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1965

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OF
NORTHERN NIGERIA
1965

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I NYAKO . SIR ABUBAKAR TAFAWA BALEWA

[High Court (Reed, S.P.J.)—April 3, 1965]
[J s—Civil Cause No. JD/5/1965]

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wher candidate is turned unopposed without a poll—Electoral Act,
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— —— p venting candidate's nomination—preventing candi-
date om campaig ing—whether corrupt practice—whether a non-
comp ce with Part II of Electoral Act, 1962—ibid., s. 17(2), s. 165.

— petition —person entitled to present petition—person
alleg himself to ha e been a candidate—not nominated as a candidate—
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— —— p ctice and procedure—pleading—issues not pleaded
—re not claimed—"matter otherwise appearing" dealt with on the
meri ibid., s. 115(2).

rds and ph ases—"election"—not restricted to "poll"—ibid.,
s. 81 92(1)(*b*).

respondent in an election petition was returned unopposed. The petit r alleged in t e petition that he was a candidate at the election and that had been prev nted by corrupt practices from filing his nomination pape In fact, he pa d a deposit but was not nominated as a candidate. He said vidence that he was his party's candidate, and there was evidence that campaigned in the constituency. On the question whether the petit r was entitled o present the petition,

Held: (1), witho making any findings of fact on the evidence, that the petiti r was a pers n alleging himself to have been a candidate at the elect within the m aning of s. 91(1)(*c*) of the Electoral Act, 1962, and was t efore entitled o present the petition.

petition com plained about the election, not about the return. The petiti r questioned he election on the ground that it was invalid by reason of cc pt practices, namely, undue influence, which prevented him from camp ning and fil g his nomination papers. He alleged that the respc ent's agents and servants terrorised the constituency with indis minate arrests of the petitioner's supporters over three hundred of whor ere imprisoned on trumped-up and frivolous charges. The evidence addu to show that the petitioner was prevented from campaigning included evide of the terrori tion so alleged.

Held: (2), The wo d "election" (*sc.*, in s. 81 and s. 92(1)(*b*) of the Electoral Act) ludes all proc dings from the issue of the writ for the election to the endo ment and retu n of the writ and is not restricted to meaning the same as th ord "poll".

Though the e sential element of the offence of undue influence is the impr r interference with the free exercise of the vote by an elector at an elect it is not nece sary for the commission of the offence that the elector shou have the oppo unity to vote and the offence may be committed even if th ndidate is elec ed unopposed and without a poll.

(4) Though it is not a corrupt practice, as defined by s. 165 of the Electoral Act, to prevent a candidate from campaigning or to prevent him from filing his nomination papers and the petitioner did not allege that the free exercise of the vote by the electors was unduly influenced, if the allegations of terrorising the constituency were established by the evidence, including the evidence of terrorisation adduced to show that the petitioner had been prevented from campaigning, there would be facts from which the Court could infer that the respondent was guilty of unduly influencing the free exercise of the votes of the electors.

(5) The allegation that the petitioner had been prevented from filing his nomination papers was an allegation of non-compliance with Part II of the Electoral Act by the denial of the right to lodge nomination papers conferred by s. 17(2), and in exercise of the powers conferred by s. 115(4) of the Act the Court would deal with the petition on the merits as if relief were claimed on the ground of non-compliance with Part II by preventing the petitioner from filing his nomination papers, as well as on the ground of undue influence.

Case referred to:

Harford v. Linskey, [1899] 1 Q. B. 852, followed.

ELECTION PETITION

E. Umeadi, with him *F. M. Obianyo*, for the petitioner;

R. O. Gaji, with him *A. Husain*, *C. A. Adefarasin* and *D. A. Akintoye*, for the respondent.

Reed, S.P.J.: This is a petition brought under the Electoral Act, 1962, (hereafter called "the Act") in which the petitioner prays that it may be determined that the return of the respondent to the House of Representatives for the Bauchi South-West Constituency was "null and void."

Section 91(1) of the Act defines the persons who may present a petition. Section 100 (1) (*a*) requires the petitioner to include a statement of his right to present the petition. Paragraph 1 of the petition alleges that the petitioner—

> "is a person who was a candidate at the above election."

A person "alleging himself to have been a candidate at the election" is a person who may, under section 91(1), present a petition. The petitioner was not, in fact, nominated as a candidate for election in the constituency and a preliminary point was whether he was entitled to present the petition.

A person "alleging himself to have been a candidate at the election" is a person who may present an election petition under the Municipal Corporations Act, 1882, and the words have been judicially interpreted in the English case of *Harford v. Linskey*, [1899] 1 Q.B. 852. At page 859 the Judge said—

> "The words 'a person alleging himself to have been a candidate' cannot of course mean that a mere allegation without any colour of foundation in fact would suffice. Such a merely false allegation would be properly dealt with in a summary way. But the words used seem designed to express something wider than

> absolutely valid candidature, and they are at any rate consistent with the view that any person who was in fact a candidate may present and maintain a petition, just as persons who voted in fact may do whether or not they had a right to vote. Nor does there seem to be any sufficient reason why the words should be limited even to persons who have been in fact nominated in due form. It is quite possible that an intended nomination of a person may have fallen through or have been prevented in such a way that the election of another person may have been invalid and in any such case it can hardly have been intended to deprive the aggrieved person of the right to petition."

The petitioner paid his deposit into the Revenue Fund as required by section 20 of the Electoral Act and he complains that one of his nominators was arrested when he was on his way to deliver his nomination papers to the electoral officer. There is evidence that he campaigned in the constituency. He alleged in his evidence that he was "the U.P.G.A. candidate for Bauchi South-West Constituency". I make no findings of fact on this evidence but I am of opinion that the petitioner "is a person alleging himself to have been a candidate at the election" and has, therefore, a right to present this petition.

The petition alleges that—

> "the said election was invalid by reason of the fact that the respondent committed corrupt practices through his agents and servants which prevented the petitioner from campaigning and filing his nomination papers"

Thereafter the particulars of the corrupt practices are set out in a number of sub-paragraphs.

A "corrupt practice" is defined in section 165(1) of the Act as meaning—

> "any of the following offences namely, bribery, personation, treating, and undue influence, and includes aiding, abetting, counselling and procuring any such offences."

Nowhere in the petition are the "corrupt practices" specified but counsel for the petitioner made it clear that the offence of undue influence, and no other offence, was alleged. "Undue influence" is defined in section 81 of the Act as follows—

> "Any person who directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of, any force, violence, or restraint, or who inflicts or threatens to inflict by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person, in order to induce or compel anyone to vote or refrain from voting, or on account of anyone having voted or refrained from voting, at any election, or who by abduction, duress, or any fraudulent device or contrivance impedes or prevents the free use of the vote by any elector or thereby compels, induces or prevails upon any elector

either to give or refrain from giving his vote at any election, shall be guilty of a corrupt practice and commits the offence of undue influence, and shall be liable on conviction to a fine of one hundred pounds or to imprisonment for the term of twelve months, or to both."

The essential element of the offence of undue influence is the improper interference with the free exercise of the vote by an elector at an election. The respondent was the only candidate nominated and he was returned unopposed; nobody, therefore, "voted" and it appeared doubtful whether this petition could succeed on the grounds of undue influence, which is an electoral offence. It could be said that as there was no election the remedy open to the petitioner was to question the *return* of the respondent (on the grounds that the petitioner had been denied the right of being nominated as a candidate) and not to question the *election* of the respondent. Section 90 of the Act distinguishes between the "election" and the "return" being questioned in a petition. This would mean giving a restricted meaning to the word "election", a meaning synonymous with the word "poll". However Mr Umeadi submitted—and I agree with him—that the word "election" should be interpreted in a wider sense. I think it should include all proceedings from the issue of the writ for the election to the endorsement and return of the writ. I note that section 25(1) states that—

> "If after the expiry of the time for delivery of nomination papers there is only one person whose name is validly nominated, that person shall be declared *elected*."

If a person, by duress, compels or induces or prevails upon any person registered as an elector either to give or refrain from giving his vote at the election he is guilty of the offence of undue influence, as defined by section 81, which is a corrupt practice. If a candidate commits, or is deemed under the Act to have committed, such an offence at an election, and that candidate is elected, his election is, by virtue of section 78(1), invalid. I do not think it is necessary for the commission of the offence that the elector should have the opportunity to vote; the essential element is the influencing of the vote. In my view the offence can be committed, therefore, even if the candidate is elected unopposed and without a poll.

The petition does not, however, allege that the free exercise of the vote by registered electors of Bauchi South-West constituency was unduly influenced. The allegation in the petition is that—

> "the respondent committed corrupt practices through his agents and servants which prevented the petitioner from campaigning and filing his nomination papers."

Preventing the petitioner from campaigning and filing his nomination papers are matters quite different from preventing electors freely exercising their votes. In the particulars of the "corrupt practices" set out in the petition there is no mention of registered electors having their votes influenced and not a single witness called by the petitioner made a direct allegation to that effect.

However the petition alleges, *inter alia*, and evidence was called in support, that the respondent's "agents and servants" were—

> "terrorising the whole constituency with indiscriminate arrests of the supporters of the petitioner who belong to the political party known as and called the United Progressive Grand Alliance"

and that—

> "over 300 supporters of the petitioner were imprisoned on trumped up and frivolous charges."

If the petitioner can establish these allegations then I think there would be facts upon which the Court could infer that the respondent was guilty of unduly influencing the free exercise of the votes of the registered electors of Bauchi South-West constituency.

Section 115(4) of the Act states—

> "The court in the trial and determination of the petition shall not be obliged to confine its inquiry or findings to the issues raised by the petition and the reply; and . . . may, with or without ordering or allowing the amendment to any statement of the facts and grounds relied upon in support of the petition or the amendment of any admission or denial contained or facts or grounds set out in the reply, inquire into any other issue otherwise raised or apparent or any matter otherwise appearing, as to the court may seem necessary for the proper determination of the petition."

I shall, therefore, deal with the petition on the merits as if the relief were claimed on three grounds, namely—

(1) that the respondent has committed, or is deemed to have committed, a corrupt practice, namely undue influence as defined by section 81 of the Act;
(2) that the respondent has, through his agents and servants, prevented the petitioner from campaigning; and
(3) that the respondent has, through his agents and servants, prevented the petitioner from filing his nomination papers.

With regard to (2) and (3), it is not a corrupt practice, as defined by section 165 of the Act, either to prevent a candidate from campaigning or to prevent him from filing his nomination papers. Section 92 sets out the grounds upon which an election may be questioned. There is one possible ground only which these allegations could support and that is non-compliance with the provisions of Part II of the Act. As to (3), section 17(2) in Part II of the Act confers a right to lodge nomination papers during normal office hours at the place or places appointed by the electoral officer so that a denial of that right would, in my opinion, be non-compliance with Part II. As to (2), I am unable to find anything in Part II which requires that a candidate shall be allowed to campaign freely and without molestation. I think, therefore, that I should consider the evidence in support of this allegation as evidence in support of (1), the allegation of undue influence; that is, as evidence showing (to use the

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petitioner's own expression) that th
that, if the allegation is proved, the co
the vote by electors had been impeded

With regard to (1) I have alread
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whole constituency with indiscrimina
petitioner", and had had three hu
trumped-up and frivolous charges", t
court could find that the free use of
tuency had been impeded by duress. I
respondent elected unopposed and to
nominated would, if proved, be a r
evidence to decide whether these alle
decide, if the allegations are found pr
to have committed" the corrupt prac
noted that no complaint was made
he would, however, be deemed to ha
if, by virtue of section 78(2)—

> "it was committed with his
> the knowledge and consent of a
> or special authority of the candi

(The learned Senior Puisne Juc
of the witnesses on both sides, and

I must now make my findings
the one before me is very difficult to
have heard no witnesses called by th
impartial. I have given this case the r

I have considered the demeanou
and studied their evidence, and I ha
nearly nineteen years on the Bench
conclusion that the ten witnesses
reliable witnesses and that I should
I am entitled to say from experie
before me—that political activities i
the local authorities and police are
time to maintain law and order. Th
zeal. But the firm impression that I h
is that there has been gross exagger
the petitioner's witnesses. I feel bou
were inspired by malice.

I now deal with the evidence for
judgment, I classified in five grou
evidence that twenty-one people we
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vote by electors in the consti-
nk that a conspiracy to have the
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ons are true in fact. I must also
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of undue influence. It is to be
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ommitted the corrupt practice

wledge and consent, or with
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with reference to the election."

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ct on the evidence. A case like
Politics inflame passions and I
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the witnesses in the witness-box
pplied my experience gained in
Nigeria. I have come to the
ed by the petitioner are not
accept their evidence. I think
—though there is no evidence
igeria do lead to disorders and
nd to intervene from time to
nay at times act with excessive
obtained in the case before me
n and distortion of the facts by
to say that I consider that they

petitioner which, earlier in this
With regard to group (*a*), the
rrested and imprisoned because
ne Alkali of Fodere sent them to
of the respondent's 1st witness,
wa Native Court, Grade D. I
have been given by the registrar

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Reed, S.P.J.

of that court, as to what actually did take place. But none of them, apparently, made any complaint against the sentence and I am satisfied, from the evidence of the respondent's 1st witness, that the Bauchi Native Authority prison is a properly run prison where a prisoner would not be held without a warrant and where he has the opportunity to make a complaint. None of the witnesses impressed me and I am sure they did not tell me the truth about what happened before the Alkali. One of them admitted that there was a suggestion that they were there for fighting the Native Authority police. I do not believe that these twenty-one people were arrested and imprisoned simply because of their political beliefs.

With regard to (*b*), the allegation of arrests or attempted arrests of the 2nd, 3rd, 7th, 9th and 10th witnesses for the petitioner, it is to be noted that all of them supported or campaigned for the petitioner. The 2nd witness said he was arrested because it was alleged he had received people who had escaped from police custody. He was still in custody when he gave evidence and there was no suggestion that he was there unlawfully. The 3rd witness named two native authority policemen who, he said, imprisoned and ill-treated him for two days because he supported a political party; apparently the policemen then released him. Again I should have liked to hear these two policemen but I am not bound to accept, and I do not accept, the evidence of the 3rd witness. The 5th witness simply said that Native Authority Police came to arrest him; they did not do so and he ran away to Jos. The 9th witness contradicted himself; at first he said he was arrested and taken to Bauchi Prison yard but then he said he was not arrested at all—he escaped and ran away. The 10th witness said he was threatened with arrest and ran away. I do not regard any of these witnesses as truthful.

With reference to (*c*), evidence of interference with the petitioner's campaign, what I have said about the petitioner's witnesses under (*a*) and (*b*) applies. I have come to the same conclusion about the petitioner himself. He did not impress me as a truthful witness. In particular, I think he lied to the court about exhibit 'D'. He admits he signed exhibit 'D' which is an affidavit sworn on 22nd February, 1960, in support of his application to withdraw an election petition. Admittedly it was a long time ago; but the petitioner is an educated and intelligent man and an affidavit is something which is not undertaken lightly. I have no hesitation in saying he was lying when he said—

> "I did not swear before the Commissioner for Oaths, Bauchi. I was given the document in prison in Bauchi to sign. I cannot remember the man who gave it to me. I do not know if I read it before I signed; I was not in my senses. I refused to sign but I was forced to sign as a prisoner. I was forced by the man who gaoled me. The Alkali was the man who gaoled me".

Next I deal with (*d*), evidence of efforts to have the respondent elected unopposed. There can, in my view, be no objection to attempts being made to have a candidate elected unopposed provided, of course,

no improper pressure is used. I reject the suggestion that exhibit 'C' is a letter from the Northern Peoples Congress; indeed the writer infers that his politics are the same as the petitioner's when he says—

> "Even Chief Awolowo himself, from whom both you and I have taken our political inspiration, speaks favourably of him."

There are threats of "unpleasant repercussions" falling on the petitioner "heavily" if he contest the seat and these remarks cannot be approved. However the purpose of the letter is clear—namely that the respondent should not be opposed because he is a political leader greatly liked and respected by everybody.

The petitioner said that Mallam Yakubu had told him that he, the petitioner, should withdraw to allow the respondent to be elected unopposed. The petitioner said that Mallam Yakubu offered him "a job under the Government" if he did so but I do not accept that evidence. I do not attach importance to the petitioner's allegation that polling booths were not erected and I shall deal later with the 2nd witness's evidence that he was prevented from filing the petitioner's nomination papers.

For these reasons I find against the petitioner on his allegation of corrupt practice, namely undue influence. I would add that I would not, on the evidence before me, find that any of the persons against whom the allegations were made were acting "under the general or special authority of" the respondent. Still less were the acts committed with the "knowledge and consent" of the respondent. It follows that the respondent could not in any event be found to have committed, or be deemed to have committed, a corrupt practice so as to invalidate his election under section 78 of the Act.

Finally I deal with the allegation that the petitioner was prevented from filing nomination papers. I have said that I am of opinion that this, if proved, would amount to non-compliance with Part II of the Act. The petitioner's 2nd witness said he was arrested just as he was about to file the papers. But he was with others and the nomination papers were with another person. There is no reason to think that somebody else could not have presented them; section 18(3) of the Act states that the candidate, or one of the persons nominating him, may present the papers. Even if I accepted the evidence of the 2nd witness I could not find that the result of the election was affected and could not, therefore, invalidate the election. I refer to section 93(1) of the Act.

For reasons which I have given the petition fails and is dismissed.

Petition dismissed

ADO AHMED DOGARAI *v.* ALI GWARZO AND RETURNING OFFICER FOR BABURA-GARKI CONSTITUENCY

[High Court (Holden, J.)——April 5, 1965]
[Kano——Civil Cause No. K/18/1965]

Elections——petition——practice and procedure——misjoinder——amendment of petition——time limit for amendment——substitution of electoral officer for returning officer as respondent——Electoral Act, 1962, *s.* 115 (2); *s.* 148.

—— —— —— technical defects in interlocutory application——hearing in public interest.

It was alleged in an election petition that the election had not been properly conducted, but none of the averments in any way concerned the second respondent, who was the returning officer, and he applied to be struck out. The petitioner opposed the application and in the alternative, by an oral application without notice and unsupported by affidavit or reasons, sought leave to amend the petition by substituting the electoral officer as second respondent. The time limited for presenting an election petition had expired.

Held: (1) The question being whether the election was properly conducted, the matter was one in which the public interest completely overshadowed the interests of the individuals involved. Therefore the court would overlook the technical insufficiencies of the oral application to substitute the electoral officer as a respondent though it would not have done so in an ordinary civil action, and would do what seemed best for the purpose of bringing the petition on for hearing.

(2) The object of the time limit for presenting an election petition is that the election should be challenged promptly if at all. Whether the returning officer or the electoral officer should be joined was of lesser importance than knowing whether the Member was elected. Though the joinder of the returning officer could not be called a mere misnomer, it was necessary in the public interest that the amendment should be allowed and it was not one prohibited by s. 115(2) of the Electoral Act, 1962, from being made after the expiry of the time limit for presenting the petition.

ELECTION PETITION

S. E. Nwokoye for the petitioner;
A. D. Ajijola for the first respondent;
K. Hassan, State Counsel, for the second respondent.

Holden, J.: The second respondent, the returning officer for the Babura-Garki constituency, has applied to be struck out from this election petition on the grounds that none of the matters averred in any way concern him. Mr Nwokoye for the petitioner submitted that as agent of the Electoral Commission he should remain as a respondent and answer on behalf of the Commission the various allegations. If that were all, the matter would be quickly settled, and I would grant Mr Hassan's application and strike the second respondent out of the petition. Mr Nwokoye, however, seeks leave to substitute for the returning officer the man whom he should have joined in the first

place, namely the electoral officer. He makes this application orally and with no attempt to explain his request, nor does he show why the right man was not joined at the beginning. If this were an ordinary civil action I would have no hesitation in refusing the application. In a civil action, if the parties or their counsel cannot take the trouble to get their applications right, the Court shows them little mercy, but in an election petition we are not concerned with the interests and claims of private individuals. It has been alleged that the election in this constituency was not properly conducted. That is a matter in which the interest of the community is seriously concerned, and in which public interest completely overshadows the interests of the individuals involved. It is necessary that the allegations of impropriety in the conduct of the election be enquired into and pronounced upon judicially, and no technicalities can be allowed to stand in the way of that enquiry. Accordingly, I will overlook the fact that this application is in the wrong form and without notice (a point which Mr Hassan quite properly has not raised) and without any supporting affidavits or reasons of any sort, and will do what I think best for the purpose of bringing this petition on for hearing, in spite of the mistakes of counsel for the petitioner.

It seems to me that the original mistake in joining the returning officer was due to blindly following English precedent, without considering the Electoral Act, 1962, which governs general elections in Nigeria. In the English system, the returning officer is in charge of the election in his constituency from start to finish, and is responsible for the conduct of it all. There is nobody in the English system corresponding to the electoral officer in the Nigerian system. Thus all cases referred to as authorities will bear the names of the respective returning officers as respondents, and it seems probable, thought not excusable, that counsel who drafted the petition (not Mr Nwokoye, let me hasten to say) was thus misled. It is also possible that a similar misunderstanding has led to section 148 referring to the returning officer only, for he is thereby made a respondent automatically if there is any complaint as to his activities, whereas the electoral officer is not likewise affected no matter what the petition may say about him.

The only question of any difficulty is whether or not it is too late to make this amendment. Mr Nwokoye submits that it is not, for the time limit of twenty-one days applies only to the act of challenging the election. Mr Hassan submitted that this is too substantial an alteration to come under section 115 and should have been made within twenty-one days of the election.

In my view Mr Nwokoye is right. The object of the time limit is that when there has been an election it must be challenged promptly if it is to be challenged at all. Whether the electoral officer or the returning officer are joined is of lesser importance compared with the importance of knowing that the Member apparently elected was perhaps not elected after all. Furthermore, section 115(2) is clear as to what amendments are not to be allowed after the twenty-one day period—

> "After the expiry of the time limited by this part of the Act for presenting a petition, no amendment shall be made for the purpose of introducing any fresh prayer into the petition, or effecting any alteration of substance in the prayer or, save as to anything which may be done under the provisions of the next succeeding subsection, for the purpose of effecting any substantial alteration in or addition to the statement of facts and grounds relied upon to sustain the prayer."

In normal civil actions it is not usual to allow a party to be substituted for one mistakenly joined when the time limit (where there is one) has passed. That rule is not applied where it is a case merely of misnomer and not of mistaken identity. I would not go so far as to call the mistake in this petition a mere misnomer, for the two officers are quite different in their duties, but I think it is necessary in the public interest, in order that the allegations made by the petitioner can be publicly put to the test, that the amendment be allowed.

I therefore order that the name of the returning officer for Babura-Garki constituency be struck out of the petition and that the name of the electoral officer for that constituency be substituted therefor.

Application granted, respondent substituted.

MAIDUGU NGELIZANA *v.* ALHAJI MUSA HINDI AND MALLAM LOBO

[High Court (Reed, S.P.J.)——April 6, 1965]
[Jos——Civil Cause No. JD/10/1965]

Elections——petition——petitioner's address for service and name of occupier omitted——whether petition may be filed——petition left with registrar——whether deemed to be filed——whether filed in accordance with law——Electoral Act, 1962, *s.* 99(1), *s.* 100(4).

A petition which does not include an address for service on the petitioner and the name of the occupier of the address as required by s. 100(4) of the Electoral Act, 1962, may not be filed and, if filed, is not filed in accordance with law and is not to be deemed to be filed, and will be struck out.

Case referred to:

Okoebor v. Bare and o'rs, (1959) W.R.N.L.R. 14, followed.

ELECTION PETITION

N.B.N. Okam for the petitioner;
G. Brown-Peterside for the first respondent;
P.A. Barreto, State Counsel, for the second respondent.

Reed, S.P.J.: Counsel for the second respondent has moved the Court for an order striking out the petition on the ground that it is "not properly before" the Court.

Section 100(4) of the Electoral Act, 1962, states—

> "At the end of the petition there shall be stated an address for service within a radius of three miles of a post office in the area of jurisdiction of the court, and the name of its occupier, at which address documents intended for the petitioner may be left. There shall also be added a note signed by the petitioner, giving the name of his solicitor, or stating that he acts for himself, as the case may be; and if an address for service and its occupier are not stated in the petition, it shall not be filed unless the court otherwise orders."

At the end of the petition there is the thumb-print of the petitioner followed by—

> "Address for service.....
>
> Occupier:—
>
> His address:—
>
> The Name of my Solicitor is G.C.U. Agbakoba of 1, Agbakoba Avenue, Jos."

There is then the thumb-print of the petitioner.

The petition was left with the registrar on 19th January, 1965, and the necessary fees were paid on that date. Section 99(1) of the Act states that—

> "A petition shall be deemed to be filed if left with the registrar by the petitioner or his solicitor."

Mr Barreto, State Counsel, for the second respondent, submitted that the address for service and its occupier have not been stated in the petition; that the petition did not, therefore, comply with the mandatory provisions of section 100(4) of the Act; that as the Act expressly provides that, in the event of non-compliance, the petition "shall not be filed" unless the court otherwise orders, and the court has not otherwise ordered, the petition has not been filed in accordance with law and should be struck out.

Mr Okam, for the petitioner, submitted that the statement of the name and address of the solicitor is a statement of the address for service and its occupier. In the alternative, he submits that the leaving of the petition with the registrar is all that is necessary for the lawful filing of the petition since section 99(1) provides that, in that event, the petition "shall be deemed to be filed".

I reject Mr Okam's submission that the statement of the name and address of the solicitor is a statement of the petitioner's address for service and its occupier. Section 100(4) makes it quite clear that the statement of the address for service and the statement about the solicitor are separate and distinct requirements. The petition, on the face of it, shows clearly that the petitioner has failed to comply with the requirement of section 100(4) of the Act that he should state an address for service and the name of its occupier.

The issue is whether I should find that the petition has been filed in accordance with law on 19th January, 1965, the petition having been left with the registrar on that day, by reason of section 99(1) of the Act which states that it must, in that event, be "deemed to be filed" on that day.

I have been referred to an authority which is helpful although it does not interpret the provisions of the Electoral Act, 1962; it interprets similar provisions in legislation existing before the Act. In *Okoebor v. Bare and o'rs*, (1959) W.R.N.L.R. 14, objection was taken that the petitioner had not complied with rule 6 of the Supreme Court (Election Petitions) Rules, 1951, in regard to particulars as to address for service to be stated at the foot of the petition. Rule 6(4) reads—

> "At the foot of the petition there shall be stated an address for service within three miles of a Post Office in the Judicial Division, and the name of its occupier, at which address documents intended for the petitioner may be left. If an address for service and its occupier are not stated, the petition shall not be filed unless the Court otherwise orders."

Thomas, J., said that he was "certainly" of opinion that the defects could be cured without prejudice to either side. But he held that the defects were not merely formal and that he could not cure them. He dismissed the petition. Thomas, J., did not consider any provision similar to section 99(1) of the Electoral Act, 1962.

Maidugu Ngelizana v. Alhaji Musa Hindi and Mallam Lobo

Reed, S.P.J.

I have come to the conclusion, with reluctance because I think the result is harsh, that I must strike out the petition before me. Mr Okam suggests that the registrar should "look into the petition before accepting it for filing" but there is no such requirement in section 99. Indeed the section requires only that it shall be "left" with him and, in my view, the duty of the registrar is only an administrative duty to receive it and give, if required, a receipt. If I were to hold that the petition was filed in accordance with law on 19th January, 1965, I would ignore the express provision of section 100(4) that it should not be filed. The court must construe a statute to give effect to the intention of the legislature and that intention is clearly expressed in section 100(4). In my view the words:—

> "A petition shall be deemed to be filed if left with the registrar by the petitioner or his solicitor"

must be construed to mean—

> "A petition *which complies with the requirements of the law* shall be deemed to be filed if left with the registrar by the petitioner or his solicitor."

By applying this construction it must follow that the petition is not filed in accordance with law and I so hold.

The only course open to me now would be to give leave to the petitioner to file an amended petition. Section 90 of the Act states, however, that the petition shall be presented "not later than twenty-one days after the date of the election". That period has now elapsed and the court has no power under the Act to extend the time within which a petition may be presented. I have, therefore, no alternative but to declare that the petition is not properly before the court and to strike it out. I so order.

Petition struck out.

YUSUFU GAZUWA *v.* DAVID DIMKA

[High Court (Reed, S.P.J.)——April 7, 1965]
[Jos——Civil Cause No. JD/17/1965]

Elections——petition——practice and procedure——joinder of parties ——respondents——electoral officer——court of its own motion will not join electoral officer as respondent——Electoral Act, 1962, *s.* 91(1) *(c) and* (2)*;*

The court of its own motion will not join the electoral officer as a respondent to an election petition.

Where the petitioner considers that it is a proper case to join the electoral officer it is for the petitioner to join him when he presents the petition or, if he has not done so, to apply to the court at a later stage to have the electoral officer joined.

Per Curiam: Provided the petitioner has made the member whose election or return is complained of the respondent the petition is properly before the court.

ELECTION PETITION

G. C. U. Agbakoba for the petitioner;
G. Brown-Peterside for the respondent;
P. A. Barreto, State Counsel, for the electoral officer.

