

### XIII Special Courts and Tribunals

A step beyond having special sittings of the courts to deal with certain classes of cases is the creation of totally separate courts or tribunals for hearing them. It is suggested from time to time that traffic offences, with which the lower courts are deluged, should be wholly removed from criminal courts and be dealt with by a completely separate system of traffic courts. Apart from relieving the criminal courts of a huge burden, two main advantages are said to flow from such reform. The first is that a specialist court would show greater expertise in traffic law; the second is that it would remove from the traffic offender the stigma of being dealt with in a criminal court.<sup>1</sup>

Although traffic courts per se have not been established, in some of the larger cities in Zambia there has been a specialisation in the handling of traffic offences. In Lusaka and Kitwe, for example, one magistrate has been assigned to deal almost exclusively with traffic offences. In Ndola, however, no one magistrate is permanently assigned to traffic cases; instead, magistrates take turns hearing such cases on a monthly basis, presumably because no magistrate is interested in hearing the sometimes wearisome and repetitive traffic offences all the time. Nonetheless, it has been found that the Lusaka-Kitwe system does have its advantages in that magistrates assigned to hear traffic cases develop expertise in the technical nature of such offences and in the complexities of the Road Traffic Ordinance.<sup>2</sup>

In Jamaica the Traffic Court Act established a Traffic Court with jurisdiction to hear and determine:

- (1) offences under, and contraventions of, the Road Traffic Act and any regulations made thereunder;
- (2) offences against the Main Roads Act;
- (3) offences against the Parochial Roads Act and
- (4) offences triable summarily which are committed in the course of a transaction giving rise to a charge for an offence or contravention mentioned in (1), (2) or (3).<sup>3</sup>

One of the most innovative schemes to deal with traffic offences is that being experimented with in Ontario. In June 1974 in North York, Toronto, a pilot project was initiated in which informal proceedings for dealing with minor traffic offences replaced formal proceedings in the Provincial Court (Criminal Division). Under this project, a traffic tribunal, operated by the department of highways was created.<sup>4</sup> The tribunal concept was seen as having five main objectives:

- (1) To remove all provincial traffic offences from the criminal court milieu.

It was felt that by hearing all traffic offences at a separate traffic tribunal, a less formal approach might be adopted which would encourage a better understanding by the offender of the consequences of his infraction.

(2) To implement a driver training programme as part of the tribunal structure in a way that it becomes an integral part of the sentencing process.

(3) To introduce formally a plea of guilty with an explanation on a drop-in basis. Quite often an offender will feel that although he has committed an offence, there are mitigating circumstances surrounding the commission of the offence which he wishes to bring to the attention of the court. Under the usual traffic system, more often than not, this offender will appear in court and enter a plea of not guilty, thus necessitating a full trial. By offering the offender a plea of guilty with an explanation, which can be exercised by him dropping in at the tribunal at a time convenient to him, it was anticipated that a significant number of offenders would exercise this option and thus reduce the volume of trials and the cost of requiring a trial. It was also expected that if a significant number of offenders avail themselves of this plea, the ever-increasing amount of time spent by police officers in court would be reduced appreciably.

(4) To increase the number of daily sessions for pleas of not guilty to five. Monday to Thursday the sessions are as follows:

|           |              |
|-----------|--------------|
| 9.00 a.m. | - 10.30      |
| 10.30     | - 12.00 noon |
| 1.30 p.m. | - 3.00       |
| 3.00      | - 4.30       |
| 7.00      | - 8.30       |

There is no evening session on Friday. The reasons for increasing the number of sessions was to make full use of available facilities; decrease the amount of time spent by police witnesses waiting for cases to come up and to bring the tribunal's business hours within the usual business hours of the community.

(5) To introduce new techniques and new methods of administering minor traffic offences. For example, there is no prosecutor in the minor traffic hearing room and there is no court reporter, the hearing being recorded on in-built sound recording devices.

