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

H. J. L. BOSTON,
Governor-General.

(LS)

No. 31

1965

Sierra Leone

An Act to Consolidate and Amend the Law Relating to the Constitution of the Magistrates' Courts the Supreme Court and the Court of Appeal and the Administration of Justice therein; and the Law Relating to Appeals to Her Majesty in Council

[*7th October, 1965.*] Date of commencement.

P.N. 69 of 1965.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Representatives in this present Parliament assembled, and by the authority of the same, as follows:—

PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Courts Act, 1965, and shall come into operation on such date as the Prime Minister may by Order appoint.

Interpretation.

2. In this Act, unless the contrary intention appears—

"Court" means any court of law in Sierra Leone other than a court martial or a local court;

"Court of Appeal" means the Court of Appeal established by the Constitution;

"Judge" means a person appointed as a Puisne Judge under the provisions of the Constitution and includes the Chief Justice;

"Magistrate" means a person appointed as such by the Judicial Service Commission and includes any person or persons performing the functions of a Magistrate in accordance with subsection (2) of section 5;

"Magistrates' Courts" means the Magistrates' Courts constituted under section 4;

"Master and Registrar", "Deputy Master and Registrar," and

"Registrar of the Court of Appeal", and "Registrar" mean, respectively, the persons appointed as such by the Judicial Service Commission;

"Supreme Court" means the Supreme Court established by the Constitution;

CHAPTER I—COURTS

PART I—THE MAGISTRATES' COURTS

Judicial Districts. First Schedule.

3. (1) (*a*) The areas of the Western Area described in the First Schedule are hereby constituted Judicial District to be known as the Headquarters Judicial District, the Judicial District of Freetown and the Sherbro Judicial District, respectively.

(*b*) The Governor-General may, by Order, add to, vary, amend or revoke any or all of the matters contained in the First Schedule.

Cap. 60.

(2) Each of the areas of the Provinces declared to be a District for the purposes of the Provinces Act is hereby declared to be a Judicial District.

Constitution of Magistrates' Courts.

4. There shall be and are hereby constituted Courts of Record surbordinate to the Supreme Court to be known as Magistrates' Courts in and for each Judicial District.

Area of Jurisdiction of Magistrates and the performance of functions in their absence.

5. (1) A Magistrate shall have jurisdiction as a Magistrate throughout Sierra Leone and may be assigned to any Judicial District or transferred from one Judicial District to another by the Chief Justice and any Magistrate so assigned or transferred shall exercise jurisdiction as a Magistrate of the Magistrate's Court constituted in and for such Judicial District.

LANBUK

(c) Where in any place in the Provinces or in the Sherbro District the number of pending cases in any Judicial District in the opinion of the Magistrate having Jurisdiction in such District, be disposed of within a reasonable time, the Magistrate may summon two or more Justices of the Peace to perform the functions of the Magistrate in such District.

Criminal Jurisdiction.

6. (1) In addition to any criminal jurisdiction which may be conferred upon Magistrates' Courts by any other enactment, every such Court shall, notwithstanding any enactment to the contrary, have jurisdiction to try summarily—

(a) any offence punishable by a sentence of imprisonment for a term not exceeding one year or a fine not exceeding three hundred leones or both such imprisonment and such fine;

(b) with the consent of the accused but not otherwise any offence, if during the course of a preliminary investigation, the Court shall conclude that, having regard to the circumstances of the case, the offence is one which, if proved, can be suitably punished by a sentence of imprisonment not exceeding three years or a fine not exceeding six hundred leones:

Provided that the Court shall not try summarily under this section any of the offences specified in the Second Schedule.

Second Schedule.

Procedure where offence appears unsuitable for summary determination.

(2) If, in the course of the hearing, circumstances should appear which shall cause the Court to be of opinion that the offence, on account of its aggravated character or other sufficient reason, is not suitable to be disposed of upon summary trial, the Court may instead of adjudicating, commit the defendant for trial on indictment before the Supreme Court and in such case shall follow the procedure directed in Part III of the Criminal Procedure Act in relation to preliminary investigation.

(3) Where under paragraph (*b*) of subsection (1) a Magistrate's Court has ceased to enquire into an information as a preliminary investigation and begun to try the information summarily, the Court may, at any time before the conclusion of the evidence for the prosecution, discontinue the summary trial and resume the preliminary investigation.

Civil Jurisdiction.

7. (1) In addition to any civil jurisdiction which may be conferred upon Magistrates' Courts by any other enactment every such Court shall have jurisdiction to hear and determine any cause or matter other than an action founded upon libel, slander, false imprisonment, malicious prosecution, seduction or breach of promise of marriage, which may be lawfully brought before it and wherein the claim, debt, duty or matter in dispute does not exceed six hundred leones in value, whether on balance of account or otherwise.

LANBUK.COM LANBUK Sierra Leone

Jurisdiction by agreement in certain cases. Third Schedule.

(2) If with respect to any action, other than any of the actions specified in the Third Schedule, the parties to the action agree, by a memorandum signed by them or by the respective legal practitioners representing them, that a Magistrate's Court specified in the memorandum shall have jurisdiction in the action, that Court may assume jurisdiction to hear and determine the action accordingly.

GENERAL JURISDICTION

General Jurisdiction.

8. (1) Subject to the provisions of sections 6 and 7, every Magistrate's Court shall have jurisdiction to do all lawful acts necessary to enquire into and dispose of or to hear and determine all civil and criminal matters arising within the district, area or place in and for which it is established, or transferred to it by the Supreme Court, and such jurisdiction shall be exercised by the Magistrate (or Magistrates) duly appointed to such Court:

Provided that—

(*a*) the jurisdiction conferred by this section may be exercised in the Sherbro Judicial District by any Magistrate exercising jurisdiction therein, in respect of any civil or criminal matter arising in the Bonthe Judicial District;

(*b*) the jurisdiction conferred by this section may, subject to any order made by the Supreme Court, be exercised in the Judicial District of Freetown by any Magistrate exercising jurisdiction therein, in respect of any civil or criminal matter arising within the area of the Lungi Airport in the Port Loko Judicial District, if the Magistrate is of the opinion that to hear the case in Freetown would tend to the general convenience of the parties or witnesses.

(2) A Magistrate's Court may by summons require any person to attend and give evidence and any such summons may be served upon any person at any place within Sierra Leone. Where any such summons is served upon a person at a place not within the jurisdiction of the Magistrate's Court and the person so served shall not appear in obedience thereto, the Court may transmit a certificate of the default to the Court having jurisdiction in the place where such person is residing, and the last mentioned Court shall thereupon proceed against such person as if the summons had been issued by itself.

(3) Whenever a witness is required by summons to give evidence the Magistrate shall direct that he be paid reasonable sum for his travelling expenses and no witness shall be compellable unless the Magistrate is satisfied that such sum has been paid or that transport has been provided for him.

Sittings of Magistrates' Courts.

9. (1) Magistrates' Courts shall be held at such places as the Chief Justice may direct. Notification of any such direction shall be published in the *Gazette*.

LANBUK.COM LANBUK SIERRA LEONE

(2) In the absence of any such directions by the Chief Justice, Magistrates' Courts shall be held at the principal Government Stations in the district or area in which they are established:

Provided that should a Magistrate deem it necessary in any case pending before him the Court may be held at any other place within the limits of its jurisdiction.

Power to Supreme Court to transfer cases.

10. The Supreme Court may of its own motion or on the application of the presiding Magistrate or of any party to the proceedings on cause shown transfer—

(*a*) any matter pending before a Magistrate's Court in its civil jurisdiction to the Supreme Court or to another Magistrate's Court for hearing and determination there,

(*b*) any proceedings before a Magistrate's Court in its criminal jurisdiction to any other Magistrate's Court for hearing and determination there, and

(*c*) any preliminary investigation before a Magistrate's Court into a criminal offence to any other Magistrate's Court for completion of the preliminary investigation there.

RULES OF MAGISTRATES' COURTS

Power to make Rules.

11. (1) The Rules of Court Committee established by section 22 may make rules of court—

(*a*) regulating the practice and procedure in Magistrates' Courts in civil and criminal matters;

(*b*) prescribing the fees to be charged in Magistrates' Courts in civil matters;

(*c*) regulating the manner in which bills of costs are to be taxed by Magistrates and any matter relating to the costs of proceedings and the allowances of witnesses in any proceedings in Magistrates' Courts;

(*d*) providing for the submission to the Supreme Court of returns and records of proceedings in Magistrates' Courts;

(*e*) generally for carrying out the provisions of this Act as regards the civil and criminal jurisdiction of Magistrates' Courts.