Reed, S.P.J.: After the petition had been filed the second respondent applied to have himself struck out on the ground that no complaint had been made against him. The petitioner agreed that there was no allegation in the petition against the returning officer and did not oppose the application. The court then struck out the second respondent.

Section 91(2) of the Electoral Act, 1962, states that—

> "The Electoral officer in the constituency affected shall in any proper case be joined as party to the petition."

The petition before me contains a number of allegations against the conduct of the electoral officer and, *prima facie*, it would appear to be a "proper case" for joining him. The petitioner has neither joined him nor applied to have him joined. The Act does not state who must join him. It is arguable that the court should, on its own motion, make the order. I therefore had the electoral officer of the constituency put on notice to show cause why he should not be joined.

The Act does not state who is to be the respondent in an election petition. Section 92(1) (*c*) seems, however, to assume that the respondent is the member whose election or return is complained of; it states, in setting out the grounds upon which an election may be questioned—

> "That the respondent was, at the time of the election, not duly elected by a majority of lawful votes at the election;"

Yusufu Gazuwa v. David Dimka — Reed, S.P.J.

In my view there can be no doubt that in any petition under the Act the respondent must be the member whose election or return is complained of. It is to be noted that in England the position is clear; section 108(2) of the Representation of the People Act, 1949, states that:—

> "The member whose election or return is complained of is hereinafter referred to as the respondent, but if the petition complains of the conduct of a returning officer, the returning officer shall for the purposes of this Part of this Act be deemed to be a respondent."

I am of opinion that provided the petitioner has made the member whose election or return is complained of the respondent the petition is properly before the court. I have come to the conclusion that it is not for the court, on its own motion, to join the electoral officer under section 91(2) of the Electoral Act, 1962. I think it is for the petitioner to join him. The petitioner should, in the first instance, decide whether it is a "proper case" to join him and, if he decides in the affirmative, should join him when he presents the petition; if he has not done so he may move the court at a later stage to have the electoral officer joined. The electoral officer may, of course, consider that it is not a "proper case" for him to be joined and may apply to have himself struck out; the court will then have to decide the issue whether it is a "proper case".

I have come to this conclusion for the following reasons. Section 91 is a section which deals with the presentation of the petition. Subsection (1) sets out the classes of persons who may present it and subsection (2), following immediately, states that, in certain circumstances, the electoral officer "shall be joined as a party to the petition". The logical meaning must, in my view, be that the person presenting the petition is the person who should join the electoral officer. Moreover it is undesirable for the court, on its own motion and perhaps against the wishes of the parties, to decide the parties to a dispute. It is for the party who claims relief to decide the party or parties against whom he should proceed. It is for the court to listen to the claim and make its order.

In the petition now before me I make no order, therefore, with regard to the electoral officer. The petitioner may, however, apply to have him joined and if he indicates that he wishes to do so I shall grant an adjournment. If he does not wish to do so the hearing will proceed. I do not think that to hear the petition without joining the electoral officer could cause injustice to the respondent because the respondent could call the electoral officer as his witness.

No order

MALLAM BALA KEFFI *v.* ALHAJI ZAKARI ISA AND R. M. A. OGENYI

[High Court (Hurley, C.J.)—May 17, 1965]
[Kaduna——Civil Cause No. Z/5/1965]

Elections——petition——practice and procedure——no case submission——ruling on submission——submission that evidence is insufficient in law——submission that evidence is unreliable——defence evidence——whether defending counsel must elect not to call evidence——discretion of court.

——————evidence——electoral offence——burden of proof——vicarious liability—corrupt practice——agent's corrupt practices deemed candidate's——burden of proof of agent's corrupt practice——Evidence Law, s. 137(1); *Electoral Act*, 1962, s. 78(2), s. 81.

——agent——special or general authority of candidate——polling agent——undue influence by polling agent——candidate's liability——Electoral Act, 1962, s. 78(2).

At the close of the petitioner's case at the hearing of an election petition counsel for the respondents submitted that there was no case to answer. Counsel for the petitioner challenged respondents' counsel by stating that they were disentitling themselves from calling evidence if the submission was overruled. There was no response to this challenge and the court did not call on respondents' counsel to elect not to call evidence, but overruled the submission in part and heard defence evidence, *holding*:

(1) The result of an election petition being a matter of concern not only to the parties but to the electorate and the general public, it is important that inquiry should not seem to be stifled or avoided in the hearing, and therefore the court ought to hear the defence evidence on any issue where it cannot clearly be said that the evidence on the petitioner's side is insufficient in law.

Accordingly, on a no case submission in an election petition the court may give its ruling without obtaining defending counsel's election not to call evidence if the submission is overruled, may confine a ruling of no case to allegations which the evidence is insufficient in law to support, and may overrule the submission and suspend judgment on allegations which the evidence seems capable of supporting directly or by inference if believed; and defending counsel's failure to respond to a challenge from petitioner's counsel as to calling evidence if the submission is overruled is not conduct manifesting an election not to call evidence and will not preclude him from calling it.

There was evidence which established on the balance of probabilities that one of the polling agents of the first respondent, the successful candidate, had committed the electoral offence and corrupt practice of undue influence by threatening people in order to make them vote, but not that he had so acted on behalf of the candidate to the candidate's knowledge, or with the candidate's knowledge and consent.

Held: (2) Proof that a party to an election petition has committed an electoral offence must be proof beyond reasonable doubt; proof of the commission of a corrupt practice by some person not a party, whereby by

virtue of s. 78(2) of the Electoral Act, 1962, a candidate is deemed to have committed the corrupt practice, may be proof on the balance of probabilities although the candidate is a party to the petition, but the proof should be clear and unequivocal and suspicion is not enough.

(3) A polling agent has a special, not a general, authority from the candidate with reference to the election, and in threatening people in order to make them vote the candidate's polling agent was not acting under that special authority and the candidate was not to be deemed under s. 78(2) of the Electoral Act, 1962, to have committed the corrupt practice of undue influence as a result of what the polling agent did.

Cases referred to:

Alexander v. Rayson, [1936] 1 K.B. 169, considered;
Obadan v. Ajibade and ano'r, 1959 N.R.N.L.R. 112, considered;
Laurie v. Raglan Building Company, Limited, [1942] 1 K.B. 155, followed;
Muller v. Ebbw Vale Steel Company, Limited, [1936] 2 All E.R. 1963, applied;
Storey v. Storey, [1960] 3 All E.R. 279, followed;
Oshodin v. Osagie and o'rs, (1961) W.N.L.R. 79, followed;
Harwich Case, Tomline v. Tyler, 3 O'M. and H. 61, followed;
Westbury Case, 3 O'M. and H. 78, followed.

ELECTION PETITION

F. A. Thanni, S. J. Ete, for the petitioner;
A. D. Ajijola for the first respondent;
A. W. E. Wheeler, Deputy Solicitor-General, for the second respondent.

Hurley, C.J.: The petitioner was the unsuccessful candidate in the Kaduna constituency in the Parliamentary election held on 30th December, 1964. The first respondent was the successful candidate, and the second respondent was the electoral officer for the constituency.

The petition, not explictly but in effect, questions the election on the ground that it was invalid by reason of corrupt practices or non-compliance with the provisions of Part II of the Electoral Act, 1962. In paragraph 3 of the petition the petitioner alleges—

"(1) At all the polling Stations in the Constituency illegal votes were recorded in that:—
(*a*) Plural voting took place.
(*b*) Mass impersonation of registered electors took place.
(*c*) Dumping of numerous ballot papers by single voters into ballot boxes throughout the polling stations in the Constituency took place.
(*d*) Ballot papers were issued to several intending voters who presented themselves to the poll clerk without giving their names and without ascertaining whether their names were on the register of electors, and that such intending voters being either persons whose names did not appear in the register of electors or who have already voted at the election.

"(2) The 1st Respondent and or his agents by threats of violence and Criminal prosecution compelled several persons in the Constituency to vote.
"(3) The 1st Respondent and or his agents on the day of election canvassed for votes openly at all polling stations within 200 yards of every polling station.
"(4) The 1st Respondent and or his agents on the day of election within 200 yeards of every polling station solicited the votes of many election (*sic*).
"(5) The list of voters attached to each polling station was not displayed.
"(6) More than 500 electors were assigned to a polling station for the purpose of recording their votes.
"(7) That the said election is invalid by reason of non-compliance with the Provisions of Section 42(2) of the Electoral Act, 1962.
"(8) That the election symbol eight pointed stars alloted (*sic*) to your humble petitioner was not displayed on all sides of the ballot boxes as required under the Electoral Act, 1962.
"(9) Ballot papers provided at the polling stations in the said constituency on polling day were not under sealed cover.
"(10) At the counting Station, counting of votes did not proceed continuously."

At the end of the evidence in support of the petition I was asked by counsel for both respondents to rule that there was no case to answer. The result of an election petition is a matter of concern not only to the parties, but also to the electors and Parliament, and through Parliament to the electorate as a whole and the general public. It is therefore important that in the hearing of the petition inquiry should not seem to be stifled or avoided. Accordingly the only allegations in regard to which I ruled that there was no case to answer were those in support of which there was no sufficient evidence in law; where there was evidence which, if believed and without putting too fine a point on it, seemed capable of supporting an allegation directly or by inference I suspended judgment on the credibility and effect of that evidence, overruled the submission, and heard the defence evidence. The allegations which were not supported by sufficient evidence in law were those made in sub-paragraphs (3), (4), (5), (7), (8), (9) and (10) of paragraph 3 of the petition. Sub-paragraphs (3) and (4) alleged that the electoral offences of canvassing and soliciting votes on the election day within 200 yards of a polling station had been committed within 200 yards of every polling station. There was some evidence of soliciting votes, but none of the distance from any polling station of the places where it occurred. There was no evidence whatever to support the allegations in sub-paragraphs (5), (7), (8), (9) and (10). There was no evidence either to support the allegation in sub-paragraph (6), that more than 500 electors were assigned to polling stations, but by the second

respondent's reply this was admitted as regards an unspecified number of unnamed polling stations and the authority of the Electoral Commission under section 28(2) of the Act was pleaded in avoidance.

When the submissions of no case were made Mr Thanni for the petitioner asserted that the defence were taking a dangerous step because by making the submissions they were disentitling themselves from adducing evidence if the submissions were overruled. More than half way through the defence case Mr Thanni sought to move for judgment on this ground. I refused to hear any application or submission of that nature at that stage. At the end of the case Mr Thanni referred to *Alexander v. Rayson*, [1963] 1 K.B. 169, *Obadan v. Ajibade and another*, 1959 N.R.N.L.R. 112, and *Laurie v. Raglan Building Company*, [1942] 1 K.B. 155, and submitted that those cases showed that on a no case submission in a case tried by a judge sitting without a jury, first, it was the judge's duty not to rule without asking defending counsel to elect between calling evidence and obtaining a ruling, and to refuse to rule unless counsel said he would not call evidence, and secondly, an election not to call evidence need not be expressly stated but might be manifested by counsel's words or conduct. Mr Thanni further submitted that defending counsel, by their silence when he asserted that their submissions would disentitle them from calling evidence, had elected not to call evidence and were precluded from calling it; that the defence evidence ought not to have been heard; and that the petitioner was entitled to judgment on those allegations in the petition in respect of which the no case submissions had been overruled.

There is no doubt that following on the observations of the Court of Appeal in *Alexander v. Rayson* the practice has been established whereby a trial judge sitting without a jury will not rule on a no case submission without obtaining defending counsel's election not to call evidence. But that is not a rule of law; it is a rule of practice based on convenience, and therefore, as was pointed out in the judgment in *Muller v. Ebbw Vale Steel Company, Limited*, [1936] 2 All E.R. 1363, it cannot be an inflexible rule and the question is one which has to be decided according to the particular circumstances of each case; and in *Storey v. Storey*, [1960] 3 All E.R. 279, the Court of Appeal, as I understand the judgment, observed that though the practice of putting the defence to their election had been adopted in the divorce court since *Alexander v. Rayson* had been decided, a discretion always remained in a court not to do so. Moreover, in that case the Court of Appeal said that if the submission of no case was based on the unsatisfactory or unreliable nature of the evidence led by the plaintiff (as distinct from its insufficiency in law) and an appeal court found itself unable on the findings of the court below to come to a just conclusion, the only course to be adopted in the interests of justice was to order a new trial, even if the defendant had elected to stand on his submission and call no evidence. It follows that defence counsel's election on a submission of that kind—a submission that the evidence is unsatisfactory or unreliable, not that it is insufficient in law—is not conclusive; and if it is not to be conclusive, then in my view it is undesirable to

ask defence counsel to make it and indeed he ought not to be allowed to make it. The allegations in the petition in regard to which I overruled the submissions in this case were ones where I was not asked, and was not prepared, to say the evidence was insufficient in law. Consequently I was not obliged by the rule of practice (much less by any rule of law) to ask defending counsel to elect not to call evidence before I ruled on the submissions and defending counsel, by their silence upon Mr Thanni's assertions, were not making that election. And, I would add, not only was I not obliged to ask counsel to elect, I was clearly of opinion that in a case of this kind I ought to hear the defence evidence on any issue where it could not clearly be said that the evidence on the side of the petitioner was insufficient in law.

For these reasons Mr Thanni's submission that the petitioner is entitled to judgment on my ruling on the no case submissions fails. I will now consider the evidence on the issues which remain to be decided. First, there are the allegations in sub-paragraph (1) of paragraph (3) of the petition. (On these allegations the evidence for the petitioner was disbelieved. The judgment continues as follows):

Sub-paragraph (2) of paragraph 3 of the petition alleges—

> "The 1st respondent and or his agents by threats of violence and Criminal prosecution compelled several persons in the constituency to vote."

That is an allegation of the election offence of undue influence, which is a corrupt practice. The allegation is not altogether precise; the offence of undue influence, if committed by means of threats of violence or injury, damage, harm or loss, consists of using such threats in order to induce or compel anyone to vote or refrain from voting; it does not consist of actually inducing or compelling such action by means of the threats. But the allegation that the threats were effective implies and includes an allegation that they were used for the purpose which was effected.

By section 137(1) of the Evidence Law, if the commission of a crime by a party to any proceeding is directly in issue in any proceeding civil or criminal, it must be proved beyond reasonable doubt. Here, if it is proved beyond reasonable doubt that the first respondent directly or indirectly, by himself or by any other person on his behalf (and with such knowledge as would amount to *mens rea*), did anything which by section 81 of the Electoral Act constitutes the offence of undue influence, then by section 78 of the Act that will invalidate the election. But by section 78 the election will also be invalidated if it is proved that somebody else did any such thing with the first respondent's knowledge and consent or with the knowledge and consent of any person (including, I think, the very person who did the thing in question) acting under the general or special authority of the first respondent with reference to the election. In those circumstances, the first respondent himself will by the provisions and for the purposes of section 78, be deemed to have committed the offence. The effect of these provisions is that the election may be invalidated by proof of the commission of the offence

by someone other than a party to the petition, and to such proof section 137(1) of the Evidence Ordinance would not apply. And it should not apply, for the proof will not be proof that the first respondent has committed the offence; it will be proof of circumstances in which he is deemed to have committed it and is so seemed for the purposes of section 78, that is, for no further purpose such as convicting the first respondent. Such proof, I think, may be on the balance of probabilities, but I would adopt the expression used by Madarikan, J., in relation to the offence of bribery in *Oshodin v. Osagie and o'rs*, (1961) W.N.L.R. 79, and say further that the proof must be clear and unequivocal and suspicion is not sufficient.

In the further particulars Audi Kikinem was named as a person who would give evidence that he voted because of fear as a result of threats offered to him by the first respondent. Audi Kikinem was the petitioner's fourth witness. His evidence in fact was of threats offered by one Mamman. In addition, in the further particulars concerning the allegation of soliciting votes it was stated that Garba Katsina would give evidence that on election day he saw one Galadiman Pawa an agent of the first respondent driving voters from the market and asking them to go and vote for the first respondent, threatening that if they did not they would lose their stalls and go to prison. Such evidence would have been relevant to prove the offence of undue influence impliedly alleged in sub-paragraph (2). Garba Katsina was the fifth witness for the petitioner. The third witness for the petitioner, Audi Kawo, was not named in the further particulars, but he gave evidence in support of this allegation. Objection was taken to his evidence, but it was not shown that any prejudice or material embarrassment to the defence need ensue from receiving it, and I heard it.

The petitioner himself referred to the cases of three candidates for his party in other constituencies and a lawyer, who had been severally arrested, convicted and imprisoned outside the constituency. And he said that in Sokoto his party's intended candidates, whom he did not name, had been killed before nomination. As a result of these and similar incidents throughout the country which he did not describe, many of his supporters did not vote and he did not vote himself but stopped at home on the election day. Objection was rightly taken to this evidence as irrelevant to the allegation of undue influence by compelling or in order to compel people to vote, and I refused to allow the petition to be amended so as to allege an offence of undue influence by compelling people to refrain from voting. It was submitted that the evidence was relevant as tending to show the existence of intimidation whereby persons were compelled to vote. In my judgment the evidence was of no value for any purpose. For the purpose of proving the occurrence of the incidents which it mentioned, as distinct from that of showing that they were reported and were believed to have occurred, it was hearsay. The only incidents about which this evidence was in any degree specific were the convictions of the three candidates and the lawyer. The presumption is that the convictions were lawful and founded on offences properly proved, and no attempt

was made to rebut that. Therefore the convictions, if they took place, were not brought about by or on behalf of the first respondent or with his consent or by or with the consent of his agents. There was no evidence that any of the other acts of intimidation mentioned by the petitioner were committed by or on behalf of the first respondent or with his knowledge and consent or the knowledge and consent of his agents. The petitioner said the effect of the incidents was to intimidate his supporters, but no witness other than the petitioner himself said he had been intimidated as a result of the incidents or even referred to them.

The witnesses whose evidence was relevant to show undue influence were Audi Kawo, the petitioner's third witness, Audi Kikinem, the petitioner's fourth witness, and Garba Katsina, the petitioner's fifth witness. Audi Kawo and Audi Kikinem each said he was intimidated, and each said he voted for the first respondent's party, the Northern Peoples Congress, though he was a supporter of the petitioner's party. Audi Kawo agreed that he voted in secret and nobody knew how he voted. Audi Kikinem said he was told he would be arrested if his name was not seen in the ballot box. He said he knew the candidate he voted for, and he was ready to attempt to identify him in court; but he failed to do so, though the first respondent was in court. Neither of these witnesses seemed to be the sort of person who would vote for a party or a candidate he did not wish to vote for. I find it impossible to believe either of them when he says he voted for the Northern Peoples Congress; I think that was thrown in for good measure. But it is not material except as bearing on the credibility of the witnesses: it is undue influence to compel a person to vote whichever side he votes for.

Audi Kawo, a Health Office worker, said he was intimidated by one Ibrahim Sokoto, a Northern Peoples Congress supporter and the headman at the witness's workplace, who told him he must vote Northern Peoples Congress or they would know what to do with him after the election. He said he understood by that that he would be dismissed if he did not vote Northern Peoples Congress, and indeed that consequence, if not some other injury, damage, harm or loss, must have been what was meant if in fact the headman said the words. The witness said further that, having voted, next morning he showed the ink which had been put on his finger at the polling station. The defence did not call Ibrahim Sokoto or explain why he was not called. Audi Kawo was not named in the particulars, but the defence case was not closed until over a week after he had given his evidence.

Audi Kikinem said that seven or eight weeks before the election he went to Kurmi Mashi, apparently a Northern Peoples Congress stronghold, and was arrested by one Mamman, one of the *samajanati* or uniformed bodyguard belonging to the Northern Peoples Congress, and taken before a court on a criminal charge. After being held on remand for three weeks he was sentenced to a month's imprisonment. He was released four days before the election and Mamman said he would be arrested again if he did not vote Northern Peoples Congress. The defence did not call Mamman, but the evidence did not provide

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any very useful identification of him and he was not named in the further particulars.

Garba Katsina, a butcher, said that on the day of the election Isa Dawa, the Galadiman Pawa, a Northern Peoples Congress supporter, came to the market place about 10 a.m. and said people should go and vote or they would be driven out of the market. He did not say people should vote for the Northern Peoples Congress or any particular party or candidate. The witness did not vote himself. The Galadiman Pawa gave evidence for the defence and denied what Garba Katsina had said. He said he was at the polling station at the Anglican Church premises at Katsina Road from 6 a.m. to 6 p.m. on the day of the election as a polling agent for the first respondent, and that he did not know Garba Katsina. He did not leave the polling station except at 2 p.m., when he went to a nearby house to pray.

None of the petitioner's three witnesses made any complaint to the police or any other authority about the threats they say were directed against them. One would think that Audi Kikinem would have felt perfectly free to complain, and Garba Katsina also, though perhaps to a slightly lesser degree. The first respondent said in evidence that he did not know Ibrahim of the Health Department and that neither he nor anyone acting for him told Ibrahim to compel people to vote for him. He did not know anybody called Mamman. He did not compel anybody to vote by threats or force or at all. On the election day he went to vote in B Ward near Ogbomosho road and stood in the queue from 9 to 10 a.m.; he then went home, and he visited no other polling station.

I do not believe the evidence of Audi Kawo or Audi Kikinem, and I believe that the first respondent did not know Ibrahim Sokoto or the person named Mamman by whom Audi Kikinem said, untruthfully, he was threatened. Garba Katsina, on the other hand, impressed me as a truthful witness, and at the end of the case I can see no sufficient reason to doubt the correctness of that impression. Therefore on the clear and unequivocal evidence of Garba Katsina I have come to the conclusion on the balance of probabilities that an offence of undue influence was committed by the Galadiman Pawa. But the evidence on the petitioner's side, certainly as it now stands, is neither clear nor unequivocal that the Galadiman Pawa acted on behalf of the first respondent to the first respondent's knowledge (which if proved beyond reasonable doubt would mean that the first respondent was himself guilty of the offence under section 81), or that he acted with the knowledge and consent of the first respondent (so that the first respondent should be deemed guilty by virtue of section 78). And though the first respondent was far from being a candid witness—when awkward questions were asked in cross-examination he tended to say he was not aware, just as the petitioner in a similar situation tended to say he forgot—I believe him when he says he did not get anybody to compel people to vote by threats or force or at all, just as I believe him when he says he did not know Ibrahim of the Health Department or anybody called Mamman. But Galadiman Pawa was the first respondent's

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polling agent. As such, he was to act under a special authority of the respondent with reference to the election; but it was a special authority, not a general authority. In threatening people in order to induce them to vote he was not acting under his special authority as a polling agent, and the first respondent is not to be deemed under section 78 to have committed the offence of undue influence as a result of what Galadiman Pawa did. Compare the *Harwich Case*, 3 O'Malley and Hardcastles's Election Cases 61, No. 378 in volume 20 of the English and Empire Digest, and the *Westbury Case*, 3 O'Malley and Hardcastle's Election Cases 78, No. 379 in the same volume.

There remains the allegation in sub-paragraph (6) of paragraph 3 of the petition. By section 28(2) of the Electoral Act—

> "No more than five hundred electors shall be required to vote at any one polling station, unless the electoral officer satisfies the Electoral Commission or the Chairman of the Electoral Commission where no quorum is available at the time, that it is unnecessary or impracticable, as the case may be, to provide other polling stations."

I find, on Exhibit 4 and the evidence of the third witness for the defence, the Chief Federal Electoral Officer for Northern Nigeria, that on 19th November, 1964, all the Regional Chief Federal Electoral Officers visited the Chairman of the Electoral Commission in Lagos. The other members of the Commission were then at their stations and I infer that there was no quorum. The Chief Federal Electoral Officers told the Chairman that because of the increase in the number of voters, because of shortage of staff and the cost of materials, and because in rural areas some polling stations would have to serve less than five hundred voters owing to the distances involved, the total number of polling stations to be aimed at would have to be reduced and in some polling stations it would be necessary to provide for more than five hundred voters. On being satisfied that it was impracticable to provide a sufficient number of polling stations throughout the country for not more than five hundred voters to be assigned to each, the Chairman authorised the Chief Federal Electoral Officers to allot more than five hundred voters, and up to one thousand voters, to a polling station where it was considered unnecessary or impracticable to provide other polling stations. This was done, as is admitted, in Kaduna constituency, though to what extent I have not been told. In the outcome, if there was any non-compliance with section 28—and I find there was not—it did not affect the result of the election, because, as the Chief Federal Electoral Officer has testified, at 5 p.m. on the election day, an hour before the close of the poll, polling stations throughout the constituency were almost empty and the voting was almost finished.

For the foregoing reasons I find that there were no corrupt practices, and no non-compliance with Part II of the Electoral Act, in Kaduna constituency such as to invalidate the election in the constituency, and the petition fails and is dismissed. The first respondent was duly elected and duly returned.

Petition dismissed.

DAVID MOODY AND MOSES IYEDUFE *v.* SALAMI OLOKOTUN AND GARBA ALI

[Makurdi——Civil Cause No. MD/1/1965]

MUSA ENEBI *v.* JAMES YACHIM AND ALBERT OZIGI

[Makurdi——Civil Cause No. MD/11/1965]

PASTOR A. ANZAZU *v.* AHMADU A. DOMA AND YAKUBU USMAN

[Makurdi——Civil Cause No. JD/16/1965]

[High Court (Williams, J.)——May 20, 1965]

Elections——petition——name of occupier of petitioner's address for service omitted——not a formal defect——petition not filed in accordance with law——no proceedings that can be set aside——Electoral Act, 1962, *s.* 100(4), *s.* 150(2).

A failure to include in an election petition, as required by the Electoral Act, 1962, the name of the occupier of the petitioner's address for service is not a formal defect. Nor is it an irregularity within the meaning of s. 150(2) of the Act. A petition filed which does not include such name is not filed in accordance with the Act and does not give rise to any proceedings that can be set aside under s. 150(2). Such a petition will be struck out.

Cases referred to:

Okoebor v. Bare and o'rs, (1959) W.R.N.L.R. 14, followed;

Maidugu Ngelizana v. Alhaji Musa Hindi and ano'r, *supra p.* 12, followed.

ELECTION PETITION

L.C. Anoliefo for the petitioners;

R.O. Gaji (with him *D. A. Akintoye* and *F.N. Chukuani*) for the first respondents;

Nuhu Usman, State Counsel, for the second respondents.

Williams, J.: In all these election petitions the respondents have applied for the petitions to be struck out on the grounds that they fail to comply with section 100(4) of the Electoral Act, 1962, in that the name of the occupier of the address for service has not been entered in the petition. All counsel have agreed that there has been failure to comply with this requirement and the effect of this was argued at length in the first case. Thereafter at the request of counsel those arguments have been read into the record of the other cases and it is agreed that I shall deliver one ruling in respect of all petitions.

This question has already been considered by Reed, S.P.J., in the case of *Maidugu Ngelizana v. Alhaji Musa Hindi and ano'r* [*supra p.* 12], which has not yet been reported, but copies of which are in the hands of all counsel. Counsel for the petitioners in the present petitions has rightly submitted that I am not bound by the decision of the learned Senior Puisne Judge, though of course any decision of his is of strong persuasive effect. In that case he held that a failure to comply with section

100(4) is not a formality and that any petition which does fail to comply with those requirements or any of them is not a petition which may lawfully be filed. As the time provided for filing a petition has long passed and there is no power in the court to extend time, there is no petition before the court in such case.

Counsel for the petitioners however correctly points out that the learned Senior Puisne Judge does not appear to have adverted to section 150 of the Act and submits that if he had done so, this decision might have been different.

Subsection (1) of section 150 provides for the case where there has been a failure to comply with the provisions of the Act with respect to the time limited for taking some step and provides that with leave of the court time may be extended except in the case of the time for filing a petition or the time for lodging an appeal. Subsection (2) deals with irregularities and reads as follows—

> "An application may be made at any reasonable time to set aside any proceedings for irregularity; but no application shall be heard if the party moving has done any act matter or thing with knowledge of the irregularity, or if the irregularity objected to is merely as to form."

The first question arises as to whether it is possible to say that a mandatory provision such as that embodied in section 100(4) can be ignored and such ignoring of it be a mere irregularity. If it can, it appears that an application can be made to set aside the proceedings with the proviso that no application shall be heard where *inter alia* the irregularity is merely as to form.

The question therefore arises as to whether in a case of this sort there are any proceedings to set aside. Counsel for the first respondents has submitted on the authority of Reed, S.P.J.'s, decision that the failure to comply with section 100(4) means that there is no petition filed and therefore there are no proceedings to set aside and therefore section 150(2) cannot apply. I think that this must follow from the words towards the end of Reed, S.P.J.'s judgment where he says—

"In my view the words—

> 'A petition shall be deemed to be filed if left with the registrar by the petitioner or his solicitor'

must be construed to mean—

> 'A petition *which complies with the requirements of the law* shall be deemed to be filed if left with the registrar by the petitioner or his solicitor.'

By applying this construction it must follow that the petition is not filed in accordance with the law and I so hold."

Having considered the judgment of Reed, S.P.J., and also that of Thomas, J., in *Benson Okoebor v. Patrick Bare and o'rs*, (1959) W.R.N.L.R. 14, I am quite satisfied that failure to comply with section 100(4) has the effect described by Reed, S.P.J. and that there are therefore no proceedings as envisaged by section 150(2) before the Court. I should

add that even though there were such proceedings, I do not consider that this application to set aside relates merely to form and therefore there would be no good ground for refusing to hear the application to set aside. But in respect of applications under section 150(2) it is arguable, though I express no opinion about this, that the court has a discretion as to whether to set aside the proceedings or not.

