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SUPPLEMENT No. 2

TO

THE CYPRUS GAZETTE No. 3406 OF 30TH NOVEMBER, 1948.

LEGISLATION.

THE STATUTE LAWS OF CYPRUS

No. 40 OF 1948.

A LAW TO AMEND AND CONSOLIDATE THE LAW RELATING TO PROCEDURE IN CRIMINAL PROCEEDINGS.

R. E. TURNBULL,] [*25th November*, 1948.
Officer Administering the Government.

BE it enacted by His Excellency the Officer Administering the Government and Commander-in-Chief of the Colony of Cyprus as follows:—

Short title.

1. This Law may be cited as the Criminal Procedure Law, 1948.

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PART I.—PRELIMINARY.

Interpretation.

2. In this Law, unless the context otherwise requires—

"charge" means the accusation in writing of an offence with which an accused person is charged in a summary trial or a preliminary inquiry;

"court" means a court of competent jurisdiction;

"criminal proceedings" and cognate expressions mean any proceedings instituted before any court against any person to obtain punishment of such person for any offence against any enactment and includes a preliminary inquiry;

"enactment" includes Laws and public instruments;

"information" means the accusation in writing of an offence filed by, or on behalf of, the Attorney-General in an Assize Court against an accused person for trial before such court;

"judge" means any member of a district court;

"offence" means an act, attempt or omission punishable under any enactment;

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

"penalty" means any fine imposed under any enactment in force for the time being, any forfeited bail bond or recognizance, any sum adjudged in any criminal proceedings to be paid by any person by way of compensation, damages, costs or otherwise and includes the costs of execution for the recovery of the same;

"place" includes any house, office, room or building and any place or spot, whether open or enclosed and any vehicle, aircraft on land and any ship, boat or other vessel whether afloat or not;

"preliminary inquiry" means an inquiry into a charge held by a judge with a view to the committal of an accused person for trial before an Assize Court;

"summary trial" means any trial by a judge in the exercise of his summary jurisdiction.

Law of England when applicable.

3. As regards matters of criminal procedure for which there is no special provision in this Law or in any other enactment in force for the time being, every court shall, in criminal proceedings, apply the law and rules of practice relating to criminal procedure for the time being in force in England.

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PART II.—INVESTIGATION OF OFFENCES AND PROCEEDINGS ANTECEDENT TO PROSECUTION.

Chapter I.—Investigation of Offences.

4. The Governor may authorize any person, by name or by his office, who appears to him to be competent for the purpose (hereinafter in this Law referred to as "investigating officer") to investigate into the commission of any offence.

Investigating officers.

5.—(1) Every investigating officer may require any person, whom he has reason to suppose to be acquainted with the facts or circumstances of the offence which he is investigating, to attend at such time and place as such officer may reasonably direct for the purpose of examining him and taking a statement from him in relation to such offence.

Investigation of offences.

(2) The investigating officer may put to the person examined such questions as the investigating officer may deem necessary for the purposes of the investigation and the person examined shall be bound to answer truly all such questions :

Provided that, before putting any questions under this section, the investigating officer shall inform the person examined that he is not bound to answer any question the answer to which would have a tendency to expose such person to a criminal charge; the officer shall record upon any statement taken that the person has been so informed, and the person examined may, on that ground, refuse to answer any such question.

(3) The investigating officer may reduce into writing any statement made by the person examined and such statement shall then be read over to such person who shall thereupon sign the same or, if he is illiterate, affix his mark thereto and, if such person refuses to do so, the investigating officer shall make at the foot of the statement a note of the refusal stating also the reason thereof, if ascertained, and the statement shall then be signed by the investigating officer.

(4) Any person who, without reasonable cause, refuses to attend at such time and place as he may be directed or to answer any question or who answers any question untruly, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding one hundred pounds or to both.

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(5) In any criminal proceedings against any person for any offence in connection with any statement made by him under this section, everything contained in the record of such statement made by the investigating officer shall be deemed to have been stated by such person, unless the contrary is proved by him.

Order to produce documents.

6.—(1) The investigating officer during the investigation of an offence may, if he considers the production of a document to be necessary or desirable for the purposes of such investigation, issue a written order to the person in whose possession or under whose control such document is, or is believed to be, requiring him to produce it at such reasonable time and place as may be specified in the order.

(2) Any person required by written order under this section to produce a document shall be deemed to have complied with the order, if he causes the document to be produced instead of attending personally to produce the same.

(3) Any person who, without reasonable cause, refuses to produce any document when ordered to do so under this section shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding one hundred pounds or to both.

(4) Nothing in this section shall apply to any document for the production of which a warrant of the Governor or an order of the court is required by this Law or any other Law.

Governor may require production of telegrams.

7.—(1) If during the investigation of an offence it is made to appear to the Governor that such course is expedient in the public interest, the Governor may, by warrant under his hand, require any person who owns or controls any telegraphic cable or wire, or any apparatus for wireless telegraphy, used for the sending or receipt of telegrams to or from any place either within or out of the Colony, to produce to him, or to any person named in the warrant, the originals and transcripts, either of all telegrams, or of telegrams of any specified class or description, or of telegrams sent from or addressed to any specified person or place, sent or received to or from any place either within or out of the Colony by means of any such cable, wire or apparatus, and all other papers relating to any such telegram as aforesaid.

(2) Any person who, on being required to produce any such original or transcript or paper as aforesaid, refuses or neglects to do so, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding one hundred pounds or to both.

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(3) For the purposes of this section—

"telegram" means any message or other communication transmitted or intended for transmission by any apparatus for transmitting messages or other communications by means of electric signals;

"wireless telegraphy" means any system of communication by telegraph without the aid of any wire connecting the points from and at which the messages or other communications are sent and received.

Statements by persons in custody and by persons charged with offences.

8.—(1) No person in custody shall be questioned unless the investigating officer cautions him as follows or to the like effect:—

"You are not obliged to say anything but anything you say may be given in evidence."

(2) If any person in custody wishes to volunteer a statement, an investigating officer shall, after administering the caution as in sub-section (1) of this section provided, take the statement of such person without, however, putting any question to him in connection therewith except for the purpose of removing an ambiguity in what such person has actually said.

(3) When an investigating officer has made up his mind to charge a person with an offence, he shall not put to him any questions or any further questions, as the case may be, unless he first cautions him in the manner in sub-section (1) of this section provided.

(4) Before a person is formally charged with an offence by an investigating officer, the investigating officer shall read out to him the statement of the offence and shall immediately proceed to caution him as follows:—

"Do you wish to say anything in answer to the charge? You are not obliged to say anything, unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence."

The investigating officer shall then take down any statement which such person may make in answer to the charge.

(5) The provisions of sub-section (3) of section 5 of this Law shall apply to the taking of any statement under this section.

(6) No statement made under this section shall be received in evidence against the person making the same, unless the provisions of this section have been complied with:

Provided that no statement made by a person before there was time to caution him shall be rendered inadmissible in evidence merely because it was made before caution had been administered if the court is satisfied that caution was administered as soon as possible thereafter.

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Chapter II.—Arrest and Search.

Arrest.

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

(2) If the person to be arrested forcibly resists the endeavour to arrest him or attempts to evade the arrest, the police officer or other person making the arrest may use all means necessary to effect the arrest :

Provided that nothing in this sub-section contained shall be deemed to justify the use of greater force than was reasonable in the circumstances in which it was employed or was necessary for the arrest of the offender.

(3) Except when the person arrested is in the actual course of the commission of an offence or is pursued immediately after the commission of an offence or escapes from lawful custody, the police officer or other person making the arrest shall inform the person arrested of the cause of the arrest.

Search of arrested person.

10.—(1) Whenever a person is arrested the police officer making the arrest or to whom the person arrested is handed over may search such person, using such force as may be reasonably necessary for such purpose and may seize any article or document found in the possession of such person which such police officer has sufficient reason to believe may form material evidence against the person searched, or any other person, on a criminal charge and may, in any case, take from the person arrested any instrument of violence or other offensive weapon which such person has about him.

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

(3) Where any property has been seized or taken from any person under this section and the person is released on the ground that there is no sufficient reason to believe that he has committed any offence, the property so taken from him shall be restored to him by the person in charge of the property unless such person has sufficient reason to believe that such property may form material evidence against any other person on a criminal charge.

Search of place in pursuit of person evading arrest.

11.—(1) If any person, having authority to arrest whether under a warrant or not, has reason to believe that the person to be arrested has entered into or is within any place, every person residing in or being in charge of such place shall, on demand, allow the person having such authority free ingress thereto and shall afford all reasonable facilities to search therein for the person sought to be arrested.

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(2) If ingress to such place cannot be obtained under sub-section (1) of this section, any person having authority to arrest may enter such place and search therein for the person to be arrested and, in order to effect an entrance into such place, may break open any outer or inner door or window of any house or place, whether in charge of the person to be arrested or of any other person, or otherwise effect entry into such house or place.

Power to break out of any house for purpose of liberation.

12. Any person having authority to arrest whether under warrant or not 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.

Arrested persons to be taken to police station or place for reception of arrested persons.

13. Any person who is arrested, whether with or without a warrant, shall be taken with all reasonable despatch to a police station or other place for the reception of arrested persons and shall, without delay, be informed of the charge against him.

Any such person while in custody shall be given reasonable facilities for obtaining legal advice for taking steps to obtain bail and otherwise for making arrangements for his defence or release.

Arrest by police officer without warrant in certain cases.

14.—(1) Any police officer may, without warrant, arrest any person—

(*a*) whom he suspects upon reasonable grounds of having committed an offence punishable with death or imprisonment for a term exceeding two years;

(*b*) who commits in his presence any offence punishable with imprisonment;

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

(*d*) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such property;

(*e*) whom he suspects upon reasonable grounds of being a deserter from His Majesty's Navy, Army or Air Force;

(*f*) whom he suspects upon reasonable grounds of having been concerned in any act committed at any place out of the Colony which, if committed in the Colony would have been punishable as an offence and for which he is, under any Act of Parliament or Order of His Majesty in

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Council extending to the Colony, liable to be apprehended and detained in the Colony;

(*g*) for whom he has reasonable cause to believe a warrant of arrest has been issued by a court;

(*h*) who has no ostensible means of subsistence and who cannot give a satisfactory account of himself;

(*i*) who is found taking precautions to conceal his presence in circumstances which afford reason to believe that he is taking such precautions with a view to committing an offence;

(*j*) whom he is directed to arrest by a judge under the provisions of section 16 of this Law;

(*k*) whom he suspects upon reasonable grounds of having committed any offence punishable with imprisonment and who refuses to give his name and address or gives a name or address which the police officer suspects to be false;

(*l*) who may be arrested without warrant under any enactment in force for the time being.

(2) The authority given to a police officer to arrest a person without warrant shall not be exercisable in respect of an offence if the enactment creating the same provides that the offender cannot be arrested without a warrant, except where the offence is committed in the officer's presence and the offender refuses to give his name and address or gives a name or address which the police officer suspects to be false, in which case such officer may exercise such authority notwithstanding the provisions of such enactment.

Arrest by private person and owner of property without warrant.

15.—(1) Any private person may, without warrant, arrest any other person—

(*a*) who commits in his presence an offence punishable with death or imprisonment exceeding two years;

(*b*) whom he reasonably suspects of having committed an offence so punishable as in paragraph (*a*) hereof provided, if the person making such arrest has reasonable grounds to believe that the person to be arrested may escape punishment;

(*c*) whom he is directed to arrest by a judge under the provisions of section 16 of this Law;

(*d*) who has escaped from lawful custody or is attempting to evade lawful arrest;

(*e*) who may be arrested without warrant by any person under any enactment in force for the time being.

(2) Persons found committing any offence involving injury to property may be arrested without a warrant by the owner of the property or his servant or any person authorized by him.

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(3)—(*a*) Any person arresting any other person under the provisions of this section shall, without unnecessary delay, hand over the person so arrested to a police officer or, in the absence of a police officer, shall take such person to the nearest police station;

(*b*) if there is reason to believe that the person arrested comes under the provisions of sub-section (1) of section 14 of this Law, a police officer shall re-arrest him.

Arrest by or under directions of judge.

16. A judge may himself arrest or direct the arrest in his presence of any person—

(*a*) who is found committing any offence in his presence;

(*b*) for whose arrest he is competent at the time and in the circumstances to issue a warrant,

and he may deal with the person so arrested in the same manner as if such person had been duly brought before him under the provisions of this Law to be further dealt with according to law.

Disposal of persons arrested without warrant.

17. When any person has been taken into custody without a warrant for an offence other than an offence punishable with death, the officer in charge of the police station to whom such person shall have been brought may—

(*a*) in any case, and shall, if it does not appear practicable to bring such person before the court within twenty-four hours after he has been so taken into custody, cause an investigation of the case to be made and, unless the offence appears to the officer to be of a serious nature, release the person on his executing a bond, with or without sureties, for a reasonable amount to appear before the court at a time and place to be named in the bond but where any person is retained in custody, he shall be brought before a judge as soon as practicable;

(*b*) if it appears to him that the investigation of the case cannot be completed forthwith, discharge the said person on his entering into a recognizance, with or without sureties for a reasonable amount, to appear at such police station and at such time as is named in the recognizance, unless he previously receives notice in writing from the officer of police in charge of that police station that his attendance is not required;

(*c*) release a person arrested on suspicion on a charge of committing any offence, when, after due police investigation, insufficient evidence is, in his opinion, disclosed on which to proceed with the charge.