As to how the system actually proceeds: on being served with a traffic ticket, the offender also receives a notice advising him that in addition to paying the fine out of court if he wishes to plead guilty, or appearing in court to plead not guilty, he may appear at the Tribunal on a "drop-in" basis to enter a plea of guilty with an explanation in cases where he feels

he did commit the offence but that there were mitigating circumstances surrounding the commission of the offence. The hearing is conducted informally in pleasant surroundings in a building not connected with the Provincial Courts and is presided over by a hearing officer who is a justice of the peace. He advises the offender of the legal consequences of a plea of guilty with an explanation and if the offender lodges such a plea, a discussion of the explanation follows. It should be noted that the investigating police officer is not present for pleas of guilty with an explanation. If the hearing officer is satisfied that the offender committed an offence he then registers a conviction. Following conviction, the hearing officer keys the offender's driver's licence number into the visual display screen computer terminal seated beside him. In a matter of seconds, a summary of the offenders's driving record appears on both the hearing officer's screen and a screen located directly in front of the offender. A discussion of the offender's driving history then follows and if the hearing officer is of the opinion that the offender could benefit from driver training, he recommends it to the offender, pointing out that he will take the offender's attendance at the course into consideration when sentencing him. Such courses are held in the same building and instructors are available at all times. Sentence is then imposed taking into account the offender's explanation and his participation or otherwise in a driver's improvement program.

If a defendant wishes to plead not guilty, he simply appears at a hearing room on the date set out in his ticket. Again, there is no prosecutor present except when accident charges are heard. The defendant is entitled to cross-examine the police officer, but only the justice of the peace may ask questions of the offender. If the accused is found to have committed the offence, the record review system, discussion and offer of the driver improvement course are the same as in the event of a plea of guilty with an explanation.

From the outset, the North York Traffic Tribunal was subjected to careful monitoring and analysis. A public reaction study was implemented with a control study at an ordinary traffic court. From the results of this independent study, it would appear that the tribunal has resulted in a vastly improved public opinion of the administration of justice in North York. It is, of course, impossible to measure empirically the benefits which accrue when increased public respect for the judicial system is achieved. Although traffic court is the lowest level of the province's judicial system, it is the only level with which the average citizen becomes personally involved with the administration of justice. Increased public confidence and respect

for justice as it is dispensed at this level permeates the public's opinion of the entire judicial system.

A study of police officers who appeared before the Tribunal showed that their views were similar to the public opinion survey. In addition, there were indications that police officers are spending less time in court which results in substantial cost savings. Of the accused who choose to come to court, more are electing not to have a trial and instead are taking advantage of the opportunity to plead guilty with an explanation. This is not only resulting in savings of time and money, but is also encouraging drivers to come to the Tribunal to discuss and improve their driving abilities.

A comparison of the time within which offences were processed at the Tribunal and at other control locations indicated that the tribunal system has reduced the backlog in hearing cases quite significantly. The disposition date has levelled off at approximately 41-45 days after the date of the offence as compared with 60-65 days and as much as 100 days in regular court.<sup>5</sup>

The success of this project has resulted not only in the expansion of the traffic tribunal concept to other parts of the province of Ontario, but to a much wider category of offences. As of April 1, 1980, all provincial offences which carry a liability to fines of less than \$300, comprising predominantly of minor traffic and liquor offences, have been removed from the aegis of the criminal courts and are now heard by a provincial offences tribunal,<sup>6</sup> run along roughly the same lines as the traffic tribunal. Under the new procedure the present rights to a full trial or to pay a pre-set fine without attending court continue to exist, but, in addition:

- (i) defendants are able to drop in at the tribunal office at their convenience, without prior arrangement, to plead guilty before a justice of the peace and seek time to pay the fine or offer an explanation in mitigation of the set penalty which the justice could reduce;
- (ii) defendants who wish to put forward a legal defence but do not wish to appear or be represented at a trial are able to deliver to the court a written defence. This is reviewed by the justice; if it discloses any legal ground of defence a trial is held without the defendant having to appear. At his trial the court considers the case against the defendant in light of the written explanation, perhaps questioning the Crown's witnesses to clear up points raised in the written submission. Thus, the defendant has his defence raised without having to attend or be represented, provided that a conviction could have been entered without a trial being held if the written explanation did not raise a reasonable defence to the charge. This

procedure will probably prove to be the most controversial aspect of the scheme. As one commentator has observed, the question remains whether the "write-in" not guilty submission will be an adequate protection if the defendant disputes the charge but does not want to miss work to attend a hearing. It raises the question whether a justice of the peace can maintain his role as an impartial judge while questioning Crown witnesses in the light of the defendant's submissions.<sup>7</sup>

