

Assented to in Her Majesty's name this 28th day of May, 1960.

A. G. H. GARDNER-BROWN,
*Officer Administering the
Government of the Federation*

(L.S.)

No. 11



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

ANTHONY GEOFFREY HOPWOOD

GARDNER-BROWN, C.M.G.

Officer Administering the Government of the Federation

AN ORDINANCE TO AMEND THE HIGH COURT OF LAGOS ORDINANCE, 1955.

[2nd June, 1960]

BE IT ENACTED by the Legislature of the Federation of Nigeria as follows—

1. This Ordinance may be cited as the High Court of Lagos (Amendment) Ordinance, 1960, and shall apply to the Federal Territory of Lagos.

Title.

Commence-
ment.

Enactment.

Short title
and applica-
tion.

Amendment
of section 7
of
Ordinance
25 of 1955.

2. (1) Section 7 of the High Court of Lagos Ordinance, 1955 (hereinafter called the principal Ordinance) is amended by the repeal of subsection (1) and the substitution of the following—

“(1) There shall be paid to the Chief Justice as salary the sum of three thousand eight hundred pounds a year, and to each of the other Judges as salary the sum of three thousand three hundred pounds a year.”.

(2) The revised salaries payable by virtue of the amendment effected by subsection (1) of this section shall accrue proportionately in respect of the years 1959 and 1960 with effect from the 1st day of September, 1959.

Repeal and
replacement
of section 49
of principal
Ordinance.

3. Section 49 of the principal Ordinance is repealed and replaced by the following section :—

“Appeal by
prosecutor. 49. A prosecutor aggrieved by a decision of the High Court in a criminal appeal from the Magistrates' Court may, with the leave of the Federal Supreme Court or the High Court, appeal against such decision to the Federal Supreme Court on a question of law but not on a question of fact or of sentence.”.

Insertion
of new
Part IVA in
principal
Ordinance.

4. The following Part shall be inserted immediately after section 49 of the principal Ordinance :—

“PART IVA.—PROVISIONS PENDING APPEAL TO THE FEDERAL SUPREME COURT

Provisions
pending
appeal.

49A. (1) Where an appeal to the Federal Supreme Court is entered, or leave to appeal is granted, against a conviction in respect of which the appellant has been sentenced to imprisonment, the High Court may, in its discretion, admit the appellant to bail pending the determination of the appeal ; and any time during which the appellant is so admitted to bail, shall not count as part of the term of imprisonment to which he was sentenced.

(2) The operation of any order made on conviction by the High Court for the payment of compensation or of any of the expenses of the prosecution or of the imprisonment or of other punishment imposed on the person convicted or for the restoration of any property to any person, and the reversion in case of any such conviction, in the original owner or his personal representative of the property in stolen goods, shall (unless the judge before whom the conviction takes place directs to the contrary in any case in which, in his opinion, the title to the property is not in dispute) be suspended until the expiration of thirty days after the date of the conviction.

(3) Where an appeal to the Federal Supreme Court is entered, or leave to appeal is granted, in any civil case, the High Court may, in its discretion, order a stay of execution either unconditionally or upon the performance of such conditions as may be imposed in accordance with Rules of Court.”.

Amendment
of section 62
of principal
Ordinance.

5. In subsection (1) of section 62 of the principal Ordinance, the following proviso shall be added—

“Provided that the presiding judge may cause the whole or any part of the proceedings to be recorded in shorthand by an official shorthand writer approved by the Chief Justice in accordance with such conditions as may be imposed by Rules of Court.”.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

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2. Interpretation.

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5. Officers of Supreme Court.
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A. G. H. GARDNER-BROWN,
*Officer Administering the
Government of the Federation*

(L.S.)

No. 12



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF
HER MAJESTY QUEEN ELIZABETH II
ANTHONY GEOFFREY HOPWOOD
GARDNER-BROWN, C.M.G.
Officer Administering the Government of the Federation

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE
FEDERAL SUPREME COURT.

Title.

[2nd June, 1960]

Commence-
ment.

BE IT ENACTED by the Legislature of the Federation of Nigeria as
follows—

Enactment.

1. (1) This Ordinance may be cited as the Federal Supreme Court
Ordinance, 1960, and shall be of Federal application.

Short title,
application
and com-
mencement.

