wife or husband of a person charged with an offence may at common law be called as a witness, without the consent of that person.

Interpretation.

91. For the purposes of sections 86 to 90—

“Civil Marriage” means a marriage which is recognized by the law of the place where it is contracted as the voluntary union for life of one man and one woman to the exclusion of all others;

“husband and wife” means a husband and wife of a Civil marriage, as defined in this section;

“Mohammedan Marriage” means a marriage entered into and subsisting between persons professing the Mohammedan faith which is valid according to Mohammedan Law or registered under the Mohammedan Marriage Act or any law governing the registration of such marriage in any other country.

## PART II – SUMMARY TRIAL

Summary trial of

92. Trials in the Magistrates' Courts shall be conducted summarily in the manner and subject to the conditions laid

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offences.	down in this Part.
Publicity.	93. The room or place in which the Court sits to hear and determine the charge shall be an open and public Court, to which the public generally shall have access as far as it can conveniently contain them
Non-appearance of prosecutor.	94. When the accused or defendant comes before the Court on summons or warrant, or otherwise, either originally or on adjournment, then if the prosecutor, having had notice of the time and place appointed for the hearing or adjourned hearing of the charge, does not appear, the Court shall dismiss the charge, unless for some reason it thinks fit to adjourn or further adjourn the hearing.
Appearance of both parties.	95. If at the time and place for the hearing of the case, both the accused or defendant and the prosecutor appear before the Court, it shall proceed to hear and finally determine the charge.
Where defendant pleads guilty in writing.	96. Where the defendant does not appear personally and pleads guilty in writing under section 21, the Court may proceed to conviction notwithstanding the absence of the prosecutor.
Accused or defendant to be called upon to plead.	97. (1) The substance of the charge shall be stated to the accused, or defendant and he shall be asked if he admits or denies the truth of the charge.  (2) The Court shall record the exact words of the answer to the charge made by the accused or defendant and if such answer does not consist merely of the words "guilty" or "not guilty", as the case may be the Court shall record its interpretation of such answer and whether in the opinion of the Court it amounts to a plea of guilty or not guilty as the case may be.
Procedure in plea of guilty.	98. If the accused or defendant admits the truth of the charge the Court may convict him thereof, or refuse to accept a plea of in guilty, as it thinks fit.
Hearing may be adjourned.	99. (1) At any time during the hearing of the change the Court may, if it thinks fit, adjourn the hearing.  (2) An adjournment ordered for any reason shall be made to a certain time and place appointed, and stated at the time of adjournment in the presence and hearing of the parties.
Custody of accused of defendant.	100. During an adjournment the Court may in its discretion, according to the nature and circumstances of each case and subject to the provision of section 79, either suffer the accused or defendant to go at large or commit him by warrant to such prison or other place of security, or to such other safe custody as the Court thinks fit, or may discharge him on his entering into a recognizance with or without a surety or sureties.
Non-appearance of defendant in answer to summons or after adjournment.	101. (1) If at any time or place appointed by summons or on the adjournment of a hearing once begun the defendant does not appear, and if, in the former case, service of the summons on the defendant a reasonable time before the time for his appearance as aforesaid is duly proved, the Court may, if it thinks fit and where the charge is not one of felony, proceed with the hearing, and may convict the defendant in his absence, or refrain from doing so until he shall be brought before it.  (2) The Court may set aside any conviction made in the absence of the defendant upon being satisfied that his absence was due to causes over which he had no control, and that he has a probable defence upon the merits.  (3) Any sentences of imprisonment passed under subsection (1) shall be deemed to commence from the date of arrest.  (4) If the accused person who had not appeared as aforesaid is charged with felony, or if the Court in its discretion refrains from convicting the defendant in his absence, the Court shall issue a warrant for the arrest of the accused, and cause him to be brought before the Court.
Procedure on plea of not guilty.	102. (1) If the accused or the defendant does not admit the truth of the charge or the Court refuses to accept a plea of guilty, the Court shall proceed to hear the prosecutor and his witnesses and other evidence, if any.

(2) The accused or defendant may put questions to each witness produced against him, and the answer of the witness thereto shall be part of his evidence.

(3) If the defence does not employ counsel, the Court shall, at the close of the examination of each witness for the prosecution, ask the accused or the defendant whether he wishes to put any questions to that witness.

Defence.

103. (1) At the close of the evidence in support of the charge if it appears to the Court that the case is made out against the accused or the defendant sufficiently to require him to make a defence the Court shall ask him if he wishes to say anything in answer to the charge, or has any witnesses to examine or other evidence to adduce in his defence, and the Court shall then hear the accused or the defendant and his witnesses and other evidence, if any.

(2) If the accused states that he has witnesses to call but they are not present, the Court may, under the circumstances set forth in section 117, take the steps therein mentioned to compel their attendance.

Evidence in reply.

104. If the accused or the defendant adduces in his defence any evidence other than evidence as to character, the prosecutor may adduce evidence in reply thereto. But, except with the leave of the Court, the prosecutor shall not in any case be allowed to make any observations by way of reply to the evidence adduced by the accused or the defendant nor, without such leave as aforesaid, shall the accused or the defendant in any case be allowed to make any observations on evidence adduced by the prosecutor in reply.

Alteration of information.

105. (1) Where, before trial upon information or at any stage of such trial, it appears to the Court that the information is defective, the Court shall make such order for the amendment of the information as the Court thinks necessary to meet the circumstances of the case, unless having regard to the merits of the case, the required amendments cannot be made without injustice. All such amendments shall be made in such terms as shall seem to the Court to be just.

(2) Where the information is amended as aforesaid, the Court shall thereupon call upon the accused or defendant to plead to the altered information.

(3) Variance between the information and the evidence adduced in support of it with respect to the time at which the alleged offence was committed is not material, if it is proved that the information was in fact made within the time, if any, limited by law for the making thereof.

(4) Where an amendment of an information is made under subsection (1) or where there is a variation between the information and the evidence as described in subsection (3), the Court shall, if it is of opinion that the accused or defendant has been thereby deceived or embarrassed, allow any witness to be recalled and further questioned upon any matters relevant to the amended or varied charge and the Court may adjourn the trial for such period as may be reasonably necessary.

Orders for separate trial.

106. Where at any stage of a trial the Court is of the opinion that the accused or the defendant may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same information or that for any other reason it is desirable to direct that the accused should be tried separately for any one or more offences charged in one information the Court may order a separate trial of any offence or offences charged therein.

Determination of charge.

107. The Court, having heard the witnesses and other evidence adduced, and what may be alleged by the parties themselves or their counsel, shall consider the whole matter, and finally determine the case, and shall either convict the accused or the defendant and pass sentence or make an order against him according to law or acquit him as the case may be and shall cause a record to be made of the point or points for determination, the decision therein and the reason for the decision:

Provided that the Court may, at any time before such final determination upon being satisfied that there are sufficient grounds for doing so, allow the prosecutor to withdraw any charge against the accused or the defendant whereupon such charge shall be deemed to be dismissed.

### PART III – PRELIMINARY INVESTIGATIONS

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Procedure in preliminary investigation.	108. Where a person is before the Magistrate charge with an offence which is triable exclusively by the Supreme Court or in the opinion of the Magistrate ought to be tried by such court, the Magistrate shall conduct a preliminary investigation into the charge alleged, in accordance with the procedure laid down in this Part.
Not held in Public Court.	109. The room or place in which the investigation is held shall not be an open or . public Court for that purpose, and the Court may, if it thinks that the ends of justice will be served by so doing, order that no person shall have access to, or be or remain in the room or place without the express permission of the Court.
Accused to be informed of complaint.	110. Upon the appearance of the accused before the Court on summons, warrant or otherwise, the Court shall cause the substance of the charge against the accused to be stated to him and the accused shall not be required to make any reply thereto; if any such reply is made it shall not be recorded by the Court.
Depositions.	111. (1) The Court shall then in the presence of the accused take the statements on oath of the witnesses of the prosecution and put such statements into writing (hereinafter referred to as "depositions").  (2) The accused shall be entitled to cross-examine the witnesses for the prosecution and shall be information of such right if not represented by a legal practitioner.  (3) The deposition of each witness shall include answers given by the witness in reply to questions put to the witness in cross-examination.  (4) The deposition of each witness shall be read over to the witness and signed by him and attested by the Magistrate in his presence.
Variance between charge and evidence.	112. The provisions of section 105 shall apply in relation to the amendment of a charge brought against an accused person before a Court holding a preliminary investigation.
Remand.	113. (1) If from the absence of a witness, or from any other reasonable cause recorded in the minutes the Court considers it advisable to adjourn the preliminary investigation and the accused is not admitted to bail, the Court may, by warrant, from time to time, remand the accused for a reasonable time, not exceeding eight clear days at any one time, to some prison or other place of security.  (2) If the remand is for not more than three clear days, the Court may by word of mouth, order the officer or person in whose custody the accused is, or any other fit officer or person, to continue to keep the accused in his custody, and to bring him up at the time appointed for the commencement or continuance of the said investigation.  During remand the Court may, nevertheless, order the accused to be brought before it.  (3) Where the Magistrate who commenced or continued the preliminary investigation is unable for any sufficient reason to continue it after an adjournment, it shall not be necessary for his successor to re-commence such investigation unless it appears to him that the case is one upon which he should himself adjudicate under section 6 of the Courts Act, 1965.
Remand by deputy for Magistrate.	114. A Magistrate may, if he is compelled to interrupt the conduct of a preliminary investigation by sickness, absence or other sufficient cause, appoint a deputy in writing under his hand, and such deputy shall, for the purpose of subsections (1) and (2) of section 113 (but in respect of the power to remand only), have the like powers as if he were the Magistrate.
Defence.	115. (1) After the examination of the witnesses called on behalf of the prosecution, and provided that the Court does not consider that the case should be dealt with in accordance with the provisions of section 118, the Court shall address the accused as follows— “The charge ( <i>or charges</i> ) is ( <i>or are</i> ).....( <i>read the charge or charges</i> ). Having heard the evidence do you wish to say anything in answer to the charge ( <i>or charges</i> )? You are not obliged to say

anything unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence upon your trial. And I want you to understand clearly that you have nothing to hope from any promise of favour, and nothing to fear from any threat which may have been held out to you to induce you to make any admission or confession of your guilt. But whatever you say now may be given in evidence notwithstanding such promise or threat." And the Court shall then hear the accused.

(2) The whole of the statement of the accused shall be recorded in full, and shall be shown or read to the accused, and he shall be at liberty to explain or add to his statement.

(3) When the whole is made conformable to what the accused declares is the truth, the statement shall be attested by the Magistrate, who shall certify that such statement was taken in his presence and hearing and contains accurately the whole statement made by the accused. The accused shall sign or attest by his mark such record. If he refuses, the Court shall add a note of his refusal and the statement may be used as if he had signed or attested it.

Evidence in defence.

116. Immediately after the accused shall so have had opportunity of making his answer to the charge, the Court shall ask him whether he desires to give evidence on his own behalf and whether he desires to call any witnesses, and the evidence of the accused together with the depositions of such witnesses as the accused shall call, and who shall appear on his behalf, shall then be taken in like manner as in the case of the witnesses for the prosecution.

Procedure where witnesses for defence not present.

117. If the accused states that he has witnesses to call, but that they are not present in Court, and the Court is satisfied that the absence of the witnesses is not due to any fault of the accused, and that there is a likelihood that they could, if present, give material evidence on his behalf, the Court may adjourn the investigation and issue process, or take other steps, to compel the attendance of such witnesses.

Discharge.

118. If the Court considers that the evidence against the accused is not sufficient to put him on his trial, the Court shall forthwith order him to be discharged as to the particular charge under investigation; but such discharge shall not be a bar to any subsequent charge in respect of the same facts:

Provided that nothing contained in this section shall prevent the Court from either forthwith, or after such adjournment of the investigation as may seem expedient in the interest of justice, proceeding to investigate any other charge upon which the accused may have been summoned or otherwise brought before it, or which in the course of the charge so dismissed as aforesaid it may appear that the accused has committed.

Criminal sessions.

119. Criminal sessions of the Supreme Court shall be held at such times as may be prescribed by or under Rules of Court, made by the Rules of Court Committee established under section 22 of the Courts Act.

Commitment.

120. (1) If the Court considers the evidence sufficient to put the accused on his trial, the Court shall by warrant commit him for trial upon indictment before the Supreme Court and shall, until the trial, either admit him to bail or send him to prison for safekeeping. The warrant of such first named Court shall be sufficient authority to the keeper of any prison appointed for the custody of prisoners committed for trial, although out of the jurisdiction of such Court.

Forms 20, 21 and 22 in Schedule II.

(2) Such warrant of commitment shall name the day, time and place at which the accused is to appear before the Supreme Court in answer to the indictment preferred against him but the committal for trial shall not be invalidated by reason only of a failure to comply with this subsection.

(3) Where for any reason whatsoever the trial of the accused cannot take place on the day named on the warrant it shall be lawful for any Judge or Magistrate to extend by endorsement on the warrant the time stated thereon. Any warrant so endorsed shall have the like effect as any warrant issued under subsection (1).

Where evidence contradictory.

121. When there is a conflict of evidence, the Court shall consider the evidence to be sufficient to put the accused on his trial if the evidence against him is such as, if uncontradicted, would raise a probable presumption of his guilt, notwithstanding that it is contradicted in material points by evidence in favour of the accused, unless the Court, for reasons recorded on the minutes, shall see fit to deviate from this provision.

Procedure where accused consents to summary trial.

122. The Court before asking the accused in pursuance of section 6 of the Courts Act, 1965, whether he consents to the case being heard and finally determined summarily, shall explain to him the difference between the case being dealt with summarily and in the usual course. In the event of the accused giving his consent to the case being dealt with summarily, the Court shall call upon him to plead to the information, and forthwith inform him of his right to recall all or any of the witnesses for the prosecution, who shall have been heard, and to subject them to any further cross-examination. Upon taking these steps the Court shall proceed to hear and finally determine the matter in accordance with the provisions of Part II relating to summary trials.

Privilege of persons committed for trial.

