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This Act may be cited as the Criminal Procedure Code and hereinafter is  referred to as "this Code".Short title  2. In this Code, unless the context otherwise requires-Interpretation  "Christian marriage" means a marriage which is recognised, by the law of the  place where it is contracted, as the voluntary union for life of one man and one  woman to the exclusion of all others;  "cognizable offence" means an offence for which a police officer may, in  accordance with the First Schedule or under any written law for the time being  in force, arrest without warrant;  "complaint" means an allegation that some person known or unknown has committed  or is guilty of an offence;  "Court" means the High Court or any subordinate court as defined in this Code;  "district" means the district assigned to a subordinate court as the district  within which it is to exercise jurisdiction;  "husband" and "wife" mean a husband and wife of a Christian marriage;  "non-cognizable offence" means an offence for which a police officer may not  arrest without warrant;  "officer in charge of a police station" includes, when the officer in charge of  the police station is absent from the station-house or unable, from illness or  other cause, to perform his duties, the police officer present at the  station-house who is next in rank to such officer, or any other police officer  so present;  "police station" means a post or place appointed by the Inspector-General of  Police to be a police station and includes any local area policed from such  station;  "preliminary inquiry" means an inquiry into a criminal charge held by a  subordinate court with a view to the committal of the accused person for trial  before the High Court;  "public prosecutor" means any person appointed under the provisions of section  eighty-six and includes the Attorney-General, the Solicitor-General, the  Director of Public Prosecutions, a State Advocate and any practitioner as  defined in the Legal Practitioners Act appearing on behalf of the People in any  criminal proceedings;Cap. 30  "Registrar" means the Registrar of the High Court and includes a Deputy  Registrar and an Assistant Registrar;  "Session" has the meaning assigned to it by section two of the High Court  Act;Cap. 27  "subordinate court" means a subordinate court as constituted under the  Subordinate Courts Act;Cap. 28  "summary trial" means a trial held by a subordinate court under Part VI.  (As amended by No. 28 of 1940, No. 23 of 1960, No. 5 of 1962, No. 27 of 1964 and  S.I. No. 63 of 1964)  3. (1) All offences under the Penal Code shall be inquired into, tried and  otherwise dealt with accordance to the provisions hereinafter contained.Trial of  offences under Penal Code  (2) All offences under any other written law shall be inquired into, tried and  otherwise dealt with according to the same provisions, subject, however, to any  enactment for the time being in force regulating the manner or place of  inquiring into, trying or otherwise dealing with such offences.Trial of offences  under other written laws  PART II POWERS OF COURTS PART II  POWERS OF COURTS  4. Subject to the other provisions of this Code, any offence under the Penal  Code may be tried by the High Court.Offences under Penal Code  5. (1) Any offence under any written law, other than the Penal Code, may, when  any court is mentioned in that behalf in such law, be tried by such court or by  the High Court.Offences under other written laws  (2) When no court is so mentioned, such offence may, subject to the other  provisions of this Code, be tried by the High Court or by any subordinate court.  6. The High Court may pass any sentence or make any order authorised by  law.Sentences which High Court may pass  7. Subject to the other provisions of this Code, a subordinate court of the  first, second or third class may try any offence under the Penal Code or any  other written law, and may pass any sentence or make any other order authorised  by the Penal Code or any other written law:Powers of subordinate courts  Provided that-  (i) a subordinate court presided over by a senior resident magistrate shall  not impose any sentence of imprisonment exceeding a term of nine years;  (ii) a subordinate court presided over by a resident magistrate shall not  impose any sentence of imprisonment exceeding a term of seven years;  (iii) a subordinate court presided over by a magistrate of the first class  shall not impose any sentence of imprisonment exceeding a term of five years;  (iv) a subordinate court other than a court presided over by a senior  resident magistrate, a resident magistrate or a magistrate of the first class,  shall not impose any sentence of imprisonment exceeding a term of three years.  (As amended by No. 23 of 1939, No. 26 of 1956, No. 28 of 1965 and No. 6 of 1972)  8. In criminal cases, a subordinate court may promote reconciliation, and  encourage and facilitate the settlement in an amicable way, of proceedings for  assault, or for any other offence of a personal or private nature, not amounting  to felony and not aggravated in degree, in terms of payment of compensation or  other terms approved by such court and may, thereupon, order the proceedings to  be stayed.  (No. 5 of 1962)Reconciliation  9. (1) No sentence imposed by a subordinate court presided over by a  magistrate of the first class (other than a Senior Resident Magistrate or a  Resident Magistrate) exceeding two years imprisonment with or without hard  labour shall be carried into effect in respect of the excess, until the record  of the case or a certified copy thereof has been transmitted to and the sentence  has been confirmed by the High Court.Sentences requiring confirmation  (2) Whenever a subordinate court of the first class (other than a court  presided over by a Senior Resident Magistrate or a Resident Magistrate) imposes  a fine exceeding three thousand penalty units, or imprisonment in default  thereof, it shall be lawful for such court to levy the whole amount of such fine  or to commit the convicted person to prison, in default of payment or distress,  for the whole term of such imprisonment, without confirmation by the High Court;  but such court shall immediately transmit the record of the case or a certified  copy thereof to the High Court, which may, thereupon, exercise all the powers  conferred upon it by subsection (3) of section thirteen:  Provided always that such court may, in its discretion, in lieu of levying such  fine in excess of three thousand penalty units or of committing the convicted  person to prison, take security by deposit or by bond with two sureties, to be  approved by the court, in such sum as it may think fit, pending any order of the  High Court, for the performance of such order.  (3) No sentence imposed by a subordinate court of the second class, exceeding  one years imprisonment with or without hard labour, shall be carried into  effect in respect of the excess, until the record of the case or a certified  copy thereof has been transmitted to and the sentence has been confirmed by the  High Court.  (4) Whenever a subordinate court of the second class imposes a fine exceeding  one thousand and five hundred penalty units, or imprisonment in default thereof,  it shall be lawful for such court to levy the whole amount of such fine or to  commit the convicted person to prison, in default of payment or distress, for  the whole term of such imprisonment, without confirmation by the High Court; but  such court shall immediately transmit the record of the case or a certified copy  thereof to the High Court, which may, thereupon, exercise all the powers  conferred upon it by subsection (3) of section thirteen:  Provided always that such court may, in its discretion, in lieu of levying such  fine in excess of one thousand and five hundred penalty units or of committing  the convicted person to prison, take security by deposit or by bond with two  sureties, to be approved by the court, in such sum as it may think fit, pending  any order of the High Court, for the performance of such order.  (5) No sentence imposed by a subordinate court of the third class, exceeding  six months imprisonment with or without hard labour, shall be carried into  effect in respect of the excess, and no fine exceeding seven hundred and fifty  penalty units shall be levied in respect of the excess, until the record of the  case or a certified copy thereof has been transmitted to and the sentence  confirmed by the High Court. And no caning in excess of twelve strokes shall be  administered until the record of the case or a certified copy thereof has been  transmitted to and the order has been confirmed by the High Court.  (6) Whenever a subordinate court passes sentence of death, such court shall  immediately transmit the record of the case or a certified copy thereof to the  High Court, which may, thereupon, exercise all the powers conferred upon it by  subsection (3) of section thirteen.  (7) Any sentence passed by a subordinate court which requires confirmation by  the High Court shall be deemed to have been so confirmed if on a first appeal to  the Supreme Court or the High Court, as the case may be, the sentence is  maintained by the appellate court.  (As amended by No. 23 of 1939, No. 30 of 1952, No. 26 of 1956, G.N. No. 493 of  1964, No. 28 of 1965, No. 23 of 1971,  No. 6 of 1972 and Act No. 13 of 1994)  10. The High Court may, by special order, direct that in the case of any  particular charge brought against any person in a subordinate court, such court  shall not try such charge but shall hold a preliminary inquiry under the  provisions of Part VII.  (No. 26 of 1956)Power of High Court to order preliminary inquiry  11. (1) The Chief Justice may, by statutory notice, order that any class of  offence specified in such notice shall be tried by the High Court or be tried or  committed to the High Court for trial by a subordinate court presided over by a  senior resident magistrate onlyCases to be tried only by High Court  (2) No case of treason or murder or of any offence of a class specified in a  notice issued under the provisions of subsection (1) shall be tried by a  subordinate court unless special authority has been given by the High Court for  such trial.  (No. 26 of 1956 as amended by No. 16 of 1959 and No. 28 of 1965)  12. Any court may pass any lawful sentence or make any lawful order combining  any of the sentences or orders which it is authorised by law to pass or  make.Combination of sentences or orders  13. (1) Whenever a subordinate court shall pass a sentence which requires  confirmation, the court imposing such sentence may, in its discretion, release  the person sentenced on bail, pending confirmation or such order as the  confirming court may make.Release on bail pending confirmation or other order  (2) If the person sentenced is so released on bail as aforesaid, the term of  imprisonment shall run from the date upon which such person begins to serve his  sentence after confirmation or other order of the confirming court:  Provided, however, that the person sentenced may, pending confirmation or other  order, elect to serve his sentence from the date upon which he is sentenced by  the subordinate court, in which case the term of imprisonment shall run from  such date.  (3) The confirming court may exercise the same powers in confirmation as are  conferred upon it in revision by Part XI.  14. A person sentenced to undergo corporal punishment may be detained in a  prison or some other convenient place, for such time as may be necessary for  carrying the sentence into effect, or for ascertaining whether the same shall be  carried into effect.Corporal punishment -detention pending punishment  15. (1) When a person is convicted at one trial of two or more distinct  offences, the court may sentence him, for such offences, to the several  punishments prescribed therefor which such court is competent to impose; such  punishments, when consisting of imprisonment, to commence the one after the  expiration of the other, in such order as the court may direct, unless the court  directs that such punishments shall run concurrently.Sentences in case of  conviction for several offences at one trial  (2) For the purposes of confirmation, the aggregate of consecutive sentences  imposed under this section, in case of convictions for several offences at one  trial, shall be deemed to be a single sentence.  16. (1) Whenever a person is convicted before any court for any offence other  than an offence specified in the Fifth Schedule, the court may, in its  discretion, pass sentence but order the operation of the whole or any part of  the sentence to be suspended for a period not exceeding three years on such  conditions, relating to compensation to be made by the offender for damage or  pecuniary loss, or to good conduct, or to any other matter whatsoever, as the  court may specify in the order.Power of courts to suspend sentence  (2) Where the operation of a sentence has been suspended under subsection (1)  and the offender has, during the period of the suspension, observed all the  conditions specified in the order, the sentence shall not be enforced.  (3) If the conditions of any order made under subsection (1) are not fulfilled,  the offender may, upon the order of a magistrate or Judge, be arrested without  warrant and brought before the court which suspended the operation of his  sentence, and the court may direct that the sentence, or part thereof, shall be  executed forthwith or, in the case of a sentence of imprisonment, after the  expiration of any other sentence of imprisonment which such offender is liable  to serve:  Provided that the court that suspended the operation of the sentence may, in its  discretion, if it be proved to its satisfaction by the offender that he has been  unable through circumstances beyond his control to perform any condition of such  suspension, grant an order further suspending the operation of the sentence  subject to such conditions as might have been imposed at the time of the passing  of the sentence.  (4) In the alternative, where a court is satisfied that any person convicted  before it of an offence has, by reason of such conviction, failed to fulfil the  conditions of an order made under subsection (1), the court may direct that the  sentence suspended by reason of the said order be either executed forthwith or,  in the case of a sentence of imprisonment, after the expiration of any other  sentence of imprisonment which such person is liable to serve.  (5) For the purposes of any appeal therefrom, a direction by a court made under  subsection (3) or (4) shall be deemed to be a conviction.  (No. 16 of 1959 as amended by No. 27 of 1964,  No. 76 of 1965 and No. 46 of 1967)  17. (1) A court may, at any stage in a trial or inquiry, order that an accused  person be medically examined for the purpose of ascertaining any matter which is  or may be, in the opinion of the court, material to the proceedings before the  court.Medical examination of accused persons  (2) Where an accused person is examined on the order of a court made under  subsection (1), a document purporting to be the certificate of the medical  officer who carried out the examination shall be receivable in evidence to prove  the matters stated therein:  Provided that the court may summon such medical officer to give evidence orally.  (No. 11 of 1963)  PART III GENERAL PROVISIONS PART III  GENERAL PROVISIONS  Arrest, Escape and Retaking Arrest Generally  18. (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.Arrest, how made  (2) If such person forcibly resists the endeavour to arrest him, or attempts to  evade the arrest, such police officer or other person may use all means  reasonably necessary to effect the arrest.  (As amended by No. 28 of 1940)  19. (1) If any person acting under a warrant of arrest, or any police officer  having authority to arrest, has reason to believe that the person to be arrested  has entered into or is within any place, the person residing in or being in  charge of such place shall, on demand of such person acting as aforesaid or such  police officer, allow him free ingress thereto and afford all reasonable  facilities for a search therein.Search of place entered by person sought to be  arrested  (2) If ingress to such place cannot be obtained under subsection (1), it shall  be lawful, in any case, for a person acting under a warrant, and, in any case in  which a warrant may issue, but cannot be obtained without affording the person  to be arrested an opportunity to escape, for a police officer to enter such  place and search therein, and, in order to effect an entrance into such place,  to break open any outer or inner door or window of any house or place, whether  that of the person to be arrested or of any other person, or otherwise effect  entry into such house or place, if, after notification of his authority and  purpose, and demand of admittance duly made, he cannot otherwise obtain  admittance.  20. Any police officer or other person authorised to make an arrest may break  out of any house or place in order to liberate himself or any other person who,  having lawfully entered for the purpose of making an arrest, is detained  therein.Power to break out of any house for purposes of liberation  21. The person arrested shall not be subjected to more restraint than is  necessary to prevent his escape.No unnecessary restraint  22. Whenever a person is arrested-  (a) by a police officer under a warrant which does not provide for the taking  of bail or under a warrant which provides for the taking of bail and the person  arrested cannot furnish bail; or  (b) without warrant, or by a private person under a warrant, and the person  arrested cannot legally be admitted to bail or is unable to furnish bail;  the police officer making the arrest or, when the arrest is made by a private  person, the police officer to whom he makes over the person arrested may search  such person and place in safe custody all articles, other than necessary wearing  apparel, found upon him.Search of arrested persons  23. Any police officer may stop, search and detain any vessel, aircraft or  vehicle in or upon which there shall be reason to suspect that anything stolen  or unlawfully obtained may be found and also any person who may be reasonably  suspected of having in his possession or conveying in any manner anything stolen  or unlawfully obtained, and may seize any such thing.  (No. 28 of 1940)Power of police officer to detain and search vehicles and  persons in certain circumstances  24. Whenever it is necessary to cause a woman to be searched, the search  shall be made by another woman with strict regard to decency.Mode of searching  women  25. The police officer or other person making any arrest may take from the  person arrested any offensive weapons which he has about his person and shall  deliver all weapons so taken to the court or officer before which or whom the  officer or person making the arrest is required by law to produce the person  arrested.  Arrest without WarrantPower to seize offensive weapons  26. Any police officer may, without an order from a magistrate and without a  warrant, arrest-  (a) any person whom he suspects, upon reasonable grounds, of having committed  a cognizable offence;  (b) any person who commits a breach of the peace in his presence;  (c) any person who obstructs a police officer while in the execution of his  duty, or who has escaped or attempts to escape from lawful custody;  (d) any person in whose possession anything is found which may reasonably be  suspected to be stolen property, or who may reasonably be suspected of having  committed an offence with reference to such thing;  (e) any person whom he suspects, upon reasonable grounds, of being a deserter  from the Defence Force;  (f) any person whom he finds in any highway, yard or other place during the  night, and whom he suspects, upon reasonable grounds of having committed or  being about to commit a felony;  (g) any person whom he suspects, upon reasonable grounds, of having been  concerned in any act committed at any place out of Zambia which, if committed in  Zambia, would have been punishable as an offence, and for which he is, under the  Extradition Act, or otherwise, liable to be apprehended and detained in Zambia;  (h) any person having in his possession, without lawful excuse, the burden of  proving which excuse shall lie on such person, any implement of housebreaking;  (i) any released convict committing a breach of any provision prescribed by  section three hundred and eighteen or of any rule made thereunder;  (j) any person for whom he has reasonable cause to believe a warrant of  arrest has been issued.  (As amended by No. 23 of 1937 and S.I. No. 63 of 1964)Arrest by police officer  without warrant  Cap. 94  27. Any officer in charge of a police station may, in like manner, arrest or  cause to be arrested-  (a) any person found taking precautions to conceal his presence within the  limits of such station, under circumstances which afford reason to believe that  he is taking such precautions with a view to committing a cognizable offence;  (b) any person, within the limits of such station, who has no ostensible  means of subsistence, or who cannot give a satisfactory account of  himself;Arrest of vagabonds, habitual robbers, etc.  (c) any person who is, by repute, an habitual robber, housebreaker or thief,  or an habitual receiver of stolen property, knowing it to be stolen, or who, by  repute, habitually commits extortion, or, in order to commit extortion,  habitually puts or attempts to put persons in fear of injury.  28. When any officer in charge of a police station requires any officer  subordinate to him to arrest without a warrant (otherwise than in such officers  presence) any person who may lawfully be arrested without a warrant, he shall  deliver to the officer required to make the arrest an order in writing,  specifying the person to be arrested and the offence or other cause for which  the arrest is to be made.Procedure when police officer deputes subordinate to  arrest without warrant  29. (1) When any person who, in the presence of a police officer, has  committed or has been accused of committing a non-cognizable offence refuses, on  the demand of such officer, to give his name and residence, or gives a name or  residence which such officer has reason to believe to be false, he may be  arrested by such officer, in order that his name or residence may be  ascertained.Refusal to give name and residence  (2) When the true name and residence of such person have been ascertained, he  shall be released on his executing a bond, with or without sureties, to appear  before a magistrate, if so required:  Provided that, if such person is not resident in Zambia, the bond shall be  secured by a surety or sureties resident in Zambia.  (3) Should the true name and residence of such person not be ascertained within  twenty-four hours from the time of arrest, or should he fail to execute the  bond, or, if so required, to furnish sufficient sureties, he shall forthwith be  taken before the nearest magistrate having jurisdiction.  (4) Any police officer may arrest without a warrant any person who in his  presence has committed a non-cognizable offence, if reasonable grounds exist for  believing that, except by the arrest of the person offending, he could not be  found or made answerable to justice.  (As amended by No. 4 of 1945)  30. A police officer making an arrest without a warrant shall, without  unnecessary delay and subject to the provisions herein contained as to bail,  take or send the person arrested before a magistrate having jurisdiction in the  case or before an officer in charge of a police station.Disposal of persons  arrested by police officer  31. (1) Any private person may arrest any person who, in his presence, commits  a cognizable offence, or whom he reasonably suspects of having committed a  felony.Arrest by private persons  (2) Persons found committing any offence involving injury to property may be  arrested without a warrant by the owner of the property or his servants or  persons authorised by him.  32. (1) Any private person arresting any other person without a warrant shall,  without unnecessary delay, make over the person so arrested to a police officer,  or, in the absence of a police officer, shall take such person to the nearest  police station.Disposal of persons arrested by private person  (2) If there is reason to believe that such person comes under the provisions  of section twenty-six, a police officer shall re-arrest him.  (3) If there is reason to believe that he has committed a non-cognizable  offence, and he refuses, on the demand of a police officer, to give his name and  residence, or gives a name or residence which such officer has reason to believe  to be false, he shall be dealt with under the provisions of section twenty-nine.  If there is no sufficient reason to believe that he has committed any offence,  he shall be at once released.  33. (1) 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 which such person shall be brought may, in any case, and  shall, if it does not appear practicable to bring such person before an  appropriate competent court within twenty-four hours after he was so taken into  custody, inquire into the case, 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 a competent 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 competent court as soon as practicable.  Notwithstanding anything contained in this section, an officer in charge of a  police station may release a person arrested on suspicion on a charge of  committing any offence, when, after due police inquiry, insufficient evidence  is, in his opinion, disclosed on which to proceed with the charge.Detention of  persons arrested without warrant  (2) In this section, "competent court" means any court having jurisdiction to  try or hold a preliminary inquiry into the offence for which the person has been  taken into custody.  (As amended by No. 28 of 1940 and No. 2 of 1960)  34. Officers in charge of police stations shall report to the nearest  magistrate the cases of all persons arrested without warrant within the limits  of their respective stations, whether such persons have been admitted to bail or  not.Police to report apprehensions  35. When any offence is committed in the presence of a magistrate within the  local limits of his jurisdiction, he may himself arrest or order any person to  arrest the offender, and may, thereupon, subject to the provisions herein  contained as to bail, commit the offender to custody.Offence committed in  magistrates presence  36. Any magistrate may, at any time, arrest or direct the arrest, in his  presence, within the local limits of his jurisdiction, of any person for whose  arrest he is competent, at the time and in the circumstances, to issue a  warrant.  Escape and RetakingArrest by magistrate  37. If a person in lawful custody escapes or is rescued, the person from  whose custody he escapes or is rescued may immediately pursue and arrest him in  any place in Zambia.Recapture of person escaping  38. The provisions of sections nineteen and twenty shall apply to arrests  under the last preceding section, although the person making any such arrest is  not acting under a warrant, and is not a police officer having authority to  arrest.Provisions of sections 19 and 20 to apply to arrests under section 37  39. Every person is bound to assist a magistrate or police officer reasonably  demanding his aid-  (a) in the taking or preventing the escape of any other person whom such  magistrate or police officer is authorised to arrest;  (b) in the prevention or suppression of a breach of the peace, or in the  prevention of any injury attempted to be committed to any railway, canal,  telegraph or public property.  Prevention of Offences  Security for Keeping the Peace and for Good BehaviourDuty to assist magistrate,  etc.  40. (1) Whenever a magistrate empowered to hold a subordinate court of the  first or second class is informed on oath that any person is likely to commit a  breach of the peace or disturb the public tranquility, or to do any wrongful act  that may probably occassion a breach of the peace or disturb the public  tranquillity, the magistrate may, in manner hereinafter provided, require such  person to show cause why he should not be ordered to execute a bond, with or  without sureties, for keeping the peace for such period, not exceeding one year,  as the magistrate thinks fit.Power of magistrate of subordinate court of the  first or second class  (2) Proceedings shall not be taken under this section, unless either the person  informed against, or the place where the breach of the peace or disturbance is  apprehended, is within the local limits of such magistrates jurisdiction.  41. Whenever a magistrate empowered to hold a subordinate court of the first  class is informed on oath that a person is within the limits of his jurisdiction  and that such person, within or without such limits, either orally or in  writing, or in any other manner, is disseminating, or attempting to disseminate,  or in any wise abetting the dissemination of-  (a) any seditious matter, that is to say, any matter the publication of which  is punishable under section fifty-seven of the Penal Code; or  (b) any matter concerning a Judge which amounts to libel under the Penal  Code:  such magistrate may (in manner provided in this Code) require such person to  show cause why he should not be ordered to execute a bond, with or without  sureties, for his good behaviour for such period, not exceeding one year, as the  magistrate thinks fit to fix.  (No. 28 of 1940)Security for good behaviour from persons disseminating seditious  matters  Cap. 87  42. (1) When any magistrate not empowered to proceed under section forty has  reason to believe that any person is likely to commit a breach of the peace or  disturb the public tranquillity, or to do any wrongful act that may probably  occasion a breach of the peace or disturb the public tranquillity, and that such  breach of the peace or disturbance cannot be prevented otherwise than by  detaining such person in custody, such magistrate may, after recording his  reasons, issue a warrant for his arrest (if he is not already in custody or  before the court), and may send him before a magistrate empowered to deal with  the case, with a copy of his reasons.Powers of other magistrates  (2) A magistrate before whom a person is sent under this section may, in his  discretion, detain such person in custody until the completion of the inquiry  hereinafter prescribed.  43. Whenever a magistrate empowered to hold a subordinate court of the first  or second class is informed on oath that any person is taking precautions to  conceal his presence within the local limits of such magistrates jurisdiction,  and that there is reason to believe that such person is taking such precautions  with a view to committing any offence, such magistrate may, in manner  hereinafter provided, require such person to show cause why he should not be  ordered to execute a bond, with sureties, for his good behaviour for such  period, not exceeding one year, as the magistrate thinks fit.Security for good  behaviour from suspected persons  44. Whenever a magistrate empowered to hold a subordinate court of the first  or second class is informed on oath that any person within the local limits of  his jurisdiction-  (a) is, by habit, a robber, housebreaker or thief; or  (b) is, by habit, a receiver of stolen property, knowing the same to have  been stolen; or  (c) habitually protects or harbours thieves, or aids in the concealment or  disposal of stolen property; or  (d) habitually commits or attempts to commit, or aids or abets in the  commission of, any offence punishable under Chapter XXX, XXXIV or XXXVII of the  Penal Code; or  (e) habitually commits or attempts to commit, or aids or abets in the  commission of, offences involving a breach of the peace; or  (f) is so desperate and dangerous as to render his being at large without  security hazardous to the community;  such magistrate may, in manner hereinafter provided, require such person to show  cause why he should not be ordered to execute a bond, with sureties, for his  good behaviour for such period, not exceeding three years, as the magistrate  thinks fit.Security for good behaviour from habitual offenders  Cap. 87  45. When a magistrate acting under section forty, forty-three or forty-four  deems it necessary to require any person to show cause under any such section,  he shall make an order in writing setting forth-  (a) the substance of the information received;  (b) the amount of the bond to be executed;  (c) the term for which it is to be in force; and  (d) the number, character and class of sureties, if any, required.Order to be  made  46. If the person in respect of whom an order under the last preceding  section is made is present in court, it shall be read over to him, or, if he so  desires, the substance thereof shall be explained to him.Procedure in respect of  person present in court  47. If the person referred to in the last preceding section is not present in  court, the magistrate shall issue a summons requiring him to appear, or, when  such person is in custody, a warrant directing the officer in whose custody he  is to bring him before the court.Summons or warrant in case of person not so  present  Provided that, whenever it appears to such magistrate, upon the report of a  police officer or upon other information (the substance of which report or  information shall be recorded by the magistrate), that there is reason to fear  the commission of a breach of the peace, and that such breach of the peace  cannot be prevented otherwise than by the immediate arrest of such person, the  magistrate may, at any time, issue a warrant for his arrest.  48. Every summons or warrant issued under the last preceding section shall be  accompanied by a copy of the order made under section forty-five, and such copy  shall be delivered by the officer serving or executing such summons or warrant  to the person served with or arrested under the same.Copy of order under section  45 to accompany summons or warrant  49. The magistrate may, if he sees sufficient cause, dispense with the  personal attendance of any person called upon to show cause why he should not be  ordered to execute a bond for keeping the peace, and may permit him to appear by  an advocate.Power to dispense with personal attendance  50. (1) When an order under section forty-five has been read or explained  under section forty-six to a person present in court, or when any person appears  or is brought before a magistrate in compliance with or in execution of a  summons or warrant issued under section forty-seven, the magistrate shall  proceed to inquire into the truth of the information upon which the action has  been taken, and to take such further evidence as may appear necessary.Inquiry as  to truth of information  (2) Such inquiry shall be made, as nearly as may be practicable, in the manner  hereinafter prescribed for conducting trials and recording evidence in trials  before subordinate courts.  (3) For the purposes of this section, the fact that a person comes within the  provisions of section forty-four may be proved by evidence of general repute or  otherwise.  (4) Where two or more persons have been associated together in the matter under  inquiry, they may be dealt with in the same or separate inquiries, as the  magistrate thinks just.  51. (1) If, upon such inquiry, it is proved that it is necessary for keeping  the peace or maintaining good behaviour, as the case may be, that the person in  respect of whom the inquiry is made should execute a bond, with or without  sureties, the magistrate shall make an order accordingly:Order to give security  Provided that-  (i) no person shall be ordered to give security of a nature different from,  or of an amount larger than, or for a period longer than, that specified in the  order made under section forty-five;  (ii) the amount of every bond shall be fixed with due regard to the  circumstances of the case and shall not be excessive;  (iii) when the person in respect of whom the inquiry is made is a minor, the  bond shall be executed only by his sureties.  (2) Any person ordered to give security for good behaviour under this section  may appeal to the High Court, and the provisions of Part XI (relating to  appeals) shall apply to every such appeal.  52. If, on an inquiry under section fifty, it is not proved that it is  necessary for keeping the peace or maintaining good behaviour, as the case may  be, that the person in respect of whom the inquiry is made should execute a  bond, the magistrate shall make an entry on the record to that effect, and, if  such person is in custody only for the purposes of the inquiry, shall release  him, or, if such person is not in custody, shall discharge him.  Proceedings in all Cases Subsequent to Order to Furnish SecurityDischarge of  person informed against  53. (1) If any person in respect of whom an order requiring security is made  under section forty-five or fifty-one is, at the time such order is made,  sentenced to or undergoing a sentence of imprisonment, the period for which such  security is required shall commence on the expiration of such  sentence.Commencement of period for which security is required  (2) In other cases, such period shall commence on the date of such order,  unless the magistrate, for sufficient reason, fixes a later date.  54. The bond to be executed by any such person shall bind him to keep the  peace or to be of good behaviour, as the case may be, and, in the latter case,  the commission or attempt to commit, or the aiding, abetting, counselling or  procuring the commission of any offence punishable with imprisonment, wherever  it may be committed, shall be a breach of the bond.Contents of bond  55. A magistrate may refuse to accept any surety offered under any of the  preceding sections, on the ground that, for reasons to be recorded by the  magistrate, such surety is an unfit person.Power to reject sureties  56. (1) If any person ordered to give security as aforesaid does not give such  security on or before the date on which the period for which such security is to  be given commences, he shall, except in the case mentioned in subsection (2), be  committed to prison, or, if he is already in prison, be detained in prison until  such period expires, or until, within such period, he gives the security to the  court or magistrate which or who made the order requiring it.Procedure on  failure of person to give security  (2) When such person has been ordered by a magistrate to give security for a  period exceeding one year, such magistrate shall, if such person does not give  such security as aforesaid, issue a warrant directing him to be detained in  prison pending the orders of the High Court, and the proceedings shall be laid,  as soon as conveniently may be, before such Court.  (3) The High Court, after examining such proceedings and requiring from the  magistrate any further information or evidence which it thinks necessary, may  make such order in the case as it thinks fit.  (4) The period, if any, for which any person is imprisoned for failure to give  security shall not exceed three years.  (5) If the security is tendered to the officer in charge of the prison, he  shall forthwith refer the matter to the court or magistrate which or who made  the order, and shall await the orders of such court or magistrate.  (6) Imprisonment for failure to give security for keeping the peace shall be  without hard labour.  (7) Imprisonment for failure to give security for good behaviour may be with or  without hard labour, as the court or magistrate, in each case, directs.  57. Whenever a magistrate empowered to hold a subordinate court of the first  or second class is of opinion that any person imprisoned for failing to give  security may be released without hazard to the community, such magistrate shall  make an immediate report of the case for the orders of the High Court, and such  Court may, if it thinks fit, order such person to be discharged.Power to release  persons imprisoned for failure to give security  58. The High Court may, at any time, for sufficient reasons to be recorded in  writing, cancel any bond for keeping the peace or for good behaviour executed  under any of the preceding sections by order of any court or magistrate.Power of  High Court to cancel bond  59. (1) Any surety for the peaceable conduct or good behaviour of another  person may, at any time, apply to a magistrate empowered to hold a subordinate  court of the first or second class to cancel any bond executed under any of the  preceding sections within the local limits of his jurisdiction.Discharge of  sureties  (2) On such application being made, the magistrate shall issue his summons or  warrant, as he thinks fit, requiring the person for whom such surety is bound to  appear or to be brought before him.  (3) When such person appears or is brought before the magistrate, such  magistrate shall cancel the bond and shall order such person to give, for the  unexpired portion of the term of such bond, fresh security of the same  description as the original security. Every such order shall, for the purposes  of sections fifty-four, fifty-five, fifty-six and fifty-seven, be deemed to be  an order made under section fifty-one.  60. (1) If the conditions of any bond be not complied with, the court may  endorse such bond and declare the same to be forfeited.Forfeiture  (2) On any forfeiture, the court may issue its warrant of distress for the  amount mentioned in such bond, or for the imprisonment of the principal and his  surety or sureties for a term not exceeding six months, unless the amount be  sooner paid or levied.  (3) A warrant of distress under this section may be executed within the local  limits of the jurisdiction of the court which issued it, and it shall authorise  the distress and sale of any property belonging to such person and his surety or  sureties without such limits, when endorsed by a magistrate holding a  subordinate court of the first or second class within the local limits of whose  jurisdiction such property is found.  Preventive Action of the Police  61. Every police officer may interpose for the purpose of preventing, and  shall, to the best of his ability, prevent the commission of any cognizable  offence.Police to prevent cognizable offences  62. Every police officer receiving information of a design to commit any  cognizable offence shall communicate such information to the police officer to  whom he is subordinate, and to any other officer whose duty it is to prevent or  take cognizance of the commission of any such offence.Information of design to  commit such offences  63. A police officer knowing of a design to commit any cognizable offence may  arrest, without orders from a magistrate and without a warrant, the person so  designing, if it appears to such officer that the commission of the offence  cannot otherwise be prevented.Arrest to prevent such offences  64. A police officer may, of his own authority, interpose to prevent any  injury attempted to be committed, in his presence, to any public property,  movable or immovable, or the removal of or injury to any public landmark, or  buoy, or other mark used for navigation.Prevention of injury to public property  PART IV PROVISIONS RELATING TO ALL CRIMINAL INVESTIGATIONS PART IV  PROVISIONS RELATING TO ALL CRIMINAL INVESTIGATIONS  Place of Inquiry or Trial  65. Every court has authority to cause to be brought before it any person who  is within the local limits of its jurisdiction, and is charged with an offence  committed within Zambia, or which, according to law, may be dealt with as if it  has been committed within Zambia, and to deal with the accused person according  to its jurisdiction.General authority of courts of Zambia  66. Where a person accused of having committed an offence within Zambia has  escaped or removed from the district within which the offence was committed, and  is found within another district, the court within whose jurisdiction he is  found shall cause him to be brought before it, and shall, unless authorised to  proceed in the case, send him in custody to the court within whose jurisdiction  the offence is alleged to have been committed, or require him to give security  for his surrender to that court there to answer the charge and to be dealt with  according to law.Accused person to be sent ot district where offence committed  67. Where any person is to be sent in custody in pursuance of the last  preceding section, a warrant shall be issued by the court within whose  jurisdiction he is found, and that warrant shall be sufficient authority to any  person to whom it is directed to receive and detain the person therein named,  and to carry him and deliver him up to the court within whose district the  offence was committed or may be tried.Removal of accused person under warrant  68. (1) The High Court may inquire of and try any offence subject to its  jurisdiction, at any place where it has power to hold sittings.Mode of trial  before High Court  (2) Criminal cases in the High Court shall, subject to the provisions of  subsection (3), be tried upon information signed in accordance with the  provisions of this Code.  (3) The Chief Justice may, by statutory order, direct that any offences or  class of offences, other than offences against sections one hundred and  ninety-nine, two hundred, two hundred and fifteen, two hundred and sixteen and  two hundred and nineteen of the Penal Code, may be tried by the High Court  without a preliminary inquiry as if it were a court of summary jurisdiction.Cap.  87  (4) When an order has been made under subsection (3), the trial shall be  conducted in accordance with the provisions of Part VI and the provisions of  Part IX shall not apply to any such trial.  (No. 11 of 1946)  69. Subject to the provisions of section sixty-eight and to the powers of  transfer conferred by sections seventy-eight and eighty, every offence shall be  inquired into or tried, as the case may be, by a court within the local limits  of whose jurisdiction it was committed or within the local limits of whose  jurisdiction the accused was apprehended, or is in custody on a charge for the  offence, or has appeared in answer to a summons lawfully issued charging him  with the offence.  (No. 28 of 1940)Ordinary place of inquiry and trial  70. When a person is accused of the commission of any offence, by reason of  anything which has been done, or omitted to be done, or of any consequence which  has ensued, such offence may be inquired into or tried by a court within the  local limits of whose jurisdiction any such thing has been done, or omitted to  be done, or any such consequence has ensued.Trial at place where act done or  where consequence of offence ensues  71. When an act or ommission is an offence by reason of its relation to any  other act or omission which is also an offence, or which would be an offence if  the doer were capable of committing an offence, a charge of the first-mentioned  offence may be inquired into or tried by a court within the local limits of  whose jurisdiction either act was done.Trial where offence is connected with  another offence  72. When-  (a) it is uncertain in which of several districts an offence was comitted; or  (b) an offence is committed partly in one district and partly in another; or  (c) an offence is a continuing one, and continues to be committed in more  districts than one; or  (d) an offence consists of several acts or omissions done in different  districts;  such offence may be inquired into or tried by a court having jurisdiction in any  of such districts.Trial where place of offence is uncertain  73. (1) When an offence is committed on or near the boundary or boundaries of  two or more districts, or within a distance of ten miles from any such boundary  or boundaries, it may be inquired into or tried by a court having jurisdiction  in any of the said districts, in the same manner as if it had been wholly  committed therein.Offence near boundary of district  (2) When an offence is committed on any person or in respect of any property on  any railroad, or within a distance of ten miles from any line of railway on  either side thereof, such offence may be inquired into or tried by a court  having jurisdiction in any district in or through any part whereof, or within  such distance from the boundaries whereof, such line of railway passes, in the  same manner as if such offence had been wholly committed within such  district.Offence on or near railway  74. An offence committed whilst the offender is in the course of performing a  journey or voyage may be inquired into or tried by a court through or into the  local limits of whose jurisdiction the offender, or the person against whom, or  the thing in respect of which, the offence was committed passed in the course of  that journey or voyage.Offence committed on a journey  75. Whenever any doubt arises as to the court by which any offence should be  inquired into or tried, the High Court may decide by which court the offence  shall be inquired into or tried.High Court to decide in cases of doubt  76. The place in which any court is held, for the purpose of inquiring into  or trying any offence shall, unless the contrary is expressly provided by any  Act for the time being in force, be deemed an open court to which the public  generally may have access, so far as the same can conveniently contain  them:Court to be open  Provided that the presiding Judge or magistrate may, if he considers it  necessary or expedient-  (a) in interlocutory proceedings; or  (b) in circumstances where publicity would be prejudicial to the interest of-  (i) justice, defence, public safety, public order or public morality; or  (ii) the welfare of persons under the age of eighteen years or the protection  of the private lives of persons concerned in the proceedings;  order, at any stage of the inquiry into or trial of any particular case, that  persons generally or any particular person other than the parties thereto or  their legal representatives shall not have access to or be or remain in the room  or building used by the court.  (As amended by No. 20 of 1953 and No. 54 of 1968)  Transfer of Cases  77. (1) If, upon the hearing of any complaint, it appears that the cause of  complaint arose out of the limits of the jurisdiction of the court before which  such complaint has been brought, the court may, on being satisfied that it has  no jurisdiction, direct the case to be transferred to the court having  jurisdiction where the cause of complaint arose.Transfer of case where offence  committed outside jurisdiction  (2) If the accused person is in custody, and the court directing such transfer  thinks it expedient that such custody should be continued, or, if he is not in  custody, that he should be placed in such custody, the court shall direct the  offender to be taken by a police officer before the court having jurisdiction  where the cause of complaint arose, and shall give a warrant for that purpose to  such officer, and shall deliver to him the complaint and recognizances, if any,  taken by the court directing such transfer, to be delivered to the court before  whom the accused person is to be taken; and such complaint and recognizances, if  any, shall be treated, for all purposes as if they had been taken by such  last-mentioned court.  (3) If the accused person is not continued or placed in custody as aforesaid,  the court shall inform him that it has directed the transfer of the case as  aforesaid, and, thereupon, the provisions of subsection (2) respecting the  transmission and validity of the documents in the case shall apply.  78. Any magistrate holding a subordinate court of the first class-  (a) may transfer any case of which he has taken cognizance for inquiry or  trial to any subordinate court empowered to inquire into or try such case within  the local limits of such first class subordinate courts jurisdiction; and  (b) may direct or empower any subordinate court of the second or third class  within the local limits of his jurisdiction which has taken cognizance of any  case, whether evidence has been taken in such case or not, to transfer it for  inquiry or trial to himself or to any other specified court within the local  limits of his jurisdiction, which is competent to try the accused or commit him  for trial, and such court may dispose of the case accordingly.  (As amended by No. 16 of 1959)Transfer of cases between magistrates  79. (1) If, in the course of any inquiry or trial before a magistrate, the  evidence appears to warrant a presumption that the case is one which should be  tried or committed for trial by some other magistrate, he shall stay proceedings  and submit the case, with a brief report thereon, to a magistrate holding a  subordinate court of the first class and empowered to direct the transfer of the  case under the last preceding section.Procedure when, after commencement of  inquiry or trial, magistrate finds case should be transferred to another  magistrate  (2) The provisions of this section and of section seventy-eight shall be  without prejudice to the powers conferred upon a Judge of the High Court under  section twenty-three of the High Court Act.  (As amended by No. 16 of 1959)Cap. 27  80. (1) Whenever it is made to appear to the High Court-Power of High Court to  change venue  (a) that a fair and impartial inquiry or trial cannot be had in any court  subordinate thereto; or  (b) that some question of law of unusual difficulty is likely to arise; or  (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; or  (d) that an order under this section will tend to the general convenience of  the parties or witnesses; or  (e) that such an order is expedient for the ends of justice or is required by  any provision of this Code;  it may order-  (i) that any offence be inquired into or tried by any court not empowered  under the preceding sections of this Part but, in other respects, competent to  inquire into or try such offence;  (ii) that any particular criminal case or class of cases be transferred from  a court subordinate to its authority to any other such court of equal or  superior jurisdiction;  (iii) that an accused person be committed for trial before itself.  (2) The High Court may act either on the report of the lower court, or on the  application of a party interested, or on its own initiative.  (3) Every application for the exercise of the power conferred by this section  shall be made by motion, which shall, except when the applicant is the Director  of Public Prosecutions, be supported by affidavit.  (4) Every accused person making any such application shall give to the Director  of Public Prosecutions notice in writing of the application, together with a  copy of the grounds on which it is made; and no order shall be made on the  merits of the application, unless at least twenty-four hours have elapsed  between the giving of such notice and the hearing of the application.  (5) When an accused person makes any such application, the High Court may  direct him to execute a bond, with or without sureties, conditioned that he  will, if convicted, pay the costs of the prosecutor.  (As amended by S.I. No. 152 of 1965)  Criminal Proceedings  81. (1) In any criminal case and at any stage thereof before verdict or  judgment, as the case may be, the Director of Public Prosecutions may enter a  nolle prosequi, either by stating in court, or by informing the court in  writing, that the People intend that the proceedings shall not continue, and,  thereupon, the accused shall stand discharged in respect of the charge for which  the nolle prosequi is entered, and, if he has been committed to prison, shall be  released, or, if he is on bail, his recognizances shall be treated as being  discharged; but such discharge of an accused person shall not operate as a bar  to any subsequent proceedings against him on account of the same facts.Power of  Director of Public Prosecutions to enter nolle prosequi  (2) If the accused shall not be before the court when such nolle prosequi is  entered, the Registrar or clerk of such court shall forthwith cause notice in  writing of the entry of such nolle prosequi to be given to the keeper of the  prison in which such accused may be detained, and also, if the accused person  has been committed for trial, to the subordinate court by which he was so  committed, and such subordinate court shall forthwith cause a similar notice in  writing to be given to any witnesses bound over to prosecute and give evidence  and to their sureties (if any), and also to the accused and his sureties, in  case he shall have been admitted to bail.  (As amended by No. 28 of 1940, No. 5 of 1962,  S.I. No. 63 of 1964 and S.I. No. 152 of 1965)  82. The Director of Public Prosecutions may order in writing that all or any  of the powers vested in him by the last preceding section, by section  eighty-eight and by Parts VII and VIII, may be exercised also by the  Solicitor-General, the Parliamentary Draftsmen and State Advocates and the  exercise of these powers by the Solicitor-General, the Parliamentary Draftsmen  and State Advocates shall then operate as if they had been exercised by the  Director of Public Prosecutions:Delegation of powers by Director of Public  Prosecutions  Provided that the Director of Public Prosecutions may in writing revoke any  order made by him under this section.  (No. 47 of 1955 as amended by No. 50 of 1957, No. 23 of 1960,  No. 27 of 1964 and S.I. No. 63 of 1964)  83. (1) Notwithstanding anything in this Code contained, the Director of  Public Prosecutions may exhibit on behalf of the People in the High Court  against persons subject to the jurisdiction of the High Court, informations for  all purposes for which Her Britannic Majestys Attorney-General for England may  exhibit informations on behalf of the Crown in the High Court of Justice in  England.Criminal informations by Director of Public Prosecutions  (2) Such proceedings may be taken upon every such information as may lawfully  be taken in the case of similar informations filed by Her Britannic Majestys  Attorney-General for England, so far as the circumstances of the case and the  practice and procedure of the High Court will admit.  (3) The Chief Justice may, by statutory instrument, make rules for carrying  into effect the provisions of this section.  (As amended by No. 2 of 1960 and S.I. No. 63 of 1964)  84. Where, by any written law, the sanction, fiat or written consent of the  Director of Public Prosecutions is necessary for the commencement or continuance  of the prosecution of any offence, a document purporting to give such sanction,  fiat or consent placed before the court by the prosecutor and purporting to be  signed by the person for the time being exercising the powers and performing the  duties of the Director of Public Prosecutions shall be prima facie evidence that  such sanction, fiat or consent has been given.  (No. 50 of 1957 as amended by S.I. No. 63 of 1964)Signature of Director of  Public Prosecutions to be evidence  85. (1) Where any written law provides that no prosecution shall be instituted  against any person for an offence without the sanction, fiat or written consent  of the Director of Public Prosecutions, such person may be arrested or a warrant  for such arrest may be issued and executed and such person may be remanded in  custody or on bail, notwithstanding that such sanction, fiat or written consent  has not been first obtained, but no further proceedings shall be taken until  such sanction, fiat or written consent has been obtained and produced to the  court.Arrest of persons for offences requiring the consent of the Director of  Public Prosecutions for commencement of prosecution  (2) The provisions of subsection (1) shall be subject to the other provisions  of this Code relating to arrest, remand and the granting of bail.  (No. 5 of 1962 as amended by S.I. No. 152 of 1965)  Appointment of Public Prosecutors and Conduct of Prosecutions  86. (1) The Director of Public Prosecutions may appoint generally, or in any  case, or for any specified class of cases, in any district, one or more officers  to be called public prosecutors.Power to appoint public prosecutors  (2) The Director of Public Prosecutions may appoint any person employed in the  public service to be a public prosecutor for the purposes of any proceedings  instituted on behalf of the People.  (3) Every public prosecutor shall be subject to the express directions of the  Director of Public Prosecutions.  (As amended by No. 28 of 1940, No. 16 of 1959, No. 23 of 1960, S.I. No. 63 of  1964 and S.I. No. 152 of 1965)  87. A public prosecutor may appear and plead without any written authority  before any court in which any case of which he has charge is under inquiry,  trial or appeal; and, if any private person instructs an advocate to prosecute  in any such case, the public prosecutor may conduct the prosecution, and the  advocate so instructed shall act therein under his directions.Powers of public  prosecutors  88. In any trial before a subordinate court, any public prosecutor may, with  the consent of the court or on the instructions of the Director of Public  Prosecutions, at any time before judgment is pronounced, withdraw from the  prosecution of any person; and upon such withdrawal-  (a) if it is made before the accused person is called upon to make his  defence, he shall be discharged, but such discharge of an accused person shall  not operate as a bar to subsequent proceedings against him on account of the  same facts;  (b) if it is made after the accused person is called upon to make his  defence, he shall be acquitted.  (As amended by S.I. No. 63 of 1964)Withdrawal from prosecution in trials before  subordinate courts  89. (1) Any magistrate inquiring into or trying any case may permit the  prosecution to be conducted by any person, but no person, other than a public  prosecutor or other officer generally or specially authorised by the Director of  Public Prosecutions in this behalf, shall be entitled to do so without  permission.Permission to conduct prosecution  (2) Any such person or officer shall have the like power of withdrawing from  the prosecution as is provided by the last preceding section, and the provisions  of that section shall apply to any withdrawal by such person or officer.  (3) Any person conducting the prosecution may do so personally or by an  advocate.  (As amended by G.N. No. 303 of 1964 and S.I. No. 63 of 1964)  Institution of Proceedings Making of Complaint  90. (1) Proceedings may be instituted either by the making of a complaint or  by the bringing before a magistrate of a person who has been arrested without  warrant.Institution of proceedings  (2) Any person who believes from a reasonable and probable cause that an  offence has been committed by any person may make a complaint thereof to a  magistrate having jurisdiction.  (3) A complaint may be made orally or in writing, but if made orally shall be  reduced to writing and in either case shall be signed by the complainant.  (4) The magistrate, upon receiving any such complaint, shall-  (a) himself draw up and sign; or  (b) direct that a public prosecutor or legal practitioner representing the  complainant shall draw up and sign; or  (c) permit the complainant to draw up and sign;  a formal charge containing a statement of the offence with which the accused is  charged, and until such charge has been drawn up and signed no summons or  warrant shall issue and no further step shall be taken in the proceedings.  (5) When an accused person who has been arrested without a warrant is brought  before a magistrate, a formal charge containing a statement of the offence with  which the accused is charged shall be signed and presented to the magistrate by  the police officer preferring the charge.  (6) When the magistrate is of opinion that any complaint or formal charge made  or presented under this section does not disclose any offence, the magistrate  shall make an order refusing to admit such complaint or formal charge and shall  record his reasons for such order.  (7) Any person aggrieved by an order made by a magistrate under subsection (6)  may appeal to the High Court within fourteen days of the date of such order and  the High Court may, if satisfied that the formal charge or complaint, in respect  of which the order was made, disclose an offence, direct the magistrate to admit  the formal charge or complaint, or may dismiss the appeal.  (No. 28 of 1940 as amended by No. 5 of 1962)  91. (1) Where a charge has been drawn up and signed in accordance with  subsection (4) of the last preceding section, the magistrate may, in his  discretion, issue either a summons or a warrant to compel the attendance of the  accused person before a court having jurisdiction to inquire into or try the  offence alleged to have been committed:Issue of summons or warrant  Provided that a warrant shall not be issued in the first instance unless the  complaint has been made upon oath before the magistrate, either by the  complainant or by a witness or witnesses.  (2) Any summons or warrant may be issued on a Sunday.  (No. 28 of 1940 as amended No. 5 of 1962)  Processes to Compel the Appearance of Accused Persons Summons  92. (1) Every summons issued by a court under this Code shall be in writing,  in duplicate, and signed by the presiding officer of such court or by such other  officer as the Chief Justice may, from time to time, by rule, direct.Form and  contents of summons  (2) Every summons shall be directed to the person summoned, and shall require  him to appear, at a time and place to be therein appointed, before a court  having jurisdiction to inquire into and deal with the complaint or charge. It  shall state shortly the offence with which the person against whom it is issued  is charged.  (As amended by No. 2 of 1960)  93. (1) Every summons shall be served by a police officer, or by an officer of  the court issuing it, or other public servant, and shall, if practicable, be  served personally on the person summoned, by delivering or tendering to him one  of the duplicates of the summons.Services of summons  (2) Every person on whom a summons is so served shall, if so required by the  serving officer, sign a receipt therefor on the back of the other duplicate.  94. Where the person summoned cannot, by the exercise of due diligence, be  found, the summons may be served by leaving one of the duplicates for him with  some adult male member of his family, or with his servant residing with him; and  the person with whom the summons is so left shall, if so required by the serving  officer, sign a receipt therefor on the back of the other duplicate.Service when  person summoned cannot be found  95. If service, in the manner provided by the two last preceding sections,  cannot, by the exercise of due diligence, be effected, the serving officer shall  affix one of the duplicates of the summons to some conspicuous part of the house  or homestead in which the person summoned ordinarily resides, and, thereupon,  the summons shall be deemed to have been duly served.Procedure when service  cannot be effected as before provided  96. Service of a summons on an incorporated company or other body corporate  may be effected by serving it on the secretary, local manager or other principal  officer of the corporation, at the registered office of such company or body  corporate, or by registered letter addressed to the chief officer of the  corporation in Zambia. In the latter case, service shall be deemed to have been  effected when the letter would arrive in ordinary course of post.Service on  company  97. When a court desires that a summons issued by it shall be served at any  place outside the local limits of its jurisdiction, it shall send such summons  in duplicate to a magistrate within the local limits of whose jurisdiction the  person summoned resides or is, to be there served.Service outside local limits  of jurisdiction  98. (1) Where the officer who has served a summons is not present at the  hearing of the case, and in any case where a summons issued by a court has been  served outside the local limits of its jurisdiction, an affidavit, purporting to  be made before a magistrate, that such summons has been served, and a duplicate  of the summons, purporting to be endorsed, in the manner hereinbefore provided,  by the person to whom it was delivered or tendered or with whom it was left,  shall be admissible in evidence, and the statements made therein shall be deemed  to be correct, unless and until the contrary is proved.Proof of service when  serving officer not present  (2) The affidavit mentioned in this section may be attached to the duplicate of  the summons and returned to the court.  99. (1) Whenever a summons is issued in respect of any offence other than a  felony, a magistrate may, if he sees reason to do so, and shall, when the  offence with which the accused is charged is punishable only by fine or only by  fine and/or imprisonment not exceeding three months, dispense with the personal  attendance of the accused, if he pleads guilty in writing or appears by an  advocate.Power to dispense with personal attendance of accused  (2) The magistrate inquiring into or trying any case may, in his discretion, at  any subsequent stage of the proceedings, direct the personal attendance of the  accused, and, if necessary, enforce such attendance in manner hereinafter  provided.  (3) If a magistrate imposes a fine on an accused person whose personal  attendance has been dispensed with under this section, and such fine is not paid  within the time prescribed for such payment, the magistrate may forthwith issue  a summons calling upon such accused person to show cause why he should not be  committed to prison, for such term as the magistrate may then prescribe. If such  accused person does not attend upon the return of such summons, the magistrate  may forthwith issue a warrant, and commit such person to prison for such term as  the magistrate may then fix.  (4) If, in any case in which, under this section, the attendance of an accused  person is dispensed with, previous convictions are alleged against such person  and are not admitted in writing or through such persons advocate, the  magistrate may adjourn the proceedings and direct the personal attendance of the  accused, and, if necessary, enforce such attendance in manner hereinafter  provided.  (5) Whenever the attendance of an accused person has been so dispensed with,  and his attendance is subsequently required, the cost of any adjournment for  such purpose shall be borne, in any event, by the accused.  Warrant of Arrest  100. Nothwithstanding the issue of a summons, a warrant may be issued at any  time before or after the time appointed in the summons for the appearance of the  accused. But no such warrant shall be issued unless a complaint or charge has  been made upon oath.Warrant after issue of summons  101. If the accused does not appear at the time and place appointed in and by  the summons, and his personal attendance has not been dispensed with under  section ninety-nine, the court may issue a warrant to apprehend him and cause  him to be brought before such court. But no such warrant shall be issued unless  a complaint or charge has been made upon oath.Summons disobeyed  102. (1) Every warrant of arrest shall be under the hand of the Judge or  magistrate issuing the same.Form, contents and duration of warrant of arrest  (2) Every warrant shall state shortly the offence with which the person against  whom it is issued is charged, and shall name or otherwise describe such person,  and it shall order the person or persons to whom it is directed to apprehend the  person against whom it is issued, and bring him before the court issuing the  warrant or before some other court having jurisdiction in the case, to answer to  the charge therein mentioned and to be further dealth with according to law.  (3) Every such warrant shall remain in force until it is executed, or until it  is cancelled by the court which issued it.  103. (1) Any court issuing a warrant for the arrest of any person, in respect  of any offence other than murder or treason, may, in its discretion, direct by  endorsement on the warrant that, if such person executes a bond with sufficient  sureties for his attendance before the court at a specified time and thereafter  until otherwise directed by the court, the officer to whom the warrant is  directed shall take such security and shall release such person from  custody.Court may direct security to be taken  (2) The endorsement shall state-  (a) the number of sureties;  (b) the amount in which they and the person for whose arrest the warrant is  issued are to be respectively bound; and  (c) the time at which he is to attend before the court.  (3) Whenever security is taken under this section, the officer to whom the  warrant is directed shall forward the bond to the court.  104. (1) A warrant of arrest may be directed to one or more police officers,  or to one police officer and to all other police officers of the area within  which the court has jurisdiction, or generally to all police officers of such  area. But any court 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.Warrants to whom directed  (2) 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.  105. (1) A magistrate empowered to hold a subordinate court of the first or  second class may order any land-holder, farmer or manager of land, within the  local limits of his jurisdiction, to assist in the arrest of any escaped  convict, or person who has been accused of a cognizable offence and has eluded  pursuit.Order for assistance directed to land-holder  (2) Such land-holder, farmer or manager shall, thereupon, comply with such  order, if the person for whose arrest it was issued is in or enters on his land  or farm or the land under his charge.  (3) When such person is arrested, he shall be made over with the order to the  nearest police officer, who shall cause him to be taken before a magistrate  having jurisdiction, unless security is taken under section one hundred and  three.  (4) No land-holder, farmer or manager of land to whom such order is directed  shall be liable at the suit of the person so arrested for anything done by him  under the provisions of this section.  (5) If any land-holder, farmer or manager of land to whom such order is  directed fails to comply therewith, he shall be liable, on conviction, to a fine  not exceeding seven hundred and fifty penalty units or, in default of payment,  to imprisonment with or without hard labour for a period not exceeding six  months.  (As amended by Act No. 13 of 1994)  106. A warrant directed to any police officer may also be executed by any  other police officer whose name is endorsed upon the warrant by the officer to  whom it is directed or endorsed.Execution of warrant directed to police officer  107. The police officer or other person executing a warrant of arrest shall  notify the substance thereof to the person to be arrested, and, if so required,  shall show him the warrant.Notification of substance of warrant  108. The police officer or other person executing a warrant of arrest shall  (subject to the provisions of section one hundred and three as to security),  without unnecessary delay, bring the person arrested before the court before  which he is required by law to produce such person.Person arrested to be brought  before court without delay  109. A warrant of arrest may be executed at any place in Zambia.Where warrant  of arrest may be executed  110. (1) When a warrant of arrest is to be executed outside the local limits  of the jurisdiction of the court issuing the same, such court may, instead of  directing such warrant to a police officer, forward the same, by post or  otherwise, to any magistrate within the local limits of whose jurisdiction it is  to be executed.Forwarding of warrants for execution outside jurisdiction  (2) The magistrate to whom such warrant is so forwarded shall endorse his name  thereon, and, if practicable, cause it to be executed in the manner hereinbefore  provided within the local limits of his jurisdiction.  111. (1) When a warrant of arrest directed to a police officer is to be  executed outside the local limits of the jurisdiction of the court issuing the  same, he shall take it for endorsement to a magistrate within the local limits  of whose jurisdiction it is to be executed.Procedure in case of warrant directed  to police officer for execution outside jurisdiction  (2) Such magistrate shall endorse his name thereon, and such endorsement shall  be sufficient authority to the police officer to whom the warrant is directed to  execute the same within such limits, and the local police officer shall, if so  required, assist such officer in executing such warrant.  (3) Whenever there is reason to believe that the delay occasioned by obtaining  the endorsement of the magistrate within the local limits of whose jurisdiction  the warrant is to be executed will prevent such execution, the police officer to  whom it is directed may execute the same without such endorsement, in any place  outside the local limits of the jurisdiction of the court which issued it.  112. (1) When a warrant of arrest is executed outside the local limits of the  jurisdiction of the court by which it was issued, the person arrested shall,  unless the court which issued the warrant is within twenty miles of the place of  arrest, or is nearer than the magistrate within the local limits of whose  jurisdiction the arrest was made, or unless security is taken under section one  hundred and three, be taken before the magistrate within the local limits of  whose jurisdiction the arrest was made.Procedure on arrest of person outside  jurisdiction  (2) Such magistrate shall, if the person arrested appears to be the person  intended by the court which issued the warrant, direct his removal in custody to  such court:  Provided that, if such person has been arrested for an offence other than murder  or treason, and he is ready and willing to give bail to the satisfaction of such  magistrate, or if a direction has been endorsed under section one hundred and  three on the warrant, and such person is ready and willing to give the security  required by such direction, the magistrate may take such bail or shall take such  security, as the case may be, and shall forward the bond to the court which  issued the warrant.  (3) Nothing in this section shall be deemed to prevent a police officer from  taking security under section one hundred and three.  113. Any irregularity or defect in the substance or form of a warrant, and  any variance between it and the written complaint or information, or between  either and the evidence produced on the part of the prosecution at any inquiry  or trial, shall not 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.  Miscellaneous Provisions Regarding ProcessesIrregularities in warrant  114. Where any person for whose appearance or arrest the magistrate presiding  in any court is empowered to issue a summons or warrant is present in such  court, such magistrate may require such person to execute a bond, with or  without sureties, for his appearance in such court.Power to take bond for  appearance  115. When any person who is bound by any bond taken under this Code to appear  before a court does not so appear, the magistrate presiding in such court may  issue a warrant directing that such person be arrested and produced before  him.Arrest for breach of bond for appearance  116. (1) Where any person for whose appearance or arrest a court is empowered  to issue a summons or warrant is confined in any prison within Zambia, the court  may issue an order to the officer in charge of such prison requiring him to  bring such prisoner in proper custody, at a time to be named in the order,  before such court.Power of court to order prisoner to be brought before it  (2) The officer so in charge, on receipt of such order, shall act in accordance  therewith, and shall provide for the safe custody of the prisoner during his  absence from the prison for the purpose aforesaid.  (3) Notwithstanding anything to the contrary contained in this Code or in any  written law, it is declared for the avoidance of doubt that upon a person being  convicted or sentenced by a subordinate court and before the entering of an  appeal by such person against the conviction or sentence or both, the  subordinate court which convicted or sentenced such person or the High Court has  and shall have no power to release that person on bail with or without  securities.  (As amended by Act No. 6 of 1972)  117. The provisions contained in this Part relating to a summons and warrant,  and their issue, service and execution, shall so far as may be apply to every  summons and every warrant of arrest issued under this Code.  Search WarrantsProvisions of this Part generally applicable to summonses and  warrants  118. Where it is proved on oath to a magistrate that, in fact or according to  reasonable suspicion, anything upon, by or in respect of which an offence has  been committed or anything which is necessary to the conduct of an investigation  into any offence is in any building, vessel, carriage, box, receptacle or place,  the magistrate may, by warrant (called a search warrant), authorise a police  officer or other person therein named to search the building, vessel, carriage,  box, receptable or place (which shall be named or described in the warrant) for  any such thing, and, if anything searched for be found, to seize it and carry it  before the court of the magistrate issuing the warrant or some other court, to  be dealt with according to law.  (  As amended by No. 28 of 1940)Power to issue search warrant  119. Every search warrant may be issued and executed on a Sunday, and shall  be executed between the hours of sunrise and sunset, but a magistrate may, by  the warrant, in his discretion, authorise the police officer or other person to  whom it is addressed to execute it at any hour.Execution of search warrant  120. (1) Whenever any building or other place liable to search is closed, any  person residing in or being in charge of such building or place shall, on demand  of the police officer or other person executing the search warrant, and on  production of the warrant, allow him free ingress thereto and egress therefrom,  and afford all reasonable facilities for a search therein.Persons in charge of  closed place to allow ingress thereto and egress therefrom  (2) If ingress to or egress from such building or other place cannot be so  obtained, the police officer or other person executing the search warrant may  proceed in the manner prescribed by section nineteen or twenty.  (3) Where any person in or about such building or place is reasonably suspected  of concealing about his person any article for which search should be made, such  person may be searched. If such person is a woman, the provisions of section  twenty-four shall be observed.  121. (1) When any article is seized and brought before a court, it may be  detained until the conclusion of the case or the investigation, reasonable care  being taken for its preservation.Detention of property seized  (2) If any appeal is made, or if any person is committed for trial, the court  may order the article to be further detained for the purpose of the appeal or  the trial.  (3) If no appeal is made, or if no person is committed for trail, the court  shall direct such thing to be restored to the person from whom it was taken,  unless the court sees fit or is authorised or required by law to dispose of it  otherwise.  122. The provisions of section one hundred and two (1) and (3), one hundred  and four, one hundred and six, one hundred and nine, one hundred and ten and one  hundred and eleven shall, so far as may be, apply to all search warrants issued  under section one hundred and eighteen.  Provisions as to BailProvisions applicable to search warrants  123. (1) When any person is arrested or detained, or appears before or is  brought before a subordinate court, the High Court or Supreme Court he may, at  any time while he is in custody, or at any stage of the proceedings before such  court, be admitted to bail upon providing a surety or sureties sufficient, in  the opinion of the police officer concerned or court, to secure his appearance,  or be released upon his own recognizance if such officer or court thinks  fit:Bail  Provided that any person charged with-  (i) murder, treason or any other offence carrying a possible or mandatory  capital penalty;  (ii) misprision of treason or treason-felony; or  (iii) aggravated robbery;  shall not be granted bail by either a subordinate court, the High Court or  Supreme Court or be released by any Police Officer.  (As amended by Act No. 35 of 1993)  (2) Subject to the provisions of section one hundred and twenty-six, before any  person is admitted to bail or released on his own recognizance, a bond  (hereinafter referred to as a bail bond), for such sum as the court or officer,  as the case may be, thinks sufficient, shall be executed by such person and by  the surety or sureties, or by such person alone, as the case may be, conditioned  that such person shall attend at the time and place mentioned in such bond and  at every time and place to which during the course of the proceedings the  hearing may from time to time be adjourned.  (3) The High Court may, at any time, on the application of an accused person,  order him, whether or not he has been committed for trial, to be admitted to  bail or released on his own recognizance, and the bail bond in any such case  may, if the order so directs, be executed before any magistrate.  (4) Notwithstanding anything in this section contained, no person charged with  an offence under the State Security Act shall be admitted to bail, either  pending trial or pending appeal, if the Director of Public Prosecutions  certifies that it is likely that the safety or interests of the Republic would  thereby be prejudiced.Cap. 111  (5) Notwithstanding anything to the contrary contained in this Code or in any  written law, it is declared for the avoidance of doubt that upon a person being  convicted or sentenced by a subordinate court and before the entering of an  appeal by such person against the conviction or sentence or both, the  subordinate court which convicted or sentenced such person or the High Court has  and shall have no power to release that person on bail with or without  securities.  (No. 50 of 1957 as amended by No. 36 of 1969,  No. 59 of 1970, No. 6 of 1972 and Act No. 35 of 1993)  124. In addition to the condition mentioned in subsection (2) of section one  hundred and twenty-three, the court or officer before whom a bail bond is  executed may impose such further conditions upon such bond as may seem  reasonable and necessary in any particular case.  (No. 50 of 1957)Additional conditions of bail bond  125. (1) As soon as a bail bond has been executed, the person for whose  appearance it has been executed shall be released, and, when he is in prison,  the court admitting him to bail shall issue an order of release to the officer  in charge of the prison, and such officer, on receipt of the order, shall  release him.Release from custody  (2) Nothing in this section or in section one hundred and twenty-three shall be  deemed to require the release of any person liable to be detained for some  matter other than that in respect of which a bail bond was executed.  (As amended by No. 50 of 1957)  126. (1) The amount of bail shall, in every case, be fixed with due regard to  the circumstances of the case, but shall not be excessive.Amount of bail, and  deposits  (2) The court or police officer admitting a person to bail or releasing him on  his own recognizance may, in lieu of a bail bond, accept a deposit of money, or  a deposit of property, from any person who would otherwise have had to execute a  bail bond under the provisions of section one hundred and twenty-three, and may  attach to such deposit such conditions as might have been attached to a bail  bond, and on any breach of any such condition such deposit shall be forfeited.  (3) The High Court may, in any case, direct that the bail or deposit required  by a subordinate court or by a police officer be reduced, or may vary or add to  any conditions imposed under the provisions of section one hundred and  twenty-four.  (No. 50 of 1957 as amended by No. 27 of 1964)  127. If, through mistake, fraud or otherwise, insufficient sureties have been  accepted, or if they afterwards become insufficient, the court may issue a  warrant of arrest directing that the person released on bail be brought before  it, and may order him to find sufficient sureties, and, on his failing so to do,  may commit him to prison.Power to order sufficient bail when that first taken is  insufficient  128. (1) All or any of the sureties for the appearance and attendance of a  person released on bail may, at any time, apply to a magistrate to discharge the  bail bond either wholly or so far as it relates to the applicant or  applicants.Discharge of sureties  (2) On such application being made, the magistrate shall issue his warrant of  arrest directing that the person so released be brought before him.  (3) On the appearance of such person pursuant to the warrant, or on his  voluntary surrender, the magistrate shall direct the bail bond to be discharged  either wholly or so far as it relates to the applicant or applicants, and shall  call upon such person to find other sufficient sureties, and, if he fails to do  so, may commit him to prison.  (As amended by No. 50 of 1957)  129. Where a surety to a bail bond dies before the bond is forfeited, his  estate shall be discharged from all liability in respect of the bond, but the  party who gave the bond may be required to find a new surety.  (As amended by No. 50 of 1957)Death of surety  130. If it is made to appear to any court, by information on oath, that any  person bound by recognizance is about to leave Zambia, the court may cause him  to be arrested, and may commit him to prison until the trial, unless the court  shall see fit to admit him to bail upon further recognizance.Persons bound by  recognizance absconding may be committed  131. (1) Whenever any person shall not appear at the time and place mentioned  in any recognizance entered into by him, the court may, by order, endorse such  recognizance and declare the same to be forfeited.Forfeiture of recognizance  (2) On the forfeiture of any recognizance, the court may issue its warrant of  distress for the amount mentioned in such recognizance, or for the imprisonment  of such person and his surety or sureties, for any term not exceeding six  months, unless the amount mentioned in such recognizance be sooner paid or  levied.  (3) A warrant of distress under this section may be executed within the local  limits of the jurisdiction of the court which issued it, and it shall authorise  the distress and sale of any property belonging to such person and his surety or  sureties, without such limits, when endorsed by a magistrate holding a  subordinate court of the first or second class within the local limits of whose  jurisdiction such property is found.  132. All orders passed under the last preceding section by any magistrate  shall be appealable to and may be revised by the High Court.Appeal from and  revision of orders  133. The High Court may direct any magistrate to levy the amount due on a  recognizance to appear and attend at the High Court.  Charges and InformationsPower to direct levy of amount due on recognizance  134. Every charge or information shall contain, and shall be sufficient if it  contains, a statement of the specific offence or offences with which the accused  person is charged, together with such particulars as may be necessary for giving  reasonable information as to the nature of the offence charged.  (No. 28 of 1940)Offence to be specified in charge or information with necessary  particulars  135. (1) Any offences, whether felonies or misdemeanours, may be charged  together in the same cahrge of or information if the offences charged are  founded on the same facts or form, or are a part of, a series of offences of the  same or a similar character.Joinder of counts in a charge or information  (2) Where more than one offence is charged in a charge or information, a  description of each offence so charged shall be set out in a separate paragraph  of the charge or information called a count.  (3) Where, before trial, or at any stage of a trial, the court is of opinion  that a person accused may be embarrassed in his defence by reason of being  charged with more than one offence in the same charge or information, or that  for any other reason it is desirable to direct that any person should be tried  separately for any one or more offences charged in a charge or information, the  court may order a separate trial of any count or counts of such charge or  information.  (No. 28 of 1940)  136. The following persons may be joined in one charge or information and may  be tried together, namely:  (a) persons accused of the same offence committed in the course of the same  transaction;  (b) persons accused of an offence and persons accused of abetment, or of an  attempt to commit such offence;  (c) persons accused of different offences committed in the course of the same  transaction;  (d) persons accused of any offence under Chapters XXVI to XXX of the Penal  Code and persons accused of receiving or retaining property, possession of which  is alleged to have been transferred by any such offence committed by the  first-named persons, or of abetment of or attempting to commit either of such  last-named offences;  (e) persons accused of any offence relating to counterfeit coin under Chapter  XXXVII of the Penal Code, and persons accused of any other offence under the  said Chapter relating to the same coin, or of abetment of or attempting to  commit any such offence.  (No. 28 of 1940)Joinder of two or more accused in one charge or information  Cap. 87  Cap. 87  137. The following provisions shall apply to all charges and informations  and, notwithstanding any rule of law or practice, a charge or an information  shall, subject to the provisions of this Code, not be open to objection in  respect of its form or contents if it is framed in accordance with the  provisions of this Code:  (a) (i) A count of a charge or an information shall commence with a  statement of the offence charged, called the statement of offence;Mode in which  offences are to be charged  (ii) the statment of offence shall describe the offence shortly in ordinary  language avoiding as far as possible the use of technical terms, and without  necessarily stating all the essential elements of the offence and, if the  offence charged is one created by enactment, shall contain a reference to the  section of the enactment creating the offence;  (iii) after the statment of the offence, particulars of such offence shall be  set out in ordinary language, in which the use of technical terms shall not be  necessary:  Provided that, where any rule of law or any Act limits the particulars of  an  offence which are required to be given in a charge or an information, nothing in  this paragraph shall require any more particulars to be given than those so  required;  (iv) the forms set out in the Second Schedule or forms conforming thereto as  nearly as may be shall be used in cases to which they are applicable; and in  other cases forms to the like effect or conforming thereto as nearly as may be  shall be used, the statement of offence and the particulars of offence being  varied according to the circumstances in each case;  (v) where a charge or an information contains more than one count, the counts  shall be numbered consecutively.  (b) (i) Where an enactment constituting an offence states the offence to  be the doing or the omission to do any one of any different acts in the  alternative, or the doing or the omission to do any act in any one of any  different capacities, or with any one of different intentions, or states any  part of the offence in the alternative, the acts, omissions, capacities or  intentions, or other matters stated in the alternative in the enactment, may be  stated in the alternative in the cournt charging the offence;  (ii) it shall not be necessary, in any count charging an offence constituted  by an enactment, to negative any exception or exemption from, or qualification  to, the operation of the enactment creating the offence.  (c) (i) The description of property in a charge or an information shall  be in ordinary language, and such as to indicate with reasonable clearness the  property referred to, and, if the property is so described, it shall not be  necessary (except when required for the purpose of describing an offence  depending on any special ownership of property or special value of property) to  name the person to whom the property belongs or the value of the property;  (ii) where property is vested in more than one person, and the owners of the  property are referred to in a charge or an information, it shall be sufficient  to describe the property as owned by one of those persons by name with the  others, and if the persons owning the property are a body of persons with a  collective name, such as a joint stock company or "Inhabitants", "Trustees",  "Commmissioners" or "Club" or other such name, it shall be sufficient to use the  collective name without naming any individual;  (iii) property belonging to, or provided for, the use of any public  establishment, service or department may be described as the property of the  Republic;  (iv) coin and bank notes may be described as money; and any allegation as to  money, so far as regards the description of the property, shall be sustained by  proof of any amount of coin or any bank or currency note (although the  particular species of coin of which such amount was composed, or the particular  nature of the bank or currency note, shall not be proved); and in cases of  stealing and defrauding by false pretences, by proof that the accused person  dishonestly appropriated or obtained any coin or any bank or currency note, or  any portion of the value thereof, although such coin or bank or currency note  may have been delivered to him in order that some part of the value thereof  should be returned to the party delivering the same or to any other person and  such part shall have been returned accordingly.  (d) The description or designation in a charge or an information of the  accused person, or of any other person to whom reference is made therein, shall  be such as is reasonably sufficient to identify him, without necessarily stating  his correct name, or his abode, style, degree or occupation, and if, owing to  the name of the person not being known or for any other reason, it is  impracticable to give such a description or designation, such description or  designation shall be given as is reasonably practicable in the circumstances, or  such person may be described as "a person unknown"  (e) Where it is necessary to refer to any document or instrument in a charge  or an information, it shall be sufficient to describe it by any name or  designation by which it is usually known, or by the purport thereof, without  setting out any copy thereof.  (f) Subject to any other provisions of this section, it shall be sufficient  to describe any place, time, thing, matter, act or omission whatsoever to which  it is necessary to refer in any charge or information in ordinary language in  such a manner as to indicate with reasonable clearness the place, time, thing,  matter, act or omission referred to.  (g) 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,  where the enactment creating the offence does not make an intent to defraud,  deceive or injure a particular person an essential ingredient of the offence.  (h) Where a previous conviction of an offence is charged in a charge or an  information, it shall be charged at the end of the charge or information 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.  (i) Figures and abbreviations may be used for expressing anything which is  commonly expressed thereby.  (No. 28 of 1940 as amended by No. 11 of 1963  and S.I. No. 63 of 1964)  Previous Conviction or Acquittal  138. A person who has been once tried by a court of competent jurisdiction  for an offence, and convicted or acquitted of such offence, shall, while such  conviction or acquittal remains in force, not be liable to be tried again on the  same facts for the same offence.Persons convicted or acquitted not to be tried  again for same offence  139. A person convicted or acquitted of any offence may be afterwards tried  for any other offence with which he might have been charged on the former trial  under subsection (1) of section one hundred and thirty-five.  (No. 28 of 1940)Person may be tried again for separate offence  140. A person convicted or acquitted of any act causing consequences which,  together with such act, constitute a different offence from that for which such  person was convicted or acquitted, may be afterwards tried for such different  offence, if the consequences had not happened, or were not known to the court to  have happened, at the time when he was acquitted or convicted.Consequences  supervening or not known at time of former trial  141. A person convicted or acquitted of any offence constituted by any acts  may, notwithstanding such conviction or acquittal, be subsequently charged with  and tried for any other offence constituted by the same acts which he may have  committed, if the court by which he was first tried was not competent to try the  offence with which he is subsequently charged.Where original court was not  competent to try subsequent charge  142. (1) In any inquiry, trial or other proceeding under this Code, a previous  conviction may be proved, in addition to any other mode provided by any law for  the time being in force-Previous conviction, how proved  (a) by an extract certified, under the hand of the officer having the custody  of the records of the court in which such conviction was had, to be a copy of  the sentence or order; or  (b) by a certificate signed by the officer in charge of the prison in which  the punishment or any part thereof was suffered, or by production of the warrant  of commitment under which the punishment was suffered;  together with, in each of such cases, evidence as to the identity of the accused  person with the person so convicted.  (2) A certificate in the form prescribed given under the hand of an officer  authorised by the \*President in that behalf, who shall have compared the  fingerprints of an accused person with the fingerprints of a person previously  convicted, shall be sufficient evidence of all facts therein set forth provided  it is produced by the person who took the fingerprints of the accused.  \*Officer in Charge, Fingerprint Department, authorised by Gazette Notice No. 5  of 1964.  (3) A previous conviction in any place outside Zambia may be proved by the  production of a certificate purporting to be given under the hand of a police  officer in the country where the conviction was had, containing a copy of the  sentence or order, and the fingerprints, or photographs of the fingerprints of  the person so convicted, together with evidence that the fingerprints of the  person so convicted are those of the accused person; such a certificate shall be  sufficient evidence of all facts therein set forth without proof that the  officer purporting to sign it did in fact sign it and was empowered so to do.  (4) Where a person is convicted by a subordinate court, other than a juvenile  court, and it is proved to the satisfaction of the court on oath or in the  manner prescribed that, not less than seven days previously, a notice was served  on the accused in the prescribed form and manner specifying any alleged previous  conviction of the accused of an offence proposed to be brought to the notice of  the court in the event of his conviction of the offence charged, and the accused  is not present in person before the court, the court may take account of any  such previous conviction so specified as if the accused had appeared and  admitted it.  (5) In this section, "prescribed" means prescribed by rules made by the Chief  Justice.  (As amended by No. 4 of 1944, No. 2 of 1960,  No. 5 of 1962 and G.N. No.303 of 1964)  Compelling Attendance of Witnesses  143. If it is made to appear that material evidence can be given by, or is in  the possession of, any person, it shall be lawful for a court having cognizance  of any criminal cause or matter to issue a summons to such person requiring his  attendance before such court, or requiring him to bring and produce to such  court, for the purpose of evidence, all documents and writings in his possession  or power, which may be specified or otherwise sufficiently described in the  summons.  (As amended by No. 28 of 1940)Summons for witness  144. If, without sufficient excuse, a witness does not appear in obedience to  the summons, the court, on proof of the proper service of the summons a  reasonable time before, may issue a warrant to bring him before the court at  such time and place as shall be therein specified.Warrant for witness who  disobeys summons  145. If the court is satisfied that any person will not attend as a witness  unless compelled to do so, it may at once issue a warrant for the arrest and  production of such person before the court at a time and place to be therein  specified.Warrant for witness in first instance  146. When any witness is arrested under a warrant, the court may, on his  furnishing security by recognizance, to the satisfaction of the court, for his  appearance at the hearing of the case, order him to be released from custody, or  shall, on his failing to furnish such security, order him to be detained for  production at such hearing.Mode of dealing with witness arrested under warrant  147. (1) Any court, desirous of examining as a witness, in any case pending  before it, any person confined in any prison within Zambia, may issue an order  to the officer in charge of such prison requiring him to bring such prisoner in  proper custody, at a time to be named in the order, before the court for  examination.Power of court to order prisoner to be brought up for examination  (2) The officer so in charge, on receipt of such order, shall act in accordance  therewith, and shall provide for the safe custody of the prisoner during his  absence from the prison for the purpose aforesaid.  148. (1) Any person summoned to attend as a witness who, without lawful  excuse, fails to attend as required by the summons, or who, having attended,  departs without having obtained the permission of the court, or fails to attend  after adjournment of the court, after being ordered to attend, shall be liable,  by order of the court, to a fine not exceeding six hundred penalty units.Penalty  for non-attendance of witness  (2) Such fine shall be levied by attachment and sale of any movable property  belonging to such witness within the local limits of the jurisdiction of such  court.  (3) In default of recovery of the fine by attachment and sale, the witness may,  by order of the court, be imprisoned for a term of fifteen days, unless such  fine is paid before the end of the said term.  (4) For good cause shown, the High Court may remit or reduce any fine imposed  under this section by a subordinate court.  (As amended by Act No. 13 of 1994)  Examination of Witnesses  149. Where the person charged is called by the defence as a witness to the  facts of the case or to make a statement without being sworn he shall be heard  immediately after the close of the evidence for the prosecution.  (As amended by Act No. 6 of 1972)Procedure where person charged is called for  defence  150. (1) Whenever any person, appearing either in obedience to a summons or by  virtue of a warrant, or being present in court and being verbally required by  the court to give evidence-Refractory witnesses  (a) refuses to be sworn; or  (b) having been sworn, 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 to sign his deposition;  without, in any such case, offering any sufficient excuse for such refusal or  neglect, the court may adjourn the case for any period not exceeding eight days  and may, in the meantime, 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 at or before such  adjourned hearing, again refuses to do what is required of him, the court may,  if it sees fit, again adjourn the case and commit him for the like period, and  so again, from time to time, until such person consents to do what is so  required of him.  (3) Nothing herein contained shall affect the liability of any such person to  any other punishment or proceeding for refusing or neglecting to do what is so  required of him, or shall prevent the court from disposing of the case in the  meantime, according to any other sufficient evidence taken before it.  151. (1) In any inquiry or trial, the wife or husband of the person charged  shall be a competent witness for the prosecution or defence without the consent  of such person-Cases where wife or husband may be called without consent of  accused  (a) in any case where the wife or husband of a person charged may, under any  law in force for the time being, be called as a witness without the consent of  such person;  (b) in any case where such person is charged with an offence under Chapter XV  of the Penal Code or with bigamy;Cap. 87  (c) in any case where such person is charged in respect of an act or omission  affecting the person or property of the wife or husband of such person or the  children of either of them.  (2) For the purposes of this section-  (a) "wife" and "husband" include the parties to a customary marriage:  (b) "customary marriage" includes a union which is regarded as marriage by  the community in which the parties live.  (As amended by No. 20 of 1969)  Commissions for the Examination of Witnesses  152. (1) Whenever, in the course of any inquiry, trial or other proceeding  under this Code, the High Court is satisfied that the examination of a witness  is necessary for the ends of justice, and that the attendance of such witness  cannot be procured without an amount of delay, expense or inconvenience which,  in the circumstances of the case, would be unreasonable, the court may issue a  commission to any magistrate, within the local limits of whose jurisdiction such  witness resides, to take the evidence of such witness.Issue of commission for  examination of witness  (2) The magistrate to whom the commission is issued shall proceed to the place  where the witness is, or shall summon the witness before him, and shall take  down his evidence in the same manner and may, for this purpose, execise the same  powers as in the case of a trial.  153. (1) The parties to any proceeding under this Code in which a commission  is issued may respectively forward any interrogatories in writing which the  court directing the commission may think relevant to the issue, and the  magistrate to whom the commission is directed shall examine the witness upon  such interrogatories.Parties may examine witness  (2) Any such party may appear before such magistrate by advocate, or, if not in  custody, in person, and may examine, cross-examine and re-examine (as the case  may be) the said witness.  154. Whenever, in the course of any inquiry, trial or other proceeding under  this Code before any magistrate, it appears that a commission ought to be issued  for the examination of a witness whose evidence is necessary for the ends of  justice, and that the attendance of such witness cannot be procured without an  amount of delay, expense or inconvenience which, in the circumstances of the  case, would be unreasonable, such magistrate shall apply to the High Court,  stating the reasons for the application; and the High Court may either issue a  commission, in the manner hereinbefore provided, or reject the application.Power  of magistrate to apply for issue of commission  155. After any commission issued under section one hundred and fifty-two or  one hundred and fifty-four has been duly executed, it shall be returned,  together with the deposition of the witness examined thereunder, to the court in  which the case is depending, and the commission, the return thereto, and the  deposition shall be open, at all reasonable times, to inspection by the parties,  and may, subject to all just exceptions, be read in evidence in the case by  either party, and shall form part of the record.Return of commission  156. In every case in which a commission is issued under section one hundred  and fifty-two or one hundred and fifty-four, the inquiry, trial or other  proceeding may be adjourned for a specified time reasonably sufficient for the  execution and return of the commission.  Evidence for DefenceAdjournment of inquiry or trial  157. Every person charged with an offence, and the wife or husband, as the  case may be, of the person so charged, shall be a competent witness for the  defence at every stage of the proceedings, whether the person so charged is  charged solely or jointly with any other person:Competency of accused and  husband or wife as witnesses  Provided that-  (i) a person so charged shall not be called as a witness in pursuance of this  section, except upon his own application;Own application  (ii) the failure of any person charged with an offence or of the wife or  husband, as the case may be, of the person so charged, to give evidence shall  not be made the subject of any comment by the prosecution;No comment if not  called as witness  (iii) the wife or husband of the person charged shall not, save as  hereinbefore mentioned, be called as a witness except upon the application of  the person so charged;Spouses  (iv) nothing in this section shall make a husband compellable to disclose any  communication made to him by his wife during the marriage, or a wife compellable  to disclose any communication made to her by her husband during the  marriage;Communications during marriage  (v) a person charged and being a witness in pursuance of this section may be  asked any question in cross-examination, notwithstanding that it would tend to  criminate him as to the offence charged;Cross-examination  (vi) a person charged and called as a witness, in pursuance of this section,  shall not be asked, and, if asked, shall not be required to answer, any question  tending to show that he has committed or been convicted of, or been charged with  any offence other than that wherewith he is then charged, or is of bad  character, unless-No question to show commission of offence not charged  (a) the proof that he has committed or been convicted of such other offence  is admissible evidence to show that he is guilty of the offence wherewith he is  then charged; or  (b) he has, personally or by his advocate, asked questions of the witnesses  for the prosecution with a view to establishing his own good character, or has  given evidence of his own good character, or the nature or conduct of the  defence is such as to involve imputations on the character of the complainant or  the witnesses for the prosecution; or  (c) he has given evidence against any other person charged with the same  offence;Exceptions  (vii) every person called as a witness in pursuance of this section shall,  unless otherwise ordered by the court, give his evidence from the witness box or  other place from which the other witnesses have given their evidence;Evidence  from box  (viii)nothing in this section shall affect the provisions of section two hundred  and twenty-eight or any right of the person charged to make a statement without  being sworn.Statement by person charged  158. Where the person charged is called by the defence as a witness to the  facts of the case or to make a statement without being sworn, he shall be heard  immediately after the close of the evidence for the prosecution.  (No. 6 of 1972)Procedure where person charged is called for defence  158A. (1) Where the presiding Judge or Magistrate is, on account of illness,  death, relinquishment or cesser of jurisdiction or any other similar cause,  unable to deliver a judgment already prepared by him, then the Chief Justice may  direct-Completion of proceedings  (a) that another Judge of the High Court shall deliver in open court the  judgment prepared by the presiding Judge; and  (b) that another Magistrate of co-ordinate jurisdiction shall deliver in open  court the judgment prepared by the presiding Magistrate, in the manner  prescribed in subsection (1) of section one hundred and fifty-seven of this  Code:  Provided that in either case the judgment shall be dated and signed by the  Judge or Magistrate at the time of delivering it.  (2) After delivering the judgment under subsection (1), the Judge or the  Magistrate, as the case may be, shall complete the proceedings of the case as if  he had himself heard and determined the case.  (3) In any case where a Judge has been appointed whether before or after the  commencement of the Criminal Procedure Code (Amendment) Act, 1972, to be or to  act as a Justice of Appeal or where a Magistrate has been appointed to be a  Magistrate of a higher class or to be or to act as a Judge, he shall complete  any proceedings already commenced before him, and for this purpose he shall be  deemed to retain the position and powers which he held immediately before his  being so appointed.  (4) Where a Magistrate is transferred to another District he shall complete any  proceedings already commenced before him.  (As amended by No. 6 of 1972)  159. In cases where the right of reply depends upon the question whether  evidence has been called for the defence the fact that the person charged has  been called as a witness shall not of itself confer on the prosecution the right  of reply:Right of reply  Provided that the Director of Public Prosecutions or Solicitor-General, when  appearing personally as advocate for the prosecution, shall, in all cases, have  the right of reply.  (As amended by S.I. No. 63 of 1964)  Procedure in Case of the Insanity or Other Incapacity of an Accused Person  160. Where on the trial of a person charged with an offence punishable by  death or imprisonment the question arises, at the instance of the defence or  otherwise, whether the accused is, by reason of unsoundness of mind or of any  other disability, incapable of making a proper defence, the court shall inquire  into and determine such question as soon as it arises.  (No. 76 of 1965 as amended by No. 18 of 1966)Question whether accused capable of  making his defence  161. Where a court, in accordance with the provisions of section one hundred  and sixty, finds an accused incapable of making a proper defence, it shall enter  a plea of "not guilty" if it has not already done so and, to the extent that it  has not already done so, shall hear the evidence for the prosecution and (if  any) for the defence.Procedure where accused unfit to make his defence  (2) At the close of such evidence as is mentioned in subsection (1), the court,  if it finds that the evidence as it stands-  (a) would not justify a conviction or a special finding under section one  hundred and sixty-seven, shall acquit and discharge the accused; or  (b) would, in the absence of further evidence to the contrary, justify a  conviction, or a special finding under section one hundred and sixty-seven,  shall order the accused to be detained during the Presidents pleasure.  (3) An acquittal and discharge under subsection (2) shall be without prejudice  to any implementation of the provisions of the Mental Disorders Act, and the  High Court may, if it considers in any case that an inquiry under the provisions  of section nine of that Act is desirable, direct that the person acquitted and  discharged be detained and taken before a magistrate for the purpose of such  inquiry.  (No. 76 of 1965)Cap. 305  162. (1) Where an order for the detention of an accused during the Presidents  pleasure is made by a subordinate court-Procedure following order of detention  during Presidents pleasure  (a) the court shall transmit the record or a certified copy thereof to the  High Court for confirmation of such order;  (b) the High Court may, and at the request of the prosecution or defence made  within fourteen days of the order of the subordinate court shall, admit  additional evidence or hear the prosecution and defence in relation to the  disability of the accused; and  (c) the High Court in dealing with the confirmation of such an order may  exercise all or any of the powers which are conferred upon it under Part XI for  the purposes of revision.  (2) Where an order for the detention of an accused during the Presidents  pleasure is made or confirmed by the High Court, the Judge concerned shall  submit a written report to the President containing any recommendations or  observations on the case which he may think fit to make, together with a  certified copy of the record.  (No. 76 of 1965)  163. (1) Where under this Code any person is ordered to be detained during the  Presidents pleasure, the order shall be sufficient authority for his detention,  until otherwise dealt with under this Code, in any mental institution, prison or  other place where facilities exist for the detention of persons, and for his  conveyance to that place.Detention during Presidents pleasure  (2) A person ordered under this Code to be detained during the Presidents  pleasure shall be liable to be detained in such place and under such conditions  as the President may by order direct, and while so detained shall be in lawful  custody.  (3) The officer in charge of the place in which any person is detained during  the Presidents pleasure under this Code shall, at intervals not exceeding six  months, submit a report to the President containing the prescribed information  in relation to every person so detained in his custody.  (No. 76 of 1965)  164. (1) The President may at any time by order discharge from detention any  person detained during the Presidents pleasure and such discharge may be  absolute or subject to conditions, and if absolute the order under which he has  been detained shall cease to be of effect accordingly.Discharge of persons  detained during Presidents pleasure  (2) The President may at any time by order revoke an order of conditional  discharge made under subsection (1) and thereupon the person concerned shall be  detained during the Presidents pleasure as though he had never been discharged  from detention.  (No. 76 of 1965)  165. (1) If on the advice of a medical officer the President, having regard to  the requirements of the Constitution, considers that the question of the  capacity to make a proper defence of any person detained following an order  under section one hundred and sixty-one should be re-examined, he shall by order  direct that such person be taken before a court and the court shall inquire into  and determine that question.Resumption of trial  Cap 1  (2) Where a court, after inquiry under subsection (1), finds the accused  capable of making a proper defence, any order under which the accused has been  detained during the Presidents pleasure shall thereupon cease to have effect  and the accused shall be called upon to plead to the charge or information and  the trial shall commence de novo.  (3) Where a court, after inquiry under subsection (1), finds the accused to be  still incapable of making a proper defence, the order under which the accused  has been detained during the Presidents pleasure shall continue to be of force  and effect.  (4) For the purposes of an inquiry under subsection (1), a report concerning  the capacity of the accused to conduct his defence by the medical officer in  charge of the asylum or other place in which the accused has been detained may  be read as evidence but without prejudice to the right of the court to summon  and examine such medical officer.  (No. 76 of 1965)  166. The question whether-  (a) while before the subordinate court an accused person is by reason of  unsoundness of mind or of any other disability incapable of making a proper  defence; or  (b) at the time of the act or omission in respect of which an accused person  is charged, such person was by reason of unsoundness of mind incapable of  understanding what he was doing, or of knowing that he ought not to do the act  or make the omission;  shall not be determined in any preliminary inquiry held under Part VII and, for  the purposes of any decision whether an accused should be committed for trial,  the accused shall be deemed to have been at all material times free from any  such disability.  (No. 76 of 1965)Preliminary inquiries  167. (1) Where an act or omission is charged against any person as an offence,  and it is given in evidence on the trial of such person for that offence that he  was insane so as not to be responsible for his actions at the time when the act  was done or omission made, then, if it appears to the court before which such  person is tried that he did the act or made the omission charged but was insane  as aforesaid at the time when he did or made the same, the court shall make a  special finding to the effect that the accused was not guilty by reason of  insanity.Defence of insanity at the time of the offence  (2) For the purposes of appeal, whether to the High Court or to the Court of  Appeal, a special finding made under subsection (1) shall be deemed to be a  conviction.  (3) Where a special finding is made under subsection (1), the court so finding  shall order the person to whom such finding relates to be detained during the  Presidents pleasure.  (No. 76 of 1965)  167A. The provisions of sections one hundred and sixty-three, one hundred and  sixty-four, one hundred and sixty-five, one hundred and sixty-six and one  hundred and sixty-seven shall apply mutatis mutandis to any person detained  during the Presidents pleasure in terms of an order made under section one  hundred and fifty-one of Chapter 7 of the 1965 Edition of the Laws before the  \*7th January, 1966.\*commencement of Act No. 76 of 1965.  \* \*7th January, 1966.Application to persons detained in terms of orders made  under former provisions  (No. 24 of 1970)  Judgment  168. (1) The judgment in every trial in a subordinate court shall be  pronounced, or the substance of such judgment shall be explained, in open court,  either immediately after the termination of the trial or, without undue delay,  at some subsequent time, of which notice shall be given to the parties and their  advocates, if any:Mode of delivering judgment  Provided that the whole judgment shall be read out by the presiding magistrate,  if he is requested so to do, either by the prosecution or the defence.  (  2) The accused person shall, if in custody, be brought up, or, if not in  custody, be required by the court to attend, to hear judgment delivered, except  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 or from the place  notified for the delivery thereof, or of any omission to serve, or defect in  serving, on the parties or their advocates, or any of them, the notice of such  day and place.  (4) Nothing in this section shall be construed to limit, in any way, the  provisions of section three hundred and fifty-three.  169. (1) The judgment in every trial in any court shall, except as otherwise  expressly provided by this Code, be prepared by the presiding officer of the  court and 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  presiding officer in open court at the time of pronouncing it.Contents of  judgment  (2) In the case of a conviction, the judgment shall specify the offence of  which and the section of the Penal Code or other written law under which the  accused person is convicted, and the punishment to which he is sentenced.  \*7th January, 1966.  (3) In the case of an acquittal, the judgment shall state the offence of which  the accused person is acquitted and shall direct that he be set at liberty.  (No. 28 of 1940 as amended by No. 17 of 1945,  No. 5 of 1962 and No. 11 of 1963)  169A. (1) Where the presiding Judge or Magistrate is, on account of illness,  death, relinquishment or cesser of jurisdiction or any other similar cause,  unable to deliver a judgment already prepared by him, then the Chief Justice may  direct-Completion of proceedings  (a) that another Judge of the High Court shall deliver in open court the  judgment prepared by the presiding Judge; and  (b) that another magistrate of co-ordinate jurisdiction shall deliver in open  court the judgment prepared by the presiding magistrate, in the manner  prescribed in subsection (1) of section one hundred and sixty-eight;  Provided that in either case the judgment shall be dated and signed by the Judge  or magistrate at the time of delivering it.  (2) After delivering the judgment under subsection (1), the Judge or  magistrate, as the case may be, shall complete the proceedings of the case as if  he had himself heard and determined the case.  (3) In any case where a Judge has been appointed, whether before or after the  commencement of Act No. 6 of 1972, to be or to act as a Justice of Appeal or  where a magistrate has been appointed to be a magistrate of a higher class or to  be or to act as a Judge, he shall complete any proceedings already commenced  before him, and for this purpose he shall be deemed to retain the position and  powers which he held immediately before his being so appointed.  (4) Where a magistrate is transferred to another District, he shall complete  any proceedings already commenced before him.  170. On the application of the accused person, a copy of the judgment, or,  when he so desires, a translation in his own language, if practicable, shall be  given to him without delay. Such copy or translation shall be given free of  cost.Copy of judgment, etc., to be given to accused on application  171. (1) The court before which any person employed in the public service is  convicted of a prescribed offence shall enter judgment, and civil jurisdiction  is hereby conferred upon it for that purpose, for the amount of the value of the  property in respect of which the offence was committed-Entry of judgment where  public officer convicted of offence  (a in favour of the Attorney-General where such property is the property of  the or of any corporation, body or board, including any institutions of higher  learning, in which the Government has a majority or controlling interest  (2) No appeal shall lie against a statutory judgment but if, on an appeal  against conviction, the appeal is allowed or a conviction for an offence which  is not a prescribed offence is substituted, the statutory judgment shall be  deemed to have been set aside, but without prejudice to any other right of  recovery by way of civil proceedings.  (3) The entering of an appeal against conviction shall not operate as a stay of  execution under a statutory judgment, unless the court otherwise orders.  (4) Execution may be levied under a statutory judgment against all or any  persons employed in the Public Service jointly charged with and convicted of a  prescribed offence, but the total amount levied shall not exceed the amount for  which the statutory judgment was entered.  (5) Where a person employed in the public service is convicted of an offence  and such person asks the court to take another offence, which is a prescribed  offence, into account for the purposes of sentence and the court does so, such  person shall, for the purposes of this section, be deemed to have been convicted  of such prescribed offence and the court shall enter judgment accordingly as  provided in subsection (1).;  (6) In this section, unless the context otherwise requires-  "prescribed offence" means an offence under Chapter XXVI, XXVII, XXX, XXXI or  XXXIII of the Penal Code where the property in respect of which the offence is  committed is the property of the Government or any corporation, body or board  including an institution of learning, in which the Government has a majority or  controlling interest or a local authority or is property which comes into the  possession of the person employed in the public service by virtue of his  employment;  "person employed in the public service" means a person who, at the time of  commission of the prescribed offence, was a person employed in the public  service as defined in section four of the Penal Code;  "statutory judgment" means a judgment entered in pursuance of the provisions of  subsection (1).  (As amended by Act N.o. 54 of 1968, 12 of 1973,  34 of 1973 and 32 of 1974)Cap. 87  Cap. 87  Costs, Compensation and Damages  172. (1) It shall be lawful for a Judge or a magistrate to order any person  convicted before him of an offence to pay such reasonable costs, as to such  Judge or magistrate may seem fit, in addition to any other penalty imposed and  such costs shall be paid, where the prosecution was in the charge of a public  prosecutor, into the general revenues of the Republic, and in any other case to  the person by or on behalf of whom the prosecution was instituted.Costs against  accused or prosecution  (2) It shall be lawful for a Judge or a magistrate who acquits or discharges a  person accused of an offence to order that such reasonable costs, as to such  Judge or magistrate may seem fit, be paid to such person and such costs shall be  paid, where the prosectuion was in the charge of a public prosecutor, from the  general revenues of the Republic, and in any other case by the person by or on  behalf of whom the prosecution was instituted:  Provided that no such order shall be made if the Judge or magistrate shall  consider that there were reasonable grounds for making the complaint.  (3) The costs awarded under this section may be awarded in addition to any  compensation awarded under section one hundred and seventy-four.  (As amended by No. 5 of 1962 and S.I. No. 63 of 1964)  1  73. An appeal shall lie from any order of a subordinate court awarding  costs, under the last preceding section, to the High Court. The appellate court  shall have power to give such costs of the appeal as it shall deem  reasonable.Order to pay costs appealable  174. If, on the dismissal of any case, any court shall be of opinion that the  charge was frivolous or vexatious, such court may order the complainant to pay  to the accused person a reasonable sum, as compensation for the trouble and  expense to which such person may have been put by reason of such charge, in  addition to his costs.Compensation in case of frivolous or vexatious charge  175. (1) When an accused person is convicted by any court of any offence not  punishable with death and it appears from the evidence that some other person,  whether or not he is the prosecutor or a witness in the case, has suffered  material loss or personal injury in consequence of the offence committed and  that substantial compensation is, in the opinion of the court, recoverable by  that person by civil suit, such court may, in its discretion and in addition to  any other lawful punishment, order the convicted person to pay to that other  person such compensation, in kind or in money, as the court deems fair and  reasonable:Power of court to order accused to pay compensation  Provided that in no case shall the amount or value of the compensation awarded  exceed fifty kwacha.  (2) When any person is convicted of any offence under Chapters XXVI to XXXI,  both inclusive, of the Penal Code, the power conferred by subsection (1) shall  be deemed to include a power to award compensation to any bona fide purchaser of  any property in relation to which the offence was committed for the loss of such  property if the same is restored to the possession of the person entitled  thereto.  (3) Any order for compensation under this section shall be subject to appeal  and no payment of compensation shall be made before the period allowed for  presenting the appeal has elapsed or, if an appeal be presented, before the  decision of the appeal.  (No. 28 of 1940)  176. The sums allowed for costs or compensation shall, in all cases, be  specified in the conviction or order, and the same shall be recoverable in like  manner as any penalty may be recovered under this Code; and, in default of  payment of such costs or compensation or of distress as hereinafter provided,  the person in default shall be liable to imprisonment with or without hard  labour for a term not exceeding three months, unless such costs or compensation  shall be sooner paid.Costs and compensation to be specified in order; how  recoverable  177. (1) Whenever any court imposes a fine, or confirms on appeal, revision or  otherwise a sentence of fine, or a sentence of which a fine forms part, the  court may, when passing judgment, order the whole or any part of the fine  recovered to be applied-Power of court to award expenses or compensation out of  fine  (a) in defraying expenses properly incurred in the prosecution;  (b) in the payment to any person of compensation for any loss or injury  caused by the offence, when substantial compensation is, in the opinion of the  court, recoverable by civil suit.  (2) At the time of awarding any compensation in any subsequent civil suit  relating to the same matter, the court hearing the civil suit shall take into  account any compensation paid or recovered under section one hundred and  seventy-five or this section.  (As amended by No. 28 of 1940)Compensation recovered to be taken into account in  subsequent civil suit  178. Where, in a charge of stealing, dishonest receiving or fraudulent  conversion, the court shall be of opinion that the evidence is insufficient to  support the charge, but that it establishes wrongful conversion or detention of  property, such court may order that such property be restored, and may also  award damages. Any damages awarded shall be recoverable as a penalty.  Restitution of PropertyWrongful conversion and detention of property  179. Where, upon the apprehension of a person charged with an offence, any  property is taken from him, the court before which he is charged may  order-Property found on accused person  (a) that the property or a part thereof be restored to the person who appears  to the court to be entitled thereto, and, if he be the person charged, that it  be restored either to him or to such other person as he may direct; or  (b) that the property or a part thereof be applied to the payment of any fine  or any costs or compensation directed to be paid by the person charged.  180. (1) If any person guilty of any offence as is mentioned in Chapters XXVI  to XXXI, both inclusive, of the Penal Code, in stealing, taking, extorting,  obtaining, converting or disposing of, or in knowingly receiving, any property,  is prosecuted to conviction by or on behalf of the owner of such property, the  property shall be restored to the owner or his representative.Stolen property.  Cap. 146  (2) In every case in this section referred to, the court before whom such  offender is convicted shall have the power to award, from time to time, writs of  restitution for the said property or to order the restitution thereof in a  summary manner:  Provided that nothing in this section shall apply to-  (i) any valuable security which has been bona fide paid or discharged by any  person liable to pay or discharge the same; or  (ii) 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 reasonable cause to suspect that it has been stolen or  dishonestly obtained.  (3) On the restitution of any stolen property, if it appears to the court by  the evidence that the offender has sold the stolen property to any person, that  such person has had no knowledge that the same was stolen, and that any moneys  have been taken from the offender on his apprehension, the court may, on the  application of such purchaser, order that out of such moneys a sum not exceeding  the amount of the proceeds of such sale be delivered to the said purchaser.  (4) The operation of any order under this section shall (unless the court  before which the conviction takes place directs to the contrary in any case in  which the title to the property is not in dispute) be suspended-  (a) in any case until the time for appeal has elapsed; and  (b) in any case where an appeal is lodged, until the final determination of  such appeal;  and in cases where the operation of any such order is suspended until the  determination of the appeal, the order shall not take effect as to the property  in question if the conviction is quashed on appeal.  (5) In this section, unless the context otherwise requires, "property" means  not only such property as has been originally in the possession or under the  control of any person but also any property into or for which the same has been  converted or exchanged, and anything which has been acquired by such conversion  or exchange, whether immediately or otherwise.  (No. 50 of 1957)  Miscellaneous Provisions  181. (1) When a person is charged with an offence consisting of several  particulars, a combination of some only of which constitutes a complete minor  offence, and such combination is proved but the remaining particulars are not  proved, he may be convicted of the minor offence although he was not charged  with it.When offence proved is included in offence charged  (2) When a person is charged with an offence and facts are proved which reduce  it to a minor offence, he may be convicted of the minor offence although he was  not charged with it.  (No. 28 of 1940)  182. When a person is charged with an offence, he may be convicted of having  attempted to commit that offence, although he was not charged with the attempt.  (No. 28 of 1940)Person charged with any offence may be convicted of attempt  183. (1) Where a person is charged with treason and the facts proved in  evidence authorise a conviction for treason-felony and not for treason, he may  be convicted of treason-felony although he was not charged with that  offence.Person charged with treason may be convicted of treason-felony and  person charged with treason or treason-felony may be convicted of sedition  (2) Where a person is charged with treason or treason-felony and the facts  proved in evidence authorise a conviction for sedition and not for treason or  treason-felony, as the case may be, he may be convicted of sedition although he  was not charged with that offence.  (No. 6 of 1965)  184. (1) When a woman is charged with the murder of her child, being a child  under the age of twelve months, and the court is of opinion that she, by any  wilful act or omission, caused its death but at the time of the act or omission  she had not fully recovered from the effect of giving birth to such child and  that by reason thereof or by reason of the effect of lactation consequent upon  the birth of the child the balance of her mind was then disturbed, she may,  notwithstanding that the circumstances were such that but for the provisions of  section two hundred and three of the Penal Code she might be convicted of  murder, be convicted of the offence of infanticide although she was not charged  with it.Alternative verdicts in various offences involving the homicide of  children  Cap. 87  (2) When a person is charged with the murder or manslaughter of any child or  with infanticide, or with an offence under section one hundred and fifty-one or  one hundred and fifty-two of the Penal Code (relating to the procuring of  abortion), and the court is of opinion that he is not guilty of murder,  manslaughter or infanticide or of an offence under section one hundred and  fifty-one or one hundred and fifty-two of the Penal Code but that he is guilty  of the offence of child destruction, he may be convicted of that offence  although he was not charged with it.Cap. 87  Cap. 87  (3) When a person is charged with the offence of child destruction and the  court is of opinion that he is not guilty of that offence but that he is guilty  of an offence under either section one hundred and fifty-one or one hundred and  fifty-two of the Penal Code, he may be convicted of that offence although he was  not charged with it.Cap. 87  (4) When a person is charged with the murder or infanticide of any child or  with child destruction and the court is of opinion that he is not guilty of any  of the said offences but that he is guilty of the offence of concealment of  birth, he may be convicted of the offence of concealment of birth although he  was not charged with it.  (No. 28 of 1940)  185. When a person is charged with manslaughter in connection with the  driving of a motor vehicle by him and the court is of the opinion that he is not  guilty of that offence, but that he is guilty of an offence under subsection (1)  of section one hundred and ninety-six of the Roads and Road Traffic Act  (relating to reckless or dangerous driving), or under any written law in  substitution therefor, he may be convicted of that offence although he was not  charged with it.  (No. 28 of 1940)Person charged with manslaughter in connection with the driving  of a motor vehicle may be convicted of reckless or dangerous driving.  Cap. 464  186. (1) When a person is charged with rape and the court is of opinion that  he is not guilty of that offence but that he is guilty of an offence under one  of sections one hundred and thirty-seven, one hundred and thirty-eight, one  hundred and forty-one and one hundred and fifty-nine of the Penal Code, he may  be convicted of that offence although he was not charged with it.Alternative  verdicts in charges of rape and kindred offences.  Cap. 146  (2) When a person is charged with an offence under section one hundred and  fifty-nine of the Penal Code and the court is of opinion that he is not guilty  of that offence but that he is guilty of an offence under one of the sections  one hundred and thirty-eight and one hundred and thirty-nine of the Penal Code,  he may be convicted of that offence although he was not charged with it.Cap. 87  Cap. 87  (3) When a person is charged with the defilement of a girl under the age of  sixteen years and the court is of opinion that he is not guilty of that offence  but that he is guilty of an offence under subsection (1) or (3) of section one  hundred and thirty-seven of the Penal Code, he may be convicted of that offence  although he was not charged with it.  (No. 28 of 1940)Cap. 87  187. When a person is charged with an offence under one of sections three  hundred and one to three hundred and five of the Penal Code and the court is of  opinion that he is not guilty of that offence but that he is guilty of any other  offence under another of the said sections, he may be convicted of that other  offence although he was not charged with it:Person charged with burglary, etc.,  may be convicted of kindred offence.  Cap. 146  Provided that, in such case, the punishment imposed shall not exceed the maximum  punishment which may be imposed for the offence with which the accused was  charged.  (No. 28 of 1940)  188. (1) When a person is charged with stealing anything and-Alternative  verdicts in charges of stealing and kindred offences.  (a) the facts proved amount to an offence under subsection (1) of section  three hundred and eighteen of the Penal Code, he may be convicted of the offence  under that section although he was not charged with it;Cap. 87  (b) it is proved that he obtained the thing in any such manner as would  amount, under the provisions of the Penal Code, to obtaining it by false  pretences with intent to defraud, he may be convicted of the offence of  obtaining it by false pretences although he was not charged with it;  (c) the facts proved amount to an offence under section three hundred and  nineteen of the Penal Code, he may be convicted of the offence under that  section although he was not charged with it.Cap. 87  (2) When a person is charged with obtaining anything capable of being stolen by  false pretences with intent to defraud, and it is proved that he stole the  thing, he may be convicted of the offence of stealing although he was not  charged with it.  (No. 28 of 1940 as amended by No. 47 of 1955)  189. The provisions of sections one hundred and eighty-one to one hundred and  eighty-eight shall be construed as in addition to, and not in derogation of, the  provisions of any other Act and the other provisions of this Code, and the  provisions of sections one hundred and eighty-two to one hundred and  eighty-eight shall be construed as being without prejudice to the generality of  the provisions of section one hundred and eighty-one.  (No. 28 of 1940)Construction of sections 181 to 188  190. If, on any trial for misdemeanour, the facts proved in evidence amount  to a felony, the accused shall not be therefore entitled to be acquitted of such  misdemeanour; and no person tried for such misdemeanour shall be liable  afterwards to be prosecuted for felony on the same facts, unless the court  before which such trial may be had shall think fit, in its discretion, to  discharge such person in respect of the misdemeanour and to direct such person  to be prosecuted for felony, whereupon such person may be dealt with as if not  previously put on trial for misdemeanour.Person charged with misdemeanour not to  be acquitted if felony proved  PART V MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALSPART V  MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS  191. Except as otherwise expressly provided, all evidence taken in any  inquiry or trial under this Code shall be taken in the presence of the accused,  or, when his personal attendance has been dispensed with, in the presence of his  advocate (if any).  (No. 33 of 1972)Evidence to be taken in presence of accused  191A. (1) The contents of any document purporting to be a report under the  hand of a medical officer employed in the public service upon any matter  relevant to the issue in any criminal proceedings shall be admitted in evidence  in such proceedings to prove the matters stated therein:Reports by medical  officers in public service  Provided that-  (i) the court in which any such report is adduced in evidence may, in its  discretion, cause the medical officer to be summoned to give oral evidence in  such proceedings or may cause written interrogatories approved by the court to  be submitted to him for reply, and such interrogatories and any reply thereto  purporting to be a reply from such person shall likewise be admissible in  evidence in such proceedings;  (ii) at the request of the accused, made not less than seven days before the  trial, such witness shall be summoned to give oral evidence.  (2) The court may presume that the signature on any such report is genuine and  that the person signing it held the office and qualifications which he professed  to hold as appearing in the report at the time when he signed it.  (3) Nothing in this section contained shall be deemed to affect any provision  of any written law under which any certificate or other document is made  admissible in evidence, and the provisions of this section shall be deemed to be  additional to, and not in substitution of, any such provision.  (4) For the purposes of this section, the expression "medical officer" shall  mean a medical practitioner registered as such under the Medical and Allied  Professions Act.  (No. 33 of 1972)Cap. 297  192. (1) Whenever any fact ascertained by any examination or process requiring  chemical or bacteriological skill is or may become relevant to the issue in any  criminal proceedings, a document purporting to be an affidavit relating to any  such examination or process shall, if purporting to have been made by any person  qualified to carry out such examination or process, who has ascertained any such  fact by means of any such examination or process, be admissible in evidence in  such proceedings to prove the matters stated therein:Evidence of analyst  Provided that-  (i) the court in which any such document is adduced in evidence may, in its  discretion, cause such person to be summoned to give oral evidence in such  proceedings or may cause written interrogatories to be submitted to him for  reply, and such interrogatories and any reply thereto purporting to be a reply  from such person shall likewise be admissible in evidence in such proceedings;  (ii) at the request of the accused, made not less than seven days before the  trial, such witness shall be summoned to give oral evidence.  (2) Nothing in this section contained shall be deemed to affect any provision  of any written law under which any certificate or other document is made  admissible in evidence, and the provisions of this section shall be deemed to be  additional to, and not in substitution of, any such provision.  (No. 1 of 1936 as amended by No. 11 of 1963)  193. Where any photograph is or may become relevant to the issue in any  criminal proceedings, a document purporting to be an affidavit made by the  person who processed such photograph shall be admissible in evidence in any such  proceedings as proof of such processing:Evidence of photographic process  Provided that the court in which any such document is produced may, if it thinks  fit, summon such person to give evidence orally.  (No. 50 of 1957)  194. (1) In any criminal proceedings, a certificate purporting to be signed by  a police officer or any other person authorised under rules made in that behalf  by the Chief Justice, by statutory instrument, and certifying that a plan or  drawing exhibited thereto is a plan or drawing made by him of the place or  object specified in the certificate and that the plan or drawing is correctly  drawn to a scale so specified and clearly indicates, where applicable, the  direction of North in relation to the places or objects depicted thereon, shall  be evidence of the relative positions of the things shown on the plan or  drawing.Evidence of plans, theft of postal matters and goods in transit on  railways  (2) In any proceedings for an offence consisting of the stealing of goods in  the possession of the Zambia Railways, or receiving or retaining goods so stolen  knowing them to have been stolen, or for the theft of postal matter under the  Penal Code, or for an offence under the Postal Services Act, a statutory  declaration made by any person-Cap. 470  (a) that he despatched or received or failed to receive any goods or postal  packet or that any goods or postal packet when despatched or received by him  were in a particular state or condition; or  (b) that a vessel, vehicle or aircraft was at any time employed by or under  the Postmaster-General for the transmission of postal packets under contract;  shall be admissible as evidence of the facts stated in the declaration.  (3) Nothing in this section shall be deemed to make a certificate or statutory  declaration admissible as evidence in proceedings for an offence except in a  case where and to the extent to which oral evidence to the like effect would  have been admissible in those proceedings.  (4) Nothing in this section shall be deemed to make a certificate or any plan  or drawings exhibited thereto or a statutory declaration admissible as evidence  in proceedings for any offence-  (a) unless a copy thereof has, not less than seven days before the hearing or  trial, been served on the person charged with the offence; or  (b) if that person, not later than three days before the hearing or trial or  within such further time as the court may in special circumstances allow, serves  notice in writing on the prosecutor requiring the attendance at the trial of the  person who signed the certificate or the person by whom the declaration was  made, as the case may be; or  (c) if the court before whom the said proceedings are brought requires the  attendance at the trial of the person who signed the certificate or the person  by whom the declaration was made, as the case may be.  (No. 16 of 1959)  195. (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 understood by him.Interpretation of evidence to accused or  his advocate  (2) If he appears by advocate, and the evidence is given in a language other  than the English language, and not understood by the advocate, it shall be  interpreted to such advocate in the English language.  (3) When documents are put in for the purpose of formal proof, it shall be in  the discretion of the court to cause to be interpreted as much thereof as  appears necessary.  196. A magistrate shall record the sex and approximate age of each witness,  and may also record such remarks (if any) as he thinks material respecting the  demeanour of any witness whilst under examination.Remarks respecting demeanour  of witness  PART VI PROCEDURE IN TRIALS BEFORE SUBORDINATE COURTS PART VI  PROCEDURE IN TRIALS BEFORE SUBORDINATE COURTS  Provisions Relating to the Hearing and Determination of Cases  197. (1) All trials in subordinate courts shall be held before a magistrate  sitting alone, or before a magistrate sitting with the aid of assessors (if the  presiding magistrate so decides), the number of whom shall be two or more, as  the court thinks fit:Trials in subordinate courts  Provided always that every trial on a charge of treason or murder in a  subordinate court shall be held with the aid of assessors, if assessors are  procurable therefor.  (2) Where an accused person has been committed for trial before the High Court,  and the case has been transferred by the High Court for trial before a  subordinate court, such of the provisions of Parts VII and IX as are applicable  shall, with all necessary modifications and alterations, apply to such trial  before such subordinate court:  Provided that-  (i) no provisions relating to the inclusion of a count charging a previous  conviction in an information shall be deemed applicable to such trial before  such subordinate court;  (ii) the recognizances of witnesses bound to appear and give evidence at such  trial before the High Court shall be deemed, for all purposes, to have been  executed as if the obligations to attend the High Court had included attendance  at any court to which the case might be transferred.  198. If a trial is held in a subordinate court with the aid of assessors, all  the provisions in this Code contained as to a trial with assessors in the High  Court shall apply, so far as the same are applicable, to a trial held with  assessors in a subordinate court.Trials with assessors  199. If, in any case which a subordinate court has jurisdiction to hear and  determine, the accused person appears in obedience to the summons served upon  him at the time and place appointed in the sumons for the hearing of the case or  is brought before court under arrest, then, if the complainant, having had  notice of the time and place appointed for the hearing of the charge, does not  appear, the court shall dismiss the charge, unless, for some reason, it shall  think it proper to adjourn the hearing of the case until some other date, upon  such terms as it shall think fit, in which event it may, pending such adjourned  hearing, either admit the accused to bail or remand him to prison, or take such  security for his appearance as the court shall think fit.  (As amended by No. 28 of 1940)Non-appearance of complainant at hearing  200. If, at the time appointed for the hearing of the case, both the  complainant and the accused person appear before the court which is to hear and  determine the charge, or if the complainant appears and the personal attendance  of the accused person has been dispensed with under section ninety-nine, the  court shall proceed to hear the case.Appearance of both parties  201. If a complainant, at any time before a final order is passed in any case  under this Part, satisfies the court that there are sufficient grounds for  permitting him to withdraw his complaint, the court may permit him to withdraw  the same, and shall, thereupon, acquit the accused.Withdrawal of complaint  202. Before or during the hearing of any case, it shall be lawful for the  court, in its discretion, to adjourn the hearing to a certain time and place, to  be then appointed and stated in the presence and hearing of the party or parties  or their respective advocates then present, and, in the meantime, the court may  suffer the accused person to go at large, or may commit him to prison, or may  release him, upon his entering into a recognizance, with or without sureties, at  the discretion of the court, conditioned for his appearance at the time and  place to which such hearing or further hearing shall be adjourned:Adjournment  Provided that no such adjournment shall be for more than thirty clear days, or,  if the accused person has been committed to prison, for more than fifteen clear  days, the day following that on which the adjournment is made being counted as  the first day.  (As amended by No. 5 of 1962)  203. (1) If, at the time or place to which the hearing or further hearing  shall be adjourned, the accused person shall not appear before the court which  shall have made the order of adjournment, it shall be lawful for such court,  unless the accused person is charged with felony, to proceed with the hearing or  further hearing, as if the accused were present, and, if the complainant shall  not appear, the court may dismiss the charge, with or without costs, as the  court shall think fit.Non-appearance of parties after adjournment  (2) If the court convicts the accused person in his absence, it may set aside  such conviction, upon being satisfied that the cause of his absence was  reasonable, and that he had a reasonable defence on the merits.  (3) Any sentence passed under subsection (1) shall be deemed to commence from  the date of apprehension subsequent to judgment, and the person effecting such  apprehension shall endorse the date thereof on the back of the warrant of  commitment.  (4) If the accused person who has not appeared as aforesaid is charged with  felony, or if the court, in its discretion, refrains from convicting the accused  in his absence, the court shall issue a warrant for the apprehension of the  accused person and cause him to be brought before the court.  204. (1) The substance of the charge or complaint shall be stated to the  accused person by the court, and he shall be asked whether he admits or denies  the truth of the charge:Accused to be called upon to plead  Provided that where the charge or complaint contains a count charging the  accused person with having been previously convicted of any offence, the  procedure prescribed by section two hundred and seventy-five shall, mutatis  mutandis, be applied.  (2) If the accused person admits the truth of the charge, his admission shall  be recorded, as nearly as possible, in the words used by him, and the court  shall convict him and pass sentence upon or make an order against him, unless  there shall appear to it sufficient cause to the contrary.  (3) If the accused person does not admit the truth of the charge, the court  shall proceed to hear the case as hereinafter provided.  (4) If the accused person refuses to plead, the court shall order a plea of  "not guilty" to be entered for him.  (As amended by No. 50 of 1957)  205. (1) If the accused person does not admit the truth of the charge, the  court shall proceed to hear the complainant and his witnesses and other  evidence, if any.Procedure on plea of "not guilty"  (2) The accused person or his advocate may put questions to each witness  produced against him.  (3) If the accused person does not employ an advocate, the court shall, at the  close of the examination of each witness for the prosecution, ask the accused  person whether he wishes to put any questions to that witness, and shall record  his answer.  206. If, at the close of the evidence in support of the charge, it appears to  the court that a case is not made out against the accused person sufficiently to  require him to make a defence, the court shall dismiss the case, and shall  forthwith acquit him.  (As amended by No. 2 of 1960)Acquittal  207. (1) At the close of the evidence in support of the charge, if it appears  to the court that a case is made out against the accused person sufficiently to  require him to make a defence, the court shall again explain the substance of  the charge to the accused and shall inform him that he has the right to give  evidence on his own behalf and that, if he does so, he will be liable to  cross-examination, or to make a statement not on oath from the dock, and shall  ask him whether he has any witnesses to examine or other evidence to adduce in  his defence, and the court shall then hear the accused and his witnesses and  other evidence, if any.The defence  (2) If the accused person states that he has witnesses to call, but that they  are not present in court, and the court is satisfied that the absence of such  witnesses is not due to any fault or neglect of the accused person, and that  there is likelihood that they could, if present, give material evidence on  behalf of the accused person, the court may adjourn the trial and issue process,  or take other steps, to compel the attendance of such witnesses.  (As amended by No. 28 of 1940 and No. 5 of 1962)  208. Unless the only witness to the facts of the case called by the defence  is the accused, the accused person or his advocate may then open his case,  stating the facts or law on which he intends to rely, and making such comments  as he thinks necessary on the evidence for the prosecution. If an accused person  wishes to give evidence or to make an unsworn statement on his own behalf, he  shall do so first, and thereafter he or his advocate may examine his witnesses,  and, after their cross-examination and re-examination, if any, may sum up his  case.  (No. 16 of 1959 as amended by No. 6 of 1972)Defence  209. (1) If the only witness to the facts of the case called by the defence is  the accused, or if the accused elects to make an unsworn statement without  calling any witnesses, the accused shall forthwith give his evidence or make his  unsworn statement, as the case may be.Procedure where defence calls no witnesses  other than accused  (2) At the conclusion of such evidence or unsworn statement, the prosecutor  shall then have the right to sum up the case against the accused.  (3) The court shall then call on the accused person personally or by his  advocate to address the court on his behalf.  (No. 16 of 1959)  210. If the accused person adduces evidence in his defence introducing new  matter which the advocate for the prosecution could not by the exercise of  reasonable diligence have foreseen, the court may allow the advocate for the  prosecution to adduce evidence in reply to contradict the said matter.  (No. 16 of 1959)Evidence reply  211. If the accused person, or any one of several accused persons, adduces  any evidence through any witness other than himself, the prosecutor shall be  entitled to reply.  (No. 16 of 1959)Prosecutors reply  212. If the accused person says that he does not mean to give or adduce  evidence or make an unsworn statement, and the court considers that there is  evidence that he committed the offence, the advocate for the prosecution may  then sum up the case against the accused person, and the court shall then call  upon the accused person personally or by his advocate to addres the court on his  own behalf.  (No. 16 of 1959)Where the accused person does not give evidence or make unsworn  statement  213. (1) Where, at any stage of a trial before the accused is required to make  his defence, it appears to the court that the charge is defective either in  substance or in form, the court may, save as in section two hundred and six  otherwise provided, make such order for the alteration of the charge, either by  way of amendment of the charge or by the substitution or addition of a new  charge, as the court thinks necessary to meet the circumstances of the  case:Variance between charge and evidence and amendment of charge  Provided that, where a charge is altered under this subsection-  (i) the court shall thereupon call upon the accused person to plead to the  altered charge;  (ii) the accused may demand that the witnesses, or any of them, be recalled  and give their evidence afresh or be further cross-examined by the accused or  his advocate and, in such last-mentioned event, the prosecution shall have the  right to re-examine any such witness on matters arising out of such further  cross-examination.  (2) Variance between the charge and the evidence adduced in support of it with  respect to the time at which the alleged offence was committed is not material  and the charge need not be amended for such variance if it is proved that the  proceedings were in fact instituted within the time (if any) limited by law for  the institution thereof.  (3) Where an alteration of a charge is made under subsection (1) or there is a  variance between the charge and the evidence as described in subsection (2), the  court shall, if it is of the opinion that the accused has been thereby misled or  deceived, adjourn the trial for such period as may be reasonably necessary.  (No. 28 of 1940 as amended by No. 76 of 1965)  214. The court, having heard both the complainant and the accused person and  their witnesses and evidence, shall either convict the accused and pass sentence  upon or make an order against him, according to law, or shall acquit him.  (As amended by No. 28 of 1940)The decision  215. The conviction or order may, if required, be afterwards drawn up, and  shall be signed by the court making the conviction or order, or by the clerk or  other officer of the court.Drawing up of conviction or order  216. The production of a copy of an order of acquittal, certified by the  clerk or other officer of the court, shall, unless the acquittal has been set  aside by a competent court, without other proof, be a bar to any subsequent  information or complaint for the same matter against the same accused person.  (As amended by No. 2 of 1960)Order of acquittal bar to further proceedings  217. (1) Where, on the trial by a subordinate court of an offence, a person  who is of not less than the apparent age of seventeen years is convicted of the  offence, and the court is of opinion that his character and antecedents are such  that greater punishment should be inflicted for the offence than that court has  power to inflict, or if it appears to the court that the offence is one in  respect whereof a mandatory minimum punishment is provided by law which is  greater than that court has power to inflict, it may, after recording its  reasons in writing on the record of the case, commit such person to the High  Court for sentence, instead of dealing with him in any other manner in which it  has power to deal with him.Committal to High Court for sentence  (2) For the purposes of this section, the aggregate of consecutive sentences  which might be imposed by the subordinate court upon any person in respect of  convictions for other offences joined in the charge of the offence referred to  in subsection (1) shall be deemed to be the sentence which could be imposed for  such last-mentioned offence.  (No. 26 of 1956 as amended by No. 2 of 1960,  12 of 1973 and 28 of 1979)  218. (1) In any case where a subordinate court commits a person for sentence  under the provisions of section two hundred and seventeen, the subordinate court  shall forthwith send a copy of the record of the case to the High  Court.Procedure on committal for sentence  (2) Any person committed to the High Court for sentence shall be brought before  the High Court at the first convenient opportunity.  (3) When any person is brought before the High Court in accordance with the  provisions of subsection (2), the High Court shall proceed as if he had been  convicted on trial by the High Court.  (As amended by no 26 of 1956, 16 of 1959, 2 of 1960,  5 of 1962 and Act 12 of 1973)  Limitations and Exceptions Relating to Trials before  Subordinate Courts  219. Except where a longer time is specially allowed by law, no offence, the  maximum punishment for which does not exceed imprisonment for six months and/or  a fine of one thousand and five hundred penalty units, shall be triable by a  subordinate court, unless the charge or complaint relating to it is laid within  twelve months from the time when the matter of such charge or complaint arose.  (As amended by Act No. 13 of 1994)Limitation of time for summary trials in  certain cases  220. (1) If, before or during the course of a trial before a subordinate  court, it appears to the magistrate that the case is one which ought to be tried  by the High Court or if, before the commencement of the trial, an application in  that behalf is made by a public prosecutor acting on the instructions of the  Director of Public Prosecutions that it shall be so tried, the magistrate shall  not proceed with the trial but in lieu thereof he shall hold a preliminary  inquiry in accordance with the provisions hereinafter contained, and in such  case the provisions of section two hundred and thirty-two shall not  apply.Procedure in case of offence unsuitable for summary trial  (2) Where, in the course of a trial, the magistrate has stopped the proceedings  under the provisions of subsection (1), it shall, in the case of any witness  whose statement has already been taken, be sufficient compliance with the  provisions of section two hundred and twenty-four if the statement is read over  to the witness and is signed by him and by the magistrate:  Provided that the accused person shall, if he so wishes, be entitled to a  further opportunity for cross-examining such witness.  (No. 2 of 1960 as amended by S.I. No. 63 of 1964)  221. (1) When any person is summoned to appear before a subordinate court or  is arrested or informed by a police officer that proceedings will be instituted  against him, then-Payment by accused persons of fines which may be imposed for  minor offences without appearing in court  (a) if the offence in respect of which the summons is issued, the arrest made  or the proceedings are to be instituted is punishable by-  (i) a fine not exceeding one thousand and five hundred penalty units or  imprisonment in default of payment of such fine; or  (ii) a fine not exceeding one thousand and five hundred penalty units or  imprisonment not exceeding six months; or  (iii) a fine not exceeding one thousand and five hundred penalty units or  imprisonment not exceeding six months, or both;  or is an offence specified by the Chief Justice, by statutory notice, as been an  offence to which the provisions of this section shall apply; and  (b) if such person has been served with a concise statement, in such form as  may be prescribed by the Chief Justice, of the facts constituting and relating  to the offence in respect of which the summons is issued, the arrest made or the  proceedings are to be instituted;  such person may, before appearing in court to answer the charge against him,  sign and deliver to the prescribed officer a document, in such form as may be  prescribed by the Chief Justice (in this section called an "Admission of Guilt  Form") admitting that he is guilty of the offence charged; and  (c) if such person forthwith-  (i) deposits with the prescribed officer the maximum amount of the fine which  may be imposed by the court or such lesser sum as may be fixed by such officer;  or  (ii) furnishes to the prescribed officer such security, by way of deposit of  property, as may be approved by such officer for the payment within one month of  any fine which may be imposed by the court;  such person shall not be required to appear in court to answer the charge made  against him unless the court, for reasons to be recorded in writing, shall  otherwise order. The appearance in court of such person may be enforced by  summons, or if necessary, by warrant.  (2) A copy of the aforesaid concise statement of facts and the Admission of  Guilt Form signed and delivered as aforesaid shall forthwith be transmitted by  the prescribed officer to the court before which such person would otherwise  have been required to appear and may be entered by the court in the court  records.  (3) A person who has signed and delivered an Admission of Guilt Form may, at  any time before the fixed day, transmit to the clerk of the court-  (a) an intimation in writing purporting to be given by him or on his behalf  that he wishes to withdraw the Admission of Guilt Form aforesaid; or  (b) in writing, any submission which he wishes to be brought to the attention  of the court with a view to mitigation of sentence.  (4) On receipt of an intimation of withdrawal transmitted under the provisions  of subsection (3), the clerk of the court shall forthwith inform the prosecutor  thereof.  (5) On the fixed day the court may adjourn the hearing in accordance with the  provisions of this Code or may proceed to hear and dispose of the case in open  court in accordance with such one of the following procedures as is appropriate:  (a) If the accused person has not withdrawn the Admission of Guilt Form  aforesaid, the court shall cause the charge as stated therein and the statement  of facts aforesaid and any written submission in mitigation received in  accordance with the provisions of subsection (3) to be read out in court and  shall then proceed to judgment in accordance with law as if such person had  appeared and pleaded guilty:  Provided that the accused person, or his advocate, if no submission in  mitigation as aforesaid has been received by the clerk of court, shall be  entitled to address the court in mitigation before sentence is passed on him.  (b) If the accused person has withdrawn the admission of guilt and appears in  court, the court shall immediately, or after any such adjournment as the court  may think fit, try the offence alleged to have been committed, in accordance  with the provisions of this Code as if this section had not been passed.  (c) If the accused person has withdrawn his admission of guilt and does not  appear in court, the court shall thereupon issue a summons commanding the  attendance of the accused person before the court, which shall, on the date  stated on the summons, inquire into and try the offence alleged to have been  committed, in accordance with the provisions of this Code as if this section had  not been passed.  (6) On the trial of an accused person who has withdrawn his admission of guilt,  the court shall not permit any evidence to be led or any cross-examination of  such accused person in any way relating to his Admission of Guilt Form.  (7) (a) If payment of the fine imposed has not been made in accordance with  the terms of the security given under paragraph (c) (ii) of subsection (1), the  property so deposited may be sold and the fine paid out of the proceeds of such  sale.  (b) If the sum of money deposited under paragraph (c) (i) of subsection (1)  or the proceeds of a sale of property effected under paragraph (a) of this  subsection be not sufficient to pay the fine imposed the balance of the fine  remaining due shall be recovered from the convicted person in the manner  provided by section three hundred and eight.  (c) Any balance remaining of the sum of money deposited under paragraph (c)  (i) of subsection (1) or of the proceeds of a sale of property effected under  paragraph (a) of this subsection after the deduction of the amount of any fine  imposed shall be paid over to the accused person, and, in any case where no fine  is imposed, the whole of such sum shall be paid over or the property deposited  shall be returned to the accused person.  (d) Where an accused person in respect of whom a summons has been issued in  accordance with paragraph (c) of subsection (5) is not found and is not served  with the summons as aforesaid within twenty-eight days from the date of issue of  the summons, the court shall, upon the application of the person having custody  of the money or security deposited, order the sum of money deposited under  paragraph (c) (i) of subsection (1) or the property deposited by way of security  under paragraph (c) (ii) of subsection (1) to be forfeited and, in the case of  property deposited as aforesaid, to be sold.  (8) For the purposes of this section, the "prescribed officer" shall be any  police officer of or above the rank of Sub-Inspector and "fixed day" means the  day stated in the Admission of Guilt Form for the appearance of the accused  before the court.  (9) (a) Subject to the provisions of paragraph (b), no punishment other than a  fine shall be imposed on any person convicted under this section.  (b) Where an accused person is, under the provisions of this section,  convicted of an offence under the Roads and Road Traffic Act, the court may, in  addition to any fine imposed, exercise the powers of suspension, cancellation,  disqualifying and endorsement conferred upon courts by the said Act.Cap. 464  (c) Any fee paid into court, under paragraph (b), as a fine, in respect of a  road traffic offence under the Roads and Road Traffic Act, shall be paid into  the general revenues of the Republic.Cap. 464  (10) The provisions of this section shall not apply-  (a) where the accused person is a juvenile within the meaning of the  Juveniles Act; orCap. 53  (b) in respect of such offences or classes of offence as the Chief Justice  may specify by statutory notice.  (No. 16 of 1959 as amended by No. 2 of 1960, No. 27 of 1964,  No. 6 of 1972, Act No. 13 of 1994 and Act No. 5 of 1997)  PART VII PROVISIONS RELATING TO THE COMMITTAL OF ACCUSED PERSONS FOR TRIAL  BEFORE THE HIGH COURT PART VII  PROVISIONS RELATING TO THE COMMITTAL OF ACCUSED PERSONS FOR TRIAL BEFORE THE  HIGH COURT  Preliminary Inquiry by Subordinate Courts  222. Any magistrate empowered to hold a subordinate court of the first,  second or third class may commit any person for trial to the High Court.Power to  commit for trial  223. (1) Whenever any charge has been brought against any person of an offence  not triable by a subordinate court, or as to which the High Court has given an  order or direction under section ten or eleven, or as to which the subordinate  court is of opinion that it is not suitable to be disposed of upon summary  trial, a preliminary inquiry shall be held, according to the provisions  hereinafter contained, by a subordinate court, locally and otherwise  competent.Court to hold preliminary inquiry  (2) Notwithstanding anything to the contrary contained in this Code or any  other written law, any person who could have been joined in one charge under  section one hundred and twenty-seven B with a person who has been committed to  the High Court for trial, but was not so joined, may be joined in an information  by the Director of Public Prosecutions-  (a) if such person could not be found before the completion of the  preliminary inquiry held under this Part; or  (b) it is discovered after the completion of the preliminary inquiry that  such person could have been joined in the charge brought against the person so  committed.  (3) A copy of the information referred to in subsection (3) signed by the  Director of Public Prosecutions shall be sufficient authority for any  subordinate court before which such other person or persons appear or have  appeared to discontinue any proceedings in respect of such person and to either  admit them to bail or send them to prison for safe-keeping until the trial  before the High Court.  (4) Where any person has been joined in an information under subsection (3) the  prosecution shall, not less than twenty-one clear days before the date fixed for  trial of the case, furnish to him or to his legal practitioner-  (a) if his co-accused was committed under section two hundred and nine, a  copy of the depositions taken in respect of his co-accused together with a copy  of the statements of any additional evidence which it is intended to adduce at  the trial whether from witnesses who appeared at the preliminary inquiry or from  further witnesses;  (b) if his co-accused was committed under section two hundred and thirty-one  C, a list of the persons whom it is intended to call as witnesses for the  prosecution at the trial and a statement of the evidence of each witness which  it is intended to adduce at the trial;  (c) in either of the cases mentioned in paragraph (a) or (b), and if so  requested, a translation of the depositions or statements in a language which  such person appears to understand:  Provided that the Court may, upon such conditions as it may determine,  permit the prosecution to call a witness, whose name does not appear as a  deponent or witness, to give evidence.  (As amended by Act No. 6 of 1972)  224. (1) When the accused person charged with an offence referred to in the  last preceding section comes before a subordinate court, on summons or warrant  or otherwise, the court shall cause the charge to be read over to the accused  person, and shall, in his presence, take down in writing, or cause to be so  taken down, the statements on oath of those who know the facts and circumstances  of the case. Statements of witnesses so taken down in writing are termed  depositions.Depositions  (2) The accused person may put questions to each witness produced against him,  and the answer of the witness thereto shall form part of such witnesss  depositions.  (3) If the accused person does not employ an advocate, the court shall, at the  close of the examination of each witness for the prosecution, as the accused  person whether he wishes to put any questions to that witness.  (4) The deposition of each witness shall be read over to such witness, and  shall be signed by him and by the magistrate holding the inquiry.  225. At any preliminary inquiry under this Part, any document, purporting to  be a report under the hand of a medical officer or a Government analyst upon any  examination or analysis carried out by him, shall, if it bears his signature, be  admitted in evidence, unless the court shall have reason to doubt the  genuineness of such signature.How certain documents proved  226. No objection to a charge, summons or warrant for defect in substance or  in form, or for variance between it and the evidence of the prosecution, shall  be allowed; but, if any variance appears to the court to be such that the  accused person has been thereby deceived or misled, the court may, on the  application of the accused person, adjourn the inquiry, and allow any witness to  be recalled, and such questions to be put to him as, by reason of the terms of  the charge, may have been omitted.Variance between evidence and charge  227. (1) If, from the absence of witnesses or any other reasonable cause, to  be recorded in the proceedings, the court considers it necessary or advisable to  adjourn the inquiry, the court may, from time to time, by warrant, remand the  accused for a reasonable time, not exceeding fifteen days at any one time, to  some prison or other place of security. Or, if the remand is for not more than  three days, the court may, by word of mouth, order the officer or person in  whose custody the accused person is, or any other fit officer or person, to  continue to keep the accused in his custody, and to bring him up at the time  appointed for the commencement or continuance of the inquiry.Remand  (2) During a remand the court may, at any time, order the accused to be brought  before it.  (3) The court may, on a remand, admit the accused to bail.  228. (1) If, after examination of the witnesses called on behalf of the  prosecution, the court considers that, on the evidence as it stands, there are  sufficient grounds for committing the accused for trial, the magistrate shall  frame a charge under his hand declaring with what offence or offences the  accused is charged and shall read 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 on in another court and  before another Judge, where all the witnesses you have heard here will be  produced and you will be allowed to question them. You will then be able to make  any statement you may wish or to give evidence on oath and to call any witnesses  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 may 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."Provisions as to  taking statement or evidence of accused person  (2) Before the accused person makes any statement in answer to the charge, or  gives evidence, as the case may be, the magistrate shall 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 the promise  or threat.  (  3) Everything which the accused person says, either by way of statement or  evidence, shall be recorded in full and shall be shown or read over to him, and  he shall be at liberty to explain or add to anything contained in the record  thereof.  (4) When the whole is made conformable to what he declares is the truth, the  record thereof shall be attested by the magistrate, who shall certify that such  statement or evidence was taken in his presence and hearing and contains  accurately the whole statement made, or evidence given, as the case may be, by  the accused person. The accused person shall sign or attest by his mark such  record. If he refuses, the court shall add a note of his refusal, and the record  may be used as if he had signed or attested it.  (No. 28 of 1940)  229. (1) Immediately after complying with the requirements of the preceding  section relating to the statement or evidence of the accused person, and whether  the accused person has or has not made a statement or given evidence, the court  shall ask him whether he desires to call witnesses on his own behalf.Evidence  and address in defence  (2) The court shall take the evidence of any witnesses called by the accused  person in like manner as in the case of the witnesses for the prosecution, and  every such witness, not being merely a witness to the character of the accused  person, shall, if the court be of opinion that his evidence is in any way  material to the case, be bound by recognizance to appear and give evidence at  the trial of such accused person.  (3) If the accused person states that he has witnesses to call, but that they  are not present in court, and the court is satisfied that the absence of such  witnesses is not due to any fault or neglect of the accused person, and that  there is a likelihood that they could, if present, give material evidence on  behalf of the accused person, the court may adjourn the inquiry and issue  process, or take other steps, to compel the attendance of such witnesses and, on  their attendance, shall take their depositions and bind them by recognizance in  the same manner as witnesses under subsection (2).  (4) (a) In any preliminary inquiry under this Part the accused person or his  advocate shall be at liberty to address the court-  (i) after the examination of the witnesses called on behalf of the  prosecution;  (ii) if no witnesses for the defence are to be called, immediately after the  statement or evidence of the accused person;  (iii) if the accused person elects-  A. to give evidence or to make a statement and witnesses for the defence are  to be called; or  B. not to give evidence or to make a statement, but to call witnesses;  immediately after the evidence of such witnesses.  (b) If the accused person or his advocate addresses the court in accordance  with the provisions of sub-paragraph (i) or (iii) of paragraph (a), the  prosecution shall have the right of reply.  (5) Where the accused person reserves his defence, or at the conclusion of any  statement in answer to the charge, or evidence in defence, as the case may be,  the court shall ask him whether he intends to call witnesses at the trial, other  than those, if any, whose evidence has been taken under the provisions of this  section, and, if so, whether he desires to give their names and addresses so  that they may be summoned. The court shall thereupon record the names and  addresses of any such witnesses whom he may mention.  (No. 28 of 1940)  230. If, at the close of the case for the prosecution or after hearing any  evidence in defence, the court considers that the evidence against the accused  person is not sufficient to put him on his trial, the court shall forthwith  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:Discharge of accused person  Provided always that nothing contained in this section shall prevent the court  from either forthwith, or after such adjournment of the inquiry as may seem  expedient in the interests of justice, proceeding to investigate any other  charge upon which the accused person may have been summoned or otherwise brought  before it, or which, in the course of the charge so dismissed as aforesaid, it  may appear that the accused person has committed.  (No. 28 of 1940)  231. (1) If the court considers the evidence sufficient to put the accused  person on his trial, the court shall commit him for trial to the High Court and,  except in the case of a corporation, shall, until the trial, either admit him to  bail or send him to prison for safe-keeping. The warrant of such first-named  court shall be sufficient authority to the officer in charge of any prison  appointed for the custody of prisoners committed for trial, although out of the  jurisdiction of such court.Committal for trial  (2) The order of committal shall state that such person is committed for trial  to a Sessions of the High Court to be held in the Province in which such  subordinate court is situate.  (As amended by No. 76 of 1965 and No. 38 of 1969)  232. If, at the close of or during the inquiry, it shall appear to the  subordinate court that the offence is of such a nature that it may suitably be  dealt with under the powers possessed by the court, the court may, subject to  the provisions of Part VI, hear and finally determine the matter, and either  convict the accused person or dismiss the charge:Summary adjudication  Provided that, in every such case, the accused shall be entitled to have  recalled for cross-examination all witnesses for the prosecution whom he has not  already cross-examined.  233. (1) A subordinate court conducting a preliminary inquiry shall bind by  recognizance, with or without surety or sureties, as it may deem requisite, the  complainant and every witness, to appear in the event of the accused person  being committed for trial before the High Court, at such trial to give evidence,  and also to appear, if required, at any further examination concerning the  charge which may be held by direction of the Director of Public  Prosecutions.Complainant and witnesses to be bound over  (2) A recognizance under this section shall not be estreated unless the High  Court is satisfied that the person bound has been informed of the date of the  Sessions in which the accused person comes before the High Court for trial.  (No. 5 of 1962 as amended by S.I. No. 63 of 1964  and No. 38 of 1969)  234. If a person refuses to enter into the recognizance referred to in the  last preceding section, the court may commit him to prison or into the custody  of any officer of the court there to remain until after the trial, unless, in  the meantime, he enters into a recognizance. But, if afterwards, from want of  sufficient evidence or other cause, the accused is discharged, the court shall  order that the person imprisoned for so refusing be also discharged.Refusal to  be bound over  235. A person who has been committed for trial before the High Court shall be  entitled, at any time before the trial, to have a copy of the depositions, on  payment of a reasonable sum, not exceeding five ngwee for every hundred words,  or, if the court thinks fit, without payment. The court shall, at the time of  committing him for trial, inform the accused person of the effect of this  provision.Accused person entitled to copy of depositions  236. (1) Where any person, charged before a subordinate court with an offence  triable upon information before the High Court, is committed for trial, and it  appears to such subordinate court, after taking into account anything which may  be said with reference thereto by the accused or the prosecutor, that the  attendance at the trial of any witness who has been examined before it is  unnecessary, by reason of anything contained in any statement by the accused  person, or of the evidence of the witness being merely of a formal nature, the  subordinate court shall, if the witness has not already been bound over, bind  him over to attend the trial conditionally upon notice given to him and not  otherwise, or shall, if the witness has already been bound over, direct that he  shall be treated as having been bound over to attend only conditionally as  aforesaid, and shall transmit to the High Court a statement in writing of the  names, addresses and occupations of the witnesses who are, or who are to be  treated as having been, bound over to attend the trial conditionally.Binding  over of witnesses conditionally  (2) Where a witness has been, or is to be treated as having been, bound over  conditionally to attend the trial, the Director of Public Prosecutions or the  person committed for trial may give notice, at any time before the opening of  the Sessions of the High Court, to the committing subordinate court, and, at any  time thereafter, to the Registrar, that he desires the witness to attend at the  trial, and any such court or Registrar to whom any such notice is given shall  forthwith notify the witness that he is required so to attend in pursuance of  his recognizance. The subordinate court shall, on committing the accused person  for trial, inform him of his right to require the attendance at the trial of any  such witness as aforesaid, and of the steps which he must take for the purpose  of enforcing such attendance.  (3) Any documents or articles produced in evidence before the subordinate court  by any witness whose attendance at the trial is stated to be unnecessary, in  accordance with the provisions of this section, and marked as exhibits shall,  unless, in any particular case, the subordinate court otherwise orders, be  retained by the subordinate court and forwarded with the depositions to the  Registrar.  (As amended by No. 28 of 1940 and S.I. No. 63 of 1964)  Preservation of Testimony in Certain Cases  237. Whenever it appears to any magistrate that any person dangerously ill or  hurt and not likely to recover is able and willing to give material evidence  relating to any offence triable by the High Court, and it shall not be  practicable to take the deposition, in accordance with the provisions of this  Code, of the person so ill or hurt, such magistrate may take in and shall  subscribe the same, and certify that it contains accurately the whole of the  statement made by such person, and shall add a statement of his reason for  taking the same, and of the date and place when and where the same was taken,  and shall preserve such statement and file it for record.Taking the depositions  of persons dangerously ill  238. If the statement relates or is expected to relate to an offence for  which any person is under a charge or committal for trial, reasonable notice of  the intention to take the same shall be given to the prosecutor and the accused  person, and, if the accused person is in custody, he may, and shall, if he so  requests, be brought by the person in whose charge he is, under an order in  writing of the magistrate, to the place where the statement is to be taken.  (As amended by No. 24 of 1950)Notice to be given  239. If the statement relates to an offence for which any person is then or  subsequently committed for trial, it shall be transmitted to the Registrar, and  a copy thereof shall be transmitted to the Director of Public Prosecutions  (As amended by S.I. No. 63 of 1964)Transmission of statement  240. Such statement, so taken, may afterwards be used in evidence on the  trial of any person accused of an offence to which the same relates, if the  person who made the statement be dead, or if the court is satisfied that, for  any sufficient cause, his attendance cannot be procured, and if reasonable  notice of the intention to take such statement was given to the person (whether  prosecutor or accused person) against whom it is proposed to be read in  evidence, and he had or might have had, if he had chosen to be present, full  opportunity of cross-examining the person making the same.  (As amended by No.24 of 1950)Use of statement in evidence  Proceedings after Committal for Trial  241. In the event of a committal for trial, the written charge, the  depositions, the statement of the accused person, the recognizances of the  complainant and of the witnesses, the recognizances of bail (if any) and all  documents or things which have been tendered or put in evidence shall be  transmitted without delay by the committing court to the Registrar, and an  authenticated copy of the depositions and statement aforesaid shall be also  transmitted to the Director of Public Prosecutions.  (As amended by S.I. No. 63 of 1964)Transmission of records to High Court and  Director of Public Prosecutions  242. If, after receipt of the authenticated copy of the depostions and  statement provided for by the last preceding section, and before the trial  before the High Court, the Director of Public Prosecutions shall be of opinion  that further investigation is required before such trial, it shall be lawful for  the Director of Public Prosecutions to direct that the original depositions be  remitted to the court which committed the accused person for trial, and such  court may, thereupon, reopen the case and deal with it, in all respects, as if  such person had not been committed for trial as aforesaid; and, if the case be  one which may suitably be dealt with under the powers possessed by such court,  it may, if thought expedient by the court, or if the Director of Public  Prosecutions so directs, be so tried and determined accordingly.  (As amended by S.I. No. 63 of 1964)Power of Director of Public Prosecutions to  direct further investigation  243. If, after receipt of the authenticated copy of the depositions and  statement as aforesaid and before the trial before the High Court, the Director  of Public Prosecutions shall be of opinion that there is, in any case committed  for trial, any material or necessary witness for the prosecution or the defence  who has not been bound over to give evidence on the trial of the case, the  Director of Public Prosecutions may require the subordinate court which  committed the accused person for trial to take the depositions of such witness  and compel his attendance either by summons or by warrant as herein before  provided.  (No. 28 of 1940 as amended by S.I. No. 63 of 1964.)Powers of Director of Public  Prosecutions as to additional witnesses  244. (1) If, before the trial before the High Court, the Director of Public  Prosecutions is of opinion, upon the record of the committal proceedings  received by him, that the case is one which may suitably be tried by a  subordinate court, he may cause the depositions to be returned to the court  which committed the accused, and thereupon the case shall be tried and  determined in the same manner as if such person had not been committed for  trial.Return of depositions with a view to summary trial  (2) Where depositions are returned under the provisions of subsection (1), the  Director of Public Prosecutions may direct that the person concerned shall be  tried on the charge in respect of which he was committed, if such charge is  within the competence of the subordinate court concerned, or upon such other  charge within such competence as the Director of Public Prosecutions may  specify.  (No. 28 of 1940 as amended by No. 23 of 1960  and S.I. No. 63 of 1964)  245. (1) If, after the receipt of the authenticated copy of the depositions as  aforesaid, the Director of Public Prosecutions shall be of the opinion that the  case is one which should be tried upon information before the High Court, an  information shall be drawn up in accordance with the provisions of this Code,  and, when signed by the Director of Public Prosecutions, shall be filed in the  registry of the High Court.Filing of information  (2) In such information the Director of Public Prosecutions may charge the  accused person with any offences which, in his opinion, are disclosed by the  depositions either in addition to, or in substitution for, the offences upon  which the accused person has been committed for trial.  (3) Notwithstanding anything to the contrary contained in this Code or any  other written law, any person who could have been joined in one charge under  section one hundred and thirty-six with a person who has been committed to the  High Court for trial, but was not so joined, may be joined in an information by  the Director of Public Prosecutions-  (a) if such person could not be found before the completion of the  preliminary inquiry held under this Part; or  (b) if it is discovered after the completion of the preliminary inquiry that  such person could have been joined in the charge brought against the person so  committed.  (4) A copy of the information referred to in subsection (3) signed by the  Director of Public Prosecutions shall be sufficient authority for any  subordinate court before which such other person or persons appear or have  appeared to discontinue any proceedings in respect of such persons and either to  admit them to bail or send them to prison for safe-keeping until the trial  before the High Court.  (  5) Where any person has been joined in an information under subsection (3) the  prosecution shall, not less than twenty-one clear days before the date fixed for  trial of the case, furnish to him or to his legal practitioner-  (a) if his co-accused was committed under section two hundred and thirty-one,  a copy of the depositions taken in respect of his co-accused together with a  copy of the statements of any additional evidence which it is intended to adduce  at the trial, whether from witnesses who appeared at the preliminary inquiry or  from further witnesses;  (b) if his co-accused was committed under section two hundred and fifty-five,  a list of the persons whom it is intended to call as witnesses for the  prosecution at the trial and a statement of the evidence of each witness which  it is intended to adduce at the trial;  (c) in either of the cases mentioned in paragraph (a) or (b), and if so  requested, a translation of the depositions or statements in a language which  such person appears to understand:  Provided that the High Court may, upon such conditions as it may determine,  permit the prosecution to call a witness, whose name does not appear as a  deponent or witness, to give evidence.  (As amended by No. 28 of 1940,  S.I. No. 63 of 1964 and No. 6 of 1972)  246. (1) The period within which the Director of Public Prosecutions may file  an information under the provisions of this Code shall be one month from the  date of receipt by him of the authenticated copy of the depositions and other  documents referred to in section two hundred and forty-one.Time in which  information to be filed  (2) The Director of Public Prosecutions shall inform the High Court and the  person committed of the date of receipt aforesaid.  (3) If the Director of Public Prosecutions has not within the period of one  month aforesaid exercised his powers under section two hundred and forty-two or  two hundred and forty-four or filed an information, the High Court may of its  own motion, and shall upon the application of the person committed, discharge  such person unless the High Court sees fit to extend the time for filing an  information.  (4) Where the High Court has extended the period for filing an information and  the Director of Public Prosecutions does not file an information within the  period so extended, the High Court may of its own motion, and shall upon the  application of the person committed, discharge such person.  (No. 38 of 1969)  247. The Registrar or the Clerk of Sessions appointed under subsection (3) of  section nineteen of the High Court Act shall endorse on or annex to every  information filed as aforesaid, and to every copy thereof delivered to the  officer of the court or police officer for service thereof, a notice of trial,  which notice shall specify the particular Sessions of the High Court at which  the accused person is to be tried on the said information, and shall be in the  following form, or as near thereto as may be:Notice of trial.  Cap. 27  "A.B.  Take notice that you will be tried on the information whereof this is a true  copy at the Sessions of the High Court to be held at ............ on the  ........... day of ............... 19 ....."  (As amended by No. 5 of 1962)  248. The Registrar shall deliver or cause to be delivered to the officer of  the court or police officer serving the information a copy thereof with the  notice of trial endorsed on the same or annexed thereto, and, if there are more  accused persons committed for trial than one, then as many copies as there are  such accused persons; and the officer of the court or police officer aforesaid  shall, as soon as may be after having received the copy or copies of the  information and notice or notices of trial, and three days at least before the  day specified therein for trial, by himself or his deputy or other officer,  deliver to the accused person or persons committed for trial the said copy or  copies of the information and notice or notices, and explain to him or them the  nature and exigency thereof; and, when any accused person shall have been  admitted to bail and cannot readily be found, he shall leave a copy of the said  information and notice of trial with someone of his household for him at his  dwelling-house, or with someone of his bail for him, and, if none such can be  found, shall affix the said copy and notice to the outer or principal door of  the dwellinghouse or dwelling-houses of the accused person or of any of his  bail:Copy of information and notice of trial to be served  Provided always that nothing herein contained shall prevent any person committed  for trial, and in custody at the opening of or during any Sessions of the High  Court, from being tried thereat, if he shall express his assent to be so tried  and no special objection be made thereto on the part of the Director of Public  Prosecutions.  (As amended by S.I. No. 63 of 1964)  249. The officer serving the copy or copies of the information and notice or  notices of trial shall forthwith make to the Registrar a return of the mode of  service thereof.Return of service  250. (1) It shall be lawful for the High Court, upon the application of the  prosecutor or the accused person if it considers that there is sufficient cause  for the delay, to postpone the trial of any accused person to the next Sessions  of the court held in the district, or at some other convenient place, or to a  subsequent Sessions, and to respite the recognizances of the complainant and  witnesses, in which case the respited recognizances shall have the same force  and effect as fresh recognizances to prosecute and give evidence at such  subsequent Sessions would have had.Postponement of trial  (2) The High Court may give such directions for the amendment of the  information and the service of any notices which the court may deem necessary in  consequence of any order made under subsection (1).  (As amended by No. 28 of 1940)  Rules as to Informations by the Director of Public Prosecutions  251. All informations drawn up in pursuance of section two hundred and  forty-five shall be in the name of and (subject to the provisions of section  eighty-two) signed by the Director of Public Prosecutions.  (As amended by S.I. No. 63 of 1964)Informations by Director of Public  Prosecutions  252. Every information shall bear date of the day when the same is signed,  and, with such modifications as shall be necessary to adapt it to the  circumstances of each case, may commence in the following form:Form of  information  In the High Court for Zambia  The day of 19  At the Sessions holden at on the day of , 19  , the Court is informed by the Director of Public Prosecutions on behalf  of the People that A.B. is charged with the following offence (or offences).  (As amended by S.I. No. 63 of 1964)  PART VIII SUMMARY COMMITTAL PROCEDURE FOR TRIAL OF ACCUSED PERSON BEFORE THE  HIGH COURT PART VIII  (No. 27 of 1964)  SUMMARY COMMITTAL PROCEDURE FOR TRIAL OF ACCUSED PERSON BEFORE THE HIGH COURT  253. In this Part, unless the context otherwise requires-Interpretation  "summary procedure case" means any case certified under the provisions of this  Part as a proper case for trial before the High Court after summary committal  procedure.  254. Notwithstanding anything contained in Part VII, in any case where a  person is charged with an offence not triable by a subordinate court, the  Director of Public Prosecutions may issue a certificate in writing that the case  is a proper one for trial by the High Court as a summary procedure case and such  case shall, upon production to a subordinate court of such certificate, be dealt  with by the subordinate court in accordance with the provisions of this Part.  (As amended by S.I. No. 63 of 1964)Certifying of case as a summary procedure  case  255. No such preliminary inquiry as is referred to in Part VII shall be held  in respect of any case in which the Director of Public Prosecutions has issued  and the prosecutor has produced to a subordinate court a certificate issued  under the provisions of section two hundred and fifty-four, but the subordinate  court before whom the accused person is brought shall, upon production of such  certificate, and whether or not a preliminary inquiry has already been  commenced, forthwith commit the accused person for trial before the High Court  upon such charge or charges as may be designated in the certificate.  (As amended by S.I. No. 63 of 1964)No preliminary inquiry in summary procedure  case  256. Upon the committal of the accused person for trial in a summary  procedure case, the record of the proceedings, including, in any case where a  preliminary inquiry has been commenced, any depositions taken and any exhibits  produced, shall be transmitted without delay by the committing court to the  Registrar, and an authenticated copy of the record shall also be transmitted to  the Director of Public Prosecutions.  (As amended by S.I. No. 63 of 1964)Record to be forwarded  257. (1) The Director of Public Prosecutions may, after receipt of the  authenticated copy of the record in a summary procedure case as aforesaid, draw  up and sign an information in accordance with the provisions of this Code, which  shall be filed in the Registry of the High Court.Filing of an information  (2) In such information the Director of Public Prosecutions may alter or  redraft the charge or charges against the accused person or frame an additional  charge or charges against him.  (3) The provisions of sections two hundred and forty-seven to two hundred and  fifty-two inclusive, shall apply mutatis mutandis to an information filed under  the provisions of this section as they do to an information filed under the  provisions of section two hundred and forty-five.  (As amended by S.I. No. 63 of 1964)  258. In every summary procedure case in which an information has been filed  under the provisions of section two hundred and fifty-seven, the prosecution  shall, not less than fourteen clear days before the date fixed for the trial of  the case, furnish to the accused person or his legal practitioner, if any, and  to the Registrar a list of the persons whom it is intended to call as witnesses  for the prosecution at the trial and a statement of the evidence of each witness  which it is intended to adduce at the trial:Statements, etc., to be supplied to  the accused  Provided that the Court may, upon such conditions as it may determine, permit  the prosecution to call a witness whose name does not appear on the said list,  to give evidence.  (As amended by Act 30 of 1976)  259. (1) The affidavit of a medical officer or other medical witness, attested  before a magistrate, may be read as evidence although the deponent is not called  as a witness.Affidavit of medical witness may be read as evidence  (2) The Court may, if it thinks fit, summon and examine such deponent as to the  subject-matter of his affidavit.  PART IX PROCEDURE IN TRIALS BEFORE THE HIGH COURT PART IX  PROCEDURE IN TRIALS BEFORE THE HIGH COURT  Practice and Mode of Trial  260. The practice of the High Court, in its criminal jurisdiction, shall be  assimilated, as nearly as circumstances will admit, to the practice of Her  Britannic Majestys High Court of Justice in its criminal jurisdiction and of  Courts of Oyer and Terminer and General Gaol Delivery in England.  (As amended by S.I. No. 63 of 1964)Practice of High Court in its criminal  jurisdiction  261. All trials before the High Court shall be held before a Judge sitting  alone, or before a Judge with the aid of assessors (if the presiding Judge so  decides), the number of whom shall be two or more as the court thinks fit.  