It may be said that it is illogical to say that there are no proceedings to set aside or to refuse to set aside under section 150(2) in these cases, but, although the petition has never been filed, the court is asked to strike it out. I can only say in answer to that argument that the law is not always strictly logical and that in cases of this sort it may be that a more logical expression than striking out might be used. The same could well apply in the case of applications to strike out claims not within the jurisdiction of the court. But I am quite satisfied that these petitions must be "struck out" as prayed and I only add that I do so with the same reluctance as that expressed by Reed, S.P.J. However, parties must comply with the mandatory provisions of the procedural law.

All three petitions are struck out.

Petitions struck out

JOSEPH MAZAWAJE *v.* ALI UMARU AND JULIUS AJE

[High Court (Williams, J.)——June 3, 1965]

[Makurdi——Civil Cause No. MD/5/1965]

Elections——petition——procedure——"assimilated to procedure or court concerned"——public interest——witness called by court——matter not arising ex improviso*——court may call witness at any time and not within the bounds only of the rules relating to civil and criminal cases——Electoral Act*, 1962, *s.* 141(1), *s.* 151.

——— ——— no case submission——standing on submission——witness called by court——what part defending counsel may take in subsequent proceedings——cross-examination and rebutting evidence.

Practice and procedure——election petition——no case submission——witness called by court——cross-examination by counsel who has stood on submission——rebutting evidence.

At the hearing of an election petition counsel for the first respondent stated that he wished to make a submission of no case, and elected to call no evidence if the submission was overruled. He made the submission on the grounds that no evidence had been called to show that the petitioner's candidate had paid a deposit in accordance with s. 20(1) of the Electoral Act, 1962, whereas the petition alleged that the candidate had been validly nominated and had paid the deposit and the electoral officer had wrongly refused to accept the nomination.

The Court stated that it would itself call evidence on the question, in exercise of its powers under s. 141(1) of the Act. Counsel for the first respondent submitted that, by the effect of s. 151 of the Act and on the true construction of s. 141, the Court might call evidence or allow evidence to be called only where new matter had arisen *ex improviso*.

Counsel stated further that having stood on his election he could take no further part in the case.

Held: (1) Upon the considerations stated by Holden, J., in *Ado Ahmed Dogarai v. Ali Gwarzo and ano'r* (*supra*, p. 9), the words of s. 141(1) of the Electoral Act, 1962, empowered the Court to examine a relevant witness at any time and not within the bounds only of the rules relating to civil and criminal cases; and the Court would therefore summon and examine a witness on the question whether the deposit was paid by the petitioner's candidate.

(2) Counsel for the first respondent might cross-examine any witness called by the Court or by the second respondent, and might call evidence to rebut the evidence called by the Court.

Cases referred to:

Obadan v. Salawu Ajibade, 1959 N.R.N.L.R. 112, not followed;
Storey v. Storey, [1960] 3 All E.R. 279;
Bala Abashe v. Commissioner of Police, 1962 N.N.L.R. 79, distinguished;
Severino v. Witt and Busch, (1912) 2 N.L.R. 77;
G. Gottschalk and Co. v. Elder Dempster and Company, Limited (1917) 3 N.L.R. 16;

In re Enoch, [1910] 1 K.B. 327, distinguished;
Coulson v. Disborough, [1894] 2 Q.B. 316;
Maidstone (Borough) Case, Evans v. Castlereagh (Viscount), (1906) 5 O'M. and H. 200, applied;
Ado Ahmed Dogarai v. Ali Gwarzo and ano'r, supra, p. 9, applied.

ELECTION PETITION

C. Ikeazor for petitioner;
R. O. Gaji, with him *D. A. Akintoye* and *F. N. Chukuani*, for first respondent;
Nuhu Usman, State Counsel, for second respondent.

Williams, J.: The facts in issue in this case are very simple but the case raises an important point of electoral law going to the root of the duties of the court in hearing election petitions. The petitioner alleges that the candidate whom he supported was validly nominated on two occasions but that the electoral officer wrongly refused to accept his nomination. All the evidence called by the petitioner has been directed to this issue. No evidence has yet been called by either respondent. Counsel for the first respondent has intimated that he wishes to make a submission of no case and I have therefore put him to his election as to whether he would call no evidence in accordance with the law laid down in such cases as *Obadan v. Salawu Ajibade and ano'r*, 1959 N.R.N.L.R. 112, and *Storey v. Storey*, [1960] 3 All E. R. 279, and cases cited therein. Counsel has in fact elected to call no evidence and has made his submission of no case. His grounds are quite simply that it is for the petitioner to show that his candidate was validly nominated and that he cannot show that without proving that he had paid the required deposit of £100. It is alleged in paragraph 3(*a*) of the petition that the deposit had been made, but this is denied in the reply of both respondents and no evidence has been called to prove it. The petition must therefore be dismissed without calling upon either respondent.

I have little doubt in my own mind that the failure to prove this matter was an oversight on the part of counsel for the petitioner and I intimated that I would myself call evidence on this point under section 141 of the Electoral Act. But counsel for the first respondent submits that I have no power to do so at this stage. He says that by section 151 I am required to apply the practice and procedure of this Court as far as possible as though the parties were parties to a civil action. He further submits that the rules about calling fresh evidence after the petitioner has closed his case are the same as those which apply in civil or criminal cases whether by virtue of section 237 of the Criminal Procedure Code as it originally was worded, section 222 of the Evidence Law or section 141 of the Electoral Act. He has cited to me the case of *Bala Abashe v. Commissioner of Police*, 1962 N.N.L.R. 79, and has adopted the commentary on that case in *Richardson and Williams' The Criminal Procedure Code of Northern Nigeria*. He has also cited *Severino v. Witt and Busch*, (1912) 2 N.L.R. 77, and *G. Gottschalk and Company v. Elder Dempster and Company, Limited*, (1917) 3 N.L.R. 16, which, though they both deal with the question of whether an appeal court should grant a retrial for fresh evidence to be called, he submits are

equally applicable to the present situation. I have also had drawn to my attention a passage from *Phipson on Evidence*, 10th edition, paragraph 563, where the following words appear—

> "After the prisoner's case is closed, a judge should only call a fresh witness when new matter has arisen *ex improviso*, which could not have been foreseen. However, such witnesses can, in a civil case, only be called with the consent of all parties, and dicta to the contrary in *Colson v. Disborough*, [1894] 2 Q.B. 316, has been disapproved: *In re Enoch*, [1910] 1 K. B. 327".

Counsel therefore submits that both in civil and criminal cases (leaving out of consideration the effect of recent amendments to section 237 of the Criminal Procedure Code), the court may only call or allow to be called evidence after the close of a party's case where new matter has arisen *ex improviso* and even then in civil cases only with the consent of all parties. In this statement of the law I concur and it is not disputed that the question of the payment of the deposit has not arisen *ex improviso*.

Counsel for the petitioner in reply submits that in this respect the Court should not follow the law in respect of civil or criminal cases and that election petitions are *sui generis*. He says that the words "as far as possible" in section 151 mean "as far as possible consonant with the duty laid upon the Court by the Act to investigate elections and their validity". He says that section 115(4), which permits the Court to hear evidence outside the pleaded issues, and section 141 which permits the Court to call and examine witnesses of its own motion, show that the legislature intended that the Court should investigate the election fully and completely without being tied by the issues raised by the parties or the evidence called by them. In this respect I quoted (a copy of the judgment not being in the possession of counsel) the words of Holden, J., in *Ado Ahmed Dogarai v. Ali Gwarzo and another* [*supra, p.* 9].

> "If this were an ordinary civil action, I would have no hesitation in refusing the application [to substitute a new party]. In a civil action, if the parties or their counsel cannot take the trouble to get their applications right, the Court shows them little mercy, but in an election petition we are not concerned with the interests and claims of private individuals. It has been alleged that the election in this constituency was not properly conducted. That is a matter in which the interest of the community is seriously concerned, and in which public interest completely overshadows the interests of the individuals involved. It is necessary that allegations of impropriety in the conduct of the election be enquired into and pronounced upon judicially, and no technicalities can be allowed to stand in the way of that enquiry."

Though the learned Judge was dealing with a different procedural point in that case, these words are the only ones I have been able to find which indicate how another Judge approaches the hearing of election petitions. Although we are seeking here to construe our own

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electoral law, the principles lying behind it would seem to me to be similar to those in the United Kingdom. In footnote (*o*) at page 293 of *Halsbury's Laws of England*, 3rd Edition, volume 14, the *Maidstone* (*Borough*) *Case*, (1906) 5 O'M. and H. 200, is referred to and the following words of Lawrance, J., are quoted—

> "It is true that in election cases we have to throw overboard the rules which regulate ordinary cases, because we have to deal with peculiar circumstances."

I doubt whether his lordship in that case was dealing with the point raised here, but his words indicate the special nature of election petitions.

I therefore have to decide whether in the case of an election petition I have to apply the strict rules governing civil cases or whether I may call evidence inadvertently omitted by the petitioner's counsel in my capacity as an investigator. Without seeking to foreshadow my final judgment in this case (I have not yet heard the second respondent's case) it seems to me that if I cannot call this evidence, I may find myself in the position of having a moral certainty that the petitioner's candidate was validly nominated, but having to declare that it was right in law that his supporters should have had and should still have no right to vote for him, because I am prevented from calling one witness to give a simple piece of evidence, to which it is most unlikely that the respondents will cross-examine, but which is not already before me through inadvertence on the part of the petitioner's counsel. If that is the law I must apply it, but in in doing so it would seem to me that it could never again be suggested that an election court in this country was the guardian of the public interest. I have no authorities to guide me save for the above quoted words of Holden, J. But I agree with those words. In my view the words of section 141(1) empower the court to examine a relevant witness at any time and not within the bounds of the rules relating to civil and criminal cases. I shall therefore summon and examine on the question of whether a deposit was paid by the petitioner's candidate either the candidate himself or the sub-treasurer who received the deposit, and who, whilst doing so, was clearly "a person conerned in the election" or, if necessary, both.

There is one further point. Counsel for the first respondent has said that after his election he can take no further part in the case. I do not agree that this is a correct statement of the law even in civil cases. In such cases if he stood on his submission, he would not be entitled to call further evidence but I know of no rule which would prevent him from examining the witnesses called by another defendant. Here if we are to "throw overboard" some of the rules of civil procedure, we may have, in the same context, to throw over others. I rule here that he may not only cross-examine any witness I call or who is called by the second respondent, but that he may call any evidence he wishes in rebuttal of that new evidence which I am calling. He may also address me further if he wishes on that evidence.

BENJAMIN AK[illegible]DZUNGWE *v.* EDWARD KUNDU SWEM [illegible]ND SHEHU SULEIMAN

[Hig[illegible]ourt (Williams, J.)——June 5, 1965]
[Ma[illegible]li——Civil Cause No. MD/4/1965]

Election——p[illegible]on——corrupt practices——standard of proof ——where corrupt [illegible]ctice alleged committed by party——where deemed committed by cand[illegible]te——Electoral Act, 1962, *s.* 78(2), *s.* 92(1) (*b*); *Evidence Law, Ca[illegible])*, *s.* 137(1).

——— ——[illegible]n-compliance with Part II of Electoral Act, 1962 *——whether electio[illegible]nducted substantially in accordance with provisions of Part II——wh[illegible]r non-compliance did not affect result——burden of proof——Electo[illegible]Act*, 1962, *s*, 93(1).

Evidence——e[illegible]ion petition——ditto, ditto.

The standard o[illegible]oof required in an election petition is as follows:—

(*a*) Where an c[illegible]oral offence is alleged against a party, this must be proved beyond reasc[illegible]le doubt in accordance with s. 137(1) of the Evidence Law. This is also t[illegible]case where it is alleged that a party has abetted an offence.

(*b*) Where it is[illegible]eged that an offence has been committed with the knowledge and cons[illegible]of a party who was a candidate or with the knowledge and consent of a per[illegible]acting under his general or special authority, so as to bring the offence un[illegible]s. 78(2) of the Electoral Act, 1962, it is only necessary that the offence be p[illegible]ed on the balance of probabilities.

(*c*) Any other a[illegible]ation made which affects the validity of the election need only be proved[illegible]the balance of probabilities.

(*d*) In general,[illegible]ng into consideration the seriousness of declaring an election invalid, a hi[illegible]tandard of proof will be required, though not as high as proof beyond rea[illegible]ble doubt, except in (*a*) above.

Where it is soug[illegible]o avoid the election on the grounds of non-compliance with Part II of the E[illegible]oral Act, 1962, allegations for the purposes of section 93(1) of the Act, tha[illegible]e election was conducted substantially in accordance with the provisions o[illegible]rt II and that non-compliance did not affect the result of the election must[illegible]disproved by the petitioner and need not be proved by the respondent.

Case referred to:

Akinfosile v. Ijos[illegible]1960) 5 F.S.C. 192, followed.

ELECTION PETITIO[illegible]

R. O. Gaji, wi[illegible]him *E. T. Ndoma-Egba*, for the petitioner;
C. Ikeazor, wi[illegible]him *L. C. Anoliefo*, for the first respondent;
Nuhu Usman, [illegible]*te Counsel*, for the second respondent.

Williams, J.: [illegible]he petitioner in this case seeks to invalidate the election and to hav[illegible]imself declared elected on the following general grounds—

1. That the first respondent, the successful candidate, was guilty of or is deemed to be guilty of corrupt practices.

2. That there was non-compliance with Part II of the Electoral Act, 1962.

Both these grounds fall under section 92(1) (*b*) of the Act.

I must first remind myself yet again of the standard of proof required in these cases. It can be set out in a few simple rules—

(*a*) Where an electoral offence is alleged against a party, this must be proved beyond reasonable doubt in accordance with section 137(1) of the Evidence Law. This is also the case when it is alleged that a party has abetted the commission of an offence.

(*b*) Where it alleged that an offence is committed with the knowledge and consent of a party who was a candidate or with the knowledge and consent of a person acting under his general or special authority, so as to bring the offence under section 78(2), it is only necessary that the offence be proved on the balance of probabilities.

(*c*) Any other allegation made which affects the validity of the election need only be proved on the balance of probabilities.

(*d*) In general, taking into consideration the seriousness of declaring an election invalid, a high standard of proof will be required, though not as high as proof beyond reasonable doubt, except in (*a*) above.

As to burden of proof it must also be remembered that where it is sought to avoid the election on the grounds of non-compliance with Part II of the Act, then allegations for the purposes of section 93(1) of the Act that the election was conducted substantially in accordance with the provisions of Part II and that non-compliance did not affect the result of the election must be disproved by the petitioner and need not be proved by the respondents. This is the effect of the decision of the Federal Supreme Court in *Akinfosile v. Ijose*, (1960) 5 F.S.C. 192.

Counsel for the petitioner has invited me to find one or all of the following facts—

1. That the first respondent incited persons to commit the election offences of undue influence, contrary to section 81, or interfering with the requirement of secrecy contrary to section 84(3)(*b*).

2. That certain persons, known as Tarka Young Pioneers, who were persons acting with the first respondent's knowledge and consent committed these offences.

3. That the aforementioned persons were acting under the general or special authority of the first respondent and such offences were committed with their knowledge and consent.

Any one of these findings would bring into play the provisions of section 78 and the first respondent's election would be invalid.

I will deal shortly with 3. Counsel for the petitioner submitted that on the evidence the first respondent was a leading member of the United Middle Belt Congress of which the Pioneers are the youth wing and that whatever they do must be taken to be under his general or special authority. It appears however from the uncontradicted evidence of the first respondent that in this party at least the candidate has far less control of the election campaign in his constituency than would be the case in England. It appears that the election campaign is directed much more centrally and it seems to me that if a centrally directed organisation comes into a constituency and commits election offences amounting to corrupt practices without the knowledge and consent of the candidate it would be wrong without more to invalidate his election. This however would be the effect of acceding to counsel's argument on this point. I find that I am not satisfied that the Pioneers, even if they committed corrupt practices, were doing so with the general or special authority of the first respondent merely because he was a candidate.

I now turn to the first submission of counsel for petitioner. This is based on the evidence of the petitioner's eighth and twelfth witnesses who both stated that they were Pioneers. The eighth witness stated that there was a meeting of the Pioneers at Amsa which was addressed by the first respondent who told them to go and take charge of all the polling stations in the constituency and make holes in polling booths so that they could see if someone voted in the wrong way. The eighth witness said that he was second in command in that area and that the first respondent also told him that he should force or persuade (the Tiv word could mean either) people to vote for him and that he could do what he liked to anyone who proposed to vote for the axe, that is, the symbol of the Northern Peoples Congress, the other party engaged in the election. The eighth witness said that he assigned people to polling stations and that he frightened voters by saying to them that if anyone voted for the axe, they should be brought to him. He said that there was an opening in the corrugated iron of the polling booth through which someone was watching and that they had needles to inject people if they failed to obey his instructions.

The petitioner's twelfth witness who was a rank and file member of the Pioneers has spoken of his activities. He says that at another station he made a hole in the wall of the booth and watched through it and told people who wanted to vote for the axe to put their votes in the box marked with a star (the symbol of the United Middle Belt Congress). He also says that he was told to do this by the first respondent.

If this evidence is true, then it is clear that first respondent incited corrupt practices, But I have to approach the evidence in the way in which I should approach a criminal case. Not only must I apply the criminal standard of proof, but I think that I should remember that the petitioner's eighth and twelfth witnesses are accomplices and should be wary of finding against the first respondent without corroboration. They say that they are now giving evidence against him

because he failed to pay them a promised remuneration for their services. Clearly they are angry with him. On this evidence, if this were a pure criminal case, I would view the first respondent with the gravest suspicion, but I do not think that I would think it right to convict. The evidence is clearly tainted and I therefore do not find it proved beyond reasonable doubt that the first respondent was guilty of a corrupt practice.

There remains submission 2 above. The case for the petitioner has been pitched high. His real allegation is that these acts were done by his eighth and twelfth witnesses as a result of instructions from the first respondent and if I am not satisfied that instructions were given, I do not think I can be satisfied on any other evidence that there was consent and I do not find this allegation proved either.

One further allegation which was made against the first respondent was that at the polling station at Mindi (No. 47) he ordered his polling agents to search people coming to vote from Gboko, where Northern Peoples Congress supporters had gone for refuge during the disturbances and that they did so. This evidence is that of the petitioner's thirteenth witness only, a Northern People's Congress polling agent, and is denied by the first respondent and I do not find the allegation sufficiently proved. The second respondent, the electoral officer, spoke of having it reported to him, which was hearsay, but said that he did not see it happening.

This completes the evidence of corrupt practices against the first respondent and I do not find them sufficiently proved by reliable evidence. I now turn to the allegations of non-compliance with Part II of the Act. In considering this evidence I am greatly obliged to State Counsel for his lucid summing up of the evidence and the impartial way in which he did so. He has assisted me greatly in finding my way through the intricacies of this complicated affair.

I would like to start by saying that there are no allegations made of fraud or bad faith against the electoral officials (which expression does not include polling agents). Counsel for the first respondent has made this clear and he was right to do so. Throughout this case my admiration for the electoral officials has increased from day to day. They all impressed me as people doing their best to carry out their duties impartially in very difficult circumstances having regard to the disturbed state of the area and they should be congratulated. But they are not lawyers and they did not have State Counsel at their elbows when they had to take decisions and it may be that in using their initiative they did not always use it rightly. For that they are not to be blamed, but if their failure to do so resulted in a failure substantially to carry out the provisions of Part II and that failure affected the result, this petition must be allowed. And this will be the case even where the non-compliance arose not from a mistake by the polling officers, but from their being prevented from carrying out their duties.

I do not find it necessary to consider in detail all the allegations made at each polling station. I shall in the first place examine the position at the four polling stations where State Counsel has invited me to find that there were substantial failures to comply with Part II. These are:

A. The witnesses in respect of this polling station at Ushongo, No. 65, are the petitioner's second and third witnesses, an assistant electoral officer and a native authority police sergeant. They say that when they got there voting was not going on in the native authority school, which was to be the polling booth, but in an insufficiently screened enclosure in which the voting was not secret. The petitioner arrived there probably sometime between 10.30 and 11 a.m. as he saw his second witness, an assistant electoral officer, being manhandled there and he got there between those times. It took some time apparently for the petitioner's second witness and his third witness, a native authority police sergeant who was with him, to persuade those present to move to the school and not until the Nigeria Police came did they agree to close the windows of the school so that the voting could be secret. It seems to me therefore that secret voting probably did not start until towards noon. I therefore agree with State Counsel that one must accept that here there was a substantial non-compliance with Part II of the Act.

B. The next station to be considered is that at Ichor, No. 28. What happened here is described by the petitioner's sixth witness, the presiding officer. It appears that polling started about 6 a.m. (which incidentally was an hour too early) and went on all right until after a visit of the Nigeria Police at 8 a.m. It then appears that some voters came to vote whose names were not on the register and the presiding officer told them to wait until he had dealt with those who were and then he would look into their cases. Others had no registration cards and received the same instructions. This caused something of an uproar and the presiding officer was removed from his place and replaced by some school-master whom the voters asked to take over. He did so and the presiding officer was allowed to take no further part in the proceedings. This is clearly a serious breach of Part II and there was therefore substantial non-compliance with that part of the Act.

C. The next station is at Igbudu B, No. 11. There apparently the presiding officer, the fifth witness for the petitioner, met suspicion and was called from his duties three times to meet a court of elders that was set up there, and to be questioned as to his intentions. On the first occasion he was with them from the time at which voting should have started until about 9.30 a.m., on the second occasion he gave no times and the third occasion was from 5 p.m. until after 6 p.m. During the last period another person was told to substitute for him and was handing out the ballot papers. Even when he was allowed to be in his position he said that people were being led up to him and he was told to give them ballot papers and he could not check them all. The only other evidence was that of the first respondent's fourth witness who said that he was the United Progressive Grand Alliance

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polling agent and that voting was orderly. I reject his evidence and find that there was a substantial non-compliance with Part II at this station also.

D. Finally the last station at which there was clearly substantial non-compliance was Ada Market, No. 34. The petitioner's seventh witness, the presiding officer, was uncontradicted and he said that voting went on without incident until about 11 a.m. when voters came from Adipo and then members of the Tarka's Young Pioneers started to search people, most of whom ran away. When he protested he was removed from the booth and was not permitted to resume his duties until 4 p.m. This is again a clear non-compliance.

Though there are allegations in respect of other stations, these are the only ones at which I find that there was substantial non-compliance. According to Exhibit A the total registered voters at those stations are 4,165. The total poll for the constituency was 18,730 and the first respondent's majority was about 4,400. Where I find that there were serious instances of non-compliance at stations where the total of registered voters amounted to almost a quarter of the votes cast in the constituency, I can hardly say that the election was conducted *substantially* in accordance with the provisions of Part II, and in fact I hold that it was not.

I may also consider whether non-compliance did not affect the result of the election. It is impossible for a court to speculate as to how much plural voting there was, if any, or how many people were induced to vote in a way other than they would have done if there had been a proper presiding officer. Nor can I speculate as to the numbers of people who were unable to vote because a station was virtually closed, as at Ada Market for five hours during the official polling time. I can only say that in this case where the registered voters at the offending polling stations amounted to over 4,000 and the successful candidate's majority was round about the same figure I cannot be satisfied that the non-compliance which I have described did not affect the result of the election.

I therefore allow this election petition on the grounds that there was non-compliance with Part II of the Electoral Act, 1962, since it does not appear to me that the election was conducted substantially in accordance with the provisions of the said Part II or that non-compliance did not affect the result of the election.

Petition allowed.

JOSEPH M. [illegible]AWAJE *v.* ALI UMARU AND JULIUS AJE (2)

[[illegible]gh Court (Williams, J.)——June, 1965]
[[illegible]kurdi——Civil Cause No. MD/5/1965]

Elections—nomination of candidate——receipt for deposit——whether candi[illegible] must produce receipt in person to electoral officer——Electoral Act, [illegible]2, s. 20(1); s. 18(3).

*—— — validity of nomination——electoral officer's power to reject nomi[illegible]n paper——power to be exercised reasonably——*ibid, *s. 21(1), (2).*

*—— — rejection of nomination by electoral officer——reasonable exe[illegible] of power to reject——whether court has power to declare nomina[illegible] valid——*ibid.

On 16th D[illegible]mber, 1964, two nominators handed a nomination paper signed by the [illegible]lidate and dated 15th December to the electoral officer (the second res[illegible]dent) for an election in the Wukari Division of Benue Province, at th[illegible]ne time producing their voter's registration cards and a receipt for the [illegible]lidate's deposit. The signature of one of the nominators on the nominati[illegible]paper was "Akuma Aben"; the register of electors showed the name "Aku[illegible] Abene" against the number which corresponded to the number on this [illegible]inator's registration card. The electoral officer, according to his evidence, [illegible] information that the candidate was wanted by the police, that a warrant h[illegible]een issued, that he had disappeared from Wukari Division and that he was [illegible]os recovering from illness. On 17th December he rejected the nomination [illegible] the ground that he was not satisfied that the candidate, whom he desc[illegible]l as "a wanted person apparently on the run", had personally signe[illegible]e nomination paper, and also on the ground that the name of the nom[illegible]or Akuma Aben did not appear in the register of electors. On 19th Decem[illegible], the last day for nominations, he rejected, on similar grounds, the can[illegible]ate's nomination by other nominators.

Held: (1) T[illegible] requirement of s. 20(1) of the Electoral Act, 1962, that the candidate sh[illegible]t the time of the delivery of his nomination paper produce to the electoral o[illegible]r the receipt for his deposit is satisfied by the production of the receipt b[illegible]me person on behalf of the candidate, there being no requirement that [illegible] candidate shall personally deliver his nomination papers, which may be del[illegible]ed by the candidate or his nominators.

(2) An elect[illegible] court has the power to declare a nomination valid even though the powe[illegible] reject the nomination exercised by the electoral officer has been exerci[illegible] reasonably.

(3) In the p[illegible]nt case it was not reasonable for the electoral officer to reject the nomina[illegible] on either of the grounds given because—

(*a*) if the el[illegible]ral officer was informed that the candidate was in Jos there was plenty [illegible]me for the nomination paper to have been brought from Jos to Wukari, ar[illegible]here was no requirement that it be signed by the candidate whilst actual[illegible]n the constituency, so there were no reoasnable grounds to suspect the ge[illegible]ess of the candidate's signature;

(*b*) a reasonable electoral officer, having compared Akuma Aben's registration card with the register of electors, could not possibly have come to the conclusion that he was not the person named in the register unless he were to conclude that he was not the person entitled to that registration card, for which latter conclusion there were no grounds in this case.

ELECTION PETITION

C. Ikeazor for the petitioner;

R. O. Gaji, with him, *D. A. Akintoye* and *E. N. Chukuani*, for the first respondent;

Nuhu Usman, State Counsel, for the second respondent.

Williams, J. The issues of fact raised in this petition are simple ones and the real question is one of law, namely whether the petitioner was validly nominated as a candidate for the Wukari Division of Benue Province at the Federal elections or whether, as the respondents allege, his nomination was rightly declared invalid by the electoral officer, the second respondent. The result of the rejection of the nomination by the electoral officer was that there was only one candidate and he, the first respondent, was declared elected unopposed.

This petition is brought by a person who was not the rejected candidate, but who appeared to be playing a leading part in the administration of the U.M.B.G.A. campaign in this constituency. He says that on 18th December, which was then the last day for nominations, though the time was later extended to noon on the 19th on the advice of the Electoral Commission, he took Exhibit B, a nomination paper, together with the two nominators to the second respondent, the electoral officer. The candidate was not present but had signed the nomination paper in Gboko. He says that the nomination paper was handed to the electoral officer by one of the nominators. The receipt for the deposit was not shown to him as he had already seen it. On the following day the electoral officer handed to one of the nominators, the petitioner's third witness, a rejection certificate (Exhibit B) stating that the nomination was rejected on the ground that he was not satisfied that the candidate, whom he described as "a wanted person apparently on the run", had personally signed the paper and also on the ground that the petitioner's third witness's name did not appear on the register of electors, or to be precise, the preliminary voters' lists, as the final register was not yet available.

It appears also from the evidence of the petitioner's fifth witness that there had been a previous attempt to nominate this candidate on 16th December on which occasion the petitioner's fifth witness was a nominator. On this occasion he handed the paper to the second respondent and also showed him the receipt for the deposit. Again on 17th December the nomination was rejected on the same grounds.

With regard to the reasons on which the second respondent based his grounds, he says in the first place that the names of the petitioner's third and fifth witnesses were shown on the nomination papers as Haaga Ikon and Akuma Aben, but that the only names which he could find on the register which were at all similar were Haaga Eko and Akuma Abene. With regard to the second ground he says that the prospective candidate was wanted by the police for rioting and violence and that a warrant had been issued, but he had disappeared from Wukari Division. He also says that he was told by the petitioner that the candidate was in Jos recovering from jaundice. He therefore was not satisfied that he had signed the paper.