123. A person who has been committed for trial shall be entitled at any time before the trial to have a copy of the depositions on payment of a reasonable sum not exceeding four cents for every seventy-two words, or, if the Court thinks fit, without payment.

The Court shall, at the time of committing him for trial, inform the accused of his right under this section.

Returns to be made to trial Court and Attorney-General.

124. In the event of a committal for trial the written charge, the depositions, the statement of the accused, his answer recorded under section 116 (if any), the recognisances of bail (if any) and any documents and things which have been put in evidence, shall be transmitted in proper time to the Supreme Court; and an authenticated copy of the depositions, documentary exhibits and statement and answer aforesaid shall be transmitted to the Attorney-General.

#### BINDING PROSECUTOR AND WITNESS BY RECOGNISANCE

Prosecutor and witnesses may be required to enter into recognisances.

125. The Court upon committing an accused person for trial may bind by recognizance, with or without a surety or sureties, as it may deem requisite, the prosecutor and every witness to appear at the trial to prosecute and give evidence or to give evidence (as the case may be). Every Magistrate before whom any such recognizance shall be taken shall give a written notice to the person or persons entering into the same specifying the date and place at which his or their personal appearance is required, and the consequences of any failure to fulfill such obligation.

Forms 25 and 26 in Schedule II.

In case of refusal may be imprisoned.

126. If a person refuses to enter into such recognizance the Court may commit him to prison, or into the custody of any officer of the Court, there to remain until after the trial, unless in the meantime he enter into a recognizance.

Form 27 in Schedule II.

But if afterwards, from want of sufficient evidence or other cause, the accused is discharged, the Court shall order that the person imprisoned for so refusing be also discharged.

Binding over of witnesses.

127. (1) Where any person charged before a Magistrate's court with an offence triable upon indictment before the Supreme Court is committed for trial, and it appears to such Magistrate's Court after taking into account anything which may be said with reference thereto by the accused or the prosecutor, that the attendance at the trial of any witness who has been examined before it is unnecessary by reason of anything contained in any statement by the accused person, or of the evidence of the witness being merely of a formal nature, the Magistrate's Court shall, if the witness has not already been bound over, bind him over to attend the trial conditionally upon notice given to him and not otherwise, or shall, if the witness has already been bound over, direct that he shall be treated as having been bound over to attend only conditionally as aforesaid, and shall transmit to the Supreme Court a statement in writing of the names, addresses and occupations of the witnesses who are or who are to be treated as having been, bound over to attend the trial conditionally.

(2) Where a witness has been, or is to be treated as having been bound over conditionally to attend the trial, the Attorney-General or the person committed for trial may give notice, at any time before the opening of the sessions of the Supreme Court at which the accused person has been committed to be tried, to the committing Magistrate's Court and at any time thereafter to the Registrar of the Supreme Court that he desires the witness to attend at the trial, and any such Court or Registrar to whom any such notice is given shall forthwith notify the witness that he is required so to attend in pursuance of his recognizance. The Magistrate's Court shall, on committing the accused person for trial, inform him of his right to require the attendance at the trial of any such witness as aforesaid, and of the steps which he must take for the purpose of enforcing such attendance.

(3) Any document or articles produced in evidence before the Magistrate's Court by any witness whose attendance at the trial is stated to be unnecessary in accordance with provisions of this section and marked as exhibits shall unless in any particular case the Magistrate's Court otherwise orders, be retained by the Magistrate's Court and forwarded with the depositions to the Registrar of the Supreme Court.

Re-opening of preliminary investigations.

128. If, after receipt of the authenticated copy of the depositions and statement provided for by section 124 and before the trial before the Supreme Court, the Attorney-General or the Solicitor-General authorised in writing by the Attorney-General for the purposes of this section, is of the opinion that further investigation is required before such trial, it shall be lawful for the Attorney-General or Solicitor-General to direct that the original depositions be remitted to the Court which committed the accused person for trial, and that further evidence be taken generally or in respect of any particular matter, and in respect of such original depositions such Court shall re-open the case and after taking such further evidence shall deal with the case in accordance with the provisions of sections 115 to 128.

Provided that it shall be lawful for a Magistrate other than the Magistrate who originally committed the accused person for trial to re-open the case and deal with it in terms of this subsection if such other Magistrate has assumed the duties of the Magistrate who originally committed the accused person for trial.

#### PROCEEDINGS UPON RECOGNISANCES

Forfeiture and levy of recognisances.

129. (1) (1) If the condition of any recognizance be not complied with, the Court in or before which such condition ought to be performed, may endorse thereon a certificate, addressed to the Sheriff or other officer of the Court, setting forth that such condition has not been performed, and thereupon, if the amount of the recognizance be not paid within six days after service of an order and notice to do so, the same shall be recoverable by distress and sale of the goods and chattels of the recognisors. In default of the amount being recovered by such distress and sale, the recognisors may be imprisoned for any period not exceeding sixty days, but the Court in or before which the condition of any recognizance ought to be performed may cancel or mitigate the forfeiture upon such terms and conditions (if any) as the Court may think just.

(2) If it is made to appear to any Court, by information on oath, that any person bound by recognizance is about to go out of Sierra Leone, 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.

#### PART IV - INDICTMENT AND TRIAL IN THE SUPREME COURT

Indictments.

130. Subject to the provisions of sections 136 and 137, an indictment charging any person with an offence triable before the Supreme Court, may be preferred by any person before a Court in which the person charged may be lawfully indicted for that offence, and where an indictment has been so preferred, a Law Officer shall, unless the accused has been acquitted and discharged under the provisions of section 131, sign the indictment and it shall thereupon be proceeded with accordingly:

P.N. 78 of 1961.

Provided that—

- a. (a) a Judge may on the application of the prosecutor, direct a Law Officer to sign the indictment and the indictment shall be signed accordingly;
- b. the provisions of this section shall not be construed so as to derogate from the powers conferred upon the Attorney-General by section 44 of this Act or section 73 of the Constitution.

Prisoner to be released on bail or acquitted and discharged if not tried within a certain time.

131. (1) If a person committed for trial in the Supreme Court other than on a charge of treason or murder shall not have been tried by the end of the next criminal sessions after the sessions to which he was originally committed he shall, if in prison, on his application made in the last day of such first mentioned sessions be admitted to bail unless it be made to appear to the Court on oath that the prosecution witnesses or any of Them could not have been brought before the Court before the end of that sessions.

(2) If a person committed for trial in the Supreme Court shall not have been tried by the end of the next criminal



sessions but one after the sessions to which he was originally committed he shall on his application made on the last day of such first mentioned sessions be acquitted and discharged, unless the Court sees good reason to the contrary .

(3) For the purposes of this section the expression "sessions" does not include any sessions designated by the Chief Justice as a special sessions.

#### ARRAIGNMENT

Pleading to information.

132. A person to be tried on any indictment shall be placed at the bar unfettered, unless the Court shall see cause otherwise to order, and the indictment or charge shall be read over to him by the Registrar or other officer of the Court, and explained if need be by the officer or the interpreter of the Court, and such person shall be required forthwith to plead thereto, unless where the person is entitled to service of a copy of the indictment, he shall object to the want of such service, and the Court shall find that he has not been duly served therewith.

Effect of plea of "not guilty".

133. (1) Every person by pleading generally the plea of "not guilty" shall, without further form, be deemed to have put himself upon his trial, and in any plea of *autrefois* convict or *autrefois* acquit it shall be sufficient for any person to state that he has been lawfully convicted or acquitted (acquitted as the case may be) of the said offence charged in the indictment.

(2) After a plea of not guilty it shall not be open to an accused person except with the leave of the Court to object that he is not properly upon his trial by reason of some defect, omission or irregularity relating to the depositions or committal or any other matter arising out of the preliminary investigation.

If prisoner refuses or is unable to plead, how dealt with.

134. If any person stands mute or refuses, or by reason of infirmity is unable to answer directly to the indictment the Court shall, unless it has reason to believe that such person is of unsound mind and consequently incapable of making his defence, order the Registrar to enter a plea of not guilty on behalf of such person, and the plea so entered shall have the same force and effect as if such person had actually pleaded the same; but if the Court has reason to believe as aforesaid, it shall proceed in the manner prescribed in section 71.

Conduct and precedence of prosecutions.

135. (1) All prosecutions on indictment in the Supreme Court shall be conducted by a Law Officer or a legal practitioner.

(2) Indictments signed by a Law Officer, otherwise than at the instance of any other person, shall have priority of hearing, and shall be heard in the order they are presented by the Attorney-General or his representative, and no jury or assessors shall be empanelled or selected for any such case until it has been so presented.

Indictment not to be filed without previous committal.

136. (1) No indictment shall be signed or filed in respect of any criminal offence unless there has been a committal for trial consequent upon a previous preliminary investigation in accordance with the provisions of Part III or an enquiry or inquest held in accordance with the provisions of the Coroners Act, except in the case of indictments which by law may be preferred by the direction of, or with the consent in writing of, a Judge, and, in the case of informations known as ex-officio informations, by the Attorney-General:

Provided that where the accused has been committed for trial the indictment may include either in substitution for or in addition to counts charging the offence for which he was committed, any counts founded on facts or evidence disclosed in the depositions being counts which may be lawfully joined in the same indictment.

(2) The Chief Justice may make Rules for carrying this section into effect and in particular for making provisions as to the manner in which application is to be made for the consent of a Judge of the Supreme Court for the preferment of an indictment.

Filing Indictment: its effects.

137. Every indictment, when signed, shall be filed in the Supreme Court. The fact that the indictment has been so signed shall be equivalent to a statement that all conditions required by law to constitute the offence charged, and to give the Court jurisdiction, have been fulfilled in the particular case.

Endorsement of

138. The Registrar or any other person directed by the Court shall endorse on, or annex to, every indictment and

indictment.	every copy thereof to be delivered to the Sheriff or Deputy Sheriff for service on the accused, a notice of trial, which notice shall be in the following form, or as near thereto as may be—  "A.B. TAKE NOTICE that you will be tried on the indictment, whereof this is a true copy, at the Sessions of the Supreme Court to be held at.....on the..... day of .....19.....".
Copy of indictment and notice of trial to be delivered to Sheriff.	139. The Registrar or other proper officer shall deliver or cause to be delivered, to the Sheriff or Deputy Sheriff, a copy of the indictment with the notice of trial endorsed thereon or annexed thereto, and if there are more parties charged than one as many copies as there are parties.
Time and mode of summoning parties on indictment.	140. The Sheriff or Deputy Sheriff shall, as soon as may be after having received a copy of the indictment 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 other person authorized by him, deliver to the party charged the said copy and notice and explain to him the nature and exigency 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 indictment and notice of trial with some person of his household for him, at his dwelling house and if none 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:  Provided that—  a. in any such case where an indictment is signed and filed without previous investigation and committal for trial, the accused shall be entitled to at least seven days notice as aforementioned; b. nothing herein contained shall prevent any person in custody or awaiting trial at the opening of or during any sessions, from being tried thereat, if he shall have been served with a copy of the indictment and notice of trial not less than three days or seven days, as the case may be, before the date on which he is to be tried; c. such last-mentioned period of three days or seven days may be reduced to a shorter period, if any such person shall express his assent thereto and no special objection be made on the part of the Crown.
Return of service.	141. The officer serving the copy of the said indictment and notice shall forthwith make to the Registrar or other proper officer a return of the mode of service thereof.
Form 33 in Schedule II. Postponement of trial, recognisances.	142. It shall be lawful for the Court, upon the application of the prosecutor or the defence, if the Court considers that there is sufficient cause for the delay, to postpone the trial of any accused person to the next sessions of the Court to be held at the place where the Court is sitting at the time of such application being made, or to subsequent sessions, or to a sessions to be held at a time and place to be named at the time of granting such postponement; and to respite the recognisances of the prosecutor and witnesses, in which case the respited recognisances shall have the same force and effect as fresh recognisances to prosecute and give evidence at such subsequent sessions would have had.
Mode of Trial.	143. Any person charged with a criminal offence at any session of the Supreme Court shall—  a. if such criminal offence is punishable by death be tried by the court with a jury consisting of twelve men; or b. (b) if such criminal offence is not punishable by death be tried by the court with a jury consisting of twelve men: unless—  i. such person shall have elected to be tried, or shall have been ordered to be tried by the court with the aid of Assessors in accordance with the provisions of sections 144: or ii. (ii) such person shall have elected or shall have been ordered to be tried by a Judge alone in accordance with the provisions of sections 145 and 144 respectively.
Trial by Judge with the aid of Assessors or by Judge alone at instance of the Attorney-General.	144. (1) Any person charged with any offence not punishable by death may at the time of being committed or referred for trial or at any time thereafter up to two clear days at least before the trial of such person whether he had previously elected otherwise or not, elect to be tried by a Judge with the aid of assessors and if any person shall so elect he shall be tried by a Judge with the aid of assessors instead of being tried by a Judge and jury.

(2) Notwithstanding anything contained in section 143, in any case where a person is charged at any sessions of the Supreme Court with a criminal offence not punishable by death the Attorney-General, if he is of the opinion that the general interest of justice would be served thereby, may make an application to the Court for an order, which shall be made as of course, that any such person or persons shall be tried by such Court with the aid of assessors, or by a Judge alone, instead of by a Judge and jury.

Trial by Judge alone on election of accused.

145. Any person charged with a criminal offence not punishable by death may at the time of being committed or referred for trial by the Supreme Court, or at any time thereafter up to two clear days at least before the trial of such person, elect to be tried by a Judge alone and if any person so elects he shall be tried by a Judge alone instead of being tried by a Judge and Jury and in every such trial by a Judge alone, the Judge shall record in writing his decisions and reasons therefore.

Change of election, etc.

146. (1) The provisions of section 145 shall not deprive a person of his rights under section 144 to change his election and a person who has elected to be tried by a Judge alone may afterwards elect to be tried by the Court with aid of assessors if he changes his election before the time allowed by that section has expired, otherwise his change of election shall have no effect; and in the case of persons who are charged jointly, if they have all elected in accordance with section 145 to be tried by a Judge alone, they shall be so tried unless they all change their election in accordance with this section.

