

LAWS OF SEYCHELLES

CHAPTER 54

CRIMINAL PROCEDURE CODE

[1st February 1955]

ARRANGEMENT OF SECTION

PART I

Preliminary

Section

1. Short Title
2. Interpretation
3. Trial of offences

PART II

Powers of Courts

4. Offences by what court triable.
5. Sentences which Supreme Court may pass.
6. Sentences which Magistrates' Court may pass.

Act 13 of 1952
Act 9 of 1955
Act 3 of 1956
Act 13 of 1957
Act 23 of 1957
Act 3 of 1959
Act 11 of 1959
Act 39 of 1960
Act 7 of 1961
Act 4 of 1963
Act 31 of 1964
Act 2 of 1965
Act 8 of 1966
Act 6 of 1968
S.I.51 of 1959
S.I.53 of 1962
S.I.7 of 1963
S.I. 23 of 1971
Act 29 of 1973
S.I. 99 of 1973
Act 2 of 1974
S.I. 95 of 1975
Act 14 of 1975
Act 19 of 1975
S.I. 72 of 1976
Act 23 of 1976
Act 32 of 1980
Act 20 of 1981
Act 23 of 1981
Act 5 of 1982
Act 4 of 1986
Act 4 of 2007
Act 17 of 2008
Act 2 of 2010

7. Committal for sentence.
8. Combination of sentences.
9. Sentences in case of conviction of several offences at one trial.

PART III

General Provisions

ARREST, ESCAPE AND RETAKING

10. Arrest. How made.
11. Search of place entered by person sought to be arrested.
12. Power to break open doors, etc., for purposes of liberation.
13. No unnecessary restraint.
14. Search of arrested persons.
15. Power of police officer to detain and search boats, vehicles, and persons in certain circumstances
16. Mode of searching women.
17. Power to seize offensive weapons.

Arrest without warrant

18. Arrest by police officer without warrant.
19. Procedure when police officer deposes subordinate to arrest without warrant.
20. Refusal to give name and residence.
21. Disposal of persons arrested by police officer.
22. Arrest by private person.
23. Disposal of person arrested by private person.

24. Detention of persons arrested without warrant.
25. Police to report apprehensions.
26. Offences committed in judicial officers's presence.
27. Arrest by judicial officer.

Escape and retaking

28. Recapture of person escaping.
29. Provisions of sections 11 and 12 to apply to arrests under section 28
30. Assistance to judicial or police officer.

PREVENTION OF OFFENCES

Security for keeping the peace and for good behaviour

31. Security for keeping the peace.
32. Security for good behaviour from persons disseminating seditious matters, etc.
33. Security for good behaviour from vagabonds and suspected persons.
34. Security for good behaviour from habitual offenders.
35. Fiat of Attorney General to proceed under sections 32, 33 or 34.
36. Order to be made.
37. Procedure in respect of person present in court.
38. Procedure in respect of person not present in court.
39. Copy of order to accompany summons or warrant.
40. Power to dispense with personal attendance.
41. Inquiry as to truth of information.
42. Order to give security.

43. Discharge of person informed against.

Proceedings subsequent to order to furnish security

44. Commencement of period for which security is required.
45. Contents of bond.

SECTION

46. Power to reject sureties.
47. Procedure on failure of person to give security.
48. Release of persons imprisoned for failure to give security.
49. Power of Supreme Court to cancel bond.
50. Discharge of sureties.

PREVENTIVE ACTION OF THE POLICE

51. Police to prevent breaches of the peace or cognizable offences.
52. Information of design to commit such offences.
53. Arrest to prevent such offences.
54. Prevention of injury to public property.

PART IV

Provisions Relating to All Criminal Investigations

PLACE IF INQUIRY OR TRIAL

55. General authority of courts.
56. Place of inquiry or trial.
57. Place and date of sittings of Supreme Court.
58. Courts to be open.
- 58A Proceedings in Camera

58B Proceedings in Camera in certain cases

58C Restriction on publication

59. Power of Supreme Court to change venue.

CONTROL IN CRIMINAL PROCEEDINGS BY THE REPUBLIC

60. Attorney General.

61. Nolle prosequi.

62. Criminal informations by the Attorney General.

APPOINTMENT OF PUBLIC PROSECUTORS AND CONDUCT OF PROSECUTIONS

63. Appointment of public prosecutors.

64. Powers of public prosecutors.

65. Withdrawals in trials before subordinate courts.

66. Permission to conduct prosecution.

INSTITUTION OF PROCEEDINGS

Making of complaint

67. Institution of proceedings.

68. Complaint and charge.

69. Issue of summons or warrant.

70. Person arrested without warrant, how to be dealt with.

PROCESSES TO COMPEL THE ATTENDANCE OF ACCUSED

PERSONS

Summons

71. Form and contents of summons.

72. Service of summons.
73. Service when person summoned cannot be found.
74. Procedure when service cannot be effected as before provided.
75. Service on company.
76. Proof of service.
77. Power to dispense with personal attendance of accused.

Warrant of arrest

78. Warrant in case of absconding, etc.,.
79. Warrant on disobedience to summons.
80. Form, contents and duration of warrants.
81. Power to direct security to be taken.
82. Warrants, to whom directed.
83. Execution of warrant directed to police officer.
84. Notification of substance of warrant.
85. Persons arrested to be brought before court without delay.
86. Where warrant may be executed.
87. Irregularities in warrant.

Proclamation and Attachment

88. Publication of notice for absent person.
89. Attachment of property.
90. Restoration of attached property.

Miscellaneous provisions regarding processes

91. Power to take bond for appearance.

92. Arrest for breach of bond.
93. Power of court to order prisoner to be brought before it.
94. Provisions of this part generally applicable to summonses and warrants

SEARCH WARRANTS

95. Power to issue search warrant.
96. Execution of search warrant.
97. Person in charge of closed place to allow ingress.
98. Detention of property seized.
99. Provisions applicable to search warrants.

PROVISIONS AS TO BAIL

100. Right to be released
101. Remand by court
102. Discharge from custody of person bailed.
103. Deposit instead of recognizance.
104. Power to order sufficient bail when bail first taken is insufficient.
105. Discharge of sureties.
106. Death of surety.
107. Person bound by recognizance absconding may be committed.
108. Forfeiture of recognizance.
109. Appeal from and revision of orders.
110. Power to direct levy of amount due on certain recognizances.

CHARGES AND INFORMATION

111. Offences to be specified in charge and information with necessary particulars.
112. Joinder of counts in charge or information.
113. Joinder of two or more accused in one charge or information.
114. Rules for the framing of charges and informations.

PREVIOUS CONVICTION OR ACQUITTAL

115. Persons acquitted or convicted not to be tried twice for same offence.
116. Person may be tried again on separate charge.
117. Consequences supervening or not known at former trial.
118. Where original court not competent to try subsequent charge.
119. Mode of proof of previous conviction or acquittal.

COMPELLING ATTENDANCE OF WITNESSES

120. Summons for witness.
121. Warrant for witness who disobeys summons.
122. Warrant for witness in the first instance.
123. Mode of dealing with witness arrested under warrant.
124. Power to order production of prisoner as witness.
125. Penalty for non-attendance of witness.

SECTION

151. Power of court to award expenses or compensation out of fine.

RESTITUTION OF PROPERTY

152. Disposal of property in possession of police.

153. Forfeiture.

153A. Interim orders pending application under section 153B

153B Forfeiture of proceeds of crime.

153C International Mutual Assistance

154. Restitution.

155. Property found on accused person.

CONVICTIONS FOR OFFENCES OTHER THAN THOSE CHARGED

156. When offence proved is included in offence charged.

157. Person charged with any offence may be convicted of attempt.

158. Alternative verdict to murder or manslaughter in cases of complicity in another's suicide.

159. Alternative verdicts in various offences involving the homicide of children.

160. Alternative verdict in charge of manslaughter resulting from driving of motor vehicle.

161. Alternative verdict in certain driving offences.

162. Alternative verdicts in charges of rape and kindred offences.

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

164. Alternative verdicts in charges of stealing and kindred offences.

165. Construction of sections 156 to 164 of the Code.

MISCELLANEOUS PROVISIONS

166. Person charged with misdemeanour not to be acquitted if felony proved unless court so directs.
167. Right of accused person to be defended.
168. Promotion of reconciliation.

PART V

Mode of Taking and Recording Evidence in Inquiries and Trials

GENERAL

169. Evidence to be taken in presence of accused.
170. Interpretation of evidence to accused or his advocate.

MAGISTRATES' COURT

171. Manner of recording evidence before magistrate.
172. Remarks respecting demeanour of witness.
173. Procedure in case of minor offences.
174. Conviction or commitment on evidence partly recorded by one magistrate and partly by another.

SUPREME COURT

175. Manner of recording evidence in Supreme Court.

PART VI

Procedure in Trials Before the Supreme Court in its Summary

Jurisdiction and Before the Magistrates' Court

PROVISIONS RELATING TO THE HEARING AND

DETERMINATION OF CASES.

176. Non-appearance of complainant at hearing.

177. Appearance of both parties.
178. Withdrawal of complaint.
179. Adjournment.
180. Non-appearance of parties after adjournment.
181. Accused to be called upon to plead.
182. Procedure on plea of not guilty.
183. Acquittal of accused person when no case to answer.
184. The defence.
185. Evidence in reply.
186. Addressing the court.
187. Amendment of charge.
188. The decision.
189. Drawing up conviction or order.
190. Order of acquittal bar to further procedure.

LIMITATIONS AND EXCEPTIONS RELATING TO TRIALS
IN THE SUPREME COURT IN ITS SUMMARY JURISDICTION AND
BEFORE THE MAGISTRATES' COURT

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

PART VII

Provisions Relating to Committal of Accused Persons for Trial

Before the Supreme Court

PRELIMINARY INQUIRY BY THE MAGISTRATES' COURT

192. Holding of preliminary inquiry.

193. Depositions.
194. Variance between charge and evidence.
195. Remand.
196. Taking statements or evidence of accused person.
197. Evidence and address in defence.
198. Discharge of accused person.
199. Commitment for trial.
200. Conflict of evidence.
201. Committal.
202. Summary adjudication.
203. Complainant and witnesses to be bound over.
204. Refusal to be bound over.
205. Accused person entitled to copy of depositions.
206. Binding over of witnesses conditionally.
207. Inspection and post-mortem examinations.

PRESERVATION OF TESTIMONY IN CERTAIN CASES

208. Taking the depositions of persons dangerously ill.
209. Notices to be given.
210. Transmission of statements.
211. Use of statement in evidence.

PROCEEDINGS AFTER COMMITTAL FOR TRIAL

212. Transmission of record to Supreme Court and Attorney General.
213. Power of Attorney General to direct further investigation.

- 214. Power of Attorney General as to additional witnesses.
- 215. Attorney General may direct trial by the Magistrates' Court.
- 216. Filing of an information.
- 217. Offence with which accused may be charged.
- 218. Notice of trial.
- 219. Copy of information and notice of trial to be served.
- 220. Return of service.
- 221. Postponement of trial.
- 222. Informations by Attorney General.
- 223. Form of information.
- 224. Procedure for trials on information after committal other than in offences triable by jury.

PART VIII

Procedure in Trials by Jury Before the Supreme Court

- 225. Offences triable by jury.

JURY LIST

- 226. Qualifications of jurors.
- 227. Persons ineligible.
- 228. Exemptions from service.
- 229. Jury list.
- 230. Ballot box.

EMPANELLING A JURY

- 231. Forming a panel.

- 232. Summons to jurors.
- 233. Default of attendance by juror,
- 234. Attendance of jurors.

PROCEDURE AT TRIAL

- 235. Charge and plea.
- 236. Amendment of charge.
- 237. Number of jury.
- 238. Formation of jury.
- 239. Ground of objections.
- 240. Disposal of objections.
- 241. Procedure where jurors insufficient.
- 242. Foreman of jury.
- 243. Oaths of jurors.
- 244. Release of other jurors.
- 245. Charge of jury.
- 246. Opening.
- 247. Evidence for prosecution.
- 248. Statements by the accused.
- 249. Close of prosecution.
- 250. Opening defence.
- 251. Evidence of accused.
- 252. Other defence witnesses.
- 253. Order of defence witnesses.

- 254. Rebutting evidence.
- 255. Final addresses.
- 256. Absence of a juryman.
- 257. Incapacity of accused.
- 258. Jury may withdraw during arguments.
- 259. View by jury.
- 260. When a juryman may testify.
- 261. Adjournment.
- 262. When jury to be kept together.
- 263. Court may allow refreshment for jury.
- 264. Summing up.
- 265. Province of judge.
- 266. Province of jury.
- 267. Retirement to consider verdict.
- 268. Delivery of verdict.
- 269. Procedure where jury not agreed.
- 270. Recording verdict.
- 271. Decision where no majority.

PROCEDURE AFTER VERDICT

- 272. Procedure on conviction.
- 273. Procedure on acquittal.
- 274. Discharge of jury.
- 275. Verdict in case of unsound mind.

- 276. Procedure after sentence of death.
- 277. Powers of Governor.
- 278. Insanity of convicted prisoner.
- 279. Rules and scales of allowances.

PART IX

Sentences and their Execution

SENTENCE OF DEATH

- 280. Accused to be informed of right to appeal.

OTHER SENTENCES

- 281. Warrant in case of sentence of imprisonment.
- 282. Suspended sentences of imprisonment.

SECTION

- 283. Power of court on conviction of further offence to deal with suspended sentences.
- 284. Court by which suspended sentences is to dealt with.
- 285. Discovery of further offences.
- 286. Breach of condition.
- 287. Interpretation.
- 288. Amendment of seventh schedule.
- 289. Meaning of words, “or”, “and” and “together with” in penal clauses.
- 290. Costs to be borne by the Republic in certain cases.
- 291. recovery of costs from complainant when charge is dismissed.
- 292. Liability of several persons jointly convicted.

- 293. Prescription after five years.
- 294. Sentence of imprisonment in default, etc.
- 295. Limit of imprisonment in default.
- 296. Payment of fines.
- 297. Warrant for levy of fine, etc.
- 298. Objection to attachment.
- 299. Commitment in lieu of distress.
- 300. Payment in full after commitment.
- 301. Part payment after commitment.
- 302. Who may issue warrant.

PREVIOUSLY CONVICTED OFFENDERS

Miscellaneous

- 303. Power to subject to police supervision.
- 304. Requirements from persons subject to police supervision.
- 305. Failure to comply with requirements.
- 306. Powers of Supreme Court to impose extended sentences of imprisonment.

DEFECTS IN ORDER OR WARRANT

- 307. Errors and omissions in orders and warrants.

PART X

Appeals

APPEALS FROM THE MAGISTRATES' COURT

- 308. Appeal to Supreme Court.

309. No appeal on plea of guilty or in petty cases.
310. Procedure on appeal.
311. Appellant in prison.
312. Sending for record.
313. Summary rejection of appeal.
314. Fixing of appeal.
315. Order of Registrar to be served on respondent.
316. Powers of Supreme Court.
317. Order of Supreme Court to be certified to lower court.
318. Admission to bail or suspension of sentence pending appeal.
319. Further evidence.
320. Powers to reserve question of law.
321. Cases reserved, now dealt with.
322. Cases may be sent back for amendment.
323. Judgment of appellate court, how enforced.
324. Costs of appeal, how recovered.
325. Abatement of appeals.
326. Appeals to Court of Appeal.
327. Admission to bail pending appeal.

Revision

328. Power of Supreme Court to call for records.
329. Power of Supreme Court on revision.
330. Discretion of court as to hearing parties.

331. Order on revision to be certified to lower court.

Case Stated

332. Cases stated by the Magistrates' Court.

333. Recognizance to be taken and fees paid.

334. Refusal of frivolous application.

335. Procedure on refusal of court to state case.

336. Hearing and determination by Supreme Court.

337. Case may be sent back for amendment or rehearsing.

338. Powers of Magistrates' Court after decision.

339. Appellant may not proceed both by case stated and by appeal.

340. Contents of case stated.

341. Supreme Court may enlarge time.

APPEALS FROM SUPREME COURT

342. Appeal from Supreme Court to the court of Appeal.

343. References to the Court of Appeal by the President.

PART XI

Supplementary Provisions

IRREGULAR PROCEEDINGS

344. Error or omission in charge or other proceedings.

345. Distress not unlawful for defect or want of form in proceedings.

INQUIRIES AS TO SUDDEN DEATHS

346. Magistrate empowered to hold inquests.

347. Investigation in case of violent death.

- 348. Court may call for evidence.
- 349. Finding.
- 350. Court may call for evidence.
- 351. Inquest when obligatory.

DIRECTIONS IN THE NATURE OF HABEAS CORPUS AND WRITS

- 352. Power to issue directions of the nature of a habeas corpus.
- 353. Power of the Supreme Court to issue writs.

MISCELLANEOUS

- 354. Persons before whom affidavits may be sworn.
- 355. Shorthand notes of proceedings.
- 356. Copies of proceedings.
- 357. Forms.
- 358. Expenses of jurors, witnesses, etc.
- 359. Regulations.

1. This Act may be cited as the Criminal Procedure Code (hereinafter called this Code).

2. In this Code, unless the context otherwise requires-

“advocate” means a barrister or attorney admitted to practice in the Supreme Court;

“cognizable offence” means any offence for which a police officer may in accordance with the third schedule or under any law for the time being in force, arrest without warrant;

“court of Appeal” means the Court of Appeal for Seychelles constituted under section 70 of the Constitution;

“judicial officer” means a Judge, a Senior Magistrate, a Magistrate, a Justice of the Peace or the Registrar;

“Magistrate” includes a Senior Magistrate;

“Magistrates’ Court” means a court presided over by a Senior Magistrate or a Magistrate;

“non-cognisable offence” means an offence for which a police officer may not arrest without a warrant;

“officer in charge of a police station” includes any officer superior in rank to an officer in charge of a police station and also includes, when the officer in charge of a police station is absent from the station-house or unable from illness or other cause to perform his duties, the police officer present at the station-house who is next in rank to such officer and is above the rank of constable, or when the President so directs, any other police officer so present;

“police officer” includes any member of the Police Force;

“police station” means a post or place appointed by the Commissioner of Police to be a police station;

“public prosecutor” means any person appointed under section 63 and includes the Attorney General and any person acting under the directions of the Attorney General;

“Registrar” means the Registrar of the Supreme Court and includes the Assistant Registrar;

“summary trial” means a trial held by the Supreme Court or the Magistrates’ Court under Part VI.

3. (1) All offences under the Penal Code shall be inquired into, tried and otherwise dealt with according to the provisions hereinafter contained.

(2) All offences under any other law shall be inquired into, tried and otherwise dealt with according to the same provisions, subject, however, to any enactment for the time being in force regulating the manner or place of inquiring into, trying or otherwise dealing with such offences.

(3) Notwithstanding anything in this Code contained, the Supreme Court, may, subject to the provisions of any law for the time being in force in Seychelles, in exercising its criminal jurisdiction in respect of any matter or thing to which the procedure described by this Code is inapplicable, or for which no procedure is so prescribed, exercise such jurisdiction according to

the course of procedure observed by and before the High Court of Justice in England.

PART II

Powers of Courts

4. Subject to the other provisions of this Code, any offence under the Penal Code or under any law other than the Penal Code may be tried-

- (a) by the Supreme Court, or
- (b) by the Magistrates' Court when such offence is shown in the third schedule to be triable by that court.

5. The Supreme Court may pass any sentence authorised by law.

6. (1) The Magistrates' Court when presided over by a Senior Magistrate may pass any sentence authorised by law:

Provided that such sentence shall not exceed, in the case of imprisonment, 10 years, and in the case of a fine, R100,000;

(2) The Magistrates' Court when presided over by a Magistrate other than a Senior Magistrate may pass any sentence authorised by law:

Provided that such sentence shall not exceed, in the case of imprisonment, 8 years, and in the case of a fine, R75,000.

7. (1) When a Magistrate has convicted a person and he is of opinion that a higher sentence should be passed in respect of the offence than he has power to pass he may commit the offender for sentence to the Supreme Court in accordance with the following provisions of this section.

(2) The Magistrate may either admit the offender to bail or remand him in custody until he appears or is brought before the Supreme Court.

(3) When an offender is committed as aforesaid the Supreme Court may-

- (a) exercise any of its powers of revision under section 329(1); and
- (b) whether any such powers have been exercised or not deal with the offender in any manner in which he could be dealt with if he had been convicted by the Supreme Court.

8. (1) Any court may pass any lawful sentence combining any of the sentences which it is authorised by law to pass.

(2) In determining the extent of the court's jurisdiction under section 6 to pass a sentence of imprisonment the court shall be deemed to have jurisdiction to pass the full sentence of imprisonment provided in that section in addition to any term of imprisonment which may be awarded in default of payment of a fine, costs or compensation.

9. (1) When a person is convicted at one trial of two or more distinct offences the court may sentence him, for such offences, to the several punishments prescribed therefore which such court is competent to impose, such punishments when consisting of imprisonment to commence the one after the expiration of the other in such order as the court may direct, unless the court directs that such punishments shall run concurrently.

(2) For the purpose of appeal the aggregate of consecutive sentences imposed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

PART III

General Provisions

ARREST, ESCAPE AND RETAKING

Arrest Generally

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

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

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

11. (1) If any person acting under a warrant of arrest, or any police officer having authority to arrest, has reason to believe that the person to be arrested has entered into or is within any place, the person residing in or being in charge of such place shall, on demand of such person acting as aforesaid or such police officer, allow him free ingress thereto and afford all reasonable facilities for a search therein.

(2) If ingress to such place cannot be obtained under subsection (1), it shall be lawful in any case for a person acting under a warrant, and in any case in which a warrant may issue but cannot be obtained without affording the person to be arrested an opportunity to escape, for a police officer to enter such place and search therein, and, in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.

12. Any police officer or other person authorised to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

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

14. Whenever a person is arrested-

- (a) (a) by a police officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, or
- (b) without warrant, or by a private person under a warrant, and the person arrested cannot legally be admitted to bail or is unable to furnish bail,

the police officer making the arrest or, when the arrest is made by a private person, the police officer to whom he makes over the person arrested, may search such person and place in safe custody all articles, other than necessary wearing apparel, found upon him.

15. Any police officer may stop, search and detain any vessel, boat or vehicle in or upon which there shall be reason to suspect that anything stolen or unlawfully obtained may be found and also any person who may be reasonably suspected of having in his possession or conveying in any manner anything stolen or unlawfully obtained.

16. Whenever it is necessary to cause a woman to be searched the search shall be made by another woman with strict regard to decency.

17. The officer or other person making any arrest may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the court or officer before which or

whom the officer or person making the arrest is required by law to produce the person arrested.

Arrest Without Warrant

18. Any police officer may, without an order from a judicial officer and without a warrant, arrest-

- (a) any person whom he suspects upon reasonable grounds of having committed a cognisable offence;
- (b) any person who commits a breach of the peace in his presence;
- (c) any person who obstructs a police officer while in the execution of his duty, or who has escaped or attempts to escape from lawful custody;
- (d) (d) any person named in a notice published under section 88;
- (e) any person whom he finds lying or loitering in any highway, yard or other place during the night and whom he suspects upon reasonable grounds of having committed or being about to commit a felony;
- (f) any person whom he suspects upon reasonable grounds of having been concerned in any act committed at any place out of Seychelles which, if committed in Seychelles, would have been punishable as an offence, and for which he is, under the Extradition Act, liable to be apprehended and detained in Seychelles;
- (g) any person having in his possession without lawful excuse, the burden of providing which excuse shall lie on such person, any implement of house-breaking;
- (h) any released convict committing a breach of any provision prescribed by section 304 or of any rule made thereunder;
- (i) any person in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to such thing;
- (j) any person for whom he has reasonable cause to believe a warrant of arrest has been issued.

19. When any officer in charge of a police station requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing specifying the person to be arrested and the offence or other cause for which the arrest is to be made.

20. (1) When any person who in the presence of a police officer has committed or has been accused of committing a non-cognisable offence refuses on the demand of such officer to give his name and residence, or gives a name and residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name and residence may be ascertained.

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

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

21. A police officer making an arrest without a warrant shall without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before the Judge or a Magistrate or before an officer in charge of a police station and sections 100 and 101 shall apply to such person.

22. (1) Any private person may arrest any person who in his view commits a cognizable offence, or whom he reasonably suspects of private person having committed a felony, or who has been named in a notice published under section 88.

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

23. (1) Any private person arresting any other person without a warrant shall without delay make over the person so arrested to a police officer, or in the absence of a police officer shall take such person to the nearest police station.

(2) If there is reason to believe that such person comes under the provisions of section 18 a police officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-cognisable offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 20. If there is no sufficient reason to believe that he had committed any offence he shall be at once released.

24. When any person has been taken into custody without a warrant for an offence other than murder or treason, the officer in charge of the police station to which such person shall be brought may in any case and shall, if it does not appear practicable to bring such person before an appropriate court within twenty-four hours after he was so taken into custody, inquire into the case, and unless the offence appears to the officer to be of a serious nature, release the person on his executing a bond, with or without sureties, for a reasonable amount to appear before a court at a time and place to be named in the bond; but where any person is retained in custody he shall be brought before a court as soon as practicable and sections 100 and 101 shall apply to that person:

Provided that an officer in charge of a police station may release a person arrested on suspicion on a charge of committing any offence, when after due police inquiry, insufficient evidence is, in his opinion, disclosed on which to proceed with the charge.

25. Officers in charge of police stations shall report to the Commissioner of Police the case of all persons arrested without warrant within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

26. When any offence is committed in the presence of a judicial officer, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

27. A judicial officer may at any time arrest or direct the arrest in his presence of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

Escape and Retaking

28. If a person in lawful custody escapes or is rescued, the person from whose custody he escapes or is rescued may immediately pursue and arrest him in any place in Seychelles.

29. The provisions of sections 11 and 12 shall apply to arrests under section 28, although the person making any such arrest is not acting under a warrant and is not a police officer having authority to arrest.

30. Every person is bound to assist a judicial or police officer reasonably demanding his aid-

- (a) in the taking or preventing the escape of any other person whom such judicial or police officer is authorised to arrest;
- (b) in the preventing or suppression of a breach of the peace or in the prevention of any injury attempted to be committed to any telegraph or public property.

PREVENTION OF OFFENCES

31. Whenever the Judge or a Magistrate is informed that any person is likely to commit a breach of the peace or disturb the public tranquility, or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility, the judicial officer may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period, not exceeding one year, as the judicial officer thinks fit to fix.

32. Whenever the Judge or a Magistrate has information that there is any person who, either orally or in writing or in any manner, disseminated or attempts to disseminate, or in any wise abets the dissemination of-

- (a) any seditious matter, that is to say, any matter the publication of which is punishable under section 55 of the Penal Code; or
- (b) any matter concerning a judge which amounts to libel under the Penal Code,

such judicial officer may (in manner provided in this Code) require such person to show why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the judicial officer thinks fit to fix.

33. Whenever the Judge or a Magistrate receives information-

- (a) that any person is taking precautions to conceal his presence, and that there is reason to believe that such person is taking such precautions with a view to committing any offence; or

- (b) that there is a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself,

such judicial officer may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the judicial officer thinks fit to fix.

34. Whenever the Judge or a Magistrate receives information that any person-

- (a) is by habit a robber, house-breaker or thief; or
- (b) is by habit a receiver of stolen property, knowing the same to have been stolen; or
- (c) habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property; or
- (d) habitually commits or attempts to commit, or aids or abets in the commission of, any offence punishable under Chapters XXX, XXXIII or XXXVI of the Penal Code; or
- (e) habitually commits or attempts to commit, or aids or abets in the commission of, offences involving a breach of the peace; or
- (f) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such judicial officer may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the judicial officer thinks fit to fix.

35. Where the Judge or a Magistrate has or receives information under section 32, section 33 or section 34 no further proceedings in respect thereof shall be taken without the consent of the Attorney General.

36. When a judicial officer acting under section 31, section 32, section 33 or section 34 deems it necessary to require any person to show cause under such section, he shall make an order in writing setting forth-

- (a) the substance of the information received;
- (b) the amount of the bond to be executed;

(b) (c) the term for which it is to be in force; and

(c) the number, character, and class of sureties, if any, required.

37. If such person in respect of whom such order is made is present in court, it shall be read over to him or, if he so desires, the substance thereof shall be explained to him.

38. If such person is not present in court, the Judge or Magistrate, shall issue a summons requiring him to appear, or, when such person is in custody, warrant directing the officer in whose custody he is to bring him before the court:

Provided that whenever it appears to such Judge or Magistrate, upon the report of a police officer or upon other information (the substance of which report or information shall be recorded by the judicial officer), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the judicial officer may at any time issue a warrant for his arrest.

39. Every summons or warrant issued under section 38 shall be accompanied by a copy of the order made under section 36 and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with or arrested under the same.