In this case I only comment in regard to these reasons at this stage that the petitioner's third and fifth witnesses both said that they showed their voter's registration cards to the second respondent and that from them he could have checked their names in the register. They admit that they were mis-spelt but say that the numbers against their names tallied with the numbers on their cards. Second respondent says that they did not show him these cards and he did not ask for them. He says that after the first nomination paper was handed in he himself went through twelve volumes of the register containing about 30-40,000 names to try and find the nominators' names. I should have thought that a more reasonable start for his enquiry would have been the cards. But more surprising still, on the second occasion, having faced such a Herculean task before, again he did not ask to see the nominators' cards but ploughed through the whole register again. I am bound to say that I think that the story of the petitioner's third and fifth witnesses is more likely. As to the candidate's signature, the petitioner says that he never told the second respondent that the candidate was in Jos and I find it surprising that, if he did tell him, the second respondent did not inform the Chief of the Wukari Native Authority Police, his witness, whom he knew to be looking for the candidate for whom an arrest warrant had been issued.

These then are the facts, most of which are admitted. Three important points of law arise.

1. Counsel for the first respondent has pointed out that section 20(1) of the Electoral Act requires that the candidate should produce his deposit receipt to the electoral officer when nomination papers are handed in and that in this case the candidate did not do so. The nomination was therefore invalid on this ground.

2. Counsel for the second respondent submits that once the electoral officer has exercised his discretion in rejecting a nomination paper, the election court cannot thereafter declare that nomination valid but can only consider whether the electoral officer exercised his discretion in a proper manner.

3. Counsel for the second respondent submits that the second respondent did exercise his discretion in a proper manner.

I will now deal with each of these submissions in detail:

1. Section 20(1) of the Act is couched in the following terms—

"Every candidate shall, before his nomination paper is delivered to the Electoral Officer pay into the Consolidated Revenue Fund by way of deposit the sum of one hundred pounds. The candidate shall at the time of the delivery of his nomination paper produce to the electoral officer an official receipt for the sum so paid; and no nomination shall be valid without production of the receipt to the electoral officer for noting".

Counsel for first respondent submits that this section is mandatory and that a failure by the candidate himself to produce the receipt makes the nomination invalid. Counsel for the petitioner submits that this is a matter of form only and that the section is complied with if as in this case the receipt is produced by a person acting on behalf of the candidate. That would seem to me to be the common sense view and the fair one as in a country of this size it may not be easy or convenient for the candidate to be present in his constituency on nomination day. But the words of the section taken on their own appear to be clear.

I can obtain no help here from either English or Indian election law which have been cited to me in another context. Regulation 10(1) of the English Parliamentary Elections Rules and section 34 of the Indian Representation of the People Act, 1951, require deposits to be made in order to ensure a valid nomination but the first talks of "by (the candidate) or on his behalf" and the second of "deposits or causes to be deposited". Thus in each case there is express provision for a person other than the candidate making the deposit, which in those countries appears to be the equivalent of producing a deposit receipt.

Such words do not appear in our legislation. But these are statutes by three different parliaments and one cannot draw any firm conclusions from the fact that certain words appear in one and not in others. I have to construe our Act from its own words, though I may seek persuasive authority from decided cases in countries where the wording is the same. That is not so in this case.

I will therefore consider section 20(1) in its context. It seems to me that that is how I must approach this question. In another context counsel for second respondent has referred me to various passages in *Craies on Statute Law* (5th edition) as follows—

"Where the words of an Act of Parliament are clear, there is no room for applying any of the principles of interpretation which are merely presumptions in cases of ambiguity in the statutes." (Page 63)

"And even though a court is satisfied that the legislature did not contemplate the consequences of an enactment, a court is bound to give effect to its clear language." (Page 65)

"The judges may not wrest the language of Parliament even to avoid an obvious mischief." (Page 67)

"In other words, the language of Acts of Parliament, and more especially of modern Acts, must neither be extended beyond its natural and proper limits, in order to supply omissions or defects, nor strained to meet the justice of an individual case." (Page 68)

Two further well known quotations come to mind. The one by Lord Wright that "judges are to do justice, but that is justice according to law" and the other anonymous, so far as I know, that "hard cases make bad law."

On the other hand I have also considered the words of Lord Hewart, C. J., quoted at page 150 of the same book:—

"It ought to be the rule and we are glad to think it is the rule that words are used in an Act of Parliament correctly and exactly and not loosely and inexactly. Upon those who assert that the rule has been broken, the burden of establishing their proposition lies heavily, and they can discharge it only by pointing to something in the context which goes to show that the loose and inexact meaning is to be preferred."

It seems to me from these authorities I am bound to apply the exact wording of an Act, unless the petitioner can discharge the burden laid on him of showing from the context that a less exact meaning should be given, in this case, to the word "candidate" and that that word should be read as "the candidate or someone on his behalf."

I must therefore consider the context of section 20(1). In this regard assistance may be obtained from section 18(3), a section which deals with nomination papers, and which reads:—

"A candidate or one of the persons nominating him shall not later than the date and time prescribed, personally present the nomination paper to the electoral officer at the place appointed by the electoral officer."

It therefore appears that it is unnecessary for the candidate to be present at the presentation of his nomination papers but that that can be done by his nominators. But he must, if section 20(1) is to bear the meaning contested for by counsel for first respondent, personally produce the deposit receipt. I also note that in section 18(3) the word "personally" is used whilst it does not appear in section 20(1). I am bound to say that I find it difficult to see why the legislature should have intended that the candidate need not personally present his nomination papers, but must be present at the same time to produce his receipt. Also if section 20(1) is to be read strictly, he must personally hand in his deposit to the sub-treasurer or to whomever he pays it. Counsel for first respondent suggests that the reason for this is so that at some stage the electoral officer can actually see the candidate and ensure that he is a person qualified to be a candidate. But if that had been the intention of the legislature I should have expected it to have been expressed in plain words. If for instance a female person sought to be a candidate in Northern Nigeria, that would soon come to the notice of the electors

and the electoral officer without any necessity for inspecting the candidate. But in any event I am not satisfied that the legislature intended to provide for such an inspection merely by the words of section 20(1).

It therefore appears to me that a requirement that the candidate shall personally produce his deposit receipt serves no useful purpose and that it would seem to be an odd requirement having regard to the choice between candidate and nominators given in section 18(3). I am also greatly influenced by the lack of the word "personally" in section 20(1) after its inclusion in section 18(3) and in my view the intention of the legislature is best achieved by reading into section 20(1) after the word "candidate" wherever it occurs the words "or someone on his behalf". I therefore find that this nomination was in no way invalidated by the failure of the candidate personally to produce the receipt for the deposit to the electoral officer.

2. The effect in short of this submission by counsel is that even where a court is satisfied that a candidate was properly nominated, it cannot interfere if it is also satisfied that the electoral officer acted reasonably in rejecting the nomination. I do not think that I am doing an injustice to the very able argument of counsel in putting it in this way. I do not propose to repeat his argument in full in this judgment, but I made full notes of it whilst it was in progress and it is to be found in the record. With respect to counsel I do not think that he has given weight to the words *prima facie* where they appear in section 21(1) and (2), particularly 21(2) where it says that where the nomination is rejected on certain grounds within the time required that "shall be *prima facie* evidence that the nomination paper was properly rejected as invalid". But this section does not say "conclusive evidence."

There are as far as I am aware no Nigerian decisions on this point. *Halsbury*, 3rd edition, volume 14, at page 100 states—

> "Where a returning officer decides that a nomination paper is valid, his decision is final and cannot be questioned in any proceedings whatsoever. Subject to this exception, the validity of a candidate's nomination can be questioned on an election petition."

This quotation deals with validity and not invalidity and in any event is merely a quotation from rules 13(5) and (6) of the English Parliamentary Elections Rules. The wording of the relevant provisions in this country is different.

In view of the words *prima facie* which appear in section 21(2) of the Nigerian Act, I am satisfied that the court must consider itself whether the nomination was valid and that the phrase which contains the words "*prima facie*" which I have quoted above only refers to the case where there is an informal objection to the correctness of the rejection, when the rejection itself shall be *prima facie* evidence of its correctness. The words also, it appears to me, make clear that in an election petition hearing, the burden lies upon the petitioner to show

that the rejection was wrong and not on the electoral officer to show that it was right. Beyond that the words have no effect in an election petition.

I can deal quite shortly with the question of whether the candidate was validly nominated or not. With regard to the first nomination (Exhibit A) presented on 16th December, I am satisfied on the evidence that the deposit receipt (Exhibit K) was produced to the electoral officer at the time of the presentation of the nomination paper. I am satisfied that the paper was signed by the candidate. There is no dispute as to the qualifications of the second nominator. As to the first, the petitioner's fifth witness, having heard his evidence and compared the entry at page 264 of the register (Exhibit F) with his voter's registration card, I am satisfied that he was qualified to be a nominator and that therefore the candidate Tangul Gaza was validly nominated on 16th December. It is common ground that the second respondent, having rejected Tangul Gaza's nomination papers, declared the first respondent elected unopposed under section 25 (1) of the Act. But I have found that there was at that time more than one person validly nominated and it was therefore a non-compliance with part of Part II of the Act to declare the first respondent elected unopposed and that is a ground on which this Court should declare the election invalid under section 92 (1) (*b*). I do therefore declare that the election of the first respondent unopposed as member for Wukari constituency was invalid. The question of declaring any other person as properly elected does not arise.

However I do not think that this should be the end of this judgment. In case this petition should go to a higher Court and the view which I have expressed as to this Court's powers in reviewing the validity of nominations be dissented from, I think it right that I should express an opinion as to whether the electoral officer exercised his discretion reasonably in rejecting this nomination. He did so on two grounds: that he was not satisfied that the candidate had signed the nomination paper and that the first nominator's name did not appear in the register of electors.

With regard to the first ground he said, as I have already set out, that in his view the candidate was a wanted man and he was therefore not satisfied that he had signed. He also says that he was told that the candidate was sick in Jos. On balance of probabilities I reject this evidence as I cannot understand why, if he were told this, he did not inform the chief of police who had a warrant for his arrest or take some other steps to notify the police at Jos. But in any event I do not think that that was a good reason for refusing to accept the nomination. There is no requirement that the paper be signed by the candidate whilst actually in the constituency, the nomination paper was dated the 15th and was presented on the 16th so there was plenty of time for it to have been brought from Jos to Wukari. It is in the public interest that voters should have an opportunity of voting for their chosen candidate and it is not for the electoral officer to reject a nomination paper on

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some faint suspicion. If he is to take this serious step, he must have some grounds which are reasonable for so doing and I do not consider that he had such grounds to suspect the genuineness of the candidate's signature.

As to his other ground, that the name of the first nominator does not appear on the register, it has been submitted by counsel for the second respondent that the electoral laws must be strictly applied and unless the names tally exactly, the electoral officer should reject the nomination. He says that the legislature is well aware of the state of literacy in this country and could have provided that the electoral officer should take it into consideration. In default of such a requirement, nominators must check with the register that their names are properly recorded there and if not should not take the risk of signing nomination papers.

This problem is touched upon in *Halsbury* volume 14 at page 95 and in particular in footnote (*s*). Reference to the cases there referred to in the *English and Empire Digest* (which is all that is available to me here) does not lead me to think that any firm legal principle can be deduced from them, but that the cases were each decided on their own facts.

Counsel for the petitioner has however directed my attention to the Indian Representation of the People Act, 1951, and to *G.S.L. Srivastava's Indian Elections and Election Petitions* (2nd edition). He has referred to the attitude taken to discrepancies and omissions by the Indian courts and has referred especially to page 168 of the book where a few examples are set out. But provision is specifically made in that Act for such circumstances in section 33(4), the proviso to which reads:—

> "Provided that the returning officer (in Nigeria the electoral officer) shall permit any technical or clerical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into conformity with the corresponding entries in the electoral rolls; and where necessary direct that any clerical or printing error in the said entries shall be overlooked".

It therefore appears that the examples given at page 168 of *Srivastava* are not examples of the returning officer exercising a discretion but of his conforming with a positive provision of the law.

Once again it appears that there is no authority which can assist the court or the electoral officers in this country. In my view each case must be decided on its merits and the electoral officer should not reject a nomination unless he is satisfied on reasonable grounds that it is invalid and in the case now under review that the nominator was unqualified to nominate. This seems to me to carry out the intention of the legislature which can hardly have hoped that there would be a series of uncontested elections. Nor do I think that it is intended that the electoral officer should play an entirely passive role and remain silent when a nomination paper is handed to him, rather than asking for voter's registration cards to assist him in deciding whether the

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nominator is the person appearing in the register. I cannot think that a reasonable electoral officer in this case, having compared the registration card of the petitioner's fifth witness with the register, could possibly have come to the conclusion that he was not the person named in the register unless he were to conclude that the petitioner's fifth witness was not entitled to that registration card, and there were no grounds upon which he could reach such a conclusion in this case.

I therefore find that the second respondent did not exercise his discretion to reject nomination papers in a reasonable way in this case.

Petition allowed.

MUHAMMADU ARAB *v.* BAUCHI NATIVE AUTHORITY

[C.A. (Haliru Binji, D.G.K., Reed, Ag. S.P.J. and Bate, J.)—— August 6, 1963]
[Bauchi——Appeal No. JD/66CA/1962]

Criminal procedure——evidence——wrongful admission of evidence ——whether failure of justice——what amounts to failure of justice—— justice not seen to be done——Evidence Ordinance, Cap. 63, 1948 *Laws of Nigeria, s.* 1(4), (5), *s.* 68(1); *Criminal Procedure Code, s.* 288, *s.* 382, *s.* 386(4).

Appeal——criminal appeal——wrongful admission of evidence—— whether failure of justice——whether reasonable person at trial would have supposed fair trial denied——ibid.

Evidence——relevance——evidence of bad character——effect of wrongful admission——whether results in failure of justice——whether reasonable person at trial would have supposed fair trial denied——ibid.

Words and phrases——"failure of justice"——ibid.

At his trial in a native court, evidence of the appellant's previous convictions was given before conviction. In respect of the charge on which he was being tried, no direct evidence but only circumstantial evidence was given and the trial court did not state clearly what evidence it relied upon in convicting the appellant.

Held: That since it would have appeared to any reasonable person present at the trial that the trial court was influenced by the evidence of the appellant's previous convictions, justice had not been seen to be done and that there had accordingly been a failure of justice.

Cases referred to:

Ajayi and another v. Zaria Native Authority (2), 1964 N.N.L.R. 61, applied;

Ubi Yola v. Kano Native Authority, 1961 N.N.L.R. 103.

CRIMINAL APPEAL FROM NATIVE COURT

Appellant in person;

P. A. Barreto, State Counsel, for respondent.

Reed, Ag. S.P.J., delivering the judgment of the Court: This is an appeal against the decision of the Chief Alkali of Bauchi. The court below found that appellant had stolen the sum of £9-5*s*-0*d*, the property of one Ephraim Eze, from a hand-bag in a lorry in which the appellant and the complainant were travelling. The appellant was convicted of an offence under section 287 of the Penal Code and sentenced to imprisonment for two years.

The appellant appeared in person in this Court and gave his reasons for complaining against the decision of the chief alkali. The only complaint of any substance is that evidence was given during the trial and before conviction, of the bad character and previous convictions of the appellant. The record shows that the court asked "what was

known about his (the appellant's) conduct from Lagos" and was told "we have received a report from Lagos that on the 7th March, 1960, the Alkali of Bukur sentenced him to one year and six months imprisonment." The chief alkali was then told that "the Alkali of Gumau sentenced him (the appellant) to one year's imprisonment for the offence of impersonation". A police corporal then told the chief alkali that—

> "... he (the appellant) once lodged with him (the witness, Usuman Mundu) and he (the appellant) told him (the witness) that he was a policeman. The day he was going, he (the witness) gave him £1-6*s*-0*d* for food. As he left, he was arrested on the way for impersonation. Since then, when he came he lodged in his relative's house. When his relative went out, Muhammadu stole his property."

After hearing this, the chief alkali asked the appellant—

> "Have you anything to say or have you witnesses who could save you from this offence?" and the appellant said "None". The record then continues—

> "Because of that the court charge you with an offence under section 286 of the Penal Code punishable under section 287. I sentence you to two years imprisonment because you are a habitual thief."

That is the end of the record, except that the Chief Alkali informed the appellant of his right of appeal. We take it that the word "charge" in the passage quoted above meant "convict". It is clear, therefore, that the chief alkali heard evidence of the bad character and previous convictions of the appellant before he convicted him and that, upon that evidence, he found the appellant to be an "habitual thief".

Section 68(1) of the Evidence Ordinance states—

> "Except as provided in this section, the fact that an accused person is of bad character is irrelevant in criminal proceedings."

Subsections (2) and (3) then set out the circumstances, none of which are relevant in the case before us, in which evidence of bad character of an accused person may be given. Evidence of previous convictions is, of course, evidence of bad character.

Section 1(4) of the Evidence Ordinance states that it shall apply to all judicial proceedings in or before any court established in the Federation of Nigeria but section 1(5), which is effective in the Northern Region, states—

> "In judicial proceedings in any criminal cause or matter in or before a native court such court shall be guided by the provisions of this Ordinance in accordance with the provisions of Chapter XXXIII of the Criminal Procedure Code."

Section 386(4) of the Criminal Procedure Code, which is in Chapter XXXIII thereof, states—

"Where a native court has not been guided or properly guided by the provisions of this Criminal Procedure Code an appellate court or reviewing authority shall apply to the case the principles contained in sections 288 and 382 of this Criminal Procedure Code and the provisions of the Native Courts Law, 1956."

Section 288 states that—

"A court exercising appellate jurisdiction shall not in the exercise of such jurisdiction interfere with the finding or sentence or other order of the lower court on the ground only that evidence has been wrongly admitted . . . unless it is satisfied that a failure of justice has been occasioned by such admission . . . "

The effect of section 382 is similar. It states that—

" . . . no findings, sentence or order passed by a court of competent jurisdiction shall be reversed or altered on appeal . . . on account of any error, omission or irregularity . . . unless the appeal court . . . thinks that a failure of justice has *in fact* been occasioned by such error, omission or irregularity."

The words "in fact" italicised were added by the Criminal Procedure Code (Amendment) Law, 1963, effective from 18th April, 1963. Section 382 has been judicially interpreted in *Ajayi and another v. Zaria Native Authority* (2), 1964 N.N.L.R. 61. This decision was before the amendment in the Criminal Procedure Code (Amendment) Law, 1963, but we do not think this is relevant; indeed, the amendment has only given legislative approval to what this Court decided in *Ubi Yola v. Kano Native Authority*, 1961 N.N.L.R. 103, when it stated at page 104 with reference to section 382—

"We note that the language of the section requires that there shall be no interference with the findings of the trial court unless a failure of justice has actually been occasioned. A mere possibility that a failure of justice might have been occasioned is not enough to justify interference."

In *Ajayi's* case (*supra*), the Federal Supreme Court did not dissent from the view that the burden was on the appellant to show that the irregularity has led to a failure of justice. But the court expressed the opinion, at page 65—

" . . . that there is a failure of justice within the meaning of the section if the proceedings at the trial fall short of the requirement 'not only that justice be done, but that it may be seen to be done' . . . "

In that case, there were irregularities in the interpretation of the evidence of witnesses at the trial and the Federal Supreme Court, referring to the burden being on the appellants to show that the irregularities had led to a failure of justice, said, at page 65—

". . . it will have been satisfied if it is shown that a reasonable person who was present at the trial might have supposed that the interpretation was defective to such an extent as to deny the appellants a fair trial."

The law relevant to the issue now before us may, therefore, be stated as follows: A native court trying a person in criminal proceedings is wrong in allowing evidence of the previous convictions or bad character of the accused person to be admitted before conviction, unless any of the exceptions set out in sub-sections (2) or (3) of section 68 of the Evidence Ordinance apply. If, however, a native court does wrongly admit such evidence and then convicts, an appeal against conviction will not be allowed only on the ground that the evidence was wrongly admitted. The appeal court must also be satisfied that there has actually been a failure of justice and a mere possibility that there might have been a failure of justice is not enough; and the burden of proving this is upon the appellant. There is a failure of justice if justice is not seen to be done and the test the court should apply is whether a reasonable person who was present at the trial might have supposed that the admission of the evidence denied the appellant a fair trial. If the answer to this test is in the affirmative the appellant has discharged the burden upon him and the appeal must be allowed.

If the trial court had before it sufficient admissible evidence to convict, it might be possible to uphold that conviction in spite of the wrongful admission of evidence of bad character of the appellant—provided the trial court made it clear in its judgment that it relied upon the admissible evidence, and was not relying on the inadmissible evidence. Unfortunately, however, the trial court in the appeal now before us did not state clearly what evidence it relied upon in convicting the appellant. There was no direct evidence upon which the court could convict; there were no eye-witnesses of the theft. The evidence was circumstantial—evidence of opportunity to steal and evidence of the appellant being in possession soon after the theft of money similar to that stolen and of the appellant being unable to explain that possession satisfactorily. We do not say that that evidence alone would have been insufficient to support the conviction but the chief alkali did not say that he relied on that evidence alone. On the contrary, it seems to us—and we think it would seem to any reasonable person present at the trial—that the chief alkali was influenced by information that the accused was a man of bad character and from that it follows that the appellant was denied a fair trial. Accordingly we think that this appeal should be allowed. We have considered whether we should order a re-trial but we note that the appellant has already served more than half the sentence of two years' imprisonment for stealing the sum of £9-5*s*-0*d* and we do not propose to do so.

Appeal allowed: conviction and sentence set aside.

THE STATE *v* GWOJI JIR

[High Court (Reed, J.)——October 1 964]
[Mubi——Charge No. JD/86C/1

Criminal law——culpable homicide——stab nd on arm——arteries severed——whether death a "probable" or " y" consequence of blow——Penal Code, s. 19, *s.* 221(*b*), *s.* 224.

*———right of private defence——culpable nicide——accused attacked by unarmed man——private defence with e——stab wound on arm——whether excess of right of private de ——*ibid., *s.* 62, *s.* 222(2), *s.* 224.

Words and phrases——"probable"——"likely" —ibid., *s.* 19.

The accused was found in a woman's room at t by the woman's husband. The husband, apparently unarmed, attacked and he struck the husband a blow on the arm with a knife he was carryi The blow severed the main arteries immediately above the elbow and th usband died from the resulting haemorrhage. On a charge of committi ulpable homicide punishable with death,

Held: (1) A man exceeds his right of private de e when he uses a knife to defend himself against an attack by an unarm ssailant.

(2) Any blow with a knife which is aimed at the b may be said to be "likely" to cause death.

Semble, A blow with a knife which is aimed at the or abdomen of a person would "probably" cause death.

CRIMINAL CAUSE

Nuhu Usman, State Counsel, for the State;
O. Okorokobiko for the accused.

Reed, J.: The accused is charged under sec 221 (*b*) of the Penal Code with the culpable homicide punishable v death of Sa'adu Usuman by doing an act, to wit stabbing him wi knife, with the knowledge that his death would be the probable cor uence of his act.

On the evidence before me I find that the accus vent to the room of a woman, the wife of the deceased, during the nig The woman, the second prosecution witness, had been in the room b her husband had called her to bring fire and she had gone out. The a sed remained in the room and the deceased went into it and found hir ere. The woman said that the accused was her lover and although accused denied this I have no doubt that it was true. I have no do , too, that when the deceased found the accused in his wife's room was very angry and attacked the accused.

According to the woman, the second prose on witness, the accused had had a knife with him when he came to room. She also said: "I did not see my husband carrying anything t night. He did

not have his knife tied to his waist that night". She said she had no fire-wood, hoe, matchet or knife in her room—just a water pot, some plates and a bed.

There can be no doubt that during the scuffle which the accused had with the deceased, the deceased sustained a stab wound through the left arm, one and a half inches above the elbow, which cut the main blood vessels causing a severe haemorrhage and that, as a result of this haemorrhage, the deceased died.

There were no eye-witnesses of exactly what happened during the scuffle between the deceased and the accused in the woman's room and it was, of course, dark. In a statement made under caution, the accused said that when the deceased entered,

> ". . .we started wrestling in the room, he knocked me on the floor. When he knocked me on the ground, he was beating me when I was on the ground, when he was beating me like that. I then took out my knife and stabbed him on his hand."

In evidence on oath in this Court, he denied that he had said he stabbed the deceased. He said that the deceased,

> ". . .came and met me in her room. He beat me. I could not see what he beat me with but I tried to free myself from him and went to my house."

Now I accept the accused's statement that the deceased attacked him. No doubt the deceased was provoked by finding a man at night in his wife's room. I believe that the accused told the truth, however, in his statement when he said that he "took out [his] knife and stabbed him on his hand". I do not believe that the deceased used any weapon to attack the accused. In considering the accused's right of private defence, I consider that he was inflicting more harm than it was necessary to inflict for the purpose of defence when he used the knife: section 62 of the Penal Code refers. However, I note that the accused struck the deceased with the knife in the arm. Death was caused because the blow severed the main arteries and the haemorrhage which resulted was not stemmed. I think it proper to find that a stab with a knife in the arm was "likely" to cause death, as defined by section 19 of the Penal Code, in that any blow by a knife aimed at the body "would cause no surprise to a reasonable man" if death resulted. But I think that such a blow (as distinguished from a blow, say, at the head or the abdomen) would not "probably" cause death; that is to say, I do not think that death "would be considered by a reasonable man to be the natural and normal effect of the act".

For these reasons I find the accused guilty of the culpable homicide of Sa'adu Usuman but I find him guilty of culpable homicide not punishable with death and convict him under section 224 of the Penal Code.

Verdict of guilty of culpable homicide not punishable with death.

L. E. EJINKONYE *v.* COMMISSIONER OF POLICE

[C. A. (Hurley, C. J., Abubakar Zaki, Sh. Ct. J. and Ahmad, J.)——October 28, 1964]

[Kaduna——Appeal No. Z/9CA/1964]

Criminal procedure——binding over——procedure to be followed——both sides to be heard—Criminal Procedure Code, s. 25, s. 88, s. 92, s. 93.

The appellant was convicted in a native court of causing a breach of the peace and was bound over in the sum of £100 to be of good behaviour for one year. At no time in the proceedings was the appellant heard. On appeal to the provincial court, that court heard a statement from the prosecutor and allowed the appellant to question him on it. The appellant also made a statement, in which he named a witness who would support his denial of the offence but this witness was not called. The provincial court affirmed the order for the binding over of the appellant. In both courts, the order was expressed as being made under s. 88 of the Criminal Procedure Code.

Held: (1) S. 88 of the Criminal Procedure Code only gives power to issue a summons requiring a person to attend before a court. Once the person has lawfully been brought before the court in this way, an order may be made under s. 93 of the Code that he be bound over, only after an inquiry under s. 92 of the Code.

(2) An appeal court will not be prepared to substitute an order under s. 25 of the Code for one improperly made in disregard of the above procedure unless it is satisfied as to the justice of the proceedings which have taken place. It will not do so if it is shown that the person to be bound over has not been heard or given an opportunity of being heard.

CRIMINAL APPEAL FROM NATIVE COURT

F. A. Thanni for the appellant;

Muhammadu Bello, Director of Public Prosecutions, for the respondent.

Hurley, C. J., delivering the judgment of the Court: The appellant was brought before the Mixed Court, Kaduna, on 30th October, 1963, on a complaint that he wanted to cause a breach of the peace in the Administrator's office, Kaduna, on 29th October, 1963. The mixed court heard one witness for the prosecution, who gave evidence of statements made by the appellant in the Administrator's office on 29th October. The case was then adjourned to 1st November, 1963. On that day the prosecutor said he had no more witnesses to call. The mixed court immediately announced its finding, which was that the appellant was guilty of an offence against section 114 of the Penal Code. Having made this finding, the mixed court ordered the appellant to be bound over in the sum of £100 to be of good behaviour for one year. This order was expressed to be made under section 88 of the Criminal Procedure Code. The appellant appealed to the provincial court on the grounds, among others, that the trial court had not observed the prescribed procedure, had not asked him to say anything, and had not

allowed him to call witnesses. The provincial court heard a statement from the prosecutor and allowed the appellant to question him on it. The court then heard a statement from the appellant and he was questioned by the prosecutor and the court. In his statement the appellant mentioned that he had a witness who would support his denial of what he was alleged to have said in the Administrator's office. After hearing the appellant, the provincial court gave judgment affirming the order for the binding over of the appellant under section 88.

Section 88 does not empower a court to order a person to be bound over. That power is given by section 93, and it is exercisable only upon an inquiry in accordance with section 92. Section 88 gives power only to issue, upon information, a summons requiring a person to attend before the court. The summons may require his attendance either for the purpose of executing a bond to keep the peace—for the purpose, that is, of being bound over—or for the purpose of showing cause why he should not execute such a bond—why he should not be bound over. It is common ground that no summons under section 88 was issued against the appellant in this case. It is therefore impossible either to affirm the mixed court's order as if it had been validly made under section 93, or to substitute an order under section 93 for the order expressed to be made under section 88.