(2) Rules of Court made under this section shall come into force upon publication in the *Gazette* or from the date named therein and shall be laid before the House of Representatives at the first meeting thereof after such publication.

(3) All rules made under this section shall apply to all proceedings by or against the Crown or any department of Government unless otherwise expressly provided therein.

LANBUK.COM LANBUK SIERRA LEONE

OFFICERS ETC. OF MAGISTRATES' COURTS

Magistrates' Courts Officer.

12. There may be appointed for each Magistrate's Court a fit and proper person to be clerk of the Court and such assistant clerks bailiffs and other officers as may be deemed necessary, and the Clerk of the Court and any other clerks or officers so appointed shall be under the immediate direction and control of the Magistrate of such Court.

JUSTICES OF THE PEACE

Justices of the peace.

13. (1) The Governor-General may by Order appoint any fit and proper person to be a Justice of the Peace for Sierra Leone or for any Judicial District (or Districts) specified in such Order.

(2) All persons holding office as Justices of the Peace immediately prior to the commencement of this Act shall be deemed to have been appointed under this Act.

(3) In and for the Judicial District in which he exercises jurisdiction a Magistrate may exercise all the powers conferred on a Justice of the Peace, or a Justice, by any enactment.

(4) Subsection (3) shall be deemed to have come into operation on the 1st day of January, 1946.

PART II—THE SUPREME COURT

The composition of the Supreme Court.

14. (1) The Judges of the Supreme Court shall be the Chief Justice and one or more Puisne Judges.

(2) The Supreme Court shall be deemed to be duly constituted notwithstanding any vacancy in the Office of Chief Justice or of any Puisne Judge thereof.

(3) Any Judge of the Supreme Court may, subject to the provisions of this Act and to any other Act and any Rules of Court, exercise all or any part of the jurisdiction, civil and criminal, original, summary or appellate vested in the Court by this Act or any other enactment.

(4) The Chief Justice shall be President of the Supreme Court.

Sittings of Supreme Court.

15. The Supreme Court shall be open throughout the year for the transaction of general legal business therein, and any Judge may, at any time, hear and determine any civil cause or matter pending in the Court upon such notice to the parties and otherwise as shall seem just and reasonable:

Provided that during the long vacation (as prescribed in any Rules made under the provisions of section 22) no such cause or matter (except such application as may require to be immediately or promptly dealt with) shall be heard or determined unless all the parties thereto consent or the the Court or a Judge, for good and sufficient reasons to be recorded in the minutes of the proceedings, shall so direct.

Judicial Divisions and allocation of business.

16. The Chief Justice may by Order published in the *Gazette* divide Sierra Leone into Judicial Divisions and allocate to each division such of the business of the Court as may seem fit.

LANBUK SIERRA LEONE

17. The Court shall have and use, as occasion may require, a seal bearing the device and impression of the Sierra Leone Armorial Bearings with the inscription "Supreme Court of Sierra Leone": Seal of Court.

Provided that until such seal becomes available the Court may continue to have and use the seal used by the Supreme Court of Sierra Leone prior to the commencement of this Act.

JURISDICTION OF SUPREME COURT

18. (1) The Supreme Court shall exercise the jurisdiction and powers conferred upon it by the Constitution and any other enactment. Jurisdiction of Supreme Court unlimited, with certain exceptions.

(2) Except as provided in subsection (2) of section 7 and section 19 or its jurisdiction is expressly excluded by an enactment, the Supreme Court shall exercise unlimited original and supervisory jurisdiction in all causes and matters in the same manner and with the same powers and authorities as immediately before the commencement of this Act.

(3) The jurisdiction conferred upon the Supreme Court shall be exercised—

(*a*) in respect of criminal matters, in the manner provided by this Act and the Criminal Procedure Act, 1965; and

(*b*) in respect of civil matters, in the manner provided by this Act and by such Rules and orders of Court as may be made pursuant to this Act.

19. (1) The prerogative writs of mandamus, prohibition and *certiorari* shall no longer be issued by the Supreme Court. Orders of mandamus, prohibition and *certiorari*.

(2) In any case where the Supreme Court would, prior to the commencement of the Administration of Justice (Miscellaneous Provisions) Act, 1963, have had jurisdiction to order the issue of a writ of mandamus requiring any act to be done, or a writ of prohibition prohibiting any proceedings or matter, or a writ of certiorari removing any proceedings or matter into the Supreme Court for any purpose, the Court may make an order requiring the act to be done, or prohibiting or removing the proceedings or matter, other than any proceedings in which the accused person or defendant has been acquitted or discharged. Act No. 39 of 1963.

(3) The said orders shall be called respectively an order of mandamus, an order of prohibition and an order of certiorari.

(4) No return shall be made to any such order and no pleadings in prohibition shall be allowed, but the proceedings shall be final subject to any right of appeal therefrom.

LANBUK.COM LANBUK SIERRA LEONE

(5) In any enactment references to any writ of mandamus, prohibition or certiorari shall be construed as references to the corresponding order and references to the issue or award of any such writ shall be construed as references to the making of the corresponding order.

(6) Without prejudice to the powers vested before the commencement of this Act in any Court to admit or direct the admission of a person to bail, the Supreme Court may release from custody a person who has been convicted and sentenced by a Court of summary jurisdiction and has applied to the Supreme Court for an order of *certiorari* to remove the proceedings of the Court of summary jurisdiction into the Supreme Court or has applied to the Supreme Court for leave to make such application, on his entering into a recognizance conditioned for his appearance, within ten days after the judgment of the Supreme Court shall have been given, before the Court of summary jurisdiction which convicted or sentenced that person unless the conviction or sentence is quashed by that judgment.

(7) For the purpose of this section the expression "a Court of summary jurisdiction" shall include any Court or other authority to which an order of *certiorari* may issue.

Power to make orders of mandamus

Act. No. 39 of 1963.

(8) The power of the Supreme Court under any enactment to require Magistrates or Justices of the Peace to do any act relating to the duties of their respective offices, in any case where immediately before the commencement of the Administration of Justice (Miscellaneous Provisions) Act, 1963, the Court had by virtue of any enactment jurisdiction to make a rule absolute, or to make an order, as the case may be, for any of those purposes, shall be exercisable by order of mandamus.

Quo Warranto.

(9) No person shall be entitled to apply for an information in the nature of *quo warranto.*

(10) In any case where a person acts in any office in which he is not entitled to act and an information in the nature of *quo warranto* would, but for the provisions of subsection (9) have lain against him, the Supreme Court may grant an injunction restraining him from so acting and may (if the case so requires) declare the office to be vacant.

(11) No proceedings for an injunction under this section shall be taken by a person who would not immediately before the commencement of the Administration of Justice (Miscellaneous Provisions) Act, 1963, have been entitled to apply for an information in the nature of *quo warranto.*

Injunctions, &c.

20. (1) The Supreme Court may on the application of any interested party by motion restrain the Bank of Sierra Leone or any other Corporation from permitting the transfer of any stock in public funds, or any stock or shares in any Corporation, which may be standing in the name of any person in the books of the Bank of Sierra Leone or in the books of such Corporation or from paying any interest or dividends due or to become due thereon.

(2) Every such Order of the Court shall specify the amount of the stock or the particular shares to be affected thereby and the name of the person in which the same shall be standing:

Provided always that the Court shall have power upon the application of any interested party to discharge or vary any such Order and award such costs upon such application as to the Court shall seem fit.

(3) Every such Order shall be as nearly as may be in the form set out in the Fourth Schedule and the procedure relating to any such application shall be governed by such Rules of Court as are now or shall hereafter be made with reference thereto and the said Rules shall also make provision for the issue and service of notice in lieu of distringas according to the present practice.

No jurisdiction over certain customary matters.

21. Nothing in this Act shall be deemed to invest the Supreme Court with jurisdiction in regard to—

(*a*) any action or original proceedings—

(i) to determine the title to land situated in the Provinces other than the title to a leasehold granted under the Provinces Land Act; Cap. 122.