(2) This Ordinance shall not come into operation unless and until the
Governor-General notifies by Proclamation that it is Her Majesty's pleasure
not to disallow the same and thereafter it shall come into operation upon
such day as the Governor-General shall notify by the same or any other
Proclamation.

Interpreta-
tion.

2. (1) In this Ordinance, unless the context otherwise requires—
“appellant” includes a person who has been convicted and desires to appeal under the Constitution Order or under any Ordinance or law made in pursuance of that Order; and a person appealing under paragraph (a) of subsection (5) of section 147 of that Order;

“cause” includes any action, suit or other original proceeding between a plaintiff and a defendant;

“the Constitution Order” means the Nigeria (Constitution) Order in Council, 1954, and any Order in Council amending that Order in Council or substituted for it;

“court below” means the court from which an appeal is brought;

“judge” means the Chief Justice of the Federation or any other judge of the Supreme Court and any person lawfully acting as such;

“judgment” includes decision or order;

“magistrate’s court” includes any district or similar court established by Regional law;

“matter” includes every proceeding in court not in a cause;

“Registrar” means the Chief Registrar of the Supreme Court or any registrar or deputy registrar of that Court;

“rules of court” means rules of court made under or in pursuance of the Constitution Order and includes regulations made under section 16 of that Order;

“Supreme Court” means the Federal Supreme Court of Nigeria established by the Constitution Order;

“sentence” includes a recommendation;

“suit” includes action;

“verdict” includes the decision of a judge or court as to whether or not the accused person is guilty in cases where such decision rests with the judge or court.

(2) For the purpose of this Ordinance, Lagos and the Southern Cameroons shall each be deemed to be a Region.

PART I.—GENERAL

Number of
Federal
Justices.

3. (1) If at any time it shall appear to the Governor-General that it is necessary to increase the number of the Federal Justices of the Supreme Court, he may by Order provide for such increase, and thereupon the number of Federal Justices shall be the number specified for that purpose in the Order.

(2) Any Order increasing the number of Federal Justices in operation on the commencement of this Ordinance shall continue in operation and shall be deemed to have been made under this section.

Salaries and
allowances
of judges.

4. (1) There shall be paid to the Chief Justice of the Federation as salary the sum of four thousand one hundred and fifty pounds a year, and to each of the other judges as salary the sum of three thousand six hundred pounds a year.

(2) There shall also be paid to each judge on account of expenses incurred in connection with his office or otherwise such allowances as are considered reasonable by the Governor-General acting in his discretion.

(3) The amounts payable under the provisions of this section shall be charged on and paid out of the Consolidated Revenue Fund.

(4) The salaries payable by virtue of this section (which revise the salaries formerly payable under the Federal Supreme Court (General Provisions) Ordinance, 1955, repealed by this Ordinance) shall accrue proportionately in respect of the years 1959 and 1960 with effect from the 1st day of September, 1959.

5. (1) The Governor-General may appoint a Chief Registrar of the Supreme Court and such registrars, deputy registrars and other officers as may be deemed necessary.

Officers of
Supreme
Court.

(2) The power conferred by subsection (1) includes power to appoint, with the consent of the Governor of the Region concerned, an officer of the High Court of a Region to be a registrar or deputy registrar of the Supreme Court.

(3) The Chief Registrar and other officers appointed under the foregoing provisions of this section shall exercise such powers and perform such duties as may be conferred or imposed upon them by any Ordinance or rules of court, and subject thereto, by any directions of the Chief Justice of the Federation.

6. The Supreme Court shall have and use as occasion may require a seal having a device or impression approved by the Chief Justice of the Federation, with the inscription "The Federal Supreme Court of Nigeria".

Seal of
Supreme
Court.

7. (1) The process of the Supreme Court shall run throughout the Federation.

Process of
Supreme
Court.

(2) Any judgment of the Supreme Court shall have full force and effect in the Federation and shall be enforceable by all courts and authorities in any part of the Federation in like manner as if it were a judgment of the High Court of that part of the Federation.

8. Subject to the provisions of any other enactment the practice and procedure of the Supreme Court shall be in accordance with this Ordinance and rules of court.

Practice
and
procedure.

9. The Supreme Court shall be duly constituted if it consists of three judges.

Number of
judges.