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Issue of warrant of arrest.

18.—(1) Any judge may issue a warrant for the arrest of any person in all cases in which he considers that such warrant is necessary or desirable:

Provided that no warrant of arrest shall be issued unless the grounds on which it is applied for are supported by oath.

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

Form, contents and duration of warrant of arrest.

19.—(1) Every warrant of arrest shall be under the hand of the judge issuing the same and shall bear the date of issue.

(2) Every such warrant shall state shortly the offence or matter for which it is issued, shall name or otherwise describe the person to be arrested and shall order the police officer or other person 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 statement of offence or matter therein mentioned and to be further dealt with according to law.

(3) Every such warrant shall normally be directed generally to all police officers; but any judge issuing such a warrant may, if its immediate execution is necessary and no police officer is immediately available, direct it to any other person or persons, and such person or persons shall execute the same and 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.

(4) Every such warrant shall remain in force until it is executed or until it is cancelled by a judge.

Irregularities in warrant.

20. No irregularity or defect in the substance or form of a warrant of arrest and no variance between it and the charge or between either and the evidence produced on the part of the prosecution at any inquiry or trial, shall affect the validity of any proceedings at or subsequent to the hearing of the case, but if any such variance appears to the court to be such that the accused has been thereby deceived or misled, such court may, at the request of the accused, adjourn the hearing of the case to some future date and in the meantime remand the accused or admit him to bail.

Execution of warrant and procedure thereon.

21.—(1) Every warrant of arrest may be executed at any time and place in the Colony on any day including a Sunday or public holiday.

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

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(3) Every person arrested on any such warrant shall, subject to the provisions of sections 22 and 23 of this Law be brought, as soon as is practicable after he is so arrested, before the court out of which the warrant was issued.

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

Procedure on arrest of person outside local jurisdiction.

22.—(1) Where a warrant of arrest is executed outside the local limits of the jurisdiction of the court out of which it was issued, the person arrested shall, unless released on a bail bond under section 23 of this Law, be taken before the court within the local limits of the jurisdiction of which the arrest was made.

(2) Such court shall, if satisfied that the person arrested is the person intended to be arrested, direct his removal in custody to the court out of which the warrant was issued :

Provided that, if such person has been arrested in respect of any matter other than an offence punishable with death and is either ready and willing to give bail to the satisfaction of the court within the local limits of the jurisdiction of which he was arrested or is ready and willing to enter into a bail bond as required by any direction endorsed on the warrant under section 23 of this Law, the court shall take bail and shall forward the bail bond to the court out of which the warrant was issued.

Power to release person arrested on bond.

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

(2) The endorsement shall specify—

- (*a*) the number of sureties, if any ;
- (*b*) the amount in which they and the person named in the warrant are respectively to be bound;
- (*c*) the court before which the person arrested is to attend; and
- (*d*) the time at which he is to attend including an undertaking to appear at any subsequent time as may be directed by any court before which he may appear.

(3) Where such an endorsement is made, the officer in charge of any police station to which on arrest the person named in the warrant is brought, shall release him upon

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his entering into a bail bond, in accordance with the endorsement, conditioned for his appearance before the court and at the time and place named in the bail bond. Such bond shall then be forwarded to the court before which the person named in the bail bond is bound to appear.

(4) Where action is taken under this section the surety or sureties, if any, shall be such as may be approved by the officer who takes the bail bond.

Remand in Police custody.

24. Where it shall be made to appear to a judge that the investigation into the commission of an offence for which a person has been arrested has not been completed, it shall be lawful for the judge, whether or not he has jurisdiction to deal with the offence for which the investigation is made, upon application made by a police officer not below the rank of an inspector to remand, from time to time, such arrested person in the custody of the police for such time not exceeding eight days at any one time as the court shall think fit, the day following the remand being counted as the first day.

Search of person and places without warrant.

25. Any police officer may, without warrant—

(*a*) detain and search any person whom he reasonably suspects of carrying, conveying or concealing any article or document in respect of which any offence is about to be committed or is being committed or has recently been committed;

(*b*) enter upon and search any place—

(i) if he has reason to believe that an offence punishable with death or imprisonment exceeding two years is about to be committed or is being committed, or has recently been committed, therein;

(ii) if the occupier of the place calls in the assistance of the police;

(iii) if any person in the place calls in the assistance of the police and there is reason to believe that an offence is being committed in the place;

(iv) in any case in which he may enter upon and search any place without warrant under any enactment in force for the time being.

Search warrants.

26. Where a judge is satisfied by information upon oath that there is reasonable ground for believing that there is in any place—

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

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

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

the judge may at any time issue a warrant, (in this Law referred to as "a search warrant"), authorizing the person therein named—

(i) to search such place for any such thing and to seize and carry such thing before the court out of which the search warrant is issued or some other court to be dealt with according to law; and

(ii) to apprehend and bring before a judge the occupier of the house or place where the thing is found or any person in or about such house or place being in possession of such thing, if the judge thinks fit so to direct in the warrant.

Form and duration of search warrant.

27.—(1) Every search warrant shall be under the hand of the judge issuing the same and shall bear the date of issue.

(2) Every such warrant shall normally be directed generally to all police officers; but any judge issuing such a warrant may, if its immediate execution is necessary, and no police officer is immediately available, direct it to any other person or persons and such person or persons shall execute the same and, when such a warrant is directed to more officers or persons than one, it may be executed by all or by anyone or more of them.

(3) Every such warrant shall remain in force until it is executed or until it is cancelled by a judge.

Execution of search warrant.

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

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

Ingress to a closed place.

29.—(1) Whenever any place liable to search is closed, every person residing in or being in charge of such place shall, on the demand of the police officer or other person having authority to search, allow such officer or person free ingress thereto and afford all reasonable facilities for a search therein.

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(2) If ingress into such place cannot be so obtained, the police officer or other person having authority to search may proceed in the manner prescribed by sub-section (2) of section 11 of this Law.

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

Discharge of suspected occupier or other person.

30. If the occupier of any place in which, or the person in whose possession, anything named in a search warrant is found is brought before a judge and the judge is not satisfied that such occupier or person has committed an offence, he shall forthwith be discharged by such judge.

Detention or disposal of things seized under search warrant.

31.—(1) When, upon the execution of a search warrant anything is seized and brought before any judge, as in section 26 of this Law provided, such thing, subject to sub-section (2) of this section, may be detained by such person as the judge may direct reasonable care being always taken for its preservation until the conclusion of any criminal proceedings which may be had in respect thereof.

(2) Where anything seized under a search warrant and brought before a judge is of a perishable or noxious nature, such thing may be disposed of forthwith in such manner as the judge may direct.

(3) If the judge is of opinion that anything seized under a search warrant is no longer required for any criminal proceedings, he shall, unless he is authorized or required by this or any other Law to dispose of it otherwise, direct—

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

(*b*) that, if such thing belongs to the person charged, such thing or any part thereof be applied to the payment of any costs or compensation directed to be paid by the person charged.

Seizure of property not mentioned in the warrant.

32. If, on searching a place under a warrant, the person authorized to make such search shall find property not mentioned in the warrant but in respect of which there is reasonable ground to believe that an offence has been or is intended to be committed, he may seize such property and take it before the judge issuing the warrant, who may make such order concerning the detention or disposal of the property as to him may seem fit.

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Power of judge as to documents or things possession of which is unlawful.

33. If, under any search warrant, there is brought before a judge any document or thing the use or possession of which is unlawful, the judge may, in the absence of some lawful excuse to be proved by the person in possession thereof, cause such document or thing to be impounded, defaced or destroyed notwithstanding that no person is prosecuted in respect thereof.

PART III.—PROCEEDINGS IN PROSECUTIONS.

Chapter I.—Preliminary.

Persons convicted or acquitted not to be tried again for same offence.

34. A person who has been once tried by a court of competent jurisdiction for an offence and convicted or acquitted of such offence shall not, while such conviction or acquittal remains in force, be liable to be tried again on the same facts for the same offence.

Civil remedy not to be suspended.

35. Subject to the provisions of any other Law no civil remedy which any person may have against any other person for any act or omission shall be suspended or in any way affected by the fact that such act or omission amounts to an offence.

Chapter II.—Commencement of criminal proceedings and process to compel appearance.

Commencement by charge.

36. Subject to the provisions of any other Law, criminal proceedings against any person shall commence by a charge preferred before a court against such person.

Form of charge.

37. Every charge shall be in the prescribed form; it shall be signed by or on behalf of the person preferring the same and where a charge is preferred by a Department such charge shall be signed by a representative of the Department; it shall state the name of the court before which the summary trial or preliminary inquiry is to take place and shall also contain the following particulars:—

(*a*) the name and description of the accused as known to the prosecution which shall be reasonably sufficient to identify him;

(*b*) the offence or offences with which the accused is charged containing the particulars set out in section 38 of this Law.

Provisions regarding the framing of charges.

38. The following provisions shall apply to all charges and, notwithstanding any Law or rule of practice, a charge shall, subject to the provisions of this Law, not be open to objection in respect of its form or contents if it is framed in accordance with the provisions of this Law—

(*a*) a statement of the offence in a charge, or where more than one offence is charged of each offence so charged, shall be set out in the charge in a separate paragraph called a count;

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(b) where a charge contains more than one count, the counts shall be numbered consecutively ;

(c) the count in a charge shall describe the offence with which the accused is charged 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 it shall contain a reference to the section of the enactment creating the offence. When an offence consists of something which is forbidden by the joint effect of more enactments than one, the charge shall contain a reference to both such enactments and if the offence is defined by one enactment and punishment is provided for it by another enactment reference shall also be made to the enactment by which punishment is provided ;

(d) where an enactment constituting an offence states the offence to be the doing or the omission to do anyone of different acts in the alternative, or the doing or the omission to do any act in anyone of different capacities, or with anyone of different intentions, or states any part of the offence in the alternative, the acts, omissions, capacities or intentions, or other matters constituting the alternative in the enactment may be stated in the alternative in the count charging the offence ;

(e) it shall not be necessary, in any count charging an offence, to negative any exception or exemption from, or proviso or qualification to, the operation of the enactment creating the offence ;

(f) if the offence charged consists in doing anything with or to any property, except where required for the purpose of describing an offence depending on any special ownership of property or special value of property, it shall not be necessary to state that the property belongs to any particular person, and, whether such statement is made or not, it shall be sufficient for the prosecution to prove such facts as to ownership as to show that the accused committed the offence with which he was charged ;

(g) no greater certainty or detail of statement as to documents, facts, things, persons, places, time or any other subject whatever shall be necessary or shall be used in the charge than is reasonably sufficient for the purpose of giving the accused notice thereof.

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Facts or documents may be scheduled and copies thereof may be attached to the charge if such a course is convenient;

(*h*) it shall not be necessary in stating any intent to defraud, deceive or injure to state an intent to defraud, deceive or injure any particular person, unless the enactment creating the offence makes an intent to defraud, deceive or injure a particular person an essential ingredient of the offence;

(*i*) where the accused is charged with criminal breach of trust, fraudulent appropriation of property, fraudulent falsification of accounts, fraudulent conversion or with corruption or abuse of office, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed and the dates between which the offence is alleged to have been committed without specifying particular items or exact dates;

(*j*) where a previous conviction of an offence is charged it shall be charged at the end of the count by means of a statement that the accused person has been previously convicted of that offence at a certain time and place without stating the particulars of the offence:

Provided that no error in stating the offence or the particulars required to be stated in the charge shall be regarded at any stage of the case as non-compliance with the provisions of this Law unless, in the opinion of the court, the accused was in fact misled by such error.

Joinder of counts in charges and powers of court.

39.—(1) Any number of counts either for the same offence or for different offences may be included in the same charge and the court may either convict or acquit the accused generally upon the whole charge or convict him upon one or some and acquit him upon other counts.

(2) If different counts relate to different facts and if the court thinks it conducive to the end of justice to do so, it may, at any stage of the proceedings, direct that the accused shall be tried separately upon any one or more of such counts.

(3) If the court convicts the accused generally on the whole charge, the legal effect of such conviction shall be to convict him on each of the counts contained therein and the court may, thereupon, pass upon him the same sentence as if he had been separately convicted on every such count:

Provided that not more than one sentence shall, in any case, be passed upon any person upon the same facts.

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Joinder and trial of persons.

40. The following persons may be joined in one charge and may be tried together, unless the court directs that they shall be tried separately, that is to say :—

(*a*) persons accused of the same offence ;

(*b*) persons accused of different offences committed in the course of the same transaction ;

(*c*) persons accused of an offence and persons who, under the provisions of any enactment, are deemed to have taken part in the commission of such offence ;

(*d*) persons accused of an offence and persons accused of attempting to commit such offence ;

(*e*) persons accused of any offence relating to stealing, criminal breach of trust, fraudulent appropriation of property, fraudulent falsification of accounts or fraudulent conversion and persons accused of receiving or taking upon themselves the control or disposition of the subject matter of such offence.

Manner in which parties to offences may be charged.

41. Everyone who is punishable by any enactment as a party to any offence may be charged either for committing that offence or for being a party to such offence or for directly or indirectly inciting any other person to commit it, whether the other party to the offence has or has not been charged or convicted or is or is not amenable to justice.

Presentation of charge to judge and filing.

42.—(1) Every charge shall be presented to a judge of the court in which the charge is preferred.