By section 25 of the Criminal Procedure Code, a court may, whether the accused is discharged or not, bind over him or the complainant, or both, to be of good behaviour. We are asked to affirm the mixed court's order as properly made in the exercise of the power conferred by that section. If we were satisfied of the justice of the mixed court's proceedings, we would do that by substituting an order under section 25 for the order made. We are not prepared to do that, for we do not think the mixed court's proceedings were satisfactory, since the appellant was not heard. We have been shown no decided case where any power to bind to the peace or good behaviour has been exercised without hearing the person ordered to be bound over or giving him an opportunity of being heard. Of the powers of that kind contained in the Criminal Procedure Code, those conferred by sections 87 and 93 cannot be so exercised and in our opinion that conferred by section 25 should not be so exercised.

However, the appellant was heard in the provincial court, and it is submitted that the provincial court's order affirming the order of the mixed court should therefore stand. The provincial court was entitled to affirm the order of the mixed court if it considered there was no sufficient ground for interfering with it: Native Courts Law, section 70(1)(*a*). The question then is whether the proceedings in the provincial court showed that there was no sufficient ground for interfering in spite of the mixed court's omission to hear the appellant or give him an opportunity of being heard. The proceedings in the provincial court added nothing to the proceedings in the mixed court except the appellant's statement. We cannot see anything in the appellant's statement which would support an order that he should be bound over.

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The prosecutor's statement in the mixed court could not support such an order in the mixed court because the appellant was not heard there, and it could not support the order in the provincial court because the prosecutor did not make the statement in the provincial court. A court cannot decide issues between litigants by hearing one of them only; it must hear both.

For these reasons we set aside the order for binding over the appellant. We observe that for the same reasons the finding of guilty of an offence under section 114 of the Penal Code cannot stand.

Conviction and order for binding over set aside.

MUHAMMADU BAUCHI *v.* INNA DANTSINKE

[C.A. (Haliru Binji, D.G.K., Reed, Ag. S.P.J. and J. P. Smith, J.)——December 9, 1964]
[Bauchi——Appeal No. Z/6CA/1963]

Appeal——criminal appeal——respondent acquitted of charge of rape——prosecution conducted by native authority police——whether father of girl "party aggrieved" and so entitled to appeal against respondent's acquittal——Native Courts Law, 1956, *s.*67——*Criminal Procedure Code*, *s.*278.

Words and phrases——"party aggrieved"——Native Courts Law, 1956, *s.* 67.

The respondent was charged in a native court with the rape of a girl of tender age and was acquitted. The prosecution was conducted by the police. The father of the girl sought to appeal against the acquittal on the ground that he was a "party aggrieved" within the meaning of s. 67 of the Native Courts Law, 1956.

Held: Where the state or a native authority, as appropriate, undertakes and conducts a prosecution for the alleged rape of a girl of tender age, the father of the girl is not a "party aggrieved" within the meaning of s. 67 of the Native Courts Law, 1956, and has no right of appeal.

APPLICATION FOR LEAVE TO APPEAL OUT OF TIME

M. U. Ogbole, State Counsel, as *amicus curiae*;
F. C. Udeh for the applicant.

J. P. Smith, J., delivering the judgment of the Court: This application is somewhat out of the ordinary. In the Court of the Chief Alkali of Bauchi the present respondent was prosecuted and charged with the offence of rape: the complianant was a girl of tender age, named Talatu Bauchi. After a careful and proper trial the respondent was found not guilty and acquitted. The father of the girl, Muhammadu Bauchi, then filed a motion before this Court applying for leave to appeal out of time against the acquittal.

Learned state counsel, who submitted that it was only the Bauchi Native Authority which had a right of appeal, did not wish the native authority to be joined as a party though he was on notice himself.

Mr Udeh, who appeared for the applicant, was called upon to argue the point as to whether the applicant before us had a right of appeal. He said that he was the father of the girl who was the complainant in the court of the chief alkali. He referred the Court to section 67 of the Native Courts Law, 1956, where a party aggrieved was defined. The issue was, was the applicant such a party? He submitted that sections 143 and 144 of the Criminal Procedure Code were relevant as to who was the party in a case. He conceded that the native authority police conducted this prosecution, but submitted that they did so on behalf of the present applicant who was the complainant and the party. The party remained the complainant throughout, and when he made a

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J. P. Smith, J.

complaint and the Court directed an investigation under the sections to which he had referred, the police were then only acting in the interests of justice on behalf of the complainant. He called in aid section 150(3) of the Criminal Procedure Code, which stated that there could be an appeal by a person aggrieved by the refusal of a court to proceed.

We then heard Mr Ogbole, State Counsel, as *amicus curiae*. In his submission, the right of appeal from a native court must be conferred by law and he referred us to section 278 of the Criminal Procedure Code. So far as section 67 of the Native Courts Law, 1956, was concerned, the state for the purposes of this present matter was the Bauchi Native Authority, and no express right of appeal was vested in any individual where the state had prosecuted. If the proposition urged by Mr Udeh were accepted, a position of chaos and uncertainty would arise.

We think that this matter is one of importance and that it must be regarded as having its origin in the section to which learned state counsel made reference, namely section 278 of the Criminal Procedure Code. This reads—

> "Appeals from native courts in criminal matters shall be in accordance with the Native Courts Law, 1956, or the Northern Region High Courts Law, 1955, or this Criminal Procedure Code or any rules made under any of such laws."

From there we must look at section 67 of the Native Courts Law, 1956, which reads—

> "For the purposes of section 62 and 66 [and these refer to the chain of appeals from native courts of the various grades] a party aggrieved shall include the state, a public officer, a native authority and the prosecutor in a criminal cause."

In the matter before us we are quite satisfied that it was the Bauchi Native Authority which was the prosecutor, even though it was the applicant who made the complaint on behalf of his daughter, a child of tender years. It was not, and could not possibly be regarded as, a private prosecution so as to let the applicant within the ambit of the section.

We would observe that in a prosecution where the state, or the native authority, as appropriate, has undertaken and conducted the proceedings, it is the state which has the interest, and the safety and well-being of which has been affected, whether the party directly injured has been an individual or the state or native authority itself, or one of its organs. It will of course be appreciated that in circumstances which paralleled those of this present case, the individual who may feel that his rights have been affected has his remedy in a civil action, in which, as a result of the fact that the burden of proof is less heavy than in criminal proceedings, he may succeed in recovering damages for a tort committed against him.

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J. P. Smith, J.

We are quite satisfied that the present applicant cannot be regarded as a party aggrieved within section 67 of the Native Courts Law, 1956, and so has no right of appeal. We do feel that we should comment upon the record before us to complete this judgment. In our view the chief alkali conducted the trial with the utmost care and thoroughness. It is a cardinal principle that in any case of sexual assault the evidence of a female or male complainant must be corroborated and here the trial court was able to find no corroboration. The respondent was accordingly quite properly acquitted.

The application is dismissed.

Application refused.

VANGER DIO *v.* TIV NATIVE AUTHORITY

[C.A. (Holden, Ag. S.P.J., Abubakar Mahmud, Sh. Ct. J. and Jones, Ag. J.)——January 13, 1965]

[Makurdi——Appeal No. MD/125CA/1965]

Criminal procedure——sentence——principles to be followed where two offences arise from same acts——Penal Code, s.76

———— ———— sentencing on several charges——record should disclose which sentence imposed on each charge.

———— ———— fine——imprisonment in default of payment of fine——not to be used merely as a means of inflicting heavier sentence of imprisonment.

The appellant was convicted in a native court of offences against s. 103 of the Penal Code and r. 3(1) of the Tiv Native Authority (Preservation of Peace and Public Order) Rules, 1964. Both offences arose out of the same set of facts. The appellant was sentenced to 2 years' imprisonment with hard labour on the conviction under s. 103, 6 months' imprisonment with hard labour on the conviction under r. 3(1), "plus £55 fines each accused and default to go to prison for 6 months' imprisonment with hard labour . . . plus 6 strokes of the cane for Accused No.... 18," the appellant being Accused No. 18.

Leave was granted to appeal out of time against sentence only.

Held: (1) Where an accused person is convicted of more than one offence arising out of the same act, s. 76 of the Penal Code provides that he shall not, unless it be otherwise expressly provided, be punished with a more severe punishment than the court which tries him could award for any one of such offences.

(2) Where an accused person is convicted of more than one offence at the same time, a separate sentence should be passed and specified in the record in respect of each conviction.

(3) It is wrong in principle to impose a fine on conviction for an offence, with a view to imprisonment being imposed in default of payment, in such a way that the total sentence of imprisonment to which the accused person will become liable in respect of the instant and other convictions, will reach a preconceived aggregate.

CRIMINAL APPEAL FROM NATIVE COURT

The appellant appeared in person;
Nuhu Usman, State Counsel, for the respondent.

Holden, Ag. S. P. J., delivering the judgment of the Court: The appellant was convicted by the Rural Area Court at Gboko of offences against section 103 of the Penal Code and against rule 3(1) of the Tiv Native Authority (Preservation of Peace and Public Order) Rules, 1964, and sentenced as follows:

"Each accused 2 years I.H.L. under section 103 of Penal Code, 6 months I.H.L. under rule 3(1) of Tiv N.A. (Preservation of Peace and Public Order) Rules 1964, plus £55 fines each accused and default to go to prison for 6 months I.H.L. Total sentence 3 years I. H. L., plus 6 strokes of the cane for Accused No.... 18" [which was appellant's number].

He applied by motion for leave to appeal out of time but as he pleaded guilty to the charges and there was adequate evidence on the record against him we allowed him to appeal out of time against sentence only. We did so because it was obvious on the face of it that the sentences must be corrected.

The facts showed that there was an unlawful assembly of men bearing arms. The appellant attended it and was caught. What he did, and admitted doing, is covered by section 103 of the Penal Code and also by rule 3(1) of the Rules referred to. Both are different aspects of the same set of acts and facts, and though it was not wrong to convict of both, section 76 of the Penal Code makes it clear that in this case the sentences should not have been consecutive. That section reads:

"When the same act falls within the definition of more than one offence or when an offence consists of a series of acts each of which or any one or more of which constitutes the same or some other offence, the offender shall not, unless it be otherwise expressly provided, be punished with a more severe punishment than the court which tries him could award for any one of such offences."

The court had already awarded the maximum sentence under section 103, namely, two years. Therefore, unless the maximum sentence provided for by the rule is more than two years, any sentence under that charge must be concurrent. The maximum is in fact six months, which is what was awarded.

Another point about the sentence calls for comment. The fine is said to be £55, and no attempt is made to specify which charge it applies to, or, if it applies in part to each, how it is distributed. When a fine is imposed in such circumstances the court must always give details to enable an appeal court to understand exactly what was intended. There is always the possibility that one of the charges may be the subject of a successful appeal, in which case the appeal court will not know how much of the fine should be remitted. In such cases it is probable that the whole fine will be remitted. It cannot be too clearly laid down that each conviction must carry a separate sentence clearly attributed to it in the portion of the record which gives the sentences, and where fines are imposed they must be clearly specified and attributed to the individual charges. It is also important that the terms of imprisonment awarded in default must not exceed the maximum terms set out in section 74 of the Penal Code.

In this case it is quite clear from the wording of the record that the trial court considered that the appellant ought to go to prison for three years, and added offences and sentences in default of fines toge-

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ther to achieve this end. This is quite improper, and the power to inflict a fine must never be used in this way.

We allow the appeal against sentence in part. We confirm the sentence of two years' imprisonment on the conviction under section 103 of the Penal Code. We direct that the sentence of six months under the Rules shall be concurrent. We quash the sentence of fine, as we cannot say to which offence it refers. We likewise quash the sentence of six strokes of the cane, and for the same reason. The result is that the appellant now has a total of two years' imprisonment to serve.

Order accordingly.

COMMISSIONER OF POLICE *v.* JINADU ILORIN AND J. O. ADETOLA

[C. A. (Holden, Ag. S.P.J. and Smith, J.)——February 4, 1965]
[Jos——Matter No. JD/6M/1964]

Criminal procedure——charge——amendment——amendment to bring offence within jurisdiction——principles to be observed in amending ——Criminal Procedure Code, s. 208.

——committal for trial——whether after decision to try summarily ——ibid., *s.* 160(2).

—— jurisdiction of magistrate——jurisdiction to try offence—— mistaken assumption of jurisdiction——charge framed of offence not within magistrate's jurisdiction——how magistrate may rectify irregularity—— ibid., *s.* 160(2), *s.* 208, *s.* 275.

Words and phrases——"judgment"——ibid., *s.* 275.

At a preliminary inquiry, after hearing the prosecution evidence, the magistrate decided that he would not proceed with the inquiry against either of the two accused. He discharged the first accused; he then framed a charge against the second accused and proceeded to try it himself. At the resumed hearing of the matter, it was realised that the charge (under s. 295 of the Penal Code) was only triable by the High Court or a native court with Grade A Limited powers.

The magistrate referred three questions of law to the High Court: (1) whether in these circumstances the magistrate could alter or amend the charge to one within his jurisdiction to enable him to try it summarily; or (2) whether the magistrate could still exercise his power to commit the accused to the High Court for trial; and (3) whether s. 275 of the Criminal Procedure Code applies to rulings at a preliminary inquiry or indeed at a trial, as well as to judgments.

Held: (1) Under s. 208 of the Criminal Procedure Code, the magistrate might alter or amend the charge to one within his jurisdiction to enable him to try it summarily, but he should use this power with great care and only after careful consideration of the evidence.

Per Curiam: A magistrate should not amend a charge merely for the purpose of bringing the case within his summary powers. His aim must be to do substantial justice, and he cannot be said to be doing that if he allows a serious offence to be treated lightly for the sake of convenience and speed of hearing. Those are no doubt matters to be considered, but in their proper proportion, and the primary consideration should always be to ensure that the court which tries any case has power to impose a punishment appropriately heavy having regard to the seriousness of the offence charged.

Held: (2) The magistrate might commit the accused to the High Court for trial, since s. 160(2) of the Criminal Procedure Code enabled that to be done at any stage before the signing of judgment.

(3) A decision of a magistrate at a preliminary inquiry that the accused should be committed for trial by the High Court or should be tried before the magistrate himself is not a "judgment" and is not therefore affected by s. 275 of the Criminal Procedure Code.

C. of P. v. Jinadu and J. O. Adetola — Holden, Ag. S.P.J.

REFERENCE ON QUESTIONS OF LAW

P. A. Barreto, State Counsel, for the prosecution;
Owen Fiebai for the defendants.

Holden, Ag. S. P. J., delivering the judgment of the Court: Three questions of law have been referred to this Court under section 260 of the Criminal Procedure Code by the learned Magistrate Grade II, Jos. These arise from an unusual situation. Having heard the prosecution evidence, the learned magistrate decided that he would not proceed with the preliminary inquiry against either of the defendants. The first he discharged, and as to the second he found sufficient grounds to frame a charge and proceed with the matter as a trial himself. He then framed a charge under section 295 of the Penal Code, to which the second defendant pleaded not guilty. At the resumed hearing of the matter it was realised that such a charge is triable only by the High Court or a native court with Grade A Limited powers. In effect, the learned magistrate asks what he should do next.

The prosecution before him argued that he has power under section 256 of the Criminal Procedure Code to commit for trial by the High Court, in spite of his ruling that there were no grounds for doing so, as section 275 of the Criminal Procedure Code does not apply to rulings in a preliminary inquiry. The defence submitted that he should amend the charge under section 208 of the Criminal Procedure Code and frame a fresh charge within his jurisdiction to hear, such as one under section 292 of the Penal Code. It was further submitted that he is bound by his ruling by virtue of section 275 of the Criminal Procedure Code and cannot change his mind after ruling that there are no grounds for committal.

The three questions submitted are—

1. Can a magistrate, having stated in his ruling at the close of the case for the prosecution at a preliminary inquiry, that he can try an accused summarily under section 170 of the Criminal Procedure Code, and then proceeds to draft a charge on a section which is beyond his jurisdiction, alter or amend the charge under section 208 of the Criminal Procedure Code to one within his jurisdiction to enable him to try the case summarily?

2. Can the magistrate still exercise his power under section 256 of the Criminal Procedure Code at this stage and commit the accused to the High Court for trial?

3. Does section 275 of the Criminal Procedure Code apply to rulings at a preliminary inquiry or indeed at a trial as well as to judgments?

The argument before this Court followed the same lines as in the court referring, save that Mr Barreto for the prosecution added on (at the Court's suggestion) a reference to section 160 of the Criminal Procedure Code. Mr Fiebai for the defendant submits in brief that the learned magistrate made a mistake in framing so serious a charge, and should be allowed to amend it to something less serious which he

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can deal with himself. We agree that section 208 gives the magistrate power to amend, and that if on a careful reading of the evidence recorded he thinks he should amend, then he may. He should however not amend merely for the purpose of bringing the case within his summary powers. His aim must be to do substantial justice, and he cannot be said to be doing that if he allows a serious offence to be treated lightly for the sake of convenience and speed of hearing. Those are no doubt matters to be considered, but in their proper proportion, and the primary consideration should always be to ensure that the court which tries any case has power to impose a punishment appropriately heavy having regard to the seriousness of the offence charged. Thus if the magistrate considers that the evidence discloses an offence under section 295 of the Penal Code he should not amend the charge to a lesser offence.

The answer to the second question is, we feel, in subsection (2) of section 160 of the Criminal Procedure Code which reads—

> "(2) If, in proceedings in a magistrate's court, at any stage before the signing of judgment in the trial of a case under this chapter it appears to the magistrate that the case is one which ought to be tried by the High Court, he shall in like manner frame a charge against the accused and, in so far as he has not already done so, shall complete the procedure laid down in Chapter XVII for inquiry into cases triable by the High Court down to the framing of the charge and the magistrate shall thereafter observe the procedure prescribed in that chapter to be followed after the framing of the charge."

The operative words are "at any stage before the signing of judgment", which in our view covers the case now before us. We read this to mean that no matter what has gone before the magistrate can, until the very end of the case, decide to change it into a preliminary inquiry and commit to the High Court for trial.

The answers given above have in some measure answered the third question already. Section 275 comes in Chapter XXII, headed "The Judgment", and every section of that chapter clearly refers to a final judgment giving the court's decision in a case. Section 275 reads:

> "275. No court when it has signed its judgment shall alter or review the same, except as provided in section 309 or section 317 or to correct a clerical error."

Section 309 allows for a sentence of caning to be altered in certain circumstances and section 317 allows for discharge or remission of punishment in certain cases on receipt of an adequate apology, so the two exceptions do not affect this case. We do not consider that the magistrate in saying that there should be a committal or that there should be a trial before him is giving a "judgment". It is not even a "ruling" which we understand to mean a decision on a point of law. It is merely an expression of his opinion, for it "appears to him" under section 160, or he "is of opinion" under section 170, that certain things ought to be done. The answers to the questions therefore are:

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1. Yes, but let him use the power to reduce the charge with great care and only after careful consideration of the evidence.

2. Yes.

3. Section 275 of the Criminal Procedure Code does not apply to the expression of an opinion by a magistrate whether or not to commit for trial by the High Court. The rest of the question being irrelevant we decline to answer it.

Opinion affirmative on the first two questions and negative on the third in so far as relevant.

AKILE GBILA *v.* COMMISSIONER OF POLICE

[C. A. (Hurley, C. J., Reed, S. P. J. and Holden, J.)—— April 15, 1965]

[Jos——Appeal No. MD/98CA/1964]

Criminal procedure——sentence——fine——term in default——sentence of imprisonment for same offence——whether aggregate of term and sentence may exceed court's power to sentence to imprisonment——Criminal Procedure Code, s. 4, s. 7, s. 16, s. 21, s. 22; Penal Code, s. 73.

——— ——— amount of fine——principles to be observed.

Jurisdiction——magistrate——sentence——fine——term in default——sentence of imprisonment for same offence——whether aggregate of term and sentence may exceed magistrate's power to sentence to imprisonment——Criminal Procedure Code, s. 4, s. 7, s. 16, s. 21, s. 22; Penal Code, s. 73.

A magistrate does not exceed his powers of sentencing to imprisonment if, when imposing a sentence of imprisonment and fine, he awards a further term of imprisonment in default of payment of the fine and the aggregate of the sentence of imprisonment and the term in default of payment exceeds the maximum sentence of imprisonment which he may pass.

But it is wrong in principle to add a fine with a term of imprisonment in default of payment to a sentence of imprisonment with the object of exceeding, in the aggregate of the term in default and the sentence of imprisonment, the maximum sentence of imprisonment which the court may pass.

The appellant was convicted by a magistrate of the first grade of an offence of rioting being armed with a deadly weapon, contrary to s. 107 of the Penal Code. He was sentenced to imprisonment for three years, a fine of £200 with two years' imprisonment in default and twelve strokes of the cane. The sentence of imprisonment and the term in default of payment of the fine were cumulative, making a total of five years' imprisonment. The magistrate had power under s. 16(*a*) of the Criminal Procedure Code to pass a sentence of imprisonment not exceeding three years. On the appellant's appeal against sentence the High Court thought the fine was one the appellant plainly could not pay.

Held: (1) The magistrate had not exceeded his power of passing a sentence of imprisonment not exceeding three years, because imprisonment in default of payment of a fine is not a punishment for the offence for which the fine is imposed but a punishment for not paying the fine or a means of enforcing payment, and the jurisdiction of a magistrate of the first grade to pass a sentence of imprisonment under s. 16(*a*) of the Criminal Procedure Code and his jurisdiction under s. 22 to award a term of imprisonment in default of payment of a fine are distinct.

(2) The sentence of fine was wrong in principle, because the amount of a fine must be graded in relation to the ability of the accused to pay and a fine should not be fixed with the object of extending to the utmost possible limits the term of imprisonment to be awarded by the court trying the case.

Per Curiam: It is only in very exceptional circumstances that a fine should be added to a substantial term of imprisonment.

Cases referred to:

Hilkyas Dgaan and five others v. Commissioner of Police, Appeal No. MD/132CA/1964, 14th September, 1964, unreported, not followed;

Ukuv Kuv v. Commissioner of Police, Appeal No. MD/194CA/1964, 15th January, 1965, unreported, applied.

CRIMINAL APPEAL

The appellant appeared in person;

Sir Ian Lewis, Attorney-General, (M. U. Ogbole, State Counsel, with him) for the respondent.

Hurley, C. J., delivering the judgment of the Court: This is an appeal from a decision of the court of a magistrate of the first grade sitting at Makurdi in the Jos Magisterial District. The appellant was convicted of an offence of rioting being armed with a deadly weapon contrary to section 107 of the Penal Code and sentenced to imprisonment for three years, a fine of £200 with two years' imprisonment in default and twelve strokes of the cane. He appealed against conviction and sentence. His appeal was first argued before a Court of two Judges (Smith, S.P.J., and Ahmad, J.). The Court disagreed in regard to one of the grounds of appeal, namely, that the magistrate exceeded his powers in the sentence he imposed on the appellant, and under section 40(4) of the High Court Law the appeal was reserved for hearing before a court consisting of an uneven number of Judges. The present Court was constituted for the reserved hearing and we heard the appeal yesterday, when we had the benefit of argument from the Attorney-General on the point in controversy.

The grounds of appeal are, first, that the decision is unreasonable and cannot be supported having regard to the evidence; secondly, that the sentences are excessive; thirdly, that the trial was a nullity; and fourthly, that the magistrate exceeded his powers in the sentences he imposed on the appellant. The appellant was not represented by counsel before us and did not argue any of the grounds of appeal. He pleaded guilty at the trial, which leaves the first ground of appeal without relevance. He sought, before us, to deny or explain away his plea of guilty, but the plea was not disputed in the grounds of appeal or at the first hearing and we believe that what the appellant has told us is an afterthought and without substance. The third ground of appeal, that the trial was a nullity, is stated without particulars and is thus unexplained. We can see nothing in the proceedings of the court below to support it and did not call on the learned Attorney-General to argue it. Thus we are concerned only with the second and fourth grounds of appeal, that the sentences were excessive and that they were in excess of jurisdiction. We will consider the latter ground first.

The term of two years' imprisonment in default of payment of the fine was cumulative upon the sentence of imprisonment for three years by the effect of section 73 of the Penal Code, which provides—

"73. Whenever an offender is sentenced to a fine whether with or without imprisonment under this Penal Code the court which sentences the offender may direct by the sentence that, in default of payment of the fine, the offender shall be committed to prison for a certain term, which term shall be in excess of any other term of imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence."

Section 16 of the Criminal Procedure Code provides—

"16. A magistrate of the first grade may pass the following sentences—

(*a*) imprisonment for a term not exceeding three years;

(*b*) fine not exceeding three hundred pounds;

(*c*) caning;

(*d*) detention under section 71 of the Penal Code."

The point in controversy is whether by sentencing the appellant to three years' imprisonment and directing that he be imprisoned for two years in default of payment of the fine the learned trial magistrate exceeded the power of passing a sentence of imprisonment for a term not exceeding three years conferred on a magistrate of the first grade by section 16(*a*) of the Criminal Procedure Code.

The appeal of *Hilkyas Dgaan and five others v. Commissioner of Police*, Appeal No. MD/132CA/1964, (unreported), was decided in this Court (J. A. Smith, S. P. J., and Bate, J.) on the 14th September, 1964. The appellants were convicted on a charge of riot contrary to section 105 of the Penal Code by a magistrate of the first grade. Three of them were each sentenced to three years' imprisonment, a fine of £300 with two years' imprisonment in default and twelve strokes of the cane. It was submitted on their behalf that the magistrate had exceeded his powers by imposing the sentences of three years' imprisonment and a fine with a further two years' imprisonment in default of payment. The Court in its judgment quoted section 16 and section 21 of the Criminal Procedure Code and referred to sections 73, 74 and 75 of the Penal Code, and continued—

"A magistrate has a power to order imprisonment in default of payment of a fine by virtue of section 21 of the Criminal Procedure Code read in conjunction with section 73, 74 and 75 of the Penal Code as being a 'sentence authorised by law' in section 21 of the Criminal Procedure Code. But in the exercise of that power a magistrate of the first grade must abide by section 7(1)(*b*) and section 16 of the Criminal Procedure Code; that is to say, he can only impose a sentence in default of payment of a fine in excess of the substantive imprisonment provided the two sentences together do not exceed three years' imprisonment. It would have been otherwise had section 16 or some other section of the Criminal Procedure Code given him a specific power to imprison in default in excess of the substantive imprisonment of three years. A magistrate is a creature of statute and as such his jurisdiction and

powers and the extent to which he may exercise them are limited to the statute which creates him. By section 16 a magistrate of the first grade may impose a sentence of three years' imprisonment and a fine of £300 but has no power to exceed the maximum imprisonment by a further term of imprisonment in default of payment of the fine under this section nor under any other section of the Criminal Procedure Code."

It is to be observed that the term of imprisonment which may be awarded in default of payment of a fine is not the equivalent of the fine, for by section 75 of the Penal Code serving it does not discharge the offender from liability to pay the fine or any unpaid part of it. It is not a sentence for the offence for which the fine is imposed in the sense that it is a punishment for that offence; it is a punishment for default in paying the fine, or a means of enforcing payment.

By section 6(1) of the Criminal Procedure Code a magistrate's court is established in each magisterial district constituted under section 5 of the Code, and by section 6(2) a magistrate's court has such jurisdiction as is conferred on it by the Code or any other written law. By section 8, the magistrates themselves are, and are appointed as either Chief Magistrates or first, second or third grade magistrates, and by section 7 the magistrates in a magisterial district are presiding officers of the magistrate's court of the district and there severally have and exercise all the jurisdiction and powers conferred on them respectively by their appointments and no greater jurisdiction or powers. By section 4 there are six classes of criminal courts and four of these classes are the courts of Chief Magistrates and magistrates of the first, second and third grades. From this it appears that the court of a magistrate of a particular grade, being a court of one of the classes mentioned in section 4, is the magistrate's court of a magisterial district presided over by a magistrate of that grade. The jurisdiction and powers of such a court are, by section 7, the jurisdiction and powers of the magistrate himself conferred on him by his appointment and they are also, by section 6(2), the jurisdiction conferred on the court by the Code or any other written law. Or, to put it in slightly different words, the court of a magistrate of a particular grade, or a magistrate of a particular grade presiding in a magistrate's court—they are the same thing—has the jurisdiction both of the magistrate himself and of the magistrate's court.

The trial court or magistrate in the present case had jurisdiction to try the appellant for an offence against section 107 of the Penal Code under section 12 and Appendix A and section 161 or section 162 of the Criminal Procedure Code, jurisdiction under section 161(2) to convict him of the offence upon his plea of guilty, and jurisdiction under section 164(4) to sentence him for the offence. By section 16 and section 7 the jurisdiction to sentence for the offence extended, and was limited, to three years in the case of a sentence of imprisonment and £300 in the case of a sentence of fine. Section 21 allowed sentences of imprisonment and fine to be combined. Then section 22 gave a further

jurisdiction; it was not a jurisdiction to sentence for the offence, but a jurisdiction to imprison for default in payment of the fine. The section provides—

"22. Any court may award any term of imprisonment in default of payment of a fine which is authorised by section 74 of the Penal Code:

Provided that the term of imprisonment shall not be in excess of the powers of the court under sections 15 to 20."