40. (1) When an order under section 36 has been read or explained under section 37 to a person present in court, or when any person appears or is brought before a judicial officer in compliance with or in execution of a summons or warrant issued under section 38, the judicial officer shall proceed to inquire into the truth of the information upon which the action has been taken, and to take such further evidence as may be appear necessary.

41.(1) When an order under section 36 has been read or explained under section 37 to a person present in court, or when any person appears or is brought before a judicial officer in compliance with or in execution of a summons or warrant issued under section 38, the judicial officer shall proceed to inquire into the truth of the information upon which the action has been taken, and to take such further evidence as may appear necessary.

(2) Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trials and recording evidence in trials before the court.

(3) For the purposes of this section the fact that a person is an habitual offender may be proved by evidence of general repute or otherwise.

(4) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Judge or Magistrate thinks just.

42. (1) If upon such inquiry it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Judge or Magistrate shall make an order accordingly:

Provided that-

- (a) no person shall be ordered to give security of a nature different from, or of an amount larger than or for a period longer than, that specified in the order made under section 36;
- (b) the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive;
- (c) when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

(2) Any person ordered by a Magistrate to give security for good behaviour under this section may appeal to the Supreme Court, and the provisions of Part X (relating to appeals) shall apply to every such appeal.

43. If on an inquiry under section 41 it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, the judicial officer shall make an entry on the record to that effect, and, if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

Proceedings in all cases subsequent to Order to furnish Security

44. (1) If any person in respect of whom an order requiring security is made under section 36 or section 42 is, at the time such order is made, sentenced to or undergoing a sentence of imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

(2) In other cases such period shall commence on the date of such order unless the Judge or Magistrate, for sufficient reason, fixes a later date.

45. The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit or aiding, abetting counseling or

procuring the commission of any offence punishable with imprisonment, wherever it may be committed, shall be a breach of the bond.

46. The Judge or a Magistrate may refuse to accept any surety offered under any of the preceding sections on the ground that, for reasons to be recorded by him, such surety is an unfit person.

47. (1) If any person ordered to give security as aforesaid does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case mentioned in subsection (3), be committed to prison, or, if he is already in prison, be detained in prison until such period expires or until within such period he gives the security to the court or Magistrate who made the order requiring it.

(2) Where the order is made by the Supreme Court such period may be for any reasonable time.

(3) When such person has been ordered by a Magistrate to give security for a period exceeding six months, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the order of the Supreme Court, and the proceedings shall be laid as soon as conveniently may be before such court.

(4) The Supreme Court, after examining such proceedings and requiring from the Magistrate any further information or evidence

which it thinks necessary, may make such order in the case as it thinks fit.

(5) The period, if any, for which any person is imprisoned for failure to give security shall not exceed three years.

(6) If the security is tendered to the officer in charge of the prison, he shall forthwith refer the matter to the court or Magistrate who made the order and shall await the orders of such court or Magistrate.

48. Whenever a Magistrate is of opinion that any person imprisoned for failing to give security may be released without hazard to the community, such Magistrate shall make an immediate report of the case for the orders of the Supreme Court, and such Court may, if it thinks fit, order such person to be discharged.

49. The Supreme Court may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under any of the preceding sections by order of any court.

50. (1) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to the Judge or a Magistrate to cancel any bond executed under any of the preceding sections.

(2) On such application being made, the judicial officer shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

(3) When such person appears or is brought before the Judge or Magistrate, such judicial officer shall cancel the bond and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall for the purposes of sections 45, 46, 47 and 48, be deemed to be an order made under section 42.

PREVENTIVE ACTION OF THE POLICE

51. Every police officer may interpose for the purpose of preventing, and shall to the best of his ability prevent, a breach of the peace or the commission of any cognizable offence.

52. Every police officer receiving information of a design to commit any cognisable offence shall communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognisance of the commission of any such offence.

53. A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a judicial officer and without a warrant, the person so designing if it appears to such officer that the commission of the offence cannot otherwise be prevented.

54. A police officer may of his own authority interpose to prevent any injury to be committed in his view to any public property, movable or immovable, or the removal of or injury to any public landmark or buoy or other mark used for navigation.

PART IV

Provisions Relating to all Criminal Investigations

PLACE OF INQUIRY OR TRIAL

55. Every court has authority to cause to be brought before it any person who is within the local limits of its jurisdiction and is charged with an offence committed within Seychelles or a place where the Republic has jurisdiction or which according to law may be dealt with as if it had been

committed within Seychelles or a place where the Republic has jurisdiction and to deal with the accused person according to its jurisdiction.

56. Every court may inquire into or try any offence subject to its jurisdiction at any place where it has power to hold sittings.

57. (1) For the exercise of its criminal jurisdiction the Supreme Court shall hold sittings at such places and on such dates as the Chief Justice may direct.

(2) The Registrar shall ordinarily give notice before hand of all such sittings.

58. Subject to sections 58A and 58^a, the place in which a court is held for the purpose of inquiring into or trying an offence shall be deemed an open court to which the public generally may have access, so far as the same can conveniently contain them.

58A. A court in a criminal proceeding in relation to a sexual offence or an offence against decency or morality before it-

- (a) in the case where it is of the opinion that a person who is called as a witness is not an adult, shall; or
- (b) in the case where it is of opinion that a person who is called as a witness is an adult and the court considers it necessary for the protection of the privacy of the person or in the interest of morality, may,

direct that all or any person who is not a member or officer of the court or a party to the proceeding or a legal practitioner representing a party to the proceeding or a person otherwise directly concerned with the proceeding be excluded from the court during the taking of the evidence of the person called as a witness.

58B. Subject to section 58A, a court may, in relation to a criminal proceeding before it, direct-

- (a) where it considers that it is necessary in the interest of defence, public morality, public order, public safety or the welfare of a person concerned in the proceeding who is not an adult or for the protection of the privacy of a person concerned in the proceeding; or
- (b) where it considers that publicity would prejudice the interest of justice,

that all or any person who is not a member or officer of the court or a party to the proceeding or a legal practitioner representing a party to the proceeding or a person otherwise directly concerned with the proceeding be excluded from the court during the taking of any evidence in the proceeding.

58C.(1) A court may, in relation to a criminal proceeding referred to in section 58A or section 58B before it, direct that-

- (a) a newspaper report of the proceeding shall not reveal the name, address or any other particular calculated to lead to the identification of a person by or against or in respect of whom the proceeding is taken or who is a witness in the proceeding;
- (b) a picture shall not be published in any newspaper as being the picture of or which includes a picture of a person by or against or in respect of whom the proceeding is taken or who is a witness in the proceeding, except as may be permitted by the court.

(2) A person who contravenes a direction of a court under subsection (1) is guilty of an offence and liable to a fine of R10,000 and to imprisonment for 2 years.

59. (1) Whenever it appears to the Supreme Court that it is necessary or expedient so to do, it may order that an accused person against whom proceedings have been instituted in the Magistrates' Court be brought for trial to itself or that an accused person against whom proceedings have been instituted in the Supreme Court be sent for trial to the Magistrates' Court if that court has jurisdiction to try the case.

(2) The Supreme Court may act either on the report of the Magistrates' Court or on the application of an interested party or of its own initiative.

CONTROL IN CRIMINAL PROCEEDINGS BY THE REPUBLIC

60. (1) The Attorney General is vested with the right of prosecuting all crimes and offences over which the Courts of Seychelles have jurisdiction.

(2) The right and power of prosecuting vested in the Attorney General is absolutely under his management and control and any officer who may be appointed a public prosecutor under section 63 shall be under the control of the Attorney General and be bound to conform to any direction which shall or may be given to him by the Attorney General.

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

(2) If the accused shall not be before the court when such *nolle prosequi* is entered, the Registrar or clerk of such court shall forthwith cause notice in writing of the entry of such *nolle prosequi* to be given to the keeper of the prison in which such accused may be detained, and also, if the accused person has been committed for trial, to the Magistrates' Court by which he was so committed, and the Magistrates' Court shall forthwith cause a similar notice in writing to be given to any witness bound over to prosecute and give evidence and to their sureties (if any) and also to the accused and his sureties in case he shall have been admitted to bail.

61A.(1) The Attorney-General may, at any time with the view of obtaining the evidence of any person believed to have been directly or indirectly concerned in or privy to an offence, notify an offer to the person to the effect that the person-

- (a) would be tried for any other offence of which the person appears to have been guilty; or
- (b) would not be tried in connection with the same matter,

on condition of the person making a full and true disclosure of the whole of the circumstances within the person's knowledge relative to such offence and to every other person concerned whether as principal or abettor in the commission of the offence.

(2) Every person accepting an offer notified under this section shall be examined as a witness in the case.

(3) Such person if not on bail may be detained in custody until the termination of the trial.

(4) Where an offer has been notified under this section and the person who has accepted the offer has, either by willfully concealing anything material or by giving false evidence, not complied with the condition of the offer, the person may be tried for the offence in respect of

which the offer was so notified or for any other offence of which the person appears to have been guilty in connection with the same matter.

(5) The statement under caution made by a person who has accepted an offer under this section may be given in evidence against the person when the person is tried as stated in subsection (4).

62. (1) Notwithstanding anything in this Code contained the Attorney General may exhibit to the Supreme Court, against persons subject to the jurisdiction of the Supreme Court, informations for all purposes for which Her Majesty's Attorney General for England may exhibit informations on behalf of the Crown in the High Court of Justice in England.

(2) Such proceedings may be taken upon every such information as may lawfully be taken in the case of similar informations filed by Her Majesty's Attorney General for England so far as the circumstances of the case and the practice and procedure of the Supreme Court will admit.

(3) The Supreme Court may make rules for carrying into effect the provisions of this section.

APPOINTMENT OF PUBLIC PROSECUTORS AND CONDUCT PROSECUTIONS

63. (1) The President may appoint generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called public prosecutors.

(2) The Attorney General by writing under his hand may appoint any advocate of the Supreme Court or person employed in public service, not being a police officer below the rank of sergeant of police to be a public prosecutor for the purpose of any case:

Provided that in the Magistrates' Court offences may be prosecuted by any member of the Police Force.

(3) Every public prosecutor shall be subject to the express directions of the Attorney General.

64. A public prosecutor may appear and plead without any written authority before any court in which any case of which he has charge is under inquiry, trial or appeal; and if any private person instructs an advocate to prosecute in any such case the public prosecutor may conduct the prosecutions, and the advocate so instructed shall act therein under his directions.

65. In a trial before any court a public prosecutor may, with the consent of the court or on the instructions of the Attorney General, at any time before judgment is pronounced, withdraw from the prosecution of any person; and upon such withdrawal-

- (a) if it is made before the accused person is called upon to make his defence, he shall be discharged, but such discharge of an accused person shall not operate as a bar to subsequent proceedings against him on account of the same facts;
- (b) if it is made after the accused person is called upon to make his defence, he shall be acquitted.

66. (1) The Judge or any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person, but no person other than a public prosecutor or other officer generally or specially authorised by the President in this behalf shall be entitled to do so without permission. With the like permission, any manager or employee may prosecute for an offence committed to the prejudice of his principal or employer.

(2) Any such person or officer shall have the like power of withdrawing from the prosecution as is provided by section 65, and the provisions of that section shall apply to any withdrawal by such person or officer.

(3) Any person conducting the prosecution may do so personally or by advocate.

INSTITUTION OF PROCEEDINGS

Making of Complaint

67. Proceedings may be instituted either by the making of a complaint or by the bringing before a court of a person who has been arrested without warrant.

68. (1) Any person who believes from reasonable and probable cause that an offence has been committed by any person may make a complaint thereof to a judicial officer.

(2) A complaint may be made orally or in writing but if made orally shall be reduced to writing by the judicial officer and, in either case, shall be signed by the complainant and the judicial officer.

(3) The judicial officer upon receiving any such complaint shall subject to the provisions of subsection (4), draw up or cause to be drawn up

and shall sign a formal charge containing a statement of the offence with which the accused is charged, unless such a charge is signed and presented by a police officer.

(4) Where the judicial officer is of opinion that any complaint or formal charge made or presented under this section does not disclose any offence, the judicial officer shall make an order refusing to admit such complaint or formal charge and shall record his reasons for such order.

69. (1) Upon receiving a complaint and having signed the charge in accordance with the provisions of section 68 the judicial officer may, in his discretion issue either a summons or a warrant to compel the attendance of the accused person before a court having jurisdiction to inquire into or try the offence alleged to have been committed:

Provided that a warrant shall not be issued in the first instance unless the complainant or by a witness or witnesses.

(2) The validity of any proceedings taken in pursuance of a complaint or charge shall not be effected either by any defect in the complaint or charge or by the fact that a summons or warrant was issued without a complaint or charge.

(3) Any summons or warrant may be issued on a Sunday.

(4) At Anse Royale or at Praslin and La Digue a complaint or formal charge may be made or presented to the clerk of the Magistrates' Court at the aforesaid places in respect of an offence within the jurisdiction of the Magistrates' Court and in such a case and for such purposes the clerk shall have the same powers as, and shall be deemed to be, a judicial officer.

70. (1) Where a person who has been arrested without warrant is brought before a court otherwise than under sections 21, 24, 100 and 101, the Judge or Magistrate before whom the person is brought shall draw up or cause to be drawn up and shall sign a formal charge containing a statement of the offence with which such person is charged, unless such a charge shall be signed and presented by a police officer.

(2) The court, if it has jurisdiction, may inquire into or try the offence alleged to have been committed.

(3) If the accused person is brought before the Magistrates' Court and such court has no jurisdiction to inquire into or to try him on the charge drawn up or presented under subsection (1) the court may either admit the accused person to bail or remand him in custody for a period not exceeding

fourteen days and shall forthwith notify the Attorney-General thereof in writing.

(4) If at the end of such period of bail or custody, the Attorney General has not ordered a preliminary inquiry under the provisions of section 192(1), or taken steps to have the accused person appear or be brought before the Supreme Court, or taken any action to terminate the proceedings under the provisions of section 61 or section 65 or otherwise the Magistrates' Court shall direct that the accused person appear or be brought before the Supreme Court and may admit the accused person to bail or remand him in custody to appear or be brought before the Supreme Court.

PROCESSES TO COMPEL THE APPEARANCE OF ACCUSED PERSONS

Summons

71. (1) Every summons issued by a judicial officer under this Code shall be in writing, in duplicate and signed by such judicial officer.

(2) Every summons shall be directed to the person summoned and shall require him to appear at a time and place to be therein appointed before a court having jurisdiction to inquire into and deal with the complaint or charge. It shall state shortly the offence for which the person against whom it is issued is charged.

72. (1) Every summons shall be served by a police officer or by an usher* of the Supreme Court or other public servant and shall, if practicable, be served personally on the person summoned by delivering or tendering to him one of the duplicates of the summons by delivering or tendering to him one of the duplicates of the summons.

(2) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefore on the back of the other duplicate.

73. (1) Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family or with his servant residing with him or with his employer; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefore on the back of the other duplicate.

(2) If any person with whom a summons is left pursuant to this section fails or refuses to take all reasonable steps to cause the same to be served he shall be guilty of contempt of court.

74. If service in the manner provided by sections 72 or 73 cannot by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides, and thereupon the summons shall be deemed to have been duly served.

75. Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered letter addressed to the chief officer of the corporation in Seychelles. In the latter case service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

76. (1) Where the officer who has served a summons is not present at the hearing of the case, an affidavit purporting to be made before the Registrar or a judicial officer that such summons has been served and a duplicate officer that such summons has been served and a duplicate of the summons purporting to be indorsed in the manner hereinbefore provided by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(2) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the court.

77. (1) Whenever a judicial officer issues a summons in respect of any offence other than a felony, he may if he sees reason to do so, and shall when the offence with which the accused is charged is punishable only by fine and/or imprisonment not exceeding three months, dispense with the personal attendance of the accused, provided that he pleads guilty in writing or appears by an advocate.

(2) A court inquiring into or trying any case may in its discretion, at any subsequent stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinafter provided.

(3) If the court imposes a fine on an accused person whose personal attendance has been dispensed with under this section, and such fine is not paid within the time prescribed for such payment the court may forthwith issue a summons calling upon such accused person to show cause why he should not be committed to prison for such term as the court may then prescribe. If such accused person does not attend upon the return of such summons the court may forthwith issue a warrant and commit such person to prison for such term as the court may then fix.

(4) If in any case in which under this section the attendance of an accused person is dispensed with, previous convictions are alleged against such person and are not admitted in writing or through such person's advocate the court may adjourn the proceedings and direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinafter provided.

(5) Whenever the attendance of an accused person has been so dispensed with and his attendance is subsequently required, the cost of any adjournment for such purpose shall be borne in any event by the accused.

Warrant of Arrest

78. (1) Where a prosecution has been instituted and a Magistrate or the Registrar has reason to believe that the accused is avoiding service or that he is unlikely to obey the summons or surrender to his bail or attend the resumed hearing, as the case may be, the Magistrate or Registrar may issue a warrant for the arrest of the accused.

(2) An application for a warrant under this section may be made either in writing by a public prosecutor or orally by any police officer or by the complainant or a surety, in which case the Magistrate or Registrar shall examine the applicant and any necessary witness on oath or affirmation and record the substance of his information.

79. If the accused does not appear at the time and place appointed in and by the summons, and his personal attendance has not been dispensed with under section 77 the court or the Master of the Supreme Court may issue a warrant to apprehend him and cause him to be brought before such a court. But no such warrant shall be issued unless a complaint has been made upon oath.

80. (1) Every warrant of arrest shall be under the hand of the judicial officer issuing the same.

(2) Every warrant shall state shortly the offence with which the person against whom it is issued is charged and shall name or otherwise describe such person, and it shall order the person or persons to whom it is directed to apprehend the person against whom it is issued and bring him before the court having jurisdiction in the case to answer to the charge therein mentioned and to be further dealt with according to law.

(3) Every such warrant shall remain in force until it is executed or until it is cancelled by the judicial officer who issued it.

81. (1) A judicial officer issuing a warrant for the arrest of any person in respect of any offence other than murder or treason may in his discretion direct by indorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the specified court at a specified time and thereafter until otherwise directed by the court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(2) The indorsement shall state-

- (a) the number of sureties;
- (b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound; and
- (c) the time at which he is to attend before the court.

(3) Whenever security is taken under this section the officer to whom the warrant is directed shall forward the bond to the court.

82. (1) A warrant of arrest may be directed to one or more police officers, or generally to all police officers. But a judicial officer issuing such a warrant may, if its immediate execution is necessary, and no police officer is immediately available, direct it to any other person or persons, and such person or persons shall execute the same.

(2) When a warrant is directed to more officers or persons than one, it may be executed by all or by any one or more of them.

83. A warrant directed to any police officer may also be executed by any other police officer whose name is indorsed upon the warrant by the officer to whom it is directed or indorsed.

84. The police officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested and, if so required, shall show him the warrant.

85. The police officer or other person executing a warrant of arrest shall (subject to the provisions of section 81 as to security) without unnecessary delay bring the person arrested before the court before which he is required by law to produce such person.

86. A warrant of arrest may be executed at any place in Seychelles.

87. Any irregularity or defect in the substance or form of a warrant, and any variance between it and the written complaint or information, or between either and the evidence produced on the part of the prosecution at any inquiry

or trial shall not affect the validity of any proceedings at or subsequent to the hearing of the case, but if any such variance appears to the court to be such that the accused has been thereby deceived or misled, such court may, at the request of the accused, adjourn the hearing of the case to some future date and in the meantime remand the accused or admit him to bail.

PUBLICATION AND ATTACHMENT

88. (1) If any court has reason to believe (whether after taking evidence or not) that any person against whom a warrant of arrest has been issued is not in, or cannot be found in, Seychelles, the court may give notice in the manner specified in subsection (2) requiring that person to appear at a specified place within 30 days of the date of publication of the notice or such longer time as is specified in the notice.

(2) A notice under subsection (1) shall be published-

- (a) in the Gazette; and
- (b) in a newspaper published in and or circulating in Seychelles; and
- (c) by being broadcast on Radio Seychelles,

and shall be served either-

- (i) by sending it to the person named in the notice by registered post at his last known address, whether in or outside Seychelles; or
- (ii) by serving it, in the manner provided for service of a summons in section 72,73 or 74 on a person in Seychelles who has purported to be an agent of that person.

(3) A statement in writing by that court that a notice under subsection (2) was published on a specified day and served is conclusive evidence that subsections (1) and (2) were complied with and that the notice was so published and served.

89. (1) Where a notice under section 88 has been published and served, the court issuing the notice may at any time order the attachment of any property, whether movable or immovable, belonging to the person named in the notice (subject to such exceptions as the court considers necessary for the maintenance of any wife, children or dependant of that person).

(2) An order under subsection (1) authorizes the attachment of all property, whether movable or immovable, belonging to that person in such manner as may be prescribed.

(3) The Chief Justice may make rules of court prescribing the manner of, and generally in relation to, the attachment of property under this section.

(4) If the property under attachment or part of that property is perishable or consists of livestock, the court may, if it thinks it expedient, order immediate disposal or sale of that property or part of that property, as the case may be.

(5) If the person named in a notice under section 88 does not appear within 6 months of the date of publication of the notice, the court may determine that such of the property under attachment as the court directs is placed at the disposal of the Government (subject to such exceptions as the court considers necessary for the maintenance of any wife, children or dependant of that person).

(6) Property under attachment placed at the disposal of the Government shall be disposed of in accordance with the instructions of the President and shall be disposed of in accordance with the instructions of the President and shall be sold or used or reserved for the public service.

(7) Where property is placed at the disposal of the Government in terms of this section, the person named in the notice is not entitled to an accounting or to compensation for its value.

90. (1) If the person named in a notice under section 88 appears voluntarily or is apprehended and brought before the court by whose order the property was attached and proves to his satisfaction of that court that

- (a) he was not out of Seychelles or unable to be found in Seychelles, as the case may be, for the purpose of avoiding execution of the warrant of arrest; and
- (b) he did not have such notice of that notice as to enable him to appear within the time specified,

all his property under attachment together with the net proceeds of any of that property which has been sold shall be returned to the person named in the notice.

(2) All property under attachment not placed at the disposal of the Government under section 89(5), together with the net proceeds of any of that property which has been sold shall be-

- (a) returned to the person named in the notice; or
- (b) delivered to the Curator or another person named by the court as guardian, to be held for the benefit of the wife, children or named dependants of the person named in the notice.

(3) Any person whose application under this section for the delivery of property or the net proceeds of sale of that property has been rejected by the court may appeal and Part X (Appeals) shall apply to that appeal.

Miscellaneous Provisions Regarding Processes

91. Where any person for whose appearance or arrest the officer presiding in any court is empowered to issue a summons or warrant is present in such court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such court.

92. When any person who is bound by any bond taken under this Code to appear before a court does not so appear, the officer presiding in such court may issue a warrant directing that such person be arrested and produced before him.

93. (1) When any person for whose appearance or arrest a court is empowered to issue a summons or warrant is confined in any prison, the court may issue an order to the officer in charge of such prison requiring him to bring such prisoner in proper custody, at a time to be named in the order, before such court.

(2) The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the prison for the purpose aforesaid.

94. The provisions contained in this part relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

SEARCH WARRANTS

95. Where it is proved on oath to a judicial officer that in fact or according to reasonable suspicion anything upon, by or in respect of which an offence has been committed or anything which is necessary to the conduct of an investigation into any offence is in any building, ship, carriage, box, receptacle or place, the judicial officer may by warrant (called a search warrant) authorise a police officer or other person therein named to search the building, ship, carriage, box, receptacle or place (which shall be named or

described in the warrant) for any such thing and, if anything search for be found, to seize it and carry it before a court to be dealt with according to law.

96. Every search warrant may be issued on any day (including Sunday) and may be executed on any day (including Sunday) between the hours of sunrise and sunset but the judicial officer may, by the warrant, in his discretion, authorise the police officer or other person to whom it is addressed to execute it at any hour.

97. (1) Whenever any building or other place liable to search is closed, any person residing in or being in charge of such building or place, shall, on demand of the police officer or other person executing the search warrant, and on production of the warrant, allow him free ingress thereto and egress therefrom and afford all reasonable facilities for a search therein.

(2) If ingress into, or egress from, such building or other place cannot be obtained, the police officer or other person executing the search warrant may proceed in the manner prescribed by section 11 or 12.

(3) Where any person in or about such building or place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If such person is a woman the provisions of section 16 shall be observed.

98. (1) When any such thing is seized and brought before a court, it may be detained until the conclusion of the case or the investigation, reasonable care being taken for its preservation.

(2) If any appeal is made, or if any person is committed for trial, the court may order it to be further detained for the purpose of the appeal or the trial.

(3) If no appeal is made, or if no person is committed for trial, the court shall direct such thing to be restored to the person from whom it was taken, unless the court sees fit and is authorised or required by law to dispose of it otherwise.

99. The provisions of section 80(1) and (3), 82, 83 and 86, shall, so far as may be, apply to all search warrants issued section 95.

PROVISIONS AS TO BAIL

100.(1) Subject to this section, a person who is arrested without a warrant or detained pursuant to a written law which does not provide otherwise (in this section referred to as the “suspect”) shall be released within 24 hours of the arrest or detention unless-

- (a) the suspect is produced before a court and the court has ordered that the suspect be remanded in custody; or
- (b) the police officer who is in charged of the police station at which the suspect is held or, where the suspect is being held otherwise than at a police station, the police officer or other person holding the suspect has reasonable ground for believing that-
 - (i) it is necessary to continue holding the suspect to secure or preserve evidence relating to an offence for which the suspect is under arrest or detention or to obtain the evidence by questioning the suspect; and
 - (ii) an offence for which the suspect is under arrest or detention is a serious offence, and

it is not reasonably practicable, having regard to the distance from the place where the suspect is held to the nearest court, the non-availability of a judge or magistrate or force majeure, to produce the suspect before a court not later than 24 hours after the arrest or detention of the suspect.

(2) Where a suspect is held under subsection 1(b)-

- (a) the police officer in charge of the police station at which the suspect is being held or, where the suspect is being held at a place other than a police station, the police officer or other person who is holding the suspect shall not more than 24 hours after the expiry of the first 24 hours after the arrest or detention of the suspect and thereafter not more than 24 hours after the last review if the conditions specified in the subsection are still being satisfied for the purpose of determining whether to continue holding the suspect; and
- (b) the suspect shall, unless released earlier, be produced before a court as soon as is reasonably practicable.

(3) A police officer in charge of the police station at which the suspect is held or, where the suspect is held at a place other than a police station, the police officer or other person holding the suspect may, unless the suspect is being detained under any other written law, subject to the written law, release the suspect at any time before the expiry of the period of 24 hours on condition that the suspect appears before the court or such other place as may be specified in writing by the police officer or other person and

may, for this purpose, require the suspect to execute a bond for a reasonable sum on the suspect own's recognizance.

(4) A suspect who has been released under this section shall not be re-arrested without a warrant for the offence for which the suspect was previously arrested unless new evidence justifying a further arrest has come to light since the suspect was released.

(5) For the purposes of this section, "serious offence" means an offence punishable with a fine of R10,000 or imprisonment for a term of not less than 3 years or both such fine and term of imprisonment.

101.(1) Subject to section 100, a police officer or other person who is holding a person without a warrant (in this section referred to as the "suspect") may, where the police officer or other person has reasonable ground for believing that the holding of the suspect beyond the period specified in section 100 is necessary-

- (a) produce the suspect before a court; and
- (b) apply in writing to the court for the further holding of the suspect.

(2) An application under subsection (1) shall state-

- (a) the nature of the offence for which the suspect has been arrested or detained;
- (b) the general nature of the evidence on which the suspect was arrested or detained;
- (c) what inquiries relating to the offence have been made by the police and what further inquiries are proposed by the police;
- (d) the reasons for believing the continued holding of the suspect to be necessary for the purpose of any further inquiries, and

shall be supported by an affidavit.

(3) A court shall not hear an application under this section unless the suspect has been served with copy of the application.

(4) Where an application is made under subsection (1), the court shall release the suspect unconditionally or, where the court has reasonable ground for doing so, upon reasonable condition unless the court, having

regard to the circumstances specified in subsection (5), determines that it is necessary to remand the suspect in custody.

- (5) The circumstances referred to in subsections (4) and (7) are-
- (a) where the court is a magistrate's court, the offence for which the suspect was arrested or is being detained is treason or murder;
 - (b) the seriousness of the offence for which the suspect was arrested or is being detained;
 - (c) there are substantial grounds for believing that the suspect will fail to appear for trial or will interfere with witnesses or will otherwise obstruct the course of justice or will commit an offence while on release;
 - (d) there is a necessity to keep the suspect in custody for the suspect's own protection or, where the suspect is a minor, for the suspect's welfare;
 - (e) the suspect is serving a custodial sentence;
 - (f) the suspect has been arrested pursuant to a previous breach of condition of release for the same offence.