(iii) defendants who wish to appear or be represented at a trial have an absolute right to do so. They are obliged to tell the court office that a trial should be scheduled; in return their trial will often be scheduled for a fixed time of day. With both sides being aware in advance of the fixed trial date and time, it is hoped that adjournments should rarely be necessary. Once a person has pleaded not guilty and elected to appear at his trial, a trial of the issues is held even if he does not appear.<sup>8</sup>

The entire provincial offences procedure is based on the underlying assumption that considerations of efficiency outweigh the desirability of the personal appearance by the defendant in minor offences, particularly where he chooses that option.<sup>9</sup> And by removing these petty offences from the criminal court system into a more informal and flexible process it would appear that a significant step is being taken towards the eventual decriminalization of such behaviour.

Although traffic offences have been a popular target for special courts, specialised hearings have been instituted for other classes of criminal behaviour in some Commonwealth jurisdictions.

A proviso to section 11(1) of the Indian Criminal Procedure Code, 1973, as amended, states:

[T]he State Government may, after consultation with the High Court, establish, for any local area, one or more Special Courts of Judicial Magistrates of the first class or of the second class to try any particular case or particular class of cases, and where any such Special Court is established, no other court or Magistrate in the local area shall have jurisdiction to try any case or class of cases for the trial of which such Special Court of Judicial Magistrate has been established.

A substantially similar provision also exists in Sri Lanka.<sup>10</sup> General provisions like these are quite useful as they provide the criminal justice system with a measure of flexibility to deal with situations where the courts are inundated with a particular type of offence at certain periods. For

example, a police strike might spark off a wave of looting and a special court could be set up to deal with the charges subsequently laid.

A more specific Special Courts Act was enacted in India in 1979.<sup>11</sup> This makes provision for the speedy trial of certain offences committed during the operation of the Proclamation of Emergency dates June 25, 1975. The Act provides that if the Government is of the opinion that there is prima facie evidence of the commission of an offence alleged to have been committed by a person who held high public or political office in India, and that, in accordance with the guidelines contained in the Preamble to the Act, the offence ought to be dealt with under the Act, the Government shall make a declaration to that effect in respect of every such case. On such declaration being made, a prosecution in respect of the offence shall be instituted only in a Special Court designated by the Government. In the trial of such cases the Special Court is required to follow the procedure prescribed by the Criminal Procedure Code for the trial of warrant cases before a magistrate.

To combat the phenomenal rise in the incidence of armed robbery following the end of the civil war in Nigeria, the Federal Military Government passed the Robbery and Firearms (Special Provisions) Decree, 1970, which applies throughout the Federation.<sup>12</sup> Under the Decree, as amended, the Military Governor of a State has the power to constitute a tribunal or tribunals for the trial of the offences of robbery, attempted robbery and illegal possession of firearms. Such a tribunal consists of a High Court Judge as chairman, a senior member of the armed forces and a senior police officer. The tribunal can impose the death sentence in the case of robbery where the offender was armed with any firearms or offensive weapon or was in company with any person so armed, or where he, at or immediately before or immediately after the time of the robbery wounded any person. If no weapon was used or no wounds inflicted, the robbery is punishable by a term of imprisonment of not less than 21 years, with comparable penalties for attempts, illegal possession of firearms, etc. By Amendment Decree (No. 2) of 1974, the Attorney General of the Federation is empowered to make rules as to the procedure to be adopted in the prosecution of such offences. It would appear that no such rules have so far been made, thus, the procedure which is used is substantially the same as that followed in a High Court summary trial.<sup>13</sup>

Also in Nigeria, a Federal Revenue Court was established in 1973 as a Federal High Court of Justice.<sup>14</sup> The Court consists of a President and such number of other judges (four being the minimum) as the Head of the

Federal Military Government may prescribe by order. It is to operate in at least four Judicial Divisions altogether covering the entire country, the area of each Division being determined by the President of the Court. A single judge, duly appointed, constitutes the court.