(ii) to establish the existence or dissolution of any marriage governed by customary law or relating to any claim founded upon such marriage; or

(*b*) the administration of estates of deceased persons where such administration is governed by customary law.

Rules of Court

Power to make Rules of Court.

22. (1) There shall be a Rules of Court Committee consisting of the Chief Justice, who shall be Chairman, the Attorney-General, one Puisne Judge selected by the Chief Justice and two legal practitioners nominated by the Sierra Leone Bar Association.

(2) The Rules of Court Committee shall be deemed to be duly constituted when the Chief Justice, the Attorney-General and one Legal Practitioner are present at any meeting of the Committee and may make Rules of Court for the following purposes—

(*a*) regulating and prescribing the procedure (including the method of pleading) and the practice to be followed in all civil cases or matters whatsoever in or with respect to which the Supreme Court has jurisdiction, and any matters incidental or relating to such procedure or practice, including the manner in which and the time within which any application may be made to the Court:

LANBUK.COM LANBUK SIERRA LEONE

(*b*) regulating and prescribing the procedure and practice to be followed on the application for and grant of probate and letters of administration in contentious and non-contentious matters, the filing of accounts by executors and administrators to whom a grant of administration has been made by the Court whithin such period as may be provided and prescribing penalties not exceeding a fine of one hundred leones for failure to comply with any such Rule;

(*c*) regulating the manner in which bills of costs are to be taxed and any matter relating to the costs of proceedings and the allowances to witnesses in any proceedings in the Supreme Court;

(*d*) Prescribing the fees to be paid in any proceedings in the Supreme Court or to be paid to Commissioners for Oaths in respect of the administration of oaths;

(*e*) providing for legal aid for persons concerned in any civil or criminal proceedings, and fees to be paid for such representation;

(*f*) prescribing the manner in which judments may be enforced; including the types of writs which may be issued, the period of their validity and any other matters incidental to their execution;

(*g*) prescribing the vacations of the Supreme Court in its civil jurisdiction and matters incidental thereto.

(3) Rules of Court made under this section shall come into force upon publication by Public Notice in the *Gazette* or from the date named therein and shall be laid before the House of Representatives at the first meeting thereof after such publication.

Power of Chief Justice to make administrative rules.

23. The Chief Justice may by notice published in the *Gazette* make administrative rules for the following purposes—

(*a*) prescribing forms, registers, books, entries and accounts which may be necessary or desirable for the transaction of the business of the Supreme Court;

(*b*) providing for the establishment of Registries and determining areas in which the Registrars, mentioned in section 26, shall exercise jurisdiction.

All rules to apply to Crown unless provided otherwise.

24. All rules made under sections 22 and 23 shall apply to all proceedings by or against the Crown or any department of Government unless otherwise expressly provided therein.

LANBUK.COM LANBUK SIERRA LEONE

Present practice and procedure to continue until otherwise provided.

25. Subject to the Criminal Procedure Act, 1965, the present practice and procedure of the Supreme Court shall continue and be in force but may be varied, added to, amended or revoked by Rules made under sections 22 and 23.

Judicial Service Commission to appoint Registrars.

26. The Judicial Service Commission may appoint, in addition to the Registrars mentioned in subsection (2) of section 120 of the Constitution, such other Registrars as may, from time to time, be required.

COMMISSIONER FOR OATHS

Commissioners for Oaths.

27. (1) The Chief Justice may, from time to time, appoint such persons, resident in Sierra Leone, as to him shall seem fit, to be Commissioners for Oaths.

(2) Every such Commissioner shall be entitled to administer oaths and to charge and take such fees for the peformance of his duty as may be prescribed by Rules of Court.

(3) Every affidavit sworn before such Commissioner in the course of any action, suit or other proceeding pending in the Court shall be as effectual to all intents and purposes as if the affidavit had been sworn before any Judge.

(4) All persons holding office as Commissioners for Oaths immediately prior to the commencement of this Act shall be deemed to have been appointed under this Act.

(5) Any person holding or acting in the Office of Master and Registrar shall be a Commissioner for Oaths *ex-officio*.

(6) There shall be published in the *Gazette* once a year a list of the names and addresses of Commissioners for Oaths and the dates of their respective appointments.

Qualifications of Master.

28. The Master and Registrar of the Supreme Court (in this Act called the Master) shall be a person who is entitled to be enrolled as a barrister and solicitor on the roll of the Supreme Court.

Duties of Master

29. (1) The duties of the Master shall be—

(*a*) to perform all such acts as he may be required by law to do and such acts as he may be required by a Judge to do;

(*b*) to tax all bills of costs submitted for taxation or referred to him by the Supreme Court or a Judge thereof;

(*c*) subject to Rules of Court, to receive applications for and to seal probate and letters of administration in all cases where the right to such grant is not contested.

(2) Any Registrar of the Supreme Court may exercise and perform such of the powers and duties of the Master as shall be delegated to him by the Master.

LANBUK.COM LANBUK SIERRA LEONE

PART III—THE COURT OF APPEAL

Composition of the Court of Appeal.

30. In addition to the President of the Court of Appeal and the Judges *ex-officio* thereof, the number of other Judges of the Court shall be such as may be prescribed by Parliament.

Jurisdiction.

31. The Court of Appeal shall exercise the jurisdiction and powers conferred upon it by the Constitution and any other enactment.

Seal of the Court.

32. (1) The Court shall have and use, as the occasion may require, a seal bearing the device and impression of the Sierra Leone Armorial Bearings with the inscription "Sierra Leone Court of Appeal".

(2) Until such a seal is provided a stamp bearing the style of the Court and countersigned by the Registrar may be used instead.

Precedence of Judges.

33. The President shall take precedence of all the Judges of the Court and the other Judges shall subject to the provisions of section 79 of the Constitution rank next amongst themselves according to the priority of their respective appointments.

Court to be in continuous session.

34. The Court of Appeal shall be open throughout the year for the transaction of general legal business therein, and shall be deemed to be in continuous session:

Provided that during the long vacation (as referred to in the proviso to section 15) no cause or matter, other than a criminal case, shall be heard or determined unless all the parties thereto consent or the Court of Appeal, for good or sufficient reasons to be recorded in the minutes of the proceedings, shall so direct:

Vol. IV P. 325.

Provided further that notwithstanding anything contained in the Court of Appeal Rules, the Court may be adjourned to such day and place as the President shall direct.

Court may sit in divisions.

35. The Court may sit in two or more divisions as may be directed by the President and every Judge of the Court may sit in any division.

Majority rule.

36. The determination of any question before the Court shall be according to the opinion of the majority of the Judges of the Court hearing the case.

Power of a single Judge.

37. A single Judge of the Court may exercise any power vested in the Court not involving the determination of an appeal:

Provided that—

(*a*) in criminal matters, if a single Judge refuses an application to exercise any such power in favour of the person making the application, that person shall be entitled to have his application determined by the Court, composed as provided by section 83 of the Constitution:

LANBUK SIERRA LEONE

(*b*) in civil matters, any order, direction or decision made or given by a single Judge may be varied, discharged or reversed by the Court, composed as aforesaid.

Judge not to sit on appeal from his own decision.

38. A Judge of the Court shall not sit as a Judge on the hearing of an appeal—

(*a*) from any judgment given by himself or any judgment given by any Court of which he was a member;

(*b*) against a conviction or sentence if he was the Judge before whom the appellant was convicted or sentenced.

Enforcement of order of the Court.

39. (1) A judgment of the Court given in any appeal shall be enforced in the like manner as if it were a judgment of the Court from which the appeal is brought.

(2) The Court shall have power to make any order for the purpose of securing the attendance of any person, the discovery or production of any document, or the investigation or punishment of any contempt of Court, which the Supreme Court has power to make.

Rules of Court.

40. (1) Subject to the provisions of this Part, the President and one Judge selected by the President, the Attorney-General and a Legal Practitioner nominated by the Sierra Leone Bar Association may make Rules of Court regulating the practice and procedure of the Court in the exercise of its jurisdiction and, in connection with appeals brought to the Court, the practice and procedure of any Court from which such appeals are brought.