(2) In the case of persons who are charged jointly, if one or more (but not all) have elected in accordance with section 144 to be tried by the Court with the aid of assessors, he or they may withdraw that election and elect to be tried by a Judge alone provided this change of election is made before the time allowed by section 145 has expired, otherwise the change of election shall have no effect.

(3) Where two or more persons are charged jointly if they do not all duly elect to be tried by the Court with the aid of assessors or by a Judge alone, they shall be tried by the Court with a jury.

Limitations on sections 143 to 146.

147. Nothing contained in sections 143 to 146 shall affect the Court's powers to order separate trials of persons who are jointly charged.

#### AMENDMENT OF INDICTMENT

Order for amendment of indictment, separate trial and postponement of trial.

148. (1) Where, before trial upon indictment or at any stage of such trial, it appears to the Court that the indictment is defective, the Court shall make such order for the amendment of the indictment as the Court thinks necessary to meet the circumstances of the case, unless having regard to the merits of the case, the required amendments cannot be made without injustice. All such amendment shall be made upon such term as the Court shall seem just.

(2) Where an indictment is so amended, a note of the order for amendment shall be endorsed on the indictment, and the indictment shall be treated for the purposes of all proceedings in connection therewith as having been filed in the amended form.

(3) Where before a trial upon indictment or at any stage of such trial the Court is of opinion that the accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same indictment, or that for any other reason it is desirable to direct that the accused should be tried separately for any one or more offences charged in an indictment, the Court may order a separate trial of any count or counts of such indictment.

(4) Where, before trial upon indictment or at any stage of such trial, the Court is of opinion that the postponement of the trial of the accused is expedient as a consequence of the exercise of any power of the Court under this Act, the Court shall make such order as to the postponement of the trials as appears necessary.

(5) Where an order of the Court is made under this section for a separate trial or for postponement of a trial—

- a. if such order is made during a trial with a jury or during a trial with assessors, the Court may order that the jury or the assessors be discharged from giving a verdict or opinions, as the case may be, on the count or counts the trial of which is postponed, or on the indictment as the case may be; and
- b. the procedure on the separate trial of a count shall be the same in all respects as if the count had been contained in a separate indictment, and the procedure on the postponed trial shall be the same in all respects (provided that the jury or assessors, if any, have been discharged) as if the trial had not commenced; and
- c. the Court may make such order as to admitting the accused to bail, and as to the enlargement of recognisances and otherwise as the Court thinks fit.

(6) Any power of the Court under this section shall be, in addition to and not in derogation of any other power of the Court for the same or similar purposes.

Objections cured by verdict.

149. No judgment shall be stayed or reversed on the ground of any objection, which if stated after the indictment was read to the prisoner, or during the progress of the trial, might have been amended by the Court, nor because of any informality in swearing the witnesses or any of them.

#### EVIDENCE AFTER CONVICTION

Evidence for arriving at proper sentence.

150. A Court may, before passing sentence, receive such evidence as it thinks fit, in order to inform itself as to the sentence proper to be passed.

#### QUALIFICATIONS OF JURORS AND PREPARATION OF JURORS' LIST

Qualifications of jurors.

151. (1) Subject to the exemptions in subsection (2) every male person between the ages of thirty and sixty years who is resident in Sierra Leone and is literate in English shall be liable to serve.

(2) The following persons shall be exempted from serving on any jury—

- i. Ministers and Members of the House of Representatives;
- ii. Judges and Magistrates;
- iii. Legal practitioners in actual practice and all Court Officers;
- iv. Medical practitioners and dental surgeons in actual practice and their dispensers and assistants;
- v. Registered druggists and nurses in actual practice;
- vi. Priests and ministers of the various religions practiced in Sierra Leone.
- vii. The Mayor of Freetown, Paramount Chiefs and Chairman of Town Councils and of other local authorities;
- viii. Diplomatic and consular representatives and all salaried functionaries of Commonwealth and foreign Governments;
- ix. Teachers in public and private schools;
- x. Masters of vessels;
- xi. Pilots of ships in actual practice and licensed as such;
- xii. Constables and prison officers;
- xiii. Members of the armed forces;
- xiv. The managers and cashiers of any Banks but so that not more than four persons from any one branch of each bank shall be so exempted;
- xv. Clerks and other persons employed in the Judicial and Law Officers' Departments;
- xvi. Holders of such other offices in the public service that the Governor-General, may from time to time require to be exempted.

Disqualification of jurors.

(3) Any person convicted of treason or felony or any offence involving dishonest (unless he has obtained a free pardon) shall be disqualified from serving as a juror.

Preparation of jurors' lists.

152. (1) The Magistrate of each Judicial District shall prepare and settle a jurors' list for his area for the year commencing on the first day of January in each year in accordance with the provisions of this part.

(2) The Principal Immigration Officer shall during the first week of August in each year furnish the Senior Police Magistrate in Freetown, with a list of names of all aliens known to him to be resident in the Western Area.

(3) The District Officer shall during the first week of August in each year submit to the Magistrate in each Judicial District a list of persons known to be resident in the district and literate in English.

(4) The Establishment Secretary shall before the end of August in each year submit to the Senior Police Magistrate, Freetown, a list of all office-holders who have been exempted under item (xvi) of subsection (2) of section 151.

Publication of jurors' lists.

153. The Magistrate in charge of each Judicial District shall, between the 1st day of August and the 1st day of November in every year, make lists of the persons resident in each town or place within his district who are, in his opinion, qualified and fit to serve as jurors, setting out the name, occupation and place of residence, and the nature of the qualification of each person and shall, within ten days after the 30th day of November in each year cause true copies of such lists to be posted in some conspicuous place on his Court House, on the police stations and churches and chapels in his district, for the inspection of the public, where they shall be permitted to remain for a period of three weeks, to the end that any persons may apply to him by notice in writing, to have their names either added to or struck off such lists upon cause duly assigned in such notice.

Information to be given to Magistrate, when required.

154. The Magistrate shall have power and authority to summon persons to give on oath their full names, occupations, places of residence, and true answer relating to their qualifications as jurors when required for the purposes of this Act, and to commit to prison any person refusing to take an oath or affirmation, or to give evidence as aforesaid, and to order any persons to be taken into custody who shall willfully insult or interrupt the Magistrate, or otherwise misbehave and to commit every such offender to prison for a period not exceeding seven days.

Settlement of lists by Magistrate.

155. On the 1<sup>st</sup> day of December in every year each Magistrate, together with such Justices of the Peace in his Judicial District as may be able to attend, shall hold a public sitting in the Court House of his district, for considering and disposing of all such notices as he shall have then received, and shall then revise and settle the lists by the addition to, or taking away therefrom, of names, and by correcting any error as to the names, occupations or places of residence, and the nature of the qualification of any persons included therein. The persons named in such notices, and such other persons as the Magistrate may require, shall be bound to attend such sitting.

Perjury.

156. Any person, who on any examination on oath under any of the provisions of this Act willfully and corruptly give false evidence, shall be guilty of perjury.

Special jurors.

157. The Magistrate in settling the lists shall mark off the names of such persons as he shall deem suitable to serve as special jurors in each district. No person shall be exempted from serving as a common juror by reason of being marked as a special juror.

Copies of lists to be sent to Sheriff.

158. The Magistrate, upon the lists being so settled, shall send signed copies thereof to the Sheriff or Deputy Sheriff for his district. Each list so prepared and delivered as aforesaid shall constitute the jurors' list for the district for which the same has been prepared, and shall come into operation on the first day of January in the next following year. The Sheriff shall keep such lists amongst the records of his office and shall also, at every sitting of the Supreme Court, have there a fair copy of such lists for the then current year for the inspection of any person whose name is borne on the said lists, or by any public officer, or by any legal practitioner in actual practice.

Justice of the Peace to assist Magistrate.

159. Whenever, in the exercise of any of the duties here inbefore imposed upon the Magistrate, he may consider it expedient so to do, he may call to his aid any Justice or Justices of the Peace having jurisdiction within his district, and such Justice shall thereupon, unless they are prevented from attending by good and sufficient reasons, attend at the time and place named by such Magistrate, and aid and assist him in his duties as aforesaid.

Appointment of other persons to perform duties of Magistrate.

160. In the case of the inability of the Magistrate from any cause to perform the duties and to exercise the powers and authorities conferred by this Act, the Chief Justice may, from time to time, appoint in writing any other person to perform the said duties and to exercise the said powers and authorities.

Exemption of districts from returning jurors. 161. The Governor-General may at any time exempt and exclude by public notice any Judicial Districts from returning jurors.

#### PANEL OF JURORS

Formation of jury panel. 162. Whenever it shall be necessary to form a panel of jurors to serve at any session, the Sheriff in conjunction with an officer nominated by the Judge, shall cause the names of the jurors in the list, resident at and near the district, to be written on separate cards or pieces of paper of equal size and placed in ballot boxes to be kept for that purpose, and shall draw from said boxes such number of names, as the Court may direct, of special jurors and common jurors to form a panel, and the cards or slips so drawn shall thereupon be locked up in separate boxes until the whole of the names of the jurors, except those who may have served at the last preceding session, shall be returned to the ballot boxes, and, when required the names shall be re-drawn in manner aforesaid.

Names to be passed over. 163. The names of jurors, who shall be dead, disqualified, or no longer resident in the district, shall be passed over by the Sheriff in forming a panel.

Addition and removal of names. 164. In the event of any person liable and suitable to serve as a juror being found at any district after the lists are settled for the year, it shall be lawful for the Magistrate to place the name of such person on the list, either as a special or common juror, as the case may be, and such person shall be liable to serve as such juror till fresh lists are brought into force, and whenever any juror on the list may have become disqualified, his name shall be expunged.

Sheriff to summon jurors. 165. The Sheriff, before the sitting of any Court whereat a jury shall be necessary, shall, on receiving from the Court a precept, issue summonses requiring the attendance thereof of the persons so drawn as aforesaid from the ballot box, and every such summons shall be personally served upon, or left at the usual or last known place of residence of the person so summoned, two clear days, or such other time as the Court may direct, before the day appointed for the sitting of the Court.

Summonses to additional jurors. 166. If any of such persons cannot be found, the Sheriff shall obtain so many additional names drawn in the aforesaid manner as may be necessary to make up the jurors to the proper number, and shall issue summonses to such persons in like manner.

Delivery of panel to Registrar. 167. The Sheriff shall cause to be delivered to the Registrar of the Court a panel containing the names, occupations and places of residence of the persons so summoned, a copy of which shall be affixed by the Registrar in the Court Hall.

Sessions at place for which there is no jurors' list. 168. If a Sessions shall be held at any place for which a jurors' list may not have been prepared under this Act, the Sheriff may prepare a temporary jurors' list for the purposes of such sessions, and all the provisions of this Act shall, as far as applicable, apply in the case of the persons whose names are entered, whether as common jurors or as special jurors upon such temporary list.

Penalty on jurors not attending or refusing to serve. 169. Any person summoned to attend the Court as a juror who shall not without reasonable excuse (burden of proof whereof shall rest on such juror) duly attend and be present at the Court and at all times appointed by the Court for adjournments, and any person present in Court, who being called to serve as a juror, shall without reasonable excuse refuse to serve till discharged by the Court, shall be guilty of contempt of Court, and be liable to a fine not exceeding fifty Leones.

Enforcement of penalty. 170. Such punishment may be inflicted summarily on an order to that effect by the Court, and any fine imposed shall be recoverable by distress and sale of the moveable and immoveable property of the person fined, by warrant of distress to be signed by the Registrar of the Court, which warrant shall be issued by the Sheriff without further order of the Court, if the amount of fine is not paid within six days of its having come to his knowledge by notice or otherwise that the fine has been imposed, if imposed in his absence. In default of the recovery of the fine by such distress and sale, the person fined may be imprisoned for a period not exceeding two weeks.

Notice to persons fined in absence. 171. In case where any person is so fined in his absence, the Registrar of the Court shall forthwith send him a written notice of the fact, requiring him to pay the fine or to show cause before the Court within four days, for not paying the

same.

Exemption of jurors.

172. (1) Nothing herein contained shall prevent the Court from exempting any person from serving as a juror at any session or any trial for reasonable cause, a certificate bearing the signature of a Medical Practitioner setting out that any person required to attend as a juror is unable from the state of his health to do so, may, on the court being satisfied of the signature to such certificate, be received as prima facie evidence of reasonable cause.

(2) A medical Practitioner, shall, on any juror producing his summons to serve, at any public hospital between the hours of eight and ten in the forenoon, and complaining of ill-health and inability to attend the session, grant him gratuitously such certificate, should he be found unfit. Jurors resident more than five miles from the place where the session is being held shall be excused by the Court from serving on the ground of ill-health upon the testimony of two jurors.

Jurors at Coroner's Inquests.

173. All person qualified as jurors under this Act shall be liable to serve as such, not only at any session of the Supreme Court within the district for which they shall have been appointed, but also upon any Coroner's jury, when summoned to attend thereon.

#### TRIAL WITH A JURY

Selection of jury.

174. At the sitting of the Court, the names of all the jurors summoned, special or common, shall be written on separate pieces of card or paper of equal size and put into boxes, and whenever a jury is required, the Registrar of the Court shall in open Court draw from the proper box by lot until the required number of jurors appear, who, after all just causes of challenge allowed shall remain as fair and indifferent, and the same shall be done whenever it shall be necessary to form a new jury:

Provided that if a case be brought on for trial during the time that a jury in any other case may be deliberating, a new jury may be drawn from the residue of the cards in the boxes.

Deficiency of jurors.

175. Whenever there shall be a deficiency, or when the number of trials before the Court renders the attendance of jurors for the whole of any session oppressive, it shall be lawful for the Court to issue fresh precepts, if necessary, and, subject to all rights of challenge, to put upon the jury as common or special jurors so many men of the bystanders as shall be sufficient to make up to full number thereof, and it shall not be an objection to any such bystander that his name is not upon any jurors' list.

Address by Registrar to accused before jurors are sworn.

176. When the jurors are ready to be sworn, the Registrar or other officer of the Court shall address the accused person as follows—

"The jurors who are to try you are now about to be sworn; if you object to any of them, you must do so as they come to the book to be sworn, and before they are sworn, and you shall be heard".