The powers under section 16 of the court in the present case, so far as they related to imprisonment, extended and were limited to imprisonment for a term not exceeding three years, and thus the jurisdiction to imprison for non-payment of the fine conferred by section 22 was limited to imprisonment for three years. But this jurisdiction was distinct from the jurisdiction derived from section 16 and section 7 to pass a sentence of three years for the offence. There is nothing in section 22 or elsewhere in the Code to restrict to three years the aggregate of the terms of imprisonment awarded under these distinct jurisdictions—awarded, that is, under section 16 and section 22 respectively. If that had been the intention, then, as the learned Attorney-General submitted, section 16 or section 22 or both would have spoken of a "total" or "combined" or "aggregate" or other similarly qualified term of imprisonment. In our opinion the trial magistrate did not exceed his powers in the sentences he imposed on the appellant, and the fourth ground of appeal fails.

The remaining ground of appeal is that the sentences were excessive. We are not prepared to say that they were, in the circumstances of the case, excessive for this offence of armed rioting, but we think that the sentences of fine and caning were both wrong in principle. As regards the fine, we adopt the language and reasoning of this Court (Holden, Ag. S.P.J., and Jones, Ag. J.) in its judgment in *Ukuv Kuv v. Commissioner of Police*, Appeal No. MD/194CA/1964 (unreported). In that case the appellant was convicted of an offence against section 106 of the Penal Code and sentenced to three years' imprisonment, a fine of £300 or two years' imprisonment in default and twelve strokes of the cane. The Court said—

"Whenever a fine is imposed, its amount must be graded in relation to the ability of the accused to pay. In this case, a fine of £300 was obviously far beyond the ability of the appellant to pay, and was tantamount to a further prison sentence of two years. *Sarkar on the Indian Criminal Procedure Code*, 2nd edition, page 33, under the heading of 'Fine' states:

'It is not proper to impose heavy fine which is impossible for the accused to pay.'

and *Ratanlal on the Law of Crimes*, 20th edition, page 100, when referring to section 63 of the Indian Penal Code which corresponds in the main with section 72 of our Penal Code, says:

'A fine should be fixed with due regard to the circumstances of the case in which it is imposed and the condition in life of the offender . . . '

This last quotation continues—

'. . . and not with the object of extending to the utmost possible limits the term of imprisonment to be awarded by the magistrate trying the case.'

This is our second point, namely that it is improper to impose a fine the inevitable effect of which is a substantial increase in the prison sentence. To quote from the 15th edition of *Sohoni on the Code of Criminal Procedure of India*, at page 112, on the subject—

'To impose a fine which the accused has no means to pay really means that the accused is being sentenced under the clock of fine to undergo imprisonment or subject himself to further legal process.'

And later—

'Where a fine is not suited to the nature of the offence and is quite beyond the means of the offender to pay it, it should never be inflicted merely in order that a further term of imprisonment in default should be suffered. If the substantive sentence awardable by a magistrate is insufficient for the offence, the case should be sent for trial to a court which can inflict an adequate sentence.'

"In the present case the term of imprisonment imposed by the magistrate was three years, the maximum allowed under section 106 of the Penal Code. This is a substantial term of imprisonment. On this point Sarkar (*op. cit.*) says—

'Fine should never be added to a substantial term of imprisonment except in very exceptional cases. In English practice it is hardly done.'

"The legality of this sentence has not been put in issue before us, but we are of opinion that as a matter of practice it was assessed on the wrong principles. We therefore quash the fine imposed and the term of imprisonment ordered in default."

For the same reasons, we quash the sentence of fine and the term of imprisonment in default in this case. The magistrate thought a sentence of three years' imprisonment, the maximum he could impose, was insufficient in the circumstance of the case. We do not say he was wrong, because we do not say the sentences he imposed were excessive. But it was wrong to extend the maximum permissible sentence by adding a fine, still more by adding a fine which the appellant plainly could not pay and imposing a long term of imprisonment in default. The proper course was to send the appellant to the High Court or a Chief Magistrate for sentence.

A[s] regards the sentence of caning, we observe that section 308(4)(*c*) of the [Cr]iminal Procedure Code provides that no sentence of caning shall b[e] inflicted, that is, carried out, on males whom the court considers to be [mo]re than forty-five years of age. The appellant is plainly more than f[orty]-five years of age. He himself says he is fifty, and we think he is at leas[t] that. The trial court ought to have directed its attention to the appell[ant]'s age, and had it done so it must have considered it to be more t[han] forty-five years. The trial court erred in principle in sentencing th[e] appellant to be caned without directing its attention to his age. If it h[ad] taken note of his age, the trial court would have erred in princi[ple] in imposing a sentence which could not lawfully be carried out. It [wo]uld be equally wrong for this Court, having regard to what we o[ur]selves consider to be the appellant's age, to leave the sentence of cani[ng] to stand. We therefore quash it.

T[he] appeal against conviction is dismissed; the appeal against sentenc[e] is allowed in part, and the sentence of a fine of £300 with two ye[ars] imprisonment in default of payment and the sentence of caning [is] quashed and the sentence of three years' imprisonment is affirme[d].

Appeal against conviction dismissed; appeal against sentence allowed in part and dismissed in part.

NORTHERN NIGERIA

INDEX OF SUBSIDIARY LEGISLATION

Made under

THE NATIVE AUTHORITY LAW (CAP. 77)

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PREFACE

All Native Authorities are at present seeking ways and means of increasing their revenues to pay for the more extensive services demanded by their people. Some of this expansion can be paid for by economies or by increases in community tax but new sources of revenue can also play an important part.

This Index is designed to help Native Authorities so that by a scrutiny of the various types of legislation they can see how their neighbours are raising revenue and guiding and controlling the development of their areas.

As well as stimulating new ideas this Index is also intended to encourage uniformity in subsidiary legislation so that the present wide variations from Native Authority to Native Authority can be reduced.

Alhaji Ibrahim Arguegu.

Permanent Secretary,
Ministry for Local Government

21st February, 1966

INTRODUCTION

This Index lists all the Subsidiary Legislation made under the Native Authority Law (Cap. 77) between the 31st July, 1954 and the 31st December, 1965, which remained in force on the latter date.

2. The layout of the Index is designed to enable each Native Authority to see at a glance what subsidiary legislation it has, or has not, made and to indicate to interested Native Authorities suitable 'models' to copy if they so desire.

3. A Native Authority wishing to make any particular form of legislation would be well advised to inspect all the models quoted for that type of legislation as each model listed varies in some important aspect. If there is no model quoted which suits the exact requirements of the Native Authority the Ministry responsible for the subject matter of the Rules should be informed of the Native Authority's requirements and requested to assist in drafting the Legislation.

4. Unless specifically requested to the contrary Rules and Orders should be submitted to the Ministry responsible for their subject matter in triplicate. The original should be signed by the persons authorised under the Native Authority Standing Orders to do so while their names should be typed on the duplicate and triplicate copies.

5. When forwarding rules and orders Native Authorities should always state the number of printed copies which they require.

NOTES

* indicates that the notice which precedes the asterisk is amended by the notice or notices which are placed in brackets immediately following the asterisk.

For example: 91/55* (194/63; 197/63). This means that N.R.L.N. 91 of 1955 has been amended by N.A.L.N. 194 of 1963 and N.A.L.N. 197 of 1963.

All the Symbols printed below are printed immediately after the notice to which they refer

(*a*) indicates that the notice amends a notice made under some other Law or Ordinance. (Normally the Native Authorities Ordinance—Chapter 140 in the 1948 Edition of the Laws of Nigeria).

(*b*) indicates that the notice has been superseded by a later notice made by the same Native Authority or by a Native Authority to which the former Native Authority has been made subordinate but that the notice has not been repealed.

(*c*) indicates that the notice is a model that was gazetted under a blanket notice in accordance with the provisions of section 153 of the Law.

(*d*) indicates that the notice is a model the text of which may be adopted without amendment.

(*e*) indicates that the notice is a model which requires amendment to bring it into line with present practice or present legal requirements before adoption.

(*i*), (*ii*), (*iii*) or (*iv*) indicates that a footnote refering to this individual notice will be found at the end of the section.

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Responsible Ministry: Ministry of Works and Water Resources
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N.B.—Subsidiary legislation on this subject will normally follow the pattern set by one of the above-quoted sets of Rules.

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Bauchi 22/56

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Control of Seed Cotton Rules (page 119)
Cotton Marketing Rules (page 31)
Cotton Seed Multiplication Area Rules (page 32)
Model Rules: 124/59 (*c*), 121/59 (*e*)

Adamawa Province:
- Adamawa 291/61
- Muri 6/61
- Numan Federation 125/60

Bauchi Province:
- Bauchi 225/59
- Dass 76/64
- Gombe 175/59
- Katagum 76/63
- Misau 124/59
- Ningi 175/59
- Tangale Waja 175/59

Benue Province:
- Idoma 121/59
- Keffi 30/61
- Lafia 22/62
- Nasarawa 16/60

Bornu Province:
- Bedde 191/59
- Biu Federation 124/59
- Bornu 124/59
- Dikwa 175/59

Ilorin Province:
- Borgu 66/60

Kabba Province:
- Igala 124/59
- Igbirra 213/59
- Kwara 18/64

Kano Province:
- Hadejia 175/59
- Kano 124/59

Niger Province:

Abuja 175/59
Agaie 227/61
Bida 175/59
Gwari 175/59
Kamuku 175/59
Wushishi 175/59
Zuru Federation ... ... 175/59 (*b*); 83/65

Plateau Province:

Jos 30/60
Kanam 206/59
Lowland Federation 175/59
Pankshin Federation 87/61
Resettlement 149/64
Wase 175/59

Sokoto Province:

Gwandu 256/59
Sokoto 216/59
Yauri 202/59

Zaria Province:

Jema'a Federation 35/63

COTTON MARKETING RULES

Responsible Ministry—Ministry of Agriculture
Relevant section of the Law: 38 (55)

See also: Benniseed Marketing Rules (page 9)
Close season for Cotton Rules (page 23)
Control of Cotton Buying Rules (page 29)
Control of Seed Cotton Rules (page 119)
Cotton Seed Multiplication Area Rules (page 32)
Groundnut Marketing Rules (page 63)
Palm Kernel Marketing Rules (page 92)
Sheanut Marketing Rules (page 120)
Soya Beans Marketing Rules (page 125)

Kabba Province:

Igala 30/35

Niger Province:

Abuja 40/60

COTTON SEED MULTIPLICATION AREA RULES

Responsible Ministry—Ministry of Agriculture
Relevant section of the Law: 38(4)
See also: Close Season for Cotton Rules (page 23)
Control of Cotton Buying Rules (page 29)
Control of Seed Cotton Rules (page 119)

Bauchi Province:
Bauchi 26/62

Katsina Province:
Katsina 155/55

CONTROL OF CULTIVATION OF LAND RULES

Responsible Ministry—Ministry of Town and Country Planning
Relevant section of the Law: 38 (22)
Model Rules: 128/59 (*c*); 150/61 (*e*); 119/65 (*d*)

Benue Province:
Idoma 150/61
Lafia 201/60
Nasarawa 110/61
Wukari Federation 138/64

Bauchi Province:
Katagum 152/64

Bornu Province:
Bornu 128/59
Dikwa 128/59
Fika 27/62
Bedde 19/64

Kabba Province:
Igbirra 119/65

Kano Province:
Hadejia 106/62

Katsina Province:
Katsina 275/61

Plateau Province:
Lowland Federation 123/62
Wase 146/58

Sardauna Province:
Gashaka Mambilla 67/64

CUSTOMARY PRESENTS ORDER

Responsible Ministry—Ministry for Local Government
Relevant section of the Law: 44(10)
Model Rules: 28/55 (*c*)

Adamawa Province:
- Adamawa ... 134/55
- Muri ... 81/55

Bauchi Province:
- Gombe ... 81/55

Ilorin Province:
- Borgu ... 171/55
- Lafiagi ... 81/55
- Pategi ... 81/55

Kabba Province:
- Bunu ... 134/55
- Ijumu ... 171/55
- Kabba ... 134/55
- East Yagba ... 134/55
- West Yagba ... 134/55

Kano Province:
- Gumel ... 134/55
- Hadejia ... 81/55
- Kano ... 28/55
- Kazaure ... 28/55

Katsina Province:
- Daura ... 81/55
- Katsina ... 28/55

Niger Province:
- Abuja ... 171/55
- Agaie ... 94/55
- Bida ... 94/55

Sokoto Province:
- Argungu ... 171/55
- Gwandu ... 171/55
- Yauri ... 171/55

Zaria Province:
- Zaria ... 81/55

CONTROL OF DANE GUNS ORDER

Ministry Responsible—Ministry of Internal Affairs
Relevant section of the Law: 43 (2)
Model Rules: 38/56 (*c*) and (*e*)

Adamawa Province:
- Adamawa ... 196/57
- Muri ... 131/59
- Numan Federation ... 118/56

Bauchi Province:
- Bauchi ... 90/56
- Gombe ... 38/56
- Jama'are ... 311/56
- Katagum ... 196/57
- Misau ... 256/56
- Ningi ... 90/56
- Tangale Waja ... 14/63

Benue Province:
- Awe ... 236/58
- Idoma ... 138/56
- Keffi ... 395/56
- Lafia ... 85/58
- Nasarawa ... 138/56
- Tiv ... 314/56
- Wukari Federation:
  - Wukari Subordinate Native Authority ... 356/57

Bornu Province
- Bedde ... 236/58
- Biu Federation: ... 247/61
  - Biu Subordinate Native Authority ... 38/56 (*b*)
- Bornu ... 138/56 (*b*); 434/56
- Dikwa ... 38/56
- Fika ... 38/56* (145/58)

Ilorin Province:
- Borgu ... 38/56
- Ilorin ... 256/56* (191/58; 7/59)
- Lafiagi ... 124/58
- Pategi ... 34/59

Kabba Province:
- Igala ... 196/57
  - Bassa Komo Subordinate Native Authority ... 119/59 (*b*)

Kabba Province—continued
Igbirra 500/57
Ijumu 31/61
Kwara 27/59
East Yagba 31/61
West Yagba 31/61

Kano Province:
Gumel 38/56
Hadejia 38/56
Kano 274/57
Kazaure 38/56

Katsina Province:
Daura 436/57
Katsina 75/63

Niger Province:
Abuja 38/56
Agaie 38/56
Bida 38/56
Gwari 38/56
Kamuku 38/56
Kontagora 256/56
Lapai 38/56
Wushishi 236/58
Zuru Federation 118/56

Plateau Province:
Akwanga Federation:
Mada Subordinate Native Authority 201/56
Nassarawa-Eggon Subordinate Native Authority ... 201/56
Wamba Subordinate Native Authority 201/56
Jos 152/60
Kanam 118/56
Lowland Federation 54/59
Pankshin Federation:
Angas Subordinate Native Authority 118/56
Ron Kulere Subordinate Native Authority ... 118/56
Sura Pyem Subordinate Native Authority ... 118/56
Resettlement 208/63
Wase 209/59
Yergam 208/63

Sardauna Province:
Chamba 208/63

Sokoto Province:
Argungu 90/56
Gwandu 311/56
Sokoto 169/59
Yauri 90/56

Zaria Province:
Jema'a Federation 152/60
Jaba Subordinate Native Authority ... ... 311/56 (*b*)
Kagoro Subordinate Native Authority ... ... 311/56 (*b*)
Moroa Subordinate Native Authority ... ... 311/56 (*b*)
Zaria 38/56

DECLARATION OF PRISON ORDER

Responsible Ministry: Ministry of Internal Affairs
Relevant section of the Law: 136

Benue Province:

Tiv 71/61

Sokoto Province:

Sokoto 175/57

DELEGATION OF POWERS (SECTION 29)

Responsible Ministry—Ministry for Local Government
Relevant section of the Law: 68
Model Delegation: 199/59 (*c*) and (*e*)

Adamawa Province:

Adamawa 199/59
Muri 199/59
Zinna Subordinate Native Authority 199/59
Numan Federation 199/59
Bachama Subordinate Native Authority 199/59
Batta Subordinate Native Authority 199/59
Longuda Subordinate Native Authority 199/59
Mbula Subordinate Native Authority 199/59
Shellen Subordinate Native Authority 199/59

Bauchi Province:

Bauchi 199/59
Dass 197/59
Gombe 199/59
Jama'are 199/59
Katagum 199/59
Misau ... ... 199/59 (*b*), 200/59
Ningi 199/59
Tangale Waja 199/59
Kaltungo Subordinate Native Authority 199/59
West Tangale Waja (*i*) Subordinate Native Authority 199/59
Waja Subordinate Native Authority 199/59
Dadiya Subordinate Native Authority 199/59
Cham Subordinate Native Authority 199/59

Benue Province:

Awe 199/59
Idoma 194/59
Keffi 199/59

Lafia 199/59
Nasarawa 199/59
Tiv 199/59
Wukari Federation:
Donga Subordinate Native Authority 199/59
Takum Subordinate Native Authority 199/59
Wukari Subordinate Native Authority 199/59

Bornu Province:
Bedde 199/59
Biu Federation:
Askira Subordinate Native Authority 199/59
Biu Subordinate Native Authority 199/59
Shani Subordinate Native Authority 199/59
Bornu 199/59
Dikwa 199/59
Fika 196/59

Ilorin Province:
Borgu 199/59
West Borgu Subordinate Native Authority 199/59
Ilorin 199/59
Lafiagi 199/59
Pategi 199/59

Kabba Province:
Bunu 199/59
Igala 199/59
Bassa Komo Subordinate Native Authority 198/59
Igbirra 199/59
Ijumu 199/59
Kabba 199/59
Kwara Federation:
Aworo Subordinate Native Authority 229/59
Eggan Subordinate Native Authority 229/59

Kakanda Subordinate Native Authority 229/59
Koton-Karifi Subordinate Native Authority ... 229/59
Kupa Subordinate Native Authority ... 229/59
Lokoja Subordinate Native Authority 229/59
East Yagba 199/59
West Yagba 199/59

Kano Province:
Gumel 199/59
Hadejia 199/59
Kano 199/59
Kazaure 199/59

Katsina Province:
Daura 199/59
Katsina 199/59

Niger Province:
Abuja 199/59
Agaie 199/59
Bida 199/59
Gwari 199/59
Kamuku 199/59
Kontagora 199/59
Lapai 199/59
Wushishi 199/59
Zuru Federation 199/59
Dabai Subordinate Native Authority 199/59
Donko Subordinate Native Authority 199/59
Fakai Subordinate Native Authority 199/59
Sakaba Subordinate Native Authority 199/59
Wasagu Subordinate Native Authority 199/59

Plateau Province:
Akwanga Federation 199/59
Jos 199/59

Kanam 199/59
Lowland Federation 199/59

Pankshin Federation:
Angas Subordinate Native Authority 199/59
Ron Kulere Subordinate Native Authority ... 199/59
Sura Pyem Subordinate Native Authority ... 199/59
Wase 199/59

Sardauna Province:
United Hills 222/59

Sokoto Province:
Argungu 199/59
Gwandu 199/59
Sokoto 199/59
Yauri 199/59

Zaria Province:
Birnin Gwari 199/59

Jema'a Federation:
Jema'a Subordinate Native Authority 199/59
Jaba Subordinate Native Authority 199/59
Kagoro Subordinate Native Authority 199/59
Moroa Subordinate Native Authority 199/59
Zaria 195/59

Note:

(*i*) The correct designation of this Subordinate Native Authority is "West Tangale Native Authority."

DISTRICT, VILLAGE GROUP AND VILLAGE COUNCIL ELECTORAL RULES

Responsible Ministry—Ministry for Local Government
Relevant section of the Law: 38(19)
See also: Native Authority Electoral Regulations (page 53)
Outer Council Electoral Rules (page 90)
Town Council Electoral Rules (page 126)
Model Rules: 120/65(*d*)

Adamawa Province:
Adamawa 119/60* (117/65)
Muri 1/61
Numan Federation 73/62* (16/63)

Bauchi Province:
Bauchi ... ... 63/60(*i*)* (65/64; 191/64)
Gombe ... ... 243/61(*i*)
Jama'are 113/58
Katagum 240/61
Misau 31/62
Ningi 181/60* (74/62)

Benue Province:
Idoma 56/62
Keffi ... ... 162/64(*i*)
Lafia ... ... 118/65(*i*)
Nasarawa ... ... 198/63(*i*)
Tiv 172/61* (100/62)
Wukari Federation:
Donga Subordinate Native Authority 19/62
Takum Subordinate Native Authority 62/58
Wukari Subordinate Native Authority 4/62

Bornu Province:
Bedde 26/63
Biu Federation:
Biu Subordinate Native Authority ... ... 51/63(*i*)
Bornu 11/59* (273/60)
Dikwa 72/60* (195/60)
Fika 32/63

Ilorin Province:
Borgu 41/61
Ilorin ... ... 144/59* (5/60; 35/61) (*i*)
Lafiagi 137/60* (236/60)
Pategi 210/60* (167/61)

Kabba Province:
- Igala 229/60
- Igbirra 29/60* (69/60; 169/60; 279/61; 137/64)
- East Yagba 41/59
- West Yagba 140/59

Kaduna Capital Territory:
- Kaduna 82/63* (171/63)

Kano Province:
- Gumel 239/60* (280/60)
- Hadejia ... ... 107/59* (223/59)(*i*)
- Kano 198/65
- Kazaure 64/62

Katsina Province:
- Daura 120/58
- Katsina 168/58* (28/63)

Niger Province:
- Abuja 30/58
- Bida 150/65
- Gwari 136/61* (170/64)
- Kamuku 7/65
- Kontagora 4/58
- Zuru Federation 190/63

Plateau Province:
- Akwanga Federation 88/62* (121/65)
- Jos 199/60* (225/60)
- Kanam 207/63
- Lowland Federation 1/59* (178/59; 129/61)
- Pankshin Federation 270/59* (139/60)
- Wase 127/65
- Yergam 180/62

Sardauna Province:
- Chamba 120/65
- Gashaka Mambilla 99/60
- Mubi ... ... 100/60* (133/60)(*i*)
- United Hills 148/62

Sokoto Province:
- Argungu ... ... 67/60* (59/62)(*i*)
- Gwandu 201/63
- Sokoto 177/60* (190/64)
- Yauri 20/61

Zaria Province:
- Jema'a Federation 202/60
- Zaria 9/60* (78/60; 144/60; 145/60)

NOTE:
(*i*) Also includes Rules for Elections to a Town Council.

DISTRICT, VILLAGE GROUP AND VILLAGE COUNCIL INSTRUMENTS

Responsible Ministry: Ministry for Local Government
Relevant section of the Law: 56, 59, 60, 61 and 66
See also: Outer Council Instruments (page 91)
Town Council Instruments (page 128)
Model Instruments: Village Council Instruments, Ward Council Instruments } 450/57(*e*)
District Council Instruments 156/65 (*d*); 173/65 (*d*); 175/65 (*d*)
Village Group Council Instruments 30/63 (*d*); 162/63 (*d*)

Adamawa Province:
- Adamawa 127/61; 176/64
- Muri 519/57
- Numan Federation 465/57

Bauchi Province:
- Bauchi 142/60
- Gombe 326/57* (144/61); 328/57* (146/61); 330/57* (147/61); 332/57* (143/61); 334/57* (145/61)
- Jama'are 111/58
- Katagum 7/58
- Misau 89/59
- Ningi 8/60* (285/61; 286/61)

Benue Province:
- Idoma ... ... 69/58 (*b*); 47/62
- Keffi 163/64; 164/64; 165/64; 166/64; 167/64
- Lafia 22/65* (48/65); 23/65* (49/65); 24/65* (50/65); 26/65* (46/65)
- Nasarawa 157/63; 158/63; 159/63; 160/63; 161/63; 162/63
- Tiv 196/61; 197/61; 198/61; 199/61; 200/61; 201/61; 202/61; 203/61; 204/61; 205/61; 206/61; 207/61; 208/61; 209/61; 210/61; 211/61

Wukari Federation:
- Donga Subordinate Native Authority 17/62

Wukari Federation—continued

Takum Subordinate Native Authority 30/62

Wukari Subordinate Native Authority 292/61; 293/61; 294/61; 295/61

Bornu Province:

Bedde 170/62; 171/62; 172/62

Biu Federation:

Biu Subordinate Native Authority 77/63

Bornu 76/59* (269/60)

Dikwa 126/60; 190/60; 191/60

Fika ... ... 44/58(*b*); 30/63

31/63* (90/63)

Ilorin Province:

Borgu 189/59; 190/59

Ilorin:

(Village area or Ward Council)

373/56; 374/56; 375/56; 376/56
377/56; 378/56; 379/56; 380/56
381/56; 382/56; 383/56; 384/56
385/56; 387/56; 388/56; 389/56
390/56; 391/56; 392/56; 393/56
394/56; 400/56; 401/56; 402/56
403/56; 404/56; 405/56; 406/56
407/56; 408/56; 409/56; 410/56
411/56; 412/56; 413/56; 414/56
415/56; 416/56; 417/56; 418/56
419/56; 420/56; 421/56; 436/56
437/56; 438/56; 440/56; 441/56
442/56; 443/56; 444/56; 445/56
446/56; 447/56; 448/56; 449/56
450/56; 451/56; 452/56; 453/56
454/56; 455/56; 456/56; 458/56
459/56; 460/56; 461/56; 462/56
468/56; 469/56; 470/56; 476/56
477/56; 478/56; 479/56; 480/56
481/56; 482/56; 483/56; 484/56
485/56; 486/56; 487/56; 488/56
489/56; 490/56; 491/56; 492/56
493/56; 494/56; 495/56; 496/56
497/56; 498/56; 499/56; 500/56
48/57; 49/57; 50/57; 51/57
52/57; 53/57; 54/57; 55/57
56/57; 57/57; 58/57; 59/57
60/57; 61/57; 69/57; 70/57

(Village area or Ward Council)—*continued*

71/57; 72/57; 73/57; 74/57
75/57; 76/57; 77/57; 78/57
79/57; 80/57; 81/57; 83/57
84/57; 85/57; 86/57; 87/57
88/57; 89/57; 90/57; 91/57
92/57; 93/57; 94/57; 95/57
104/57; 105/57; 106/57; 107/57
108/57; 109/57; 110/57; 111/57
112/57; 113/57; 114/57; 115/57
116/57; 117/57; 118/57; 121/57
122/57; 123/57; 124/57; 125/57
126/57; 127/57; 128/57; 129/57
130/57; 131/57; 132/57; 133/57
140/57; 141/57; 142/57; 143/57
144/57; 145/57; 146/57; 147/57
148/57; 149/57; 150/57; 151/57
163/57; 164/57; 165/57; 166/57
168/57; 169/57; 170/57; 177/57
178/57; 179/57; 180/57; 182/57
183/57; 184/57; 185/57; 186/57
187/57; 188/57; 189/57; 190/57
191/57; 192/57; 193/57; 194/57
195/57; 199/57; 200/57; 201/57
202/57; 203/57; 204/57; 205/57
206/57; 213/57; 214/57; 215/57
216/57; 217/57; 218/57; 219/57
220/57; 221/57; 222/57; 223/57
224/57; 225/57; 226/57; 227/57
228/57; 229/57; 230/57; 231/57
232/57; 233/57; 234/57; 235/57
236/57; 245/57; 246/57; 247/57
248/57; 250/57

(District Councils) 191/56* (241/59); 194/56* (252/59); 422/56* (249/59); 47/57* (247/59); 68/57* (248/59); 82/57* (251/59); 119/57* (245/59); 120/57* (253/59); 152/57* (240/59); 162/57* (244/59); 181/57* (250/59); 198/57* (243/59); 268/59; 120/64

Lafiagi 170/60

Pategi 221/60

Kabba Province:

Igala 349/57; 350/57; 351/57; 352/57
353/57; 355/57; 356/57; 358/57

Kabba Province—continued

Igbirra 359/57; 360/57; 361/57; 363/57; 365/57; 366/57; 10/65; 11/65; 12/65; 13/65;

East Yagba 108/64; 109/64; 110/64; 111/64; 112/64; 114/64; 115/64

West Yagba 40/59

Kano Province:

Gumel 138/59

Hadejia 235/60

Kano 164/59; 165/59

... ... 173/65; 174/65; 175/65; 176/65; 177/65; 178/65; 179/65; 180/65; 181/65; 182/65; 183/65; 184/65; 185/65; 186/65; 187/65; 188/65; 189/65; 190/65; 191/65; 192/65; 193/65; 194/65; 195/65; 196/65; 197/65

Kazaure 60/58

Katsina Province:

Daura 119/58

Katsina 167/58* (24/63); 24/63

Niger Province:

Abuja 22/58; 23/58; 24/58

Bida 138/65; 139/65; 140/65; 141/65; 142/65; 143/65; 144/65

Gwari 138/61; 139/61* (223/61); 140/61; 141/61; 142/61

Kamuku 115/63; 116/63; 117/63; 118/63; 119/63; 197/64

Kontagora 3/58

Plateau Province:

Jos 193/60

Kanam ... ... 17/60(*b*); 93/63; 94/63; 95/63; 96/63

Pankshin Federation 126/63; 127/63; 128/63; 129/63; 130/63; 131/63; 132/63; 133/63; 134/63; 135/63; 136/63; 137/63; 138/63; 139/63; 140/63; 141/63; 142/63; 143/63; 144/63; 145/63; 146/63; 147/63; 148/63; 149/63; 154/65; 155/65; 156/65