(2) Without prejudice to the generality of subsection (1), Rules of Court may be made for the following purpose—

(*a*) for regulating the selection of Judges for any purpose;

(*b*) providing for the representation of persons concerned in any civil or criminal proceedings, and the fees to be paid for such representation;

(*c*) for providing for, and regulating the hearing of appeals with the assistance of one or more assessors and prescribing their renumeration;

(*d*) for prescribing forms and fees in respect of proceedings in the Court and regulating the costs of and incidental to any such proceedings;

(*e*) for prescribing and regulating the powers and duties of officers of the Court;

(*f*) for prescribing the time within which any requirement of the Rules is to be complied with.

(3) The Court of Appeal Rules shall, until amended or revoked by Rules of Court made under this section, remain in force and be deemed to have been made under this section. Vol. VI p. 325.

LANBUK.COM LANBUK

CHAPTER II—APPEALS

PART I—APPEALS FROM MAGISTRATES

CIVIL APPEALS

Right of civil appeal.

41. (1) An Appeal shall lie to the Supreme Court—

(*a*) from any final judgment or order given or made by a Magistrate in civil proceedings; and

(*b*) by leave of the Magistrate making the order or of a Judge, but not otherwise, from any interlocutory judgment or order given or made by a magistrate in civil proceedings.

(2) Any such appeal shall not operate as a stay of execution or of proceedings but the Magistrate's Court or the Supreme Court may order a stay of execution or of the proceedings upon such terms, if any, as to the Court may seem fit.

CRIMINAL APPEALS

Right of criminal appeal.

42. (1) Any person aggrieved by a decision of a Magistrate in criminal proceedings may appeal from the decision to the Supreme Court:

Provided that no appeal shall lie—

(*a*) against the acquittal or discharge of the accused or defendant, except where the trial was by two or more Justices of the Peace and only on a question of law;

(*b*) against conviction, where the accused or defendant pleaded guilty, except by leave of a Judge, which may be given if the Judge is satisfied—

(i) that the accused or defendant did not appreciate the nature of the charge or did not intend to admit he was guilty of it; or

(ii) that upon the admitted facts he could not in law have been convicted of the offence charged;

(*c*) against an order committing a person for trial by the Supreme Court, or against a refusal to commit him for such trial;

(*d*) against sentence, where it is fixed by law:

Privided further that the accused or defendant in criminal proceedings may give notice of appeal either orally in open court immediately after the decision of the court is pronounced or in writing in accordance with Rules of the Court made under section 50.

(2) Where a Magistrate's Court has made a special finding under section 73 of the Criminal Procedure Act, 1965, that a person is not guilty by reason of insanity, such person may appeal against the finding of the insanity.

Right of Attorney-General to appeal.

(3) The Attorney-General, even though he was not a party to the proceedings, may appeal to the Supreme Court from any decision of a Magistrate in criminal proceedings:

LANBUK.COM LANBUK

Provided that—

(*a*) no appeal shall lie against the acquittal or discharge of the accused or defendant, except where the trial was by two or more Justices of the Peace and only on a question of law, and

(*b*) no appeal shall lie against a Magistrate's refusal to commit a person for trial by the Supreme Court.

(4) Unless the Supreme Court grants more time, an appeal in criminal proceedings shall be brought within twenty-one days from the day on which the decision complained of was given by the Magistrate. Time for appeal in criminal cases.

43. (1) In criminal proceedings the appeal of the defendant shall not suspend the execution of the sentence, but the Magistrate's Court or the Supreme Court may— Suspension of sentence.

(*a*) grant the appellant bail on a recognisance, with or without sureties, in such amount and on such other conditions as may seem fit (in which case the time during which he is released shall be excluded in computing his sentence of imprisonment whether as a direct punishment or as a term in default of payment);

(*b*) suspend execution of an order for the payment of money (whether as fine or as compensation or as costs) upon security being given or by the appellant depositing the amount in Court, according as the Court may decide;

(*c*) require the appellant either to deposit a sum of money in Court to cover the probable costs of appeal, or to give security therefor:

Provided that an order for forfeiture or for restitution of property shall be suspended in respect of goods claimed by the appellant, unless they are perishable, in which case they shall be sold and the proceeds of sale shall be deposited in Court.

(2) An appeal by the Attorney-General, or by the prosecutor, or by the complainant or informant, shall not suspend the execution of any order made in favour of the defendant but the Magistrate's Court or the Supreme Court may suspend execution of the order on such terms as may seem fit, and may also require the appellant to deposit a sum of money in Court to cover the probable costs of appeal, or require him to give security therefor:

Provided that the Attorney-General shall not be required to make a deposit or give security under this subsection.

(3) An appeal by any other person shall not suspend the execution of the order made against him, but the Magistrate's Court or the Supreme Court may suspend execution of the order on such terms, as may seem fit, and may also require the appellant to deposit a sum of money in court to cover the probable costs of appeal, or require hif to give security therefor. Suspension of other orders.

LANBUK.COM LANBUK SIERRA LEONE

Arrest of defendant on bail.

44. When the accused or defendant has been released on b the Magistrate's Court or the Supreme Court may order him to arrested and brought before it, or to be kept in prison until furt order if in the opinion of the Court the arrest of the defendan necessary:

Provided that the Magistrate's Court shall not order arrest of the accused or defendant if the bail was granted by Supreme Court except on the application of the accused or def dant or of any one of his sureties.

Powers of Supreme Court on appeal against conviction.

45. (1) On an appeal against conviction, the Supreme Co may, nothwithstanding that it is of opinion that the point rais in the appeal might be decided in favour of the appellant, dism the appeal if it considers that no substantial miscarriage of just has actually occurred.

(2) Subject and without prejudice to subsection (1), t Court may according as the justice of the case may require—

(*a*) allow the appeal and order the conviction a sentence to be set aside;

(*b*) dismiss the appeal and, where there is an appe against sentence, leave the sentence unaltered pass such other sentence warranted in law (wheth more or less severe) in substitution for t sentence passed as the Court thinks ought to ha been passed;

(*c*) quash the conviction and sentence and order th appellant to be retried by a Court of competer jurisdiction;

(*d*) substitute for the conviction appealed against, conviction for an attempt to commit the offenc of which the appellant was convicted, or a convic tion for another offence, and pass such sentenc (whether more or less severe than that passed b the Magistrate) as may be warranted in law fo the attempt or other offence so however that th conviction for another offence, shall not be for a offence of which the Magistrate could not hav convicted the appellant;

(*e*) annul the conviction and substitute a specia finding that the appellant did the act or made th omission charged but was insane so as not to b responsible for his action at the time when h did the act or made the omission, and make ar appropriate order for the custody of the appellant

Appeal against sentence.

(3) On an appeal against sentence, the Supreme Court may leave the sentence unaltered or pass such other sentence warranted in law (whether more or less) in substitution for the sentence passed as the Court thinks ought to have been passed.

(4) On an appeal against the acquittal or discharge of the defendant, the Supreme Court may affirm, alter or reverse the decision appealed against: On appeal against acquittal or discharge.

Provided that in no case shall the Supreme Court consider or order a re-trial of the accused or defendant, unless it finds that the trial was conducted by two or more Justices of the Peace.

(5) On an appeal from any other order or decision, the Supreme Court may affirm, alter or reverse the same. In other appeals.

(6) In addition to the powers conferred by the above subsections, the Supreme Court may in each case make any amendment or any consequential or incidental order that may appear just and proper.

(7) The order made by the Supreme Court on an appeal shall be certified by a Judge or Registrar of the Court to the Magistrate's Court appealed from, and the Magistrate's Court shall thereupon make such orders and issue such warrants as may be necessary to carry out and give effect to the order of the Supreme Court, and make such amendments in its records as may be necessary.

46. Every criminal appeal from a Magistrate shall finally abate on the death of the original accused or defendant, except in cases where the sentence was for the payment of a fine, compensation, or costs, or the forfeiture or restitution of property, and in such cases the Supreme Court may give leave to anyone who appears to be a proper person to continue and prosecute the appeal on such terms (if any) as may seem fit. Abating of criminal appeal.

General Provisions

47. In every appeal, whether civil or criminal, the Supreme Court may on the hearing of the appeal, deal with it on the evidence taken before the Magistrate, or examine all or any of the witnesses called before the Magistrate or receive such other evidence whether by affidavit or orally as it thinks fit before dealing with the appeal or determining the same and for the purpose of hearing evidence the Supreme Court may issue subpoenas subject to such terms (if any) as the court may see fit to impose on a party to the appeal in regard to costs or to expenses and allowances for witnesses in respect of travelling, subsistence or loss of time. Power to hear evidence.