(6) Subject to this section, where a court makes an order under subsection (1) for the remand in custody of a suspect, the period of remand shall not exceed 15 days.

(7) The police officer or other person holding a suspect in respect of which an order for remand was made by a court under this section may, where the police officer or other person has reasonable ground for so doing, at any time before the expiry of the period of remand, apply to a court for further periods of extension of the remand but the court shall not grant an extension unless, having regard to the circumstances specified in subsection (5), the court determines that it is necessary to grant the extension and the periods of extension granted under this subsection shall not, together with the period for which the suspect was first remanded in custody, exceed in aggregate 30 days.

(8) The reasonable conditions referred to in subsection (4) are reasonable conditions necessary to secure that the suspect-

- (a) does not, while on release, commit an offence or interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or any other person;

- (b) is available for the purposes of enabling inquiries or a report to be made to assist the court in dealing with the offence which the suspect is accused;
- (c) appears at a later date at the time and place required in connection with proceedings preliminary to a trial or with the trial of the offence or for the purpose of assisting the police with their inquiries.

(9) A court may, under subsection (4) for the purpose of ensuring that the suspect attends at the time and place under subsection (8)(c), require the suspect-

- (a) to execute a bond for such reasonable amount as the court thinks necessary in the circumstances, and
- (b) to provide one or more suitable sureties for the bond.

(10) A suspect who has been released by a court under this section shall not be re-arrested without a warrant for the offence for which the suspect was previously arrested unless new evidence justifying a further arrest has come to light since the suspect was released.

102.(1) As soon as the bond has been executed the person for whose appearance it has been executed shall be released, and when he is in prison the court admitting him to bail shall issue an order of release to the officer in charge of the prison, and such officer on receipt of the order shall release him.

(2) Nothing in this section or in section 100 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

103. When any person is required by any court or officer to execute a bond, with or without sureties, such court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money of such amount as the court or officer may fix in lieu of executing such a bond.

104. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they after wards become insufficient, the court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and on his failing so to do may commit him to prison.

105.(1) All of any of the sureties for the appearance and attendance of a person released on bail may at any time apply to a court to discharge the bond either wholly or so far as it relates to the applicant or applicants.

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

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

106. Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond, but the party who gave the bond may be required to find a new surety.

107. If it is made to appear to any court, by information on oath that any person bound by recognizance is about to leave Seychelles, the court may cause him to be arrested and may commit him to prison until the trial, unless the court shall see fit to admit him to bail upon further recognizance.

108.(1) Whenever it is proved to the satisfaction of a court by which a recognizance under this Code has been taken, or when the recognizance is for appearance before a court, to the satisfaction of such court, that such recognizance has been forfeited, the court shall record the grounds of such proof, and call upon any person bound by such recognizance to pay the penalty thereof, or to show cause why it should not be paid.

(2) If sufficient cause is not shown and the penalty is not paid, the court may proceed to recover the same by issuing a warrant for the attachment and sale of the movable property belonging to such person, of his estate if he be dead.

(3) Such warrant may be executed by the attachment and sale of such property wherever found in Seychelles.

(4) If such penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the court which issued the warrant, to imprisonment for a term not exceeding six months.

(5) The court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

(6) When any person who has furnished security is convicted of an offence the commission of which constitutes a breach of the conditions of his recognizance, a certified copy of the judgment of the court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and if such certified copy is so used the

court shall presume that such offence was committed by him unless the contrary is proved.

109. All orders made under section 108 by any Magistrate shall be appealable to and may be revised by the Supreme Court.

110. The Supreme Court may direct any Magistrate to levy the amount due on a recognizance to appear and attend at the Supreme Court.

CHARGES AND INFORMATIONS

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

112.(1) Any offences, whether felonies or misdemeanours, may be charged together in the same charge or information if the offences charged are founded on the same facts or from, or are a part of, a series of offences of the same or similar character.

(2) Where more than one offence is charged in a charge or information, a description of each offence so charged shall be set out in a separate paragraph of the charge or information called a count.

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

113. The following persons may be joined in one charge or information and may be tried together namely-

- (a) persons accused of the same offence committed in the course of the same transaction;
- (b) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence;
- (c) persons accused of more offences than one of the same kind (that is to say, offences punishable with the same amount of punishment under the same section of the Penal

Code or of any other written law) committed by them jointly within a period of twelve months;

- (d) persons accused of different offences committed in the course of the same transaction;
- (e) persons accused of any offence under Chapter XXVI to XXX of the Penal Code and persons accused of receiving or retaining property, possession of which is alleged to have been transferred by any such offence committed by the first named persons, or of abetment or attempting to commit either of such last-named offences;
- (f) persons accused of any offence relating to counterfeit coin under Chapter XXXVI of the Penal Code and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment or of attempting to commit any such offence.

114. The following provisions shall apply to all charges and informations and, notwithstanding any rule of law or practice, a charge or an information shall, subject to the provisions of this Code, not be open to objection in respect of its form or contents if it is framed in accordance with the provisions of this Code-

- (a) (i) A count of a charge or an information shall commence with a statement of the offence charged, called the statement of offence;
- (ii) the statement of offence shall describe the offence shortly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the offence, and if the offence charged is one created by enactment, shall contain a reference to the section of the enactment creating the offence;
- (iii) after the statement of the offence, particulars of such offences shall be set out in ordinary language, in which the use of technical terms shall not be necessary;

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

- (iv) the forms set out in the fourth schedule to this Code or forms conforming thereto as nearly as may be shall be used in cases to which they are applicable, and in other cases forms to the like effect of conforming thereto as nearly as may be shall be used, the statement of offence and the particulars of offence being varied according to the circumstances in each case;
 - (v) where a charge or an information contains more than one count, the counts shall be numbered consecutively.
- (b)
- (i) Where an enactment constituting an offence states the offence to be an omission to do any one of any different acts in the alternative, or the doing or the omission to do any act in any one of any different capacities, or with any one of different intentions, or states any part of the offence in the alternative, the acts, omissions, capacities or intentions, or other matter stated in the alternative in the enactment, may be stated in the alternative in the count charging the offence;
 - (ii) it shall not be necessary, in any count charging an offence constituted by an enactment, to negative any exception or exemption from, or qualification to, the operation of the enactment creating the offence.
- (c)
- (i) The description of property in a charge or an information shall be in ordinary language, and such as to indicate with reasonable clearness the property referred to, and, if the property is so described, it shall not be necessary (except when required for the purpose of describing an offence depending on any special ownership of property or special value of property) to name the person to whom the property belongs or the value of the property;
 - (ii) where the property is vested in more than one person, and the owners of the property are referred to in a charge or information, it shall be sufficient to describe the property as owned by one of those persons by name with the others, and if the persons owning the property are a body of persons with a collective name, such as a joint stock company or

“Inhabitants,” “Trustees,” “Commissioners,” or “Club” or such other name, it shall be sufficient to use the collective name without naming any individual;

- (iii) property belonging to or provided for the use of any public establishment, service or department may be described as the property of the Republic;

coin and bank notes may be described as money; and any allegation as to money, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any bank or currency note (although the particular species of coin of which such amount was composed, or the particular nature of the bank or currency note, shall not be proved); and in cases of stealing and defrauding by false pretences, by proof that the accused person dishonestly appropriated or obtained any coin or any bank or currency note or any portion of the value thereof, although such coin or bank currency note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same or to any other person and such part shall have been returned accordingly.

- (d) The description or designation in a charge or an information of the accused person, or of any other person to whom reference is made therein, shall be such as is reasonably sufficient to identify him, without necessarily stating his correct name, or his abode, style, degree or occupation; and if owing to the name of the person not being known, or for any other reason, it is impracticable to give such a description or designation, such description or designation shall be given as is reasonably practicable in the circumstances, or such person may be described as “a person unknown.”
- (e) Where it is necessary to refer to any document or instrument in a charge or an information, it shall be sufficient to describe it by any name or designation by which it is usually known, or by the purport thereof, without setting out any copy thereof.

- (f) Subject to any other provisions of this section it shall be sufficient to describe any place, time, thing, matter, act or omission whatsoever to which it is necessary to refer in any charge or information in ordinary language, in such a manner as to indicate with reasonable clearness the place, time, thing, matter, act or omission referred to.
- (g) It shall not be necessary in stating any intent to defraud, deceive or injure to state an intent to defraud, deceive or injure any particular person, where the enactment creating the offence does not make an intent to defraud, deceive or injure a particular person an essential ingredient of the offence.
- (h) Figure and abbreviations may be used for expressing anything which is commonly expressed thereby.
- (i) When a person is charged with any offence under sections 265, 266, 267 or 268 of the Penal Code it shall be sufficient to specify the gross amount of property in respect of which the offence is alleged to have been committed and the dates between which the offence is alleged to have been committed without specifying particular times or exact dates.

PREVIOUS CONVICTION OR ACQUITTAL

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

116. A person convicted or acquitted of any offence may afterwards be tried for any other offence with which he might have been charged on the former trial under subsection (1) of section 112 of this Code.

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

118. A person convicted or acquitted of any offence constituted by any acts may, notwithstanding such conviction or acquittal, be subsequently charged with and tried for any other offence constituted by the same acts

which he may have committed, if the court by which he was first tried was not competent to try the offence with which he is subsequently charged.

119.(1) In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force-

- (a) by an extract certified, under the hand of the officer having the custody of the records of the court in which such conviction or acquittal was had, to be a copy of the sentence or order; or
- (b) in case of a conviction, either by a certificate signed by the officer in charge of the prison in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered,

together with, in each of such cases, evidence as to the identity of the accused person so convicted or acquitted.

(2) A certificate issued under the provisions of section 27(4) of the Police Force Act shall be *prima facie* evidence of all facts therein set forth.

(3) A previous conviction in any place outside Seychelles may be proved by the production of a certificate purporting to be given under the hand of a police officer in the country where the conviction was had, containing a copy of the sentence or order, and the fingerprints or photographs of the fingerprints of the person so convicted together with evidence that the fingerprints of the person so convicted are those of the accused person.

Such a certificate as aforesaid shall be *prima facie* evidence of all facts therein set forth without proof that the officer purporting to sign it did in fact sign it and was empowered to do so.

COMPELLING ATTENDANCE OF WITNESSES

120.(1) If it is made to appear that material evidence can be given by or is in the possession of any person, it shall be lawful for a court having cognizance of any criminal cause or matter to issue a summons to such person requiring his attendance before such court or requiring him to bring and produce to such court for the purpose of the evidence all documents and writings in his possession or power which may be specified or otherwise sufficiently described in the summons.

(2) No person shall be permitted to give any evidence derived from unpublished official records relating to any affairs of state, except with the permission of the officer at the head of the department concerned who shall give or withhold such permission as he thinks fit, and no public officer shall be compelled to disclose communications made to him in official confidence when he considers that the public interest would suffer by the disclosure.

121. If without sufficient excuse, a witness does not appear in obedience to the summons, the court, on proof of the proper service of the summons a reasonable time before, may issue a warrant to bring him before the court at such time and place as shall be therein specified.

122. If the court is satisfied by evidence on oath that such person will not attend unless compelled to do so, it may at once issue a warrant for the arrest and production of the witness before the court at a time and place to be therein specified.

123. When any witness is arrested under a warrant the court may, on his furnishing security by recognizance to the satisfaction of the court for his appearance at the hearing of the case, order him to be released from custody, or shall, on his failing to furnish such security, order him to be detained for production at such hearing.

124.(1) Any court desirous of examining as a witness, in any case pending before it, any person confined in any prison may issue an order to the officer in charge of such prison requiring him to bring such prisoner in proper custody, at a time to be named in his order before the court for examination.

(2) The officer so in charge, on receipt of such order, shall act in accordance therewith and shall provide for the safe custody of the prisoner during his absence from the prison for the purpose aforesaid.

125.(1) Any person summoned to attend as a witness who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the court, or fails to attend after adjournment of the court after being ordered to attend, shall be liable by order of the court to a fine not exceeding two hundred and fifty rupees, and to imprisonment for a term not exceeding fifteen days.

(2) Such fine shall be attachment and sale of any movable property belonging to such witness.

(3) In default of recovery of the fine by attachment and sale the witness may, by order of the court, be imprisoned as a civil prisoner for a term of fifteen days unless such fine is paid before the end of the said term.

(4) For good cause shown the Supreme Court may remit or reduce any sentence imposed under this section by the Magistrates' Court.

EXAMINATION OF WITNESSES

126. Any court may at any stage of any inquiry, trial or other proceeding under this Code summon or call any person as a witness, or examine any person in attendance though not summoned as a witness or recall and re-examine any person already examined, and the court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case:

Provided that the prosecutor or the advocate for the prosecution or the defendant or his advocate, shall have the right to cross-examine any such person, and the court shall adjourn the case for such time (if any) as it thinks necessary to enable such cross-examination to be adequately prepared if, in its opinion, either party may be prejudiced by the calling of any person as a witness.

127. Save as otherwise provided every witness in any criminal cause or matter shall be examined upon oath or affirmation, and the court before which any witness shall appear shall have full power and authority to administer the usual oath or affirmation:

Provided that the court may at any time, if it thinks it just and expedient (for reasons to be recorded in the proceedings), take without oath the evidence of any person declaring that the taking of any oath whatever is according to his religious belief unlawful, or who by reason of immature age or want of religious belief ought not, in the opinion of the court, to be admitted to give evidence on oath, the fact of the evidence having been so taken also recorded in the proceedings.

128.(1) In any trial before the Supreme Court in its summary jurisdiction or in the Magistrates' Court, a written statement by any person shall subject to the conditions contained in subsection (2) be admissible as evidence to the like extent as oral evidence to the like effect by that person.

- (2) A statement may be tendered in evidence under subsection (1) if-
- (a) (a) the statement purports to be signed by the person who made it;
 - (b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief;
 - (c) at least twenty-one days before the hearing at which the statement is tendered in evidence a copy of the statement is

served, by or on behalf of the party proposing to tender it, on each of the other parties to the proceedings; and

- (d) none of the other parties or their advocates, within fourteen days from the service of the copy of the statement, serves a notice on the party so proposing objecting to the statement being tendered in evidence under this section.

Provided that paragraph (c) and (d) shall not apply if the parties agree before or during the hearing that the statement shall be so tendered.

(3) If a statement tendered in evidence under subsection (1)-

- (a) is made by a person under the age of twenty one, it shall give his age;
- (b) is made by a person who cannot read it, it shall be read to him before he signs it and shall be accompanied by a declaration by the person who so read the statement to the effect that it was so read;
- (c) is made in a language other than English, it shall be accompanied by an English translation thereof certified by the court translator;
- (d) refers to any other document as an exhibit, the copy served on any other party to the proceedings under subsection (2) (c) shall be accompanied by a copy of that document or by such information as may be necessary in order to enable the party on whom it is served to inspect that document or a copy thereof.

(4) Notwithstanding that a written statement made by any person may be admissible as evidence by virtue of this section-

- (a) the party by whom or on whose behalf a copy of the statement was served may call the person making the statement to give evidence; and
- (b) the court may, of its own motion or on the application of any party to the proceedings either before or during the hearing, require the person making the statement to attend before the court and give evidence:

Provided that any application made to the court under this paragraph shall not be unreasonably refused.

(5) So much of any statement as is admitted in evidence by virtue of this section shall, unless the court otherwise directs, be read aloud at the hearing and where the court so directs an account shall be given orally of so much of any statement as is not read aloud.

(6) Any documents or object referred to as an exhibit and identified in a written statement admitted in evidence under this section shall be treated as if it had been produced as an exhibit and identified in court by the maker of the statement.

(7) A document required by this section to be served on any person may be served-

- (a) by delivering it to him or to his advocate; or
- (b) in the case of a body corporate, by delivering it to the secretary or clerk of the body at its registered or principal office or by sending it by registered post addressed to the Secretary or clerk of that body at that office.

129.(1) Subject to the provisions of this section any fact of which oral evidence may be given in any criminal trial may be admitted for the purpose of that trial by or on behalf of the prosecutor or accused person and the admission by any party of any such fact under this section shall as against that party be conclusive evidence in that trial of the fact admitted.

(2) An admission under this section-

- (a) may be made before or during the trial;
- (b) if made otherwise than in court, shall be in writing;
- (c) if made in writing by an individual, shall purport to be signed by the person making it and, if so made by a body corporate, shall purport to be signed by a director or manager, or the secretary or clerk, or some other similar officer of the body corporate;
- (d) if made on behalf of an accused person who is an individual, shall be made by his advocate;
- (e) if made at any stage before the trial by an accused person who is an individual must be approved by his advocate (whether at the time it was made or subsequently) before or during the trial in question.

(3) An admission under this section for the purpose of proceedings relating to any matter shall be treated as an admission for the purpose of any subsequent criminal proceedings relating to that matter (including any appeal or retrial).

(4) An admission under this section may with the leave of the court be withdrawn in the trial for the purpose of which it is made or any subsequent criminal proceedings relating to the same matter.

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

- (a) refuses to be sworn; or
- (b) having been sworn, refuses to answer any question put to him; or
- (c) refuses or neglects to produce any document or thing which he is required to produce; or
- (d) refuses to sign his deposition,

without in any such case offering any sufficient excuse for such refusal or neglects, the court may adjourn the case for any period not exceeding eight days, and may in the meantime commit such person to prison, unless he sooner consents to do what is required of him.

(2) If such person, upon being brought before the court at or before such adjourned hearing, again refuses to do what is required of him, the court may, if it sees fit, again adjourn the case and commit him for the like period, and so again from time to time until such person consents to do what is so required of him.

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

131.(1) Any document, purporting to be a report of a government analyst or any prescribed person, upon any matter or thing submitted to him for examination or analysis and report may be used as evidence of the facts stated therein in any inquiry, trial or other proceeding under this Code.

(2) When any report is so used the court may, if it thinks fit, summon and examine the analyst or the prescribed person as to the subject-

matter thereof or may cause written interrogatories to be submitted to him for reply, and such interrogatories and any reply thereto, purporting to be a reply from such person, may also be used as evidence in such inquiry, trial or other proceeding.

(3) Nothing in this section shall affect any other law under which any certificate or other document is made admissible in evidence, and the provisions of this section are additional to, and not in substitution for, any such law.

(4) In this section-

“government” means the Government of Seychelles;

“prescribed person” means such person as may be prescribed for the purpose of this section by the Minister by notice in the Gazette.

132.(1) Save as provided in subsection (2), the wife or husband of the person charged shall not be a competent witness for the prosecution in any inquiry or trial.

(2) The wife or husband of a monogamous marriage shall be competent witness for the prosecution in the following cases only:-

- (a) in any case where the wife or husband of a person charged may, under the Common Law of England, be called as a witness without the consent of such person;
- (b) in any case where such person is charged with bigamy or with an offence under Chapter XV of the Penal Code;
- (c) in any case where such person is charged in respect of an act or omission affecting the person or property of the wife or husband of such person or the children of either of them.

(3) For the purpose of subsection (2) a monogamous marriage means a marriage which is by law necessarily monogamous and binding during the lifetime of both parties unless dissolved by a valid judgment of a court.

133.(1) If it is proved that an accused person has absconded and that there is no immediate prospect of arresting him, the court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their

depositions. Any such depositions may, on the arrest of such person, be given in evidence against him on the inquiry into or trial for the offence with which he is charged if the deponent is dead or incapable of giving evidence, or beyond the limits of Seychelles, or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

(2) If it appears that an offence has been committed by some person or persons unknown, a judicial officer may hold an inquiry and examine any witness who can give evidence concerning the offence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence if the deponent is dead or incapable of giving evidence or beyond the limits of Seychelles, or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

133A.(1) The trial of any person before the Supreme Court with or without a jury or before any Magistrate's Court may commence and proceed or continue in his absence if the Court is satisfied that the summons or other process requiring the person to appear at the time and place appointed for the trial has in accordance with law, been served on such person and that-

- (a) he had consented to the trial taking place in his absence; or
- (b) he does not appear in court; or
- (c) by reason of his conduct the continuance of the proceedings in the person's presence has become impracticable and the court has ordered the person to be removed and the trial to proceed in the person's absence.

(2) The commencement or continuance of a trial under this section, shall not be deemed or be construed to affect or prejudice the right of such person to be defended by an attorney-at-law at such trial.

(3) Where in the course of or after the conclusion of the trial of an accused person under paragraph (b) of subsection (1) the accused person appears before court and satisfies the court that his absence from the whole or part of the trial was *bona fide* then-

- (a) where the trial has not been concluded, the evidence led against the accused up to the time of his appearance before court shall be read to him and an opportunity afforded to him to cross-examine the witnesses who gave such evidence and challenge any such evidence; and

- (b) where the trial has been concluded, the court shall set aside the conviction and sentence, if any, and order that the accused be tried *de novo*.

(4) The provisions of subsection (3) shall not apply if the accused person has been defended by an attorney-at-law at the trial during his absence.

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

Provided as follows:-

- (a) a person so charged shall not be called as a witness in pursuance of this section except upon his own application;
- (b) the failure of any person charged with an offence or of the wife or husband, as the case may be, of the person so charged, to give evidence shall not be made the subject of any comment by the prosecution;
- (c) the wife or husband of the person charged shall not be called as a witness except upon the application of the person so charged;
- (d) nothing in this section shall make a husband compellable to disclose any communication made to him by his wife during the marriage, or a wife compellable to disclose any communication made to her by her husband during the marriage;
- (e) a person charged and being a witness in pursuance of this section may be asked any question in cross-examination notwithstanding that it would tend to criminate him as to the offence charged;
- (f) a person charged and called as a witness in pursuance of this section shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of or been charged with any offence other than that wherewith he is then charged, or is of bad character, unless-
 - (i) the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of offence wherewith he is then charged; or
 - (ii) he has personally or by his advocate asked questions of the witnesses for the prosecution with a view to establishing

his own good character, or the nature or conduct of the defence is such as to involve imputations on the character of the complainant or the witness for the prosecution; or

- (iii) he has given evidence against any other person charged with the same offence.

(7) Every person called as a witness in pursuance of this section shall, unless otherwise ordered by the court, give his evidence from the witness box or other place from which the other witnesses have given their evidence.

(8) Nothing in this section shall affect the provisions of section 197 or any right of the person charged to make a statement without being sworn.

135.(1) Where the only witness to the facts of the case called by the defence is the person charged, he shall be called as a witness immediately after the close of the evidence for the prosecution.

(2) Where any witness other than the person charged is called on behalf of the defence, the person charged shall not be permitted to give evidence after such witness without permission of the court.

PROCEDURE IN CASE OF THE LUNACY OR OTHER INCAPACITY OF AN ACCUSED PERSON

136.(1) When in the course of a trial or preliminary inquiry the court has reason to believe that the accused may be of unsound mind and consequently incapable of making his defence, it shall inquire into the fact of such unsoundness, and may for that purpose order him to be detained in a mental hospital for medical observation and report for any period not exceeding one month.

(2) If the court is of opinion that the accused is of unsound mind and consequently incapable of making his defence, it shall postpone further proceedings in the case.

(3) If the case is one in which bail may be taken, the court may release the accused person on sufficient security being given that he will be properly taken care of and prevented from doing injury to himself or to any other person, and for his appearance before the court or such officer as the court may appoint in that behalf.

(4) If the case is one in which bail may not be taken, or if sufficient security be not given, the court shall report the case for the order of the President and shall meanwhile order the accused to be kept in custody in such manner as the court shall direct.

(5) In any case which has been reported to him as aforesaid the President may order the accused to be confined in a mental hospital or other suitable place of custody, and the court shall issue a warrant in accordance with such order.

137. When the accused person appears to be of sound mind at the time of the preliminary inquiry, the court, notwithstanding that it is alleged that at the time when the act was committed in respect of which the accused person is charged he was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, shall proceed with the case and, if the accused person ought, in the opinion of the court, to be committed for trial on information, the court shall so commit him.

138. Where any act or omission is charged against any person as an offence, and it is given in evidence on the trial of such person for that offence that he was insane so as not be responsible for his actions at the time when the act was done or omission made, then if it appears to the court before which such person is tried that he did the act or made the omission charged but was insane as aforesaid at the time when he did or made the same, the court shall make a special finding to the effect that the accused was guilty of the act or omission charged but was insane as aforesaid when he did the act or made the omission.

When such special finding is made the court shall report the case for the order of the President and shall meanwhile order the accused to be kept in custody as a criminal lunatic in such place and in such manner as the court shall direct.

The President may order such person to be confined in a mental hospital, prison or other suitable place of safe custody.

139. Whenever any preliminary inquiry or trial is postponed the court may at any time resume the preliminary inquiry or trial and require the accused to appear or to be brought before such court, when, if the court considers him capable or making his defence, the preliminary inquiry or trial shall proceed.

But if the court considers the accused to be still incapable of making his defence, it shall act as if the accused were brought before it for the first time.

140. If an accused person is confined in a mental hospital under the provisions of this Code and the medical officer in charge of such mental hospital certifies that the accused is capable of making his defence, such accused shall be taken before the court at such time as the court appoints to be dealt with according to law, and the certificate of such medical officer shall be receivable in evidence.

141. If the accused, though not insane, cannot be made to understand the proceedings, the court may proceed with the preliminary inquiry or trial; and in the case of a court other than the Supreme Court, if such inquiry results in a committal for trial, or if such trial results in a conviction, the proceedings shall be forwarded to the Supreme Court with a report of the circumstances and the Supreme Court shall pass thereon such order as it thinks fit.

JUDGMENT

142.(1) The judgment in every trial in any criminal court in the exercise of its original jurisdiction shall be pronounced, or the substance of such judgment shall be explained in open court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties and their advocates, if any:

Provided that the whole judgment shall be read out by the presiding Judge or Magistrate if he is requested so to do either by the prosecution or the defence.

(2) The accused person shall, if in custody, be brought up or, if not in custody, be required by the court to attend to hear judgment delivered except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted.

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

(4) At the time of any conviction by the Magistrates' Court the magistrate shall, where a right of appeal exists, inform the convicted person of his right of appeal, and the magistrate shall thereupon record that he has complied with the provisions of this subsection, sign such note and date it.

(5) Nothing in this section shall be construed to limit in any way the provisions of section 345.

143.(1) Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the court in the language of the court, and shall contain the point or points for determination, the decision thereon and the reasons for the decision, and shall be dated and signed by the presiding officer in open court at the time of pronouncing it.

(2) In the case of a conviction the judgment shall specify the offence of which, and the section of the Penal Code or other law under which the accused person is convicted, and the punishment to which he is sentenced.

(3) In the case of an acquittal the judgment shall state the offence of which the accused person is acquitted and shall direct that he be set at liberty.

(4) Notwithstanding anything hereinbefore contained, in trials by jury the court need not write a judgment but shall record the heads of the charge to the jury.

144.(1) On the application of the accused person a copy of the judgment shall be given to him without delay. Such copy shall be given free of cost.

(2) In a trial by jury a copy of the heads of the charge to the jury shall, on the application of the accused person, be given to him without delay and free of cost.

145. Where there are more charges than one against the same accused and he has been convicted of one or more of them the person conducting the prosecution, may, with the consent of the court, withdraw the others or the court of its own motion may stay the proceedings on the others. Such withdrawal shall have the same effect as a withdrawal under section 65.

COSTS AND COMPENSATION

146.(1) It shall be lawful for the Judge or a Magistrate to order any person convicted before him of an offence to pay to the public or private prosecutor, as the case may be, such reasonable costs as to such Judge or Magistrate may seem fit, in addition to any other penalty imposed:

Provided that such costs shall not exceed five hundred and fifty rupees in the case of the Magistrates' Court.

(2) It shall be lawful for the Judge or a Magistrate who acquits or discharges a person accused of an offence, if the prosecution for such offence was originally instituted on a summons or warrant issued by a court on the application of a private prosecutor, to order such private prosecutor to pay to the accused such reasonable costs as to such Judge or Magistrate may seem fit:

Provided that such costs shall not exceed five hundred rupees in the case of an acquittal or discharge by the Supreme Court or two hundred and fifty rupees in the case of an acquittal or discharge by the Magistrates' Court:

Provided further that no such order shall be made if the Judge or Magistrate shall consider that the private prosecutor had reasonable grounds for making his complaint.

(3) The costs awarded under this section may be awarded in addition to any compensation awarded under section 149.

(4) In this section-

“public prosecutor” means any person prosecuting on behalf of the Republic or for or on behalf of a public authority;

“private prosecutor” means any prosecutor other than a public prosecutor.

147.(1) The Republic shall not be sentenced to pay costs in case of dismissal of any charge, but witnesses called on behalf of the Republic shall be entitled to payment of their attendance fees and allowances by the Republic, in all cases subject to recovery by the Republic from any party sentenced to pay costs.

(2) The court shall have power to disallow fees or traveling allowances to any witness called on behalf of the Republic in any case tried by it.