(2) The judge may, after perusal of the charge, direct that the same shall be filed or, if he refuses to give such direction, he shall, if so requested within ten days from the date of the refusal by the person preferring the charge, give to him a certificate of such refusal and such person may, within ten days from the date of obtaining the certificate, apply to the Supreme Court or to a Judge of the Supreme Court for an order directing the filing of the charge and, if such an order is made, the charge shall be filed accordingly.

Summons or warrant for compelling attendance.

43.—(1) At any time after the filing of the charge, a judge may issue either a summons or a warrant to compel the attendance of the accused before the court either for a summary trial or for a preliminary inquiry, as the case may be :

Provided that no warrant shall be issued except for some special reason to be recorded by the judge and to be supported by an oath or unless the accused failed to appear in response to a summons already issued and proved to have been duly served.

(2) The provisions of sections 18, 19, 20, 21 and 22 of this Law shall apply *mutatis mutandis* to every warrant issued under this section.

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Form and contents of summonses.

44.—(1) Every summons issued by a judge under this Law shall be in the prescribed form ; it shall be signed by a judge or an officer of the court out of which it is issued and shall be directed to the accused requiring him to appear before the court at such time and place as therein mentioned and it shall state shortly the offence or offences with which the person against whom it is issued is charged :

Provided that the judge may, in any summary trial, by special direction in the summons, dispense with the personal attendance of the accused and—

(*a*) permit him to appear and plead by an advocate, in which case such accused may so appear and plead ;

(*b*) permit him, if he desires to plead guilty, to send in such plea duly certified and sealed by a mukhtar together with the summons in respect of which the plea is made, in which case such plea shall be treated as a plea of guilty for the purposes of the proceedings :

Provided further that the judge, notwithstanding any such special direction, may, at any stage of the proceedings, order the personal attendance of the accused.

(2) No irregularity, defect or error in the issue, the form or the substance of the summons shall invalidate it or any subsequent proceedings thereunder.

Service of summons.

45.—(1) Every summons may be served anywhere in the Colony by a police officer or by an officer of the court out of which it is issued or by such other person as the court may direct and—

(*a*) if the accused is an individual, it shall be served either by delivering it to him personally or by leaving it with some adult person living with him or being in charge of the place in which he resides or of the place of his business or occupation ;

(*b*) if the person to be served is a firm or corporation, it shall be served by leaving the same at the principal place of business in the Colony of the firm or corporation or by delivering it—

(i) to one of the partners ;
(ii) to a director ;
(iii) to the secretary ;
(iv) to the main agent within the jurisdiction ; or
(v) to any one having, at the time of service, control of the business of the firm or corporation.

(2) Service of every summons shall be proved either orally by the person who has effected the same or by the affidavit of such person.

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Chapter III.—Provisions relating generally to all trials, summary and on information, and preliminary inquiries.

On trial, court to acquit or convict.

46. Every court, subject to the powers of adjourning the hearing of cases as in this Law provided, shall, upon the trial of any person, either acquit him and thereupon discharge him or convict him and impose on him such punishment as may be provided by the enactment under which he is convicted and as the circumstances of the case may require:

Provided that, if a person is acquitted on the ground of insanity under the provisions of this Law, the court shall direct him to be detained during the pleasure of the Governor as in this Law provided.

Adjournment and remand in custody.

47. Every court may, if it thinks fit, adjourn any case before it and upon such adjournment may, subject to the provisions of sub-section (2) of section 154 of this Law, either release the accused on such terms as it may consider reasonable or remand him in custody:

Provided that in a summary trial or a preliminary inquiry, no such remand shall be for more than eight days at any one time, the day following the adjournment being counted as the first day.

Chapter IV.—Compelling attendance and examination of witnesses.

Issue of summons for witness.

48.—(1) If in any criminal proceedings the court is satisfied that any person is likely to give material evidence for the prosecution or for the defence, the court may issue a summons to such person requiring him to attend before the court at a time and place to be mentioned therein, to give evidence respecting the case and to bring with him any specified document or thing and any other document or thing relating to the case which may be in his possession or power or under his control:

Provided that, if the court is satisfied by proof upon oath that any person likely to give material evidence will not attend to give evidence on a summons then, instead of issuing a summons, it may issue a warrant in the first instance for the apprehension of such person:

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

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(2) If the prosecutor is not a public officer no person to whom a summons is addressed shall be bound to attend unless his reasonable travelling and subsistence expenses are tendered to him or deposited with the registrar of the court out of which such summons is issued, a note thereof being made on the summons.

(3) The provisions of section 45 of this Law shall apply *mutatis mutandis* to the service of a summons for witness under this section.

Warrant for witness.

49.—(1) If a summons to a witness is disobeyed without lawful excuse, on proof of service of the summons, a warrant of arrest may be issued to compel the appearance of the person summoned.

(2) The provisions of sections 18, 19, 20, 21 and 22 of this Law shall apply *mutatis mutandis* to every warrant issued to compel the attendance of a witness under this section.

Witness to attend adjourned hearing.

50. Every witness who is present when the hearing of a case is adjourned or who has been notified by the court or an officer of the court of the time and place to which such hearing is so adjourned, shall, without further notice, be bound to attend at such time and place and, in default of so doing, may be dealt with in the same manner as if he had refused or neglected to attend before the court in obedience to a summons to attend and give evidence.

Penalty for witness refusing to attend.

51. Any person summoned to attend as a witness who, without lawful excuse, fails to attend as required by a summons duly served or who, having attended departs without having obtained the permission of the court or, having been duly notified of the time and place of an adjourned hearing fails to attend at such adjourned hearing, shall be liable to imprisonment not exceeding two months or to a fine not exceeding twenty pounds or to both and shall, in addition, be ordered to pay all costs occasioned by his failure to attend:

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

Summoning prisoner, etc., as witness.

52. Whenever any person confined in any prison or institution or otherwise in custody is required to give evidence, the court or any judge thereof may issue an order requiring the officer in charge of such person to bring him in proper custody before the court at a time to be named in the order and such officer, on receipt of such order, shall act in accordance therewith and shall provide for the safe custody of such person during his absence from the place in which he was confined or kept.

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Power to call or re-call witnesses.

53. The court, at any stage of the proceedings, may call any person as a witness or re-call and further examine any person already examined and the court may examine or re-call and further examine any such person if his evidence appears to the court to be essential to the just determination of the case.

Evidence of witness to be on oath or affirmation.

54.—(1) Every witness shall in criminal proceedings be examined upon oath and the court before which any witness shall appear shall have full power and authority to administer such oath as is customarily administered to persons of the creed or faith of the witness :

Provided that any person, upon objecting to be sworn and stating as the ground of such objection either that he has no religious belief or that the taking of an oath is contrary to his religious belief (the fact to be recorded on the minutes of the proceedings), shall, instead of taking an oath, be permitted to make an affirmation by solemnly promising and declaring that the evidence to be given by him to the court shall be the truth, the whole truth and nothing but the truth and such affirmation shall be of the same force and effect as if he had taken the oath :

Provided further that the court may examine without oath any child of tender years who does not, in the opinion of the court, understand the nature of an oath (the fact to be recorded on the minutes of the proceedings).

(2) Where an oath has been duly administered and taken, the fact that the person to whom the same was administered had, at the time of taking such oath, no religious belief or the taking of the oath was contrary to his religious belief shall not for any purpose affect the validity of such oath.

Order of examination of witnesses.

55.—(1) Every witness shall in criminal proceedings be first examined-in-chief by the party calling him then, if any other party so desires, cross-examined, then, if the party calling him so desires, re-examined.

(2) The examination and cross-examination must relate to relevant facts ; but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief.

(3) Except with the permission of the court, the re-examination shall be directed to the explanation of matters referred to in cross-examination ; and, if by permission of the court new matter is introduced in re-examination, the other party may further cross-examine upon that matter.

(4) When an advocate appears for any party, the examination-in-chief, cross-examination and re-examination as in this section provided shall be conducted by such advocate.

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56. In any criminal proceedings where more than one accused is charged at the same time—

Cross-examination of witnesses by co-accused.

(*a*) each accused shall be allowed to cross-examine a witness called by the prosecution before the witness is re-examined;

(*b*) if a witness called by one accused in giving evidence incriminates another co-accused, such witness may be cross-examined by such co-accused and, if so cross-examined, such cross-examination shall take place before cross-examination by the prosecution.

57.—(1) Whenever any person, appearing either in obedience to a summons or by virtue of a warrant, or being present in court and being required by the court to give evidence—

Refractory witnesses.

(*a*) refuses to be sworn or make affirmation; or

(*b*) having been sworn or made affirmation, refuses to answer any question put to him; or

(*c*) refuses or neglects to produce any document or thing which he is required to produce; or

(*d*) refuses in a preliminary inquiry to sign his deposition,

without in any such case offering any excuse to the satisfaction of the court for such refusal or neglect, the court may, by warrant, commit such person to prison, unless he sooner consents to do what is required of him.

(2) If such person, upon being brought before the court, again refuses to do what is required of him, the court may, if it sees fit, again commit him and so again from time to time until such person consents to do what is so required of him.

(3) Any person committed to prison under the provisions of this section may appeal to the Supreme Court and the provisions of this Law relating to appeals to the Supreme Court by persons convicted by a district court shall apply *mutatis mutandis* to a witness committed to prison under this section.

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

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Dumb witnesses.

58.—(1) A witness who is unable to speak may take the oath or affirm and may give his evidence in any manner in which he can make it intelligible, such as by writing or by signs; but such writing must be written, and the signs made, in open court.

(2) Evidence so given shall be deemed to be oral evidence.

Court may order payment of the costs and expenses of witness.

59. Where any person appears before the court on summons, recognizance or by virtue of a warrant to give evidence either on behalf of the prosecution or on behalf of the accused, the court may, at any stage of the proceedings, order payment of such costs and expenses of such witness together with compensation for his trouble and loss of time, as may be prescribed.

Taking evidence by commission.

60. Any court may, in any criminal proceedings in which it appears necessary for the purpose of justice to do so, make any order for the taking of evidence on oath before any officer of the court or any other person or persons and at any place within or without the Colony, of any witness or person, and may order any evidence so taken to be filed in the court and may empower either the prosecutor or the accused to produce such evidence on such terms as such court may direct. An appeal shall lie from any order made under this section to the Supreme Court and shall be brought by notice of appeal given to the Chief Registrar and to the other party within ten days from the date of the order and the Supreme Court may set aside, confirm or amend such order.

Chapter V.—General provisions as to pleas and procedure in all trials, summary and on information.

Pleading to charge or information.

61. The person to be tried upon any charge or information shall, when present, be placed before the court unfettered unless the court shall otherwise order and the charge or information shall be read over to him by the judge or other officer of the court, who may if necessary explain to him the matter and contents thereof, and such person shall be called upon to plead instantly thereto:

Provided that the accused may, before pleading, apply to be supplied with a copy of the charge or information and the court shall cause him to be supplied with such copy or he may apply for further time to plead and the court may allow such further time on such terms as it may think fit.

Presence of accused during trial.

62.—(1) The accused shall be entitled to be present at the court during the whole of the trial so long as he conducts himself properly.

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(2) If an accused does not conduct himself properly, the court may, in its discretion, direct him to be removed and kept in custody and proceed with the trial in his absence, making such provision as in its discretion appears sufficient for his being informed of what passed at the trial and for the making of his defence.

(3) The court may, if it thinks proper, permit the accused to be out of court during the whole or any part of the trial, on such terms as it may think fit.

Interpretation of evidence to accused.

63.—(1) Whenever any evidence is given in a language not understood by the accused, and he is present in person, it shall be interpreted to him in open court in a language which he understands:

Provided that when he is defended by an advocate interpretation may, with the consent of the advocate and the approval of the court, be dispensed with.

(2) When documents are put in for the purpose of formal proof, it shall be in the discretion of the court to have interpreted as much thereof as appears necessary.

(3) The court may test in such manner as it may think fit the ability of the interpreter and may administer to him such oath, as it may think fit, that he will well and truly carry out the interpretation.

Objection to charge or information.

64. Any objection to a charge or information for any formal defect on the face thereof shall be taken immediately after the charge or information has been read over to the accused and before he pleads thereto but not later.

Pleas by accused.

65. When the accused is called upon to plead, he may plead guilty or not guilty or any such special plea as is specified in section 67 of this Law and his plea shall be recorded by the court.

Plea of guilty or not guilty.

66.—(1) If the accused pleads guilty and the court is satisfied that he understood the nature of his plea, the court shall proceed as if the accused had been convicted by the judgment of the court.

(2) If the accused pleads not guilty, the court shall proceed with the hearing of the case in the manner in section 72 of this Law provided.

(3) If the accused refuses, or will not answer directly, or by reason of physical infirmity is unable, to plead, the court shall proceed in the same manner as if he had pleaded not guilty.

Special pleas.

67.—(1) The accused may, before pleading to the charge or information, plead—

(*a*) that the court before which he is called upon to plead has not and that some other court has

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jurisdiction over him or over the offence with which he is charged, and, if the plea is sustained, the court shall send the case to be tried before the court in the Colony which has jurisdiction over the offender or over the offence;

(*b*) that he has been previously convicted or acquitted, as the case may be, on the same facts for the same offence;

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

(2) If either of the pleas in paragraph (*b*) or (*c*) of sub-section (1) of this section is pleaded and denied to be true in fact, the court shall try whether such plea is true in fact or not.