48. In every appeal, whether civil or criminal, a party to the appeal shall be entitled in all cases to be present in court, and if he is in custody a Judge shall give appropriate directions for him to be brought up to attend. Appearance of parties at hearings.

49. In every appeal, whether civil or criminal, the Supreme Court may grant costs in its discretion. Costs of appeal.

50. (1) Rules of Court may be made by the Rules of Court Committee established by section 22 to regulate the procedure on appeals, whether civil or criminal, under this Part and generally to carry into effect the provisions of sections 41 to 51. Rules of Court on procedure.

LANBUK.COM LANBUK SIERRA LEONE

(2) Until Rules are made by virtue of this section, the procedure provided in the Appeals from Magistrates Courts Act shall, notwithstanding the repeal of that Act by section 30 of the Courts (Appeals) Act, 1960, continue to be observed in so far as is not inconsistent with anything in this Act.

(3) Without prejudice to the generality of the power conferred by subsection (1), Rules of Court may provide for any of the following matters—

(*a*) the manner in which the Supreme Court shall exercise the powers vested in it;

(*b*) the transfer of appeals from one part of Sierra Leone to another, or from one registry of the Supreme Court to another, or from one Judge to another;

(*c*) for regulating the sittings of the Court and the selection of Judges for such purpose;

(*d*) providing for legal aid for persons concerned in any civil or criminal proceedings and the payment of fees for such representation;

(*e*) for prescribing the cases in which, and the conditions upon which an appellant in a criminal appeal to the Court shall be entitled to be present at the hearing of the appeal;

(*f*) for providing for, and regulating the hearing of appeals with the assistance of one or more assessors and prescribing their remuneration;

(*g*) for prescribing forms and fees in respect of proceedings in the Court and regulating the costs of and incidental to any such proceedings;

(*h*) for prescribing and regulating the powers and duties of officers of the Court;

(*i*) for prescribing the time within which any requirements of the Rules is to be complied with.

Case stated by Magistrate.

51. (1) In addition and without prejudice to the right of appeal hereinbefore conferred in civil and criminal proceedings, a Magistrate, on the application of any party concerned or of his own motion, may reserve for consideration by the Supreme Court, on a case to be stated by him, any question of law which may arise on the hearing of any such proceedings, and may give or make any judgment, or order, or other decision, subject to the opinion of the Supreme Court, and the Supreme Court shall have jurisdiction to hear and determine any such question.

LANBUK.COM LANBUK Sierra Leone

(2) When a Magistrate reserves a question of law, the Magistrate's Court or the Supreme Court may exercise any of the powers conferred on it in respect of appeals, whether by this Act or by Rules of Court.

(3) Section 51 shall apply to a case stated as it applies to appeals.

(4) The Supreme Court may by order of mandamus require a Magistrate to state a case for the opinion of the Supreme Court.

Judge to exercise Jurisdiction.

52. The jurisdiction and powers conferred on the Supreme Court in respect of appeals and of cases stated shall be exercised by a single Judge.

PART II—APPEALS FROM DECISIONS OF THE SUPREME COURT IN APPEALS FROM, OR IN CASES STATED BY, MAGISTRATES

Further civil appeal.

53. (1) An appeal shall lie in the Court of Appeal from the decision of the Supreme Court in an appeal from, or on a case stated by, a Magistrate in civil proceedings:

Provided that—

(*a*) where the Supreme Court has affirmed the decision of the Magistrate, the appeal to the Court of Appeal shall be confined to questions of law only unless the Judge who affirmed the decision or the Court of Appeal gives leave to appeal on a question of fact;

(*b*) no appeal shall lie except by leave of the Judge making the order or of the Court of Appeal—

(i) from an order made *ex parte;* or

(ii) from an order as to costs only; or

(iii) from an order made by consent of the parties;

(*c*) in the following cases, that is to say—

(i) where the amount in dispute between the parties, whether under the claim of the plaintiff, or under the counterclaim or set-off of the defendant, does not exceed six hundred leones, or

(ii) where, in a case between landlord and tenant, the rent *per mensem* does not exceed forty leones, if the landlord's title is not in dispute,

the appeal to the Court of Appeal shall be confined to questions of law only unless the Judge who decided the appeal from the Magistrate or the Court of Appeal gives leave to appeal on a question of fact.

Further appeal in criminal cases.

(2) An appeal shall lie to the Court of Appeal, but on questions of law only, against the decision of the Supreme Court in an appeal from, or on a case stated by, a Magistrate in criminal proceedings:

LANBUK

Provided that no appeal shall lie, except by leave of the Court of Appeal, on any question of law which involves investigation or discussion of evidence if the question was not raised in the Supreme Court:

Provided further that, unless the Court of Appeal grants more time, no appeal shall be entertained if it was not brought within twenty-one days from the day on which the decision was given.

Case stated by Judge.

(3) In addition and without prejudice to the right of appeal conferred by subsections (1) and (2), a Judge may reserve for consideration by the Court of Appeal, on a case to be stated by him, any question of law which may arise on the hearing of an appeal from, or on a case stated by, a Magistrate, and give or make any judgment, or order, or other decision, subject to the opinion of the Court of Appeal, and the Court of Appeal shall have jurisdiction to hear and determine any such question.

Powers of Judge and of Court of Appeal in further appeals.

54. In relation to an appeal from, or to a case stated by, a Judge under section 53, the Supreme Court shall have the like powers as are conferred on a Magistrate in relation to an appeal from a Magistrate, and the Court of Appeal shall have the like powers as are conferred on the Supreme Court in relation to an appeal from a Magistrate, and the provisions of the relevant sections of Part I of this Chapter shall apply *mutatis mutandis* accordingly.

Rules of Court governing further appeals.

55. An appeal or a case stated under section 53 shall be regulated by Rules of Court made or having force under section 50, and in so far as there are no such rules to regulate such an appeal or case stated the Court of Appeal Rules shall be applied to such an appeal or case stated with such modifications and adaptations as may be necessary.

PART III—APPEALS IN CIVIL CASES TRIED IN THE SUPREME COURT AT FIRST INSTANCE AND CERTAIN OTHER MATTERS

Appeals in civil cases tried in the Supreme Court.

56. (1) Subject to the provisions of this section, an appeal shall lie to the Court of Appeal—

(*a*) from any final judgment, order, or other decision of the Supreme Court given or made in the exercise of its original, prerogative or supervisory jurisdiction in any suit or matter; and

(*b*) by leave of the Judge making the order or of the Court of Appeal, from any interlocutory judgment, order or other decision, given or made in the exercise of any such jurisdiction as aforesaid:

Provided that no appeal shall lie, except by leave of the Court or Judge making the order or of the Court of Appeal—

(i) from an order made *ex parte*; or

(ii) from an order as to costs only; or

(iii) from an order made by the consent of the parties.

LANBUK.COM LANBUK LIBRARY

(2) In the case of a decree in a matrimonial cause, the appeal may be brought either against the decree *nisi* or the decree absolute:

Provided that no appeal from an order absolute for dissolution or nullity of marriage shall lie in favour of any party who, having had time and opportunity to appeal from the decree nisi on which such order may be founded, did not appeal from the decree *nisi*.

(3) Notwithstanding the provisions of paragraph (*b*) of subsection (1), if the order entails confinement in prison or in custody, the appeal may be brought without leave, but the release of the appellant shall be subject to such terms as a Judge or the Court of Appeal may impose.

(4) In addition and without prejudice to the right of appeal conferred by this or any other enactment, a Judge of the Supreme Court may reserve for consideration by the Court of Appeal on a case to be stated by him, any question of law which may arise in a suit or matter, and may give his judgment or make his order subject to the opinion of the Court of Appeal, and the Court of Appeal shall have jurisdiction to hear and determine any such question.

(5) This section shall be deemed to extend to any decision of the Supreme Court in disciplinary proceedings against legal practitioners, medical practitioners and dentists and to extend also to any other suit or matter under any enactment which grants a right of appeal to the Court of Appeal.

(6) Where an appeal is pending or an application for leave to appeal has been made, the Supreme Court or the Court of Appeal may suspend execution of any order made by the Supreme Court in disciplinary proceedings against legal practitioners, medical practitioners and dental surgeons.