Wase 154/65; 155/65; 156/65

Sardauna Province:

Chamba 90/60* (146/60; 68/64); 187/60; 188/60; 189/60; 111/65

Gashaka Mambilla 97/60; 98/60

Mubi 89/60

United Hills 141/62; 142/62; 143/62

Sokoto Province:

Argungu 53/62

Gwandu 183/60* (250/60); 184/60* (249/60); 185/60

Sokoto 121/60* (168/64; 129/65) 216/60* (169/64)

Yauri 92/61

Zaria Province:

Jema'a Federation 211/60

Zaria 93/60* (261/60; 142/64; 143/64); 37/61; 38/61; 39/61:

CONTROL OF DOMESTIC ANIMALS RULES

Responsible Ministry: Ministry for Local Government
Relevant sections of the Law: 38 (7) and (10)
Model Rules: 192/63 (*d*)

Adamawa Province:
- Adamawa 22/63
- Muri 25/64
- Numan Federation 186/58

Bauchi Province:
- Gombe 218/59
- Katagum 307/56
- Misau 148/55
- Tangale Waja 87/58

Benue Province:
- Keffi 69/56
- Nasarawa 223/55* (245/56)
- Tiv 178/60

Bornu Province:
- Bedde 197/55
- Bornu 282/57
- Fika 489/57

Ilorin Province:
- Ilorin 67/62

Kabba Province:
- Igala 222/58

Kano Province:
- Gumel 5/59
- Hadejia 251/58
- Kano 185/55
- Kazaure 76/61

Niger Province:
- Abuja 130/65
- Zuru Federation 70/62

Plateau Province:
- Jos 21/60
- Pankshin Federation 189/58
- Yergam 14/64

Sardauna Province:
- Chamba 192/63
- Mubi 132/65

Sokoto Province:
- Argungu 47/58
- Gwandu 224/58

Zaria Province:
- Jema'a Federation 451/57
- Zaria 139/55

CONTROL OF DRUMMING ORDER

Responsible Ministry: Ministry of Social Welfare and Community Development
Relevant section of the Law: 44

See also: Control of Blowing Whistles at Random Order (page 14)
Control of Noise Order (page 89)

Kabba Province:
Igbirra
Kwara 316/56
... ... 109/58

ELECTION TO NATIVE AUTHORITY COUNCIL REGULATIONS

Responsible Ministry—Ministry for Local Government
Relevant section of the Law: 6(4)
Model Rules: 181/64(*e*); 105/63(*e*); 83/62(*e*); 68/65(*d*); 133/62(*e*)

Adamawa Province:
Adamawa 203/59* (156/60)
Muri 68/65
Zinna Subordinate Native Authority 61/65
Numan Federation 85/59; 83/62

Bauchi Province:
Bauchi 181/64
Dass 43/59
Gombe 144/61
Jama'are 65/58
Katagum 133/62
Misau 51/65
Ningi 119/64
Tangale Waja 201/59; 114/62

Benue Province:
Awe 112/62* (152/62)
Idoma 69/62
Keffi 64/56
Lafia 15/62* (28/62)
Nasarawa 86/60
Tiv:
Makurdi Subordinate Native Authority 37/59
Wukari Federation 45/60* (212/605; 124/64)
Donga Subordinate Native Authority 169/65
Takum Subordinate Native Authority 118/64
Wukari Subordinate Native Authority 14/62

Bornu Province:
Bedde 173/62* (209/63)
Biu Federation 41/63
Askira Subordinate Native Authority 42/63
Biu Subordinate Native Authority 44/63
Shani Subordinate Native Authority 40/63* (110/63)
Bornu 169/62
Dikwa 138/60* (194/60)
Fika 43/63* (22/64)

Ilorin Province:
- Borgu 26/61
- Western Borgu Subordinate Native Authority ... 25/61
- Ilorin 212/61
- Lafiagi 165/60* (259/60)
- Pategi 248/60

Kabba Province:
- Bunu 12/59
- Igala 136/59* (56/60)
- Bassa Komo Subordinate Native Authority ... 161/60
- Igbirra 5/61* (80/64)
- Ijumu 164/60* (121/64)
- Kabba 43/57* (269/57)
- Kwara 113/62; 59/63* (122/65)
- East Yagba 13/59
- West Yagba 139/59

Kano Province:
- Gumel 6/63* (168/65)
- Hadejia 144/62* (115/65)
- Kano 136/62* (195/63)
- Kazaure 137/62

Katsina Province:
- Daura 146/62
- Katsina 131/62* (57/63)

Niger Province:
- Abuja 70/64
- Agaie 76/58
- Bida 68/59
- Gwari 182/64
- Kamuku 58/65
- Kontagora 265/60
- Lapai 73/58* (4/61)
- Wushishi 116/61
- Zuru Federation 257/60* (216/61)
  48/61

Plateau Province:
- Akwanga Federation 90/62* (167/65; 172/65)
- Mada Subordinate Native Authority 79/62
- Nassarawa Eggon Subordinate Native Authority ... 75/62
- Wamba Subordinate Native Authority 81/62

Plateau Province—continued
- Jos 217/60
- Kanam 226/61
- Lowland Federation 21/59* (68/61; 105/61; 134/61)
- Montal and Gerkawa Subordinate Native Authorities 2/59* (70/61)
- Kofyer Federation and Shendam Subordinate Native Authorities ... 22/59* (69/61)
- Pankshin Federation 59/60* (149/60; 214/60)
  14/60* (153/60)
- Resettlement 92/62
- Wase 16/65
- Yergam 85/62

Sardauna Province:
- Chamba 162/60
- Gashaka/Mambilla 207/60
- Gwoza 131/60
- Mubi 130/60
- United Hills 179/62

Sokoto Province:
- Argungu 64/60
- Gwandu 203/63
- Sokoto 145/62
- Yauri 126/64

Zaria Province:
- Birnin Gwari 105/63* (23/64)
- Jema'a Federation 182/60; 150/64* (91/65)
- Zaria 115/62* (151/64)

ESTABLISHMENT OF POLICE FORCE ORDER

Responsible Ministry: Ministry of Internal Affairs
Relevant section of the Law: 121(1)

Sardauna Province:

Gashaka-Mambilla	105/62
Gwoza	104/62
Mubi	102/62
United Hills	103/62

FERRY CHARGES RULES

Responsible Ministry: Ministry of Works and Water Resources
Relevant section of the Law: 38(60)

Adamawa Province:

Muri	345/57

Sokoto Province:

Argungu	1/60

CONTROL OF FISHING RULES

Responsible Ministry: Ministry of Agriculture
Relevant section of the Law: 38(11)
Model Rules: 104/65(*d*)

Adamawa Province:
Numan Federation: Bachama Subordinate Native Authority 46/60

Bauchi Province:
Bauchi 78/59
Katagum 215/60* (123/61)
Misau 91/61
Ningi 65/59

Benue Province
Awe 52/62
Lafia 58/62
Nasarawa 4/63
Tiv 185/58
Wukari Federation 17/65

Bornu Province:
Bedde 36/59
Biu Federation 224/59
Fika 187/58

Ilorin Province:
Ilorin 97/62

Kabba Province:
Igala 216/58* (125/63)

Kano Province:
Hadejia 188/58
Kazaure 55/59

Niger Province:
Abuja 104/65
Gwari 258/59

Plateau Province:
Akwanga Federation 260/60
Lowland Federation 184/58
Yergam 193/63

Sokoto Province:
Argungu 207/57
Gwandu 147/60

Zaria Province:
Birnin Gwari 68/62
Jema'a Federation 92/59
Zaria 95/62

CONTROL OF FOODSTUFF—REGULATION—RULES

Responsible Ministry: Ministry of Economic Planning
Relevant section of the Law: 42

Bornu Province:
Biu Federation:
Biu Subordinate Native Authority 16/55

Plateau Province:
Akwanga Federation:
Mada Subordinate Native Authority 16/55
Nassarawa Eggon Subordinate Native Authority 16/55
Wamba Subordinate Native Authority 16/55

GENERAL RULES, ORDERS OR NOTICES

The Native Authority (Publication of Orders and Rules) Notice, 1954 ... ... 30/54* (526/57)

Delegation of Powers (under the Native Authority Law, 1954), 1955 ... ... 82/55* (16/62; 48/62; 113/65)

The Native Authority (Police Declarations) Order in Council, 1955 ... ... 161/55

The Native Authority Subordinate Councils (Election Offences) Rules, 1957 ... ... 427/57

The Native Authority Police Forces (Membership of Political Associations) Rules, 1958 ... 153/58

The Native Authority Employees (Maximum Salary) Order, 1961 ... ... 12/61

The Native Authority Rules (Method of Approval) Order in Council, 1961 ... ... 130/61

The Minister of Internal Affairs Delegation of Powers under the Native Authority Law, 1954, Notice 277/61

The Native Authorities (Establishment, Appointment and Constitution) Notice ... 10/62* (98/62; 104/63; 66/64; 130/64; 148/64)

Footnote:

See also:—

The Premier's Delegation of Powers Notice (made under the Ministers Statutory Powers and Duties (Miscellaneous Provisions) Law (Cap. 72)) ... ... N.N.L.N. 88/1964* (93/1964)

CONTROL OF GRAIN RULES

Responsible Ministry: Ministry of Agriculture
Relevant section of the Law: 38 (55)
See also: Control of Rice Rules (page 113)
Model Rules: 106/61 (*c*)

Adamawa Province:
Muri 106/61

Bauchi Province:
Bauchi 106/61
Gombe 106/61

Benue Province:
Idoma 106/61
Keffi 189/64
Nasarawa 57/62
Tiv 106/61
Wukari Federation 106/61

Bornu Province:
Dikwa 166/62
Fika 106/61

Ilorin Province:
Borgu 106/61
Lafiagi 72/62

Kano Province:
Gunnel 278/61
Hadejia 218/61
Kazaure 218/61

Katsina Province:
Daura 249/61
Katsina 218/61

Niger Province:
Agaie 234/61
Kontagora 109/63
Wushishi 249/61
Zuru Federation 234/61

Plateau Province:
Akwanga Federation 171/61
Pankshin Federation 106/61

Sokoto Province:
Gwandu 106/61
Yauri 106/61

Zaria Province:
Jema'a Federation 218/61

CONTROL OF GRAZING RULES

Responsible Ministry: Ministry of Animal and Forest Resources
Relevant section of the Law: 38(2) and (7)
See also: Control of Cattle Rules (page 22)

Katsina Province:
Daura 228/58

GROUNDNUT MARKETING RULES

Responsible Ministry: Ministry of Agriculture
Relevant section of the Law: 38(55)
See also: Close Season for Groundnuts Rules (page 25)
Model Rules: 198/58(*c*) and (*e*)

Adamawa Province:
Adamawa 53/60

Bauchi Province:
Bauchi 174/58
Dass 198/58* (205/58)
Gombe 80/59
Jama'are 49/58
Katagum 41/58
Misau 457/57
Ningi 215/58
Tangale Waja 158/60

Benue Province:
Tiv 131/61

Bornu Province:
Bedde 444/57
Biu Federation 261/59
Bornu 508/57
Dikwa 457/57
Fika 444/57

Ilorin Province:
Borgu 458/57
Lafiagi 21/61
Pategi 262/60

Kano Province:
Gumel 84/65
Hadejia 183/59
Kano 183/59
Kazaure 32/56* (41/58)

Katsina Province:
Daura 423/57
Katsina 424/57

Niger Province:
Agaie 228/61
Bida 182/58
Gwari 262/59
Kamuku 136/60
Kontagora 198/58* (205/58)

Plateau Province:
Jos:

Pengena Subordinate Native Authority
Kanam 201/58
Lowland Federation 118/58
Resettlement 53/61
Wase 116/64
Yergam 88/61

Sokoto Province:
Argungu 514/57
Gwandu 3/59* (257/59)
Sokoto 501/57
Yauri 118/58

Zaria Province:
Birnin Gwari 487/57
Zaria 457/57

HAWKING RULES

Responsible Ministry—Ministry of Trade and Industry
Relevant section of the Law: 38(56)
Model Rules: 191/63 (*e*); 165/65 (*d*)

Adamawa Province:
Adamawa 332/56
Numan Federation 212/55

Bauchi Province:
Bauchi 47/59
Katagum 83/56
Tangale Waja 191/63

Benue Province:
Idoma 77/56* (503/57)
Keffi 276/56
Lafia 230/58
Nasarawa 43/56
Tiv 45/59* (257/61)

Bornu Province:
Bedde 214/55* (256/61)
Biu Federation 213/55* (192/60)
Bornu 211/55
Dikwa 251/56* (10/64)
Fika 82/56* (83/58)

Ilorin Province:
Borgu 313/56* (31/60)
Ilorin 25/62

Kabba Province:
Kwara 52/59

Kano Province:
Gumel 238/57
Hadejia 41/57* (321/57)
Kazaure 13/55

Katsina Province:
Katsina 88/56

Niger Province:
Abuja 209/55
Agaie 13/56
Bida 294/57* (49/59)
Kamuku 177/63
Kontagora 37/58
Lapai 182/56
Wushishi 243/58

Plateau Province:
- Akwanga Federation:
  - Mada Subordinate Native Authority 179/56
  - Nassarawa Eggon Subordinate Native Authority ... 178/56
  - Wamba Subordinate Native Authority 177/56
- Jos 84/56* (1/58)
- Kanam 78/55
- Pankshin 86/59

Sardauna Province:
- Chamba 189/63
- Mubi 165/65

Sokoto Province:
- Argungu 507/56
- Sokoto 144/58

Zaria Province:
- Jema'a Federation 53/59
- Zaria 62/62

CONTROL OF HUNTING ORDER

Responsible Ministry: Ministry of Animal and Forest Resources
Relevant Section of the Law: 44(10); 44(3), 10 and (11)

Adamawa Province:
- Muri 375/57* (47/64)

Bauchi Province:
- Bauchi 409/57* (140/64)
- Gombe 414/57* (39/64)
- Jama'are 413/57* (38/64)
- Katagum 180/64
- Misau 410/57* (37/64)
- Ningi 210/58* (44/64)

Benue Province:
- Lafia 417/57* (49/64)
- Nasarawa 213/58* (48/64)
- Tiv 483/57* (136/64)

Bornu Province:
- Bedde 397/57* (40/64)
- Biu Federation 159/59* (46/64)
- Bornu 248/58
- Dikwa 248/58
- Fika 67/59* (177/64)

Ilorin Province:
- Borgu 412/57* (41/64)

Kabba Province:
- Igbirra 411/57* (43/64)

Kano Province:
- Hadejia 175/61* (52/64)

Katsina Province:
- Daura 416/57* (50/64)

Niger Province:
- Bida 212/58 (53/64)
- Kontagora 211/58* (51/64)

Plateau Province:
- Jos 161/59* (54/64)
- Lowland Federation:
  - Shendam Subordinate Native Authority 130/62* (75/64)
- Pankshin Federation 418/57* (77/65; 86/65)

Sokoto Province:
- Gwandu 28/59
- Yauri 90/58* (55/64)

N.B.
This Order is being redrafted and there is no model order that can be quoted for adoptation by Native Authorities.

IRRIGATION RULES

Responsible Ministry: Ministry of Agriculture
Relevant Sections of the Law: 38(49) and (59)
Model Rules: 153/63

Ilorin Province:
Pategi 255/61

Niger Province:
Bida 98/56* (192/58)
Lapai 153/63

JOINT COMMITTEE INSTRUMENTS

Responsible Ministry: Ministry for Local Government
Relevant section of the Law: 70

Bauchi Province:
Jama'are, Katagum, Misau ... ... 347/57 *(463/57)
Gombe, Tangale Waja 112/60

Ilorin Province:
Lafiagi, Pategi 250/58

Kabba Province:
Bunu, Ijumu, Kabba ... ... 97/56 *(176/59/ 45/61)
East Yagba, West Yagba ... ... 509/56 *(17/59; 176/59; 45/61)
Bunu, Ijumu, Kabba, East Yagba, West Yagba 176/59
Bunu, Igala, Igbirra, Ijumu, Kabba, Kwara, East Yagba, West Yagba ... ... 45/61 *(71/62)

Kano Province:
Gumel, Hadejia, Kano, Kazaure ... ... 13/57 *(81/58)

Niger Province:
Kontagora, Wushishi 197/58

Plateau Province:
Resettlement, Yergam 5/62

CONTROL OF JUVENILES ACCOMPANYING KORANIC MALLAMS RULES

Responsible Ministry: Ministry of Social Welfare and Community Development
Relevant section of the Law: 38 (16)
See also: Restriction on Travel of Juveniles Rules (page 111)
Model Rules: 125/59 (c)

Adamawa Province:
- Adamawa 132/59
- Muri 150/60
- Numan Federation 132/59

Bauchi Province:
- Gombe 166/59
- Jama'are 177/59
- Katagum 177/59
- Misau 177/59
- Ningi 177/59
- Tangale Waja 132/59

Benue Province:
- Lafia 264/59

Bornu Province:
- Biu Federation 13/60
- Bornu 125/59
- Fika 207/59

Kabba Province:
- Igbirra 220/60
- Kwara 125/59

Kano Province:
- Gumel 58/61
- Hadejia 37/60
- Kano 177/59
- Kazaure 177/59

Katsina Province:
- Daura 132/59
- Katsina 132/59

Niger Province:
- Bida 132/59
- Zuru Federation 177/59

Plateau Province:
- Akwanga Federation 166/59
- Lowland Federation 177/59
- Pankshin Federation 273/59
- Wase 156/61

Sokoto Province:
- Gwandu 132/59

Zaria Province:
- Zaria 13/60

CONTROL OF KUTIS RULES

Responsible Ministry: Ministry for Local Government
Relevant section of the Law: 38(43)

Kabba Province:
- Igbirra 152/63

LEPROSY CONTROL—SEGREGATION AREA RULES

Responsible Ministry: Ministry of Health
Relevant section of the Law: 38(25)

Benue Province:

Nasarawa ... ... 8/56(*a*)

LICENSING OF CARTS RULES

Responsible Ministry—Ministry of Works and Water Resources
Relevant section of the Law: 38(48)
See also: Licensing of Bicycle Rules (page 11)
Model Rules: 188/63(*e*)

Adamawa Province:

Adamawa 168/62
Numan Federation 60/60

Benue Province:

Idoma 150/58
Tiv:
Makurdi Subordinate Native Authority 196/58

Bornu Province:

Bornu 167/62
Dikwa 188/63
Fika 126/58

Kano Province:

Hadejia 101/62
Kano 270/60

Katsina Province:

Katsina 95/58

Niger Province:

Bida 175/58
Gwari 174/61
Kontagora 91/63

Plateau Province:

Jos 192/59

Sardauna Province:

Mubi 58/64

Sokoto Province:

Sokoto 129/59

Zaria Province:

Jema'a Federation 77/59
Zaria 11/60* (135/61)

LICENSING OF QUARRYING AND BRICKMAKING RULES
LICENSING OF STONEMASONS AND BRICKMAKERS RULES

Responsible Ministry: Ministry of Works and Water Resources
Relevant section of the Law: 38(55)
Model Rules: 114/65(*d*)

Benue Province:
Wukari Federation 101/58

Ilorin Province:
Ilorin 117/62

Niger Province:
Abuja 114/65
Kontagora 107/63

LIMITATION OF POWERS

Responsible Ministry: Ministry for Local Government
Relevant section of the Law: 4

Zaria Province:
Jema'a Federation 151/61

CONTROL OF LODGING HOUSES RULES

Responsible Ministry—Ministry of Health
Relevant section of the Law: 38(27)(*f*) and (62)

Bornu Province:

Bornu 107/55

MALARIA CONTROL RULES

Responsible Ministry—Ministry of Health
Relevant section of the Law; 38(24)
Model Rules: 536/56(*e*)

Sokoto Province:

Argungu 227/55
Gwandu 102/55
Sokoto 536/56

MARKET RULES

Responsible Ministry:
Cattle Market Rules: Ministry of Animal and Forest Resources
All other Market Rules: Ministry of Trade and Industry
(Combined Rules should be submitted to the Ministry of Trade and Industry).
Relevant section of the Law: 42
Model Rules:

Town Markets	20/63(*e*); 156/64(*e*)
Rural Markets	38/65(*e*); 103/65(*e*)
Cattle Markets	74/65(*e*)
Pig Markets	252/58(*e*)
Fish Markets	185/64(*e*)

Adamawa Province:

Adamawa	214/58; 24/59; 20/63
Muri	1/62; 74/65(*i*)
Numan Federation	49/60

Bauchi Province:

Bauchi	
Gombe	43/60 (*i*)
Katagum	52/63
Misau	124/61* (126/62; 152/65)
Tangale Waja	121/61
	103/65

Benue Province:

Idoma	295/56* (496/57)
Lafia	192/64
Nasarawa	170/59* (124/63)
Tiv	93/62* (135/65)
Makurdi Subordinate Native Authority	252/58 (*iii*)
Wukari Federation	207/58* (264/61)

Bornu Province:

Bedde	79/63
Biu Federation	164/62
Bornu	1/63* (71/64)
Dikwa	171/64; 185/64 (*iv*)
Fika	107/58* (94/59; 106/60)

Ilorin Province:

Borgu	255/59* (96/60; 129/62)
Ilorin	117/61; 268/61
Pategi	24/61

Kabba Province:

Igala	73/61
Igbirra	125/62
Ijumu	182/59

Kaduna Capital Territory:

Kaduna	156/64

Kano Province:

Gumel	220/58
Hadejia	116/60
Kano	128/55* (5/56; 75/59)
	244/58* (11/64)
Kazaure	151/58* (242/61)

Katsina Province:

Daura	72/63
Katsina	48/58* (241/58; 93/59; 62/61)
	30/65 (*i*)

Niger Province:

Abuja	187/63
Bida	266/57* (6/59)
	38/59* (181/61; 61/62)
Gwari	246/61; 165/62
Kamuku	45/62
Kontagora	504/57* (43/61)
	71/63* (56/64)
Wushishi	13/64
Zuru Federation	472/57; 63/62

Plateau Province:

Akwanga Federation	60/61* (248/61; 265/61)
Jos	120/60* (274/60; 124/65); 2/62
Kanam	251/61
Lowland Federation	16/61
Pankshin Federation	271/61* (123/63); 195/64 (*i*)
Wase	18/60

Sardauna Province:

Chamba	185/63

Sokoto Province:

Argungu	38/65
Gwandu	67/58* (55/62)
Sokoto	124/62 (*ii*)

Zaria Province:

Birnin Gwari	66/62
Jema'a Federation	70/59
Zaria	226/58* (174/62)
	128/60* (140/62)
	172/63 (*i*)

Notes:

(*i*) Cattle Market Rules
(*ii*) Includes Cattle Market Rules
(*iii*) Pig Market Rules
(*iv*) Fish Market Rules

MEAT AND SKIN TRADE RULES

Responsible Ministry: Ministry of Animal and Forest Resources
Relevant section of the Law: 38(8) and (55)

Ilorin Province:

Borgu 230/61

MILK PRODUCTS RULES

Responsible Ministry: Ministry of Health
Relevant section of the Law: 38(24)(31) and (55)

Plateau Province:

Kanam 50/55

CONTROL OF MINOR INDUSTRIES RULES

Responsible Ministry: Ministry of Trade and Industry
Relevant section of the Law: 38(30), (31) and (55)

Adamawa Province:
Adamawa 89/65

Bornu Province:
Bedde 88/65

Ilorin Province:
Borgu 93/65

Kabba Province:
Igala 177/62* (15/63; 97/63)

Niger Province:
Abuja 90/65
Kontagora 146/64

N.B.—See Ministry for Local Government circular No. 1/1966 (MLG/L/SLM/7/31 of 4th January, 1966).

MOTOR PARK RULES

Responsible Ministry: Ministry of Works and Water Resources
Relevant section of the Law: 38(44)
See also: Control of Traffic Rules (page 130)
Commercial Motor Vehicle Stations Rules (page 27)
Model Rules 87/65 (*d*); 134/62 (*e*)

Adamawa Province:
Adamawa 202/58; 111/59; 132/62* (169/63)
Muri 178/63* (42/64)
Numan Federation 104/59

Bauchi Province:
Gombe 108/60* (53/65)
Jama'are 33/64
Katagum 231/60
Misau 110/60* (276/60)
Ningi 101/59

Benue Province:
Idoma 234/60* (164/63)
Keffi 232/60
Lafia 233/60* (97/65)
Nasarawa 22/61
Tiv 267/61* (121/63)
Wukari Federation 84/62

Bornu Province:
Bedde 282/61
Dikwa 103/59* (214/61)
Fika 195/61

Ilorin Province:
Borgu 94/58* (58/63; 108/63)
Ilorin 134/62* (84/63)

Kabba Province:
Igala 134/59
Ijumu 80/62
Kabba 200/60
Kwara 138/62

Kaduna Capital Territory:
Kaduna 18/65

Kano Province:
Gumel 100/58
Hadejia 240/60
Kano 73/60* (168/63)
Kazaure 283/61

Katsina Province:
Daura 142/58* (127/59)
Katsina 176/62

Niger Province:

Bida 100/59
Gwari 98/58
Kontagora 23/61* (133/64)
Zuru Federation 2/61

Plateau Province:

Jos 42/61* (51/62; 175/62)
Kanam 276/61
Lowland Federation 51/61
Pankshin Federation 229/61
Wase 56/61
Yergam 87/65

Sardauna Province:

Chamba 49/63* 35/64)
Gwoza 92/65

Sokoto Province:

Argungu 85/63
Gwandu 109/60* (196/64)
Sokoto 54/65
Yauri 104/61

Zaria Province:

Jama'a Federation 147/62

DECLARATION OF NATIVE LAW AND CUSTOM RELATING TO THE SELECTION OF A CHIEF ORDER

Responsible Ministry—Office of the Military Government
Relevant section of the Law: 49
Model Order: 56/63

Adamawa Province:

Muri 46/61

Benue Province:

Awe 135/64
Lafia 134/64
Wukari Federation:
Takum Subordinate Native Authority 56/63

Kabba Province:

Bunu 26/60
Igala 3/61
Kabba 186/61

Zaria Province:

Jema'a Federation:
Jema'a Subordinate Native Authority 164/61

N.B.—See also subsidiary legislation made under the Chiefs (Appointment and Deposition) Law (Cap. 20 in 1963 Edition of the Laws of Northern Nigeria).