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

Insanity of accused.

68.—(1) If any person, when called upon to plead, appears to be insane and incapable of following the proceedings, the court shall direct such inquiry as it thinks fit to be made with a view to ascertaining whether he is so insane and incapable, and, if upon such inquiry the court is of opinion that he is so insane and incapable, the court shall direct him to be detained during the pleasure of the Governor.

(2) If after trial any person is acquitted on the ground of insanity the court shall direct him to be detained during the pleasure of the Governor and in every such case, the finding shall state specifically that the accused had committed the act or omission constituting the offence but that he is acquitted on the ground of insanity.

(3) The Governor may, from time to time, give such directions as he thinks fit as to the custody of any person directed to be detained as in this section provided.

Pleading to charge of previous conviction.

69.—(1) Where an accused person is charged with having previously been convicted, he shall not, when called upon to plead, be required to plead to any statement charging him with having been previously convicted except at the end of the trial and only if he had pleaded guilty to, or was found guilty on, the rest of the count containing such statement.

(2) Where a person may properly be required to plead to a statement charging him with a previous conviction, he shall be asked if he has been previously convicted as alleged and, if he admits that he has been previously so

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convicted, the court may proceed to sentence him but, if he denies that he has been previously so convicted or stands mute of malice or does not answer directly such question, the court shall inquire concerning such previous conviction and proceed to pass sentence as the circumstances of the case may require.

Appearance and plea by corporation.

70.—(1) Where the accused is a corporation such corporation may appear and plead to a charge or information, by its representative, by entering a plea in writing; and, if either the corporation does not appear by representative or, though it does so appear, fails to enter any plea, the court shall cause a plea of not guilty to be recorded and the trial shall proceed accordingly.

(2) In this section 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 which the representative of a corporation is by this section authorized to do but a person so appointed shall not, by virtue only of being so appointed, be qualified to act on behalf of the corporation before any court for any other purpose.

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

Witnesses to leave the court during hearing.

71. If the accused pleads not guilty, the court shall direct that all witnesses shall leave the court:

Provided that—

(*a*) the court may permit professional and technical witnesses to remain in court; and

(*b*) failure to comply with the provisions of this section shall not invalidate the proceedings.

Hearing of the case.

72.—(1) After the witnesses have left the court as in section 71 of this Law provided, the court shall proceed to hear the case in the manner following:—

(*a*) the prosecutor or the advocate for the prosecution shall proceed to call the witnesses and adduce such other evidence as may be adduced in support of the case for the prosecution;

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(*b*) at the close of the case for the prosecution, the accused or his advocate may submit that a *prima facie* case has not been made out against the accused sufficiently to require him to make a defence and, if the court sustains the submission, it shall acquit the accused;

(*c*) at the close of the case of the prosecution, if it appears to the court that a *prima facie* case is made out against the accused sufficiently to require him to make a defence, the court shall call upon him for his defence and shall inform him that he may make a statement, without being sworn, from the place where he then is, in which case he will not be liable to cross-examination or give evidence in the witness box, after being sworn as a witness, in which case he will be liable to cross-examination as a witness;

(*d*) after the accused has made a statement or has given evidence as hereinbefore provided, he may call any witness or other evidence he has to adduce in his defence;

(*e*) if the accused adduces in his defence new matter which the prosecution could not have foreseen, the prosecutor or the advocate for the prosecution may, with the leave of the court, adduce evidence to rebut such new matter.

(2) At every trial, the prosecutor and accused or their respective advocates may open their case and, at the conclusion of the trial, the party who has last called a witness may address the court and the other party may then address the court in reply:

Provided that, when a Law Officer appears for the prosecution, such officer shall have a right of reply in all cases.

Procedure at trial of more persons than one.

73. Where more persons than one are tried together, the court may regulate the procedure to be followed at the hearing in any way which may appear desirable and which is not inconsistent with the provisions of this Law.

Cross-examination by co-accused.

74. Where, during or upon a joint trial, one of the accused gives evidence under section 72 (*c*) of this Law and, in so doing, incriminates one of his co-accused, such co-accused shall be entitled to cross-examine him and such cross-examination shall take place before cross-examination by the prosecution.

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75.—(1) At the conclusion of the hearing the court shall consider the whole case and deliver its judgment and, for this purpose, may adjourn the trial. **Acquittal or conviction.**

(2) When the court consists of more than one judge, unless a majority of the court considers the accused guilty, he shall be acquitted.

(3) If the accused is found guilty the court shall convict him and, subject to the provisions of sections 76 and 77 of this Law, proceed to consider what sentence shall be imposed upon him.

In deciding what sentence shall be imposed, in case the court consists of more than one judge and there is an equality of votes, the president of the court shall have an additional or casting vote.

(4) If the court acquits the accused, he shall be immediately discharged from custody unless he is acquitted on the grounds of insanity.

76. If the court finds the accused guilty or if the accused person pleads guilty, it shall be the duty of the judge or other officer of the court to ask him whether he has anything to say why sentence should not be passed upon him according to law, but the omission so to ask him shall have no effect on the validity of the proceedings. **Allocutus.**

77.—(1) The accused may, at any time before sentence, whether on his plea of guilty or otherwise, move in arrest of judgment on the ground that the charge or information does not, after any alteration which the court is willing to and has power to make, state any offence which the court has power to try. **Motion in arrest of judgment.**

(2) The court may, in its discretion, either hear and determine the matter during the same sitting, or adjourn the hearing thereof to a future time to be fixed for that purpose.

(3) If the court decides in favour of the accused, he shall be discharged from that charge or information.

78. If the court decides against the accused on a motion in arrest of judgment or if the accused, after having been asked as in section 76 of this Law provided, has nothing to say or after hearing what he has to say the court is of opinion that sentence should nevertheless be passed upon him, the court may either proceed to pass sentence upon him according to law or may postpone the passing of such sentence to a future time. **Sentence.**

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Outstanding offences.

79.—(1) Where in any criminal proceedings instituted by or on behalf of a public officer the accused is found guilty of an offence, the court, in determining and in passing sentence may, with the consent of the prosecutor and the accused, take into consideration any other outstanding offence or offences which the accused admits to have committed :

Provided that, if any criminal proceedings are pending in respect of any such outstanding offence or offences and such proceedings were not instituted by or on behalf of a public officer, the court shall first be satisfied that the prosecutor in such proceedings consents to that course.

(2) When consent is given as in sub-section (1) of this section and an outstanding offence is taken into consideration, the court shall enter or cause an entry to that effect to be made on the record and upon sentence being pronounced the accused shall not, unless the conviction which has been had is set aside, be liable to be charged or tried in respect of any such offence so taken into consideration.

Variances.

80. No variance between the facts proved at the trial and the statement of the offence in the charge or information shall affect the validity of the proceedings unless the court considers that the accused has thereby been actually misled and prejudiced in his defence, in which case the court may, on the application of the accused, adjourn the trial and allow any witness to be recalled and such questions to be put to him as, by reason of the terms of the charge or information, may have been omitted.

Alteration of defective charge or information.

81.—(1) Where, at any stage of a trial, it appears to the court that the charge or information is defective, either in substance or in form, the court may make such order for the alteration of the charge or information either by way of amendment of the charge or information or by the substitution or addition of a new count thereon as the court thinks necessary to meet the circumstances of the case.

(2) Where a charge or information is so altered, a note of the order for the alteration shall be made on the charge or information and the charge or information shall be treated for the purpose of all proceedings in connection therewith as having been filed in the altered form.

Procedure on alteration of charge or information.

82.—(1) When a charge or information is altered as in section 81 provided, the court shall forthwith call upon the accused to plead thereto and to state whether he is ready to be tried on such altered charge or information.

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(2) If the accused declares that he is not ready, the court shall consider the reasons he may give and, if proceeding immediately with the trial is not likely in the opinion of the court to prejudice the accused in his defence or the prosecutor in his conduct of the case, the court may proceed with the trial as if the altered charge or information had been the original one.

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

(4) When a charge or information is altered by the court after the commencement of the trial the evidence already given in the course of the trial may be used without being reheard but the parties shall be allowed to recall or re-summon any witness who may have been examined and examine or cross-examine such witness with reference to such alteration.

Proof of part of charge or information or of offence not contained therein.

83.—(1) If part only of the charge or information is proved and the part so proved constitutes an offence, the accused may, without altering the charge or information, be convicted of the offence which he is proved to have committed.

(2) If a person is charged with an offence, he may, without altering the charge or information, be convicted of attempting to commit the offence.

(3) If a person is proved to have done any act with the intent to commit the offence with which he is charged, and if it is an offence to do such an act with such an intent, he may, without amending the charge or information and notwithstanding that he was not charged with such last-mentioned offence, be convicted of the same.

(4) If at the conclusion of the trial the court is of opinion that it has been established by evidence that the accused has committed an offence or offences not contained in the charge or information and of which he cannot be convicted without amending the charge or information, and upon his conviction for which he would not be liable to a greater punishment than he would be liable to if he were convicted on the charge or information, and that the accused would not be prejudiced thereby in his defence, the court may direct a count or counts to be added to the charge or information charging the accused with such offence or offences, and the court shall give their judgment thereon as if such count or counts had formed a part of the original charge or information.

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Quashing of charge or information.

84. If a charge or information does not state, and cannot by any alteration authorized by this Law be made to state, any offence which, in the opinion of the court, was within the reasonable contemplation of the accused, it shall be quashed either on a motion made before the accused pleads or on a motion made in arrest of judgment.

A written statement of every such motion shall be delivered to the registrar or other officer of the court by or on behalf of the accused and shall be entered upon the record.

View of locus.

85.—(1) Where it appears to the court that in the interest of justice the court should have a view of any place, person or thing connected with the case, the court may proceed to view the place, person or thing concerned.

(2) The accused shall be present at the view, unless the court otherwise directs and the court may generally give such directions regarding the said view and proceedings thereat as to it may seem fit.

Chapter VI.—Special provisions in summary trials.

Limitation of time for charges in summary trials in certain cases.

86. Except where a longer time is specially allowed by any Law in force for the time being, no charge shall be brought against any person for any offence the punishment for which does not exceed imprisonment for three months or a fine of twenty-five pounds or both, unless the charge is brought within six months from the day of the commission of the offence.

Proceedings on non-appearance of accused or prosecutor.

87.—(1) If at any summary trial at the time appointed for his appearance, an accused whose personal attendance has not been dispensed with under sub-section (1) of section 44 of this Law, fails to appear then, on proof of service of the summons upon him, the court may proceed to hear and determine the case in his absence or, if it thinks fit, adjourn the case and issue a warrant for his arrest under the provisions of this Law.

(2) If, at the time appointed for the hearing of the case, the accused appears but the prosecutor fails to appear, the court shall acquit the accused unless for some reason it thinks proper to adjourn the hearing of the case to some other day, upon such terms as it may think fit.

Offence proving unsuitable for summary trial.

88. If, before or during the course of a summary trial, it appears to the court that the case is one which ought to be tried by an Assize Court, the court shall stop further proceedings and direct a preliminary inquiry to be held under the provisions of this Law.

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89. Subject to the provisions of section 151 of this Law, if a prosecutor in any summary trial, at any time before a final order is passed, satisfies the court that there are sufficient grounds for permitting him to withdraw the charge, the court may permit him to withdraw the same and shall thereupon acquit the accused:

Withdrawal of charge.

Provided that, if the charge is so withdrawn before the accused had pleaded to it, the accused shall be discharged but such discharge shall not operate as an acquittal.

Chapter VII.—Preliminary Inquiry.

90. Whenever any charge has been brought against any person of an offence not triable summarily or as to which the court is of opinion that it is not suitable to be disposed of by summary trial, a preliminary inquiry shall be held by a judge in accordance with the provisions hereinafter in this Chapter contained.

Preliminary inquiry to be held for offences not triable summarily.

91. Where a judge holds a preliminary inquiry, the following provisions shall apply:—

Procedure in preliminary inquiries.

(*a*) when the accused appears or is brought before the judge, the judge shall read and explain to him the charge to which the accused, however, should not be required to plead and, if any plea is made, it shall not be recorded by the judge;

(*b*) the judge shall proceed to take the evidence of the witnesses for the prosecution, in the manner in sections 94 and 95 of this Law provided, in the presence of the accused and, whenever any evidence is given in a language not understood by the accused, the provisions of section 63 of this Law shall be applied:

Provided that, if the accused does not conduct himself properly, the provisions of sub-section (2) of section 62 of this Law shall apply *mutatis mutandis* to this paragraph;

(*c*) if, after examination of the witnesses called on behalf of the prosecution, the judge considers that on the evidence as it stands, regard being had to the provisions of section 92 of this Law, there are sufficient grounds for committing the accused for trial, the judge shall read again the charge to the accused person and explain the nature thereof to him in simple language and address to him the following words, or words to the like effect:—

"This is not your trial. You will be tried later before the Assize Court. You will then be able to conduct your defence and call any witnesses

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on your own behalf. Unless you wish to reserve your defence, which you are at liberty to do, you may now either make a statement not on oath or give evidence on oath and in any case call witnesses on your behalf. If you give evidence on oath you will be liable to cross-examination. Anything you may say whether on oath or not will be taken down and may be used in evidence at your trial before the Assize Court." ;

and the judge shall proceed to state to him and give him clearly to understand that he has nothing to hope from any promise of favour and nothing to fear from any threat which may have been held out to him to induce him to make any admission or confession of his guilt, but that whatsoever he then says may be given in evidence on his trial notwithstanding any such promise or threat ;

(*d*) everything which the accused says, either by way of statement or evidence, shall be recorded in full by the judge and shall be read over to him and, whilst it is so read, the accused shall be at liberty to explain or add to the record thereof. The record shall then be signed by the accused and attested by the judge ; if the accused is unable to sign his name, he shall affix his mark which shall be witnessed by the judge and, if the accused refuses either to sign or to affix his mark, the judge shall make a note of such refusal and his record may be used as if the accused had signed it or affixed his mark thereto.