10. A single judge of the Supreme Court may exercise any power vested in that court other than the final determination of any cause or matter :

Powers of
single
judge.

Provided that—

(a) in criminal causes or matters, if any judge refuses an application for the exercise of any such power, the person making the application shall be entitled to have his application determined by the Supreme Court; and

(b) in civil causes or matters, any order, direction or decision made or given in pursuance of the powers conferred by this section may be varied, discharged or reversed by the Supreme Court.

11. When, after any cause or matter has been fully heard before the Supreme Court, judgment thereon is reserved for delivery on another day, then, on the day appointed for delivery of the judgment, it shall not be necessary for all those judges before whom the cause or matter was heard to be present together in court, and it shall be lawful for the opinion of any of them to be reduced into writing and to be read by any other judge; and in any such case the judgment of the court shall have the same force and effect as if the judge whose opinion is so read had been present in court and had declared his opinion in person.

Reserved
judgments.

Trial with
assessors.

12. (1) In the exercise of its original jurisdiction the Supreme Court may, in any civil cause or matter in which it appears to the Court to be expedient, call in the aid of one or more assessors specially qualified, and hear the cause or matter wholly or partially with their assistance.

(2) The remuneration, if any, to be paid to such assessors shall be determined by the Court.

Costs.

13. The Supreme Court shall have power to award costs in all civil proceedings in the Court, and, subject to any other enactment or to rules of Court, it shall be in the discretion of the Court to determine by whom and to what extent the same shall be paid.

Right of
audience.

14. (1) Subject to the provisions of any other enactment, in all proceedings before the Supreme Court the parties may appear in person or be represented by a legal practitioner entitled by or under any enactment or rules of court to practise in that Court.

(2) A person entitled to practise in the Supreme Court immediately before the commencement of this Ordinance shall be entitled to practise as a legal practitioner in the Supreme Court unless he is suspended or prohibited from so practising by or under the provisions of any enactment or rules of court.

Jurisdiction
to hear
appeals in
certain
matters.

15. (1) Where rights of appeal, with or without leave, from decisions of the High Court of a Region given in the exercise of its appellate jurisdiction in respect of Regional matters are prescribed by a law of a Region, the Supreme Court shall, except in so far as other provision is made by any law enacted by, or having effect as if enacted by, the Legislature of the Federation, have the like jurisdiction to hear and determine appeals from decisions of that High Court given in the exercise of its appellate jurisdiction in respect of matters included in the Exclusive Legislative List or in the Concurrent Legislative List.

(2) In this section—

“decision” has the meaning assigned to it in section 147 of the Constitution Order;

“Regional matter” means a matter other than a matter included in the Concurrent Legislative List or the Exclusive Legislative List.

(3) This section shall not apply to Lagos.

PART II.—ORIGINAL JURISDICTION

Provisions
applying to
exercise of
original
jurisdiction.

16. With respect to the exercise of the original jurisdiction conferred upon the Supreme Court by subsection (1) of section 144 of the Constitution Order and section 17 of this Ordinance, or which may hereafter be conferred upon it in pursuance of section 146 of the Constitution Order, the following provisions shall apply:—

(a) subject to the express provisions of any enactment, law and equity shall be administered concurrently and in the same manner as they are administered by Her Majesty's High Court of Justice in England;

(b) in every cause or matter pending before it the Supreme Court shall grant, either absolutely or on such terms and conditions as the Court thinks just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any legal or equitable claim properly brought forward by them in the cause or matter, so that, as far as possible, all matters in controversy between the parties may be completely and finally determined, and all multiplicity of legal proceedings concerning any of those matters avoided;

(c) subject to the express provisions of any enactment, in all matters in which there was formerly or is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail;

(d) in addition to any other powers conferred upon the Supreme Court by any enactment the Supreme Court shall, subject to the provisions of the Constitution Order and any enactment, have and may exercise a powers and authorities which are vested in or capable of being exercised by Her Majesty's High Court of Justice in England, so far as the same may be appropriate to the exercise of the said original jurisdiction;

(e) the Supreme Court shall observe and enforce the observance of native law and custom to the same extent as such law and custom is observed and enforced in the High Court of Lagos.