148. An appeal shall lie from any order awarding costs under section 146 if made by a Magistrate to the Supreme Court and if by the Judge to the Court of Appeal. The appellate court shall have power to give such costs of the appeal as it shall deem reasonable.

149. If on the dismissal of any case any court shall be of opinion that the charge was frivolous or vexatious, such court may order the complainant to pay to the accused person a reasonable sum as compensation for the trouble and expense to which such person may have been put by reason of such charge in addition to his costs.

150. Sums allowed for costs or compensation awarded under section 146 or section 149 shall in all cases be specified in the conviction or order. If the person who has been ordered to pay such costs or compensation fails so to pay, he shall, in default of distress levied in accordance with section 297, be liable to imprisonment in accordance with the scale laid down in section 28 of the Penal Code unless such costs or compensation be sooner paid:

Provided that in no case shall the period of imprisonment imposed under this section exceed three months.

151.(1) Whenever any court imposes a fine, or confirms on appeal, revision or otherwise a sentence of fine, or a sentence of which a fine forms part, the court may, when passing judgment, order the whole or any part of the fine, recovered to be applied-

(a) in defraying expenses properly incurred in the prosecution;

- (b) in the payment to any person of compensation for any loss or injury caused by the offence when substantial compensation is in the opinion of the court recoverable by civil suit.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

(3) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the court shall take into account any sum paid or recovered as compensation under this section.

(4) It shall also be lawful for the President to restore any article or articles which shall be seized or forfeited, or to restore the proceeds of the same if sold, in any case in which the said seizure or forfeiture may have been made or decreed by way of penalty for any contravention of any law in Seychelles, notwithstanding that the article or articles so seized or forfeited, or the whole or part of the proceeds thereof, may be receivable by any person or persons or other herein aforesaid.

DISPOSAL OF PROPERTY IN POSSESSION OF THE POLICE, FORFEITURE AND RESTITUTION OF PROPERTY

152.(1) Where any property of whatsoever description comes into property in possession of the police in the course of their duties it shall be lawful for the Commissioner of Police to direct that it be disposed of by sale or otherwise unless claimed by the owner of the said property-

- (a) within one day in the case of perishable goods;
- (b) within fifteen days in the case of all other goods when the total value of such goods belonging to the same person is less than Rupees 10;
- (c) in all other cases three months after an announcement shall have appeared in the Gazette giving a description of the property and requesting the owner to claim it from the Police.

(2) All moneys resulting from the sale or disposal of such property by the police shall be paid into the Police Reward Fund and no claim shall lie against the Police by the owner or any other person in respect of such property.

(3) This section shall not apply to any property that is forfeited to the Republic, and in any such case the property shall be disposed of as the President directs.

153. In addition to nay forfeiture specially provided for by this Code or any other law, the corpus delicti when it is the property of the offender and all the things produced by the offence or which may have been used or were intended to be used for committing an offence, shall on the conviction of the offender become forfeited to the Republic.

153A.(1) Where a person has been charged with an offence before a court, the court may, on an application under this section, where it is of the opinion that it is necessary to do so to prevent the person charged from disposing of the proceed of the offence or otherwise circumventing the making of an order which the court is empowered to make under section 153B, make such order as the court thinks appropriate in the circumstances.

(2) An application under subsection (1) shall be in writing and shall be supported by an affidavit stating-

- (a) (a) the nature, value or extent of what the applicant believes is the proceed of the offence;
- (b) who is holding the proceed;
- (c) when was the proceed obtained;
- (d) what are the risks if the application is not granted by the court.

(3) For the purposes of this section, proceed of an offence shall have the same meaning as in section 153B.

153B.(1) Without prejudice to section 151 but subject to this section, where a person is convicted of an offence and the court is satisfied that the offender has benefited from the offence or from the offence taken together with any other offence of which the offender is convicted in the same proceeding or when the court takes into consideration in determining the sentence of the offender, the court may, on the application of the Attorney-General or a person authorised by the Attorney-General made not more than 90 days after the conviction of the person, make an order of forfeiture in respect of the proceeds of that offence.

(2) Where an application under subsection (1) is accompanied by a statement of-

- (a) the property which it is alleged constitutes the proceed of an offence;
- (b) the value of any pecuniary advantage which it is alleged constitutes a proceed of an offence,

the court shall, unless the offender objects to the statement and, within 7 days thereafter, tenders before the court a statement in answer, treat each allegation contained in the statement submitted with the application as having been accepted by the offender.

(3) In considering whether it is appropriate to make an order under subsection (1) in respect of any particular property the court-

- (a) may have regard to-
 - (i) the seriousness of an offence;
 - (ii) any hardship that may reasonably be expected to be caused to any person; and
 - (iii) any information showing whether the victim of an offence has instituted or intends to institute civil proceedings against the offender in respect of loss or proceedings against the offender in respect of loss or damage sustained in connection with the offence;
 - (iv) any other matter which the court considers appropriate;
- (b) shall have regard to any claim of interest made by any person, other than the person convicted of an offence.

(4) A court shall not make an order of forfeiture under this section in respect of any property where the court is satisfied that the person, not being the person who was convicted, who is in possession of the property or purports to be owner acquired the property-

- (a) for sufficient consideration, and
- (b) without knowing and in circumstances such as not to arouse a reasonable suspicion, that the property was, at the time of its acquisition, property which was used in or in connection with the commission of an offence under this section or the proceed of the offence.

(5) A person who, under this section, claims an interest in any property in respect of which an application for forfeiture has been made may-

- (a) before the court makes an order of forfeiture, or
- (b) when the court has made an order of forfeiture, within 30 days after the order was made,

apply to the court against the granting of the order or, where the court has made an order of forfeiture, for an order declaring the nature, extent and value of the applicant's interest and-

- (c) directing the Republic to transfer the property to the applicant; or
- (d) declaring that there is payable to the applicant by the Republic an amount equal in value to the value of the applicant's interest declared under this section.

(6) Where-

- (a) the court has made an order of forfeiture under this section; and
- (b) the conviction of the person in relation to which the order was made is quashed,

the order of forfeiture shall cease to have effect and a person who claims to have an interest in any property in respect of which the order was made may apply to the court for an order declaring the nature, extent and value of the applicant's interest and-

- (c) directing the Republic to transfer the property to the applicant; or
- (d) declaring that there is payable to the applicant by the Republic an amount equal in value to the value of the applicant's interest declared under this section.

(7) Where-

- (a) the court has made an order of forfeiture under this section, and
- (b) the conviction of the person in relation to which the order was made is quashed,

the Attorney-General shall as soon as practicable after the quashing of the conviction, give notice to any person the Attorney-General has reason to believe may have an interest in any property in respect of which the order of forfeiture was made immediately before the order was made or to any other person or class of persons whom the court considers appropriate.

- (8) When making an order of forfeiture under this section the court-
- (a) shall, in the order, declare the nature, extent and value of the property which is to be forfeited;
 - (b) may give any direction or make any other order necessary or convenient for giving effect to the order.

(9) An order of forfeiture against any property under this section shall vest the property absolutely and free of any encumbrances in the Republic and the order shall be sufficient authority for any person holding the property or administering any office which deals with the record of ownership of the property to enter the name of the Republic as owner of the property.

(10) A person who makes an application under subsection (5) shall give notice to the Attorney-General and the Attorney-General shall be a party to a proceeding upon the application.

(11) Where an application has been made under subsection (1), the court may, for the purpose of ensuring that the tracing of any proceeds of an offence or preventing the circumventing of an order of forfeiture which the court may make under this section, make such order or give such direction as the court thinks necessary and may in particular make-

- (a) a prohibition order under the Land Registration Act or a restraining order;
- (b) a production order; or
- (c) an order that any property be transferred to a named person to be held by the person pending the determination of the case.

(12) A person who fails to comply with an order or direction of the court made under section 153A or this section is guilty of an offence and liable to imprisonment for 5 years.

(13) For the purposes of an order of forfeiture under this section, it shall be presumed that-

- (a) any property which appears-
 - (i) to have been under the control of the offender or held by the offender any time after the offender committed an offence and before the court makes an order under subsection (1);
 - (ii) to have been transferred to or by the offender at any time after the offender committed an offence and before the court makes an order under subsection (1),
- (b) any pecuniary advantage obtained by the offender at any time after the offender committed an offence and before the court makes an order under subsection (1),

is a proceed of a relevant offence.

(14) For the purposes of this section, an offender benefits from an offence if-

- (a) the offender obtains property as a result of or in connection with the offence; or
- (b) the offender derives a pecuniary advantage as a result of or in connection with the commission of the offence, and in which case the offender is treated to have benefited of a sum of money equal to the value of the pecuniary advantage.

(15) For the purposes of this section-

“offence” means a relevant offence other than a drug trafficking offence under the Misuse of Drugs Act, 1990;

“offender” means a person convicted of an offence and to whom subsection (1) applies;

“connected offence” means an other offence referred to in subsection (1);

“proceeds of an offence” means any property that is derived or realized, directly or indirectly, by a person from the commission of a relevant offence;

“production order” means an order requiring a person to produce any document or information in readable form for the purpose of

identifying, locating or quantifying the property or identifying or locating such document or information of a person who has been convicted of an offence for the purposes of this section;

“property” means immovable or movable property of every description, whether tangible or intangible, and includes an interest in any immovable or movable property;

“relevant offence” means an offence referred to in subsection (1);

“restraining order” means an order directing that any property named in the order is not to be disposed of or otherwise dealt with or directing a person named in the order to take custody and control of the property subject to the direction of the court.

153C. A court may, where an application is made under and in accordance with a written law which makes provision for mutual assistance in criminal matters between Seychelles and any other country or jurisdiction, make an order in terms of section 153A or section 153(1) and (11) and the other provisions of the section shall, in relation to any such order, apply.

154.(1) Subject to the provisions of Article 2280 of the Civil Code the court may order the restitution of any article produced in court to the original owner or other person lawfully entitled thereto.

(2) The court shall have power to grant from time to time writs of restitution for the said property or to order the restitution thereof in a summary manner.

(3) On the restitution of any stolen property if it appears to the court, that the offender has sold the stolen property to any person in circumstances other than those specified in Article 2280 of the Civil Code, that such person had no knowledge that the same was stolen and than any moneys have been taken from the offender on his apprehension, the court may, on the application of such purchaser, order that out of such moneys a sum not exceeding the amount of the proceeds of such sale, be delivered to the said purchaser.

(4) Any person aggrieved by an order made by a Magistrate under this section may appeal to the Supreme Court and upon the hearing of such appeal the court may annul or vary any order made for the restitution of any property to any person.

155. Where, upon the apprehension of a person charged with an offence, any property is taken from him, the court before which he is charged may order-

- (a) that the property or a part thereof be restored to the person who appears to the court to be entitled thereto, and, if he be the person charged, that it be restored either to him or to such other person as he may direct; or
- (b) that the property or part thereof be applied to the payment of any fine or any costs or compensation directed to be paid by the person charged.

CONVICTION FOR OFFENCES OTHER THAN THOSE CHARGED

156.(1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved but the remaining particulars are not proved, he may be convicted of the minor offence although he was not charged with it.

(2) When a person is charged with an offence, and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence although he was not charged with it.

157. When a person is charged with an offence, he may be convicted of having attempted to commit that offence, although he was not charged with the attempt.

158. When a person is charged with murder or manslaughter and it is proved that he aided, abetted, counseled or procured the suicide of the person in question, he may be convicted of that offence although he was not charged with it.

159.(1) When a woman is charged with the murder of her child, being a child under the age of twelve months, and the court is of opinion that she, by any willful act or omission, caused its death but at the time of the act or omission she had not fully recovered from the effect of giving birth to such child and that by reason thereof or by reason of the effect of lactation consequent upon the birth of the child, the balance of her mind was then disturbed, she may, notwithstanding that the circumstances were such that but for the provisions of section 214 of the Penal Code she might be convicted of murder, be convicted of the offence of infanticide although she was not charged with it.

(2) When a person is charged with the murder or manslaughter of any child or with infanticide, or with an offence under section 147 or section 148 of the Penal Code (relating to the procuring of abortion), and the court is of opinion that he is not guilty of murder, manslaughter or infanticide or of an offence under section 147 or section 148 of the Penal Code, but that he is guilty of the offence of killing an unborn child, he may be convicted of that offence although he was not charged with it.

(3) When a person is charged with killing an unborn child and the court is of opinion that he is not guilty of that offence but that he is guilty of an offence under either section 147 or 148 of the Penal Code he may be convicted of that offence although he was not charged with it.

(4) When a person is charged with the murder or infanticide of any child or with killing an unborn child and the court is of opinion that he is not guilty of any of the said offences, but that he is guilty of the offence of concealment of birth, he may be convicted of the offence of concealment of birth although he was not charged with it.

160. When a person is charged with manslaughter in connection with the driving of a motor vehicle by him and the court is of opinion that he is not guilty of that offence, but that he is guilty of an offence under section 24 of the Road Transport Act, he may be convicted of that offence although he was not charged with it.

161. When a person is charged with-

- (a) driving a motor vehicle on a road recklessly or at a speed or in a manner which is dangerous to the public contrary to section 24(1)(b) of the Road Transport Act; or
- (b) driving a motor vehicle while drunk or under the influence of drink or drugs contrary to section 24(1)(c) of that Act,

and the court is of opinion that he is not guilty of that offence, but that he is guilty of the offence of driving a motor vehicle negligently contrary to section 24(1)(b) of that Act, he may be convicted of that offence of driving negligently although he was not charged with it.

162.(1) When a person is charged with rape and the court is of opinion that he is not guilty of that offence but that he is guilty of an offence under one of the sections 135, 136, 136A, 139 and 155 of the Penal Code, he may be convicted of that offence although he was not charged with it.

(2) When a person is charged with an offence under section 155 of the Penal Code and the court is of opinion that he is not guilty of that offence

but that he is guilty of an offence under one of the sections 136, 136A and 137 of the Penal Code, he may be convicted of that offence although he was not charged with it.

(3) When a person is charged with the defilement of a girl under the age of thirteen years or with the defilement of a girl between thirteen and fifteen years of age and the court is of opinion that he is not guilty of that offence but that he is guilty of an offence under one of the sections 135 and 139 of the Penal Code, he may be convicted of that offence although he was not charged with it.

163. When a person is charged with an offence mentioned in Chapter XXIX of the Penal Code and the court is of opinion that he is not guilty of that offence but that he is guilty of any other offence (mentioned in the said Chapter), he may be convicted of that offence although he was not charged with it.

164.(1) When a person is charged with stealing anything and-

- (a) it is proved that he received the thing knowing the same to have been stolen, he may be convicted of the offence of receiving although he was not charged with it;
- (b) it is proved that he obtained the thing in any such manner as would amount, under the provisions of the Penal Code or of any other law for the time being in force to obtaining it by false pretences although he was not charged with it;
- (c) the facts proved amount to an offence under section 310 of the Penal Code he may be convicted of the offence under that section although he was not charged with it.

(2) When a person is charged with obtaining anything capable of being stolen by false pretences with intent to defraud, and it is proved that he stole the thing, he may be convicted of the offence of stealing although he was not charged with it.

165. The provisions of sections 156 to 164 of this Code, both inclusive, shall be construed as in addition to, and not in derogation of the provisions of any other Act and the other provisions of this Code, and the provisions of sections 157 to 164 of this Code, both inclusive, shall be construed as being without prejudice to the generality of the provisions of section 156 of this Code.

MISCELLANEOUS PROVISIONS

166. If on any trial for misdemeanour the facts proved in evidence amount to a felony, the accused shall not be therefore acquitted of such misdemeanour; and no person tried for such misdemeanour shall be liable afterwards to be prosecuted for felony on the same facts, unless the court shall think fit, in its discretion, to direct such person to be prosecuted for felony, whereupon such person may be dealt with as if not previously put on trial for misdemeanour.

167. Any person accused of an offence before any criminal court or against whom proceedings are instituted under this Code in any such court, may of right be defended by an advocate.

168. In all cases the court may promote reconciliation and encourage and facilitate the settlement in an amicable way of proceedings for common assault, or any other offence of a personal or private nature not amounting to felony, and not aggravated in degree, on terms of payment of compensation or other terms approved by the court, and may thereupon order the proceedings to be stayed or terminated.

PART V

Mode of Taking and Recording Evidence in Inquiries and Trials

GENERAL

169. Except as otherwise expressly provided, all evidence taken in any inquiry or trial under this Code shall be taken in the presence of the accused, or, when his personal attendance has been dispensed with, in the presence of his advocate.

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

(2) If he appears by advocate and the evidence is given in a language other than English, and not understood by the advocate it shall be interpreted to such advocate in English.

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

(4) When the court is satisfied that it is sufficiently conversant with English, French or Creole, the court may, without the use of a sworn interpreter, undertake any interpretation required under this section or which may be necessary in any inquiry or trial from one into any other of the aforementioned languages with which the court is conversant.

MAGISTRATES' COURT

171. In inquiries and trials other than trials under section 173 by or before a Magistrate, the evidence of the witnesses shall be recorded in the following manner-

- (a) the evidence of each witness shall be taken down in writing in English by the Magistrate, or in his presence and hearing and under his personal direction and superintendence, and shall be signed by the Magistrate and shall form part of the record;
- (b) such evidence shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative:

Provided that the Magistrate may, in his discretion, take down or cause to be taken down any particular question and answer;

- (c) whenever the evidence of a witness is given in French or Creole the Magistrate may, if he is satisfied that he is sufficiently conversant with these languages, take down or cause to be taken down such evidence in English in accordance with the provisions of the preceeding paragraphs without the use of a sworn interpreter.

172. When a Magistrate has recorded the evidence of a witness he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

173.(1) Notwithstanding anything in this Code, any Magistrate having jurisdiction to try any of the offences mentioned in subsection (2) may try any such offence without recording the evidence as hereinbefore provided, but in any such case he shall enter, in such form as the Supreme Court may direct, the following particulars-

- (a) the serial number;
- (b) the date of the commission of the offence;
- (c) the date of the complaint;
- (d) the name of the complainant;
- (e) the name, surname and residence of the accused;
- (f) the offence complained of and the offence (if any) proved, and in cases coming under paragraph (d) of subsection (2)

the value of the property in respect of which the offence has been committed;

- (g) the plea of the accused;
- (h) the finding and, where evidence has been taken, a judgment embodying the substance of such evidence;
- (i) the sentence or other final order;
- (j) the date on which the proceedings terminated.

(2) The offences referred to in subsection (1) are as follows }

- (a) offences punishable with imprisonment for a term not exceeding six months or a fine not exceeding five hundred rupees;
- (b) offences under Chapter XVII of the Penal Code;
- (c) common assault under section 235 of the Penal Code;
- (d) offences under Chapters XXVI, XXVII, XXX, XXXI and XXXIII, of the Penal Code where the value of the property in respect of which the offence is alleged to have been committed does not exceed sixty rupees;
- (e) any other offence which the President may, by order in the Gazette, direct to be tried in accordance with the provisions of this section;
- (f) aiding, abetting, counseling, or procuring the commission of any of the foregoing offences;
- (g) attempting to commit any of the foregoing offences.

(3) When in the course of a trial under the provisions of this section it appears to the Magistrate that the case is of a character which renders it undesirable that it should be so tried, the Magistrate shall recall any witnesses and proceed to rehear the case in a manner provided by the preceding sections of this part.

(4) No sentence of imprisonment for a term exceeding three months and no fine of an amount exceeding two hundred and fifty rupees shall be passed or inflicted in the case of any conviction under this section.

174. Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in any inquiry or trial, ceases to exercise jurisdiction therein and is succeeded, whether by virtue of an order of transfer under the provisions of this Code or otherwise, by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly by himself, or he may resubmit the witnesses and recommence the inquiry or trial:

Provided that-

- (a) in any trial the accused may when the second Magistrate commences his proceedings, demand that the witnesses or any of them be resubmitted and reheard;
- (b) the Supreme Court may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if it is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.

SUPREME COURT

175. The Chief Justice may from time to time, by rules, prescribe the manner in which evidence shall be taken down in cases coming before the Supreme Court, and the Judge of such court shall take down or cause to be taken down the evidence or the substance thereof in accordance with such rules.

PART VI

Procedure in Trials before the Supreme Court in its Summary Jurisdiction and before the Magistrates' Court

PROVISIONS RELATING TO THE HEARING AND DETERMINATION OF CASES

176. If, in any case which a court has jurisdiction to hear and determine, the accused person appears in obedience to the summons served upon him at the time and place appointed in the summons for the hearing of the case, or is brought before the court under arrest, then if the complainant, having had notice of the time and place appointed for the hearing of the charge, does not appear the court shall dismiss the charge, unless for some reason it shall think it proper to adjourn the hearing of the case until some other date, upon such terms as it shall think fit, in which event it may, pending such adjourned

hearing, either admit the accused to bail or remand him to prison, or take such security for his appearance as the court shall think fit.

177. If at the time appointed for the hearing of the case both the complainant and accused person appear before the court which is to hear and determine the charge, or if the complainant appears and the personal attendance of the accused person has been dispensed with under section 77, the court shall proceed to hear the case.

178. If a complainant, at any time before a final order is passed in any case under this part, satisfies the court that there are sufficient grounds for permitting him to withdraw his complaint, the court may permit him to withdraw the same and thereupon acquit the accused.

179. Before or during the hearing of any case, it shall be lawful for the court in its discretion to adjourn the hearing to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties or their respective advocates then present, and in the meantime the court may suffer the accused person to go at large or may commit him to prison, or may release him upon his entering into a recognizance with or without sureties, at the discretion of the court, conditioned for his appearance at the time and place to which such hearing or further hearing shall be adjourned:

Provided that, if the accused person has been committed to prison, no such adjournment shall be for more than fifteen clear days, the day following that on which the adjournment is made being counted as the first day.

180.(1) If at the time or place to which the hearing or further hearing shall adjourned, the accused person shall not appear before the court which shall have made the order of adjournment, it shall be lawful for such court, unless the accused person is charged with felony, to proceed with the hearing or further hearing as if the accused were present, and if the complainant shall not appear the court may dismiss the charge with or without costs as the court shall think fit.

(2) If the court convicts the accused person in his absence, it may set aside such conviction upon being satisfied that his absence was from causes over which he had no control, and that he had a probable defence on the merits.

(3) Any sentence passed under subsection (1) shall be deemed to commence from the date of apprehension, and the person effecting such apprehension shall indorse the date thereof on the back of the warrant of commitment.

(4) If the accused person who has not appeared as aforesaid is charged with felony, or if the court, in its discretion, refrains from convicting the accused in his absence, the court shall issue a warrant for the apprehension of the accused person and cause him to be brought before the court.

181.(1) The substance of the charge or complaint shall be stated to the accused person by the court, and he shall be asked whether he admits or denies the truth of the charge.

(2) If the accused person admits the truth of the charge, his admission shall be recorded as nearly as possible in the words used by him, and the court shall convict him and pass sentence upon or make an order against him, unless there shall appear to it sufficient cause to the contrary.

(3) If the accused person does not admit the truth of the charge or if the court does not accept his admission the court shall proceed to hear the case as hereinafter provided.

(4) If the accused person refuses to plead, the court shall order a plea of “not guilty” to be entered for him.

182. If the accused person does not admit the truth of the charge, the court shall proceed to hear the complainant and his witnesses and other evidence, if any.

The accused person or his advocate may put questions to each witness produced against him.

If the accused person does not employ an advocate the court shall, at the close of the examination of each witness for the prosecution, ask the accused person whether he wished to put any questions to that witness and shall record his answer.

183. If at the close of the evidence in support of the charge, it appears to the court that a case is not made out against the accused person sufficiently to require him to make a defence, the court shall dismiss the case and shall forthwith acquit him.

184.(1) At the close of the evidence in support of the charge, if it appears to the court that a case is made out against the accused person sufficiently to require him to make a defence, the court shall again explain the substance of the charge to the accused and shall inform him that he has the right to give evidence on oath from the witness box and that, if he does so, he will be liable to cross-examination, or to make a statement not on oath from the dock, and shall ask him whether he has any witnesses to examine or other

evidence to adduce in his defence, and the court shall then hear the accused and his witnesses and other evidence (if any).

(2) If the accused person states that he has witnesses to call but that they are not present in court, and the court is satisfied that the absence of such witnesses is not due to any fault or neglect of the accused person, and that there is a likelihood that they could, if present, give material evidence on behalf of the accused person, the court may adjourn the trial and issue process or take steps to compel the attendance of such witnesses.

185. If the accused person adduces evidence in his defence introducing new matter which the prosecutor could not by the exercise of reasonable diligence have foreseen, the court may allow the prosecutor to adduce evidence in reply to rebut the said matter.

186.(1) The prosecutor or his advocate may address the court at the commencement of the prosecution case.

(2) The accused person or his advocate may address the court at the commencement of the defence case when witnesses to the facts other than the accused himself are to be called for the defence.

(3) After the close of the evidence for the defence and in rebuttal, if any, the addresses to the court shall be in the following order-

- (a) the prosecutor or his advocate may address the court, except in a case where the accused person is not represented by an advocate and has not called witnesses to the facts other than himself;
- (b) the accused person or his advocate may address the court whether or not the prosecutor or his advocate has addressed the court.

(4) Where there are several accused persons the order of addresses to the court by or on behalf of the accused shall follow the order in which their names appear on the charge or information.

187.(1) Where it appears to the court that the charge is defective, the court may make such order for the amendment of the charge as the court thinks necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

(2) An amendment may be made-

- (a) before trial or at any state of a trial, except than in a trial held by the Magistrates' Court no amendment may be made after the close of the case for the prosecution;
 - (b) up to the close of the case for the prosecution by way of substitution or addition of a new charge.
- (3) Where a charge is amended-
- (a) the amendment shall be noted on the charge and it shall be treated for the purposes of the trial and of all proceedings in connection therewith as having been originally drawn up or presented and signed by the proper officer in the amendment form:

Provided that, where the amendment is by way of substitution or addition of anew charge, the accused shall be called upon to plead to the new charge;

- (b) the court shall, if it is of opinion that the interests of justice so required, adjourn the trial for such period as may be necessary;
- (c) the court shall ask the accused whether he wishes to adduce additional evidence or to recall any witnesses for the purpose of further examination or cross-examination and if he so wishes the court shall allow him to do so.

(4) Variance between the charge and the evidence adduced in support of it with respect to the time at which the alleged offence was committed is not material and the charge need not be amended for such variance if it is proved that the proceedings were in fact instituted within the time, if any, limited by law for the institution thereof.

188.(1) When the evidence and the addresses, if any, have been completed the court shall record a conviction or acquittal on each charge, except in cases to which section 145 applies.

(2) Where the accused is convicted of an offence other than that charged the offence of which he is convicted shall be recorded.

(3) The court shall pass and record a sentence or order on each charge on which the accused is convicted.

189. The conviction or order may, if required, be afterwards drawn up and shall be signed by the court making the conviction or order, or by the clerk or other officer of the court.

190. The production of a copy of the order of acquittal certified by the clerk or other officers of the court, shall without other proof be a bar to any subsequent information or complaint for the same matter against the same accused person.

LIMITATIONS RELATING TO TRIALS BEFORE THE SUPREME
COURT IN ITS SUMMARY JURISDICTION AND BEFORE THE
MAGISTRATES' COURT

191. Except where a longer time is specially allowed by law, no offence, the maximum punishment for which does not exceed imprisonment for six months and/or a fine of five hundred rupees shall be triable by the Supreme Court in its summary Jurisdiction or the Magistrates' Court, unless the charge or complaint relating to it is laid within twelve months from the time when the matter is such charge or complaint arose.

PART VII

*Provisions relating to the Committal of Accused Persons for Trial before the
Supreme Court*

PRELIMINARY INQUIRY BY THE MAGISTRATES' COURT

192.(1) Where-

- (a) a person is charged with having committed any offence; and
- (b) the Attorney- General certifies that in his opinion a preliminary inquiry should be held, a preliminary inquiry in accordance with this Part shall be held by a Magistrate.

(2) At the commencement of the preliminary inquiry the Magistrate shall read the charge or charges to the accused but the accused shall not be required to make any reply thereto.

193.(1) When the accused person charged with such an offence comes before the court, on summons or warrant or otherwise, the court shall, in his presence, take down in writing, the statements on oath of those who know the facts and circumstances of the case.

Statements of witnesses so taken down in writing are termed depositions.

(2) The accused person may put questions to each witness produced against him, and the answer of the witness thereto shall form part of such witness's depositions.

(3) If the accused person does not employ an advocate, the court shall, at the close of the examination of each witness for the prosecution, ask the accused person whether he wishes to put any question to that witness.

(4) The deposition of each witness shall be read over to such witness and shall be signed by him and by the magistrate holding the inquiry.