Challenge to the array, Peremptory challenges.

177. There shall be no challenge to the array, and no accused person shall be admitted to any peremptory challenge above the number of three.

Challenges for cause.

178. Challenge for cause shall be allowed on any of the following grounds—

- a. presumed or actual partiality or prejudice in the juror as standing in the relation of husband, master or servant, landlord or tenant to the person accused or to the person supposed to have been injured or affected by the act complained of, or to the person on whose complaint the prosecution was instituted; being in the employment of either of such person; being plaintiff or defendant against either of such persons; in any civil suit, or having complained against or having been accused by either of such persons in any criminal prosecution, or entertaining prejudiced views on the case to be tried;
- b. some personal cause as infancy, old age, deafness, blindness, infirmity or ill-health;
- c. that the juror has been convicted of perjury or other offence, disqualifying him from acting as a juror;

- d. that the juror does not understand the English language, but this shall not be a ground of disqualification, if the juror understands the usual language of the place where trial is held, unless the Court shall think fit so to order.

Trial of challenges for cause.

179. Every challenge for cause, if objected to by the opposite party, shall be tried and determined by the Court without a jury, and the person challenged shall be examined on oath and shall be required to answer on oath, all lawful questions relating to the trial of the challenge.

When jury to be kept together.

180. It shall not be necessary in any case to keep the jury together during any adjournment previous to the close of the Judge's summing up, but it shall be lawful for the Court, if it should appear to it to be advisable in the interest of justice on any trial to require the jury to be kept together during any adjournment

Jurors to attend adjournments.

181. If a trial is adjourned, the jurors shall be required to attend at the adjourned sitting and at every subsequent sitting until the conclusion of the trial.

Provision for continuance of criminal trial where a juror dies or becomes incapable.

182. (1) Where in the course of a criminal trial any member of the jury dies or is discharged by the Court as being through illness incapable of continuing to act or for any other reason, the jury shall nevertheless, subject to assent being given in writing by or on behalf of both the prosecutor and the accused and so long as the number of its members is not reduced below ten, be considered as remaining for all the purposes of that trial properly constituted and the trial shall proceed and a verdict may be given accordingly.

(2) If either the prosecutor or accused shall refuse to give his assent the Court may direct that a juror shall be added and the jury re-sworn, or that the jury shall be discharged and a new jury empanelled and in either of these cases the trial shall commence anew.

#### TRIAL WITH ASSESSORS

Selection of assessors.

183. (1) If the trial is to be held with the aid of assessors, the Judge shall select from the persons summoned to act as special jurors such number, not being ordinarily less than three, as he shall think fit to assist him in such trial.

(2) The persons charged may object to any assessors so appointed and the Court shall refuse to allow any such assessor to sit if the grounds for such objection are substantial and reasonable.

Decision of Court and assessors to have same effects as finding of jury.

184. Upon every such trial the decision of the Judge, with the aid of the assessors, as to all matters arising thereupon, which in the case of a trial by jury would be left to the decision of the jurors, shall have the same force and effect as the finding or verdict effects as finding of a jury thereon.

If any assessor unable to attend, trial may proceed.

185. (1) If in the course of a trial with the aid of assessors, at any time prior to the finding any assessor from any sufficient cause is prevented from attending throughout the trial, the trial shall proceed with the aid of the remaining assessors.

(2) If two or more of the assessors are prevented from attending or absent themselves, the proceedings shall be stayed and a new trial shall be held with the aid of fresh assessors.

Adjournment.

186 (1) The Court may in its discretion from time to time adjourn the trial, if necessary.

(2) In the event of adjournment the assessors shall be required to attend at the adjourned sitting, and at every subsequent sitting till the conclusion of the trial.

#### CASE FOR THE PROSECUTION

Opening of case for prosecution.

187. When in the case of a trial before a judge with assessors the accused has pleaded to the indictment or, in the case of trial by jury, the accused has been given in charge of the jury, counsel for the prosecution shall open the case



against the a accused and shall call witnesses and adduce evidence in support of the charge.

Additional witnesses for prosecution.

188. If the Attorney-General is of the opinion that there is in any case committed for trial any material or necessary witness other than those mentioned in the depositions, the prosecutor may call the witness before the trial Court upon giving to the Registrar of the Court and to the accused notice of his intention to do so together with a summary of the evidence to be given by the witness.

Cross- examination of witnesses for the prosecution.

189. The witness called for the prosecution shall be subject to cross-examination by or on behalf of the accused and to re-examination on behalf of the prosecution.

Statements.

190. (1) At any time before, or during the course of the trial, the police may, at the request of the accused, deliver to him a copy of a statement taken by them from any person who is either listed in the depositions or in any summary of evidence referred to in section 188 or is actually called as a witness.

(2) If a witness is cross-examined at the trial on behalf of the accused on any part of the witness's statement to the police the prosecution may furnish the Court with a copy of the statement which shall become part of the record of the trial.

(3) The statement shall not thereby become evidence of any facts alleged therein but the Judge and jury may take it into account in judging the credibility of the witness on his evidence as a whole and the prosecution and defence shall be entitled to refer to it in examining or cross-examining any witness and in addressing the Court.

Proof of Statement of accused in lower court.

191. (1) The statement of the accused duly recorded by or before the committing Court and whether signed by the accused or not, may be given in evidence without further proof thereof by the prosecution unless it is proved that the Magistrate purporting to sign it did not in fact sign it.

(2) Where the prosecution does not put in the statement the Judge, on the application of the defence, may order the statement to be read at the conclusion of the prosecution evidence as part of the prosecution case.

#### CASE OF HEARING IN TRIALS BY JURY

At close of prosecution case Judge to inform undefended accused of his rights.

192. (1) At the close of the evidence for the prosecution and after the statement of the accused person before the committing Court has been put in evidence the Court shall in cases where the accused is not defended by counsel inform him of his right to address the Court, to give evidence on his own behalf of to make an unsworn statement and to call witnesses in his defence and in all cases shall require him or his counsel to state whether it is intended to call any witness as to fact other than the accused person himself.

(2) Upon the accused being so informed the Judge shall record the fact and shall then observe the appropriate procedure set out in section 193.

Procedure to be followed where accused is undefended.

193. (1) Where the accused person is not defended by counsel and state that he does not intend to call any witness as to the facts except himself, the Court shall forthwith call upon the accused to make his statement or say nothing or give evidence on oath as to the facts, and after his cross-examination (if any) he shall be permitted to address the Court if he so desires and to call any witnesses as to character.

(2) Where the accused is not defended by counsel but states that he intends to call witness (other than himself) as to the facts, the Court shall call upon him to open his case if he so desires. The accused shall then make his own unsworn statement or give his evidence on oath and thereafter he shall call his witnesses (including witnesses as to character). At the conclusion of the evidence for the defence the accused shall be permitted to sum up his case to the Court and counsel for the prosecution shall be entitled to reply.

Where accused is defended.

194. (1) Where the accused is defended by counsel who states that no witness as to the facts will be called except the accused, the Court shall require the accused to make his unsworn statement or give his evidence, as the case may be.

Thereafter counsel for the prosecution may address the Court and counsel for the defence may reply and shall then call his witness (if any) as to the character of the accused.

(2) Where the accused is defended by counsel who states that he intends to call witnesses as to the facts other than the accused, the Court shall call upon the accused's counsel to open his case and shall then require the accused, if he so desires, to make his own unsworn statement or give his evidence on oath, as the case may be, and thereafter to call his witnesses (including witnesses as to character). At the conclusion of the evidence for the defence counsel for the accused may address the Court and counsel for the prosecution may reply.

(3) In any case where two or more accused are jointly tried and some accused are defended by counsel and others are not, the Court shall for the purposes of procedure deem all the accused to be defended by counsel.

Additional witnesses for the defence.

195. (1) The accused person shall be allowed to examine any witness, although not previously bound over to give evidence and shall, if he apprehends that the witness will not attend the trial voluntarily, be entitled to apply for the issue of process to compel the witness's attendance.

(2) No accused person shall be entitled to any adjournment to secure the attendance of any witness unless he shows that he could not by reasonable diligence have taken earlier steps to obtain the presence of the witness.

Rebutting evidence.

196. (1) At the close of the evidence for the defence, or, where it is sought to rebut evidence of good character, after evidence of good character has been given, the Court may, in its discretion, grant the prosecutor leave to call rebutting evidence where something has arisen ex improviso, in the course of the defence.

(2) Where such evidence in rebuttal is given, counsel for the defence shall be entitled to comment on the evidence so given.

#### CLOSE OF HEARING IN TRIALS BY JURY

Summing up by Judge.

197. (1) When, in a trial by jury, the case on both sides is closed the Judge shall sum up the law and evidence in the case.

(2) Where the Judge gives no directions for the recording of his summing up or of any direction given by him, he shall prepare a statement as soon as possible according to the best of his recollection and, for the purpose of preparing such statement, may consult any notes he may have made for his summing up or for any such direction.

Jury to consider their verdict.

198. (1) After the summing up, the jury shall consider their verdict, and for that purpose may retire.

(2) Except with the leave of the Court, no person other than a juror shall speak to or hold any communication with any member of the jury while the jury are considering their verdict.

Delivery of verdict.

199. When the jury have considered their verdict, the foreman shall inform the Judge what their verdict is, or that they are not unanimous.

Procedure where jury differ.

200. (1) If the jury are not unanimous, the Judge may require them to retire for further consideration.

(2) After such period as the Judge considers reasonable the jury may deliver their verdict, or state that they are not unanimous.

Verdict on each charge.

201. (1) Unless otherwise ordered by the Court, the jury shall return a verdict on all charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is.

(2) Such questions and the answers to them shall be recorded.

Amending a verdict. 202. When by accident or mistake a wrong verdict is delivered the jury may, before or immediately after it is recorded, amend the verdict, and it shall as ultimately amended.

Acting on verdict. 203. (1) When the verdict of the jury is unanimous the Judge shall give judgment in accordance with that verdict.  
(2) If the accused is found not guilty, the Judge shall record a judgment of acquittal.  
(3) If the accused person is found guilty, the Judge shall pass sentence on him accordance to law.  
(4) Where the jurors are not unanimous in their findings the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

Provided that the findings of a majority of not less than two-thirds of the jury may in respect of an offence which is not punishable by death, be held, taken to be, and received by the Court as the verdict of the whole jury.

Retrial of accused after discharge of jury. 204. Whenever the jury is discharged, the accused person shall be detained in custody or released on bail, as the case may be, and shall be tried by another jury.

#### IN CASES TRIED WITH ASSESSORS

Delivery of opinions by assessors. 205. (1) When, in a case tried with assessors, the case on both sides is closed, the Judge may sum up the evidence for the prosecution and defence, and shall then require each of the assessors to state his opinion orally, and shall record their opinion but the decision shall be vested exclusively in the Judge.

(2) Judge shall then give judgment, and in so doing shall not be bound to conform with the opinions of the assessors, but he shall record his judgment in writing and in every case the 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 at the time of pronouncing it..

(3) If the accused is convicted, the Judge shall pass sentence on him according to law.

#### PART V – SPECIAL TRIALS

##### TRIAL OF CORPORATIONS

Trial of children and young persons. 206. (1) In this Part the expression "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 by which the representative of a corporation is by this Part authorised to do, but a person so appointed shall not by virtue only of being so appointed, be qualified to act on behalf of the corporation before any Court for any other purpose.

(2) A representative for the purposes of this Part 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 purposes of this Part shall be admissible, without further proof, as *prima facie* evidence that the person has been so appointed.

Proceedings against corporations. 207. (1) A corporation may be charged either alone or jointly with another person with an offence triable on indictment or triable summarily before a Magistrate's Court.

(2) A representative may on behalf of the corporation make a statement before the Court in answer to the charge.

(3) Where a representative appears, any requirement of this Act that anything shall be done in the presence of the

accused or the defendant, or shall be read or said to the accused or the defendant, shall be construed as a requirement that this things shall be done in the presence of the representative or reach or said to the representative.

(4) Where a representative does not appear, any such requirement, and any requirement that the consent of the accused shall be obtained for summary trial, shall not apply.

(5) Where any person is charged jointly with a corporation with an offence triable on indictment and either that person or the corporation by its representative does not consent that the offence should be dealt with summarily in pursuance of section 6 of the Courts Act, 1965, the Court shall not have power to deal summarily with the offence in the case of the other offender.

(6) Where a corporation is charged with an offence triable on indictment or triable summarily, the corporation may, on arraignment before the Supreme Court or on being asked to plead by the Magistrate, as the case may be, enter in writing by its representative a plea of guilty or not guilty, and if either the corporation does not appear by a representative or, though it does so appear fails to enter 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.

Fines on corporations.

208. (1) A corporation that is convicted of an offence is liable, in lieu of any imprisonment that is prescribed as the punishment for that offence, or where no fine is Prescribed—

- a. to be fined in an amount that is in the discretion of the Court where the offence is triable on indictment; or
- b. to be fined in an amount not exceeding four hundred leones where the offence is triable summarily.

(2) Where a fine imposed under sub-section (1) is not paid forthwith the prosecutor may, by filing the conviction, enter as a judgment the amount of the fine and costs (if any) in the Supreme Court, and that judgment shall be enforceable against the corporation in the same manner as if it were a judgment entered against the corporation in the Supreme Court in civil proceedings.

Service of documents.

209. Where a corporation is charged with an offence triable on indictment or summarily, any summons or other document requiring to be served on the corporation in connection with the proceedings shall be served by leaving it at or sending it by post to the registered office of the corporation, or if there be no such office in Sierra Leone, by leaving it at or sending it by post to the corporation at any place at which it trades or conducts its business in Sierra Leone

#### TRIAL OF CHILDREN AND YOUNG PERSONS

Trial of children and young persons.

210. Children and young persons accused of criminal offences shall be apprehended and tried in accordance with the provisions of the Children and Young Persons Act.

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#### PART VI – EXECUTION OF SENTENCES

##### CAPITAL SENTENCES

Form of death sentence.