PART IV—APPEALS IN CRIMINAL CASES TRIED IN THE SUPREME COURT AT FIRST INSTANCE AND CERTAIN OTHER MATTERS

RIGHT OF APPEAL AND DETERMINATION OF APPEALS

Right of appeal in criminal cases.

57. A person convicted by or in the Supreme Court may appeal to the Court of Appeal—

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

(*b*) with the leave of the Court of Appeal or upon the certificate of the Judge who tried him that it is a fit case for appeal against his conviction on any ground of appeal which involves a question of fact alone, or a question of mixed law and fact, or any other ground which appears to the Court to be a sufficient ground of appeal; and

(*c*) with the leave of the Court of Appeal against the sentence passed on his conviction, unless the sentence is one fixed by law; and

LANBUK.COM LANBUK SIERRA LEONE

(*d*) against a finding of insanity where the Court has made a special finding under section 73 of the Criminal Procedure Act, 1965.

Determination of appeals in ordinary cases.

58. (1) Subject and without prejudice to subsection (2) the Court of Appeal on any such appeal against conviction shall allow the appeal if they think that the verdict should be set aside on the ground that it is unreasonable, or cannot be supported having regard to the evidence, or that the judgment of the Court before whom the appellant was convicted should be set aside on the ground of a wrong decision of any question of law, or that on any ground there was a miscarriage of justice, and in any other case shall dismiss the appeal.

(2) On an appeal against conviction the Court of Appeal may, notwithstanding that they are of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if they consider that no substantial miscarriage of justice has actually occurred.

(3) Subject to the special provisions of this Act the Court of Appeal shall, if they allow an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered.

(4) On an appeal against sentence, the Court of Appeal may leave the sentence unaltered or pass such other sentence warranted in law (whether more or less severe) in substitution therefor as they think ought to have been passed.

(5) On an appeal against a finding of insanity the Court of Appeal may affirm the finding or quash the finding and direct a verdict and judgment of acquittal to be entered or if the Court is of the opinion that the circumstances do not warrant the entry of a verdict and judgment of acquittal, remit the case to be tried *de novo* before a different Court on the basis that the accused was sane at the time the act was done.

Powers of court in special cases.

59. (1) If it appears to the Court of Appeal that an appellant, though not properly convicted on some count has been properly convicted on some other count, the Court may either affirm the sentence passed on the appellant at the trial, or pass such sentence in substitution therefor as they think proper, and as may be warranted in law by the verdict on the count on which the Court consider that the appellant has been properly convicted.

(2) Where an appellant has been convicted of an offence and the Court which tried him or the jury (as the case may be) could have found him guilty of some other offence, and on the finding of such Court or the jury it appears to the Court of Appeal that such Court or the jury must have been satisfied of facts which proved him guilty of that other offence, the Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by such Court or the jury a verdict of guilty of that other offence, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law for that other offence, not being a sentence of greater severity.

LANBUK.COM SIERRA LEONE

(3) Where on the conviction of the appellant by a jury, the jury have found a special verdict, and the Court of Appeal consider that a wrong conclusion has been arrived at by the Court before which the appellant has been convicted as to the effect of that verdict, the Court of Appeal may, instead of allowing the appeal, order such conclusion to be recorded as appears to the Court to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law.

(4) If on appeal it appears to the Court of Appeal that, although the appellant did the act or made the omission charged against him, he was insane at the time the act was done or the omission made so as not be responsible according to law for his actions, the Court may quash the conviction and substitute a finding of not guilty by reason of insanity and shall order the appellant to be kept in custody until Her Majesty's pleasure shall be known, and such order shall have the same effect as if it were made by the Judge by whom the appellant was tried.

(5) Where the Court of Appeal is of the opinion that the proceedings in the trial court were a nullity, either through want of jurisdiction or otherwise, the Court may order the appellant to be tried by a Court of competent jurisdiction.

(6) Where an appeal against conviction is allowed by the Court of Appeal by reason only of evidence received or available to be received by that Court, under section 65, and it appears to the Court that the interests of justice so require, the Court may, instead of directing the entry of a judgment and verdict of acquittal, order the appellant to be re-tried:

Provided always that this power shall only be exercised where it appears that the non-availability of such evidence has been due to gross negligence or the wilful withholding of the same at the trial of the accused.

(7) An appellant shall not be re-tried by virtue of this section for any offence other than—

(*a*) the offence of which he was convicted at the original trial and in respect of which his appeal is allowed as aforesaid; or

(*b*) any offence of which he could have been convicted at the original trial on an indictment for the first mentioned offence; or

(*c*) any offence charged in an alternative count of the indictment in respect of which the jury were discharged from giving a verdict in consequence of convicting him of the first mentioned offence.

Supplementary provisions as to new trials.

60. (1) The appellant who is to be re-tried for an offence in pursuance of an order under subsection (6) of section 59 shall be tried on a fresh indictment preferred by the direction of the Court of Appeal, and shall be tried before a different Judge if the Court of Appeal shall so direct.

LANBUK.COM LANBUK SIERRA LEONE

(2) The Court of Appeal may, upon ordering a re-trial under subsection (6) of section 59 make such orders as appear to the Court to be necessary or expedient for the custody or admission to bail of the appellant pending the re-trial, or for the retention pending the re-trial of any property or money forfeited, restored or paid by virtue of the original conviction or any order made on that conviction.

Provisions as to sentence in case of conviction at re-trial.

61. (1) Where a person ordered to be re-tried under subsection (6) of section 59 is again convicted on the re-trial, the Court before whom he is convicted may pass in respect of the offence any sentence authorised by law, not being a sentence of greater severity than that passed on the original conviction.

(2) Where the person convicted on re-trial is sentenced to imprisonment, the sentence shall begin to run from the time when a like sentence passed on the original trial would have begun to run; but in computing the term of his sentence there shall be disregarded—

(*a*) any time before his conviction on re-trial which would have been disregarded in computing that term if the sentence had been passed at the original trial and the original conviction had not been quashed;

(*b*) any time during which he was at large after having been admitted to bail.

(3) Subsection (3) of section 230 of the Criminal Procedure Act, 1965 (which relates to the deduction from certain sentences of time spent in custody before sentence), shall apply to any sentence imposed on conviction on re-trial as if it had been imposed on the original conviction.

Revesting and restitution of property on conviction.

62. (1) The operation of any order for the restitution of any property to any person made on a conviction and the revesting, in case of any such conviction, in the original owner or his personal representative of the property in stolen goods, shall (unless the Court before whom the conviction takes place direct to the contrary in any case in which, in their opinion, the title to the property is not in dispute) be suspended—

(*a*) in any case until the expiration of ten days after the date of the conviction; and

(*b*) in cases where notice of appeal or leave to appeal is given within ten days after the date of conviction, until the determination of the appeal;

and in cases where the operation of any such order or such revesting, is suspended until the determination of the appeal, the order or the revesting, as the case may be, shall not take effect as to the property in question if the conviction is quashed on appeal.

LANBUK.COM LANBUK SIERRA LEONE

(2) The Court of Appeal may by order annul or vary any order made on a trial for the restitution of any property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

Prerogative and supervisory jurisdiction.

63. An appeal shall lie to the Court of Appeal by either party from any decision of the Supreme Court made in the exercise of its prerogative or supervisory jurisdiction in a criminal matter.

PROCEDURE

Time for appealing.

64. Where a person convicted desires to appeal to the Court of Appeal, or to obtain the leave of that Court to appeal, he shall give notice of appeal or notice of his application for leave to appeal in such manner as may be directed by Rules of Court within twenty-one days of the date of conviction:

Provided that, except in the case of a conviction involving sentence of death, or corporal punishment the time within which notice of appeal or notice of an application for leave to appeal may be given, may be extended at any time by the Court of Appeal or by the Court before whom the appellant was convicted.

Supplemental powers of Court.