194. No objection to a charge, summons or warrant for defect in substance or in form, or for charge, summons or warrant for defect in the prosecution, shall be allowed; but if any variance appears to the court to be such that the accused person has been thereby deceived or misled, the court may, on the application of the accused person, adjourn the inquiry and allow any witness to be recalled and such questions to be put to him as by reason of the terms of the charge may have been omitted.

195. If, from the absence of witnesses or any other reasonable cause to be recorded in the proceedings, the court considers it necessary or advisable to adjourn the inquiry, the court may from time to time by warrant remand the accused for a reasonable time, not exceeding fifteen days at any one time, to some prison or other place of security. Or, if the remand is for not more than three days, the court may by word of mouth order the officer or person in whose custody the accused person is, or any other fit officer or person, to continue to keep the accused in his custody, and to bring him up at the time appointed for the commencement or continuance of the inquiry.

During a remand the court may at any time order the accused to be brought before it.

The court may on a remand admit the accused to bail.

196.(1) If, after examination of the witness called on behalf of the prosecution, the court considers that on the evidence as it stands there are sufficient grounds for committing the accused for trial, the Magistrate shall frame a charge under his hand declaring with what offence or offences the accused is charged and shall read the charge to the accused person and explain the nature thereof to him in simple language, and address to him the following words or words to the like effect:

“This is not your trial. You will be tried later in another court and before another Judge, where all the witnesses you have heard here will be produced and you will be allowed to question them. You will then be able to make any statement you may wish or to give evidence on oath and to call any witnesses on your own behalf. Unless you wish to reserve your defence, which you are at liberty to do, you may now either make a statement not on oath or give evidence on oath, and may call

witnesses on your own behalf. If you give evidence on oath, you will be liable to cross-examination. Anything you may say whether on oath or not will be taken down and may be used in evidence at your trial”.

(2) Before the accused person makes any statement in answer to the charge, or gives evidence, as the case may be, the Magistrate shall state to him and give him clearly to understand that he has nothing to hope from any promise of favour and nothing to fear from any threat which may have been held out to him to induce him to make any admission or confession of his guilt, but that whatsoever he then says may be given in evidence on his trial notwithstanding any such promise or threat.

(3) Everything which the accused person says, either by way of statement or evidence, shall be recorded in full and shall be shown or read over to him, and he shall be at liberty to explain of ad to anything contained in the record thereof.

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

197.(1) Immediately after complying with the requirements of section 196 of this Code relating to the statement or evidence of the accused person, and whether the accused person has or has not made a statement or given evidence, the court shall ask him whether he desires to call witnesses on his own behalf.

(2) The court shall take the evidence of any witnesses called by the accused person in like manner as in the case of the witnesses for the prosecution, and every such witness, not being merely a witness to the character of the accused person, shall, if the court be of opinion that his evidence is in any way evidence at the trial of such accused person.

(3) If the accused person stated that he had witnesses to call but that they are not present in court, and the court is satisfied that the absence of such witnesses is not due to any fault or neglect of the accused person, and that there is a likelihood that they could, if present, give material evidence on behalf of the accused person, the court may adjourn the inquiry and issue process, or take other steps, to compel the attendance of such witnesses, an on their attendance shall take their depositions and bind them by recognizance in the same manner as witnesses under subsection (2).

(4) (a) In any preliminary inquiry under this part the accused person or his advocate shall be at liberty to address the court-

- (i) after the examination of the witnesses called on behalf of the prosecution;
- (ii) if no witnesses for the defence are to called, immediately after the statement or evidence of the accused person;
- (iii) if the accused person elects-
 - (a) to give evidence or to make a statement and witnesses for the defence are to be called; or
 - (b) not to give evidence or to make a statement but to call witnesses,

immediately after the evidence of such witnesses.

- (c) If the accused person or his advocate addresses the court in accordance with the provisions of sub-paragraph (i) or (iii) of paragraph (a) of this subsection the prosecution shall have the right of reply.

(5) Where the accused person reserves his defence, or at the conclusion of any statement in answer to the charge or evidence in defence as the case may be, the court shall ask him whether he intends to call witnesses at the trial other than any whose evidence has been taken under the provisions of this section, and, if so, whether he desires to give their names and addresses so that they may be summoned. The court shall thereupon record the names and addresses of any such witnesses whom he may mention.

198. If, at the close of the case for the prosecution, or hearing any evidence in defence, the court considers that the evidence against the accused person is not sufficient to put him on his trial, the court shall forthwith order him to be discharged as to the particular charge under inquiry; but such discharge shall not be a bar to any subsequent charge in respect of the same facts:

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

199. If the court considers the evidence sufficient to put the accused person on his trial, the court shall commit him for trial to the Supreme Court and shall, until the trial, either admit him to bail or send him to prison for safe-keeping. The warrant of such first named court shall be sufficient authority to the officer in charge of any prison.

200. Where there is a conflict of evidence, the court shall consider the evidence to be sufficient to put the accused on his trial if the evidence against him is such as, if uncontradicted, would raise a probable presumption of his guilt, notwithstanding that it is contradicted in material points by evidence in favour of the accused.

201. All persons committed for trial by the Magistrates' Court shall be committed for trial at the Supreme Court.

202. If, at the close of or during the inquiry, it shall appear to the Magistrates' Court that the offence is of such a nature that it may suitably be dealt with under the powers possessed by the court, the court may, subject to the provisions of Part VI, hear and finally determine the matter and either convict the accused person or dismiss the charge:

Provided that in every such case the accused shall be entitled to have recalled for cross-examination all witnesses for the prosecution whom he has not already cross-examined.

203. When the accused person is committed for trial before the Supreme Court, the Magistrates' Court committing him shall bind by recognizance, with or without surety or sureties, as it may deem requisite, the complainant and every witness to appear at the trial to give evidence, and also to appear and give evidence, if required, at any further examination concerning the charge which may be held by direction of the Attorney General.

204. If a person refuses to enter into such recognizance, the court may commit him to prison or into the custody of any officer of the court, there to remain until after the trial, unless in the meantime he enters into a recognizance. But if after wards, from want of sufficient evidence or other cause, the accused is discharged, the court shall order that the person imprisoned for so refusing to be also discharged.

205. A person who has been committed for trial before the Supreme Court shall be entitled at any time before the trial to have a copy of the depositions on payment of a reasonable sum, not exceeding fifty cents for every hundred words, or, if the court thinks fit, without payment.

The court shall at the time of committing him for trial inform the accused person of the effect of this provision.

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

(2) Where a witness has been or is to be treated as having been, bound over conditionally to attend the trial, the Attorney General or the person committed for trial may give notice at any time to the Registrar that he desires the witness to attend at the trial, and the Registrar to whom any such notice is given shall forthwith notify the witness that he is required so to attend in pursuance of his recognizance.

The Magistrates' Court shall, on committing the accused person for trial, inform him of his right to require the attendance at the trial of any such witness as aforesaid, and of the steps which he must take for the purpose of enforcing such attendance.

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

207.(1) The Magistrate shall make or cause to be made such local inspections as circumstances may require and may make or cause to be made any examination of the person of the accused as circumstances may require.

(2) The Magistrate may order a post-mortem examination, and, for the purpose of such examination, may order the body of any person who has been already interred to be exhumed.

PRESERVATION OF TESTIMONY IN CERTAIN CASES

208. Whenever it appears to any Magistrate that any person dangerously ill or hurt and not likely to recover, is able and willing to give material evidence relating to any offence triable by the Supreme Court, and it shall not be practicable to take the deposition in accordance with the provisions of this Code of the person so ill or hurt, such Magistrate may take in writing the statement on oath, or affirmation of such person, and shall subscribe the same, and certify that it contains accurately the whole of the statement made by such person, and shall add a statement of his reason for taking the same, and of the date and place when and where the same was taken, and shall preserve such statement and file it for record.

209. If the statement relates or is expected to relate to an offence for which any person is under a charge or committal for trial, reasonable notice of the intention to take the same shall be served upon the prosecutor and the accused person, and if the accused person is in custody he may, and shall, if he so requests, be brought by the person in whose charge he is, under an order in writing of the Magistrate, to the place where the statement is to be taken.

210. If the statement relates to an offence for which any person is then or subsequently committed for trial, it shall be transmitted to the Registrar and a copy thereof shall be transmitted to the Attorney General.

211. Such statement so taken may afterwards be used in evidence on the trial of any person accused of an offence to which the same relates, if the person who made the statement be dead, or if the court is satisfied that for any sufficient cause his attendance cannot be procured, and if reasonable notice of the intention to take such statement was served upon the person (whether prosecutor or accused person) against whom it is proposed to be read in evidence, and he had or might have had, if he had chosen to be present, full opportunity or cross-examining the person making the same.

PROCEEDINGS AFTER COMMITTAL FOR TRIAL

212. If the event of a committal for trial the written charge (if any), the depositions, the statement of the accused person, the recognisances of the complainant and of the witnesses, the recognisances of bail, and any documents or things which have been put in evidence, shall be transmitted without delay by the committing court to the Registrar and an authenticated copy of the written charge, the depositions and statement aforesaid shall be also transmitted to the Attorney General.

213. If, after receipt of the authenticated copy of the written charge, the depositions and statement provided for by section 212 and before the trial before the Supreme court, the Attorney General shall be of opinion that further investigation is required before such trial, it shall be lawful for the

Attorney General to direct that the original depositions be remitted to the court which committed the accused person for trial, and such court shall thereupon re-open the case and deal with it in all respects as if such person had not been committed for trial as aforesaid.

214. If, after receipt of the authenticated copy of the depositions and statement as aforesaid and before the trial before the Supreme Court, the Attorney General shall be of opinion that there is, in any case committed for trial, any material or necessary witness for the prosecution or the defence who has not been bound over to give evidence on the trial of the case, the Attorney General may require the Magistrates' Court which committed the accused for trial to take the depositions of such witness and compel his attendance either by summons or by warrant as hereinbefore provided.

215. If on consideration of the record of the committal proceedings the Attorney General is of opinion that the accused ought to be tried by the Magistrates' Court for an offence within its jurisdiction he shall give a direction to that effect and the accused shall be tried by the Magistrates' Court for such offence in accordance with this Code.

216. If, after the receipt of the authenticated copy of the depositions as aforesaid, the Attorney-General shall be of the opinion that the case is one which should be tried upon information before the Supreme Court, an information shall be drawn up in accordance with the provisions of this Code, and when signed by the Attorney General shall be filed in the registry of the Supreme Court.

217. In such information the Attorney General may charge the accused person with any offences which in his opinion are disclosed by the depositions either in addition to, or in substitution for, the offences upon which the accused person has been committed for trial.

218. The Registrar shall indorse on or annex to every information filed as aforesaid, and to every copy thereof delivered to the officer of the court or police officer for service thereof, a notice of trial, which notice shall be in the following form, or as near thereto as may be-

“A.B.

“Take notice that you will be tried on the information whereof this is a true copy at the Supreme Court on the day of 19”

219. The Registrar shall deliver or cause to be delivered to the officer of the court or police officer serving the information a copy thereof with the notice of trial endorsed on the same or annexed thereto, and, if there are more

accused persons committed for trial than one, then as many copies as there are such accused persons, and the officer of the court or police officer aforesaid shall, as soon as may be after having received the copy or copies of the information, and notice or notices of trial, and three days at least before the day specified therein for trial, by himself or his deputy or other officer deliver to the accused person or persons committed for trial the said copy or copies of the information and notice or notices, and explain to him or them the nature and exigency thereof: and when any accused person shall have been admitted to bail and cannot readily be found, he shall leave a copy of the said information and notice of trial with someone of his household for him at his dwelling-house or with someone of his bail for him, and if none such can be found, shall affix the said copy and notice to the outer or principal door of the dwelling-house or dwelling-houses of the accused person or of any of his bail.

220. The officer serving the copy or copies of the information and notice or notices of trial shall forthwith make to the Registrar a return of the mode of service thereof.

221.(1) It shall be lawful for the Supreme Court upon the application of the prosecutor or the accused person, if the court considers that there is sufficient cause for the delay, to postpone the trial of any accused person and to respite the recognisances of the complainant and witnesses, in which case the respited recognisances shall have the same force and effect as fresh recognisances to prosecute and give evidence would have had.

(2) The Supreme Court may give such directions for the amendment of the information and the service of any notices which the court may deem necessary in consequence of any order made under subsection (1).

222. All informations drawn up in pursuance of section 216 shall be in name of and signed by the Attorney General and when so signed shall be as valid and effectual in all respects as an indictment in England which has been signed by the proper officer of the court in accordance with the Act entitled the Administration of Justice (Miscellaneous Provisions) Act, 1933.

223. Every information shall bear date of the day when the same is signed, and with such modifications as shall be necessary to adapt it to the circumstances of each case, may commence in the following form-

IN THE SUPREME COURT OF SEYCHELLS

The day of 19..... the Court is informed by the Attorney General on behalf of the Republic that A.B. is charged with the following offence (or offences).

224. Subject to the provisions of section 225, the procedure for the trial of persons committed by the Magistrates' Court for trial before the Supreme Court shall be that set out in Part VI, and in sections 247, 248, 251, 252, 253 and 254 of Part VIII.

PART VIII

Procedure in Trials by Jury before the Supreme Court

TRIAL BY JURY

225. Every case in which the accused is charged with murder, whether charged only with murder or together with any other offence in the same charge, shall be tried by the Supreme Court with a jury in accordance with this Part.

226.(1) Every citizen of Seychelles who-

- (a) is ordinarily resident in Seychelles;
- (b) is 18 years of age or older and not over 65 years of age;
- (c) has completed secondary school education or an equivalent level of education; and
- (d) is not ineligible under section 227 or under any other written law,

is qualified and liable to serve as a juror.

(2) Every such person who is also a graduate of a recognized university or holds an equivalent professional qualification in addition to the qualifications set out under subsection (1) is qualified and liable to serve as a special juror.

(3) In this section "citizen of Seychelles" means a person who is a citizen of Seychelles in terms of Chapter II of the Constitution of the Republic of Seychelles.

(4) The Attorney General or the accused may make an application in writing to the Chief Justice supported by an affidavit for an order requiring a

special jury to be summoned to try any complicated case of murder and the Chief Justice shall if he considers such application just and reasonable make an order accordingly.

227. The following persons shall not be jurors-

- (a) the President;
- (b) members of the Council of Ministers and the People's Assembly;
- (c) Judges, registrars, magistrates and officers of the courts;
- (d) members of the Seychelles People's Defence Force on continuous full time service in terms of the Defence Act;
- (e) members of the police force and prison officers;
- (f) persons actually officiating as priests or ministers of their respective religions;
- (g) notaries, barristers and attorneys-at-law actually practicing and their clerks;
- (h) registered medical practitioners and dentists;
- (i) registered pharmacists and midwives;
- (j) masters actually in command of vessels;
- (k) persons who have suffered imprisonment in any part of the Commonwealth and have not received a free pardon.

228. A person summoned as a juror may be excused by the court from attendance at a particular trial-

- (a) on any ground which the court thinks sufficient, stated in writing to the Registrar, as early as is practicable after service of the summons, by the Secretary to the Council of Ministers, the head of any department or office of the government or of a public telegraph company in which the person summoned is serving; or
- (b) on the ground of ill-health or disability, on application to the Registrar, in writing supported by a medical certificate; or
- (c) on any ground which the court thinks sufficient, on application of the person summoned, either in writing to the Registrar or in person in open court.

229.(1) On 1st January, 1982, and thereafter at intervals not exceeding 3 years, the Chief Justice shall make a jury list of such member as he thinks sufficient of persons who in his opinion are qualified to serve as jurors.

(2) The jury list shall set out the full name, surname, occupation and home address of each person on it.

(3) Copies of the jury list shall be-

(a) published in the Gazette;

(b) posted on the notice board of the Supreme Court; and

(c) filed in the Registry of the Supreme Court (being called the master list).

(4) The Registrar shall from time to time delete from the master list any person whom he believes to have died or become ineligible to serve as a juror.

230. When the jury list has been gazetted the Registrar shall cause all the names therein to be written on cards or discs of equal size and placed in a box, to be called the main ballot box, kept by him for that purpose.

EMPANELLING A JURY

231.(1) When a panel of jurors is required for a trial the Registrar shall, in the presence of another officer of the Supreme Court, draw from the main ballot box as many names as he shall think sufficient and after checking the names drawn with the master list and, if necessary, drawing further names he shall place the names drawn in a separate ballot box to be called the panel box and the jurors named therein shall form the panel for the trial.

(2) When two or more persons have been committed for trial on capital charges at or about the same time the Registrar shall form one panel sufficient for all such trials, or a separate panel for each trial, as he shall think convenient.

232.(1) When a date for trial has been fixed the Registrar shall cause to be served on each juror in the panel a summons requiring his attendance at the Supreme Court on the day fixed.

(2) Every such summons shall be served in the manner prescribed for a summons to a witness.

233.(1) Any person summoned to attend the Supreme Court as a juror who fails, without reasonable excuse the burden of proof whereof shall be on

him, to attend the proceedings as required by the summons and by any subsequent notice issued or order made by the court on adjournment or otherwise until discharged by the court, is liable to imprisonment for three months or to fine or to both.

(2) The Judge presiding at any trial by jury may, if he thinks fit, on any default under this section coming to his notice summarily convict the defaulter and inflict on him a fine not exceeding two hundred rupees.

(3) When any person is so fined in his absence, the Registrar shall forthwith send to him a written notice of the fact requiring him to pay the fine or to show cause to the court within seven days for not paying the same.

(4) If any such fine be not paid within seven days of infliction if inflicted in the presence of the defaulter or of the fact coming to his knowledge, by notice or otherwise, if inflicted in his absence, the fine may be levied or the court may issue a warrant for his arrest and sentence him to imprisonment in default of payment.

(5) The court may, on sufficient cause being shown, remit any fine so imposed.

234.(1) On the day fixed for their, attendance the jurors shall assemble in the court house and shall answer to their names when called over by an officer of the court and they shall then be brought into the court room unless the presiding Judge directs that they remain in another room until the accused has been called upon to plead.

(2) When the Judge mounts the bench the Registrar shall inform him whether all the jurors summoned and not previously exempted or excused are present and the names of any absentees shall be called.

PROCEDURE AT TRIAL

235.(1) The charge shall then be read and if necessary explained or interpreted to the accused and the Registrar shall call upon him to plead thereto. If he pleads guilty the court shall hear his counsel and if the court is satisfied that the accused understands the matter and intends to admit, without qualification, that he committed the offence charged and that the case does not involve any issue which ought to be tried, the court may convict him on his plea.

(2) In any other event the court shall record the gist of the plea, or the fact that the prisoner does not plead, and a jury shall be formed.

236.(1) Where no preliminary inquiry under section 192 has been held and it appears to the court that the charge is defective, the court may make

such order for the amendment of the charge as the court thinks necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

- (2) an amendment may be made-
 - (a) before trial or at any stage of a trial: or
 - (b) up to the close of the case for the prosecution by way of substitution or addition of a new charge.
- (3) Where a charge is amended-
 - (a) the amendment shall be noted on the charge and it shall be treated for the purposes of the trial and all proceedings in connection therewith as having been originally drawn up or presented and signed by the proper officer in the amended form:

Provided that, where the amendment is by way of substitution or addition of a new charge, the accused shall be called upon to plead to the new charge;

- (b) the court shall, if it is of opinion that the interests of justice so require, adjourn the trial for such period as may be necessary;
- (c) the court shall ask the accused whether he wishes to adduce additional evidence or to recall any witnesses for the purposes of further examination or cross-examination and if he so wishes the court shall allow him to do so.

(4) Variance between the charge and the evidence adduced in support of it with respect to the time at which the alleged offence was committed is not material and the charge need not be amended for such variance if it is proved that the proceedings were in fact instituted within the time, if any, limited by law for the institution thereof.

237. A jury shall consist of nine persons.

238.(1) The Registrar shall address to the accused, or cause to be interpreted to him, the following words:-

I shall now call the names of the jurors who are to try you. If you object to be tried by any of those persons you may say so now and your objection will be heard.

(2) The Registrar shall then draw names from the panel box and call them one by one; as each name is called the juror named shall stand in a position where he can be clearly seen by the accused and by the prosecuting counsel.

(3) Objections without grounds stated shall be allowed to the number of four on behalf of each person charged.

(4) At the instance of the prosecuting counsel, without ground of objection stated, any number of jurors may be ordered to stand by until the names of all jurors available have been called. If a jury has not then been formed the names of the jurors standing by shall be called again and the prosecuting counsel shall state the grounds of his objection, if any, under section 239.

(5) The court of its own motion may exclude any juror with or without stating the reason for so doing.

239. Any objection to a juror on any of the following grounds if made out to the satisfaction of the court, shall be allowed:-

- (a) some actual or presumed want of impartiality in the juror;
- (b) some personal ground such as deficiency in age or any other qualification required by law or the practice of the court;
- (c) his holding any office in or under the court;
- (d) the performance by him of any duties in or auxiliary to the police force;
- (e) his having been convicted of any offence which, in the opinion of the court, renders him unfit to serve on the jury;
- (f) any other circumstances which, in the opinion of the court, makes it undesirable that he should serve as a juror in that trial.

240. The court shall rule on every objection taken to a juror and such ruling shall be recorded and shall be final.

241. If the panel is exhausted before a jury has been completely formed the trial shall be adjourned until the attendance of a sufficient number of jurors, selected from the master list in such manner as the court may direct can be procured. The jurors already accepted shall be released until the day fixed for resumption of the trial and those to whom objections have been allowed shall be discharged.

242.(1) When nine jurors have been accepted the court shall direct them to choose one of their number to be their foreman.

(2) If a majority of the jury do not agree on the choice of a foreman within such time as the Judge thinks reasonable the Judge shall choose a foreman.

(3) The foreman shall deliver the verdict of the jury.

243.(1) An officer of the court shall administer an oath to every juror who does not object to an oath on ground of creed or conscience. A juror who so objects to an oath shall make a solemn affirmation.

(2) The oath of a juror shall be in the following form:-

I swear that I will well and truly try the matters at issue between the Republic and the prisoner at the bar, according to the evidence. SO HELP ME GOD.

(3) A juror who professes the Christian religion shall hold in his right hand, unless disabled, the Holy Bible, or any part of it.

(4) A juror of any other religious persuasion may hold, or place his hand on, any book or writing relating to his persuasion or cover his head or make any other customary and reverent gesture.

(5) A juror who declines to take an oath shall raise his right hand, unless disabled, and other customary and reverent gesture.

I solemnly declare and affirm that I will well and truly try the matters at issue between the Republic and the prisoner at the bar, according to the evidence.

(6) If at the time of making the oath or affirmation it appears to the court that objection to him might have been taken successfully, the court shall discharge or release him and substitute another juror, in manner aforesaid.

224.(1) When the jurymen have been sworn the court shall discharge the remaining jurors unless their attendance is required for another trial in which case the court shall release them until a date fixed for their further attendance.

(2) Those of the jurors who have not been successfully challenged shall remain liable to recall if their attendance is required later for trial of the same prisoner.

(3) The cards of the members of the jury formed, of the jurors successfully challenged, and the jurors released or discharged without having been called shall be kept in separate boxes until the conclusion of the proceedings.

245. When the jurymen have been sworn or affirmed the Registrar shall give the accused in charge of the jury by saying-

Members of the jury, the accused stands charged by the name A.B. for that he, (reciting the words of the charge). Upon this charge he has claimed to be tried. Your duty therefore is to hearken to the evidence and inquire whether he is guilty or not guilty.

246. Counsel for the prosecution shall open the case by stating shortly the nature of the offence and the evidence which he proposes to adduce.

247.(1) The witnesses for the prosecution shall then be examined.

(2) Where no preliminary inquiry has been held under section 192, subsections (3) to (9) shall not apply, and the public prosecutor-

(a) shall cause to be served on the counsel or attorney for the accused, or on the accused if he is not legally represented, not less than 14 days before the trial, notice of the names and address, or the designations, of all witnesses for the prosecution and the substance of the evidence they are expected to give; and

(b) where those witnesses are to produce or prove a document, shall annex to the notice a copy or abstract of the document; and the counsel or attorney for the accused, or the accused if he is not legally represented, shall have a reasonable opportunity to examine the original before the trial if he so desires.

(3) Subject to the other provisions of this section all the persons who made depositions before the committing Magistrate but no other persons shall be called as witnesses for the prosecution at the trial.

(4) If a deponent has died or become incapable of testifying or if his attendance cannot be procured without unreasonable delay or expense his deposition may be read as evidence.

(5) The public prosecutor may, at any time not less than seven days before the trial, give notice to counsel for the accused that he does not intend to call a deponent named in the notice. Such a deponent may be summoned as a witness for the defence.

(6) Counsel conducting the prosecution may, at any time before closing his case, decide not to call as a witness a deponent who is in attendance, in which case that deponent shall be called into court and released from further attendance unless counsel for the accused desires to call him as a witness for the defence.

(7) Where documentary evidence has been admitted by the committing Magistrate an additional witness may be called to prove the document.

(8) Where an affidavit, certificate or report has been admitted in evidence by the committing Magistrate the deponent or certifying officer may be called to support or amplify the contents of the document, or counsel for the accused may give written notice to the public prosecutor that he wishes to cross-examine such a deponent or officer. If the notice is given in sufficient time, the document shall not be read unless the deponent or officer is present provided that, if such deponent or officer has become without unreasonable delay or expense, the court may admit the document and permit another witness with suitable qualifications to be called.

(9) The public prosecutor may cause to be served on the counsel or attorney for the accused notice of intention to adduce additional evidence. Such notice shall state the name and address, or the designation, of the proposed witness, the substance of the evidence he is expected to give and where he is to produce or prove a document a copy or abstract or the document shall be annexed to the notice and counsel for the accused shall have a reasonable opportunity to examine the original before the trial if he so desires.

(10) The court may permit an additional witness for the prosecution to be called if it appears that the public prosecutor could not, with reasonable diligence, have become aware that the witness could give material evidence in time to give notice under subsection (2) or (9) as the case may be.

(11) Where two or more accused are defended by separate counsel they may cross-examine the witnesses for the prosecution in the order in which their respective clients were charged.

248. Any statement by the accused recorded by the Magistrate during the proceedings for committal may be read as evidence either for the prosecution or for the defence.

249.(1) If, when the case for the prosecution has been concluded, the Judge rules, as a matter of law, that there is no evidence on which the accused could be convicted, the jury shall, under the direction of the Judge, return a verdict of not guilty.

(2) In any other event the court shall call upon the accused for his defence.

250. Counsel for the accused may, if he so desired, open the case for the defence.

251.(1) If an accused elects to give evidence or make a statement he shall do so before any other witness is called.

(2) Where two or more accused are tried jointly, the first charged shall make his election first and after he has given his evidence or made his statement (if he so elects) the others shall do so successively in the order in which they were charged.

(3) An accused who has elected not to give evidence and who considers that his position has been altered by the evidence or statement of a subsequent accused may re-elect and give evidence.

(4) An accused who gives evidence may be further examined or cross-examined, on behalf of any other accused and may then be cross-examined on behalf of the prosecution.

252.(1) The witnesses for the defence shall then be called.

(2) Any person who is in attendance may be called as a witness for the defence.

(3) No adjournment to procure the attendance of a witness shall be allowed unless the court is satisfied that his evidence would be material and-

- (a) that he was summoned in sufficient time and that his absence is due to serious illness or other sufficient cause; or
- (b) that the defence could not, with due diligence, have procured the issue and service of a summons in sufficient time.

253.(1) Where two or more accused are tried jointly the witnesses called on behalf of the accused first charged shall, so far as practicable, be examined first and witnesses called on behalf of the other accused shall be examined successively in the order in which the accused were charged.

(2) A witness called on behalf of an accused may be examined or cross-examined on behalf of any other accused and may then be cross-examined on behalf of any other accused and may then be cross-examined on behalf of the prosecution.

(3) Where two or more accused are defended by separate counsel a witness shall be examined first by counsel for the accused on whose behalf he was called and may be examined or cross-examined by counsel for the other accused in the order in which their respective clients were charged.

254. If the evidence for the defence introduces new matter which the prosecution could not, with reasonable diligence, have foreseen the court may allow the prosecution to adduce evidence in reply to rebut such matter.

A witness called in rebuttal may be a previous witness recalled or a new witness.

255. After the close of the evidence for the defence and in rebuttal, if any, the addresses to the court shall be in the following order:-

- (a) counsel for the prosecution may address the court;
- (b) counsel for the accused may address the court, if more than one, in the order in which their respective clients were charged.

256.(1) If in the course of the trial at any time before the return of the verdict any juryman is prevented for any sufficient cause from attending throughout the trial, or if any juryman absents himself and it is not practicable to enforce his attendance, or if it appears to the court that any juryman lacks proficiency in the English language, the court may if it thinks fit, discharge such juryman and proceed with the trial, provided that the number of the jury shall not fall below seven.