211. Every sentence of death shall direct that the person condemned shall be hanged by the neck until he is dead, but shall not state the place of execution.

Condemned person to be informed of his right to appeal.

212. The Court shall inform every person condemned to death of the period within which, if he desires to appeal, his notice of appeal or of his application for leave to appeal must be given.

Suspension of execution of death sentence pending appeals.

213. (1) In the case of a conviction involving sentence of death the sentence shall not in any case be executed until

- a. after the expiration of the time within which a notice of appeal or of an application for leave to appeal may

- be given; or
- b. in the case of a petition, after the expiration of forty-two days from the date of the decision of the Court of Appeal, and if, within the appropriate time allowed, any such notice is given or petition is made, the sentence shall not be executed until the appeal or petition is finally rejected or the application for leave to appeal is finally refused, as the case may be.

(2) ) In this section "petition" means a motion or petition for special leave to appeal to Her Majesty in Council and includes, where appropriate, any application relating to such motion or petition.

Authority for detention, Form 34 in Schedule II.

214. 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.

Death sentence not to be passed on pregnant woman.

215. If a woman convicted of an offence punishable with death be alleged to be pregnant, the Court shall enquire into the fact; and if there be reasonable cause for believing it, the sentence to be passed on her shall be a sentence of imprisonment for life instead of sentence of death.

Death sentence not to be passed on persons under eighteen years of age.

216. Sentence of death shall not be pronounced or recorded against a person convicted of any offence if it appears to the Court that at the time when the offence was committed he was under the age of eighteen years; but in lieu thereof the court shall sentence him to be detained during Her Majesty's pleasure and if so sentenced, he shall be liable to be detained in such place and under such conditions as the Governor-General may direct, and whilst so detained shall be deemed to be in legal custody.

Discharge of persons detained under section 215.

217. (1) A person in detention pursuant to the directions of the Govern-General under section 216 may at any time discharged by the Governor-General on licence.

(2) A licence may be in such form and may contain such conditions as the Governor-General may direct.

(3) A licence may at any time be revoked or varied by the Governor-General and where a licence has been revoked, the persons to whom the licence related shall return to such place as the Governor-General may direct, and if he fails to do so, may be apprehended without warrant and taken to that place.

Judge to report.

218. So soon as conveniently may be after the sentence of death has been pronounced, the presiding Judge shall forward to the Governor-General through the Prime Minister a copy of the finding and sentence, and of his notes of evidence taken at the trial, with a report in writing signed by him containing any recommendations or observations on the case which he thinks fit to make.

Governor- General to make decision and communicate the same to the Judge.

219. The Governor-General shall communicate to the said Judge, or his successor in t office, the terms of any decision to which he may come thereon, and the Judge shall cause an entry to the effect thereof to be entered on the record of the Court.

Forms of Order.

220. The Governor-General shall issue an order under his hand and the Public Seal which may be in one of the forms set out in the Second Schedule, and if the sentence is to be carried out shall state the place, which shall be private and the time where and when the execution is to be had, and shall give directions as to the place of burial of the body of the person executed; and if the person sentenced is pardoned, the pardon shall state whether it is free or to what conditions it is subject.

Order to be sent to Sheriff.

221. The Governor-General's Order shall be sent to the Sheriff, and the Sheriff shall act in accordance therewith.

Order to be sufficient authority.

222. The said Order of the Governor-General shall be sufficient authority in law to all persons to whom the same is directed to execute the sentence of death or other punishment awarded, and to carry out the directions therein given in accordance with the terms thereof.

Persons to be present.

223. The Sheriff and the Keeper of the Prison, the Medical Officer in charge of the Prison, the Chaplain of the Prison or other minister of religion, and such other officers of the prison as the Sheriff requires shall be present at the

execution.

Certificate of death by Medical Officer. Form 37 in Schedule II.

224. As soon as may be after judgment of death has been executed on the offender his body shall be examined by the Medical Officer in charge of the Prison, who shall ascertain the fact of death and sign a certificate thereof in duplicate and deliver the same to the Sheriff.

Declaration of execution by Sheriff. Form 38 in Schedule II.

225. The Sheriff and Keeper and Chaplain of the Prison or other minister of religion and such other person present (if any) as the Sheriff requires or allows shall also sign a declaration in duplicate to the effect that judgment of death has been executed on the offender.

Exhibition of certificate and declaration at entrance of prison.

226. The Sheriff shall in each case cause the duplicate of every certificate and declaration required by this Act to be exhibited, as soon as may be, and kept exhibited for twenty-four hours at least, on or near the principal entrance of the Prison or some other public building or place situate within the district wherein judgment of death is executed.

Penalty for signing false certificate.

227. If any person knowingly and wilfully signs any false certificate or declaration required by sections 224 and 225 he shall be guilty of a misdemeanour and on conviction hereof shall be liable to imprisonment for any period not exceeding two years.

Governor-General may make Rules.

228. The Governor-General may make rules to be observed on the execution of a judgment of death, for the purposes, of guarding against any abuse in such execution and giving greater solemnity to the same, and of making known without the prison walls that such execution is taking and has taken place.

Saving clause as to legality of execution.

229. The omission to comply with any provision of this Part shall not make the execution of judgment of death illegal in any case where such execution would otherwise have been legal.

#### SENTENCES OTHER THAN CAPITAL

Authority for carrying out sentences not capital.

230. (1) A warrant under the hand of the Judge or Magistrate by whom any person shall have been sentenced, ordering that the sentence shall be carried out in any prison within Sierra Leone, shall be sufficient authority to the keeper of such prison and to all other persons for carrying into effect the sentence described in such warrant, not being a sentence of death.

(2) Except where express provision is made to the contrary, every sentence shall be deemed to commence from, and to include the whole of the day of the date on which it was pronounced.

(3) The length of any term of imprisonment imposed by the sentence of any Court shall be treated as reduced by any period during which the offender was in custody before sentence by reason only of having been committed for trial, or remanded, after arraignment.

Fine in lieu of imprisonment.

231. Where a person is convicted of any felony or misdemeanour or any offence punishable by imprisonment (other than an offence for which the sentence is fixed by law) the Court may, in its discretion, sentence him to a fine in addition to or in lieu of any other punishment to which he is liable.

Notice of fines to persons liable.

232. When the Court orders money to be paid by a person convicted upon summary conviction for a fine or penalty, and—

- a. the Court allows time for payment; or
- b. the offender is not present on the occasion of the conviction,

the clerk of the Court shall as soon as may be thereafter deliver to that person, or send by post addressed to him at his last or usual place of residence, a notice in writing stating the amount of the penalty, the date on or before which payment thereof is required, and the place or places and times at which payment may be made, and if payment by instalments is directed, particulars of the instalments.

Order for payment of money.

233. (1) When the Court orders money to be paid by a convicted person—

- a. for a fine, penalty or the expenses of his prosecution; or
- b. by way of compensation or otherwise under sections 54 or 60.

the Court may either order immediate payment, or allow time for payment, or direct payment to be made by instalments. If such money be directed to be paid by instalments and default is made in the payment of any one instalment, all instalments then remaining unpaid shall become immediately due.

(2) In every such case any sum of money due may be levied on the goods and chattels of the person ordered to pay the same by distress and sale under warrant; and in all cases in which a warrant of distress is issued by the Court under this section the Court may either suffer such person, to go at large or verbally, or by warrant in that behalf, order him to be kept in custody until return shall be made to the warrant of distress.

Payment or tender.

(3) Such person may pay or tender to the officer having the execution of the warrant the sum therein mentioned together with the amount of the expenses of the distress up to the time of payment or tender, and thereupon the officer shall cease to execute the same.

Commitment for want to distress.

234. If the officer having the execution of the warrant reports that he could find no goods and chattels whereon to levy the money mentioned in the warrant with expenses, the Court may by the same or a subsequent warrant commit the person ordered to pay, to prison for a period specified in the warrant, unless the money and all expenses of the distress, commitment, and conveyance to prison, to be specified in the warrant, are sooner paid.

Form 41 in Schedule II.

Commitment in lieu of distress.

235. Where it appears to the Court that distress and sale of his goods and chattels would be ruinous to the person convicted and ordered to pay money for a fine or penalty and his family, or (by his confession or otherwise) that he has no goods whereon a distress may be levied, or other sufficient reason appears to the Court, the Court may, if it thinks fit, instead of or after issuing a warrant of distress commit him to prison for a period specified in the warrant, unless the money and all expenses of the commitment and conveyance to prison, to be specified in the warrant, are sooner paid.

Form 42 in Schedule II.

Fines, detention in police station in lieu of imprisonment.

236. The Court may, in any circumstances in which the Court has power upon summary conviction to issue a warrant of commitment to prison in respect of the non- payment of a fine or penalty, in lieu of issuing such warrant, issue a warrant of detention in a police station, and unless the sum mentioned in the warrant, with the amount of expenses therein authorised (if any), is sooner paid to the constable holding the warrant, the warrant shall authorise any constable to convey the person named therein to any convenient police station and for that purpose to arrest him, and shall authorise the officer in charge of any police station to detain him there till the hour of eight in the morning on the day following that on which he is arrested under the warrant or, if he is so arrested between mid-night and eight in the morning on any day, on that day:

Provided that the officer in charge of the police station in which a person is detained under this section may discharge him at any time within two hours before the hour of eight in the morning if the officer thinks it expedient so to do in order to enable him to go to his employment or for any other reason appearing to the officer to be sufficient.

Statements as to wages to be evidence.

237. A statement in writing to the effect that wages of any amount have been paid to a person during any period, purporting to be signed by or on behalf of his employer, shall be prima facie evidence of the facts therein stated in any proceedings taken before the Court for the enforcement of the payment by the person, to whom the wages are stated to have been paid, of a fine or penalty upon summary conviction.

Payment in full after commitment.

238. Any person committed for non-payment may pay the sum mentioned in the warrant, with the amount of expenses therein authorised (if any), to the person in whose custody he is, and that person shall thereupon discharge him if he is in custody for no other matter.

Part payment after commitment.	239. (1) If any person committed to prison for non-payment has paid or shall pay any sum in part satisfaction of the sum adjudged to be paid, the period of his 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 bears to the sum for which he is liable.  (2) The keeper of a prison in which a person is confined who is desirous of taking advantage of the provisions of subsection (1) shall, on application being made to him by such prisoner, at once take him before a Court, and such Court shall certify the amount by which the period of imprisonment originally awarded is reduced by such payment in part in satisfaction, and shall make such order as is required in the circumstances.
Limitation of imprisonment.	240. No commitment for non-payment shall be for a longer period than six months, except where the law under which the conviction has taken place enjoins or allows a longer period.
Direct imprisonment. Form 43 in Schedule II.	241. 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.
How warrants addressed, and by whom executed.	242. All warrants to enforce the payment of money due in respect of fines, penalties and forfeited recognizances shall be sufficiently addressed for execution by being directed in the Western Area to the Sheriff, and in the Provinces to the Sheriff of the Province or the Deputy Sheriff of a district. Such warrants may be delivered to constables for execution.
Enforcement of warrants outside jurisdiction.	243. (1) All such warrants shall be valid and effectual throughout Sierra Leone, wherever the person against whom such warrant is issued, or any goods and chattels of such person may be found.  (2) Such warrants issued by any Magistrate's Court shall be enforce by the Magistrate of the district in which the person against whom such warrants or any goods and chattels of such person, may be found.  (3) Warrants issued by a Court of summary jurisdiction shall be enforced in other districts, either of the Western Area or Provinces, by the Magistrate having jurisdiction therein.
Procedure with regard to warrants to be enforced outside jurisdiction.	244. Warrants to be enforced outside the jurisdiction of the Court by which they were issued shall be forwarded to the authority prescribed in section 243, and be enforced and returned in like manner as if they had been issued out of the Court having jurisdiction within the district where such warrant is to be endorsed, and the proceeds of such enforcement shall be forwarded to the Court out of which such warrant was originally issued.

#### DEFECTS IN ORDERS AND WARRANTS

Error or omission not to affect legality or execution of order or warrant.	245. The Court may at any time amend any defect in substance or in form in any order or warrant, and no omission or error as to time and place, and no defect in form in any order or warrant given under this Act, shall be held to render void or unlawful any act done or intended to be done by virtue of such order or warrant; provided that it is therein mentioned, or may be inferred therefrom, that is founded on an information, conviction or judgment sufficient to sustain the same.
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#### PART VI - MISCELLANEOUS

Forms.	246. The forms set out in the Second Schedule may be used in all proceedings to which they are applicable with such variations as circumstances require, and shall valid and effectual for all purposes. In proceedings to which no such forms are applicable the Master of the Supreme Court may, with the approval of the Chief Justice, from time to time frame the forms required and such forms shall be published in the <i>Gazette</i> .
Sealing orders, warrants, etc., not generally necessary.	247. The sealing of any order, summons or warrant shall not be necessary in addition to the signature of the Judge or Magistrate or Justice of the Peace by whom the same shall be signed, except in cases where sealing is expressly directed by this or any other Act.



Fingerprints.

248. (1) Whenever any person prosecuted and charged before any Court with an offence involving fraud, dishonesty or violence, then, and in every such case, whether such offence is to be tried summarily or on information, or whether the said person has or has not been admitted to bail, it shall be lawful for a Police Officer of or above the rank of Assistant Superintendent or the constable for the time being in charge of a Police Station, if he is of the opinion that there are grounds for suspecting that such person has been previously convicted or has been engaged in crime, or that from any other case his photographs, measurements, thumbprints and fingerprints are required for the purposes of justice, to cause to be taken for use and record such photographs, measurements' thumbprints and fingerprints of the said person as such Police Officer or the constable for the time being in charge of a Police Station, shall think fit:

Provided that if no conviction of the said person shall follow as a result of, or in connection with, such said prosecution, then, and in every such case, the photographs of the said person shall, together with the records of his measurements, thumbprints and fingerprints, be handed over to him or if this is not possible, be destroyed.

(2) A Police Officer of or above the rank of Assistant Superintendent or the constable for the time being in charge of a Police Station is hereby authorised and empowered to take all such necessary action and do all such things as the proper and efficient execution of the provisions of this section may reasonably require.