17. The Supreme Court shall be a Colonial Court of Admiralty within the meaning of the Colonial Courts of Admiralty Act, 1890, and shall have and exercise Admiralty jurisdiction in accordance with the provisions of the said Act in all matters arising upon the high seas or elsewhere or upon any lake, river or other navigable inland waters or otherwise relating to ships or shipping.

Admiralty
jurisdiction.
53 and 54
Vict. c. 27.

18. (1) For the purpose of any cause before the Supreme Court in its original jurisdiction the Court may require the attendance of persons to give evidence or to produce documents or both.

Witnesses
in causes
heard in
original
jurisdiction.

(2) Any person present in court during the hearing of any such cause may, if the Court thinks fit, be ordered to give evidence or to produce documents.

(3) A judge, if it appears to him that the attendance of any person confined in any part of the Federation as a prisoner under any sentence or order or commitment for trial or otherwise, or under civil process, is necessary for the purpose of obtaining evidence in any such cause as aforesaid depending or to be inquired of in the court, may issue a warrant for bringing up the said person before the court; and the superintendent of the prison or other officer in whose custody the person is shall forthwith obey such warrant.

19. (1) This section shall apply to any cause or matter which is in respect of any of the matters mentioned in paragraphs (a), (b), (c) and (d) of subsection (1) of section 144 of the Constitution Order.

Power of
transfer in
certain
cases.

(2) The Supreme Court may order any cause or matter which is before it to be transferred to a High Court or magistrate's court having ordinary jurisdiction in the place where the cause of action arose and power to grant the relief sought, for hearing and determination, or to be otherwise disposed of by such court.

(3) Where an Order of Transfer is made under subsection (2) of this section the court to which the cause or matter is transferred shall have jurisdiction to hear and determine it, to the extent set out in the Order of Transfer, as if it were a cause or matter within the ordinary jurisdiction of that court.

(4) A transfer under subsection (2) may be ordered at any time and at any stage of the proceedings in a cause or matter before final judgment, and either with or without application in that behalf by any of the parties thereto, and may apply to any cause or matter in its entirety or in respect of any part thereof or procedure required to be taken therein.

Proceedings
between the
Federation,
the Regions
and the
Southern
Cameroons.

20. Any proceedings before the Supreme Court arising out of a dispute referred to in paragraph (a) of subsection (1) of section 144 of the Constitution Order and brought by or against the Federation or a Region shall—

(a) in the case of the Federation be brought in the name of the Attorney-General of the Federation ;

(b) in the case of a Region be brought in the name of the Attorney-General of the Region.

PART III.—APPEALS IN CIVIL CASES

Application
of Part III.

21. This part shall apply to the exercise of the jurisdiction of the Supreme Court to hear appeals in civil cases.

General
powers of
the Supreme
Court.

22. The Supreme Court may from time to time make any order necessary for determining the real question in controversy in the appeal, and may amend any defect or error in the record of appeal, and may direct the court below to inquire into and certify its findings on any question which the Supreme Court thinks fit to determine before final judgment in the appeal and may make an interim order or grant any injunction which the court below is authorised to make or grant and may direct any necessary inquiries or accounts to be made or taken and generally shall have full jurisdiction over the whole proceedings as if the proceedings had been instituted and prosecuted in the Supreme Court as a court of first instance and may rehear the case in whole or in part or may remit it to the court below for the purpose of such rehearing or may give such other directions as to the manner in which the court below shall deal with the case in accordance with the powers of that court, or, in the case of an appeal from the High Court in its appellate jurisdiction, order the case to be reheard by a court of competent jurisdiction.

Wrong
ruling as to
sufficiency
of stamp.

23. The Supreme Court shall not grant a new trial or reverse any judgment by reason of the ruling of any court that the stamp upon any document is sufficient or that the document does not require a stamp.

Stay of
execution.

24. An appeal under this Part shall not operate as a stay of execution, but the Supreme Court may order a stay of execution either unconditionally or upon the performance of such conditions as may be imposed in accordance with rules of court.

PART IV.—APPEALS IN CRIMINAL CASES FROM A COURT SITTING AS A COURT OF FIRST INSTANCE

Application
of Part IV.

25. This Part shall apply to the exercise of the jurisdiction of the Supreme Court to hear appeals from decisions of the court below sitting at first instance.

Determina-
tion of
appeal.