(2) If the court does not proceed as aforesaid the court shall either discharge such juryman and substitute another juror or discharge the whole jury and form a new jury and in either event the trial shall be commenced anew.

257. If the accused becomes incapable of remaining at the bar the jury may be discharged.

258. Whenever a point of law is to be argued by counsel the jury may remain in court, or withdraw, as the judge directs.

259. If in the course of a trial the Judge considers it expedient that the jury should have a view of any place or thing the Judge may direct that view to be had.

260. If a juryman is personally acquainted with any relevant fact he shall so inform the Judge, whereupon he may be sworn and examined in the same manner as any other witness and the provisions of section 256 shall apply.

261. When a trial is adjourned the jury shall attend on the resumption and at every subsequent sitting until discharged.

262.(1) It shall not be necessary for the jury to be kept together during any adjournment previous to the summing up by the Judge unless the Judge considers it advisable in the interest of justice for them to be kept together.

(2) No person, except another juryman, shall make to any juryman any communication tending to influence the opinion of such juryman on any matter at issue in the trial and no juryman, shall voluntarily receive any such communication. Any juryman who receives any such communication shall inform the Judge of the matter at the earliest opportunity. Any person making any such communication shall be deemed to be guilty of contempt of court.

(3) On the making of the first adjournment when the jury are to separate and on subsequent adjournments as and when he shall think fit to do so the Judge shall warn the jury not to permit any discussion of the case in their presence.

263. Whenever the jury are kept together during an adjournment or retirement and the Judge considers that they should be allowed refreshment reasonable refreshment shall be provided at the public expense and served under the supervision of an officer of the court.

264. (1) When the final addresses of counsel are concluded the Judge shall charge the jury, summing up the evidence and laying down the law by which the jury are to be guided.

(2) The summing up shall be recorded in shorthand and the transcript thereof, verified by the affidavit of the writer or writers, shall form part of the record.

265. (1) The judge shall decide-

- (a) all questions of law arising in the course of the trial and especially all question as to the relevance of facts, the admissibility of evidence and the propriety of questions to witnesses asked or proposed by the parties or their counsel and, in his discretion, preventing the production of irrelevant or inadmissible evidence, whether objected to by a party or not;
- (b) the meaning and construction of all documents given in evidence at the trial;

- (c) all matters of fact necessary to be proved in order to enable evidence of particulars matters to be given;
- (d) whether any question which arises is for himself or for the jury.

(2) The Judge may, whenever he thinks proper in the course of the summing up, express to the jury his own opinion on any question of fact, or of mixed law and fact, relevant to the proceedings.

266. (1) The jury shall-

- (a) decide which view of the facts is correct and shall then return the verdict which under such view ought, according to the direction of the Judge, to be returned;
- (b) determine the meaning of technical terms other than terms of law and of words used in an unusual sense which it is necessary to determine, whether such words occur in documentary or oral evidence;
- (c) decide all questions which, according to law, are deemed to be questions of fact;
- (d) decide whether general indefinite expressions do or do not apply to particular cases unless such expressions refer to legal procedure or unless their meaning is ascertained by law, in either of which cases the Judge shall decide their meaning.

(2) The jury shall not directly question witnesses but when the cross-examination and re-examination of a witness have ended the foreman may suggest to the Judge any question and any further question which the Judge thinks necessary shall then be put.

267. (1) When the Judge has completed his charge the jury may, if they so desire, retire to consider their verdict.

(2) If the jury retire, they shall be committed to the charge of an officer of the court who shall make oath or solemn affirmation to keep the jury in his custody and not to allow any person to communicate with them, except with the leave of the court.

(3) No person, other than another member of the jury, shall hold any communication whatsoever with any member of the jury during their retirement except with the leave of the court.

(4) Whenever it is practicable to do so the Judge shall begin the summing up at such a time as will enable him to complete it and to leave a reasonable period on the same day for the jury to consider their verdict without an adjournment involving their separation.

(5) After the conclusion of the summing up the jury shall be kept together until they have given their verdict or have been discharged.

268. When the jury have considered their verdict they shall return into court and the foreman shall inform the Judge what their verdict is and whether it is unanimous.

269.(1) If the jury are not unanimous the Judge may direct them to retire for further consideration.

(2) If after such period as the Judge considers reasonable the jury are unable to agree they may deliver a verdict, though not unanimous.

(3) If the jury desire further directions the Judge shall give them such further directions as he shall think expedient and such further directions shall be recorded and shall be deemed to form part of the summing up.

(4) The Judge may require the jury to deliver a distinct and separate verdict on each charge left to their consideration by him and may, if necessary, question them to ascertain what their verdict is and may, also, if necessary, direct them to retire for further consideration.

270.(1) The verdict of the jury and the majority, if any, shall be recorded.

(2) If by accident or mistake a wrong verdict is delivered the jury may, before or immediately after it is recorded, amend the verdict and it shall stand as ultimately amended.

(3) The accused shall be acquitted or convicted in accordance with the verdict.

271.(1) In the event of three being no clear majority of the jury in favour of any one verdict the following provisions shall apply.

(2) If one half of the jury find the accused not guilty of any offence he shall be acquitted unless the Judge considers it necessary, in the interests of justice, that there should be a new trial in which case the accused shall be remanded in custody and the Attorney General shall take such further steps as are necessary.

(3) If a majority of the jury find the accused guilty of an offence but they do not all find him guilty of the same offence he shall be convicted of such offence as the Judge directs, provided that he shall not be convicted of a capital offence unless at least one half of the jury find him guilty of a capital offence.

PROCEDURE AFTER VERDICT

272.(1) If the accused is convicted the Judge shall pass sentence according to law.

(2) If the Judge thinks it inexpedient to pass sentence immediately he shall remand the prisoner in custody for such period as he thinks fit.

(3) Where sentence of death is passed, the form of the sentence shall be to the effect only that the prisoner is to suffer death in the manner authorised by law.

(4) If it appears to the court that, at the time when the offence was committed, a prisoner convicted of murder or of a capital offence was under the age of eighteen years the court shall sentence him to be detained during President's pleasure and he shall thereafter be detained in such custody as the President shall from time to time direct.

(5) If a prisoner convicted of a capital offence is a woman who appears to be of child-bearing age the court, before passing sentence, shall ask her whether she has anything to say before sentence is passed and if she then alleges that she is pregnant she shall be remanded in custody for medical examination.

(6) If a medical officer or practitioner satisfy the court that such a prisoner is pregnant she shall be sentenced to imprisonment for life. A sentence of death may be revised by the court under this subsection.

(7) Any question concerning the age or pregnancy of a prisoner shall be decided by the Judge alone.

(8) A warrant of commitment stating the sentence shall be drawn up forthwith under the seal of the court and delivered to the officer having custody of the prisoner.

273.(1) When the prisoner is acquitted he shall forthwith be removed from the court room in custody and shall thereafter be released.

(2) If a police officer on duty at or near the court house thinks it expedient to detain the prisoner in custody for his own safety or the

avoidance of public demonstration or disorder the prisoner shall be detained in custody for such period as may be deemed necessary for such purpose.

(3) If the public prosecutor contemplates other proceedings against the prisoner, the prisoner may be detained in custody for any period not exceeding seven days, after which he shall be released unless in the meantime he has been lawfully re-arrested or charged before a court.

274. When the prisoner has been acquitted, sentenced or remanded the jury shall be discharged.

275. Where evidence has been given tending to show that the prisoner was insane at the time of the commission of the offence charged and the prisoner is acquitted the jury shall, under the direction of the Judge, deliver a special verdict stating whether they find that the prisoner committed the act charged and, if he did commit it, whether they find that he was not criminally responsible for that act by reason of insanity within the meaning of the Penal Code and where the jury so find, either unanimously or by a majority, or where there is no majority and the Judge so finds, the verdict shall be deemed to be not guilty on the ground of insanity and the court shall order the prisoner to be detained in custody during the President's pleasure and thereafter he shall be detained in such custody as the President shall from time to time direct.

276.(1) As soon as practicable after passing a sentence of death the Judge who passed it shall prepare a report stating the principal facts proved and his own opinion as to

(2) The report shall be kept secret.

(3) If the prisoner does not appeal, or if his appeal is withdrawn or dismissed, the report shall be sent to the President as soon as the time for appealing has expired or the appellate proceedings have terminated, as the case may be.

(4) The Registrar shall also send to the President copies of such portions of the record of the trial as the President directs or a copy of the record of the appeal.

277.(1) A copy of an instrument conveying the decision of the President, in respect of the condemned prisoner, under Article 100 of the Constitution shall be sealed and sent to the court and filed with the record of the trial.

(2) If the President assents to the sentence of death the prisoner shall be hanged by the neck until he be dead.

(3) The assent of the President shall be conveyed to the officer having custody of the prisoner by an instrument signed by the President and sealed with the Public Seal.

(4) The sentence shall be carried out by such officer and in such manner and at such time and place as may be prescribed by law and as to any matters not so prescribed in accordance with orders of the President in writing.

278. If a prisoner under sentence of death becomes insane, execution shall be respited and the prisoner shall be detained in such custody as the President shall from time to time direct.

279.(1) The President may, after consultation with the Chief Justice, make rules of court to regulate matters incidental to the operation of this part.

(2) The Chief Justice may prescribe scales of traveling and subsistence allowances to be paid to jurors.

PART IX

Sentences and their Execution

SENTENCE OF DEATH

280.(1) When an accused person is sentenced to death, the court shall inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

(2) Sentence of death shall not in any case be executed until after the expiration of the time within which notice of appeal or application for leave to appeal may be given or made; and where notice is so given or made; and where notice is so given or application made, the sentence shall not be executed until after the dismissal of the appeal, or, in cases where an application for leave to appeal is finally refused, until after such refusal.

OTHER SENTENCES

281. A warrant under the hand of the Judge or Magistrate by whom any person shall be sentenced to imprisonment, ordering that the sentence shall be carried out in any prison within Seychelles, shall be issued by the sentencing Judge or Magistrate, and shall be full authority to the officer in charge of such prison and to all other persons for carrying into effect the sentence described in such warrant, not being a sentence of death. Subject to the provisions of section 26 of the Penal Code every sentence shall be deemed to commence from, and to include, the whole of the day of the date on which it was pronounced except where otherwise provided in this Code.

282. (1) A court which passes a sentence of imprisonment for a term of not more than two years for an offence, other than an excepted offence, may order that the sentence shall not take effect unless during a period specified in the order, being not less than one year nor more than three years from the date of the order, the offender commits in Seychelles another punishable with imprisonment and thereafter a court having power to do so orders under section 283 that the original sentence shall take effect.

(2) A court which passes a suspended sentence on any person for an offence shall not make a probation order in his case in respect of another offence of which he is convicted by or before the court or for which he is dealt with by the court.

(3) On passing a suspended sentence the court-

- (a) may impose such conditions as it thinks fit;
- (b) shall explain to the offender in ordinary language his liability under section 283 if during the operational period he commits an offence punishable with imprisonment or breaks any condition imposed under paragraph (a).

(4) Subject to any provisions to the contrary contained in this or any other Act-

- (a) a suspended sentence which has not taken effect under section 283 shall be treated as a sentence of imprisonment for the purposes of all Acts except any Act which provides for disqualification for or loss of office, or forfeiture of pensions, of persons sentenced to imprisonment; and
- (b) where a suspended sentence has taken effect under section 283, the offender shall be treated for the purposes of the said excepted Acts as having been convicted on the ordinary date on which the period allowed for making an appeal against an order under section 283 expires or, if such an appeal is made, the date on which it is finally disposed of or abandoned or fails for non-prosecution.

283.(1) If an offender is convicted of an offence punishable with imprisonment committed during the operational period of a suspended sentence or if, during such period, he breaks a condition imposed under section 282(3)(a) and either he is so convicted by or before a court having power under section 284 to deal with him in respect of the suspended sentence or he subsequently appears or is brought before such a court, then,

unless the sentence has already taken effect, that court shall consider his case and deal with him by one of the following methods-

- (a) the court may order that the suspended sentence shall take effect with the original term unaltered;
- (b) it may order that the sentence shall take effect with the substitution of a greater or lesser term for the original term;
- (c) it may by order vary the original order under section 282(1) by substituting for the period specified therein a period expiring not later than three years from the date of the variation; or
- (d) it may make no order with respect to the suspended sentence,

and a court shall make an order under paragraph (a) of this subsection unless the court is of opinion that it would be unjust to do so in view of all the circumstances which have arisen since the suspended sentence was passed, including the facts of the subsequent offence, and where it is of that opinion court shall state its reasons.

(2) Where a court orders that a suspended sentence shall take effect, with or without any variation of the original term, the term of such sentence shall commence on the expiration of another term of imprisonment passed on the offender by that or another court, unless the court is of opinion that, by reason of special circumstances, the sentence should take effect immediately.

(3) In proceedings for dealing with an offender in respect of a suspended sentence which takes place before the Supreme Court any question whether the offender has been convicted of an offence punishable with imprisonment committed during the operational period of the suspended sentence shall be determined by the court.

(4) Where a court deals with an offender under this section in respect of a suspended sentence the clerk of the court shall notify the clerk of the court which passed the sentence of the method adopted.

(5) For the purposes of any Act conferring rights of appeal in criminal cases any such order made by a court shall be treated as a sentence passed on the offender by that court for the offence for which the suspended sentence was passed.

284.(1) An offender may be dealt with in respect of a suspended sentence by any Court before which he appears or is brought.

(2) Where an offender is convicted by a Magistrates' Court of an offence punishable with imprisonment and the Magistrate is satisfied that the offence was committed during the operational period of a suspended sentence passed by the Supreme Court-

- (a) the Magistrate may, if he thinks fit, commit him in custody or on bail to the court having power to deal with him in respect of the suspended sentence; and
- (b) if he does not, shall give written notice of the conviction to the Registrar of the court by which the suspended sentence was passed.

(3) The court to which a Magistrate commits an offender under subsection (2) shall be the court by which the suspended sentence was passed, except that the Magistrate may commit him to some other court if, having regard to the time when and the place where he is likely to be dealt with in respect of the suspended sentence by the court by which that sentence was passed, it would be more convenient that he should be dealt with by that other court.

(4) For the purpose of this section and section 285 a suspended sentence passed on an offender on appeal shall be treated as having been passed by the court by which he was originally sentenced.

285.(1) If it appears to a Judge or a Magistrate that an offender has been convicted in Seychelles of an offence punishable with imprisonment committed during the operational period of a suspended sentence and that he has not been dealt with in respect of the suspended sentence, the Judge or Magistrate may issue a summons requiring the offender to appear at the place and time specified therein, or may, subject to the following provisions of this section, issue a warrant for his arrest.

(2) A Magistrate shall not issue a summons under this section except on information and shall not issue a warrant under this section except on information in writing and on oath.

(3) A summons or warrant issued under this section shall direct the offender to appear or to be brought before the court by which the suspended sentence was passed, but if a warrant is so issued requiring him to be brought before the Supreme Court and he cannot forthwith be brought before that court because that court is not being held, the warrant shall have effect as if it directed him to be brought before a Magistrate and the Magistrate shall commit him in custody or on bail to the Supreme Court.

286. If, during the operational period of a suspended sentence, an offender is guilty of the breach of any condition imposed on him by a court under section 282(3)(a), he shall be liable to be dealt with as if, during such period, he had been convicted of an offence punishable with imprisonment.

287. In section 282, 283, 284, 285 and 286-

“court” includes the Supreme Court and the Magistrates’ Court;

“excepted offence” means an offence declared to be an excepted offence by the Seventh Schedule;

“operational period”, in relation to a suspended sentence, means the period specified in an order made under section 282(1).

288. The People’s Assembly may, by resolution, from time to time, alter, amend, add to or delete from the Seventh Schedule.

289. Whenever under any enactment now in force or under any future enactment several penalties are provided for any offence, the use of the word “or” shall signify that the penalties are to be inflicted alternatively; the use of the word “and” shall signify that the penalties may be inflicted alternatively or cumulatively; and use of the words “together with” shall signify that the penalties are to be inflicted cumulatively.

290. When a criminal prosecution shall have been instituted by a private individual and shall have resulted in the conviction of the accused, it shall be lawful for the court to certify in writing upon the record that in its opinion the prosecution has been of material benefit to the public and thereupon the fees of court already paid by such person shall be refunded to him, and such person shall not be liable for the costs of witnesses whom, in the opinion of the court, it was proper to summon in connection with such case, but such costs shall after due taxation be paid by the Republic.

291. Where any criminal charge is dismissed by any court, the court may, if it shall deem fit, order that the taxed costs duly incurred by the defendant be borne, in whole or in part, by the complainant other than the Republic, and thereupon the said costs may be recovered from the complainant in the same manner as any civil claim for which the creditor shall have obtained a judgment in his favour.

292. Where several persons shall be prosecuted before any court under one complaint, and shall be convicted, each person shall be individually responsible for the fine imposed upon him, and for such part of the costs as shall have been apportioned to him by such court.

293. All claim to shares of fines and forfeitures accruing to any informer or detecting officer shall be barred after five years reckoning, in the case of a fine, from the payment of the fine to the account of the Government by or for the party condemned to pay it and, in case of forfeitures, from the payment of the proceeds and articles forfeited to the said account.

294. In every case where an offender is found guilty and according to the nature of the offence is duly sentenced to a fine with or without costs or to a fine with or without costs together with imprisonment, it shall be competent to the court which sentences such offender to direct by the sentence that in default of payment of the fine and costs, the offender shall suffer imprisonment for a certain term. Such imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may have been liable under a commutation of a sentence.

295.(1) The term of imprisonment so ordered shall not exceed one day for each rupee of the total amount of the fine and costs to which the offender has been sentenced. No sentence of imprisonment in default of payment of a fine and costs shall exceed six months in all, or in default of payment of costs only shall exceed two months.

(2) When imprisonment is imposed in lieu of the payment of fine and costs such imprisonment shall be reckoned in the first instance as imprisonment in lieu of the fine and then in lieu of the costs and where imprisonment as well as fine and costs have been decreed by the convicting court such imprisonment shall be in addition to, and shall begin after, any such term of imprisonment so decreed.

(3) The fine or costs or any part thereof which remains unpaid, may be levied at any time within six years, after the passing of the sentence, and if under the sentence, the offender be liable to imprisonment for a longer period than six years, than at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

296.(1) Whenever any court shall sentence any offender to pay any sum as a fine or for costs, such court may at any time-

- (a) allow time for payment;
- (b) extend such time;
- (c) direct payment to be made by instalments;
- (d) allow further time for the payment of any instalment;
- (e) vary the instalment;

(f) in the case of parties proceeding to the Outlying Islands, order that payment be made by deduction from their wages.

(2) If the offender fails to pay any instalment within the time fixed for the payment of such instalment and does not obtain further time or a variation of the instalment, execution shall forthwith be issued for the recovery of all the instalments then remaining unpaid in the same manner as if, after the conviction, no order had been made for the payment of the sum by instalments.

297.(1) When a court orders money to be paid by an accused person or by a prosecutor or complainant as fine, penalty, compensation, costs, expenses or otherwise, the money may be levied on the movable and immovable property of the person ordered to pay the same by distress and sale under warrant. If he shows sufficient movable property to satisfy the order his immovable property shall not be sold.

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

(3) All sums realized by execution as aforesaid shall be applied by privilege and in the first instance to the payment (i) of the costs of execution, (ii) of the fine, (iii) of the costs due by such offender in virtue of the conviction or order.

(4) A warrant under this section may be executed by the distress and sale of any property belonging to such person wherever found in Seychelles.

298.(1) Any person claiming to be entitled to or to have a legal or equitable interest in the whole or part of any property attached in execution of a warrant issued under section 297 may, at any time prior to the receipt by the court of the proceeds of sale of such property, give notice in writing to the court of his objection to the attachment of such property. Such notice shall set out shortly the nature of the claim which such person (hereinafter in this section referred to as the objector) makes to the whole or part of the property attached, and shall certify the value of the property claimed by him. Such value shall be deposed to upon affidavit, which shall be filed with the notice.

(2) Upon receipt of a valid notice given under subsection (1), the court shall, by an order in writing addressed to the officer having the execution of the warrant, direct the stay of the execution proceedings.

(3) Upon the issue of an order under subsection (2), the court shall, by notice in writing, direct the objector to appear before such court and establish his claim upon a date to be specified in the notice.

(4) A notice shall be served upon the person whose property was by the warrant issued under section 297 directed to be attached, and unless the property is to be applied to the payment of a fine, upon the person entitled to the proceeds of the sale of such property. Such notice shall specify the time and place fixed for the appearance of the objector and shall direct the person upon whom the notice is served to appear before the court at the same time and place if he wishes to be heard upon the hearing of the objection.

(5) Upon the date fixed for the hearing of the objection, the court shall investigate the claim and, for such purpose, may hear any evidence which the objector may give or adduce and any evidence given or adduced by any person served with a notice in accordance with the provisions of subsection (4).

(6) If, upon investigation of the claim, the court is satisfied that the property was not, when attached, in the possession of the person ordered to pay the money or of some person in trust for him, or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the person ordered to pay the money at such time it was so in his possession not on his own account or as his own property but on account of or in trust for some other person or partly on his own account and partly on account of some other person, the court shall make an order releasing the property, wholly or to such extent as it thinks fit, from attachment.

(7) If, upon the date fixed for his appearance, the objector fails to appear, or if, upon investigation of the claim in accordance with the provisions of subsection (5), the court is of opinion that the objector has failed to establish his claim, the court shall order the attachment and execution to proceed, and shall make such order as to costs as it deems fit.

(8) Nothing in this section shall be deemed to deprive a person who has failed to comply with the requirements of subsection (1) of the right to take any other proceedings which, apart from the provisions of this section, may lawfully be taken by a person claiming an interest in property attached under a warrant.

299. When it appears to the court that distress and sale of property would be ruinous to the person ordered to pay the money or his family, or (by his confession or otherwise) that he has no property whereon the distress may be levied, or other sufficient reason appears to the court, the court may if it thinks fit, instead of or after issuing a warrant of distress, commit him to prison for a time specified in the warrant, unless the money and all expenses

of the commitment and conveyance to prison, to be specified in the warrant, are sooner paid.

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

301.(1) If any person committed to prison for non-payment shall pay any sum in part satisfaction of the sum adjudged to be paid, the term of his imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which such person is committed as the sum so paid bears to the sum for which he is liable.

(2) The officer in charge of a prison in which a person is confined who is desirous of taking advantage of the provisions of subsection (1) shall, on application being made to him by such prisoner, at once take him before a court, and such court shall certify the amount by which the term of imprisonment originally awarded is reduced by such payment in part satisfaction, and shall make such order as is required in the circumstances.

302. Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence or by a Judge or Magistrate of the same court.

PREVIOUSLY CONVICTED OFFENDERS

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

Provided that if released on licence and such licence be afterwards forfeited such terms shall not be deemed to include the period of imprisonment undergone in consequence of such forfeiture.

(2) If such conviction is set aside on appeal or otherwise, such order shall become void.

304.(1) Every person subject to police supervision, and who is at large in Seychelles shall-

- (a) report himself personally once in each month to the officer in charge of the police station nearest to his place of residence at such time as may be prescribed by rules under this this section; and
- (b) notify the place of his residence and any change of such residence at such time and place and in such manner and to such person as may be prescribed by rules under this section.

(2) The President may make rules for carrying out the provisions of this section.

305. If any person subject to supervision who is at large in Seychelles refuses or neglects to comply with any requirement prescribed by section 304 or by any rule made thereunder, such person shall, unless he proves to the satisfaction of the court before which he is tried that he did his best to act in conformity with the law, be guilty of an offence and liable to imprisonment for a term not exceeding six months.

306. When a person-

- (a) is convicted of an offence punishable by imprisonment for a term of two years or more; and
- (b) has been convicted on at least three previous occasions since reaching, in the opinion of the Supreme Court, the age 21 years, of offences punishable with such a sentence to imprisonment and has in consequence undergone imprisonment for an aggregate period of at least three years; and

the offence was committed within three years of his being previously convicted of, or of his completing a sentence of imprisonment for, an offence punishable by imprisonment for a term of two years or more, then, if the Supreme Court is of opinion-

- (i) after considering all the circumstances of the offence and the offender, that no other method of dealing with him, including the imposition of a shorter sentence, is appropriate; and
- (ii) that it is expedient for the protection of the public that an extended sentence of imprisonment should be imposed,

the Supreme Court may impose a sentence of imprisonment of up to twice the maximum prescribed by law for the offence of which such person is convicted or fourteen years, whichever is the less.

DEFECTS IN ORDER OR WARRANT

307. The court may at any time amend any defect in substance or in form in any order or warrant, and no omission or error as to time and place, and no defect in form in any order or warrant given under this Code shall be held to render void or unlawful any act done or intended to be done by virtue of such order or warrant, provided that it is therein mentioned, or may be inferred therefrom, that it is founded on a conviction or judgment, and there is a valid conviction or judgment to sustain the same.

PART X

Appeals

APPEALS FROM THE MAGISTRATES' COURT

308.(1) Save as hereinafter provided, any person convicted on a trial held by the Magistrates' Court may appeal to the Supreme Court.

(2) An appeal to the Supreme Court may be on a matter of fact as well as on a matter of law.

309.(1) No appeal shall be allowed in the case of any accused person who has pleaded guilty and has been convicted on such plea by the Magistrates' Court, except as to the extent or legality of the sentence.

(2) No appeal shall be allowed in cases in which the Magistrates' Court has passed a sentence of a fine not exceeding one hundred rupees only:

Provided that there shall be no appeal from a sentence of imprisonment passed by such court in default of the payment of a fine, when no substantive sentence of imprisonment has also been passed.

310.(1) Every appeal shall be brought by notice in writing which shall be lodged with the Registrar within 14 days after the date of the order or sentence appealed against.

(2) Such notice shall be signed or marked by the appellant or, if the appellant is represented by an advocate, the notice may be signed by such advocate.

(3) Within 14 days after the filing of his notice of appeal, the appellant shall lodge with the Registrar a memorandum of appeal.

(4) Every memorandum of appeal shall be signed or marked by the appellant or signed by his advocate and shall contain particulars of the matters of law or of fact in regard to which the Magistrates' Court appealed

from is alleged to have erred, and, except by leave of the Supreme Court the appellant shall not be permitted on the hearing of the appeal, to rely on any ground of appeal other than those set forth in the memorandum:

Provided that nothing in this subsection shall restrict the power of the Supreme Court to make such order as the justice of the case may require.

(5) If a memorandum is not lodged within the time prescribed by subsection (3), the appeal shall be deemed to have been withdrawn but nothing in this subsection shall be deemed to limit or restrict the power of the Supreme Court to extend time.

(6) The Supreme Court shall have power to extend any time herein provided for the taking of any necessary step in appeal, as it may deem fit.

311.(1) If the appellant is in prison he shall be deemed to have complied with the requirements of section 310 if he gives to the officer in charge of the prison notice of his intention to appeal and the particulars required to be included in the memorandum of appeal within the times prescribed by such section.

(2) Such officer shall forthwith record the date of receipt of such notice or memorandum and shall forward the same to the Registrar.

312. After the filing of the memorandum of appeal, if the record of the case is not already in the Supreme Court, the Registrar shall send for such record.

313.(1) When a memorandum of appeal has been lodged, the Judge shall peruse the same together with the record of the case and if he considers that there is not sufficient ground for interfering, may notwithstanding the provisions of section 316, reject the appeal summarily:

Provided that no appeal shall be rejected summarily except in the case mentioned in subsection (2), unless the appellant or his advocate has had the opportunity of being heard in support of the same.

(2) Where an appeal is brought on the ground that the conviction is against the weight of the evidence, or that the sentence is excessive, and it appears to the Judge that the evidence is sufficient to support the conviction and that there is no material in the circumstances of the case which could raise a reasonable doubt whether the conviction was right or lead him to the opinion that the sentence ought to be reduced, the appeal may, without being set down for hearing, be summarily rejected by an order of the Judge certifying that he has perused the record and is satisfied that the appeal has been lodged without any sufficient ground of complaint.

(3) Whenever an appeal is summarily rejected notice of such rejection shall forthwith be given to the Attorney General and to the appellant or his advocate.

314. If the Supreme Court does not dismiss the appeal summarily, the appeal shall be set down for hearing by the Registrar on a date to be fixed by him.

315. The order of the Registrar fixing the appeal together with a copy of the notice and memorandum of appeal shall be served upon the respondent and, where the respondent is a public prosecutor, upon the Attorney General, at the expense of the appellant not later than seven clear days before the day fixed for the hearing.

316. After hearing the appellant or his advocate, if he appears, and the Attorney General, if he appears, the Supreme Court may, if it considers that there is not sufficient ground for interfering, dismiss the appeal, or may-

- (a) in an appeal from a conviction
 - (i) reverse the finding and sentence and acquit or discharge the accused, or order him to be tried by a court of competent jurisdiction, or commit him for trial; or
 - (ii) alter the finding, maintaining the sentence, or with or without altering the finding, alter the nature of the sentence;
 - (iii) with or without such reduction or increase and with or without altering the finding, alter the nature of the sentence;
- (b) in an appeal from any other order, alter or reverse such order;

and in either case may make any amendment or any consequential or incidental order as to costs or otherwise that may appear just and proper.