The statement of the accused recorded as aforesaid may, without further proof, be received and read in evidence at his trial unless it is proved that the judge purporting to attest the statement did not in fact attest it ;

(*e*) the judge shall then, and whether the accused has or has not made a statement or given evidence, ask him whether he desires to call witnesses on his own behalf and the judge shall take the evidence of any witnesses called by the accused in the manner in sections 94 and 95 of this Law provided ;

(*f*) the accused or his advocate shall be at liberty to address the court—

(i) after the examination of the witnesses called on behalf of the prosecution ;

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(ii) if no witnesses for the defence are called, immediately after the statement or evidence of the accused; if witnesses for the defence are called, immediately after the evidence of such witnesses;

(*g*) if the accused or his advocate addresses the court in accordance with the provisions of paragraph (*f*) the prosecution shall have the right of reply;

(*h*) subject to the provisions of section 92, if, at the close of the case for the prosecution, or after hearing any evidence in defence, the judge considers that there are no sufficient grounds for committing the accused for trial, the judge shall order him to be discharged as to the particular charge under inquiry; but such discharge shall not be a bar to any subsequent charge in respect of the same facts either on the same charge or any other charge;

(*i*) if the accused is not discharged, the judge shall commit him for trial by the Assize Court next sitting in the district in which the offence is alleged to have been committed, or with the consent of the accused and the Attorney-General to an Assize Court then in session in such district and, subject to the provisions of sub-section (2) of section 154 of this Law, either admit him to bail or commit him to prison for safe keeping.

Conflict of evidence.

92. Where there is a conflict of evidence, the judge shall consider the evidence to be sufficient to commit the accused for trial if the evidence against him is such as, if uncontradicted, would raise a probable presumption of his guilt.

Committal of corporation.

93. In the case of a corporation, if the judge considers that there is sufficient ground for committing the accused corporation for trial, he may make an order accordingly and, for the purposes of this Law, any such order shall be deemed to be a committal for trial, empowering the Attorney-General to file an information against such corporation.

Depositions how taken.

94.—(1) At every preliminary inquiry, the judge shall take down the substance of the evidence of every witness called thereat in the form of a narrative unless the judge thinks fit to take it in the form of question and answer and the evidence of every witness so taken shall in this Law be referred to as "deposition".

(2) The deposition of every witness shall be read over to him and shall be signed by him and attested by the judge before whom the evidence was taken, the accused, the witness and the judge being all present together at the

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time of such reading, signing and attesting subject always to the proviso to paragraph (*b*) of section 91 of this Law.

(3) If the witness is unable to sign his name, he shall affix his mark which shall be witnessed by the judge.

(4) If a witness refuses to sign or affix his mark, the judge shall make a note of such refusal on the deposition, with its reason if ascertained.

Taking deposition of witness who is ill, etc.

95.—(1) If it is made to appear to any judge that any person dangerously ill, not likely to recover or unable to travel, is able and willing to give material evidence relating to any offence triable on information with which any person has been charged (whether the preliminary inquiry has not been held or has ended or is in progress, but not after the accused has been discharged), the judge may take the deposition of such person in the manner in section 94 of this Law provided, subject however to the provisions of sub-section (2) of this section.

(2) The judge taking the deposition shall, where practicable, by an order in writing under his hand, cause reasonable notice to be served on the prosecutor and the accused of his intention to take the same and of the time and place where it is to be taken; and, if the accused is in custody, direct the officer having the custody of the accused to cause him to be conveyed to the place where the deposition is to be taken, for the purpose of being present when it is taken, and to be taken back to the place of custody:

Provided that nothing in paragraph (*b*) of section 91 of this Law or in this sub-section contained shall affect the validity of a deposition if it is proved that notice having been served as hereinbefore provided the person affected thereby, refused or neglected so to attend.

(3) The procedure set out in paragraph (*b*) of section 91 of this Law shall, so far as applicable, be followed in connection with depositions taken under this section.

(4) If such deposition relates to an offence as to which—

(*a*) the preliminary inquiry has not been held, the judge taking it shall send it to the registrar of the court in which the preliminary inquiry is to be held;

(*b*) the preliminary inquiry has ended, the judge taking it shall send it to the registrar of the court in which the preliminary inquiry has been held;

(*c*) a preliminary inquiry is in progress, the judge taking the deposition shall send it to the registrar of the court in which the preliminary inquiry is being held,

and every such deposition shall be treated as, and shall be considered for all purposes to be, a deposition taken during the preliminary inquiry.

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Depositions may be read as evidence in certain cases.

96.—(1) Where an accused has been committed for trial for any offence, every deposition and every document or exhibit relating thereto may, if the conditions in sub-section (2) of this section are satisfied, without further proof, be received and read in evidence on the trial of that accused, whether for that offence or for any other offence arising out of the same facts or set of circumstances, as that offence.

(2) The conditions hereinbefore referred to are the following :—

(*a*) the deposition must be the deposition either of a witness whose attendance at the trial is stated to be unnecessary in accordance with the provisions of section 98 of this Law (not being a witness who has been subsequently notified that he is required to attend the trial) or of a witness who is proved at the trial to be absent from the Colony or to be kept out of the way by means of the procurement of the prosecutor or the accused or on behalf of either or to be dead or insane or so ill as not to be able to travel or to be unable to attend for any other sufficient cause to the satisfaction of the court; and

(*b*) the deposition must purport to be attested by the judge before whom it purports to have been taken and the deposition shall be deemed to have been so attested unless it is proved that in fact it was not so attested.

Binding over of witnesses.

97.—(1) The judge holding the preliminary inquiry shall bind over every witness, called at such inquiry and whose deposition has been taken, to attend to give evidence at the trial of the accused before the Assize Court.

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

Such recognizance may be either at the foot of the deposition or separate therefrom and shall be acknowledged by the person entering into it and be subscribed by the judge before whom it is acknowledged or by an officer of the court.

(3) Any witness who refuses, without reasonable excuse, to enter into such recognizance may by warrant be committed by the judge holding the preliminary inquiry to prison, there to be kept until after the trial or until the witness enters into such recognizance before a judge:

Provided that, if the accused is afterwards discharged, any judge may order any such witness to be discharged forthwith.

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Conditional binding over of witnesses.

98.—(1) Where a person charged before a judge with an offence triable upon information is committed for trial and it appears to the judge, after taking into account anything which may be said with reference thereto by the prosecutor or the accused, that the attendance at the trial of any witness who has been examined before him is unnecessary by reason of anything contained in any statement by the accused or of the accused having admitted the charge or of the evidence of the witness being merely of a formal nature the judge shall, if the witness has not already been bound over, bind him over to attend the trial conditionally upon notice being 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 court of trial 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 Assizes to the Chief Registrar, or, with the leave of the Assize Court, to the registrar of that court at any time thereafter, that he desires the witness to attend at the trial, and the Chief Registrar or the registrar of the Assize Court, as the case may be, to whom any such notice is given shall cause the witness to be notified that he is required so to attend in pursuance of his recognizance.

(3) The judge shall, on committing the accused 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.

Transmission of record of preliminary inquiry.

99. In the event of a committal for trial a certified copy of the charge, the depositions, the statement of the accused, the recognizances of the witnesses, the bail bonds, if any, and certified copies, as may be conveniently made, of such documentary exhibits, shall be transmitted without delay by the registrar of the court in which the committal was made to the Chief Registrar for transmission to the Assize Court before which the trial is to be held and similar copies shall be transmitted to the Attorney-General.

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The originals of all the documents transmitted to the Chief Registrar as hereinbefore provided, together with all other documentary and other exhibits which had not been so transmitted, shall be kept by the registrar and be made available by him at the trial before the Assize Court.

100. A person who has been committed to trial shall be entitled to have a copy of the charge, the depositions and of his statement and, where practicable, of any documents which have been put in evidence, on payment of the prescribed fees.

Accused to have copy of depositions, etc., on payment.

101.—(1) If, in the course of a preliminary inquiry, it shall appear to the judge that there are no sufficient grounds for committing the accused for trial but that the evidence discloses an offence triable summarily, the judge shall cause a charge to be framed against the accused for such offence.

Power of judge to try summarily during course of preliminary inquiry.

(2) The trial shall then continue as in an ordinary summary trial, except that the evidence already given in the course of the preliminary inquiry may be used without being reheard :

Provided that the prosecution or the accused may recall any witness already examined for the purpose of putting any further questions.

102. If the judge who has commenced a preliminary inquiry is unable for some good cause to continue it after an adjournment, any other judge of the court may continue the same and may recall any witness already examined for the purpose of putting further questions.

Preliminary inquiry may be continued by other judge.

103. If, during a preliminary inquiry, it shall appear to the judge that the offence in respect of which the accused is charged has not been committed within the limits of the jurisdiction of the court in which he is sitting, he shall by order transfer the case to the court having jurisdiction and may issue any warrant necessary for the purpose of taking the accused before such court.

Transfer of case where offence committed outside jurisdiction.

The charge made, any depositions, recognizances, any bail bonds taken and any exhibits produced during such preliminary inquiry shall be transmitted to the court to which the case is transferred and such charge, depositions, recognizances, bail bonds and exhibits shall be treated for all intents and purposes as if they had been made, taken or produced before or by such court.

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Chapter VIII.—Special provisions in trials on information.

Trial before Assize Court to be on information.

104. No person shall be put upon his trial for any offence not triable summarily, although he may have been committed for trial, except upon an information filed by the Attorney-General in the Assize Court in which such person is to be tried.

Information may charge accused with any offence disclosed in depositions.

105. In any such information, the Attorney-General may charge the accused with any offence which in the opinion of the Attorney-General is disclosed by the depositions either in addition to, or in substitution for, the offence upon which the accused has been committed for trial.

Form of information.

106. Every information shall be in the prescribed form and shall be signed by the Attorney-General; it shall state the name of the Assize Court in which it is to be filed and shall also contain the following particulars:—

(*a*) the name and description of the accused committed for trial;

(*b*) the name of the committing judge, the date of the committal and the date or dates and place or places of the taking of the depositions;

(*c*) the offence or offences with which the accused is charged containing the particulars set out in section 38 of this Law which shall apply *mutatis mutandis* to the framing of informations as it applies to the framing of charges;

(*d*) the names of the witnesses who gave evidence at the preliminary inquiry endorsed at the back of the information.

Sections 39, 40 and 41 to apply to informations.

107. Sections 39, 40 and 41 of this Law (relating respectively to the joinder of counts, joinder of persons and the manner in which parties to offences may be charged) shall apply *mutatis mutandis* to informations as they apply to charges.

Additional witnesses.

108. A person who has not given evidence at the preliminary inquiry shall not be called by the prosecution to give evidence at the trial unless the accused or his advocate has been previously given a notice in writing containing the name of the witness intended to be called and the substance of the evidence intended to be given:

Provided that no such notice shall be required when the witness intended to be called is—

(*a*) a co-accused who has already been acquitted or convicted;

(*b*) a person called only to prove that a witness who has given evidence at the preliminary inquiry cannot be produced at the trial;

(*c*) a witness whose evidence is of a formal nature;

(*d*) a witness of whose evidence the prosecutor became aware on the day on which the witness is called.

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Chapter IX.—Judgments.

Mode of delivering judgment.

109.—(1) The judgment in every trial under this Law shall be pronounced or the substance of such judgment shall be explained in open court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their advocates, if any.

(2) The accused shall, if in custody, be brought before the court or, if not in custody, be required by the court to attend, to hear judgment delivered, except where the court has proceeded to the determination of the case in the absence of the accused under sections 62 or 87 of this Law or where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted.

(3) No judgment delivered by any court shall be deemed to be invalid by reason only of the absence of any party or his advocate on the day notified for the delivery thereof or of any omission to give or any defect in giving to the parties or their advocates, or any of them, notice of such day.

Contents of judgment.

110.—(1) Every such judgment shall be recorded in writing and, in cases where appeal lies, shall contain the point or points for determination, the decision thereon and the reasons for the decision and shall be dated and signed by the judge or, where the court consists of more than one judge, by the President thereof or by his direction by any other member of the court, at the time of pronouncing it.

(2) When a judgment has been so signed, it shall not be altered or reviewed by the judge or court giving such judgment except for correcting a clerical error.

Delivery of judgment by another judge in certain cases.

111. When a judge, having tried a case is prevented by illness or other unavoidable cause from delivering his judgment, such judgment, if the same has been reduced into writing and signed by the judge, may be delivered and pronounced in open court by any other judge.

Copy of judgment to accused.

112. On the application of the accused, a copy of the judgment shall be given to him without delay free of cost.

Notes of evidence and report to be forwarded to the Governor in certain cases.

113. When a person has been directed to be detained during the Governor's pleasure, the judge or the presiding judge shall forward to the Governor a copy of the notes of evidence taken at the trial, with a report in writing containing any recommendations or observations on the case as such judge may think fit to make.