26. (1) The Supreme Court on any appeal against conviction under this Part shall allow the appeal if it thinks 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 which the appellant was convicted should be set aside on the ground of a wrong decision on any question of law or that on any ground there was a miscarriage of justice and in any other case, subject to the provisions of subsection (3) of this section and section 27 dismiss the appeal :

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

(2) Subject to the special provisions of this Ordinance, the Supreme Court shall, if it allows an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered or order the appellant to be retried by a court of competent jurisdiction.

(3) On an appeal against sentence or, subject to the special provisions of this Ordinance, on an appeal against conviction, the Supreme Court shall if it thinks that a different sentence should have been passed, 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 if not of that opinion shall, in the case of an appeal against sentence, dismiss the appeal.

27. (1) If it appears to the Supreme Court that an appellant, though not properly convicted on some count or part of the information or charge, has been properly convicted on some other count or part of the information or charge, the court may either affirm the sentence passed on the appellant at the trial, or pass such sentence in substitution therefor as it thinks proper, and as may be warranted in law by the verdict on the count or part of the information or charge on which the Court considers that the appellant has been properly convicted.

Powers of
court in
special
cases.

(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 on the information or charge have found him guilty of some other offence, and on the finding of the court or jury it appears to the Supreme Court that the court or jury must have been satisfied of facts which proved him guilty of that other offence, the Supreme Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by such court or 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.

(3) Where on the conviction of the appellant by a jury, the jury have found a special verdict, and the Supreme Court considers that a wrong conclusion has been arrived at by the court before which the appellant has been convicted on the effect of that verdict, the Supreme Court 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) (a) If on any appeal it appears to the Supreme Court that, although the appellant was guilty of the act or omission charged against him, he was insane at the time the act was done or omission made so as not to be responsible according to law for his actions, the Court may quash the sentence passed at the trial and order the appellant to be kept in custody as a criminal lunatic in such place and in such manner as the Court may direct until the pleasure of the appropriate authority be known, and the appropriate authority shall thereupon and from time to time give such order for the safe custody of the appellant during pleasure in such place and in such manner as the appropriate authority may see fit.

(b) In this subsection "appropriate authority" means the authority that could have made an order for the safe custody of the appellant if the court below had found that he was insane at the time the act was done or omission made.

Suspension of order for restoration or payment of compensation or expenses.

28. (1) Where a law in force in the Region from which an appeal is brought has suspended the operation of any order made on conviction by the court before which the appellant was convicted for the payment of compensation or of any of the expenses of the prosecution or of the imprisonment or other punishment imposed on the person convicted or for the restoration of any property to any person, and the revesting in case of any such conviction, in the original owner or his personal representative of the property in stolen goods, such order shall continue to be suspended until the determination of the appeal if notice of appeal, or notice of application for leave to appeal, is made within thirty days of the date of the conviction.

(2) In cases where the operation of an order is suspended until the determination of the appeal, the order shall not take effect if the conviction is quashed on appeal.

(3) The Supreme Court may by order annul or vary any order made by the court before which the appellant was convicted for the payment of compensation or of any of the expenses of the prosecution or of the imprisonment or other punishment imposed on the person convicted or for the restoration 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.

PART V.—APPEALS IN CRIMINAL CASES FROM A HIGH COURT SITTING IN ITS APPELLATE JURISDICTION

Application of Part V.

29. This Part shall apply to the exercise of the jurisdiction of the Supreme Court to hear appeals from decisions of a High Court in criminal proceedings in which an appeal has been brought to that Court from some other court.

Determination of an appeal.

30. On the hearing of an appeal under this Part, the Supreme Court may exercise any power that could have been exercised by the High Court or may order the case to be retried by a court of competent jurisdiction.

PART VI.—PROCEDURE

Time for appealing.

31. (1) Where a person desires to appeal to the Supreme Court 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 the period prescribed by subsection (2) of this section that is applicable to the case.

(2) The periods prescribed for the giving of notice of appeal or notice of application for leave to appeal are—

(a) in an appeal in a civil case, fourteen days in an appeal against an interlocutory decision and three months in an appeal against a final decision ;

(b) in an appeal in a criminal case, thirty days from the date of the decision appealed against.

(3) Where an application for leave to appeal is made in the first instance to the court below, a person making such application shall, in addition to the period prescribed by subsection (2) of this section, be allowed a further period of fifteen days, from the date of the hearing of the application by the court below, to make an application to the Supreme Court.