(2) An appellant whether in custody or not shall be entitled to be present at the hearing of his appeal.

317.(1) When a case is decided on appeal by the Supreme Court, it shall certify its judgment or order to the court by which the conviction, sentence or order appealed against was recorded or passed.

(2) The court to which the Supreme Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment

or order of the Supreme Court, and, if necessary, the record shall be amended in accordance therewith.

318.(1) After entering of an appeal by a person entitled to appeal, the Supreme Court, or the Magistrates' Court which convicted or sentenced such person, may order that he be released on bail, with or without sureties and subject to such conditions as the court may deem fit or if such person is not released on bail, shall at the request of such person, order that the execution of the sentence or order appealed against shall be suspended pending the hearing of the appeal.

(2) An application for bail under this section may be heard in Chambers. In the Supreme Court such application shall be by motion served on the Attorney General. In the Magistrates' Court such application may be made without formal process on sufficient notice to the officer who conducted the prosecution.

(3) Either party to a decision of the Magistrates' Court under this section may appeal to the Supreme Court.

(4) If an appeal is ultimately dismissed and the original sentence confirmed or some other sentence of imprisonment substituted therefore, the time during which the appellant has been released on bail or during which the sentence has been suspended shall be excluded in computing the term of imprisonment to which he is finally sentenced.

319.(1) In dealing with an appeal from the Magistrates' Court the Supreme Court, if it thinks additional evidence is necessary, shall record its reasons and may either take such evidence itself or direct it to be taken by the Magistrates' Court.

(2) When the additional evidence is taken by the Magistrates' Court, such court shall certify such evidence to the Supreme Court, which shall thereupon proceed to dispose of the appeal.

(3) Unless the Supreme Court otherwise directs, the accused or his advocate shall be present when the additional evidence is taken.

(4) Evidence taken in pursuance of this section shall be taken as if it were evidence taken at a trial before the Magistrates' Court.

320. It shall be lawful for the Magistrate irrespective of any appeal or whether a case is appealable or not to reserve for the consideration of the Supreme Court any point of law arising during any proceeding in the court or on which the said Magistrate may entertain a doubt as to the correctness of his decision. The question of law so reserved shall be stated in the form of a

case prepared and signed by the Magistrate himself, and such case shall be transmitted to the Judge:

Provided that nothing herein contained shall exempt the Magistrate from giving his own judgment on such questions.

321. Whenever a case shall have been so reserved and stated by the Magistrate upon an order of the Supreme Court, the execution of the Judgment shall be stayed until the decision of the Supreme Court has been delivered. Any person under detention shall be released on sufficient bail to be furnished before the Magistrate pending the consideration by the Supreme Court of any point reserved.

322. The Supreme Court shall have power if it thinks fit, to return the case for amendment and thereupon the same shall be amended accordingly and judgment shall be delivered after it shall have been so amended.

323. After the decision of the Supreme Court, the Magistrate shall cause the judgment of the Supreme Court to be enforced as if it were a judgment of the Supreme Court to be enforced as if it were a judgment of his own court and as if the same had not been appealed against.

324. When the Supreme Court has allowed costs of appeal, such costs when taxed by the Registrar, shall, be recovered by execution in the Magistrates' Court.

325. Every appeal from the Magistrates' Court (except an appeal from a sentence of fine) shall finally abate on the death of the appellant.

326.(1) Any party to an appeal from the Magistrates' Court may appeal against the decision of the Supreme Court in its appellate jurisdiction to the Court of Appeal on a matter of law but not on a matter of fact or mixed fact and law or on severity of sentence.

For the purposes of this section the expression "decision of the Supreme Court in its appellate jurisdiction" shall include a decision of that Court made in revision or on case stated.

(2) On any such appeal, the Court of Appeal may, if it thinks that the judgment of the Magistrates' Court or of the first appellate court should be set aside or varied on the ground of a wrong decision on any question of law, make any order which the Magistrates' Court or the first appellate court could have made; or may remit the case, together with its judgment or order thereon, to the first appellate court or to the Magistrates' Court for determination, whether or not by way of re-hearing, with such directions as the Court of Appeal may think necessary:

Provided that in the case of an appeal against conviction, if the Court of Appeal dismisses the appeal and confirms the conviction appealed against it shall not (save as in subsection (3) provided) increase, reduce or alter the nature of the sentence imposed in respect of that conviction, whether by the Magistrates' Court or by the first appellate court, unless the Court of Appeal thinks that such sentence was an unlawful one or was passed in consequence of an error of law, in which case it may impose such sentence in substitution therefore as it thinks proper and as may be warranted in law for the offence of which the appellant has been convicted.

(3) If it appears to the Court of Appeal that a party to an appeal, though not properly convicted on some count of the information, has been properly convicted on some other count of the information, the Court may, in respect of the count of the information on which the Court considers that the appellant has been properly convicted, either affirm the sentence passed by the Magistrates' Court or by the first appellate court, or pass such other sentence (whether more or less severe) in substitution therefore as it thinks proper and as may be warranted in law.

(4) Where a party to an appeal has been convicted of an offence and the Magistrates' Court or the first appellate court could on the information have found him guilty of some other offence and, on the finding of the Magistrates' Court or of the first appellate court, it appears to the Court of Appeal that the court must have been satisfied of facts which proved him guilty of that other offence, the Court of Appeal may, instead of allowing or dismissing the appeal, substitute for the conviction entered by the Magistrates' Court or by the first appellate court a conviction of guilty of that other offence, and pass such sentence in substitution for the sentence passed by the Magistrates' Court or by the first appellate court as may be warranted in law for that other offence, not being a sentence of greater severity.

(5) On any appeal brought under this section, the Court of Appeal may, notwithstanding that it may be 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 in fact occurred.

327. The Judge may, in his discretion, in any case in which an appeal from a decision of the Supreme Court in its appellate jurisdiction to the Court of Appeal is filed, grant bail pending the hearing of such appeal.

Revisions

328. The Supreme Court may call for and examine the record of any criminal proceedings before the Magistrates' Court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding,

sentence or order recorded or passed, and as to the regularity of any proceedings of the Magistrates' Court.

329.(1) In the case of any proceeding in the Magistrates' Court the record of which has been called for or which has been reported for orders, or which otherwise comes to its knowledge, the Supreme Court may-

- (a) in the case of an order of acquittal, reverse such order and direct that further inquiry be made or direct that the accused be retried;
- (b) in the case of a conviction, exercise any of the powers conferred on it as a court of appeal by sections 316, 318 and 319 and may enhance the sentence;
- (c) in the case of any other order, alter or reserve such order.

(2) No order under this section shall be made to the prejudice of an accused person unless he has had an opportunity of being heard either personally or by an advocate in his own defence.

(3) Where the sentence dealt with under this section has been passed by the Magistrates' Court, the Supreme Court shall not inflict a greater punishment for the offence, which in the opinion of the Supreme Court the accused has committed, than might have been inflicted by the court which imposed the sentence.

(4) Nothing in this section shall be deemed to authorise the Supreme Court to convert a finding of acquittal into one of conviction.

(5) Where an appeal lies from any finding, sentence or order and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.

330. No party has any right to be heard either personally or by advocate before the Supreme Court when exercising its powers of revision:

Provided that such court may, if it thinks fit, when exercising such powers, hear any party either personally or by advocate, and that nothing in this section shall be deemed to affect subsection (2) of section 329.

331. When a case is revised by the Supreme Court it shall certify its decision or order to the court by which the sentence or order so revised was recorded or passed, and the court to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified, and if necessary the record shall be amended in accordance therewith.

Case Stated

332. After the hearing and determination by the Magistrates' Court of any summons, charge, information or complaint, either party to the proceedings before the said Magistrates' Court may, if dissatisfied with the said determination as being erroneous in point of law, or as being in excess of jurisdiction, apply in writing within thirty days after the said determination to the said Magistrates' Court to state and sign a case setting forth the facts and the grounds of such determination for the opinion thereon of the Supreme Court, and such party (hereinafter called "the appellant") shall-

- (a) within fourteen days after receiving the case transmit the same to the Supreme Court; and
- (b) within thirty days after receiving the case serve a copy of the case so stated and signed on the other party to the proceedings in which the determination was given (hereinafter called "the respondent"):

Provided always that no application shall be made under this section by a private prosecutor within the meaning of section 146 without the previous consent in writing of the Attorney General.

333. The appellant, at the time of making such application and before the case shall be stated and delivered to him by the Magistrates' Court, shall in every instance enter into a recognizance before such Magistrates' Court, with or without surety as to the Magistrates' Court shall seem meet, conditioned to prosecute without delay such appeal, and to submit to the judgment of the same; and before he shall be entitled to have the case delivered to him, he shall pay to the clerk of the Magistrates' Court his fees for and in respect of the case and recognisances, and any other prescribed fees to which such clerk shall be entitled, which fees shall be in accordance with the Sixth Schedule.

If the appellant is then in custody, the court may liberate him upon the recognizance being further conditioned for his appearance before the same court within fourteen days after the judgment of the Supreme Court shall have been given to abide such judgment unless the determination appealed against be reserved.

When appellant is ultimately sentenced to imprisonment, the time during which he is so released shall be excluded in computing the term for which he is sentenced.

Nothing in this section shall apply to an application for a case stated by or under the direction of the Attorney General.

334. If the Magistrates' Court be of opinion that the application is merely frivolous, but not otherwise, it may refuse to state a case, and shall, in the request of the appellant, sign and deliver to him a certificate of such refusal:

Provided that the Magistrates' Court shall not refuse to state a case when the application for that purpose is made to him by or under the direction of the Attorney General, who may require a case to be stated with reference to proceedings to which he was not a party.

335. When the Magistrates' Court has refused to state a case as aforesaid it shall be lawful for the appellant to apply to the Supreme Court within two months of such refusal, upon an affidavit of the facts, for a rule calling upon the Magistrates' court and also upon the respondent to show cause why such case should not be stated, and the Supreme Court may make the same absolute or discharge it, with or without payment of costs, as to the court shall seem fit, and the Magistrates' Court, upon being served with such absolute, shall state a case accordingly, upon the appellant entering into such recognizance as is hereinbefore provided.

336. The Supreme Court shall (subject to the provisions of section 337) hear and determine the question or questions of law arising on the case stated, and shall thereupon reverse, affirm or amend the determination in respect of which the case has been stated, or remit the matter to the Magistrates' Court with the opinion of the Supreme Court thereon, or may make such orders as to costs, as to the court may seem fit, and all such orders shall be final and conclusive on all parties:

Provided always that no Magistrate who shall state and deliver a case in pursuance of this part or bona fide refuse to state one shall be liable to any costs in respect or by reason of such appeal against his determination or refusal, and provided further that no costs shall be awarded against the Republic except where the Republic is the appellant.

337. The Supreme Court shall have power, if it thinks fit,-

- (a) to cause the case to be sent back for amendment or restatement, and thereupon the same shall be amended or restated accordingly, and judgment shall be delivered after it has been so amended;
- (b) to remit the case to the Magistrates' Court for rehearing and determination with such directions as it may deem necessary.

338. After the decision of the Supreme court has been given on a case stated, the Magistrates' Court in relation to whose determination the case has been stated, or any other Magistrates' Court exercising the same jurisdiction,

shall have the same authority to enforce any conviction or order, which may have been affirmed, amended or made by the Supreme Court, as the Magistrates' Court which originally decided the case would have had to enforce its determination if the same had not been appealed against: and no action or proceeding whatsoever shall be commenced or had against the magistrate holding such court for enforcing such conviction or order, by reason or any defect in the same respectively.

339. No person who has appealed under section 308 shall be entitled to have a case stated, and no person who has applied to have a case stated shall be entitled to appeal under section 308.

340. A case stated by the Magistrates' Court shall set out-

- (a) the charge, summons, information or complaint;
- (b) the facts found by the Magistrates' Court to be admitted or proved;
- (c) any submission of law made by or on behalf of the complainant during the trial or inquiry;
- (d) any submission of law made by or on behalf of the accused during the trial or inquiry;
- (e) the finding and, in case of conviction, the sentence of the Magistrates' Court;
- (f) any question or questions of law which the Magistrates' Court or any of the parties may desire to be submitted for the opinion of the Supreme Court;
- (g) any question of law which the Attorney General may require to be submitted for the opinion of the Supreme Court.

341. The Supreme Court may, if it deems fit, enlarge any period of time prescribed by sections 332, 333 or 335.

APPEALS FROM SUPREME COURT

342.(1) Any person convicted on a trial held by the Supreme Court may appeal to the Court of Appeal-

- (a) against his conviction-

- (i) on any ground of appeal whenever the penalty awarded shall exceed six months' imprisonment or one thousand rupees;
 - (ii) on any ground of appeal which involves a question of law alone;
 - (iii) with the leave of such Court of Appeal or upon a certificate of the Judge who tried him that it is a fit case for appeal on any ground of appeal which involves a question of fact alone, or a question of mixed law and fact or on any other ground which appears to the Court to be a sufficient ground of appeal;
- (b) against the sentence passed on his conviction with the leave of such Court of Appeal, unless the sentence is one fixed by law.

(2) Any person who has been dealt with by the Supreme Court under section 7 may appeal to the Court of Appeal as set out in paragraphs (a) and (b) of subsection (I) as if he had been both convicted and sentenced by the Supreme Court, whether the supreme Court used its powers of revision or not.

(3) Irrespective of any appeal and whether a case be appealable or not, the Judge may reserve for the consideration of the Court of Appeal any question of law decided by him in the course of any trial. The question or questions so reserved shall be stated in the form of a case prepared and signed by the Judge himself; and such case shall be transmitted by him at the earliest convenient opportunity to such Court of Appeal:

Provided that nothing herein contained shall exempt the Judge from giving his own judgement on any such questions.

(4) The Judge may in his discretion, in any case in which an appeal to the Court of Appeal is filed or in any case in which a question of law has been reserved for the decision of such Court of Appeal, grant bail pending the hearing of such appeal or the decision of the case reserved.

(5) An application for bail under this section shall be by motion, supported by affidavit, served on the Attorney General, and may be heard in Chambers.

343.(1) The President on an application made to him by a person convicted on a trial held by the Supreme Court or without such application, may, if he thinks fit, at any time either-

- (a) refer the whole case to the Court of Appeal and the case shall then be treated for all purposes as an appeal to that Court by the person convicted; or
- (b) if he desires the assistance of the Court of Appeal on any point arising in the case, refer that point to the Court of Appeal for their opinion thereon, and that Court shall consider the point so referred and furnish the President with their opinion thereon accordingly.

(2) A reference to the Court of Appeal may be made under this section irrespective of any appeal or whether the case is appealable or not.

(3) Nothing in this section shall affect the prerogative of mercy.

PART XI

Supplementary Provisions

IRREGULAR PROCEEDINGS

344. Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a court of competent jurisdiction shall be reversed or altered on appeal or revision on account-

- (a) of any error, omission or irregularity in the summons, warrant, charge, proclamation, order, judgment or other proceedings before or during the trial or in any inquiry or other proceedings under this Code, or
- (b) of any error, omission or irregularity in the preparation of any jury list under the provisions of section 229, or
- (c) of any misdirection in any charge to a jury,

unless such error, omission, irregularity or misdirection has in fact occasioned a failure of justice:

Provided that in determining whether any error, omission, or irregularity has occasioned a failure of justice the court shall have been raised at an earlier stage in the proceedings.

345. No distress made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant or distress or other proceedings relating thereto.

INQUIRIES AS TO SUDDEN DEATHS

346. Any Magistrate, and any person specially empowered in that behalf by the President, shall be empowered to hold inquests.

347.(1) Whenever an officer in charge of a police station is informed that a person-

- (a) has committed suicide; or
- (b) has been killed by another, or by an animal, or by machinery, or by an accident; or
- (c) has died under circumstances raising a reasonable suspicion that somebody has committed an offence; or
- (d) has died in prison or in a mental hospital or while in the custody of the police,

he shall forthwith proceed to the place where the body is lying and shall then and there make an investigation and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body and stating in what manner or by what weapon or instrument, if any, such injury appears to have been inflicted. The report shall be signed by such police officer and shall be forthwith forwarded to a Magistrate.

(2) Should the Magistrate be satisfied on the face of such police officer's inquiry and report that there is no suspicion whatever that death is due to a crime or foul play, he shall order that the body of the person be buried without any examination by a medical officer. In such cases, his order shall be sufficient authority to the civil status officer to register the death.

(3) When there is any suspicion that the death may not be due to natural causes or when for any reason the Magistrate considers it expedient so to do, he shall with a view to a post-mortem examination being made, order the body to be forwarded to a government medical officer, or if such medical officer is not available, then to any medical practitioner appointed by the Magistrate who shall draw up a report and forward the same to the Magistrate:

Provided that if the Magistrate considers it necessary so to do, he may order the government medical officer or the medical practitioner appointed by him to proceed to the spot where the body is lying to investigate the matter before performing the post-mortem examination.

(4) After considering the report of the medical officer or practitioner the Magistrate may order that the body be buried or may make such order as to him may seem fit before ordering that the body be buried.

(5) For cases arising elsewhere than in Mahe, should a Magistrate be not available the police officer shall send his report to a Justice of the Peace who is hereby given all the powers of the Magistrate under the preceding subsections.

(6) Should a Magistrate be not available the police officer shall send his report to the Judge who is hereby given all the powers of the Magistrate under the preceding subsections.

(7) Should the Judge or in cases elsewhere than in Mahe a Justice of the Peace, be not available the police officer shall send his report direct to the Chief Medical officer or other government medical officer who shall have all the powers of the Magistrate under the preceding subsections.

(8) The Magistrate or Justice of the Peace or when acting under the powers given by subsections (6) and (7) hereof the Judge or the medical officer, as the case may be, shall forward to the Attorney General the report of the police officer and of the post-mortem examination if one has been held, together with his own report and any further information bearing upon the case.

(9) The Attorney General may require a Magistrate or any other person specially empowered in that behalf by the President to hold an inquest into the cause of death and the circumstances connected therewith.

(10) Such Magistrate or other person shall hold such inquest and shall proceed to take the depositions of those who know the facts and circumstances of the case. Such depositions shall be taken and recorded as depositions are taken at a preliminary inquiry by the Magistrates' Court.

(11) In holding such inquest the Magistrate or other person may exercise the powers conferred on the court in section 207.

348. The Magistrate may at any time during the course of the inquest summon any witness to give evidence, if such evidence is necessary for the purpose of the inquest.

349. When the Magistrate has heard the evidence tendered by or on behalf of the Attorney General, he shall give his findings as to the cause of the death.

350. The Magistrate shall not express any opinion as to the guilt or innocence or otherwise of any person who may have been called to give evidence at the inquest, even if that person has not volunteered to give evidence therein.

351. In the following cases the Attorney General shall be bound to order an inquest to be held-

- (a) Where a person has died in prison or while in the custody of the police;
- (b) where a person other than a member of the Defence Force has died under circumstances raising a reasonable suspicion that the death of that person might be due to a crime or foul play, unless a preliminary inquiry is to be held.

DIRECTIONS IN THE NATURE OF HABEAS CORPUS AND WRITS

352.(1) The Supreme Court may whenever it thinks fit direct-

- (a) that any person within the limits of Seychelles be brought up before the court to be dealt with according to law;
- (b) that any person illegally or improperly detained in public or private custody within such limits be set at liberty;
- (c) that any prisoner detained as aforesaid in any prison situate within such limits be brought before the court to be there examined as a witness in any matter pending or to be inquired into such court;
- (d) that any prisoner detained as aforesaid be brought before a court-martial or any commissioners acting under the authority of any commission from the President for trial or to be examined touching any matter pending before such court-martial or commissioners respectively;
- (e) that any prisoner within such limits be removed from one custody to another for the purpose of trial; and
- (f) that the body of a defendant within such limits be brought in on a return of *cepi corpus* to a writ of attachment.

(2) The Chief Justice may from time to time frame rules to regulate the procedure in cases under this section.

353.(1) The Supreme Court may in exercise of its criminal jurisdiction issue any writ which may be issued by the High Court of Judicature in England.

(2) The Chief Justice may from time to time frame rules to regulate the procedure in cases under this section.

MISCELLANEOUS

354. Affidavits and affirmations to be issued before the Supreme Court may be sworn and affirmed before a judicial officer.

355. Shorthand notes may be taken of the proceedings at the trial of any person before the Supreme Court, and a transcript of such notes shall be made if the court so directs, and such transcript shall for all purposes be deemed to be the official record of the proceedings at such trial.

356. If any person affected by any judgment or order passed in any proceedings under this Code desires to have a copy of the judgment or order or any deposition or other part of the record, he shall on applying for such copy be furnished therewith provided he pays for the same, unless the court for some special reason thinks fit to furnish it free of cost.

357. Such forms as the Supreme Court may from time to time approve, with such variation as the circumstances of each case may require, may be used for the respective purposes therein mentioned, and if used shall be sufficient. In the absence of directions to the contrary by the Supreme Court, the forms printed in the Fifth Schedule shall be used in the Magistrates' Court.

358. Subject to any enactment, any court may order payment on the part of the Government of the reasonable expenses of any jurors, complainant or witness attending before such court for the purposes of any inquiry, trial, or other proceeding under this Code. The fees in the Sixth Schedule shall be levied in proceedings in the Magistrates' Court.

359. The president may be regulations amend, add to or alter the Third, Fourth, Fifth and Sixth Schedule of this Code.

FOURTH SCHEDULE

FORMS OF STATING OFFENCES IN INFORMATIONS

I - MURDER

9/9/1955
17/31/1964

Murder, contrary to section 193 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of19, in the district of, murdered J.S.

2 – ACCESSORY AFTER THE FACT TO MURDER

Accessory after the fact to murder, contrary to section 209 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., well knowing that one, H.C., did on the day of in the province (or district) of murder C.C. did on the day of in the district of and on other days thereafter receive, comfort, harbour, assist and maintain the said H.C.

3 – MANSLAUGHTER

Manslaughter, contrary to section 195 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of, in the district of unlawfully killed J.S.

4 – RAPE

Rape, contrary to section 131 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of, in the district of had carnal knowledge of E.F., without her consent.

5 – WOUNDING

First Count

Wounding with intent, contrary to section 219 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of, in the district of, wounded C.D., with intent to main, disfigure or to do some grievous harm, or to resist the lawful arrest of him the said A.B.

Second Count

Wounding, contrary to section 224 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of, in the district of unlawfully wounded C.D.

6 – THEFT

Stealing, contrary to section 260 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of 19....., in the district of Stole a bag, the property of C.D.

Second Count

Receiving stolen goods, contrary to section 309 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of 19....., in the district of did receive a bag, the property of *C.D.* knowing the same to have been stolen

7 – THEFT BY CLERK

Stealing by clerks and servants, contrary to section 266 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of 19....., in the district of Being clerk or servant to *M.N.*, stole from the said *M.N.*, 10 yards of cloth.

8 – ROBBERY

Robbery with violence, contrary to section 281 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of 19....., in the district of robbed *C.D.* of a watch, and at, or immediately before or immediately after the time of such robbery did use personal violence to the said *C.D.*

9 – BURGLARY

Burglary, contrary to section 289, and stealing, contrary to section 264 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., in the night of the day of 19....., in the district of did break and enter the dwelling house of *C.D.* with intent to steal therein, and did steal therein one watch, the property of *S.T.*, the said watch being of the value of £10.

10 – THREATS

Demanding property by written threats, contrary to section 284 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of 19....., in the district of with intent to extort money from *C.D.*, caused the said *C.D.*, to receive a letter containing threats of injury or detriment to be caused to *E.F.*

11 – ATTEMPTS TO EXTORT

Attempt to extort by threats, contrary to section 285 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of 19....., in the district of With intent to extort money from *C.D.* accused or threatened to accuse the said *C.D.* of an unnatural offence.

12 – FALSE PRETENCES

Obtaining goods by false pretences, contrary to section 297 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of 19....., in the district of With intent to defraud, obtained from *S.P.* 5 yards of cloth by falsely pretending that the said *A.B.* was a servant of *J.S.* and that he, the said *A.B.*, has then been sent by the said *J.S.*, to *S.P.* for the

said cloth and that he the said A.B., was then authorised by the said J.S. to receive the cloth on behalf of the said J.S.

13 – CONSPIRACY TO DEFRAUD

Conspiracy to defraud, contrary to section 301 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., and C.D., on the day of 19....., and on diverse days between that day and the Day of, 19....., in the district of Conspired together with intent to defraud such persons as should thereafter be induced to part with money to the said *A.B.* and *C.D.*, by means of an advertisement inserted by them, the said *A.B.* and *C.D.* in the H.S. newspaper, falsely representing that *A.B.* and *C.D.* were then carrying on a genuine business as jewelers at in the district of, and that they were then willing and prepared to supply certain articles of jewellery to such persons.

14 – ARSON

Arson, contrary to section 318 of the penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of, in the district of willfully and unlawfully set fire to a house.

15 – ARSON AND ACCESSORY BEFORE THE FACT

A.B., Arson, contrary to section 318 of the Penal Code.

C.D., accessory before the fact to the same offence.

PARTICULARS OF OFFENCE

A.B., on the day of in the district of willfully and unlawfully set fire to a house.

C.D. on the same day, in the district of did counsel or procure the said A.B. to commit the said offence.

16 – DAMAGE

Damaging trees, contrary to section 325 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of in the district of willfully and unlawfully damaged a rubber tree there growing.

17 – FORGERY

First Count

Forgery, contrary to section 336 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of in the district of forged a certain will purporting to be the will of C.D.

Second Count

Uttering a false document, contrary to section 339 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of in the district of knowingly and fraudulently uttered a certain forged will purporting to be the will of C.D.

18 – COUNTERFEIT COIN

Uttering counterfeit coin, contrary to section 358 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of at
..... market in the district of uttered a
counterfeit shilling knowing the same to be counterfeit.

19 – PERJURY

Perjury, contrary to section 104 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of in the district of
..... being a witness upon the trial of an action in the
..... Court of at,
in which one was plaintiff, and one
..... was defendant, knowingly gave false testimony that he
saw one, *M.W.*, in the street called the on the
..... day of

20 – DEFAMATORY LIBEL

Publishing defamatory matter, contrary to section 184 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of in the district of
..... published defamatory matter affecting *E.F.*, on the
form of a letter (book, pamphlet, picture, or as the case may be).

(Innuendo should be stated where necessary).

21 – FALSE ACCOUNTING

First Count

Fraudulent false accounting, contrary to section 316 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of in the district of being clerk or servant to *C.D.*, with intent to defraud, omitted or was privy to omitting from a cash book belonging to the said *C.D.* his employer, a material particular, that is to say, the receipt on the said day of £50 from *H.S.*

Second Count

Same as first count.

PARTICULARS OF OFFENCE

A.B., on the day of in the district of being clerk or servant to *C.D.*, with intent to defraud, omitted or was privy to omitting from a cash book belonging to the said *C.D.*, his employer, a material particular that is to say, the receipt on the said day of £50 from *H.S.*

22 – THEFT BY AGENT

First Count

Stealing by agents and others, contrary to section 268 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of in the district of stole £100 which had been entrusted to him by *H.S.*, for him, the said *A.B.*, to retain in safe custody.

Second Count

Stealing by agents and others, contrary to section 268 of the Penal Code.

PARTICULARS OF OFFENCE

A.B., on the day of in the district of stole £100 which had been received by him, for and on account of L.M.

FIFTH SCHEDULE

FORMS UNDER THE CRIMINAL PROCEDURE CODE

9/9/1955
9/11/1959
2/39/1960
4/7/1961
20/31/1964.
S.I. 51/1959.
S.I.64/1965.

Form 1

SUMMONS TO ENTER INTO BOND TO KEEP THE PEACE OR BE OF GOOD BEHAVIOUR

(Sections 31, 32, 33 and 34 of the Criminal Procedure Code).

To of

Whereas it has been made to appear to me by credible information that you are likely to commit a breach of the peace, or disturb the public tranquility, you are hereby required to attend in person before this Court on the day of, 19..... at o'clock in the noon to show cause why you should not be required to enter into a bond to keep the peace or be of good behaviour.

Given under my hand and the seal of the Court this day of 19.....

(Seal)

Magistrate

Copy of order to accompany summons or warrant.

(Section 36 of the Criminal Procedure Code)-

- (a) The substance of the information received.

That of has threatened to and is likely to assault; or that is by habit a thief, etc.

- (b) The amount of the bond to be executed.

.....

- (c) The term for which it is to be in force.

- (d) The number, character and class of sureties, if any, required.