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Commencement of sentence of imprisonment.

114.—(1) Subject to the provisions of sub-section (2) of this section a sentence of imprisonment shall take effect from and shall include the whole of the day on which it was pronounced.

(2) A sentence of imprisonment passed on a person already sentenced to a term of imprisonment shall, unless the court otherwise directs, commence at the expiration of the former sentence.

Court may order police supervision in certain cases.

115.—(1) When any person, having been convicted of any offence punishable with imprisonment for a term of three years or upwards, is again convicted of any offence punishable with imprisonment for a term of three years or upwards, the court may, if it thinks fit, at the time of passing sentence of imprisonment on such person, also order that he shall be subject to police supervision as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence:

Provided that, if such conviction is set aside on appeal or otherwise, such order shall become void:

Provided further that, if the conduct of the person convicted is such as to make it unnecessary that he should remain under such supervision, the court may, at any time, discharge such order.

(2) Every person subject to police supervision, who is at large shall, unless the court otherwise directs, report himself personally once in each month to the officer in charge of the police station nearest to his place of residence at such time as may be directed by such police officer and forthwith notify to such officer any change of such residence.

(3) If any person subject to police supervision, who is at large, refuses or neglects to comply with any requirement as provided by the last preceding sub-section such person shall, unless he proves to the satisfaction of the court that he did his best to act in conformity with such requirement, be guilty of an offence and be liable to imprisonment for a term not exceeding six months.

PART IV.—EXECUTIONS AND RECOVERY OF PENALTIES.

Payment of penalty.

116.—(1) Any penalty ordered to be paid may be ordered to be paid forthwith or at such subsequent time or by such instalments as the court making the order may direct.

(2) If, upon the apprehension of any person, money was taken from him, the court may, upon the conviction of such person, order the whole or any part of such money to be applied for the payment of any penalty ordered to be paid by such person.

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117. Any court by which any penalty is ordered to be paid may interrogate the person against whom it is made as to his means of payment and, if he is not present before the court at the time when the order is made, may, if it shall think fit for that purpose, issue such process to compel his appearance as it may issue to compel the attendance of a witness.

Interrogation of person as to his means.

118.—(1) When ordering the payment of a penalty, the court shall, subject to the provisions of section 126 of this Law, specify the period of imprisonment which the person affected shall undergo in default of payment of such penalty and such period shall be inserted in any warrant issued under sub-section (2) of this section.

Warrant for levy of penalty.

(2) When a court orders any penalty to be paid by any person, such penalty may be levied under a warrant of execution on the movable and immovable property of such person, as set out in section 119 of this Law :

Provided that no execution on the immovable property of such person shall be levied, unless it appears that his movable property is not sufficient to satisfy the order.

(3) A warrant under this section shall be ordinarily executed within the local limits of the jurisdiction of the judge issuing the same but may be executed by the sale of any property belonging to such person outside such limits when endorsed by a judge of the district court within the local limits of the jurisdiction of which such property is found.

(4) The person affected by any warrant under sub-section (2) of this section may pay to the officer executing the warrant the sum therein mentioned, together with the amount of the costs of execution up to the time of payment and, thereupon the officer shall cease to execute the same.

119. Subject to the provisions of section 118 of this Law, the provisions relating to execution of judgment debts in civil proceedings under any enactment in force for the time being, shall apply to the execution of any warrant issued under the provisions of section 118 of this Law.

Manner of execution of warrants.

120. Any person claiming to be entitled to, or to have any interest in, the whole or part of any property taken in execution of a warrant issued under section 118 of this Law may, at any time before the sale thereof, apply to the court to determine the right or interest to the property in accordance with the provisions of any enactment in force for the time being.

Claim on property taken in execution.

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Commitment to prison.

121. If the officer executing a warrant reports to the court that he could find no property or no sufficient property whereon to levy the amount mentioned in the warrant and the costs of execution, the court may by warrant of commitment, commit the person affected to prison for the period specified in the warrant of execution and for such further period to which the person may be liable under the provisions of section 126 of this Law in connection with the costs of execution, unless such amount and costs to be specified in the warrant of commitment are sooner paid.

Commitment in lieu of warrant of execution.

122. When it appears to the court that execution on the property of the person ordered to pay the penalty would be ruinous to him or to his family or, by his admission or otherwise that he has no property whereon execution may be levied or for any other sufficient reason it appears to the court that it is to the interest of such person or his family so to proceed, the court may, instead of issuing a warrant of execution, commit such person to prison for a time specified in the warrant of commitment but always subject to the provisions of section 126 of this Law, unless the amount and costs of execution are sooner paid.

Payment after commitment.

123. Where any person has been committed to prison under this Part of this Law, such person may pay or cause to be paid to the officer in charge of the prison the sum specified in the warrant of commitment and such officer shall receive the same and thereupon discharge such person, unless he is in custody for some other matter.

Application of sum received under warrant.

124. Where a sum has been received in part satisfaction of a sum due under a warrant of execution or a warrant of commitment, such sum shall be applied towards the payment of the following in the following order:—

(*a*) costs of execution;

(*b*) costs of the proceedings as may have been directed by the court;

(*c*) compensation or damages as may have been directed by the court;

(*d*) fine or any other amount payable into public revenue.

Reduction of period of imprisonment on part payment of penalty.

125.—(1) Where an amount is received in part satisfaction of a sum due under a warrant of execution or a warrant of commitment, the procedure as hereunder in this subsection set forth shall be followed:—

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

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(*b*) the officer in charge of a prison in which the person affected by such part payment is confined shall release such person on the day which appears to such officer to be the correct day and, thereupon, he shall endorse the warrant accordingly and, shall, as soon as practicable thereafter, inform the court of the action taken and such court shall thereupon make such order or record as the court may consider to be required in the circumstances.

(2) In reckoning the number of days by which any term of imprisonment would be reduced under this section, the first day of imprisonment shall not be taken into account and in reckoning the sum which will secure the reduction of a term of imprisonment, fractions of a piastre shall be omitted.

Period of imprisonment in case of commitment.

126. Where a person is committed to prison as in this Part of this Law provided, the period of imprisonment in respect of any sum not exceeding the amount set out in the First Column of the Table in this section contained shall not exceed the corresponding term set out in the Second Column.

TABLE.

First Column	Second Column
10*s*.	5 days.
£1	10 days.
£2	20 days.
£5	1 month.
£20	3 months.
£50	6 months.
£100	1 year.

Detention after warrant of execution.

127. Where any court issues any warrant of execution under this Law, it may suffer the person against whom the warrant is issued to go at large or order him to be detained in custody until return is made to the warrant, unless he shall give sufficient security by recognizance or otherwise to the satisfaction of the court to appear before the court before which the return is to be made at any time when called upon so to do ; and, if he fails to appear accordingly, the recognizance or other security may be thereupon forfeited.

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Orders by Assize Courts.

128. Notwithstanding anything in this Law or any other enactment contained, every order for the payment of a penalty made by an Assize Court shall be executed and every process thereon shall be issued by any member of the district court of the district in which such Assize Court sat for the trial of the case in respect of which the order was made.

PART V.

Chapter I.—Appeals.

No appeal in criminal cases except as provided for.

129.—(1) Subject to the provisions of any other enactment in force for the time being, no appeal shall lie from any judgment or order of a court exercising criminal jurisdiction except as provided for by this Law.

(2) There shall be no appeal from an acquittal except at the instance or with the written sanction of the Attorney-General, as in this Law provided.

Appeals from Assize Court against conviction.

130.—(1) Any person convicted by an Assize Court and sentenced to death or to any term of imprisonment or to a fine exceeding twenty pounds may, subject to the provisions of sections 132 and 133 of this Law, appeal to the Supreme Court—

(*a*) against his conviction as of right on any ground of appeal which involves a question of law alone;

(*b*) with the leave of a Judge of the Supreme Court (not being the Judge who presided at the trial), against his conviction on any ground of appeal which involves a question of fact alone, or a question of mixed law and fact, or on any other ground which appears to the judge who considers the application for leave to appeal to be a sufficient ground of appeal;

(*c*) with the leave of a Judge of the Supreme Court (not being the Judge who presided at the trial), against the sentence passed on his conviction unless the sentence is one fixed by law.

(2) Where a person, entitled to appeal as of right on a point of law as in paragraph (*a*) of sub-section (1) of this section provided, desires to appeal to the Supreme Court, he shall give notice of appeal by causing the same to be delivered to the Chief Registrar within ten days of the date upon which sentence was pronounced.

(3) Where a person desires to appeal to the Supreme Court as in paragraphs (*b*) and (*c*) of sub-section (1) of this section provided, he shall apply for leave to appeal by causing the application to be delivered to the Chief Registrar within ten days of the date upon which sentence was pronounced.

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(4) Where the person appealing is confined in any prison or institution or is otherwise in custody, he shall be deemed to have sufficiently complied with the provisions of sub-section (2) or (3) of this section, if he delivers his notice of appeal or his application for leave to appeal, as the case may be, to the officer having charge of him for transmission to the Chief Registrar.

Appeals from district courts against conviction.

131.—(1) Any person convicted by a district court and sentenced to any term of imprisonment or to a fine exceeding ten pounds may, with the leave of a Judge of the Supreme Court and subject to the provisions of sections 132 and 133 of this Law, appeal to the Supreme Court against conviction or sentence.

(2) Where a person desires to appeal as in sub-section (1) of this section provided, he shall apply for leave to appeal by causing the application to be delivered to the registrar of the district court in which the applicant had been sentenced, within ten days of the date upon which sentence was pronounced.

(3) The provisions of sub-section (4) of section 130 of this Law shall apply *mutatis mutandis* to applications for leave to appeal under this section.

Appeal after plea of guilty.

132. A person who has been convicted and sentenced by any court upon a plea of guilty shall only be entitled to apply for leave to appeal to the Supreme Court—

(*a*) against sentence unless the sentence is one fixed by Law;

(*b*) against conviction on the ground that the facts alleged in the charge or information to which he pleaded guilty did not disclose any offence.

No appeal against imprisonment in certain cases.

133. No appeal or application for leave to appeal shall lie where a person has been adjudged to undergo imprisonment for failure to comply with an order for the payment of any penalty or other money, for finding sureties, for entering into any recognizance or for giving any security.

Appeal by Attorney-General.

134.—(1) The Attorney-General may—

(*a*) appeal or sanction an appeal from any judgment of acquittal by a district court on any of the following grounds:—

(i) that there was no evidence on which the court could reasonably find a fact or facts necessary to support such judgment;

(ii) that evidence was wrongly admitted or excluded;

(iii) that the law was wrongly applied to the facts;

(iv) that there has been some irregularity of procedure;

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(*b*) appeal or sanction an appeal from any judgment of a district court on the ground that the sentence was insufficient.

(2) An appeal under this section shall be made by causing notice of appeal to be delivered to the registrar of the district court against the judgment of which the appeal is made within fourteen days of the date on which the judgment was delivered.

(3) Every notice of appeal under this section shall be in the prescribed form ; it shall be signed by the Attorney-General or by such person as he may authorize in that behalf and shall set out in full the grounds on which it is founded.

Form of notice and of application for leave to appeal.

135. Every notice of appeal and every application for leave to appeal shall—

(*a*) be in the prescribed form ;
(*b*) be signed by the appellant or his advocate ;
(*c*) set out in full the grounds on which it is founded ;
(*d*) name an address within the municipal limits of the principal town in the district in which he was tried where all notices, summonses, orders and other written communications may be left for him,

and no notice of appeal or application for leave to appeal shall be valid unless it complies with the requirements of this section.

Procedure on receipt of notice of, or application for leave to, appeal.

136.—(1) Upon receipt of a notice of appeal or of an application for leave to appeal from a judgment of an Assize Court, the Chief Registrar shall file the same and shall forthwith request the President of the Assize Court to transmit to him the documents and exhibits specified in sub-section (3) of this section.

(2) Upon receipt of an application for leave to appeal from a judgment of a member of a district court, the registrar of the district court shall file the same and shall, forthwith, transmit to the Chief Registrar the documents and exhibits specified in sub-section (3) of this section.

(3) The documents and exhibits to be transmitted as in sub-sections (1) and (2) of this section provided shall be the following :—

(*a*) the information or charge, as the case may be ;
(*b*) the notes of evidence ;
(*c*) any statement which may have been made by the appellant or applicant before the court ;
(*d*) the judgment of the court ;
(*e*) all documents which may have been put in evidence of which the court has the custody or certified copies of any of them of which the court has not the custody ;

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(*f*) such exhibits, other than documents, as may be conveniently forwarded;

(*g*) where the appeal is from a judgment of a member of a district court, the application for leave to appeal.

(4) The documents and exhibits specified in sub-section (3) together with the notice of appeal or the application for leave to appeal under sub-section (1) of this section shall constitute the file of the proceedings (in this part referred to as " the file of proceedings ").

Procedure on receipt of file of proceedings.

137.—(1) In the case of an application for leave to appeal, the Chief Registrar shall, as soon as conveniently may be after he has received the file of proceedings, present the same to a Judge of the Supreme Court sitting in chambers (in case of an appeal from a judgment of an Assize Court, not being the Judge who presided at the trial) for consideration of, and decision on, the application.