The court has both civil and criminal jurisdiction in those cases -

- (a) relating to the revenue of the Government of the Federation in which the said Government or any organ thereof or a person suing or being sued on behalf of the said Government is a party;
- (b) connected with or pertaining to -
  - (i) the taxation of companies and other bodies established or carrying on business in Nigeria and all other persons subject to Federal taxation,
  - (ii) customs and excise duties,
  - (iii) banking, foreign exchange, currency or other fiscal measures;
- (c) arising from -
  - (i) the operation of the Companies Decree, 1968, or any other enactment regulating the operation of companies incorporated (under said Decree),
  - (ii) any enactment relating to copyright, patents, designs, trade marks and merchandise marks;
- (d) of Admiralty jurisdiction.<sup>15</sup>

The Supreme Court of Nigeria had the opportunity in 1973 to explain the rationale behind the creation of this special court:<sup>16</sup>

[T]he true object and purpose of the Federal Revenue Court Decree as can be gathered from the four corners of it, is the more expeditious dispatch of revenue cases, particularly those relating to personal income tax, company tax, customs and excise duties, illegal currency deals, exchange control measures and the like which the State High Courts were supposed to have been too tardy to dispose of especially in recent years.

Section 32 of the Federal Revenue Court Decree, 1973, expressly provides that in general the Criminal Procedure Act is to apply substantially to criminal proceedings in the Court, but all criminal cases before the Court are to be tried summarily.<sup>17</sup> Provision is also made for the establishment of Currency Offences Tribunals in Nigeria.<sup>18</sup>

In response to an increase in offences involving firearms, Jamaica established a Gun Court in 1974 to speed up the trials of these offences, to protect witnesses from intimidation and to impose harsh penalties for offenders found guilty of gun related offences.<sup>19</sup> Although the legislation ran into some constitutional difficulties which culminated in a Privy Council decision,<sup>20</sup> amending legislation of 1976 has resolved those difficulties. All offences involving a firearm must, therefore, be heard in

the Gun Court.

The Gun Court Act requires that where any person charged with a firearm offence appears before the Gun Court, the hearing before that Court of the offence shall be commenced within seven days of the date of his first appearance before the Gun Court on that charge, but that no objection to any proceedings shall be taken or allowed on the ground that any hearing was not so commenced. In early 1976 it took, on average, three weeks from the time of arrest to bring a Gun Court case to trial. That period compared favourably with an average three or four month period between arrest and trial in the Circuit Court sitting in Kingston. The time between arrest and the bringing of Gun Court cases to trial shows, however, an alarming tendency to increase. In July 1976 it was taking about two months; by February 1977 the time lag between arrest and trial was 10 weeks. It seems clear then that while cases are brought to trial in the Gun Court over a shorter period than obtains in the Circuit Court, trials in the Gun Court cannot now be accurately described as speedy.<sup>21</sup>

Preliminary hearings were abolished in relation to Gun Court offences, as this was one way in which it was felt that trial would be speeded up, but it was replaced by providing to the accused, at a specified time before trial, a detailed police statement so that he would know the evidence which would be led against him. This requires from the police a greater amount of sophistication in their collection of statements than beforehand. Thus, a measure which was meant to speed up the trials in some respects also inhibits the trial coming on expeditiously because of the time it takes for the police to collect statements sufficiently detailed so as to provide the accused with adequate information of the case against him. Jury trials were also abolished in matters which came before the Gun Court as a time saving measure. Other difficulties in the way of speedy trial in the Gun Court are the lack of adequate courtroom facilities; civilian witnesses are sometimes reluctant to come forward and give evidence, and although all accused appearing before the Court are entitled to legal aid, there are difficulties in finding counsel and agreement of trial dates also creates delays. Having resolved the constitutional difficulties surrounding the Court, the Jamaican government is now devoting its attentions to eradicating some of these obstacles to speedy trial.<sup>22</sup>

The creation of special courts and tribunals is thus another method of relieving the congestion in the criminal courts, while at the same time providing more expeditious disposal of the cases which have been isolated in



this way. It is nonetheless a rather expensive solution as it entails the setting up and staffing of an entirely new piece of adjudicative machinery. One factor which should perhaps be investigated before money is spent on the creation of new specialised courts is whether the same amount of money spent on expanding and renovating the established criminal courts might not produce the same kind of benefits and to a wider category of cases.