(3) Where a thumbprint or a fingerprint is likely to become an exhibit in a criminal case any constable may take for comparison the thumbprints and fingerprints of any person who is reasonably suspected of having made that thumbprint or fingerprint.

(4) Any person who shall refuse to submit to the taking and recording of his photographs, measurements, thumbprints or fingerprints shall be taken before a Magistrate who, on being satisfied that such person has been prosecuted and charged before any court with an offence involving fraud, dishonesty or violence or is reasonably suspected of having made a thumbprint or fingerprint likely to become an exhibit in a criminal case, shall make such order as he thinks fit, authorising a constable to take the measurements, photographs, thumbprints and fingerprints of such person.

Arrest, etc., of Member of Parliament or public officer to be reported.

249. (1) Whenever a Member of the House of Representatives or a public officer is—

- a. arrested or detained in custody upon the warrant or order of a Court; or
- b. sentenced by a Court to a term of imprisonment,

the Registrar or other proper officer of the Court shall soon as may be practicable, inform—

- i. in the case of a member of the House, the Speaker, and
- ii. in the case of a public officer, the Establishment Secretary.

(2) for the purposes of this section the expression "Court" means any Court in Sierra Leone and includes the Supreme Court, a Magistrate's Court and any Local Court.

Repeal and Savings, Cap. 39, Cap. 38 Act No. 10 of 1963.

250. (1) The Criminal Procedure Act, the Jurors and Assessors Act, subsection (3) of section 3 of the Treason and State Offences Act, 1963, section 27 of the Police Act, 1964 and section 23 of the House of Representatives Powers and Privileges Act are hereby repealed.

(2) Any Orders, Regulations or other instruments made under the Criminal Procedure Act, hereby repealed, shall remain in force and be deemed to have been made under the corresponding provisions of this Act until such time as the same may be amended, revoked, repealed or replaced by Orders or Regulations made under the provisions of this Act.

(3) All criminal trials in which a plea has been taken at the commencement of this Act shall be inquired into and dealt with in accordance with the provisions of the Acts hereby repealed.

Amendment of section  
78 of Act No. 22 of  
1961.

251. Paragraph (xii) of section 78 of the Prisons Act, 1961, is hereby amended—

- a. by substituting in the second line thereof for the words "measuring, photographing and taking of fingerprint impressions or other" the words "and making of";
- b. by deleting in lines 9 and 10 thereof the words "measurements, photographs, fingerprint impressions or other."

#### FIRST SCHEDULE

Short title.

1. These Rules may be cited as the Criminal Procedure Rules.

#### GENERAL PROVISIONS

Use of figures and  
abbreviation.

2. Figures and abbreviations may be used in an information or indictment for expressing anything which is commonly expressed thereby.

Mode in which offences  
are charged.

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

(2) A count of an information or indictment shall commence with a statement of the offence charged, called the statement of offence.

(3) 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 enactment shall contain a reference to the section of the enactment creating the offence.

(4) After the statement of the offence particulars of such offence shall be set out in ordinary language, in which the use of technical terms shall not be necessary.

Provided that (a) where any rule of law or any Act or statute limits the particulars of an offence which are required to be given in an information or indictment, nothing in this rule shall require any more particulars to be given than those so required.

(b) it shall be sufficient if only the words of the section of the enactment creating the offence are set out in the particulars of the offence.

(5) The forms set out in the Appendix to these rules, or forms conforming thereto as nearly as may be, shall be used in 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 in each case.

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

Provisions as to  
statutory offences.

4. (1) Where an enactment constituting an offence states the offence to be the doing or the omission to do any one of any different acts in the alternative, or the doing or the omission to any act in any one of any different capacities, or with any one of any different intentions, or states any part of the offence in the alternative, the acts, omissions, capacities or intentions, or other matters stated in the alternative in the enactment, may be stated in the alternative in the count charging the offence.

(2) It shall not be necessary, in any count charging an offence constituted by an enactment, to negative any exception

or exemption from or qualification to the operation of the enactment creating the offence.

Description of persons.

5. (1) The description of property in a count in an information or indictment 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 of property or special value of property, to name the person to whom the property belongs or the value of the property.

(2) Where property is vested in more than one person, and the owners of the property are referred to in an information or indictment, it shall be sufficient to describe the property as owned by one of those persons by name with others, and if the persons owing the property are a body of persons with a collective name, such as a joint-stock company or "Inhabitants," "Trustees," "Commissioners," or "Club" or other such name, it shall be sufficient to use the collective name without naming any the individual.

(3) Property belonging to or provided for the use of any Government Establishment, service, or department, may be laid as the property of Her Majesty the Queen.

(4) Coin and bank note may be described as money, and any averment as to money, so far as regards the description of property, shall be sustained by proof of any amount of coin or of any bank note, although the particular species of coin of which such amount was composed or the particular nature of the bank note shall not be proved; and in cases of embezzlement and obtaining money or bank notes by false pretences, by proof that the accused embezzled or obtained any coin or any bank note, or any portion of the value thereof, although such coin or bank 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.

(5) The description or designation in an information or indictment of the accused or of any other person to whom reference is made therein, shall be such as is reasonably sufficient to identify him without necessarily stating his correct name, or his abode, style, degree or occupation, and if 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, shall be given as is reasonably practicable in the circumstances, or such person may be described as "a person unknown".

Description of document.

(6) Where it is necessary to refer to any document or instrument in an information or indictment, it shall be lawful to describe it by the any name or designation By which it is usually known, or by the purport thereof, without setting out any copy thereof.

General rule as to description.

(7) Subject to any other provisions of these rules, it shall be sufficient describe any place, thing, matter, act or omission whatsoever to which it is necessary to refer in any information or indictment on ordinary language in such a manner as to indicate with reasonable clearness the place, time, thing, matter, act omission referred to.

Statement of intent.

(8) It shall not be necessary in stating any intent to defraud deceive or injure any particular person, where the enactment creating the offence does not make an intent defraud, deceive, or injure a particular person an essential ingredient of the offence.

Charge of previous convictions.

(9) Where a previous conviction of an offence is charged in an information or indictment it shall be charged at the end of the information or indictment by means of a statement that the accused has been previously convicted of that offence at a certain time and place without stating the particulars of the offence.

#### INDICTMENT

(10) Every indictment shall bear date on the day when the same is signed and With such modifications as shall be necessary to adopt it to the circumstances of each case, may commence in the following form:-

IN THE SUPREME COURT OF SIERRA LEONE  
The..... day of 19

At the Supreme Court holder at..... on the .....day.  
Of 19..... The Court is informed by the Attorney-General on the half of Our Lady the Queen at the instance of C.D.  
the Prosecutor that A.B is charged with the following offence (offences)-

APPENDIX TO RULES

FORMS OF INDICTMENT

1

STATEMENT OF OFFENCE

Murder.

PARTICULARS OF OFFENCE

A..B. on the .....day of..... 19.....  
At..... In the West Area of Sierra Leone murder

2

Statement of Offence  
Accessory after the fact to murder.  
Particulars of Offence

A. B, well knowing that one H. C. did on the.....day Western Area.....of.....at..... in the  
.....Province of Sierra Leone murder C. D., did on the..... Day of.....at .....in the West Area  
of Sierra Leone and on .....Province

Other days thereafter receive, comfort, harbour, assist and maintain the said H. C.

7

Statement of Offence

Robbery with violence, contrary to section 23 (1) (b) of the Larceny Act, 1916.

Particular of Offence

A. B., on the.....day of..... at.....in the Western Area of Sierra Leone, robbed C.D., of a watch,  
and at the time of or immediately before immediately after such robbery did use personal violence to the said C. D.

8

Statement of Offence

Burglary, contrary to section 25 (1) and larceny contrary to section 13 of the Larceny act, 1916.

9

Statement of Offence

Obtaining goods by false pretences, contrary to section 32 (1) of the Larceny Act, 1916.

Particular of Offence

A. B., on the.....day of.....at.....in the Western Area of Sierra Leone , with intent to defraud, obtained in Province from S. p. five yards of cloth by falsely pretending that he, the said A. B. was a servant to J. S. and the he, said A. B. had the been sent by the said J. S. to S. P. for the said cloth, and that he, the said A. B. was then authorized by the said J.S. to receive the said cloth on behalf of the said J.S.

10  
Statement of Offence

Conspiracy to defraud.

Particular of Offence

A. B. and C.D. on the .....day of.....and on divers days between That day and.....day of.....at.....in the Western Area Province of Sierra Leone, 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 representing that A. B. and C..D. were then carrying on a genuine business as jewelers at.....in the Western Area of Sierra Leone, and that they were then able to supply certain articles of jewelry to whomsoever would remit to them the sum of twenty leones.

11  
Statement of Offence  
First Count

Arson, contrary to section 2 of the Malicious Damage Act, 1861.

Particulars of Offence

A. B., on the.....day of.....at.....in Western Area of Sierra Leone, maliciously set fire to a dwelling house, one F. G. being therein.

Statement of Offence  
Second Count

Arson, contrary to section 3 of the malicious Damage Act, 1861.

Particulars of Offence

A. B., on the.....day of.....at.....in the Western Area of Sierra Leone, maliciously set fire to house with intent to injure or fraud.

12  
Statement of Offence

A. B., Arson contrary to section 3 of the Malicious Damage Act, 1861 C.D., accessory before the fact to same offence.

Particular of Offence

A. B., on the.....day of.....at.....in the Western Area of Sierra Leone, did counsel, procure, and command the said A. B. to commit the said offence.

Statement of Offence

Damaging trees, contrary to section 22 of the Malicious Damage Act, 1861.

Particulars of Offence

A. B., on the.....day of.....at.....in the West Area of Sierra Leone, maliciously damage on mango tree there growing. A. B. has been twice previously convicted of an offence under section 22 of the Malicious Damage Act, 1861, namely, at.....on the.....day of..... At the.....on the.....day of.....

14

Statement of Offence  
First Count

Forgery, contrary to section 2 (1) (a) of the Forgery Act, 1913.

Particulars of Offence

A. B., on the.....day of.....at.....in the Western Area of Sierra Leone, with intent to defraud, forged a certain will purporting to be the will of C.D.

Statement of Offence  
Second Count

Uttering forged document, contrary to section 6 (1) (2) of the Forgery Act, 1913.

Particulars of Offence

A. B., on the.....day of.....at.....in the Western Area of Sierra Leone, uttered a certain forged will purporting to be the will of C. D., knowing the same to be forged and with intent to defraud.

15

Statement of Offence

Uttering counterfeit coin contrary to section 6 of the coinage Offences Act, 1965

B., on the.....day of.....in the public market at.....in the Western Area of Sierra Leone, uttered a counterfeit coin, knowing the same to be counterfeit.

16

Statement of Offence

Perjury, contrary to section 1 (1) of the perjury Act, 1911.

Particulars of Offence A. B., on the .....day of.....19.....at Freetown in the Western Area of Sierra Leone, being a witness upon the trial of an action in the Supreme Court of Sierra Leone in which one.....was plaintiff, and one.....was defendant, knowingly falsely swore that he was one M. N. in the street called Westmoreland Street, Freetown, on the.....day of.....19.....

17

Statement of Offence

Particular of Offence

A. B., on the.....day of.....in the Western Area of Sierra Leone published a defamatory libel concerning E. F. in the form of a letter, book, pamphlet picture, or as the case may be. (Innuendo should be stated where necessary).

18  
Statement of Offence  
First Count

Published obscene libel

Particulars of Offence

E. M., on the..... day of ..... At.....in the Western Area of Sierra Leone, sold, uttered, and published and caused or procured to be sold, uttered, and published and obscene libel the particulars of which are deposited with this indictment. (Particulars to specify pages and lines complained of where necessary as in a book).

Statement of Offence  
Second Count

Procuring obscene libel (or thing) with intent to sell or publish.

Particular of Offence

E. M., on the.....day of..... at.....in the Western Area of Sierra Leone, sold, uttered, and published and obscene libel the particulars of which are deposited with this indictment. (Particulars to specify pages and lines complained of where necessary as in book).

19  
Statement of Offence  
First Count

Falsification of accounts, contrary to section 1 of the Falsification of Accounts Act, 1875.

Particular of Offence

A. B., on the.....day of.....at.....in the Western Area of Sierra Leone, being clerk or servant to C.D., with intent to defraud, made or concurred in making a false entry in a cash book belonging to the said C.D., his employer, purporting to show that on the said day Le100 had been paid to L. M.

Statement of Offence

Same as first count

Second Count  
Particulars of Offence

A. B., on he.....day of.....at.....in the Western Area of Sierra Leone, being clerk or servant to C.D., with intent to defraud, omitted or concurred in omitted from or from or in cash book belonging to the said C.D., his employer, a material particular that is to say, the receipt on the day of Le100 from H.S.

Statement of Offence  
First Court

Fraudulent conversion of property, contrary to section 20 (1) (iv) (a) of the Larceny Act, 1916.

Particulars of Offence

A. B., on the .....day of .....at .....in the Western Area of Sierra Leone, fraudulently converted to his own use ..... Province Or benefit certain property, that is to say, Le100 entrusted to him by E.S. in order that he, the said A. B., might retain the same in safe custody.

Statement of Offence  
Second Count

Fraudulent conversion of property, contrary to section 20 (1) (iv) (b) of the Larceny Act, 1916.

Particulars of Offence

A.B., on the.....day of.....at .....in the Western Area of Sierra Leone, fraudulently converted to his own use .....Province or benefit certain property, that is to say, the sum of Le400 received by him for and on account of L.M.

SECOND SCHEDULE

FORM No. 1

Warrant of Remitting  
Court.

Section.

In the .....Court.....at.....  
To.....(Officer)

WHEREAS.....(name of accused) of.....(Address) was brought before me at.....on the.....day of.....19.....charged with the offence of..... (statement of offence) committed at.....in the district of.....

Now these are to command you to convey the said ..... to..... and to produce him before the..... (Magistrate) at..... there to be dealt with according to law.

Dated this .....day of.....19.....

.....  
Signature

Recognisance to pay  
costs.