(2) The Judge of the Supreme Court, after perusing the file of proceedings and without hearing the applicant or his advocate or the Attorney-General or his representative, shall either refuse leave to appeal or grant leave to appeal on all or any of the grounds set out in the application for leave to appeal as may be specified in such leave or on the ground that a substantial miscarriage of justice has occurred, even though such miscarriage of justice is not set out as a ground of appeal in the application for leave to appeal:

Provided that, if leave to appeal is granted on the ground that substantial miscarriage of justice has occurred and such ground is not specified in the grounds of appeal, the Judge granting leave shall specify the reasons on which such ground is founded.

(3) Where, in the opinion of the Judge of the Supreme Court who refuses leave to appeal, the application for such leave was frivolous, he may order the sentence of imprisonment pronounced by the trial court to commence to run from the date of such refusal notwithstanding that the prisoner has, in the meantime, been in prison.

(4) When a Judge of the Supreme Court has granted leave to appeal, he may, pending the hearing of the appeal and subject to the provisions of sub-section (2) of section 154 of this Law, suspend the execution of any sentence passed upon the applicant.

(5) Every order of a Judge of the Supreme Court on an application for leave to appeal shall be recorded by him in the file of proceedings and shall be final and conclusive and shall be communicated by the Chief Registrar to the applicant or his advocate and, where leave to appeal is refused and the applicant is in prison, to the officer in charge of the prison for communication to the prisoner.

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Fixing date of hearing of appeal and notice thereof.

138.—(1) The Chief Registrar shall, as soon as conveniently may be after the delivery of a notice of appeal or after leave to appeal has been granted, as the case may be—

(*a*) fix the time for the hearing of the appeal;

(*b*) give notice thereof in the case of a private prosecution to the prosecutor or his advocate and in every other case to the Attorney-General;

(*c*) transmit to the officer in charge of the police of the district within which is situate the place named by the appellant as an address for the service of notices, a notice in writing of the time so fixed to be served on the appellant as in sub-section (2) of this section provided.

(2) Service of the notice as in paragraph (*c*) of sub-section (1) of this section provided shall be effected by a police officer or by an officer of a court or by such other person as a Judge of the Supreme Court may direct by serving such notice on the appellant or by leaving the same at the appellant's address for service and a certificate of such service under the hand of such officer or person shall be evidence that the notice has been duly served.

Abandonment of appeal or of application for leave to appeal.

139. An appellant or applicant may abandon his appeal or application by giving notice of such abandonment to the Chief Registrar and, on such notice being received by the Chief Registrar, the appeal or application, as the case may be, shall be deemed to have been dismissed by the Supreme Court.

Procedure on hearing the appeal.

140.—(1) An appellant, notwithstanding that he is in custody, shall be entitled to be present at the hearing of the appeal if he has expressed such desire in his notice of, or application for leave to, appeal.

(2) When the appeal comes on for hearing, the appellant or his advocate shall be first heard in support of the appeal and then the respondent or his advocate, if present, shall be heard against it.

(3) If the appellant or his advocate does not appear to support his appeal, the court shall consider the appeal and may make such order thereon as it may deem fit.

(4) If, at the hearing of an appeal, the respondent or his advocate is not present, the court shall not make any order to his prejudice, unless satisfied that he had notice of the date fixed for the hearing of the appeal.

(5) When an appeal is presented against an acquittal, a warrant may be issued out of the Supreme Court directing that the accused be arrested and brought before it and may commit him to prison pending the disposal of the appeal or admit him to bail.

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141. The Supreme Court shall hear and determine the appeal only on the grounds set out in the notice of appeal or the order granting leave to appeal:

Supreme Court not to hear any party except on grounds of appeal.

Provided that the provisions of this section shall not apply where, on the hearing of the appeal, the Supreme Court is of opinion that a substantial miscarriage of justice has occurred.

142.—(1) In determining an appeal against conviction, the Supreme Court, subject to the provisions of section 150 of this Law, may—

Powers of Supreme Court in determining appeals.

(*a*) dismiss the appeal;

(*b*) allow the appeal and quash the conviction if it thinks that the conviction should be set aside on the ground that it was, having regard to the evidence adduced, unreasonable or that the judgment of the trial court should be set aside on the ground of a wrong decision on any question of law or on the ground that there was a substantial miscarriage of justice:

Provided that the Supreme Court, notwithstanding that it is of opinion that the point raised in the appeal might be decided in favour of the appellant, shall dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred;

(*c*) set aside the conviction and convict the appellant of any offence of which he might have been convicted by the trial court on the evidence which has been adduced and sentence him accordingly.

(*d*) order a new trial before the court which passed sentence or before any other court having jurisdiction in the matter.

(2) In determining an appeal against sentence, the Supreme Court may increase, reduce or modify the sentence.

(3) In determining an appeal by or with the sanction of the Attorney-General—

(*a*) from a judgment of acquittal, the Supreme Court may—

(i) set aside such judgment and convict and sentence the accused of any offence of which he might have been convicted on the evidence which has been adduced;

(ii) direct that further inquiry be made or that the accused be re-tried;

(iii) dismiss the appeal.

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(*b*) from a judgment on the ground that the sentence was insufficient the Supreme Court may—
(i) increase the sentence;
(ii) dismiss the appeal.

Supplementary powers of Supreme Court during hearing of appeal.

143. During the hearing of an appeal and at any stage thereof, before final judgment, the Supreme Court, subject to the provisions of section 150 of this Law, may—

(*a*) call upon the trial court to furnish any information the Supreme Court may think necessary beyond that which is furnished by the file of proceedings;

(*b*) hear further evidence and reserve judgment until such further evidence has been heard;

(*c*) receive evidence wrongfully excluded by the trial court where it is of opinion that, if such evidence had not been excluded, it would have affected a finding of fact made by such court which was material to the case and, upon receiving such evidence, make such finding of fact as in its opinion should have been made by the trial court, if such evidence had not been excluded;

(*d*) where it is of opinion that evidence was wrongfully admitted by the trial court, make such finding of fact as in its opinion should have been made by such court, if such evidence had not been admitted;

(*e*) where the appeal is from a judgment of a member of a district court—
(i) order further evidence to be taken either generally or on some particular point before the district court which passed sentence;
(ii) if it considers that the evidence which has been adduced justifies the filing of an information for any offence not triable by a district court, direct an information to be filed against the appellant for such offence before an Assize Court at the next sitting thereof and upon such direction the trial of the appellant before the Assize Court shall take place in the same manner as if he had been committed for trial for the offence by a judge in a preliminary inquiry and, in every such case, the statements of the witnesses contained in the notes of the trial court shall be deemed to be depositions for all purposes of the case.

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144.—(1) Unless the Supreme Court otherwise orders, a sentence of imprisonment shall commence from the date of the judgment of the Supreme Court determining the appeal.

Power of Supreme Court as to commencement or suspension of sentence, etc.

(2) If the appeal is allowed and the conviction quashed, the appellant shall forthwith be set at liberty and any penalty, if already paid, shall be refunded.

(3) Subject to the provisions in sub-sections (1) and (2) of this section, the Supreme Court may make such order and issue such directions in respect of further proceedings and of the custody of the appellant or his release on bail or the suspension of the payment of any penalty as it may deem fit.

Chapter II.—Reservation of questions of law and stating case for Supreme Court.

145.—(1) Any court exercising criminal jurisdiction may, and upon application by the Attorney-General shall, at any stage of the proceedings, reserve a question of law arising during the trial of any person for the opinion of the Supreme Court.

Question of law reserved for opinion of Supreme Court.

(2) In every such case the President of the Assize Court or the trial judge, as the case may be, shall make a record of the question reserved with the circumstances upon which the same has arisen and shall transmit a copy thereof to the Chief Registrar.

(3) The Supreme Court shall consider and determine the question reserved and may—

(*a*) if the court has convicted the accused—

(i) confirm the conviction;

(ii) quash the conviction, in which case the accused shall be acquitted;

(iii) direct that the judgment of the court shall be set aside and that, instead thereof, judgment shall be given by the court as ought to have been given at the trial;

(*b*) if the court has not delivered its judgment, remit the case to it with the opinion of the Supreme Court upon the question reserved.

146.—(1) The Attorney-General and any party dissatisfied with the decision of a judge exercising summary criminal jurisdiction as being erroneous on a point of law or as being in excess of the jurisdiction or of the powers

Stating case by judge for opinion of Supreme Court.

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of the judge may, within the time set out in sub-section (7) of this section, apply in writing to the judge who gave the decision to state a case setting forth the facts and grounds of such decision for the opinion of the Supreme Court.

(2) If the judge be of opinion that the application is frivolous, he may refuse to state a case but, in any such case, he shall, on the request of the appellant, sign and deliver to him a certificate of such refusal :

Provided that the judge shall not refuse to state a case where application for that purpose is made by the Attorney-General.

(3) Where a judge refuses to state a case, it shall be lawful for the applicant to apply to the Supreme Court upon an affidavit of the facts for a rule calling upon such judge and also upon the other party to the proceedings to show cause why such case should not be stated and the Supreme Court may make such rule absolute or discharge it and the judge, upon being served with such rule absolute, shall state a case accordingly.

(4) A case stated shall be in such form as may be prescribed ; it shall be signed by the judge and shall be left with the registrar of the court within fourteen days after the date of the application therefor or of the service of a rule absolute as in sub-section (3) of this section provided.

(5) The applicant shall, within ten days from the expiration of the period mentioned in sub-section (4) of this section, call for the case stated and transmit the same to the Chief Registrar and shall, within the same time, give notice thereof in writing signed by him or his advocate to the other party to the proceedings, together with a copy of the application and an office copy of the case stated.

(6) The Supreme Court shall consider and determine the question arising on the case submitted to it under this section and may—

(*a*) set aside, confirm or amend the decision in respect of which the case has been stated ;

(*b*) remit the matter to the judge with the opinion of the Supreme Court thereon ;

(*c*) if the case stated relates to an acquittal, itself convict and pass such sentence as ought to have been passed at the trial ;

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(*d*) cause the case to be sent back for amendment, in which case the same shall be amended accordingly and judgment shall be delivered after it shall have been amended;

(*e*) make such other order as justice may require.

(7) Where the application to state a case is made by the Attorney-General, it shall be made within fourteen days from the date of the decision in respect of which the application is made.

In every other case, it shall be made within ten days from the date of such decision.

(8) Any person convicted by a district court, who applies to such court to state a case, shall be deemed to have abandoned any right to apply for leave to appeal to the Supreme Court.

Chapter III.—General.

147. Any notice, summons, order or other written communication given or issued for any of the purposes of this Part of this Law shall, if left at the address named by any person in accordance with the provisions of this Part of this Law, be deemed to have been received and to have come to the knowledge of such person.

Notices, etc., left at address named.

148.—(1) The Supreme Court shall have power in all proceedings under this Part to award such costs to be paid by or to the parties thereto as it may think fit:

Costs on appeal.

Provided that no such an order shall be made against a Law Officer.

(2) Any costs awarded under this section shall be recoverable in the manner provided for the recovery of penalties under the provisions of this Law.

149. Every judgment or order of the Supreme Court made under this Part of this Law shall be drawn up and entered in a book to be kept for that purpose; it shall be signed by one of the Judges of the Supreme Court and a copy thereof certified by the Chief Registrar to be a true copy shall be attached by him to the file of the proceedings.

Judgment to be entered in book, etc.

150. No judgment, finding, sentence or order of a trial court shall be reversed or altered on appeal on account of any objection to any charge, information, summons or warrant for any alleged defect therein in any matter whether of substance or form unless such objection was raised before the court whose decision is appealed from, nor for any variance between such charge, information, summons or warrant and the evidence adduced

No judgment to be reversed on appeal on point of form or matter of variance, unless objection taken at trial.

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in support thereof unless such objection was similarly raised and the trial court, notwithstanding that it was shown that by such variance the appellant had been deceived or misled, such court refused to adjourn the hearing of the case:

Provided that, if the appellant was not represented by an advocate at the hearing before the trial court, the Supreme Court may allow any such objection to be raised.

Part VI.—Supplementary Provisions.

Chapter I.—General powers of Attorney-General in criminal proceedings.

Nolle prosequi in criminal cases.

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

(2) When a *nolle prosequi* is entered, if the accused has been committed to prison, he shall be released, or if on bail the bail bond shall be discharged, and, where the accused is not before the court when such *nolle prosequi* is entered, the registrar or other proper officer of the court shall, if the accused is in custody, cause notice in writing of the entry of such *nolle prosequi* to be given forthwith to the person having custody of the accused and such notice shall be sufficient authority to discharge the accused in respect of the charge or information for which the *nolle prosequi* is entered or, if the accused is not in custody, shall cause such notice in writing to be given forthwith to the accused and his sureties, if any, and shall, in every case, cause a similar notice in writing to be given to any witnesses bound over to appear.

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

Power of Attorney-General to remit case to lower court.

152. Whenever any person shall have been committed for trial on information, the Attorney-General may—

(*a*) if he is of opinion that further inquiry is necessary before such trial, direct that the original depositions be remitted to the court in which the accused had been so committed and, thereupon,

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the court shall carry out such further inquiry and take such further depositions as may be necessary as if such committal had not been made;

(b) if he is of opinion that the case may suitably be dealt with under the powers possessed by such court, direct that such case be tried and determined by such court, notwithstanding that such offence could not otherwise be triable by such court.

Delegation of powers by Attorney-General.