In many of the developing Commonwealth nations there already exists a structure of special courts which could perhaps be put to fuller use, thereby speeding up the administration of justice. These tribunals are the customary courts where village elders or tribal leaders dispense justice according to local law and custom.

Botswana is one country which has turned to a development of its customary courts as a method of resolving the problem of delays caused by having a small population scattered over a wide geographical area. For example, the Botswana Customary Courts (Amendment) Act, 1976, increased the criminal jurisdiction of the customary courts to the imposition of sentences up to four years or a fine up to Pula 4,000 in cases infringing the Stock Theft Act. As a result of this and other extending legislation, a backlog of small offences has been cleared. Some of the cases which had piled up in the bigger centres were dealt with almost immediately.<sup>23</sup> In recent years similar proposals to extend the jurisdiction of customary courts in Ghana have been aired. The Ghanaian Chief Justice asked in 1973 that the jurisdiction of the Judicial Committee of the House of the Chiefs be extended to include cases which, by reason of the experience and the proximity of the parties to the chief and elders, could be more speedily dealt with than in ordinary courts.<sup>24</sup>

At the end of the colonial period in Papua New Guinea, the coalition government did not attempt to abolish the common law courts, rather, it decided to add another set of courts which would apply customary law in customary fashion, operating parallel to the common law courts. The Village Courts Act, 1973,<sup>25</sup> came into operation in 1974 with the following mandate:

The primary function of a Village Court is to ensure peace and harmony in the area for which it is established by mediating in and endeavouring to obtain just and amicable settlements of disputes.<sup>26</sup>

Although the Village Courts have jurisdiction over people of all ranks and nationalities (and have exercised it) they were intended to serve Papua New Guineans primarily. Thus, the first courts were set up in rural

areas, though a few have been inaugurated more recently in urban centres as well. The Village Court Secretariat was empowered to establish courts area by area, whenever local people show sufficient interest in having one. By the end of 1976 there were 252 Village Courts operating in 30 areas throughout Papua New Guinea, staffed by 1185 magistrates and serving a population of 544,632.<sup>27</sup> Although there are jurisdictional limits on Village Courts in both civil and criminal matters, they apply only when the magistrate has failed to achieve a settlement through mediation and must adjudicate.

In general, the Courts are supposed to apply customary law, both in substance and procedure. This results in no distinction being made between civil and criminal cases; the court is free to order a fine, performance of community work, payment of compensation or any combination of these. The courts are not restricted by common law rules of evidence and procedure and may work flexibly, in the style of a village meeting, mediating, rather than adjudicating in order to achieve the peaceful settlement of a dispute. The available evidence suggests that village people are making frequent use of the Village Courts rather than having recourse to the District Courts.<sup>28</sup> Partly on the basis of the Papua New Guinea experience with Village Courts, the government of Western Samoa is proposing to confer judicial authority on village councils in the areas of both custom and minor criminal offences.<sup>29</sup>

Bangladesh enacted the Village Courts Ordinance in 1976<sup>30</sup> which provides for the constitution of small causes courts at the village level for the trial of cases involving offences or rights and liabilities of a minor nature. The stated object of the law is to make justice available right at the door of the people living away from urban centres at nominal or no expense. The procedure followed in these courts is very simple so that hearings are generally quick and inexpensive. Thus, unless a case warrants trial before courts with a higher jurisdiction because it involves major offences or rights and liabilities, litigants living in villages need not travel to courts situated in cities, there to be kept waiting for months before judgement, even in a petty case, is delivered. One hoped for side effect of this measure is that courts of higher jurisdiction will be relieved of much of their burden and will be able to dispose of the more serious cases more expeditiously.