NATIVE LIQUOR RULES

Responsible Ministry—Ministry of Internal Affairs
Relevant section of the Law: 38 (57)
Model Rules: 179/63 (*d*)

Adamawa Province:
- Adamawa ... 494/57* (11/61)
- Muri ... 433/57* (190/58; 89/63)
- Numan Federation ... 35/57

Bauchi Province:
- Bauchi ... 46/58 (*a*)
- Gombe ... 8/65
- Katagum ... 52/56 (*a*)
- Misau ... 179/58 (*a*)
- Tangale Waja ... 171/65

Benue Province:
- Idoma ... 2/58
- Keffi ... 183/55 (*a*)
- Lafia ... 161/65
- Nasarawa ... 186/55 (*a*)
- Tiv ... 272/57* (217/58)
  273/57* (218/58)
- Makurdi Subordinate Native Authority ... 25/59

Bornu Province:
- Bornu ... 42/57 (*a*)
- Fika ... 264/57 (*a*) 93/58

Ilorin Province:
- Ilorin ... 18/62
- Pategi ... 80/58

Kabba Province:
- Bunu ... 54/56
- Igala ... 280/57
- Igbirra ... 155/58
- Ijumu ... 54/56
- Kabba ... 54/56
- East Yagba ... 54/56
- West Yagba ... 54/56

Kano Province:
- Gumel ... 56/56 (*a*)
- Hadejia ... 58/56 (*a*)
- Kano ... 147/55 (*a*)

Katsina Province:
- Katsina ... 104/55 (*a*)

Niger Province:
- Bida ... 129/56 (*a*); 172/58 (*a*)
- Kamuku ... 224/61
- Kontagora ... 179/63
- Lapai ... 51/56 (*a*)

Plateau Province:
- Akwanga Federation:
  - Wamba Subordinate Native Authority ... 52/55
  - Mada Subordinate Native Authority ... 52/55
  - Nassarawa Eggon Subordinate Native Authority ... 52/55
- Jos ... 154/56 (*a*)
- Kanam ... 54/56
- Lowland Federation ... 169/58* (51/59)
- Pankshin Federation ... 138/58* (123/60)
  - Angas Subordinate Native Authority ... 63/54 (*b*)
  - Ron Kulere Subordinate Native Authority ... 63/54 (*b*)
  - Sura Pyem Subordinate Native Authority ... 63/54 (*b*)
- Wase ... 434/57

Sokoto Province:
- Argungu ... 510/56 (*a*)
- Gwandu ... 24/57 (*a*)
- Sokoto ... 20/57 (*a*)
- Yauri ... 57/56 (*a*)

Zaria Province:
- Birnin Gwari ... 128/64
- Jema'a Federation ... 112/58* (176/63)
- Zaria ... 150/63; 199/64

DECLARATION OF NATIVE MARRIAGE LAW AND CUSTOM ORDER

Responsible Ministry: Ministry of Internal Affairs
Relevant section of the Law: 49
See also: Reporting of Marriages Rules (Page 110)
Model Order: 52/61 (*e*); 9/64

Benue Province:
Idoma 63/59
Tiv 149/55

Bornu Province:
Biu Federation 9/64

Ilorin Province:
Borgu 52/61

CONTROL OF NOISE ORDER

Responsible Ministry: Ministry of Social Welfare and Community Development
Relevant section of the Law: 44(4)
See also: Control of Blowing Whistles at Random Order (Page 14)
Control of Drumming Order (Page 52)
Model Rules: 13/62 (*e*)

Bornu Province:
Bornu 28/65

Kano Province:
Kano 69/59

Plateau Province:
Jos 95/60

Zaria Province:
Zaria 13/62

OUTER COUNCIL ELECTORAL RULES

Responsible Ministry: Ministry for Local Government
Relevant section of the Law: 38 (19)
See also: Outer Council Instruments (page 91)
Model Rules: 200/63 (*e*)

Adamawa Province:

Adamawa 117/58
Muri 169/61
Numan Federation 35/58

Bauchi Province:

Bauchi 341/57
Gombe 312/57
Jama'are 74/61
Katagum 288/57
Misau 290/57

Bornu Province:

Bedde 101/63
Bornu 215/59

Kano Province:

Gumel 159/56
Hadejia 301/56
Kano 128/56
Kazaure 100/55

Katsina Province:

Daura 20/59
Katsina 166/58

Niger Province:

Kontagora 47/63
Wushishi 96/59

Sokoto Province:

Argungu 70/60
Gwandu 200/63
Sokoto 247/60
Yauri 105/58

Zaria Province:

Zaria 58/60

OUTER COUNCIL INSTRUMENT

Responsible Ministry—Ministry for Local Government
Relevant sections of the Law: 57, 59, 60 and 61
See also: Outer Council Electoral Rules (page 90)
Model Instrument: 86/63(*e*)

Adamawa Province:

Adamawa 116/58
Muri 313/57
Numan Federation 34/58

Bauchi Province:

Bauchi 340/57* (203/60)
Gombe 311/57* (31/59)
Jama'are 481/57
Katagum 287/57
Misau 289/57* (18/59)

Bornu Province:

Bedde 86/63
Bornu 214/59* (186/60)

Kano Province:

Gumel 158/56
Hadejia 95/56
Kano 74/55* (533/56; 80/61)
Kazaure 73/55

Katsina Province:

Daura 19/59
Katsina 165/58

Niger Province:

Kontagora 54/62
Wushishi 99/59

Sokoto Province:

Argungu 41/60* (253/61)
Gwandu 57/59* (61/61)
Sokoto 115/60
Yauri 104/58

Zaria Province:

Zaria 161/56

PALM KERNEL MARKETING RULES

Responsible Ministry: Ministry of Agriculture
Relevant section of the Law: 38(55)
See also: Benniseed Marketing Rules (page 9)
Cotton Marketing Rules (page 31)
Groundnut Marketing Rules (page 63)
Sheanut Marketing Rules (page 120)
Soya Beans Marketing Rules (page 125)

Benue Province:

Idoma 157/60

Niger Province:

Abuja 271/60
Lapai 2/60

CONTROL OF PARTY POLITICAL FLAGS RULES

Responsible Ministry: Office of the Military Government
Relevant section of the Law: 38(43) and (44)

Plateau Province:

Jos 6/60

Zaria Province:

Zaria 79/61

POLICE FORCE RULES

Responsible Ministry: Ministry of Internal Affairs
Relevant section of the Law: 129(1)
Model Rules: 129/60(*c*)

Adamawa Province:

Muri	129/60* (14/61)
Numan Federation	129/60* (14/61)

Bauchi Province:

Bauchi	129/60* (14/61)
Dass	129/60* (14/61)
Gombe	129/60* (14/61)
Jama'are	129/60* (14/61)
Katagum	129/60* (14/61)
Misau	129/60* (14/61)
Ningi	129/60* (14/61)
Tangale Waja	40/61

Benue Province:

Idoma	40/61
Keffi	40/61
Lafia	129/60* (14/61)
Nasarawa	40/61
Tiv	129/60* (14/61)
Wukari Federation	129/60* (14/61)

Bornu Province:

Bedde	40/61
Biu Federation	108/62
Bornu	129/60* (14/61)
Dikwa	40/61
Fika	40/61

Ilorin Province:

Borgu	108/62
Ilorin	129/60* (14/61)
Lafiagi	108/62
Pategi	108/62

Kabba Province:

Bunu	129/60* (14/61)
Igala	129/60* (14/61)
Igbirra	129/60* (14/61)

Ijumu	129/60* (14/61)
Kabba	40/61
Kwara	129/60* (14/61)
East Yagba	108/62
West Yagba	108/62

Kano Province:

Gumel	108/62
Hadejia	108/62
Kano	40/61
Kazaure	40/61

Katsina Province:

Daura	40/61
Katsina	129/60* (14/61)

Niger Province:

Abuja	129/60* (14/61)
Agaie	40/61
Bida	129/60* (14/61)
Gwari	108/62
Kamuku	129/60* (14/61)
Kontagora	108/62
Lapai	129/60* (14/61)
Zuru Federation	40/61

Plateau Province:

Akwanga Federation	40/61
Jos	129/60* (14/61)
Lowland Federation	40/61
Kanam	158/64
Pankshin Federation	129/60* (14/61)
Resettlement	108/62
Wase	129/60* (14/61)
Yergam	108/62

Sardauna Province:

Chamba	32/64
Gashaka/Mambilla	184/64

Sokoto Province:

Argungu	2/64
Gwandu	129/60* (14/61)
Yauri	129/60* (14/61)

Zaria Province:

Jema'a Federation	129/60* (14/61)
Zaria	129/60* (14/61)

PREPARATION OF DRIED MEAT RULES

Responsible Ministry—Ministry of Health
Relevant section of the Law: 38 (37)
See also: Slaughter of Animals Rules (page 121)
Model Rules: 131/65 (*d*)

Bauchi Province:

Bauchi	208/58
Gombe	117/64
Katagum	55/56* (238/60)
Misau	208/58
Ningi	130/59

Bornu Province:

Biu Federation	87/59
Bornu	208/58
Dikwa	247/58
Fika	208/58

Ilorin Province:

Lafiagi	131/65
Pategi	108/65

Kano Province:

Gumel	208/58
Hadejia	45/57

Katsina Province:

Daura	247/58
Katsina	247/58

Niger Province:

Bida	260/59

Plateau Province:

Jos	247/58

Sokoto Province:

Argungu	23/63
Gwandu	208/58
Sokoto	247/58 (*b*); 231/59

PRESERVATION OF ANTIQUITIES RULES

Responsible Ministry—Ministry of Social Welfare and Community Development
Relevant section of the Law: 38(58)
(*Also* section 11 of the Antiquities Ordinance—Chapter 12 in the 1958 Edition of the Laws of the Federation of Nigeria)

Niger Province:

Wushishi	23/62

Zaria Province:

Zaria	24/60

PRESERVATION OF PEACE AND PUBLIC ORDER RULES

Responsible Ministry: Office of the Military Government
Relevant section of the Law: 38(43) and (44)

Benue Province:

Tiv 24/64* (187/64)

PRESERVATION OF RED GOATS RULES

Responsible Ministry—Ministry of Animal and Forest Resources
Relevant section of the Law: 38 (7)
Model Rules: 151/55(*e*)

Sokoto Province:

Argungu 151/55

PRISONS RULES

Responsible Ministry: Ministry of Internal Affairs
Relevant section of the Law: 148
Model Rules: 72/61 (*c*)

Adamawa Province:

Adamawa	110/62
Muri	110/62

Bauchi Province:

Bauchi	72/61
Gombe	72/61
Katagum	72/61
Misau	72/61; 206/63(*i*)
Ningi	72/61
Tangale Waja	72/61

Benue Province:

Idoma	72/61
Keffi	72/61
Lafia	72/61
Nasarawa	206/63
Tiv	110/62
Wukari Federation	110/62

Bornu Province:

Bedde	72/61
Biu Federation	72/61
Bornu	72/61
Dikwa	206/63
Fika	72/61

Ilorin Province:

Borgu	72/61
Ilorin	72/61
Lafiagi	72/61
Pategi	72/61

Kabba Province:

Bunu	110/62
Igala	72/61
Igbirra	72/61
Ijumu	72/61
Kabba	110/62
Kwara	110/62
East Yagba	72/61
West Yagba	72/61

Kano Province:

Gumel	72/61
Hadejia	72/61
Kazaure	72/61

Katsina Province:

Daura	72/61
Katsina	110/62

Niger Province:

Abuja	72/61
Agaie	72/61
Bida	72/61
Gwari	72/61
Lapai	72/61
Zuru Federation	72/61

Plateau Province:

Akwanga Federation	72/61
Lowland Federation	72/61
Pankshin Federation	72/61
Wase	72/61

Sardauna Province:

Chamba	102/63
Mubi	102/63

Sokoto Province:

Argungu	110/62
Gwandu	110/62
Sokoto	72/61
Yauri	72/61

Zaria Province:

Jema'a Federation	72/61
Zaria	72/61

Notes:—

(*i*) This appears to be unnecessary duplication as Misau Native Authority had previously made these Rules.

PROHIBITION OF CERTAIN PRACTICES CONNECTED WITH MAM JUJU RULES

Responsible Ministry: Office of the Military Government
Relevant section of the Law: 38 (44)

Adamawa Province:
Muri 33/61

PROHIBITION OF CORK EXPLOSIVES ORDER

Responsible Ministry: Office of the Military Government
Relevant section of the Law: 44 (4)

Zaria Province:
Zaria 31/55

PROHIBITION OF NON-IODIZED SALT RULES

Responsible Ministry: Ministry of Health
Relevant section of the Law: 38 (24)
Model Rules: 120/59(*e*)

Benue Province:

Idoma 176/55
Nasarawa 174/55
Tiv 173/55
Wukari Federation:
Donga Subordinate Native Authority ... 278/56
Takum Subordinate Native Authority ... 279/56

Kabba Province:

Igala 277/56* (518/57)
Bassa Komo Subordinate Native Authority ... 374/57(*b*)
West Yagba 293/57

Plateau Province:

Jos 120/59* (79/60)

Zaria Province:

Zaria 175/55* (297/56)

PROHIBITION OF SHARAU RULES

Responsible Ministry: Ministry of Social Welfare and Community Development
Relevant section of the Law: 38(43)

Plateau Province:

Pankshin Federation 471/57

PROTECTION OF PLANTATIONS RULES

Responsible Ministry: Ministry of Animal and Forest Resources
Relevant section of the Law: 38(1)(2) and (21)
Model Rules: 116/59; 70/63

Ilorin Province:

Borgu 258/60

Katsina Province:

Katsina 133/58

Sokoto Province:

Argungu 116/59; 70/63
Gwandu 29/56
Sokcto 134/58

PUBLIC HEALTH RULES

Responsible Ministry: Ministry of Health
Relevant section of the Law: 28(24)–(39) and (63)

Ilorin Province:

Borgu ... ... 79/59 (*a*)

REGISTRATION OF BIRTHS AND DEATHS RULES

Responsible Ministry: Ministry of Health
Relevant section of the Law: ... ... 38(46)
See also: Reporting of Marriages Rules (Page 110)
Model Rules: 146/65 (*d*)

Adamawa Province:
- Adamawa 173/63
- Muri 84/60
- Numan Federation 242/60

Bauchi Province:
- Bauchi 281/61
- Gombe 245/60
- Jama'are 219/61
- Katagum 91/59
- Misau 132/60
- Ningi 220/61
- Tangale Waja 246/60

Benue Province:
- Idoma 122/60
- Keffi 38/60
- Lafia 19/60
- Nasarawa 208/59
- Tiv 196/60
- Wukari Federation 120/62

Bornu Province:
- Bedde 244/60* (133/65)
- Biu Federation 100/61
- Bornu 231/58
- Dikwa 230/59
- Fika 99/61

Ilorin Province:
- Borgu 102/61
- Lafiagi 98/61
- Pategi 97/61

Kabba Province:
- Igala 280/61* (61/63)
- Igbirra 234/59
- Ijumu 232/58
- Kabba 233/58
- Kwara 71/59* (50/62)
- East Yagba 21/65* (34/65)

- West Yagba 37/65

Kano Province:
- Gumel 55/60
- Hadejia 56/59
- Kano 73/59* (140/60; 159/64)
- Kazaure 72/59* (167/60)

Katsina Province:
- Daura 39/60
- Katsina 142/59

Niger Province:
- Abuja 88/59
- Agaie 217/61
- Bida 74/59
- Gwari 237/59
- Kamuku 141/60
- Kontagora 241/60
- Lapai 243/60
- Wushishi 94/61
- Zuru Federation 83/60

Plateau Province:
- Akwanga Federation 93/61
- Jos 233/59
- Kanam 95/61
- Lowland Federation 101/61
- Pankshin Federation 128/61
- Wase 135/60

Sardauna Province:
- Chamba 69/65* (79/65)
- Gashaka/Mambilla 146/65
- Mubi 29/64
- United Hills 36/65

Sokoto Province:
- Argungu 289/61
- Gwandu 272/59
- Sokoto 96/61
- Yauri 221/61

Zaria Province:
- Birnin Gwari 155/60
- Jema'a Federation 20/60
- Zaria 235/59

REPORTING OF MARRIAGES RULES

Responsible Ministry: Ministry of Internal Affairs
Revelant section of the Law: 38(46)
See also: Declaration of Native Marriage Law and Custom Order (Page 88)
Registration of Births and Deaths Rules (Page 108)
Model Rules: 62/65(*e*); 170/65(*d*)

Benue Province:
- Idoma 531/56* (495/57)

Plateau Province:
- Lowland Federation
- Pankshin Federation:
  - Angas Subordinate Native Authority 68/56

Zaria Province:
- Jema'a Federation 103/58
- Zaria 170/65

RESTRICTION ON TRAVEL OF JUVENILES RULES

Responsible Ministry—Ministry of Social Welfare and Community Development
Relevant section of the Law: 38(16)
See also: Control of Juveniles accompanying Koranic Mallams Rules, (page 70)
Model Rules: 171/58

Adamawa Province:
- Adamawa 153/57
- Muri 183/56
- Numan Federation 166/56

Bauchi Province:
- Katagum 326/56
- Misau 67/56
- Ningi 171/58

Benue Province:
- Idoma 67/56
- Tiv 106/56

Bornu Province:
- Bedde 139/56
- Biu Federation:
  - Biu Subordinate Native Authority 67/56
  - Bornu ... ... 174/57 *(101/60)
  - Dikwa 67/56
  - Fika 292/56

Kabba Province:
- Igala 50/58
- Igbirra 348/57
- Ijumu 468/57
- Kabba 468/57

Kano Province:
- Gumel 67/56
- Hadejia 67/56
- Kano 10/56

Katsina Province:
- Daura 153/57
- Katsina 183/56

Niger Province:
- Agaie 326/56
- Bida 292/56

Gwari 67/56
Lapai 67/56

Plateau Province:

Akwanga Federation:

Mada Subordinate Native Authority 183/56
Nassarawa Eggon Subordinate Native Authority 183/56
Wamba Subordinate Native Authority 183/56
Kanam 139/56

Pankshin Federation:

Angas Subordinate Native Authority 139/56
Ron Kulere Subordinate Native Authority ... 139/56
Sura Pyem Subordinate Native Authority ... 139/56

Sokoto Province:

Argungu 67/56

Zaria Province:

Zaria 10/56

CONTROL OF RICE RULES

Responsible Ministry—Ministry of Agriculture
Relevant section of the Law 38(65)
See also: Control of Grain Rules (page 61)

Sokoto Province:

Argungu 119/62
Gwandu 91/62
Yauri 33/65

RIDING OF BICYCLES RULES

Responsible Ministry—Ministry of Works and Water Resources
Relevant section of the Law: 38(48)
See also: Licensing of Bicycles Rules (page 11)
Model Rules: 137/65(*d*)

Adamawa Province:
- Muri 63/61
- Numan Federation 231/61

Bauchi Province:
- Bauchi 155/61
- Gombe 103/63
- Katagum 139/62
- Misau 275/60

Benue Province:
- Lafia 137/65

Bornu Province:
- Bedde 152/61
- Biu Federation 254/61
- Bornu 153/61
- Dikwa 166/63
- Fika 160/61

Kabba Province:
- Igala 13/63
- Kabba 7/62

Katsina Province:
- Daura 287/61
- Katsina 84/61

Niger Province:
- Kontagora 73/65
- Wushishi 82/61

Sardauna Province:
- Chamba 48/63
- Gwoza 178/64
- Mubi 64/64

Sokoto Province:
- Gwandu 66/61

Zaria Province:
- Jema'a Federation 235/61
- Zaria 81/61

SALE OF BUKE CIGARETTES—REGULATION RULES

Responsible Ministry—Ministry of Trade and Industry
Relevant section of the Law: 38(55)
Model Rules: 40/58(*c*)

Bauchi Province:
- Bauchi 40/58
- Jama'are 40/58
- Katagum 40/58
- Misau 40/58
- Ningi 40/58

Ilorin Province:
- Lafiagi 40/58

Kano Province:
- Gumel 40/58
- Hadejia 40/58
- Kano 40/58

Niger Province:
- Bida 147/58
- Lapai 199/58

Sokoto Province:
- Argungu 40/58
- Gwandu 40/58
- Sokoto 40/58

Zaria Province:
- Zaria 40/58

SALE OF POULTRY—REGULATION RULES

Responsible Ministry: Ministry of Trade and Industry
Relevant section of the Law: 42

Kano Province:

Kano 343/57

SCHOOL ATTENDANCE RULES

Responsible Ministry—Ministry of Education
Relevant section of the Law: 38(18)
Model Rules: 151/60(*c*); 126/61(*e*); 166/65(*c*)

Adamawa Province:

Adamawa 25/57* (15/60)
Muri 25/57* (15/60)
Numan Federation 192/55* (475/56; 15/60)

Bauchi Province:

Bauchi 25/57* (15/60)
Gombe 192/55* (475/56; 15/60)
Jama'are 25/57* (15/60)
Katagum 25/57* (15/60)
Misau 25/57* (15/60)
Ningi 151/60
Tangale Waja 151/60

Benue Province:

Idoma 25/57* (15/60)
Keffi 25/57* (15/60)
Lafia 151/60
Nasarawa 192/55* (475/56; 15/60)
Tiv 25/57* (15/60)

Bornu Province:

Beddc 25/57* (15/60)
Biu Federation 151/60
Biu Subordinate Native Authority ... ... 192/55* (475/56) (*b*)
Bornu 151/60
Dikwa 25/57* (15/60)
Fika 126/61

Ilorin Province:

Borgu 176/57* (15/60)
Ilorin 25/57* (15/60)
Lafiagi 25/57* (15/60)
Pategi 25/57* (15/60)

Kano Province:

Gumel 192/55* (475/56; 15/60)
Hadejia 192/55* (475/56; 15/60)
Kano 192/55* (475/56; 15/60)
Kazaure 192/55* (475/56; 15/60)

Katsina Province:

Daura 176/57* (15/60)
Katsina 192/55* (475/56; 15/60)

Niger Province:

Abuja 151/60
Agaie 151/60
Bida 25/57* (15/60)
Gwari 176/57
Kamuku 151/60
Kontagora 25/57* (15/60)
Wushishi 25/57* (15/60)
Zuru Federation 192/55* (475/56; 15/60)

Plateau Province:

Akwanga Federation ... ... 15/60(*i*)
Jos 192/55* (475/56; 15/60)
Kanam 192/55* (475/56; 15/60)
Lowland Federation 32/61
Pankshin Federation:
Angas Subordinate Native Authority 192/55* (475/56)
Ron Kulere Subordinate Native Authority ... 192/55* (475/56)
Sura Peem Subordinate Native Authority ... 192/55* (475/56)
Wase 25/57* (15/60)

Sardauna Province:

Gashaka Mambilla 57/64
Mubi 166/65

Sokoto Province:

Argungu 25/57* (15/60)
Gwandu 25/57* (15/60)
Sokoto 151/60
Yauri 25/57* (15/60)

Zaria Province:

Jema'a Federation 120/61
Jema'a Subordinate Native Authority ... ... 25/57* (15/60) (*b*)
Zaria 25/57* (15/60)

Note.—(*i*) In N.A.L.N. 15/60 Akwanga Federation amended School Attendance Rules the original of which has never been gazetted.

CONTROL OF SEED COTTON RULES

Responsible Ministry: Ministry of Agriculture

Relevant section of the Law: 38(55)

See also: Close Season for Cotton Rules (page 23)
Control of Cotton Buying Rules (page 29)
Cotton Seed Multiplication Area Rules (page 32)

Model Rules: 139/57 as amended by 38/63

Katsina Province:

Katsina 424/56

Niger Province:

Abuja 516/57
Kontagora 443/57* (113/63)
Zuru Federation 459/57

Zaria Province:

Birnin Gwari 139/57* (38/63)
Zaria 506/56* (12/63)

SHEANUT MARKETING RULES

Responsible Ministry: Ministry of Agriculture
Relevant section of the Law: 38(55)
See also: Benniseed Marketing Rules (Page 9)
Cotton Marketing Rules (Page 31)
Groundnut Marketing Rules (Page 63)
Palm Kernel Marketing Rules (Page 92)
Soya Beans Marketing Rules (Page 125)
Model Rules: 166/60(*c*)

Adamawa Province:
- Numan Federation 166/60

Benue Province:
- Nasarawa 253/60

Katsina Province:
- Katsina 253/60

Niger Province:
- Abuja 253/60
- Agaie 233/61
- Bida 166/60
- Gwari 69/64
- Lapai 64/59* (128/62)
- Zuru Federation 21/62

Zaria Province:
- Zaria 166/60

SLAUGHTER OF ANIMALS RULES
ABATTOIR RULES

Responsible Ministry: Ministry of Health
Relevant sections of the Law: 38(24), (35), (36), (37), (38) and (39); 50

Model Rules:
- Slaughter of Animals ... ... 100/65(*d*)
- Abattoirs ... ... 70/65(*d*)

Adamawa Province:
- Adamawa 184/59* (279/60)
- Muri 524/57* (122/63)

Bauchi Province
- Bauchi 150/59* (63/63)
- Dass 419/57* (62/63)
- Gombe 420/57* (156/62)
- Katagum 442/57* (162/62)
- Misau 422/57* (150/62)
- Ningi 186/59* (21/63; 131/64)
- Tangale Waja 98/63

Benue Province:
- Idoma 421/57
- Keffi 81/64
- Nasarawa 65/63
- Tiv 187/59* (157/62)
- Wukari Federation 525/57* (21/64)

Bornu Province:
- Bedde 396/57* (163/62)
- Biu Federation 60/62* (36/63)
- Bornu 398/57* (161/62)
- Fika 151/59* (39/63)

Ilorin Province:
- Ilorin 44/62* (19/65)

Kano Province:
- Gumel 68/60* (160/62)
- Hadejia 123/59* (149/62)
- Kano ... ... 3/65* (70/65); 70/65(*u*)
- Kazaure 254/59* (37/63)

Katsina Province:
- Daura 116/62
- Katsina ... ... 523/57* (*i*)(25/63)

Niger Province:
- Abuja 116/65
- Bida 122/59
- Gwari 152/59
- Kamuku 75/61* (155/62; 42/65)
- Kontagora 72/65
- Wushishi 196/63
- Zuru Federation 188/59* (157/65)

Plateau Province:
- Akwanga Federation 100/65
- Lowland Federation 4/65
- Pankshin Federation 153/59

Sardauna Province:
- Chamba 186/63
- Gashaka/Mambilla 59/64
- Gwoza 64/63

Sokoto Province:
- Argungu 17/63
- Gwandu 185/59
- Yauri 154/59

Zaria Province:
- Jema'a Federation 87/63
- Zaria 80/60

Note.—(*i*) N.R.L.N. 523/57 is cited as "The Katsina Native Authority (Slaughter of Animals and Sale of Meat) Rules, 1957."

(*ii*) N.A.L.N. 75/65 is "The Kano Native Authority (Slaughter of Animals in Kano Abattoir) Rules, 1965."

CONTROL OF SOIL EROSION RULES

Responsible Ministry—Ministry of Agriculture
Relevant section of the Law: 38(22)
Model Rules: 238/58(*c*); 59/59(*e*)

Adamawa Province:
- Adamawa 60/59
- Muri 4/59
- Numan Federation 109/62

Bauchi Province:
- Bauchi 4/59
- Gombe 4/59
- Jama'are 118/59
- Katagum 46/59

Benue Province:
- Idoma 54/60
- Tiv 46/59

Bornu Province:
- Bedde 221/59
- Biu Federation 97/59
- Bornu 4/59
- Dikwa 60/59

Ilorin Province:
- Borgu 46/59
- Ilorin 4/59
- Pategi 4/59

Kabba Province:
- Igbirra 137/59

Kano Province:
- Kazaure 4/59

Katsina Province:
- Daura 238/58
- Katsina 238/58

Niger Province:
- Bida 4/59
- Kamuku 4/60
- Zuru Federation 4/59

Plateau Province:

Pankshin Federation 4/59

Sardauna Province:

Gashaka Mambilla 36/64

Sokoto Province:

Argungu 59/59
Gwandu 60/59
Sokoto 60/59

Zaria Province:

Jema'a Federation 127/62
Zaria 154/62

SOYA BEANS MARKETING RULES

Responsible Ministry—Ministry of Agriculture
Relevant section of the Law: 38(55)
See also: Benniseed Marketing Rules (page 9)
Close Season for Soya Beans Purchasing Rules (page 26)
Cotton Marketing Rules (page 31)
Groundnut Marketing Rules (page 63)
Palm Kernel Marketing Rules (page 92)
Sheanut Marketing Rules (page 120)

Niger Province:

Abuja 39/58

TOWN COUNCIL ELECTORAL RULES

Responsible Ministry—Ministry for Local Government
Relevant section of the Law: 38(19)
See also: District, Village Group and Village Council Electoral Rules (Page 43)
Native Authority Electoral Regulations (Page 53)
Outer Council Electoral Rules (Page 90)
Model Rules: 199/65

Adamawa Province:

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Bauchi Province:

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Benue Province:

Idoma ... 61/56
Wukari Federation:
Donga Subordinate Native Authority ... 81/60
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Bornu Province:

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Dikwa ... 154/60
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Katsina Province:

Daura ... 211/57
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Niger Province:

Abuja ... 31/58
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Plateau Province:

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Sokoto Province:

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TOWN COUNCIL INSTRUMENTS

Responsible Ministry: Ministry for Local Government
Relevant sections of the Law: 55, 59, 60, 61 and 66
See also: District, Village Group and Village Council Instruments (Page 45)
Outer Council Instrument (Page 91)
Model Instruments: 27/63(*e*); 145/65(*d*)

Adamawa Province:
- Adamawa 199/55; 203/55
- Muri 8/59
- Numan Federation 32/58* (46/62)

Bauchi Province:
- Bauchi 34/60
- Gombe 322/57* (148/61)
- Katagum 2/63
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Benue Province:
- Idoma 60/56* (426/57)
- Keffi 175/64
- Lafia 25/65* (45/65)
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- Wukari Federation:
  - Donga Subordinate Native Authority 464/57
  - Takum Subordinate Native Authority ... 89/62
  - Wukari Subordinate Native Authority 34/61; 198/64

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- Bedde 15/61* (49/62)
- Biu Federation:
  - Biu Subordinate Native Authority 7/63
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- Ilorin 66/57* (172/59)

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Kano Province:
- Hadejia ... ... 324/57(*b*)
- Kano 119/56* (438/57; 97/58) 27/63

Katsina Province:
- Daura 210/57
- Katsina 108/59* (18/63)

Niger Province:
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Sokoto Province:
- Argungu 65/60
- Gwandu 249/57* (209/58); 71/58
- Sokoto 7/61; 108/61
- Yauri 299/56

Zaria Province:
- Jema'a Federation 157/64
- Zaria 142/64 143/64

CONTROL OF TRAFFIC RULES

Responsible Ministry: Ministry of Works
Relevant section of the Law: 38(44)
See also: Commercial Motor Vehicle Stations Rules (page 27)
Motor Park Rules (Page 83)
Model Rules: 85/65(*d*); 162/65(*d*)

Adamawa Province:

Adamawa 277/60* (100/63)

Bornu Province:

Bornu 267/60
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85/65

Zaria Province:

Zaria 162/65

CONTROL OF TSETSE FLY RULES

Responsible Ministry: Ministry of Health
Relevant section of the Law: 38(26)

Bauchi Province:

Bauchi 222/61

VESTING (RESTRICTION) OF POWERS ORDER

Responsible Ministry: Ministry for Local Government
Relevant section of the Law: 22
Model Order: 17/61

Adamawa Province:

Muri 147/59
Numan Federation 149/58

Bauchi Province:

Tangale Waja 25/58

Benue Province:

Tiv 83/61

Bornu Province:

Biu Federation 30/59

Kabba Province:

Igala 104/60
Kwara 319/56

Niger Province:

Gwari 317/57
Zuru Federation 440/57

Plateau Province:

Akwanga Federation 148/58
Lowland Federation 249/58
Pankshin Federation 17/61

Zaria Province:

Jema'a Federation 25/60

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