FORM No. 2

IN THE SUPREME COURT OF SIERRA LEONE

WHEREAS application has been made to His Lordship.....under section 43 of the Criminal Procedure Act, 1965, by me..... (named of accused) a person accused of the offence of .....



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AND WHEREAS it has been further ordered that I, the said .....(accused), shall enter into a bond with ..... surety ..... that I shall, if convicted, pay the costs of the prosecution:

Now I .....(name of accused), of .....of .....(address) hereby bind himself that I will, in the event of my being convicted of the said offence, or of any other offence, upon the charge now pending or any charge substituted therefore, pay the costs of my prosecution as certified by .....

Dated this.....day of .....19.....

.....  
Signature

Summons to an accused person.

Form No. 3

In the.....Court  
To.....(name of Accused) of..... (address).

WHEREAS your attendance is necessary to answer to a charge of..... (Statement of Offence): you are hereby required to appear in person before the ..... Court at.....at.....m, on the .....day of.....19.....  
Herein fail not.

Dated this.....day of.....19.....

.....  
(Signature)

Summons to accused person under special procedure in

FORM No.3A

In.....Court  
To.....of..... (name of accused) (address)

WHEREAS your attendance (subject to what is stated below) Is necessary to answer to a charge of..... (statement of offence)

Unless you choose to inform the Court in writing before the date fixed for hearing that you plead guilty to the charge you are hereby required to appear in person or by legal practitioner before the Court.....at..... M, on the.....day of.....19.....

If you plead guilty in writing or are represented by a legal practitioner you need not attend the hearing unless you are subsequently required to do so by the Court Dated this.....day of.....19.....

.....  
(Signature)

I plead guilty to the above written charge

.....

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(Signature)

Note: *Your non-appearance in Court will have no effect on the Sentence to be passed if you are convicted.*

This form must be used when an offence with which the defendant is charged is punished only by a fine. Or by imprisonment not exceeding three months (whether with or without a fine), it may also be used on the direction of a Magistrate in respect of any offence other than a felony.

Warrant of Arrest.

FORM No. 4

In the ..... Court at .....  
To ..... (name and designation of person or persons who is or are to execute the warrant).

Whereas ..... (name of accused) of ..... Address stands charged with the offence of ..... (Statement of offence)

You are hereby commanded to arrest the said ..... and to produce him before me.  
DATED this ..... day of ..... 19.....

.....  
(Signature)

(This warrant may be endorsed as follows)

If the said ..... shall enter into a recognisance himself in the sum of ..... with ..... surety ..... (each) in the sum of ..... to attend before me at ..... m on the ..... day of ..... 19....., and to continue so to attend otherwise directed by me, he may be released.  
DATED this ..... day of ..... 19.....

.....  
(Signature)

Order to bring up a prisoner.

FORM No. 5

In the ..... Court at .....  
To the keeper of the Prison at .....

WHEREAS ..... (name of prison) a prisoner now in your custody is required to appear before me to answer a charge of ..... (statement of offence):

Now these are to command you to produce the said prisoner before me at ..... at ..... monitoring on the .....  
Day of ..... 19....., and to insure his further attendance from time to time until the said charge shall have disposed of.

.....  
(Signature)

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Affidavit of Service.

FORM No. 6.

Affidavit of Service of Summons out of the Jurisdiction.

I, .....(name and designation), make oath and say as follows:-

At or about.....m. in the.....noon of the.....day of.....19....., I personally served upon.....(name of person summoned) by.....(state method of service) a summons issued by.....(issuing Court) in the matter of..... (prosecutor) versus .....(accused) wherein the said accused is charged with.....(set out charge as described summons).

.....  
(Signature)

Sworn before me at.....this.....day of.....19.....

.....  
(Signature)

Search Warrant.

FORM No. 7

In the.....Court at.....

To.....(name and designation of person or persons who is or are to execute the warrant).

WHEREAS information has been given to me upon oath of the commission or suspected or intended commission of the offence of..... (statement of offence) and it has been made to appear to me that there is reasonable cause to suspect that.....(specify the animal, matter or thing clearly) or some of them are concealed in.....at.....

Now these are to authorise you with such assistance as you may require to search all persons found therein and if found to produce such..... (animal, matter or thing) forthwith before this Court together with this warrant.

And I hereby authorise you to enter by force into the..... (Place to be searched) if you are not admitted after making known your authority and demanding admission.

And I hereby direct you to arrest the occupier of the said..... (place to be searched) if any such .....(animal, matter or thing) be found.

DATED this.....day of.....19.....

.....  
(Signature)

\*(I authorise the execution of this warrant at any time.)

.....

(Signature).

\* Strike out when Magistrate or Justice of the Peace does not think fit so to authorise or direct

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Nolle Prosequi.

FORM No. 8

To.....(Registrar or Court Clerk) of the ..... Court at  
.....(Place).

Whereas.....(name of accused) of..... (address) has been committed for  
trial by the.....Court of..... stands charged before the on a charge of  
.....(statement of offence). With the offence.

Now these are to authorise and require you to enter on the record a statement that the proceedings are stayed by my  
direction.

DATED this.....day of.....19.....

.....  
Attorney-General

Order to recover  
damages, etc.

FORM No. 11

Section 58.

In the.....Court at.....  
To.....(he bailiff or other person concerned)

Whereas in the matter of a charge of.....preferred at the instance  
of.....(prosecutor) against..... (accused) (defendant) it was  
ordered..... (set out the order made).

Now these are to authorise and require you to recover the said sum of .....as though the  
same were a judgment debt in the above mentioned Court.

DATED this.....day of.....19.....

.....  
(Signature)

Notice of intention to  
take deposition.

FORM No. 12

In the.....Court at.....  
To.....(name) of.....(address).

WHEREAS.....(name) is lying ill/hurt at.....(address) and is not likely to recover, and  
whereas it appears to me that the said.....is able and willing to give material  
information relating to the offence of.....(statement of offence) alleged to have been committed  
upon/ in regard to.....

Now, therefore, take notice that I propose to take in writing and upon oath or affirmation the statement of the said  
.....

At.....(place) at.....m  
On the.....day of.....next

You should be present at the said time and place in order to hear the said statement made \*(and to cross-examine the

deponent upon it).

DATED this.....day of.....19.....

.....  
(Signature)

\*In case of notice to the prosecutor these words should be struck out.

FORM No. 13

Order to produce A  
prisoner to hear A  
deposition taken.

In the.....Court at.....  
To.....(keeper of Prison or constable) at..... (place).

WHEREAS.....(name) is now lying ill/hurt at.....(address) and is not expected to recover:

And whereas it is expedient that.....(name), a prisoner now in your custody, should be present  
in order to hear the statement which I propose to take from the said.....

Now these are to command you to produce the said prisoner at.....(place) at.....m.  
on.....the.....day of.....next there to continue until the said statement shall have been  
taken and recorded.

DATED this.....day of.....19.....

.....  
(Signature)

FORM No. 14

Recognisance to look  
after a lunatic.

In the.....Court at.....

WHEREAS.....(name of accused) did appear before the  
.....(Magistrate or Judge) at.....to take his trial on attend a  
preliminary investigation into a charge of.....:

And whereas the said.....(Magistrate or Judge) has reason to believe that the  
said.....(name of accused) is of unsound mind and is incapable of making his defence and has  
postponed further proceedings in the matter:

Now I hereby declare myself surety.

Now we hereby jointly and severally declare ourselves sureties that the said.....shall be  
property taken care of and prevented from doing injury to himself or any other person or property, and for his  
appearance when required before the Court or before such officer as the Court may appoint in that behalf.

And in case of my/our making default herein I bind myself/we bind ourselves to forfeit to Her Majesty the Queen the  
sum of.....

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DATED this .....day of .....19.....

.....  
(Signature)

FORM No. 15

Order for commitment  
of criminal lunatic  
pending report to  
Minister.

In the.....Court at.....  
To the keeper of the prison at.....

WHEREAS.....(name of criminal lunatic) being charged before the  
.....Court with the offence of..... was this day by special finding found to be  
not guilty by reason of insanity:

Now these are to authorise you to received the said..... into your custody and safely to keep  
him until further order in his behalf.

DATED this.....day of .....19.....

.....  
(Signature)

FORM No. 16

Minister's Order for  
confinement of a  
criminal lunatic.

WHEREAS.....(name of accused), being charged before  
the.....Court at.....with the offence  
of.....was by special finding the said Court to be not guilty of the act or  
omission charged by reason of insanity:

Now, therefore, I.....the Minister responsible for Social Welfare, do hereby order the  
said..... of ..... to be confined in the mental  
hospital/prison at.....as a criminal lunatic until further order.

DATED this.....day of .....19.....

.....  
(Minister)

FORM No. 17

Certificate of  
superintendent of  
mental hospital.

CERTIFICATE UNDER SECTION && OF THE CRIMINAL PROCEDURE  
ACT, 1965

I.....(name) of.....(address), the Medical Superintendent of the  
Mental Hospital at..... hereby certify that .....(name of  
accused) against whom a charge of ..... is pending before the Court at.....  
is in my opinion capable of making his defence to the said charge.

DATED this.....day of .....19.....

.....  
(Signature)

Recognisance to take  
trial.

FORM No. 18

In the ..... Court at .....

I, .....(name of accused) being brought before the  
.....(Magistrate) at .....charged with  
.....(statement of offence), do hereby bind myself to attend in  
the ..... Court at .....on the said charge and to continue so to  
attend until otherwise directed by the said Court: and in case of my making default herein I bind myself to forfeit to  
Her Majesty the Queen the sum of.....

DATED this.....day of.....19.....

.....  
(Signature)

I hereby declare myself surety/We hereby jointly and severally declare ourselves sureties for the above-  
named.....of.....that he will attend in the .....Court  
at.....on the .....day of.....next to answer to the above-  
named charged and will continue so to attend until otherwise directed by the said Court: and in case of his making of  
default herein I bind myself/we bind ourselves to forfeit to Her Majesty the Queen the sum  
of.....

DATED this.....day of.....19.....

.....  
(Signature)

Recognizance to attend  
preliminary  
investigation and take  
trial if committed.

FORM No. 19

In the ..... Court at .....

I, .....(name of accused) of..... (address), being brought before  
the.....(Magistrate) at..... charged with the  
Offence of.....and required to give security for my attendance in his Court  
and at the Supreme Court, if required, do bind myself to attend at the Court of the said  
.....(Magistrate) on everyday of the preliminary investigation into the said charge and, should  
the case be sent for trial by the Supreme Court, to be and appear before the said Court when called upon to answer  
the charge against me and to continue so to appear until otherwise ordered by the said Court: and in case of my  
making default herein I bind myself to forfeit to Her Majesty the Queen the sum  
of.....

DATED this.....day of.....19.....

.....  
(Signature)

I hereby declare myself surety.  
We hereby jointly and severally declare ourselves sureties for the said .....(name of  
accused) that he will attend the .....Court on every day of the preliminary  
investigation into the offence charged against him, and should the case be sent for trial by the Supreme Court, that he  
will be and appear before the said Court when called upon to answer the charge against him and will continue so to  
answer otherwise ordered by the said Court and in case of his making default herein I bind myself/we bind ourselves

to forfeit to Her Majesty the Queen the sum of.....

DATED this.....day of.....19.....

.....  
(Signature)

Form No. 20 RECOGNISANCE BOOK KEPT AT THE POLICE STATION (OR LOCKUP) AT								
Date	Time of Arrest	Name and Address of Recognisor	Charge	(1) Conditions of Recognisance	Name and Address of Sureties	(2) Conditions of Bail	Date and Time Laid Before Magistrate	(3) Order of Magistrate
(1) State time and place at which accused (recognisor) is to appear before the Magistrate and the sum in which he is bound followed by his mark or signature. (2) State amount in which each surety is separately bound, followed by his signature or mark. (3) Order for enlargement of bail, cancellation of bail, transfer to a bond, etc.								

Remand Warrant.

FORM No. 21

In the.....Court of.....  
To.....(keeper of Prison or constable) at.....

WHEREAS.....(name of accused) has the day appeared before me charged with the offence of.....and I consider it advisable to adjourn the examination into the said charge:

Now these are to command you to receive the said..... into your custody and safely to keep him and produce him before me at.....at.....m, or the..... day of .....19.....and hereafter from time to time as may be notified to you by endorsements on this warrant.

DATED this.....day of.....19.....

.....  
(Signature)



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Proceedings under  
sections 120 and 121.

FORM No. 22

Proceedings in a Preliminary Investigation when Case for the Prosecution is closed.

The following is read by the Magistrate and explained to the accused.

The charge/charges against you is/are .....(here set out charge or charges. Having heard the evidence do you wish to say anything in answer to the charge (or charges)? You are not obliged to say anything unless you desire to do so but whatever you say will be taken down in writing and may be given in evidence upon your trial. And I give you clearly to understand that you have nothing to hope from any promise of favour and nothing to fear from any threat which may have been holden out to you to induce you to make any admission or confession of your guilt. But that whatever you shall now say may be given in evidence notwithstanding such promise or threat. (Here record statement of accused. If too long for this space continue overleaf).

Q. Having heard you statement read do you wish to explain or add to it?

A. The statement of the accused as herein/hereafter recorded was taken in my presence and hearing and contains accurately the whole statement made by him. He was called upon to sign it or to append his mark which he did/refused to do.

.....  
(Magistrate)

Q. Do you wish to call any witness?

\*A. ....(if names are given record them). I order that the accused be committed for trial upon indictment before the Supreme Court at.....and I further order that the accused be admitted to bail/committed to prison.

DATED this.....day of.....19.....

.....  
(Signature)

\*If the accused states that he does not wish his witnesses examined by the Magistrate but desires them to be bound over to appear before the Supreme Court, this must be stated, but on no account should a Magistrate suggest or encourage this, but should record the evidence unless the accused does not wish it.

Recognisances On  
committal to take trial.

FORM No. 23

In the.....Court at.....

I, .....(name of accused) of..... Court on a charge of.....and required To give security to take my trial before the said ..... Court, do hereby bind myself to be and appear before the said..... Court at .....when call upon to answer the charge against me and to continue so to appear until otherwise ordered by the said Court: and in case of my making default therein I bind myself to forfeit to Her Majesty the Queen the sum of .....