List of AssessorsTrials before High Court  262. Magistrates shall, before the 1st March in each year, and subject to  such rules as the Chief Justice may, from time to time, prescribe, prepare lists  of suitable persons in their districts liable to serve as assessors.  (As amended by No. 2 of 1960  and S.I. No. 63 of 1964)Preparation of list of assessors  263. Subject to the exemptions in the next succeeding section contained, all  male persons between the ages of twenty-one and sixty shall be liable to serve  as assessors:Liability to serve  Provided that the Chief Justice may, from time to time, make rules regulating  the area within which a person may be summoned to serve.  (As amended by No. 2 of 1960)  264. The following persons are exempt from liability to serve as assessors,  save with their own consent, namely:  (a) all Government officers;  (b) Members of the National Assembly;  (c) persons actively discharging the duties of priests or ministers of their  respective religions:  (d) physicians, surgeons, dentists and apothecaries in actual practice;  (e) legal practitioners in actual practice;  (f) officers and others in the Defence Force on full pay;  (g) persons disabled by mental or bodily infirmity;  (h) persons exempted by the High Court.  (As amended by G.N. No. 303 of 1964  and S.I. No. 63 of 1964)Exemptions  265. (1) When the lists aforesaid have been prepared, extracts therefrom  containing the names of the persons liable to serve as assessors, residing in  each district, shall be posted for public inspection at the Court House of such  district.Publication of list  (2) To every such extract shall be subjoined a notice stating that objections  to the list will be heard and determined by a magistrate of the district, at a  time and place to be mentioned in such notice.  266. (1) Every magistrate shall, at the time and place mentioned in the notice  relating to his district, revise the list and hear the objections (if any) of  persons interested in the amendment thereof, and shall strike out the name of  any person not suitable, in his judgment, to serve as an assessor, or who may  establish his right to any exemption from service given by section two hundred  and sixty-four, and insert the name of any person omitted from the list whom he  deems qualified for such service.Revision of list  (2) A copy of the revised list shall be signed by the magistrate and sent to  the Registrar.  (3) Any order of the magistrate as aforesaid, in preparing and revising the  list, shall be final.  (4) Any exemption not claimed under this section shall be deemed to be waived,  until the list is next revised.  (5) The list, so prepared and revised, shall be again revised once in every  year.  (6) If any person suitable to serve as an assessor shall be found in any  district after the list has been settled, his name may be added to the list by a  magistrate of that district, and he shall be liable to serve.  Attendance of Assessors  267. (1) The Registrar shall ordinarily, seven days at least before the day  which from time to time may be fixed for holding a Sessions of the High Court,  send a letter to a magistrate of the district in which such Sessions are to be  held, requesting him to summon as many persons as seem to the Judge who is to  preside at the Sessions to be needed at the said Sessions.Summoning assessors  (2) The magistrate shall, thereupon, summon such number of assessors, excluding  those who have served within six months, unless the number cannot be made up  without them.  268. Every summons to an assessor shall be in writing, and shall require his  attendance at a time and place to be therein specified.Form of summons  269. The High Court may, for reasonable cause, excuse any assessor from  attendance at any particular Sessions, and may, if it shall think fit, at the  conclusion of any trial, direct that the assessors who have served at such trial  shall not be summoned to serve again for a period of twelve months.Excuses  270. (1) At each Sessions, the Registrar shall cause to be made a list of the  names of those who have attended as assessors at such Sessions, and such list  shall be kept with the list of the assessors as revised under section two  hundred and sixty-six.List of assessors attending  (2) A reference shall be made, in the margin of the said revised list, to each  of the names which are mentioned in the list prepared under this section.  (As amended by No. 5 of 1962)  271. (1) Any person summoned to attend as an assessor who, without lawful  excuse, fails to attend as required by the summons, or who, having attended,  departs without having obtained the permission of the High Court, or fails to  attend after adjournment of the court, after being ordered to attend, shall be  liable, by order of the High Court, to a fine not exceeding fifty kwacha.Penalty  for non-attendance of assessor  (2) Such punishment may be inflicted summarily, on an order to that effect, by  the High Court, and any fine imposed shall be recoverable by distress and sale  of the real and personal property of the person fined, by warrant of distress to  be signed by the Registrar; and such warrant shall be issued by the Registrar,  without further order of the High Court, if the fine is not paid within six days  of its having come to the knowledge of the person fined, by notice or otherwise,  that the fine has been imposed:  Provided that it shall be lawful for the High Court, if it shall see fit, to  remit any fine, or any portion of such fine, so imposed.  (3) The Registrar shall send notice of the imposition of such fine to any  person so fined in his absence, requiring him to pay the fine or to show cause  before the High Court, within four days, for not paying the same.  (4) In default of recovery of the fine by distress and sale, the person fined  may, by order of the High Court, be imprisoned for a term of twenty-one days, if  the fine be not sooner paid.  Arraignment  272. The accused person to be tried before the High Court, upon an  information, shall be placed at the bar unfettered, unless the court shall see  cause otherwise to order, and the information shall be read over to him by the  Registrar or other officer of the court, and explained, if need be, by that  officer, or interpreted by the interpreter of the court, and such accused person  shall be required to plead instantly thereto, unless, where the accused person  is entitled to service of a copy of the information, he shall object to the want  of such service, and the court shall find that he has not been duly served  therewith.Pleading to information  273. (1) Every objection to any information, for any formal defect on the face  thereof, shall be taken immediately after the information has been read over to  the accused person, and not later.Orders for amendment of information, separate  trial, and postponement of trial  (2) Where, before a trial upon information or at any stage of such trial, it  appears to the court that the information is defective, the court shall make  such order for the amendment of the information as the court thinks necessary to  meet the circumstances of the case, unless, having regard to the merits of the  case, the required amendments cannot be made without injustice. All such  amendments shall be made upon such terms as to the court shall seem just.  (3) Where an information is so amended, a note of the order for amendment shall  be endorsed on the information, and the information shall be treated, for the  purposes of all proceedings in connection therewith, as having been filed in the  amended form.  (4) Where, before a trial upon information or at any stage of such trial, the  court is of opinion that the accused may be prejudiced or embarrassed in his  defence, by reason of being charged with more than one offence in the same  information, or that, for any other reason, it is desirable to direct that the  accused should be tried separately for any one or more offences charged in an  information, the court may order a separate trial of any count or counts of such  information.  (5) Where, before a trial upon information or at any stage of such trial, the  court is of opinion that the postponement of the trial of the accused is  expedient, as a consequence of the exercise of any power of the court under this  Code, the court shall make such order as to the postponement of the trial as  appears necessary.  (6) Where an order of the court is made under this section for a separate trial  or for postponement of a trial-  (a) the court may order that the assessors are to be discharged from giving  opinions on the count or counts, the trial of which is postponed, or on the  information, as the case may be; and  (b) the procedure on the separate trial of a count shall be the same, in all  respects, as if the count had been found in a separate information, and the  procedure on the postponed trial shall be the same, in all respects (if the  assessors, if any, have been discharged), as if the trial had not commerced; and  (c) the court may make such order as to admitting the accused to bail, and as  to the enlargement of recognizances and otherwise, as the court thinks fit  (7) Any power of the court under this section shall be in addition to, and not  in derogation of, any other power of the court for the same or similar purposes.  274. If an information does not state, and cannot, by any amendment  authorised by the last preceding section, be made to state, any offence of which  the accused has had notice, 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.Quashing of information  275. Where an information contains a count charging an accused person with  having been previously convicted of any offence, the procedure shall be as  follows:  (a) The part of the information stating the previous conviction shall not be  read out in court, nor shall the accused be asked whether he has been previously  convicted as alleged in the information, unless and until he has either pleaded  guilty to or been convicted of the subsequent offence;  (b) If he pleads guilty to or is convicted of the subsequent offence, he  shall then be asked whether he has been previously convicted as alleged in the  information;  (c) If he answers that he has been so previously convicted, the Judge may  proceed to pass sentence on him accordingly; but, if he denies that he has been  so previously convicted, or refuses to or does not answer such question, the  court shall then hear evidence concerning such previous conviction:Procedure in  case of previous convictions  Provided, however, that if, upon the trial of any person for any such subsequent  offence, such person shall give evidence of his own good character, it shall be  lawful for the advocate for the prosecution, in answer thereto, to give evidence  of the conviction of such person for the previous offence or offences before he  is convicted of such subsequent offence, and the court shall inquire concerning  such previous conviction or convictions at the same time that it inquires  concerning such subsequent offence.  276. Every accused person, upon being arraigned upon any information, by  pleading generally thereto the plea of "not guilty", shall, without further  form, be deemed to have put himself upon his trial.Plea of "not guilty"  277. (1) Any accused person against whom an information is filed may  plead-Plea of autrefois acquit and autrefois convict  (a) that he has been previously convicted or acquitted, as the case may be,  of the same offence; or  (b) that he has been granted a pardon for his offence.  (2) If either of such pleas are pleaded in any case and denied to be true in  fact, the court shall try whether such plea is true in fact or not.  (3) If the court holds that the facts alleged by the accused do not prove the  plea, or if it finds that it is false in fact, the accused shall be required to  plead to the information.  (As amended by G.N. No. 303 of 1964)  278. If an accused person, being arraigned upon any information, stands mute  of malice, the court, if it thinks fit, shall order the Registrar or other  officer of the court to enter a plea of "not guilty" on behalf of such accused  person, and the plea so entered shall have the same force and effect as if such  accused person had actually pleaded the same.  (No. 11 of 1963)Refusal to plead  279. If the accused pleads "guilty", the plea shall be recorded and he may be  convicted thereon.Plea of "guilty"  280. If the accused pleads "not guilty", or if a plea of "not guilty" is  entered in accordance with the provisions of section two hundred and  seventy-eight, the court shall proceed to choose assessors, as hereinafter  directed (if the trial is to be held with assessors), and to try the  case:Proceedings after plea of "not guilty"  Provided that the same assessors may aid in the trial of as many accused persons  successively, as the court thinks fit.  281. (1) If, from the absence of witnesses or any other reasonable cause, to  be recorded in the proceedings, the court considers it necessary or advisable to  postpone the commencement of or to adjourn any trial, the court may, from time  to time, postpone or adjourn the same, on such terms as it thinks fit, for such  time as it considers reasonable, and may, by warrant, remand the accused to some  prison or other place of security.Power to postpone or adjourn proceedings  (2) During a remand the court may, at any time, order the accused to be brought  before it.  (3) The court may, on a remand, admit the accused to bail.  Selection of Assessors  282. When a trial is to be held with the aid of assessors, the court shall  select two or more from the list of those summoned to serve as assessors at the  Sessions, as it deems fit.Selection of assessors  283. (1) If, in the course of a trial with the aid of assessors, at any time  before the finding, any assessor is, from any sufficient cause, prevented from  attending throughout the trial, or absents himself, and it is not practicable  immediately to enforce his attendance, the trial shall proceed with the aid of  the other assessor or assessors.Absence of an assessor  (2) If two or more of the assessors are prevented from attending, or absent  themselves, the proceedings shall be stayed and a new trial shall be held with  the aid of fresh assessors.  284. If the trial is adjourned, the assessors shall be required to attend at  the adjourned sitting, and at any subsequent sitting, until the conclusion of  the trial.  Case for the ProsecutionAssessors to attend at adjourned sittings  285. When the assessors have been chosen (if the trial is before a Judge with  the aid of assessors), the advocate for the prosecution shall open the case  against the accused person, and shall call witnesses and adduce evidence in  support of the charge.Opening of case for prosecution  286. No witness who has not given evidence at the preliminary inquiry shall  be called by the prosecution at any trial, unless the accused person has  received reasonable notice in writing of the intention to call such witness. The  notice must state the witnesss name and address and the substance of the  evidence which he intends to give. The court shall determine what notice is  reasonable, regard being had to the time when and the circumstances under which  the prosecution became acquainted with the nature of the witnesss evidence and  determined to call him as a witness. No such notice need be given if the  prosecution first became aware of the evidence which the witness could give on  the day on which he is called.Additional witnesses for prosecution  287. The witnesses called for the prosecution shall be subject to  cross-examination by the accused person or his advocate, and to re-examination  by the advocate for the prosecution.Cross-examination of witnesses for  prosecution  288. (1) Where any person has been committed for trial for any offence, the  deposition of any person taken before the commiting subordinate court may, if  the conditions set out in subsection (2) are satisfied, without further proof,  be read as evidence on the trial of that person, whether for that offence or for  any other offence arising out of the same transaction or set of circumstances as  that offence.Depositions may be read as evidence in certain cases  (2) The conditions referred to in subsection (1) are the following:  (a) (i) The deposition must be the deposition either on a witness whose  attendance at the trial is stated to be unnecessary in accordance with the  provisions of section two hundred and thirty-six, of of a witness who is proved  at the trial by oath of a credible witness to be absent from Zambia, or dead or  insane, or so ill as not to be able to travel, or to be kept out of the way by  means of the procurement of the accused or on his behalf; or  (ii) the deposition must be the deposition of a witness who cannot be found  or is incapable of giving evidence, or of a witness whose presence cannot be  obtained without an amount of delay or expense which, in the circumstances of  the case, the court considers unreasonable:  Provided that, before any such deposition as is referred to in this  sub-paragraph is read, the court shall satisfy itself that the reading of such  deposition will not unduly prejudice the accused.  (b) It must be proved at the trial, either by a certificate purporting to be  signed by the magistrate of the subordinate court before whom the deposition  purports to have been taken, or by the clerk to such court, or by the oath of a  credible witness, that the deposition was taken in the presence of the accused,  and that the accused or his advocate had full opportunity of cross-examining the  witness.  (c) The deposition must purport to be signed by the magistrate of the  subordinate court before whom it purports to have been taken:  Provided that the provisions of this subsection shall not have effect in any  case in which it is proved-  (i) that the deposition, or, where the proof required by paragraph (b) is  given by means of a certificate, that the certificate was not in fact signed by  the magistrate by whom it purports to have been signed; or  (ii) where the deposition is that of a witness whose attendance at the trial  is stated to be unnecessary as aforesaid, that the witness has been duly  notified that he is required to attend the trial.  (As amended by No. 28 of 1940)  289. (1) The deposition of a medical officer or other medical witness, taken  and attested by a magistrate in the presence of the accused person, may be read  as evidence, although the deponent is not called as a witness.Deposition of  medical witness may be read as evidence  (2) The court may, if it thinks fit, summon and examine such deponent as to the  subject-matter of his deposition.  (No. 28 of 1940)  290. Any statement or evidence of the accused person duly certified by the  committing magistrate in the manner provided by subsection (4) of section two  hundred and twenty-eight may, whether signed by the accused person or not, be  given in evidence without further proof thereof, unless it is proved that the  magistrate purporting to certify the same did not in fact certify it.  (No. 28 of 1940)Statement or evidence of accused  291. (1) When the evidence of the witnesses for the prosecution has been  concluded, and the statement or evidence (if any) of the accused person before  the committing court has been given in evidence, the court, if it considers that  there is no evidence that the accused or any one of several accused committed  the offence shall, after hearing, if necessary, any arguments which the advocate  for the prosecution or the defence may desire to submit, record a finding.Close  of case for prosecution  (2) When the evidence of the witnesses for the prosecution has been concluded,  and the statement or evidence (if any) of the accused person before the  committing court has been given in evidence, the court, if it considers that  there is evidence that the accused person or any one or more of several accused  persons committed the offence, shall inform each such accused person, who is not  represented by an advocate, of his right to address the court, either personally  or by his advocate (if any), to give evidence on his own behalf, or to make an  unsworn statement, and to call witnesses in his defence, and in all cases shall  require him or his advocate (if any) to state whether it is intended to call any  witnesses as to fact other than the accused person himself. Upon being informed  thereof, the court shall record the same. If such accused person says that he  does not mean to give evidence or make an unsworn statement, or to adduce  evidence, then the advocate for the prosecution may sum up the case against such  accused person. If such accused person says that he means to give evidence or  make an unsworn statement, or to adduce evidence, the court shall call upon such  accused person to enter upon his defence.  (No. 28 of 1940 as amended by No. 50 of 1957)  Case for the Defence  292. Unless the only witness to the facts of the case called by the defence  is the accused, the accused person or his advocate may then open his case,  stating the facts or law on which he intends to rely, and making such comments  as he thinks necessary on the evidence for the prosecution. The accused person  may then give evidence on his own behalf, and he or his advocate may examine his  witnesses, and, after their cross-examination and re-examination (if any), may  sum up his case.The defence  293. The accused person shall be allowed to examine any witness not  previously bound over to give evidence at the trial, if such witness is in  attendance, but he shall not be entitled, as of right, to have any witness  summoned, other than the witnesses whom he named to the subordinate court  committing him for trial, as witnesses whom he desired to be summoned.Additional  witnesses for defence  294. If the accused person adduces evidence in his defence introducing new  matter which the advocate for the prosecution could not by the exercise of  reasonable diligence have foreseen, the court may allow the advocate for the  prosecution to adduce evidence in reply to contradict the said matter.  (No. 28 of 1940)Evidence in reply  295. If the accused person, or any one of several accused persons, adduces  any evidence through any witness other than himself, the prosecutor shall be  entitled to reply.  (As amended by No. 16 of 1959)Prosecutors reply  296. If the accused person says that he does not mean to give or adduce  evidence, and the court considers that there is evidence that he committed the  offence, the advocate for the prosecution may then sum up the case against the  accused person, and the court shall then call on the accused person personally  or by his advocate to address the court on his own behalf.  (As amended by No. 50 of 1957)Where accused person does not give evidence  Close of Hearing  297. (1) When the case on both sides is closed, the Judge may sum up the  evidence for the prosecution and the defence, and shall (if the trial is being  held with the aid of assessors) then require each of the assessors to state  orally his opinion whether the accused is guilty or not, and shall record such  opinion.Delivery of opinions by assessors  (2) The Judge shall then give judgment, but, in so doing, shall not be bound to  conform to the opinions of the assessors.  (3) If the accused person is convicted, the Judge shall pass sentence on him  according to law.  (4) Nothing in this section shall be read as prohibiting the assessors, or any  of them, from retiring to consider their opinions if they so wish or, during any  such retirement or at any time during the trial, from consultation with one  another.  (As amended by No. 28 of 1940)  Passing Sentence  298. (1) The accused person may, at any time before sentence, whether on his  plea of guilty or otherwise, move in arrest of judgment, on the ground that the  information does not, after any amendment which the court is willing 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 information.  299. If no motion in arrest of judgment is made, or if the court decides  against the accused person upon such motion, the court may sentence the accused  person at any time during the Sessions.Sentence  300. The court before which any person is tried for an offence may reserve  the giving of its final decision on questions raised at the trial, and its  decision, whenever given, shall be considered as given at the time of  trial.Power to reserve decision on question raised at trial  301. No judgment shall be stayed or reversed on the ground of any objection  which, if stated after the information was read over to the accused person, or  during the progress of the trial, might have been amended by the court, nor for  any informality in swearing the witnesses or any of them.Objections cured by  judgment  302. The court may, before passing sentence, receive such evidence as it  thinks fit, in order to inform itself as to the sentence proper to be  passed.Evidence for arriving at proper sentence  PART X SENTENCES AND THEIR EXECUTION PART X  SENTENCES AND THEIR EXECUTION  Sentence of Death  303. When any person is sentenced to death, the sentence shall direct that he  shall be hanged by the neck till he is dead.Sentence of death  304. A certificate, under the hand of the Registrar or the clerk of the  court, as the case may be, that sentence of death has been passed, and naming  the person condemned, shall be sufficient authority for the detention of such  person.Authority for detention  305. (1) As soon as conveniently may be after sentence of death has been  pronounced by the High Court, if no appeal from the sentence is preferred, or if  such appeal is preferred and dismissed, then as soon as conveniently may be  thereafter, the presiding Judge shall forward to the President a copy of the  notes of evidence taken on the trial, with a report in writing signed by him  containing any recommendation or observations on the case he may think fit to  make.Record and report to be sent to President  (2) In any case where a sentence of death passed by a subordinate court shall  be confirmed by the High Court, such subordinate court shall, on receipt of the  confirmation of such sentence, inform the convicted person that he may appeal to  the Court of Appeal as if he had been convicted on a trial before the High  Court, and, if he wishes to appeal, inform him that his appeal must be preferred  within fourteen days from the date on which he is given such information; and  where no appeal from such confirmation is preferred or, if preferred, is  dismissed by the Court of Appeal, then as soon as conveniently may be after the  expiration of the period of fourteen days as aforesaid or after the receipt of  the order of the Court of Appeal dismissing the appeal, as the case may be, the  Judge confirming the sentence shall transmit the record of the case or a  certified copy thereof to the President with a report in writing signed by him  containing any recommendation or observations on the case he may think fit to  make.  (3) After receiving the advice of the Advisory Committee on the Prerogative of  Mercy on the case, in accordance with the provisions of the Constitution, the  President shall communicate to the said Judge, or his successor in office, the  terms of any decision to which he may come thereon, and such Judge shall cause  the tenor and substance thereof to be entered in the records of the court.Cap. 1  (4) The President shall issue a death warrant, or an order for the sentence of  death to be commuted, or a pardon, under his hand and the seal of the Republic,  to give effect to the said decision. If the sentence of death is to be carried  out, the warrant shall state the place where and the time when execution is to  be had, and shall give directions as to the place of burial of the body of the  person executed. If the sentence is commuted for any other punishment, the order  shall specify that punishment. If the person sentenced is pardoned, the pardon  shall state whether it is free, or to what conditions (if any) it is subject:  Provided that the warrant may direct that the execution shall take place at such  time and at such place, and that the body of the person executed shall be buried  or cremated at such place, as shall be appointed by some officer specified in  the warrant.  (5) The warrant or order or pardon of the President shall be sufficient  authority in law to all persons to whom the same is directed to execute the  sentence of death or other punishment awarded, and to carry out the directions  therein given in accordance with the terms thereof.  (As amended by No. 14 of 1938, G.N. No. 303 of 1964  and S.I. No. 63 of 1964)  306. (1) Where a woman convicted of an offence punishable with death alleges  that she is pregnant, or where the court before which a woman is so convicted  thinks fit so to order, the question whether or not the woman is pregnant shall,  before sentence is passed on her, be determined by the court.Procedure where  woman convicted of capital offence alleges she is pregnant  (2) The question whether such woman is pregnant or not shall be determined by  the court on such evidence as may be laid before it either on the part of the  woman or on the part of the prosecution, and the court shall find that the woman  is not pregnant unless it is proved affirmatively to its satisfaction that she  is pregnant.  (3) Where, on proceedings under this section, a subordinate court finds that  the woman in question is not pregnant, the woman may appeal to the High Court,  and the High Court, if satisfied that for any reason the finding should be set  aside, shall quash the sentence passed on her and, in lieu thereof, pass on her  a sentence of imprisonment for life.  (As amended by No. 28 of 1940)  Other Sentences  307. A warrant under the hand of the Judge or magistrate by whom any person  shall be sentenced to imprisonment, ordering that the sentence shall be carried  out in any prison within Zambia, shall be issued by the sentencing Judge or  magistrate, and shall be full authority to the officer in charge of such prison  and to all other persons for carrying into effect the sentence described in such  warrant, not being a sentence of death.  (As amended by No. 28 of 1940 and No. 16 of 1959)Warrant in case of sentence of  imprisonment  308. (1) When a court orders money to be paid by an accused person or by a  prosecutor or complainant for fine, penalty, compensation, costs, expenses, or  otherwise, the money may be levied on the movable and immovable property of the  person ordered to pay the same, by distress and sale under warrant. If he shows  sufficient movable property to satisfy the order, his immovable property shall  not be sold.Warrant for levy of fine, etc.  (2) Such person may pay or tender to the officer having the execution of the  warrant the sum therein mentioned, together with the amount of the expenses of  the distress up to the time of payment or tender, and, thereupon, the officer  shall cease to execute the same.  (3) A warrant under this section may be executed within the local limits of the  jurisdiction of the court issuing the same, and it shall authorise the distress  and sale of any property belonging to such person without such limits, when  endorsed by a magistrate holding a subordinate court of the first or second  class within the local limits of whose jurisdiction such property was found.  309. (1) Any person claiming to be entitled to have a legal or equitable  interest in the whole or part of any property attached in execution of a warrant  issued under section three hundred and eight may, at any time prior to the  receipt by the court of the proceeds of sale of such property, give notice in  writing to the court of his objection to the attachment of such property. Such  notice shall set out shortly the nature of the claim which such person  (hereinafter in this section called "the objector") makes to the whole or part  of the property attached, and shall certify the value of the property claimed by  him. Such value shall be deposed to on affidavit which shall be filed with the  notice.Objections to attachment  (2) Upon receipt of a valid notice given under subsection (1), the court shall,  by an order in writing addressed to the officer having the execution of the  warrant, direct a stay of the execution proceedings.  (3) Upon the issue of an order under subsection (2), the court shall, by notice  in writing, direct the objector to appear before such court and establish his  claim upon a date to be specified in the notice.  (4) A notice shall be served upon the person whose property was, by the warrant  issued under section three hundred and eight, directed to be attached and,  unless the property is to be applied to the payment of a fine, upon the person  entitled to the proceeds of the sale of such property. Such notice shall specify  the time and place fixed for the appearance of the objector and shall direct the  person upon whom the notice is served to appear before the court at the same  time and place if he wishes to be heard upon the hearing of the objection.  (5) Upon the date fixed for the hearing of the objection, the court shall  investigate the claim and, for such purpose, may hear any evidence which the  objector may give or adduce and any evidence given or adduced by any person  served with a notice in accordance with subsection (4).  (6) If, upon investigation of the claim, the court is satisfied that the  property attached was not, when attached, in the possession of the person  ordered to pay the money or of some person in trust for him, or in the occupancy  of a tenant or other person paying rent to him, or that, being in the possession  of the person ordered to pay the money at such time, it was so in his possession  not on his own account or as his own property but on account of or in trust for  some other person, or partly on his own account and partly on account of some  other person, the court shall make an order releasing the property, wholly or to  such extent as it thinks fit, from attachment.  (7) If, upon the date fixed for his appearance, the objector fails to appear,  or if, upon investigation of the claim in accordance with subsection (5), the  court is of opinion that the objector has failed to establish his claim, the  court shall order the attachment and execution to proceed and shall make such  order as to costs as it deems proper.  (8) Nothing in this section shall be deemed to deprive a person who has failed  to comply with the requirements of subsection (1) of the right to take any other  proceedings which, apart from the provisions of this section, may lawfully be  taken by a person claiming an interest in property attached under a warrant.  (No. 28 of 1940)  310. (1) When a convicted person has been sentenced to a fine only and to  imprisonment in default of payment of that fine, and whether or not a warrant of  distress has been issued under section three hundred and eight, the court may,  if it is satisfied that such fine cannot be immediately paid, allow the  convicted person time to pay such fine.Suspension of execution of sentence of  imprisonment in default of fine  (2) When a court allows a convicted person time to pay a fine under this  section, it shall make a note to that effect on the record of the case.  (3) Where a convicted person is allowed time to pay a fine under this section,  no warrant of commitment to prison in respect of the non-payment of such fine  shall be issued until after the expiration of the time allowed for such payment.  (No. 5 of 1962)  311. If the officer having the execution of a warrant of distress reports  that he could find no property, or not sufficient property, whereon to levy the  money mentioned in the warrant with expenses, the court may, by the same or a  subsequent warrant, commit the person ordered to pay to prison, for a time  specified in the warrant, unless the money and all expenses of the distress,  commitment and conveyance to prison, to be specified in the warrant, are sooner  paid.Commitment for want of distress  312. When it appears to the court that distress and sale of property would be  ruinous to the person ordered to pay the money or to his family, or (by his  confession or otherwise) that he has no property whereon the distress may be  levied, or other sufficient reason appears to the court, the court may, if it  thinks fit, instead of or after issuing a warrant of distress, commit him to  prison for a time specified in the warrant, unless the money and all expenses of  the commitment and conveyance to prison, to be specified in the warrant, are  sooner paid.Commitment in lieu of distress  313. Any person committed for non-payment may pay the sum mentioned in the  warrant, with the amount of expenses therein authorised (if any), to the person  in whose custody he is, and that person shall, thereupon, discharge him, if he  is in custody for no other matter.Payment in full after commitment  314. (1) If any person committed to prison for non-payment shall pay any sum  in part satisfaction of the sum adjudged to be paid, the term of his  imprisonment shall be reduced by a number of days bearing, as nearly as  possible, the same proportion to the total number of days for which such person  is committed, as the sum so paid bears to the sum for which he is liable.Part  payment after commitment  (2) If any person committed to prison for default of sufficient distress shall  pay any sum in part satisfaction thereof, or if any part of the fine is levied  by process of law, whether before or subsequent to his commitment to prison, the  term of his imprisonment shall be reduced as in subsection (1) provided.  (3) The officer in charge of a prison in which a person is confined who is  desirous of taking advantage of the provisions of the preceding subsections  shall, on application being made to him by such prisoner, at once take him  before a court, and such court shall certify the amount by which the term of  imprisonment originally awarded is reduced by such payment in part satisfaction,  and shall make such order as is required in the circumstances.  315. Every warrant for the execution of any sentence may be issued either by  the Judge or magistrate who passed the sentence, or by his successor in  office.Who may issue warrant  316. No commitment for non-payment shall be for a longer period than nine  months, unless the written law under which the conviction has taken place  enjoins or allows a longer period.  Previously Convicted OffendersLimitation of imprisonment  317. (1) When any person, having been convicted of any offence punishable with  imprisonment for a term of three years or more, is again convicted of any  offence punishable with imprisonment for a term of three years or more, 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 his  release from prison.Person twice convicted may be subjected to police  supervision  (2) If such conviction is set aside on appeal or otherwise, such order shall  become void.  (3) An order under this section may be made by the High Court when exercising  its powers of revision.  (4) Every such order shall be stated in the warrant of commitment.  (As amended by No. 5 of 1962)  318. (1) Every person subject to police supervision shall, on discharge from  prison, be furnished by the prescribed officer with an identity book in the  prescribed form, and, while at large in Zambia, shall-Requirements from persons  subject to police supervision  (a) report himself personally at such intervals of time, at such place and to  such person, as shall be endorsed on his book; and  (b) notify his residential address, any intention to change his residential  address and any change thereof, in such manner and to such person as may be  prescribed by rules under this section.  (2) The President may, by statutory instrument, make rules for carrying out the  provisions of this section.  (As amended by No. 5 of 1962 and G.N. No. 303 of 1964)  319. If any person subject to police supervision who is at large in Zambia  refuses or neglects to comply with any requirement prescribed by the last  preceding section or by any rule made thereunder, such person shall, unless he  proves to the satisfaction of the court before which he is tried that he did his  best to act in conformity with the law, be guilty of an offence and liable to  imprisonment for a term not exceeding six months.  Defects in Order or WarrantFailure to comply with requirements under section 318  320. The court may, at any time, amend any defect in substance or in form in  any order or warrant, and no omission or error as to time or place, and no  defect in form in any order or warrant given under this Code, shall be held to  render void or unlawful any act done or intended to be done by virtue of such  order or warrant, provided that it is therein mentioned, or may be inferred  therefrom, that it is founded on a conviction or judgment, and there is a valid  conviction or judgment to sustain the same.Errors and omissions in orders and  warrants  PART XI APPEALS PART XI  APPEALS  321. (1) Any person convicted by a subordinate court may appeal to the High  Court-Appeals.  Cap. 27  (a) against his conviction on any ground of appeal which involves a question  of law alone; or  (b) against his conviction on any ground of appeal which involves a question  of fact alone, or a question of mixed law and fact; or  (c) against the sentence passed on his conviction, unless the sentence is one  fixed by law;  and shall be so informed by the magistrate at the time when sentence is passed.  (2) For the purposes of this Part "sentence" includes any order made on  conviction not being-  (a) a probation order or an order for conditional discharge;  (b) an order under any enactment which enables the court to order the  destruction of an animal; or  (c) an order made in pursuance of any enactment under which the court has no  discretion as to the making of the order or its terms.  321A. (1) If the Director of Public Prosecutions is dissatisfied with a  judgment of a subordinate court as being erroneous in point of law, or as being  in excess of jurisdiction, he may appeal against any such judgment to the High  Court within fourteen days of the decision of the subordinate court.Appeals by  Director of Public Prosecutions  (2) On an appeal under this section the High Court may-  (a) reverse, affirm or amend any such judgment;  (b) find the person in relation to whom such judgment was given guilty of the  offence of which he was charged in the subordinate court or of any other offence  of which he could have been convicted by the subordinate court and may convict  and sentence him for such or such other offence;  (G.N. No. 493 of 1964 as amended by No. 23 of 1971  and 30 of 1976)  322. No appeal shall be heard unless entered-  (a) in the case of an appeal against sentence, within fourteen days of the  date of such sentence;  (b) in the case of an appeal against conviction, within fourteen days of the  date of sentence imposed in respect of such conviction:  (c) remit the matter to the subordinate court for rehearing and  determination, with such directions as it may deem necessary; or  (d) make such other order including an order as to costs, as it may deem  fit.Limitation  (3) The provisions of sections three hundred and twenty-three, three hundred  and twenty-four, three hundred and twenty-five, three hundred and twenty-eight,  three hundred and twenty-nine, three hundred and thirty-three and three hundred  and thirty-four shall apply mutatis mutandis to appeals under this section as  they apply to appeals under the provisions of section three hundred and  twenty-one.  (4) The provisions of section three hundred and forty-eight shall apply mutatis  mutandis in relation to the decision of the High Court in any appeal under this  section, as they apply in relation to a decision given on a case stated under  section three hundred and forty-one.  (5) In this section, "judgment" includes conviction, acquittal, sentence, order  and decision.  Provided that the appellate court may at its discretion hear an appeal in  respect of which an application has been made in accordance with the provisions  of section three hundred and twenty-four.  (No. 5 of 1962 as amended by No. 76 of 1965  and Act 12 of 1973)  323. (1) An appeal shall be entered-Procedure preliminary to appeal  (a) by filing with the court below a notice of appeal in the form prescribed;  or  (b) if the appellant is in prison, by handing such notice to the officer in  charge of the prison in which he is lodged.  (2) The officer in charge of any prison shall, on receipt of a notice of  appeal, endorse upon such notice the date it was handed to him and shall  transmit the notice to the court below.  (3) The court below shall transmit to the appellate court a notice of appeal  filed with or transmitted to it under this section together with the record of  the case and the judgment or order therein.  (No. 76 of 1965)  324. (1) Where the period has expired within which, under section three  hundred and twenty-two, an appeal shall be entered, an appellant may  nevertheless make application in the prescribed form for his appeal to be heard  and shall in support of any such application enter an appeal, and the form of  application shall be attached to the notice of appeal when that notice is filed  with or transmitted to the court below and the appellate court.Procedure for  application to appeal out of time  (2) In any case where an appellate court refuses an application made under  subsection (1), the appeal entered in support of the application shall be deemed  never to have been entered.  (No. 76 of 1965)  325. Every appellant shall be entitled, if he so desires, to be present at  the hearing of his appeal, and to be heard, either personally or by his  advocate. If he does not desire to be present or to be heard, either personally  or by his advocate, then the appellate court shall decide the appeal summarily,  without hearing argument, unless it sees fit to direct otherwise, on the  documents forwarded to it as in section three hundred and twenty-three  provided.Procedure on appeal  326. If the appellate court does not determine the appeal summarily, it shall  cause notice to be given to the appellant or his advocate, and to the public or  private prosecutor at the place where the appeal is to be heard, of the time and  place at which such appeal will be heard, and shall furnish such prosecutor with  a copy of the documents prescribed by section three hundred and  twenty-three.Notice of time and place of hearing  327. (1) The appellate court, after persuing the documents forwarded to it, if  the appeal is being heard summarily, or after hearing the appellant or his  advocate, if he appears, and the prosecutor, if he appears, may, if it considers  that there is no sufficient ground for interfering, dismiss the appeal, or  may-Powers of appellate court  (a) on an appeal from a conviction-  (i) reverse the finding and sentence, and acquit or discharge the accused, or  order him to be retried by a subordinate court of competent jurisdiction or by  the High Court; or  (ii) alter the finding, maintaining the sentence, or, with or without  altering the finding, reduce or increase the sentence; or  (iii) with or without such reduction or increase, and with or without  altering the finding, alter the nature of the sentence;  (b) on an appeal against sentence, quash the sentence passed at the trial,  and pass such other sentence warranted in law (whether more or less severe) in  substitution therefor as it thinks ought to have been passed, and, in any other  case, dismiss the appeal;  (c) on an appeal from any other order, alter or reverse such order;  and, in any case, may make any amendment or any consequential or incidental  order that may appear just and proper.  (2) Where the High Court has directed that an appellant shall be retried by the  High Court under the provisions of paragraph (a) of subsection (1), the trial  shall be conducted without a preliminary inquiry in accordance with the  provisions of subsection (4) of section sixty-eight.  (As amended by No. 2 of 1960 and G.N. No. 493 of 1964)  328. (1) The High Court sitting as an appellate court may, at the close of an  appeal, pronounce its decision on the appeal and give its reasons for the  decision.Pronouncement of decision of the High Court sitting as an appellate  court  (2) Where the High Court pronounces its decision at the close of an appeal  under subsection (1), the judgment of the court shall be pronounced in such  manner as the court may direct:  Provided that, where an appeal is heard by more than one Judge, any such Judge  may give directions as to the manner in which the judgment shall be pronounced,  and the judgment may be so pronounced whether or not the other Judge or Judges  who heard the appeal are present.  (No. 11 of 1963 as amended by No. 23 of 1971)  329. The appellate court shall certify its judgment or order to the court  below, which shall, thereupon, make such orders as are conformable to the  judgment or order of the appellate court, and, if necessary, the records shall  be amended in accordance therewith.Order of appellate court to be certified  330. In the case of a conviction involving sentence of corporal punishment-  (a) the sentence shall not, in any case, be executed until after the  expiration of the time within which an appeal may be entered;  (b) if an appeal is entered, the sentence shall not be executed until after  the determination of the appeal:Postponement of corporal punishment  Provided that, where an order is made that a convicted person shall be caned and  that person appears to the court to be a person under nineteen years of age,  that circumstance shall be recorded by the court, and the sentence of caning may  be carried into effect before the expiration of the time within which an appeal  may be entered unless notice of appeal shall have previously been given, and in  any case shall be carried into effect in the presence of the parent or guardian  of the person to be caned, if he can be found and resides within a reasonable  distance and desires to be present.  (As amended by No. 14 of 1938 and No. 11 of 1963)  331. The operation of any order for the restitution of any property to any  person made on a conviction, and the operation, in the case of any conviction,  of any rule of law as to the revesting of the property in stolen goods on  conviction, as also the operation of any order of compensation to an injured  party, shall be suspended-  (a) in any case, until the expiration of fourteen days after the date of the  conviction; and  (b) in cases where an appeal has been entered, until the determination of the  appeal.  (As amended by No. 28 of 1940)Suspension of orders on conviction  332. (1) After the entering of an appeal by a person entitled to appeal, the  appellate court, or the subordinate court which convicted or sentenced such  person, may, for reasons to be recorded by it in writing, order that he be  released on bail with or without sureties, or if such person is not released on  bail shall, at the request of such person, order that the execution of the  sentence or order appealed against shall be suspended pending the hearing of his  appeal.Admission to bail or suspension of sentence pending appeal  (2) If the appeal is ultimately dismissed and the original sentence confirmed,  or some other sentence of imprisonment substituted therefor, the time during  which the appellant has been released on bail, or during which the sentence has  been suspended, shall, unless the court shall otherwise order, be excluded in  computing the term of imprisonment to which he is finally sentenced.  (No 28 of 1940 as amended by No. 1959)  333. (1) In dealing with an appeal from a court below, the appellate court, if  it thinks additional evidence is necessary, shall record its reasons, and may  either take such evidence itself or direct it to be taken by the court  below.Further evidence  (2) When the additional evidence is taken by the court below, such court shall  certify such evidence to the appellate court, which shall, thereupon, proceed to  dispose of the appeal.  (3) Unless the appellate court otherwise directs, the accused or his advocate  shall be present when the additional evidence is taken.  (4) Evidence taken in pursuance of this section shall be taken as if it were  evidence taken at a trial before a subordinate court.  334. (1) Appeals from subordinate courts to the High Court shall be heard by  one Judge except where the Chief Justice shall direct that the appeal be heard  by more than one Judge.Appeals to be heard by one Judge unless the Chief Justice  otherwise directs  (2) Where an appeal is heard by more than one Judge and such Judges are divided  equally in opinion, the appeal shall be dismissed.  (No. 11 of 1963)  335. Every appeal from a subordinate court (except an appeal from a sentence  of fine) shall finally abate on the death of the appellant.Abatement of appeals  336. (1) The High Court may, if it deems fit, on the application of an  appellant from a judgment of that Court and pending the determination of his  appeal or application for leave to appeal to the Supreme Court in a criminal  matte-Bail in cases of appeals to Supreme Courtl  (a) admit the appellant to bail, or if it does not so admit him, direct him  to be treated as an unconvicted prisoner pending the determination of his appeal  or of his application for leave to appeal, as the case may be; and  (b) postpone the payment of any fine imposed upon him.  (2) The time during which an appellant, pending the determination of his  appeal, is admitted to bail, and, subject to any directions which the Supreme  Court may give to the contrary in any appeal, the time during which the  appellant, if in custody, is treated as an unconvicted prisoner under this  section, shall not count as part of any term of imprisonment under his sentence.  Any imprisonment under the sentence of the appellant, whether it is the sentence  passed by the court of trial or by the High Court in its appellate jurisdiction  or the sentence passed by the Supreme Court, shall, subject to any directions  which the Supreme Court may give to the contrary, be deemed to be resumed or to  begin to run, as the case requires-  (a) if the appellant is in custody, as from the day on which the appeal is  determined;  (b) if the appellant is not in custody, as from the day on which he is  received into gaol under the sentence.  (No. 47 of 1955 as amended by G.N. No. 303 of 1964,  No. 23 of 1971 and 30 of 1976)  Revision  337. The High Court may call for and examine the record of any criminal  proceedings before any subordinate court, for the purpose of satisfying itself  as to the correctness, legality or propriety of any finding, sentence or order  recorded or passed; and as to the regularity of any proceedings of any such  subordinate court.Power of High Court to call for records  338. (1) In the case of any proceedings in a subordinate court, the record of  which has been called for, or which otherwise comes to its knowledge, the High  Court may-Powers of High Court on revision  (a) in the case of a conviction-  (i) confirm, vary or reverse the decision of the subordinate court, or order  that the person convicted be retried by a subordinate court of competent  jurisdiction or by the High Court, or make such other order in the matter as to  it may seem just, and may by such order exercise any power which the subordinate  court might have exercised;  (ii) if it thinks a different sentence should have been passed, quash the  sentence passed by the subordinate court and pass such other sentence warranted  in law, whether more or less severe, in substitution therefor as it thinks ought  to have been passed;  (iii) if it thinks additional evidence is necessary, either take such  additional evidence itself or direct that it be taken by the subordinate court;  (iv) direct the subordinate court to impose such sentence or make such order  as may be specified;  (b) in the case of any other order, other than an order of acquittal, alter  or reverse such order.  (2) No order under this section shall be made to the prejudice of an accused  person unless he has had an opportunity of making representations in writing on  his own behalf.  (3) The High Court shall not exercise any powers under this section in respect  of any convicted person who has appealed, unless such appeal is withdrawn, or  who has made application for a case to be stated, unless the subordinate court  concerned refuses to state a case under the provisions of section three hundred  and forty-three.  (4) Nothing in this section shall be to the prejudice of the exercise of any  right of appeal given under this Code or under any other law.  (5) The provisions of subsections (2), (3) and (4) of section three hundred and  thirty-three shall apply, mutatis mutandis, in respect of any additional  evidence.  (6) When the High Court gives a direction under subparagraph (iv) of paragraph  (a) of subsection (1), the record of the proceedings shall be returned to the  subordinate court and that court shall comply with the said direction.  (As amended by No. 16 of 1959 and No. 11 of 1963)  339. No party has any right to be heard, either personally or by advocate,  before the High Court when exercising its powers of revision:Discretion of High  Court as to hearing parties  Provided that the High Court may, if it thinks fit, when exercising such powers,  hear any party either personally or by advocate.  (As amended by G.N. No. 493 of 1964)  340. When a case is revised by the High Court, the Court shall certify its  decision or order to the court by which the sentence or order, so revised, was  recorded or passed, and the court to which the decision or order is so certified  shall, thereupon, make such orders as are conformable to the decision so  certified, and, if necessary, the record shall be amended in accordance  therewith.  (As amended by G.N. No. 493 of 1964)Order to be certified to lower court  Case Stated  341. After the hearing and determination by any subordinate court of any  summons, charge, information or complaint, either party to the proceedings  before the said subordinate court may, if dissatisfied with the said  determination, as being erroneous in point of law, or as being in excess of  jurisdiction, apply in writing, within fourteen days after the said  determination, to the said subordinate court to state and sign a case setting  forth the facts and the grounds of such determination, for the opinion thereon  of the High Court, and such party (hereinafter called "the appellant") shall-  (a) within fourteen days after receiving the case transmit the same to the  High Court; and  (b) within thirty days after receiving the case serve a copy of the case so  stated and signed on the other party to the proceedings in which the  determination was given (hereinafter called "the respondent").  (No. 28 of 1940)Case stated by subordinate court  342. The appellant, at the time of making such application, and before the  case shall be stated and delivered to him by the subordinate court, shall, in  every instance, enter into a recognizance before such subordinate court, with or  without surety or sureties, and in such sum not exceeding one hundred kwacha as  to the subordinate court shall seem meet, conditioned to prosecute without delay  such appeal, and to submit to the judgment of the High Court, and to pay such  costs as may be awarded by the same; and, before he shall be entitled to have  the case delivered to him, he shall pay to the clerk of such subordinate court  his fees for and in respect of the case and recognizance, which fees shall be in  accordance with the Third Schedule. The appellant, if then in custody, shall be  liberated upon the recognizance being further conditioned for his appearance  before the same subordinate court, or, if that is impracticable, before some  other subordinate court exercising the same jurisdiction, within fourteen days  after the judgment of the High Court shall have been given, to abide such  judgment, unless the determination appealed against be reversed:Recognizance to  be taken and fees paid  Provided that nothing in this section shall apply to an application for a case  stated by or under the direction of the Director of Public Prosecutions.  (As amended by S.I. No. 152 of 1965)  343. If the subordinate court be of opinion that the application is merely  frivolous, but not otherwise, it may refuse to state a case, and shall, on the  request of the appellant, and on payment of the fee set out in the Third  Schedule, sign and deliver to him a certificate of such refusal:Subordinate  court may refuse case when it thinks application frivolous  Provided that the subordinate court shall not refuse to state a case when the  application for that purpose is made to it by or under the direction of the  Director of Public Prosecutions, who may require a case to be stated with  reference to proceedings to which he was not a party.  (As amended by S.I. No. 63 of 1964)  344. Where a subordinate court refuses to state a case, the High Court may,  on the application of the person who applied for the case to be stated, make an  order of mandamus requiring the subordinate court to state a case.Procedure on  refusal of subordinate court to state case  345. A case stated for the opinion of the High Court shall be heard by one  Judge of the Court except when, in any particular case, the Chief Justice shall  direct that it shall be heard by two Judges. Such direction may be given before  the hearing or at any time before judgment is delivered. If, on the hearing, the  Court is equally divided in opinion, the decision of the subordinate court shall  be affirmed.  (No. 2 of 1960)Constitution of court hearing case stated  346. The High Court shall (subject to the provisions of the next succeeding  section) hear and determine the question or questions of law arising on the case  stated, and shall, thereupon, reverse, affirm or amend the determination in  respect of which the case has been stated, or remit the matter to the  subordinate court with the opinion of the High Court thereon, or may make such  other order in relation to the matter, and may make such order as to costs, as  to the Court may seem fit, and all such orders shall be final and conclusive on  all parties:High Court to determine questions on case  Provided that-  (i) no magistrate who shall state and deliver a case in pursuance of this  Part, or bona fide refuse to state one, shall be liable to any costs in respect  or by reason of such appeal against his determination or refusal;  (ii) no costs shall be awarded against the People, except where the People  are the appellant.  (As amended by S.I. No. 63 of 1964)  347. The High Court shall have power, if it thinks fit-  (a) to cause the case to be sent back for amendment or restatement, and,  thereupon, the same shall be amended or restated accordingly, and judgment shall  be delivered after it has been so amended or restated;  (b) to remit the case to the subordinate court for rehearing and  determination, with such directions as it may deem necessary.Case may be sent  back for amendment or rehearing  348. After the decision of the High Court has been given on a case stated,  the subordinate court in relation to whose determination the case has been  stated, or any other subordinate court exercising the same jurisdiction, shall  have the same authority to enforce any conviction or order which may have been  affirmed, amended or made by the High Court as the subordinate court which  originally decided the case would have had to enforce its determination, if the  same had not been appealed against; and no action or proceeding whatsoever shall  be commenced or had against the magistrate holding such subordinate court for  enforcing such conviction or order, by reason of any defect in the same  respectively.Powers of subordinate court after decision of High Court  349. No person who has appealed under section three hundred and twenty-one  shall be entitled to have a case stated, and no person who has applied to have a  case stated shall be entitled to appeal under section three hundred and  twenty-one.Appellant may not proceed both by case stated and by appeal  350. A case stated by a subordinate court shall set out-  (a) the charge, summons, information or complaint;  (b) the facts found by the subordinate court to be proved;  (c) any submission of law made by or on behalf of the complainant during the  trial or inquiry;  (d) any submission of law made by or on behalf of the accused during the  trial or inquiry;  (e) the finding and, in case of conviction, the sentence of the subordinate  court;  (f) any question or questions of law which the subordinate court or any of  the parties may desire to be submitted for the opinion of the High Court;  (g) any question of law which the Director of Public Prosecutions may require  to be submitted for the opinion of the High Court.  (As amended by S.I. No. 63 of 1964)Contents of case stated  351. The High Court may, if it deems fit, enlarge any period of time  prescribed by section three hundred and forty-one or three hundred and  forty-two.  (As amended by No. 5 of 1962)High Court may enlarge time  351A. In this Part, "appellate court" means the High Court.  (No. 23 of 1971)Interpretation  PART XII SUPPLEMENTARY PROVISIONS PART XII  SUPPLEMENTARY PROVISIONS  Irregular Proceedings  352. No finding, sentence or order of any court shall be set aside merely on  the ground that the inquiry, trial or other proceeding in the course of which it  was arrived at or passed took place in a wrong district, unless it appears that  such error has in fact occasioned a substantial miscarriage of justice.  (As amended by No. 16 of 1959)Proceedings in wrong place  353. Subject to the provisions hereinbefore contained, no finding, sentence  or order passed by a court of competent jurisdiction shall be reversed or  altered on appeal or revision on any ground whatsoever unless any matter raised  in such ground has, in the opinion of the appellate court, in fact occasioned a  substantial miscarriage of justice:Finding or sentence when not reversible  Provided that, in determining whether any such matter has occasioned a  substantial miscarriage of justice, the court shall have regard to the question  whether the objection could and should have been raised at an earlier stage in  the proceeding.  (No. 16 of 1959)  354. No distress made under this Code shall be deemed unlawful, nor shall any  person making the same be deemed a trespasser, on account of any defect or want  of form in the summons, conviction, warrant of distress or other proceedings  relating thereto.  MiscellaneousDistress not illegal nor distrainer a trespasser for defect or want  of form in proceedings  355. (1) Where any thing which has been tendered or put in evidence in any  criminal proceedings before any court has not been claimed by any person who  appears to the court to be entitled thereto within a period of twelve months  after the final disposal of such proceedings or of any appeal entered in respect  thereof, such thing may be sold, destroyed or otherwise disposed of in such  manner as the court may by order direct, and the proceeds of any such sale shall  be paid into the general revenues of the Republic.Disposal of exhibits  (2) If any thing which has been tendered or put in evidence in any criminal  proceedings before any court is subject to speedy and natural decay the court  may, at any stage of the proceedings or at any time after the final disposal of  such proceedings, order that it be sold or otherwise disposed of but shall hold  the proceeds of any such sale and, if unclaimed at the expiration of a period of  twelve months after the final disposal of such proceedings or of any appeal  entered in respect thereof, shall pay such proceeds into the general revenues of  the Republic.  (3) Notwithstanding the provisions of subsection (1), the court may, if it is  satisfied that it would be just and equitable so to do, order that any thing  tendered or put in evidence in criminal proceedings before it should be returned  at any stage of the proceedings or at any time after the final disposal of such  proceedings to the person who appears to be entitled thereto, subject to such  conditions as the court may see fit to impose.  (4) Any order of a court made under the provisions of subsection (1) or (2)  shall be final and shall operate as a bar to any claim by or on behalf of any  person claiming ownership of or any interest in such thing by virtue of any  title arising prior to the date of such order.  (No. 11 of 1963)  356. (1) Where a corporation is charged with an offence before a court, the  provisions of this section shall have effect.Corporations  (2) A representative may, on behalf of the corporation, make a statement before  the court in answer to the charge.  (3) Where a representative appears, any requirement of this Code that anything  shall be done in the presence of the accused, or shall be read or said to the  accused, shall be construed as a requirement that that thing shall be done in  the presence of the representative or read or said to the representative.  (4) Where a representative does not appear, any requirement referred to in  subsection (3) shall not apply.  (5) A subordinate court may, after holding an inquiry in accordance with the  provisions of Part VII, make an order certifying that it considers the evidence  against an accused corporation sufficient to put that corporation on its trial  and the corporation shall thereupon be deemed to have been committed for trial  to the High Court.  (6) Where, at the trial of a corporation, a representative does not appear at  the time appointed in and by the summons or information or such representative  having appeared fails to enter any plea, the court shall order a plea of "not  guilty" to be entered and the trial shall proceed as though the corporation had  duly entered a plea of "not guilty".  (7) Subject to the provisions of subsections (2) to (6), both inclusive, the  provisions of this Code relating to the inquiry into and to the trial by any  court of offences shall apply to a corporation as they apply to an individual  over the age of twenty-one years.  (8) In this section, "representative" means a person duly appointed in  accordance with subsection (9) 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 authorised to do, but a person so appointed shall not, by virtue  only of being so appointed, be qualified to act on behalf of the corporation  before any court for any other purpose.  (9) 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.  (No. 76 of 1965)  357. In addition to or in substitution for the fees set forth in the Third  Schedule, the Chief Justice may prescribe the fees to be paid for any  proceedings in the High Court and in subordinate courts. Such fees shall be paid  by the party prosecuting, and may be charged as part of the costs, if so  ordered. The payment of fees may, on account of the poverty of any person or for  other good reason, be dispensed with by the court of trial.  (As amended by No. 2 of 1960)Prescribed fees  358. (1) The Chief Justice may by rule prescribe forms for the purposes of  this Code, and such forms, with such variations as the circumstances of each  case may require, may be used and, if used, shall be sufficient for the  respective purposes therein mentioned.Prescribed forms  (2) The forms in the Fourth Schedule shall be deemed to have been prescribed by  the Chief Justice under the provisions of this section.  (No. 2 of 1960)  359. (1) The Chief Justice may, by statutory instrument, make rules for the  better administration of this Code.Rules  (2) In particular and without prejudice to the generality of the foregoing,  such rules may-  (a) prescribe anything which by this Code may or is to be prescribed;  (b) prescribe the allowances and expenses of witnesses and assessors;  (c) make provisions for the procedure to be followed in relation to appeals  under this Code;  (d) amend the Second Schedule by varying or annulling forms contained therein  or by adding new forms thereto.  (No. 11 of 1963)  Non-application of British Act  360. The Criminal Evidence Act, 1898, of the United Kingdom, shall not apply  to the Republic.  Non-application |

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