153. With the exception of the power to appeal from any judgment of acquittal by any district court under the provisions of section 134 of this Law, the Attorney-General may by writing under his hand or by notice in the *Gazette* delegate all or any of the other powers vested in him under this Law to the Solicitor-General or a Crown Counsel, and the exercise of any such powers by the Solicitor-General or a Crown Counsel shall then operate as if such powers had been exercised by the Attorney-General.

Chapter II.—Bail and recognizances.

Release on bail.

154.—(1) Subject to the provisions of sub-section (2) of this section, any court exercising criminal jurisdiction may, if it thinks proper, at any stage of the proceedings, release on bail any person charged or convicted of any offence, upon the execution by such person of a bail bond as in this Law provided.

(2) In no case a person upon whom sentence of death has been passed shall be released on bail; and no person charged of any offence punishable with death shall be released on bail, except by an order of a Judge of the Supreme Court.

(3) When a notice of appeal has been given or where a Judge of the Supreme Court has granted leave to appeal, no bail shall be granted unless—

(a) a Judge of the Supreme Court is satisfied that, by his refusal to grant bail, the person affected will be impeded or prejudiced in prosecuting or presenting his appeal fully before the Supreme Court; and

(b) such person names some proper address within the municipal limits of Nicosia where all notices, summonses, orders and other written communications may be left for him.

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Bail bond.

155.—(1) Every bail bond shall be in the prescribed form and shall contain an acknowledgment on the part of the person entering into the same that he owes to His Majesty the King, His Heirs and Successors the sum of money therein specified, conditioned that such bond shall be void if such person shall attend at the time and place mentioned in the bond and shall continue so to attend until otherwise directed by the court.

(2) The court may require any bail bond to be executed with or without sureties.

(3) Where a person is required to execute a bail bond with or without sureties, he may be permitted to deposit with the treasury a sum of money to such an amount as may be fixed by the court in lieu of executing such bond.

Power to increase bail and to order sufficient sureties.

156. If the court by which a person has been released on bail is satisfied that for any reason the amount should be increased, or that the sureties are or have become insufficient, it may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to sign a new bond for a bigger amount or order him to find sufficient sureties and, on his failing to do so, may commit him to prison.

Person on bail about to leave the Colony.

157. If it is made to appear to a court by information on oath that any person released on bail is about to leave the Colony, the court may cause him to be arrested and commit him to prison until his trial or preliminary inquiry, as the case may be, unless the court shall see fit to admit him again to bail upon further bail.

Release of person in custody and warrant of deliverance.

158. As soon as the bail bond has been executed the person admitted to bail shall be released and, if he is in prison, the court admitting him to bail shall issue a warrant of deliverance requiring the officer in charge of the prison to release the person so admitted to bail and such officer, on receipt of such warrant of deliverance, shall release him forthwith :

Provided that nothing in this section or section 154 of this Law shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bail bond was executed.

Discharge of sureties.

159.—(1) The surety or sureties on a bail bond may, at any time, apply to the court to discharge the bond either wholly or so far as it relates to the applicant or applicants.

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(2) On such application being made, unless the person released sooner surrenders himself, the court shall issue a warrant of arrest directing that such person be brought before it.

(3) On the appearance of such person on his voluntary surrender or pursuant to the warrant, the court shall direct the bond to be discharged either wholly or so far as it relates to all or any of the applicants and shall call upon such person to find other sufficient sureties and, if he fails to do so, may commit him to prison.

Death of surety.

160. If a surety of a bail bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bail bond, but the court by whose order the bail bond was given may require the person released on such bond to find a new surety or commit such person to prison.

Forfeiture of bail bond and procedure thereon.

161.—(1) If the condition of any bail bond be not complied with, the court in or before which such condition ought to be performed may endorse thereon a certificate setting forth that such condition has not been performed and, thereupon, if the amount of the bond is not paid within six days after an order and notice to do so has been given to the person affected and no sufficient cause has been shown for such failure within the aforesaid time, the amount of the bond shall be recoverable from the person or persons bound under the bond, in the same manner as penalties are recovered under the provisions of this Law.

(2) The court in or before which the condition of a bond ought to be performed may remit any part of the amount thereof and enforce payment in part only.

Certain provisions to apply to recognizances.

162. The provisions of sections 155 to 161 of this Law, both inclusive, shall apply *mutatis mutandis* to any recognizance entered into by any person, under the provisions of this Law or for keeping the peace and for being of good behaviour or conditioned that he shall appear and receive judgment at some future sitting of the court or when called upon or for any other matter under the provisions of any other enactment in force for the time being:

Provided that, in case of forfeiture of a recognizance conditioned as hereinbefore provided, nothing in section 161 contained shall prevent the court from passing any other sentence as to the court may seem fit to meet the circumstances of the case and which the court is empowered to impose.

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Chapter III.—Costs and restitution.

Costs, how to be paid.

163.—(1) The costs of every public prosecution shall, in the first instance, be paid out of public revenue.

(2) Every order for the payment of costs shall be made out by an officer of the court and shall be delivered to the person entitled thereto.

(3) Every order for the payment of costs out of public revenue shall be addressed to the Commissioner of the district in which the trial is held and every order so addressed shall be sufficient authority for every such Commissioner and for every person acting as treasurer for the district under the orders of the Commissioner, or otherwise, to pay the sum mentioned in the said order. And every such Commissioner and other person as aforesaid shall, upon presentation of such order, pay the money mentioned therein to the person named in the order or anyone duly authorized to receive the same on his behalf.

Costs of witnesses for defence.

164. The court before which any information is tried may direct that the costs of such of the witnesses called for the defence as were bound by recognizance to give evidence on the part of the accused shall be paid out of public revenue.

Payment of costs by accused.

165. Whenever a person is convicted of any offence, the court may order him to pay the costs of the prosecution in addition to any other sentence which may be passed upon him and in the case of public prosecutions such costs shall, when recovered, be paid into public revenue.

Award of costs to accused.

166. If in a summary trial the accused is acquitted the court may order any person by whom in its opinion the charge was preferred, or any person whom it may consider responsible for having procured the same, to pay to the accused his costs.

Disposal of property in possession of police.

167.—(1) Subject to the provisions of sub-section (2) of this section, where any property has come into the possession of the police in connection with any criminal proceedings, the court may, on application either by a police officer or by a claimant of the property, make an order for the delivery of the property to the person appearing to the court to be the owner thereof or, if the owner cannot be ascertained, make such order with respect to the property as to the court may seem fit.

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(2) An order under this section shall not affect the right of any person to take within six months from the date of the order legal proceedings against any person in possession of property delivered by virtue of the order for the recovery of the property, but on the expiration of those six months the right shall cease.

Restitution of property.

168. Where any person is convicted of any offence by which any other person has been deprived of any property whatever, the court may order that such property or any part thereof be restored to the person who appears to it to be the owner thereof, either without payment or on payment by such owner to the person in whose possession such property or a part thereof then is, of any sum named in such order:

Provided that this section shall not apply to—

(*a*) any valuable security which has been *bona fide* paid or discharged by any person liable to pay or discharge the same;

(*b*) any negotiable instrument which shall have been *bona fide* received by transfer or delivery by any person for a just and valuable consideration without notice or without any reasonable cause to suspect that it had been stolen or otherwise feloniously taken;

(*c*) any goods or documents of title entrusted to, or under the control of, by documents of title or otherwise, any trustee, banker, merchant, attorney, factor, broker or other agent convicted as such of any offence in respect of the same;

(*d*) any movable property purchased in good faith in an open market from a person dealing in such market in this kind of property or in any shop where property of the same kind as the one in question is usually sold and from the person usually in charge thereof.

Restoration of possession of immovable property.

169.—(1) Whenever a person is convicted of an offence attended by criminal force and it appears to the court that by such force any person has been dispossessed of any immovable property the court may, if it thinks fit, order the possession of the same to be restored to such person.

(2) No such order shall prejudice any right or interest to or in, such immovable property which any person, including the person convicted, may be able to establish in a civil action.

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PART VII.—MISCELLANEOUS.

Notes of evidence.

170.—(1) In criminal proceedings, the judge or, where the court consists of more than one judge, the presiding judge or by his direction any other judge constituting such court, shall take down in writing the minutes of the proceedings and the notes of evidence which shall be signed by him and shall be preserved as record of the court:

Provided that, save as provided by sections 94 and 95 of this Law, if the court so directs, such minutes and notes may be taken down in shorthand and a transcript of such shorthand notes shall be deemed to be the record of the Court.

(2) Any minutes of proceedings or notes of evidence constituting the record of the court, as in this section provided, or a copy thereof purporting to be signed and certified as a true copy by the registrar of the court shall, without further proof, be admitted as evidence of such proceedings and of the statements made by the witnesses.

Change of place of trial.

171.—(1) Whenever, upon application as hereinafter provided, it is made to appear to the Supreme Court—

(*a*) that a fair and impartial preliminary inquiry or trial cannot be had in any court;

(*b*) that some question of law of unusual difficulty is likely to arise;

(*c*) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into, or trial of, the same;

(*d*) that an order under this section will tend to the general convenience of the parties or witnesses;

(*e*) that such an order is expedient for the ends of justice,

it may order that the preliminary inquiry or trial be held by or before a court other than the court before which, but for such order, it would have been held.

(2) Every application for the exercise of the powers conferred by this section shall be made by motion which shall, except when the application is made by or on behalf of the Attorney-General, be supported by affidavit.

(3) When an accused makes an application under this section, the Supreme Court may, if it thinks fit, direct him to execute a bond with or without sureties conditioned that he will, if convicted, pay the costs of the prosecution.

(4) Every accused making any such application shall give to the Attorney-General notice in writing of the application, together with a copy of the affidavit and no final order shall be made on the application, unless such notice and affidavit are served at least twenty-four hours before the hearing of the application.

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172. At every preliminary inquiry and at every trial, the court shall have power in its discretion to regulate the course of the proceedings in any way which may appear desirable and which is not inconsistent with the provisions of this Law.

General power of courts to regulate proceedings.

173. The Governor may, with the advice and assistance of the Chief Justice, make rules of court to be published in the *Gazette* for the better carrying out of this Law into effect and particularly and without prejudice to the generality of the powers hereby conferred, such rules may be made in respect of all or any of the following matters :—

Rules of court.

(*a*) all matters stated or required in this Law to be prescribed ;

(*b*) the forms to be used for any matter or proceeding had or taken under the provisions of this Law and the fees payable in respect of any such matter or proceeding ;

Provided that, until such rules are made—

(*a*) any matter or proceeding had or taken under this Law shall be regulated by the Rules of Court relating to such matter or proceeding (including any Rules prescribing the fees payable in respect of any such matter or proceeding) made under any of the enactments repealed by this Law and in force on the date of the coming into operation of this Law ;

(*b*) any forms set out in any of the enactments hereby repealed shall continue to be used for any matter or proceeding had or taken under the provisions of this Law,

and such Rules and forms may be applied or used with such deviations, alterations or adaptations as may be necessary to carry into effect the provisions of this Law.

174. This Law shall come into operation on the 15th day of December, 1948, and, thereupon, the Laws set out in the first column of the Schedule to this Law shall be repealed to the extent specified in the second column thereof :

Date of coming into operation and repeals.

Schedule.

Provided that, whenever in any enactment which is in force on the above date, reference is made to any of the Laws repealed by this Law such reference shall be deemed to be a reference to the corresponding provision of this Law and the reference in such enactment shall be construed accordingly.

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SCHEDULE.

REPEALS.—(*Section* 174.)

Laws	Extent of repeal
1. The Fines and Penalties Recovery Law, 1883 (3 of 1883) as amended by the Defence Legislation (Incorporation in Certain Laws) Law, 1946 (2 of 1946).	1. The whole.
2. The Cyprus Courts of Justice Orders and Laws, 1927 to 1945, (Orders 1927 and 1931; Laws 45 of 1934, 14 of 1935, 36 of 1935 and 8 of 1945).	2. Clause 2 in so far as it is repugnant to, or inconsistent with, the provisions of this Law; clauses 51 and 58 to 60 (both inclusive); clauses 62 to 94 (1) (both inclusive); clauses 95 to 100 (both inclusive); clauses 103 to 157B (both inclusive); clauses 160 to 176 (both inclusive); clauses 179 to 183 (both inclusive) in so far as they relate to criminal cases or proceedings; clauses 193 to 201 (both inclusive) in so far as they relate to criminal cases or proceedings; clause 203, in so far as it relates to criminal cases or proceedings; clauses 217 to 219 (both inclusive) in so far as they relate to criminal cases or proceedings; clauses 222 and 223, in so far as they relate to criminal cases and proceedings.
3. Cyprus Criminal Code, 1928 to 1944 (Order, 1928; Laws 9 of 1931, 34 of 1932, 35 of 1933, 43 of 1933, 9 of 1936, 28 of 1936, 2 of 1937 and 19 of 1944).	3. Sections 32, 33, 37 and 363.
4. The Criminal Evidence and Procedure Laws, 1929 to 1934 (12 of 1929, 37 of 1933 and 18 of 1934).	4. All sections which have not been previously repealed.
5. The Courts of Justice Laws, 1935 to 1947 (38 of 1935, 29 of 1938, 19 of 1940, 6 of 1943 and 5 of 1947).	5. Sections 23 to 43 (both inclusive); section 51, in so far as it relates to criminal cases or proceedings.

H. G. RICHARDS,
Acting Colonial Secretary.

25th November, 1948.

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