DATED this.....day of.....19.....

.....

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(Signature)

I hereby declare my self surety/we hereby jointly and severally declare ourselves sureties said  
.....(name of accused) that he will be and appear before the said  
.....Court when called upon to answer the charge against him and will continue so to appear  
until otherwise ordered by the said Court: and in case of my making default herein I bind myself to forfeit to Her  
Majesty the Queen the sum of .....

DATED this.....day of.....19.....

(Signature)

Warrant on  
commitment for trial.

FORM No. 24

In the.....Court at.....  
To the Keeper of the Prison at.....

WHEREAS at a preliminary investigation held by me into a charge of.....preferred against  
.....(name of accused) I committed the  
said.....(name of accused) for trial by the Supreme Court Upon the said charge and  
did not admit him to Bail:

Now these are to command you to receive the said.....(name of accused) into your custody,  
and safely to keep him until the sittings of the Supreme Court to be held at .....(place)  
on the .....day of.....19..... for the trial of accused  
persons, and to produce him before the said Court then and there to be tried.

DATED this.....day of.....19.....

(Signature)

Recognisance to  
prosecute or give  
evidence.

FORM No. 25

In the .....Court at.....  
I, .....(name) of .....(address), do hereby bind myself to  
attend the Supreme Court at.....(place of sitting) at .....monitoring,  
on the .....day of..... next and then and there to prosecute (or to prosecute and give evidence or to  
give evidence) in the matter of a charge of.....against.....(name of accused) and  
in case of making default herein I bind myself to forfeit to her Majesty the Queen the sum  
of.....

DATED this.....day of.....19.....

(Signature)

Notice to prosecutor  
and witnesses entering  
into recognisance.

FORM No. 26

In the .....Court at.....

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To.....(name of prosecutor or witness) of.....(address)

Take notice that you are bound in the sum of.....leones to appear at the  
.....sessions of the Supreme Court to be holden at..... and unless you personally make  
your appearance accordingly that sum will be forfeit and levied on your goods and chattels, or your body taken in  
execution.

.....  
(Signature)

FORM No. 27

Warrant of  
Commitment On refusal  
to Enter into a  
Recognisance.

In the.....Court at.....  
To.....(keeper of Prison or constable).

WHEREAS.....(name) of.....(address) was called Upon to enter into a recognisance to  
prosecute (or to prosecute and give evidence or to give evidence) in the matter of a charge of  
.....to be preferred against.....at the sittings of the  
.....Court to be holden at.....on.....the  
day.....of.....19.....

AND whereas the said.....when so called upon did refuse to Enter into such recognisance:

Now these are to command you to receive into your custody the said.....and safely to deep him until after the  
said trial, unless he sooner enters into such recognisance or unless by an order of this Court or of the Supreme Court  
are commanded sooner to release him.

Dated this.....day of.....

.....  
(Signature)

FORM No. 28

Order to release a  
person committed for  
refusing to enter into a  
recognisance.

In the.....Court at.....  
To.....(keeper of Prison or constable).

WHEREAS by a warrant dated.....a certain.....(name) of  
.....(address) was committed to your custody there to abide until after the trial  
of.....before the Supreme Court on a charge  
of.....

Now these are to command you release and set at liberty the said.....

DATED this.....day of.....19.....

.....  
(Signature)

FORM No. 29

Certificate of failure to  
perform recognisance  
and warrant thereon.

CERTIFICATE AND WARRANT UNDER SECTION 129, CRIMINAL PROCEDURE ACT, 1965.

To the Sheriff.....

I, .....(Judge of the Supreme Court or other designation) hereby certify that the condition of the recognisance entered into by.....and set out on the obverse hereof has not been complied with.

You are hereby directed to cause to be served upon the said .....the order and notice required by section 129 of the Criminal Procedure Act, 1965:

And you are further directed that if the said sum shall not have been paid to you within six days of the service of such order and notice, you shall proceed to recover the same by distress and sale of the goods and chattels of the said.....and in default of the amount being so recovered you shall lodge the said ..... in the prison at.....there to be kept safely for a period of.....days, and for so doing this shall be sufficient warrant and authority to all concerned.

DATED at.....this .....day of.....19.....

.....  
(Signature)

FORM No. 30

Order and notice on failure to regard recognisance.

In the.....Court at.....

To.....(name) of.....(address)

WHEREAS on the.....day of .....19....., you as principal party/surety entered into a recognisance conditioned as follows---

And whereas the condition of the said recognisance has not been performed:

Now these are to order you to pay the sum of..... the amount of such recognisance wherein you were bound, and further to give you notice that if within six days of the date of service of this order and notice upon you, you fail to pay the said sum the same may be recovered in manner prescribed by distress and sale of your goods and chattels, and in default of the amount being so recovered you may be imprisoned for a period up to .....days.

DATED this.....day of.....19.....

.....  
(Signature)

FORM No. 31

Warrant for absconding recognisance.

In the.....Court at.....

To.....(person or persons who is or are to execute the warrant).

WHEREAS.....of.....has bound himself by recognisance to prosecute (or to prosecute and give evidence or to give evidence) in the matter of a charge of.....against .....

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And whereas it has been made to appear to me be information upon oath that the said ..... is about to go out to Sierra Leone:

Now these are to command you to arrest the said..... And to bring him before me.

DATED this.....day of.....19.....

.....  
(Signature)

Warrant of committal of  
absconding recognisor.

FORM No. 32

In the.....Court at.....  
To the Keeper of the Prison at.....

WHEREAS .....of..... has bound himself by recognisance to prosecute (or to prosecute and give evidence) in the matter of a charge of..... against.....

And whereas it has been made to appear to me by information upon oath that the said .....was about to go out of Sierra Leone, and he has been arrested under a warrant issued by me to prevent him so doing:

Now these are to command you to receive into your custody the said..... and safely to keep him until the trial of the said.....and to produce him upon the day of such trial before the Supreme Court unless in the meantime you receive other directions as to his disposal.

DATED this.....day of.....19.....

.....  
(Signature)

Certificate of Service of  
Notice of trial.

FORM No. 33

Certificate required by section 141, Criminal Procedure Act 1965.

I, .....(Sheriff or Deputy Sheriff) hereby certify that have/caused to be served upon.....(name of accused) a copy of the indictment in the matter of the charge against him with the notice of trial, and that the nature and exigency thereof was explained to him by.....and that this service was effected ..... (personally or in what manner accomplished) at .....(time) on..... the.....day of.....19.....

DATED this.....day of.....19.....

.....  
(Signature)

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Certificate of  
Conviction of Murder.

FORM No. 34

CERTIFICATE UNDER SECTION 124, CRIMINAL PROCEDURE ACT, 1965

THIS IS TO CERTIFY that at a session of the Supreme Court held before Mr. Justice.....  
at..... on the.....day of..... 19.....  
.....(name of prisoner) was duly convicted of murder and sentenced to suffer death.

This is to authorize and require all persons to whom the said..... shall be delivered to receive the  
said..... into their custody together with this certificate, and him safely to keep  
until further order in his behalf.

DATED this.....day of..... 19.....

.....  
(Signature)

Order of Governor-  
General to carry out  
sentence of death.

FORM No. 35

(Public Seal) Governor.

TO THE SHERIFF OF THE.....Sierra Leone

GREETINGS:

WHEREAS by a judgment of the Supreme Court bearing date the.....day of.....  
19.....(name of prisoner) was convicted of murder and was thereupon by the said Court sentenced to suffer  
death:

NOW, THEREFORE, these are to command you privately to carry the said sentence into execution by causing the  
said.....to suffer death by being hanged by the neck until he is dead  
at.....m on ..... the.....day  
of.....19....., and within the precincts of the prison at.....and thereafter to cause the  
dead body of the said.....to be buried in the..... (cemetery)  
at.....(place and for so doing these shall be your sufficient authority: and there upon without delay  
return you this order to me endorsed with what you have done therein.

Issued under my hand and the Public Seal of Sierra Leone this..... day of.....  
19.....

.....  
Governor-General

Commutation of death  
sentences.

FORM No. 36

(Public Seal)

To all to whom these presents shall come:

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I,.....Governor-General of Sierra Leone send greeting.

WHEREAS by section 70 of the Constitution it is ordained that the Governor-General may, in Her Majesty's name and on Her behalf, grant unto any offender convicted of any crime in any Court before any Judge or Magistrate within Sierra Leone a free pardon, or a pardon subject to such conditions as may at any time be lawfully thereunto annexed.:

AND WHEREAS.....(name of prisoner) was on the ..... day of.....  
19.....convicted before the .....Court at .....of murder and was thereupon by  
the said Court sentenced to suffer death:

AND WHEREAS it is in my judgment expedient that the Queen's mercy should, on the conditions hereinafter mentioned, be extended to the said.....

NOW, THEREFORE, by virtue and in exercise of the said powers in this behalf vested in me by the Constitution, I  
.....do hereby in Her Majesty's name and on Her behalf grant unto the  
said..... Her Majesty's pardon for the offence whereof he stands so convicted as  
aforesaid, on condition that the said.....shall be kept imprisoned for the rest of his life/a  
period of years, or in such other prison as the Governor-General shall from time to time direct, and subject to the  
prison rules for the time being in force.

Issued under my hands this.....day of.....19.....

.....  
Governor-General

Medical certificate of  
death after execution.

FORM No. 37

MEDICAL CERTIFICATE OF DEATH AFTER EXECUTION OF OFFENDER

I,.....the Medical Officer in charge of the prison at..... (or as the  
case may be) hereby certify that I this day examined the body of.....on whom judgment of  
death was this day executed in the said prison (or as the case may be), and that on such examination I found that the  
said.....was dead.

DATED this.....day of.....19.....

.....  
(Signature)

Declaration of  
execution of death  
sentence.

FORM No. 38

DECLARATION OF EXECUTION OF JUDGMENT OF DEATH

We, the undersigned hereby declare that judgment of death was this day executed on..... in  
the..... (describe prison or place) in our presence.

.....  
(Signature)

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FORM No. 39.

Warrant to Levy  
distress On defendants  
Goods.

In the.....Court at.....  
To.....(the person charged with the levy).

WHEREAS.....(name of offender) was on the.....day  
of.....19.....convicted before me of the offence of .....and  
sentenced/ordered to pay a fine/sum/penalty of .....

AND WHEREAS the said.....has not paid the said fine/sum/penalty or any part thereof:

Now these are to command you to make distress by seizure of the goods and chattels belonging to the  
said.....which may be found within the district of..... and if the said  
sum shall not be paid forthwith/within .....days next after such distress/to sell the property distrained  
or so much thereof as shall be sufficient to satisfy the said fine/sum/penalty returning this warrant with an  
endorsement certifying what you have done under it, immediately upon its execution.

DATED this.....day of.....19.....

.....  
(Signature)

FORM No. 40

Warrant of commitment  
pending return to  
warrant of distress.

In the.....COURT AT.....  
To.....(Keeper of Prison or constable).

WHEREAS.....(name of offender) was on the.....day  
of.....19..... convicted before me of the offence of .....and  
sentenced/ordered to pay a fine/penalty of.....

AND WHEREAS default having been made in payment a warrant of distress has been issued, but no return has yet  
been made thereto:

Now these are to command you to receive into your custody the said..... and safely to keep him until  
the.....day of.....19..... when you shall produce him before this Court  
at.....m unless the said sum of.....be sooner paid, on receipt of which  
the said.....shall be forthwith set a liberty.

DATED this.....day of.....19.....

.....  
(Signature)

FORM No. 41

Commitment for want  
of distress.

In the.....Court at.....  
To Keeper of the Prison at.....

WHEREAS by a warrant of distress dated the.....day of..... 19....., it was  
ordered that distress be lived against the goods and chattels



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of..... (name of offender) for the sum  
of.....:

AND WHEREAS it has been reported to me that there are no sufficient goods and chattels of the  
said.....to satisfy the said sum and the expenses of such  
distress:

Now these are to command you to receive the said.....into your custody together with this warrant,  
and him safely to keep in the said prison for the period of .....unless the sum of  
..... (as set out at the foot hereof) be sooner paid, and on the receipt thereof forthwith to set  
him at liberty returning this warrant with an endorsement certifying the manner of its execution.

DATED this.....day of .....19.....

.....  
(Signature)

Details of expenses: Le  
Distress  
Expenses of distress  
Expenses of commitment  
Expenses of conveyance to prison  
Le

FORM No. 42

Warrant of commitment  
of non-payment of  
fines.

In the.....Court at.....  
To the Keeper of the Prison at.....

WHEREAS.....(name of offender), was on the.....day  
of.....sentenced to pay a fine of..... or in default to suffer imprisonment for the period  
of.....

AND WHEREAS the.....has not paid the said  
.....fine or any part thereof:

Now these are to command you to receive the said..... Into your custody together with this  
warrant, and him safely to keep in the said prison for the said period of.....unless the said  
fine be sooner paid, and on the receipt thereof forthwith to set him at liberty returning this warrant with an  
endorsement certifying the manner of its execution.

DATED this.....day of .....19.....

.....  
(Signature)

Details of expenses: Le  
Distress .. ..  
Expenses of distress .. ..

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Expenses of commitment ..  
Expenses of conveyance to prison ..

Le

FORM No. 43

Warrant of  
Commitment (no  
alternative).

In the..... Court at.....  
To the Keeper of the Prison at.....

WHEREAS on the..... day of..... 19.....  
.....(name of prisoner) was convicted before me of the offence  
of.....and was sentenced to.....

Now these are to command you to receive the said..... into your  
custody together with this warrant, and there to carry the aforesaid sentence into execution according to law.

DATED this.....day of.....19.....

.....  
(Signature)

Passed in the House of Representatives this 5<sup>th</sup> day of October, in the year of Our Lord one thousand nine hundred  
and sixty-five.

S.V.WRIGHT,  
Clerk of the House of Representatives.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed the House of  
Representatives and found by me to be a true and correctly printed copy of the said Bill.

S.V.WRIGHT,  
Clerk of the House of Representatives.

M.P. M 4/T.