..... sureties, each in

(Seal)

Magistrate

FORM II

BOND TO KEEP THE PEACE OR TO BE OF GOOD BEHAVIOUR

(Section 45 of the Criminal Procedure Code).

WHEREAS I, have been called upon to enter into a bond in the amount of Rs. to keep the peace or be of good behaviour for the period of From the execution of these presents.

I hereby bind myself as aforesaid and in the event of making default agree to forfeit to the Republic the said sum.

This day of 19

Signature.

(Where sureties are required, add)

We hereby bind ourselves jointly and severally in the sum of
Rs..... to answer that the above-named will keep the peace or be of
good behaviour.

First Surety

Second Surety

Name

Address

Occupation

Entered into before me this day of 19....., at

Magistrate

FORM III

**WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO
KEEP THE PEACE OR BE OF GOOD BEHAVIOUR**

(Section 47 of the Criminal Procedure Code).

To the Superintendent of Prisons.

WHEREAS of appeared before me on the day of in obedience to a summons calling upon him to show cause why he should not enter into bond for Rs. to keep the peace or be of good behaviour:

AND WHEREAS an order was then made requiring the said to enter into such bond with (or) without sureties for a period of and he has failed to comply with the said order:

This is to empower and require you the said Superintendent to receive the said together with this warrant, and him safety to keep in custody for the said period of and unless and until he tender the said security, in which event you shall forthwith make report of the matter to this Court; and return this your warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court this day of 19.....

(Seal)

Magistrate

Form IV

SUMMONS TO AN ACCUSED PERSON

(Section 71 of the Criminal Procedure Code.)

To of

WHEREAS your presence is necessary to answer to a charge of you are hereby required to appear in person (or) by advocate, before the Magistrates' Court at on the day of at o'clock in the noon. Herein fail not.

Dated this day of 19.....

Judge/Magistrate/Justice of the Peace

Registrar, Supreme Court.

Form V

WARRANT OF ARREST

(Section 80 and 82 of the Criminal Procedure Code.)

To all police officers.

WHEREAS of is charged with the offence of you are hereby directed to arrest the said and to produce him before the magistrates' Court at In execution of this your warrant and herein fail not.

Dated this day of 19.....

Judge/Magistrate/Justice of the Peace

Registrar, Supreme Court.

(Section 81 of the Criminal Procedure Code.)

This warrant may be indorsed as follows:

If the said shall give bail himself in the sum of Rs. with one sufficient surety in the sum of Rs. (or two sufficient sureties each of the sum of Rs.), to attend before the Magistrates' Court at on the day of and to continue so to attend until otherwise directed, he shall be released..

Dated this day of 19.....

Judge/Magistrate/Justice of the Peace

FORM VI

**BAIL-BOND AFTER ARREST TAKEN BY A COURT OR BY A
POLICE OFFICER**

(Section 91 and 101 of the Criminal Procedure Code)

I, of being charged with the offence of and being required to appear before the Magistrates' Court at on the day of next DO HEREBY BIND myself to attend the said Court on the date named and to continue so to attend until

the trial of my case shall be concluded, and should I fail to do so, I bind myself to forfeit to the Republic the sum of Rs.....

Form VIII

SEARCH WARRANT

(Section 95 of the Criminal Procedure Code).

To

Whereas it has been made to appear to me that the following article, namely /by/in respect of/which the offence of has been committed/which is necessary to the conduct of an investigation into the offence of has been committed/which is necessary to the conduct of an investigation into the offence of is in (here describe the building, ship, carriage, box, receptacle or place in which the article is deemed to be):

This is to authorise and require you to enter upon and search the aforesaid building/ship/carriage/box/receptacle/place and if found to seize the said article and carry it before a Court to be dealt with according to law.

You are further authorised to execute this search warrant at any hour.

Given under my hand this day of 19.....

Judge/Magistrate/Justice of the Peace

Registrar, Supreme Court.

Form IX

SUMMONS RE FORFEITED RECOGNISANCE

(Section 108 of the Criminal Procedure Code).

To

Whereas it has been proved to the satisfaction of the Court that the bond entered into by you in the amount of Rs on the day of has been forfeited by reason of

YOU ARE HEREBY required to pay the said amount of Rs. or to appear before this Court on the day of next at o'clock in the noon to show cause why the said sum of Rs. should not be paid.

Given under my hand and the Seal of the Court this day of 19.....

(Seal)

Magistrate.

Form X

WARRANT OF DISTRESS TO ENFORCE A BOND

(Section 108 of the Criminal Procedure Code).

To the Commissioner of Police.

WHEREAS has failed to appear pursuant to his Bond in that behalf and has by such default forfeited to the Republic the sum of Rs. secured by the said Bond:

This is to authorise and require you to attach any movable or immovable property of the said that you may find within Seychelles by seizure and detention, and, if the said amount be not paid within days hereof to sell the property so attached or so much thereof as may be sufficient to realize the amount aforesaid by public auction, and forthwith to return this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 19.....

(Seal)

Magistrate.

Form XI

SUMMONS TO A WITNESS

(Section 120 of the Criminal Procedure Code).

To

WHEREAS complaint has been made before me that of has committed the offence of

You are hereby summoned to appear before the Magistrates' Court at on the day of next at o'clock noon to testify what you know concerning the matter of the said complaint, and so on from day to day until the trial be concluded.

Given under my hand and the seal of the Court, this day of
..... 19.....

(Seal)

Magistrate

Form XII

**CAUTION TO THE ACCUSED BEFORE COMMITMENT FOR TRIAL,
AND THE STATEMENT, OR EVIDENCE, IF ANY**

(Sections 196 and 197 of the Criminal Procedure Code).

The charge against you is (a) and I inform you that this is not your trial. You will be tried later in another court and before another judge, where all the witnesses you have heard here will be produced and you will be allowed to question them. You will then be able to make any statement you may wish or to give evidence on oath and to call any witnesses on you own behalf. Unless you wish to reserve your defence, which you are at liberty to do, you may now either make a statement not on oath or give evidence on oath, and may call witnesses on your own behalf. If you give evidence on oath, you will be taken down and may be used in evidence at your trial. And I give you clearly to understand, that you have nothing to hope from any promise of favour, and nothing to fear from any threat which may have been held out to you to induce you to make any admission or confession of your guilt. But that whatever you shall now say may be given in evidence at your trial, notwithstanding such promise or threat.

The accused in reply states or electing to be sworn is duly sworn and states:-

.....

.....
.....

I read over the above to the accused who agrees that it is correct and that he has nothing to add to it and I certify that the above statement or evidence was taken in my presence and hearing and contains accurately the whole statement made or evidence given by the accused.

Sign or mark of Accused.

Witness to Mark. Signature of Magistrate and date.

I ask the accused whether he desires to call any witnesses.

He replies:-

.....

- (a) *The Magistrate reads and explains the charge in simple language.*

- (b) *The depositions of the accused's witnesses are not to be taken on this sheet, only his answers to the question.*

Form XIII

WARRANT TO COMPEL ATTENDANCE OF A WITNESS

(Section 122 of the Criminal Procedure Code).

To the Commissioner of Police.

WHEREAS complaint has been made that of
..... has committed the offence of
and it has been made to appear that of
..... can give evidence concerning the said offence:

and WHEREAS the Court is satisfied on oath that the said
..... will not of his/her own accord attend as witness on the
hearing of the said complaint:

This is to authorise you to arrest the said and bring
him/her before the Magistrates' Court at on
the day of Next to be
examined touching the offence complained of.

Given under my hand and the seal of the Court, this day of
..... 19.....

(Seal)

Magistrate.

Form XIV

WARRANT OF COMMITMENT TO PRISON ON FAILURE TO PAY
COMPENSATION

(Section 150 of the Criminal Procedure Code).

To the Superintendent of Prisons

WHEREAS on the day of 19.....
one Lodged a complaint against

AND WHEREAS at the hearing the Court adjudged the said complaint to be
frivolous (or) vexatious and dismissed the same and made an order that the
complainant should pay to the accused the sum of Rs.....

by way of compensation and costs or in default be imprisoned for a period of

AND WHEREAS the complainant has failed to comply with the said order of the Court:

This is to authorise and require you the said Superintendent to receive the said together with this warrant, and keep him in custody for the said period

Unless the said sum be sooner paid in which event you shall forthwith set him at liberty; returning this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court this day of 19.....

(Seal)

Magistrate.

Form XV

COMMITMENT ON ADJOURNMENT OR REMAND

(Sections 179 and 195 of the Criminal Procedure Code).

To the Superintendent of Prisons

WHEREAS stands charged with the offence of, these presents are to command you to lodge the said in the prison at and him safely there to keep until the day of next when you shall bring the said

..... before this Court at o'clock in the
..... noon.

Given under my hand this Day of 19.....

Further Remands

<i>Date</i>	<i>Remanded to</i>	<i>Signature of Magistrate</i>
.....
.....

Form XVI

COMMITMENT FOR TRIAL

(Section 199 of the Criminal Procedure Code).

To the Superintendent of Prisons

These are to command you to lodge who is accused of
an offence of In the prison at
and him safety there to keep until his trial on and when
you shall bring him before the Supreme Court.

Given under my hand this day of 19.....

(Seal)

Magistrate.

Form XVII

BOND TO GIVE EVIDENCE

(Section 203 of the Criminal Procedure Code).

I of do hereby bind myself to attend the Supreme Court when summoned to give evidence in the matter of a charge of against one and, in case of making default herein, I bind myself to forfeit to the Republic the sum of Rs.....

Dated this day of 19.....

Signature of Complainant or Witness

Magistrate.

Form XVIII

WARRANT OF COMMITMENT OF PERSON SENTENCED TO DEATH

(Criminal Procedure Code Section 272).

To the Superintendent of Prisons

WHEREAS of was on this day convicted before this Court of the offence of Murder contrary to section of the Penal Code and was sentenced to suffer death:

This is to authorise and require you, the said Superintendent to receive the said into your custody together with this warrant and him safely to keep until you shall receive the further order of the President.

Given under my hand and the Seal of the Court this day of

(Seal)

Judge

Form XIX

WARRANT OF COMMITMENT

(Section 281 of the Criminal Procedure Code).

To the Superintendent of Prisons

WHEREAS of was on this day convicted before this Court of the offence of under section of the and was sentenced to

You are hereby required to receive the said into your custody together with this warrant, and carry the aforesaid sentence into execution according to law in any prison within Seychelles.

Given under my hand and the Seal of the Court this day of
..... 19.....

(Seal)

Magistrate.

Form XX

WARRANT TO LEVY A FINE BY DISTRESS AND SALE

(Section 297 of the Criminal Procedure Code).

To the Commissioner of Police.

WHEREAS was on the day of
..... 19....., convicted before me of the offence of
..... And sentenced to pay a fine of AND
WHEREAS the said has not paid the same or any part
thereof:

This is authorise and require you to make distress by seizure of any movable
or immovable property belonging to the said which may
be found within Seychelles; and, if within
..... days of such distress the said sum be not paid, to sell by
public auction the property distrained, or so much thereof as shall be
sufficient to satisfy the said fine and thereupon return this warrant with an
indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of
..... 19

(Seal)

Magistrate

SEYCHELLES

Form No. XXI

INQUEST. SUMMONS TO A WITNESS.

In the Magistrates' Court

To

Whereas the Attorney General has requested the Magistrate to hold an inquest into the cause of death of one
..... in his life-time, residing at

Whereas there is reason to believe that you can give material evidence touching the same inquest: These are therefore in the name of the Republic, to command you, that all business being laid aside, and all excuses whatever ceasing, you personally be and appear at the Court aforesaid before the Magistrate who may be then and there sitting to give evidence regarding the aforesaid inquest. And this you by no means omit, under a penalty not exceeding rupees two hundred and fifty and fifteen days imprisonment.

Given under my hand at the Court House, this day of
in the year one thousand nine hundred and

Magistrate

N.B. The witness must have his summons initialed by the Interpreter on duty, each time he comes to Court in reference to the present case. If the attendance of the witness is not certified in the manner above described, it will not be taxed.

(At the end of his summons immediately before the date, insert the following);

And we further command that you, the said do produce and shew forth, at the time and place of aforesaid

SEYCHELLES

Form No. XXII

DEPOSITION OF

of in Seychelles taken on the day of in the year of Our Lord One thousand nine hundred and before me the undersigned Magistrate in and for Seychelles in the presence and hearing of the accused charged as set forth in the annexed information.

The said deponent, being a person of the persuasion, makes and says as follows in the Language:

My name is

SEYCHELLES

Form No. XXIII

WARRANT TO BRING UP A WITNESS WHO HAS REFUSED TO ATTEND IN PURSUANCE OF A SUMMONS

In the Magistrates' Court

To the Commissioner of Police and to all the other Police Officers and Constables within Seychelles.

Whereas by the statement on oath of it appears to me, Magistrate in and for Seychelles, that there is reason to believe that is a material witness to prove a lately committed:

And whereas the said having been duly summoned to give evidence touching the same, hath neglected to appear in pursuance of the said summons:

These are therefore, in the name of the Republic, to command you ad every one of you upon sight thereof, to bring before me, the said Magistrate, at the Court House, at at o'clock in the noon on the day of 19....., the body of the said so that he may then and there give evidence touching the

Given under my hand and the seal of the Court this day of, in the year of Our Lord one thousand nine hundred and

Magistrate

SEYCHELLES

Form No. XXIV

FORM OF COMMITMENT OF WITNESS FOR REFUSING TO GIVE EVIDENCE

In the Magistrates' Court

To the Commissioner of Police and to all Police Officers and Constables and also to the Superintendent of Prisons or to his deputy.

Whereas I have issued a summons under my hand directed to of requiring his personal attendance before me Esq., Magistrate in and for Seychelles at the time and place therein mentioned, to give evidence on behalf of the Republic touching of the service of which said summons oath hath been duly made before me:

And whereas the said having neglected and refused to appear pursuant to the said summons, I thereupon afterwards issued my warrant under my hand and seal ordering that the said Might be apprehended and brought before me to answer the premises:

And whereas the said In pursuance thereof hath been duly required to give evidence before me touching Yet the said notwithstanding hath absolutely and willfully refused to give evidence touching the same or to give sufficient reason for his refusal, in willful violation and delay of justice:

These are therefore in name of the Republic to command you the said Commissioner of Police to cause the said to be taken and safely to be conveyed and delivered to the said Superintendent together with this precept; and you the said Superintendent are hereby required to receive the said in prison and there to keep the said for the space of days, and for your so doing this shall be your sufficient warrant.

Given under my hand and the seal at the Magistrates' Court this day of in the year one thousand nine hundred and

Magistrate

SEYCHELLES

Form No. XXV

WARRANT OF COMMITMENT OF WITNESS FOR DETENTION IN
DEFAULT OF RECOGNISANCE (OR OF SURETIES) TO APPEAR AT
THE TRIAL

To the Superintendent of Prisons or his deputy/

Receive in your custody the body of Sent to you by
me Esq., Magistrate in and for Seychelles; it appearing to me that of
....., now stands committed on a charge of
..... touching which The said
..... Is a material witness, as appears by the
information of the said taken on oath, touching the same, and the said
..... being now required by me the said Magistrate, to
enter into a recognizance (or to tender sureties) for his (her) personal
appearance at the Court to be holden at Victoria, to the said
and the said Having admitted to me that he (she) intended
to absent himself (herself) from the said trial, and now refusing to enter into
such recognizance (or not finding such sureties), him (her) therefore safely
keep in your custody in default of such recognizance or for want of sureties
to give evidence as aforesaid in the trial of the said And
have him (her) in Court to give evidence accordingly; and for your so doing
this shall be your sufficient warrant.

Given under my hand at the Magistrates' Court this day of
in the year of one thousand nine hundred and

Magistrate

SEYCHELLES

Form No. XXVI

WARRANT OF COMMITMENT OF PARTY CHARGED FOR FURTHER
EXAMINATION

In the Magistrates' Court

To the Commissioner of Police and all other Police Officers and Constables
and to the Superintendent of Prisons or his deputy.

Whereas _____ of _____ is now brought
before me Esq., Magistrate in and for Seychelles the said _____
being charged on the oath of _____ of
_____ of having on the _____ day of
_____ 19 _____ committed the offence of

These are therefore in the name of the Republic, to command you the said
_____ to convey _____ to the
said Superintendent and you the said Superintendent are hereby required to
receive the said _____ in prison and
him there safely keep until _____ the _____ day of
_____ 19 _____ when you are hereby required to bring him the
said _____ again before me, at the Court House at the hour of
_____ in the _____ noon, then and there to be
examined and further dealt with according to law; and for so doing this shall
be your sufficient warrant.

Given under my hand at the Magistrates' Court this
..... day of in the year one thousand nine
hundred and

Magistrate

SEYCHELLES

Form No. XXVII

RECOGNISANCE FOR APPEARANCE OF PARTY CHARGED TO
STAND TRIAL

In the Magistrates' Court

1. I

acknowledge myself indebted to the Republic in the sum of Rupees

2. I

acknowledge myself indebted to the Republic in the sum of Rupees

3. I

acknowledge myself indebted to the Republic in the sum of Rupees

Upon condition that the said

Do personally at a sitting of the Magistrates' Court, at
on the day of 19, or on such other day to
which the Court shall adjourn the case then and there to answer to the charge
of and do not depart the said Court without leave, then
this recognizance shall be null and void or otherwise shall remain in full
force.

Signatures or Marks of Principal and Sureties.

Principal

Surety

Surety

Witness to the foregoing }

Marks and signatures }

SEYCHELLES

Form No. XXVIII

WARRANT OF COMMITMENT WHERE THE OFFENCE CHARGED IS BAILABLE BEFORE THE MAGISTRATE IN DEFAULT OF SURETIES:

RECOGNISANCE, ETC.

In the Magistrates' Court

To the Commissioner of Police and all other Police Officers and Constables and to the Superintendent of Prisons, or his deputy.

WHEREAS is now brought before me

..... Esq., Magistrate in and for Seychelles being charged on oath of and whereas the said is now required by me the said Magistrate to find two sureties to be bound in a recognizance in the sum of Rupees conditioned for his personal appearance at to be dated at to answer for the said offence but in as much as the said both that found such sureties; these are therefore in the name of the Republic to command you, the said to convey the said to the said Superintendent, and you the said Superintendent are hereby required to receive the said in prison, and him there safely keep until the day of 19..... when you are hereby required to bring him the said again before me, at the Magistrates' Court at at the hour of in the noon, then and there to be examined and further dealt with according to law; and for so doing this shall be your sufficient warrant.

Given under my hand at the Magistrates' Court this

day of in the year one thousand nine hundred and

Magistrate.

SEYCHELLES

Form No. XXIX

No. of 19, LIBERATE.

In the Magistrates' Court

The Commissioner of Police and to all the other Police Officers and to the Superintendent of Prisons or his deputy.

Discharge out of your custody the body of If detained for no other cause than what is mentioned in the

..... dated the Day of
In the year One thousand nine hundred and

In cause No. of 19, REPUBLIC V/S I having taken sureties for his personal appearance on the trial of the said cause. And for your so doing, this shall be your sufficient authority.

Given under my hand at the Magistrates' Court.....

on this day of 19.....

Magistrate.

SEYCHELLES

From No. XXX

WARRANT OF FINAL COMMITMENT OF PRISONER FOR TRIAL

In the Magistrates' Court

To the Commissioner of Police and all other Police officers and Constables and to the Superintendent of Prisons or his deputy.]

WHEREAS of is now brought before me Esq., Magistrate in and for Seychelles, the said being charged on oath of of of having on the day of 19..... of.....

These are therefore in the name of Republic to command you the said Commissioner of Police to convey the said to the said Superintendent, and you the said Superintendent are hereby required to receive the said in prison until he be delivered from your custody by due course of law and for so doing this shall be your sufficient warrant.

Given under my hand at the Magistrates' Court this

day of in the year one thousand nine hundred
and day of

Magistrate.

SEYCHELLES

Form No. XXXI

WARRANT OF COMMITMENT FOR NON PAYMENT OF FINE AND
COSTS

In the Magistrates' Court

To the Commissioner of Police and to the Superintendent of Prisons or his
deputy.

WHEREAS on the day of was duly
convicted before Esq., Magistrate in and for Seychelles, of having committed
the offence as defined by section of the Penal Code and was
condemned by me to pay a fine of Rs. and further to pay the sum of Rs.
..... for the costs, or in default thereof to be imprisoned in
Prison for the following periods, respectively, unless the said sums to sooner
paid, namely:

In respect of the fine of Rs.

Imprisonment during days

In respect of the costs, Rs.

Imprisonment during _____ days

WHEREAS the said

Has not paid the aforesaid fine and costs.

THESE ARE THEREFORE in the name of the Republic to command you the said Commissioner of Police, to cause the said

..... to be conveyed to the Prison there to deliver him to the Superintendent and you, the Superintendent are hereby required to receive

in prison and him there safety to keep for the aforesaid periods consecutively, unless the said sums be sooner paid or until delivered from your custody by due course of law and for so doing this shall be your sufficient warrant.

Given under my hand and seal at the Magistrates' Court, this

..... day of 19.....

Magistrate.

FORM OF DEMAND IN A CASE STATED.

Form No. XXXIV

In the Magistrates' Court

Case No. _____ of 19

v/s

To

Magistrate in and for Seychelles.

Sir,

I respectfully ask you to kindly state a case in the above matter for the opinion of the Supreme Court.

The grounds upon which I base my demand are that your judgment is

I am further ready and willing to enter into a recognizance for the due prosecution of the case stated before the Supreme Court until its conclusion.

Dated this day of 19.....

SEYCHELLES

Form No. XXXV

FORM OF RECOGNISANCE TO PROSECUTE A CASE STATED ETC.,

In the Magistrates' Court

Re: Cause No. of 19

I of

And

I of

Do hereby jointly and severally acknowledge ourselves to be indebted to the Republic in the sum of Rupees upon condition that is the said

doth prosecute his case stated before

the Supreme Court from a judgment or order pronounced against him on the day of on the complaint of of by Magistrate in and for Seychelles and in case the said judgment or order be affirmed the said be

..... in accordance therewith and all such costs be paid by the said then this recognizance to be void, otherwise to remain in full force.

(Signatures).

Taken and acknowledged at this day of in the year one thousand nine hundred and

Before:

Magistrate.

SIXTH SCHEDULE

Fees to be paid in the Registry

	<i>Rs.cts.</i>
For receiving information	5 00
For issuing a summons or warrant (per person)	3 00
For drawing up original conviction	3 00
For copy of the same	1 00

For depositing notice of appeal	10 00
For depositing memorandum of appeal	2 00
For taking cognizance of appellant	10 00
For copy of record, etc., per page or part thereof	3 00
For swearing affidavit	2 00
For filing affidavit	2 00

INTERPRETER'S FEES

Any interpreter other than a salaried public officer, for every attendance before the Magistrates' Court, shall be entitled to a fee to be fixed by the Magistrate according to the duration of the attendance or other circumstances connected with the case but in no case exceeding R.40 per day to be paid by parties as costs in the case.

Fees to be taken by Magistrates under section 320

Rs. cts.

For drawing case and copy-

When the case does not exceed 5 folios of 100 words each 30 00

When it exceeds 5 folios, for each additional folio	5 00
For recognizance to be taken in pursuance of section 320	10 00
For every enlargement or renewal thereof	5 00
For certificate of refusal of case	5 00
	Rs. cts

- For serving any summons, warrant, subpoena, notice or other document –
- (a) within 2 miles of the court house 6 00
 - (b) above 2 miles, for every extra mile, to be charged one way only 3 00

Provided that for service in Praslin or La Digue of document issued on Mahe, and vice versa, a fixed sum of R.25 will be payable.

SEVENTH SCHEDULE

(Sections 282, 283, 284, 285, 286, 287 and 288)

2/4/1994

1. Murder.
2. Manslaughter.
3. Rape or attempted rape.
4. Any offence under Chapter VIII of the Penal Code (Chapter 158).
5. Any offence under Chapter IX of the Penal Code (Chapter 158).
6. Any offence against sections 236, 237 or 238 of the Penal Code (Chapter 158)

7. Any offence, other than an offence which is not subject to a mandatory minimum sentence, under the Misuse of Drugs (Chapter 133).
8. Any offence against sections 15, 16 or 17 of the Explosives Act (Chapter 77)
9. Any offence against section 26 of the Firearms Arms and Ammunition Act (Chapter 80) (where the proviso to sub-section (3) applies) and any offence against section 32 of the same Act.
10. Any offence against section 10 of the Public Order Act (Chapter 194).

LAWS OF SEYCHELLES
CRIMINAL PROCEDURE ACT
CHAPTER 54
SUBSIDIARY LEGISLATION

Section 131

The Prescription of Persons Notice

SI. 61 of 1972

(15th May, 1972)

1. This Notice may be cited as the Prescription of Persons Notice.
2. The following persons are hereby prescribed for the purposes of section 131 of the Criminal Procedure Code.

W.A. Gliddon Esq BSc

South Western Forensic Science Laboratory

37 Julian Road

Sneyd Park

BRISTOL B29 IJY

R.M. Mitchell Esq BSc

South Wales & Monmouthshire Forensic Science Laboratory

Government Officers, Tyglass Road

Llanishen

GARDIFF CF4 5YG

W.E. Montgomery Esq BSc PhD DIC ARCS

West Midland Forensic Science Laboratory

Priory House

Gooch Street North

BIRMINGHAM 5

I.G. Holden Esq BSc PhD FRIC

East Midland Forensic Science Laboratory

Shakespeare Street

NOTTINGHAM NG1 4FR

I.M. Barclays Esq BSc PhD FRIC

North Eastern Forensic Science Laboratory

Haddon Lodge

32 Rutland Drive

HARROGATE

S.S. Kind Esq BSc FLS FIBiol

Northern Forensic Science Laboratory

Government Site
Broadway West
NEWCASTLE UPON TYNE NE3 5HL

F.L. Cann Esq Bsc ARIC
North Western Forensic Science Laboratory
Washington Hall
Euxton
CHORLEY
Lancashire

P.G.W. Cobb Esq
Home Countries Forensic Science Laboratory
Aldermaston
READING RG7 4PN

R.L. Williams MA DPhil DSc
Metropolitan Police Laboratory
2 Richbell Place
Theobalds Road
LONDON WC1

THE CRIMINAL PROCEDURE CODE

S.I. 113/1970.

[SECTION 173 (2)(e)]

THE CRIMINAL PROCEDURE (MINOR OFFENCES) ORDER

[19th October, 1970]

1. This order may be cited as the Criminal Procedure (Minor Offences) Order.

2. It is hereby directed that any offence mentioned in paragraph (a), (d), (e), (f) or (g) of sub-section (1) of section 24 of the Road Transport Act may be tried in accordance with the provisions of section 173 of the Criminal Procedure Code.

[SECTION 175]

S.I.15/1963.
S.I. 27/1982

THE SUPREME COURT (RECORD OF EVIDENCE) RULES

(6th May, 1963)

1. These rules may be cited as the Supreme Court (Record of Evidence) Rules.

2. In all criminal cases coming before the Supreme Court the evidence of the witnesses shall be recorded in the following manner:-

(a) The evidence of each witness shall be taken down in writing in English by the Judge, or in his presence and hearing and under his personal direction and superintendence, and shall be signed by the Judge, and shall form part of the record.

(b) Such evidence shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative:

Provided that the Judge may in his discretion take down or cause to be taken down any particular question and answer.

(c) Whenever the evidence of a witness is given in French or Creole the Judge may, if he is satisfied that he is sufficiently conversant with these languages, take down or cause to be taken down such evidence in English in accordance with the provisions of the preceding paragraphs without the use of a sworn interpreter.

3. Notwithstanding anything in Rule 2, the Judge in any criminal trial before the Supreme Court may direct that shorthand notes shall be taken of the evidence and proceedings by one or more stenographers, who may or may not be assisted by recording equipment, and the transcription of such shorthand notes, when certified by the Judge, shall be the official record of the evidence and proceedings at such trial.

Section 279(2)

JURORS (TRAVELLING AND SUBSISTENCE) RULES

S.I.37/1982.

[8th July, 1982]

1. These rules may be cited as the Jurors (Travelling and Subsistence) Rules.

2. Jurors shall be entitled to be paid traveling and subsistence allowances during their attendance at the Supreme Court in connection with any case for which they have been summoned according to the following scales:

Rupees

Professional and self-employed persons, the actual cost of their daily income lost by such attendance per day or part thereof but not to exceed	100
---	-----

Salaried persons other than salaried public officers, the actual cost of their daily salary or wages lost by such Attendance per day or part thereof but not to exceed	50
--	----

All other persons not being salaried public officers, per Day or part thereof	50
---	----

Provided that all jurors from Praslin and La Digue shall; be paid the actual cost of traveling by air or surface to

Mahe and of room and board during their stay in Mahe

but not to exceed per day

100