(4) The Supreme Court may extend the periods prescribed in subsection (2) except in the case of a conviction involving sentence of death.

32. The Supreme Court may at any time assign counsel to an appellant in any appeal or proceedings preliminary or incidental to an appeal in which, in the opinion of the court, it appears desirable in the interests of justice that the appellant should have legal aid, and that he has not sufficient means to enable him to obtain that aid.

Legal assistance to appellant.

33. In the exercise of its appellate jurisdiction, the Supreme Court may if it thinks it necessary or expedient in the interest of justice—

Supplemental powers of court.

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

(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 manner provided by rules of court, or, in the absence of rules of court making provision in that behalf, as it 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; and

(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 manner provided by rules of court, or, in the absence of rules of court making provision in that behalf, as it may direct, for enquiry and report to a special commissioner appointed by the Court, and act upon the report of any such commissioner so far as it thinks fit to adopt it; and exercise in relation to the proceedings of the Court any other powers which may for the time being be prescribed by rules of court 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.

34. (1) On the hearing of an appeal in a criminal case an appellant, notwithstanding that he is in custody, shall be entitled to be present, if he desires it, except where the appeal is on some ground involving a question of law alone but, in that case, and on an application for leave to appeal and on any proceedings preliminary or incidental to an appeal, shall not be entitled to be present, except where rules of court provide that he shall have the right to be present or where the Supreme Court gives him leave to be present.

Right of appellant to be present.

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

(3) The right of an appellant who is in custody to be present at the hearing of his appeal shall be subject to his paying all expenses of and incidental to his transfer to and from the place where the Supreme Court sits for the determination of his appeal :

Provided that the Court may direct that he be brought before the Court in any case where, in the opinion of the Court, his presence is advisable for the due determination of the appeal, in which event such expenses as aforesaid shall be defrayed out of general revenue.

(4) An appellant who does not appear at the hearing of his appeal or application for leave to appeal by counsel may present his appeal and argument in writing, and any appeal or argument so presented shall be considered by the Supreme Court.

Admission of appellant to bail, and date of sentence.

35. (1) The Supreme Court may, if it thinks fit, on the application of an appellant admit the appellant to bail pending the determination of his appeal.

(2) The time during which an appellant, pending the determination of his appeal, is admitted to bail shall not count as part of any term of imprisonment under his sentence and, any imprisonment under the sentence of an appellant, whether it is the sentence passed by the court of trial or the sentence passed by the High Court on appeal or the sentence of the Federal Supreme Court, shall, subject to any directions which may be given by the Court, be deemed to be resumed or to begin to run, as the case requires, from the day on which he is received into prison under the sentence.

(3) In any case in which the appellant has received special treatment pending the hearing of his appeal in accordance with the provisions of any law relating to prisons, the Supreme Court shall fix the day from which the sentence shall be deemed to begin to run.

Procedure with respect to frivolous appeals on questions of law.

36. If it appears to the Registrar that any notice of an appeal against a conviction purporting to be on a ground of appeal which involves a question of law alone, does not show any substantial ground of appeal, the Registrar may refer the appeal to any Judge of the Supreme Court and such Judge may if he is of the same opinion, direct the Registrar to refer the appeal to the Supreme Court for summary determination, and, when the case is so referred, the Court may, if it considers that the appeal is frivolous or vexatious, and can be determined without adjourning the same for a full hearing, dismiss the appeal summarily, without calling on any persons to attend the hearing or to appear for the Crown thereon.

PART VII.—MISCELLANEOUS AND REPEALS

Power to send back a case for amendment.

37. The Supreme Court, when a question as to the interpretation of the Constitution Order has been referred to that Court under section 145 of the Constitution Order, may cause the case to be sent back for amendment and judgment shall be delivered after it has been amended.

Repeal of Cap. 229 and Ordinance No. 27 of 1955.

38. (1) The Federal Supreme Court (Appeals) Ordinance and the Federal Supreme Court (General Provisions) Ordinance, 1955, are hereby repealed.

(2) Subject to the provisions of the Constitution Order any appeal or reference from a High Court that is pending or part heard, may be continued, completed and determined in accordance with the provisions of this Ordinance.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA.
Clerk of the Parliaments