65. The Court of Appeal may, if they think it necessary or expedient in the interest of justice—

(*a*) order the production of any document, exhibit, or other thing connected with the proceedings, the production of which appears to them necessary for the determination of the case;

(*b*) order any witnesses who would have been compellable witnesses at the trial to attend and be examined before the Court, whether they were or were not called at the trial, or order the examination of any such witnesses to be conducted in any manner provided by Rules of Court, or, in the absence of Rules of Court making provision in that behalf, as they may direct, before any Judge of the Court or before any officer of the Court or other person appointed by the Court for the purpose, and allow the admission of any depositions so taken as evidence before the Court;

(*c*) receive the evidence, if tendered, of any witness (including the appellant) who is a competent but not compellable witness, and, if the appellant makes an application for the purpose, of the husband or wife of the appellant, in cases where the evidence of the husband or wife could not have been given at the trial except on such an application; and

(*d*) where any question arising on the appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which cannot in the opinion of the Court conveniently be conducted before the Court, order the reference of the question in any manner provided by Rules of Court, or, in the absence of Rules of Court making provision in that

LANBUK.COM LANBUK

behalf, as they may direct, for inquiry and report to a Special Commissioner appointed by the Court, and act upon the report of any such Commissioner so far as they think fit to adopt it;

and exercise in relation to the proceedings of the Court any other powers which may for the time being be exercised by the Court of Appeal on appeals in civil matters and issue any warrants necessary for enforcing the orders or sentences of the Court:

Provided that in no case shall any sentence be increased by reason of or in consideration of any evidence that was not given at the trial.

Right of appellant to be present.

66. (1) An appellant, notwithstanding that he is in custody, shall be entitled to be present, if he desires it, on the hearing of his appeal, or on an application for leave to appeal and on any proceedings preliminary or incidental to an appeal.

(2) The power of the Court of Appeal to pass any sentence under this Act may be exercised notwithstanding that the appellant is for any reason not present.

Admission of appellant to bail, and custody when attending Court.

67. (1) An appellant who is not admitted to bail shall, pending the determination of his appeal, be treated in such manner as may be directed by Rules made under the Prisons Act, 1960.

(2) The Court of Appeal or the Court before whom he was convicted may, if it seems fit, on the application of an appellant, admit the appellant to bail pending the determination of his appeal.

(3) The time during which an appellant, pending the determination of his appeal, is admitted to bail, shall not count as part of any period of imprisonment under his sentence.

(4) Every sentence shall commence on the day it is pronounced as provided in section 230 of the Criminal Procedure Act, 1965, notwithstanding that the prisoner is specially treated as an appellant under this section: Provided that the Court may direct that such period of special treatment or any part thereof shall not count as part of the period of imprisonment under sentence;

(5) Where a case is stated in a criminal proceeding under section 68, this section shall apply to the person in relation to whose conviction the case is stated as it applies to an appellant.

Act No. 22 of 1960.

(6) Provision shall be made by Rules under the Prisons Act, 1960, for the manner in which an appellant, when in custody, is to be brought to any place at which he is entitled to be present for the purposes of this Act or to any place to which the Court of Appeal may order him to be taken for the purpose of any proceedings of that Court, and for the manner in which he is to be kept in custody while absent from prison for the purpose; and an appellant whilst in custody in accordance with those Rules shall be deemed to be in legal custody.

LANBUK.COM LANBUK

ESERVATION OF QUESTIONS OF LAW FOR THE OPINION OF THE COURT OF APPEAL

. In addition and without prejudice to the right of appeal ed by this Act any Judge of the Supreme Court may for the consideration for the Court of Appeal, on a case stated by him, any question of law which may arise on the efore such Judge of any person charged and if a verdict lty be returned, may postpone judgment, or may direct ent, to be entered provisionally, subject to the opinion of ourt of Appeal, respiting execution of the judgment, and ourt of Appeal shall have power to hear and determine such question. Reservation of questions of law for opinion of Court of Appeal.

EFERENCE TO COURT OF APPEAL BY GOVERNOR-GENERAL

9. Nothing in this Act shall affect the prerogative of mercy, e Governor-General acting in accordance with the advice of rime Minister may with the concurrence of a person ted by the Supreme Court (who shall, if he concurs, be d to be an appellant), refer his case to the Court of Appeal, hen the case shall be heard and determined by the Court peal as in the case of an appeal by a convicted person. Governor General may refer case to Court of Appeal.

PART V—APPEALS TO HER MAJESTY IN COUNCIL

0. (1) An appeal shall lie from decisions of the Court of al to Her Majesty in Council as of right in the following Appeals from Court of Appeal to Her Majesty in Council.

(*a*) final decisions in civil proceedings—

(i) where the matter in dispute on the appeal to Her Majesty in Council is of the value of one thousand leones or upwards, or

(ii) where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of one thousand leones or upwards;

(*b*) final decisions in proceedings for dissolution or nullity of marriage;

(*c*) final decisions in disciplinary proceedings against legal practitioners, medical practitioners and dental surgeons;

(*d*) final decisions in any civil or criminal proceedings on questions as to the interpretation of the Constitution; and

(*e*) such other cases as may be prescribed by Parliament.

(2) Subject to the provisions of the Constitution and Act, an appeal shall lie from decisions of the Court of Appeal er Majesty in Council with leave of the Court of Appeal in following cases—

LANBUK.COM LANBUK

(*a*) decisions in any civil or criminal proceedings where in the opinion of the Court of Appeal the question involved in the appeal is one that by reason of its general or public importance or otherwise, ought to be submitted to Her Majesty in Council; and

(*b*) such other cases as may be prescribed by Parliament.

Suspension of execution in disciplinary cases pending appeal.

71. The Court of Appeal may suspend the execution of any order made by it in any disciplinary proceedings against legal practitioners, medical practitioners or dental surgeons where—

(*a*) an appeal to Her Majesty in Council is pending against a decision of the Court of Appeal; or

(*b*) an application has been made for leave to appeal to Her Majesty in Council against a decision of the Court of Appeal.

Rules and Procedure. P.N. No. 124 of 1960 and 79 of 1961.

72. Appeals to Her Majesty in Council shall be governed by the Judicial Committee Rules, 1957 and, the Sierra Leone (Procedure in Appeals to Privy Council) Order in Council, 1961, or any Rules or Orders in Council amending or replacing the same.

Right to grant special leave to appeal not affected.

73. Nothing in this Part shall affect any right of Her Majesty to grant special leave to appeal from decisions of the Court of Appeal to Her Majesty in Council in any civil or criminal matter.

CHAPTER III—MISCELLANEOUS PROVISIONS

PART I—COMMON LAW AND EQUITY, ASSESSORS, CUSTOMARY LAW AND THE LANGUAGE OF THE COURT

Certain Laws of England to apply in Sierra Leone.

74. Subject to the provisions of the Constitution and any other enactment, the common law, the doctrines of equity, and the statutes of general application in force in England on the 1st day of January, 1880, shall be in force in Sierra Leone.

Assessors in civil cases.

75. (1) The Chief Justice shall after consulting the Paramount Chiefs in each district appoint a panel of not less than fifteen persons expert in customary law from whom a court may appoint assessors to guide it on questions of customary law.

(2) Whenever a question of customary law (not involving jurisdiction in regard to the administration of estates of deceased persons or being an action suit, or original proceedings mentioned in section 21) arises for decision in any court, the judge shall appoint from the list mentioned in subsection (1) an uneven number of persons not less than three who after hearing evidence which may be given on the question of customary law, and any argument which may be advanced shall decide such question of customary law and the decision of the majority of such assessors shall be binding on the court:

Provided that the Judge shall not be bound by the decision of the assessors if it is inconsistent with any previous decision by the Supreme Court acting eitherin its original or appellate jurisdiction.

LANBUK.COM LANBUK

(3) The assessors shall consult with the judge in the nulation of the record of their finding.

Application of customary law by the Courts in civil matters arising in the Provinces.

76. (1) Nothing in this Act shall deprive any Court when ermining matters arising in the Provinces in its civil jurisdic-, of the right to observe and enforce the observance of, or ll deprive any person of the benefit of, any customary law sting in the Provinces and not being repugnant to natural ice, equity and good conscience, nor incompatible, either ctly or by necessary implication, with any Act applying to the vinces.

(2) Subject to subsection (3) such cumtomary law shall, ept where the circumstances, nature or justice of the case ll otherwise require, be deemed applicable in all causes and tters where it shall appear to the Court that substantial in-ice would be done to any party by a strict adherence to the s of any law other than customary law.

(3) No party shall be entitled to claim the benefit of customary law if it shall appear either from the express tract, or from the nature of the transaction out of which any se or matter may have arisen, that such party agreed that his gations in connection with such transaction should be regu-d exclusively by any law referred to in section 74 or any Act Sierra Leone; and in cases where no express rule is applicable any matter in controversy, the Court shall be governed by principles of justice, equity and good conscience.

Protection of Judicial Officers.

77. (1) No Judge, Magistrate, or other person acting icially shall be liable to be sued in any civil court for any act e by him within the territorial limits of his jurisdiction in the charge of his judicial duty, or for any order made by him in discharge of such duty, whether or not within the limits of jurisdiction, nor shall any order for costs be made against , provided that he at the time in good faith believed himself to e jurisdiction to do or order the act complained of.

(2) No officer of any Court or other person bound to cute the lawful warrants or orders of any Court, Judge, gistrate, or other person acting judicially shall be liable to be d in any civil court for the execution of any warrant or order ich he would be bound to execute if within the jurisdiction of person issuing the same.

Language of Courts.

78. The language of the Courts established under the nstitution and this Act shall be English.

PART II—REPEAL, SAVING AND AMENDMENT

Repeal of Cap. 7.

79. (1) Subject to subsection (2) the Courts Act is hereby caled.

Saving of Orders and Rules.

(2) All Orders and Rules made under the provisions of Courts Act and in force at the date of commencement of this shall continue in force and have effect as if made under the visions of, and with such modifications as may be necessary to g them into conformity with, this Act, until such time as other visions are made under this or any other Act.

LANBUK.COM LANBUK SIERRA LEONE

Repeal of Act No. 18 of 1960.

80. (1) The Courts (Appeals) Act, 1960, is hereby repealed.

(2) Wherever in any enactment the expression "the Sierra Leone and Gambia Court of Appeal" appears there shall be substituted therefor the expression "the Court of Appeal".

Repeal of Act No. 53 of 1962.

81. The Courts (Appointment of Lay Magistrates) Act, 1962, is hereby repealed.

Repeal of Act No. 39 of 1963 and 33 and 34 Vict. Cap. 23.

82. The Administration of Justice Miscellaneous (Provisions) Act, 1963, and the Forfeiture Act, 1870, are hereby repealed:

Provided that no attainder, corruption of blood, forfeiture or escheat on judgment or conviction of any criminal offence shall be deemed ever to have existed in Sierra Leone.

Repeal of 5 Vict. Cap. 5.

83. The Court of Chancery Act, 1841, is hereby repealed.

Amendment of Cap. 9.

84. Section 6 of the Coroners Act is hereby repealed and replaced by the following new section—

"Magistrate or District Officer *ex-officio* Coroner.

6. (1) Every Magistrate shall be *ex officio* coroner in and for the Judicial District in which he exercises jurisdiction as a Magistrate.

(2) When in any District a Magistrate is not available to perform the functions of Coroner the District Officer of such District shall perform such functions.".

THE FIRST SCHEDULE (*Section 3*)

(a) The Headquarters Judicial District.

All that area comprising the places and territories lying within the following limits, viz.:—From the point where the railway bridge crosses the Orugu River, down the right bank of that river to its junction with the Bunce River, thence along the left bank of the Bunce River to its junction with the Madonkia Creek, thence up the Madonkia Creek to a point shown on the map as Captain's Wharf, thence in an easterly direction along the line of boundary stones (between the Chiefdom of Koya and the Western Area) to the head of the Songo Creek, otherwise known as the Kagbai River, thence down the right bank of the Songo Creek to its confluence with the Ribbi River, and down the right bank of that river to Yawri Bay, thence following the coast line in a south-westerly direction to Kent, thence following the coast line to Adonkia Creek, thence up the left bank of the Adonkia Creek to a point where the creek is crossed by the main road leading from Hamilton to Adonkia, and from that point in a straight line to where the railway bridge crosses the Orugu River; including also the Banana Islands, and all such islands and islets as are adjacent to the coast line from the mouth of the Ribbi River to the mouth of the Adonkia Creek.

(b) The Judicial District of Freetown.

All that part of the Western Area which is bounded on the north and north-east by the Rokel River and Bunce Creek, on the the west by the Atlantic Ocean, on the south by the Adonkia Creek and a line drawn in an easterly direction from its source, leaving

LANBUK.COM

the Sugar Loaf to the left, to the southernmost point in the dividing boundary of the Parishes of Saint John and Saint Thomas, and on the east by a line drawn from the last named point to the Bassa Brook and thence along Bassa Brook and Hastings Creek to Bunce Creek aforesaid, together with Tasso Island.

(c) *The Sherbro Judicial District.*

All that area comprising:—

(1) York Island and the small islands adjacent thereto.

(2) That portion of the Sherbro Island which is bounded by the Sherbro River, by the Bendu water until it effects its junction with the Alipori Creek, by the Alipori Creek until it reaches the central bridge over the Bimbi Swamp, and by an imaginary straight line drawn from the central bridge over the Bimbi Swamp to the nearest point of the southern bank of the Bimbi Creek.

SECOND SCHEDULE

LIST OF OFFENCES NOT TRIABLE SUMMARILY UNDER SECTION 6

1. Any offence punishable by death or imprisonment for life, other than—

(*a*) arson, contrary to sections 2, 3 or 17 of the Malicious Damage Act, 1861; 24 and 25 Vict. C. 97.

(*b*) wounding or causing grevious bodily harm with intent, contrary to section 18 of the Offences against the Person Act, 1861. 24 and 25 Vict. C. 100.

2. Blasphemy and offences against religion.

3. Bigamy and offences against the laws relating to marriages.

4. Composing printing or publishing blasphemous, seditious or defamatory libels.

5. Unlawful combinations and conspiracies, except conspiracies or combinations to commit any offence which the Court has jurisdiction to try either with or without consent when committed by one person.

6. Any offence against the Perjury Act, 1911, or any offence which under any enactment for the time being in force is declared to be perjury or to be punishable as perjury or as subornation of perjury if the offence is punishable with more than two years imprisonment. 1 and 2 Geo. 6. V. C. 6.

7. Offences against the Treason and State Offences Act, 1963. Act. No. 10 of 1963.

8. Rape and attempted rape.

9. An offence against section 38 of the Road Traffic Act, 1964 (which relates to reckless driving). Act No. 62 of 1964.

10. Any offence against sections 26, 27 and 28 of the Larceny Act, 1916.

11. Robbery contrary to section 23 of the Larceny Act. 1916.

12. Any offence against the Forgery Act, 1913.

LANBUK.COM LANBUK

THIRD SCHEDULE

LIST OF ACTIONS TO WHICH SUBSECTION (2) OF SECTION 7 DOES NOT APPLY

All causes and matters—

(i) for the dissolution of partnerships or the taking of partnership or other accounts;

(ii) for the redemption or foreclosure of mortgages;

(iii) for the raising of portions or other charges on land;

(iv) for the sale and distribution of proceeds of property subject to any lien or charge;

(v) for the execution of trusts, charitable or private;

(vi) for the construction, or rectification or setting aside, or cancellation of deeds or other written instruments;

(vii) for the specific performance of contracts between vendors and purchasers of real estate, including contracts for leases;

(viii) for the partition or sale of real estate;

(ix) for the wardship of infants and the care of infants estates;

(x) for the grant of probate o letters of administration or the administration of estates of deceased persons;

(xi) relating to divorce and matrimonial causes.

FOURTH SCHEDULE

RESTRAINING ORDER (*Section 20*)

UPON originating motion this day made unto this Court by Counsel for the above-named and upon reading an affidavit, etc.

AND the applicant by his Counsel undertaking to abide by any order this Court may make as to damage in case this Court shall hereafter be of opinion that.....and .....shall have sustained any by reason of this order which the applicant ought to pay.

THIS COURT DOTH ORDER that the..... Company/Bank of Sierra Leone be restrained until after .....the.....th.....19..... or further order from permitting the said transfer of the sum of [Le..... 4 per cent. Preference Stock of.....] now standing in the books of the Company/Bank of Sierra Leone in the names of the said (names, addresses and descriptions of the holder of the stock or shares).

THE further hearing of the said motion is adjourned until the .....th .....19.....and any interested party is to be at liberty to apply to discharge this order on giving two clear days' notice.

LANBUK.COM LANBUK

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

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

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

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

LANBUK.COM LANBUK