In the Northern Territory of Australia the administration of criminal justice has been described as "a continual battle between man and geography".<sup>31</sup>

What is needed is a system which guarantees  
minimal remand time for persons awaiting trial,  
minimal travel by defendants and witnesses to

court, minimal delay so that punishment can seem to be responsive to a particular act and a maximum amount of court time to consider each case.<sup>32</sup>

The Government of the Northern Territory announced that it hoped to fulfill these requirements by introducing a system of village courts using aboriginal justices of the peace to dispense tribal justice to this end, two pilot projects were recently initiated whereby aboriginals are acting as advisers to stipendiary magistrates, who are specialising in appreciating the needs of the aboriginal communities.<sup>33</sup>

An interesting situation has transpired in Nigeria which may well provide useful information for those countries considering setting up or expanding the jurisdiction of customary courts. Recent developments in respect of customary courts in Nigeria reveal two opposing trends: the move towards abolition and the retention and improvement of customary courts. In the early 1970s three states abolished the customary courts, transferring their jurisdictions to the magistrates' courts. As to the extent to which this change will accelerate the legal processes, one commentator has observed that prior to the abolition of the customary courts, the magistrates' courts were notorious for the congestion that existed. The transfer of the functions of the customary courts has added further pressure on these courts which in all probability can only be relieved by a significant increase in the number of magistrates.<sup>34</sup> A different picture is seen in the nine Northern States of the Federation where a reforming activity has been set in motion with a view to improving the customary courts. This exercise proceeds on the assumption that customary courts have not yet outlived their usefulness.

With the two trends poised against each other only time will enable us to decide which is the better approach to a rather difficult problem.<sup>35</sup>

### Footnotes

<sup>1</sup>P. Halnan, "Diversion and Decriminalisation of Road Traffic Offences", [1978] Criminal Law Review 456 at p. 459.

<sup>2</sup>F.O. Spalding et al., "One Nation, One Judiciary: The Lower Courts of Zambia", (1970), 2 Zambia Law Journal 1 at p. 138.

<sup>3</sup>Memorandum from the Jamaican government to the author, n.d.

<sup>4</sup>Ontario Ministry of the Attorney General, Annual Report 1976/77 (Toronto, 1979), pp. 46-52.

<sup>5</sup>Id. See also Alberta Board of Review Provincial Courts, The Administration of Justice in the Courts of Alberta (Edmonton, 1975), p. 50 for commentary.

<sup>6</sup>The Provincial Offences Act, 1979 S.O. c.4.

<sup>7</sup>S. Shetreet, "The Limits of Expeditious Justice". Background Paper prepared for the Conference on Expeditious Justice, Edmonton, Alberta, October 19-21, 1978, pp. 35-36.

<sup>8</sup>Ontario, Ministry of the Attorney General, Provincial Offences Procedure: An Analysis and Explanation of Legislative Proposals (Toronto, 1978).

<sup>9</sup>S. Shetreet, supra footnote 7.

<sup>10</sup>Sri Lanka, The Administration of Justice Law, No. 44 of 1973, section 46.

<sup>11</sup>(No. 22 of 1979). See note at (1979), 5 Commonwealth Law Bulletin 615.

<sup>12</sup>This was later amended by the Robbery and Firearms (Special Provisions) (Amendment) Decrees of 1971 and 1974.

<sup>13</sup>F. Nwadialo, The Criminal Procedure of the Southern States of Nigeria (Benin City, 1976), p. 27.

<sup>14</sup>Nigeria, Federal Revenue Court Decree, 1973, (No. 13 of 1973).

<sup>15</sup>Id. at section 7(1)(2). Uganda has a similar court set up under the Economic Crimes Tribunal Decree, 1975, as amended. It covers offences such as the stealing of foreign exchange, stealing by persons in public service and stealing by directors or officers of corporations and companies.

<sup>16</sup>Jammal Steel Structures Ltd. v. African Continental Bank Ltd. [1973] All N.L.R. (Pt. 2) 208 at p. 222.

<sup>17</sup>Federal Revenue Court Decree, 1973, section 32(2). For a full discussion of this Decree see A.O. Obilade, The Nigerian Legal System (1979), pp. 185-188.

<sup>18</sup>Nigeria Counterfeit Currency (Special Provisions) Decree, 1974.

<sup>19</sup>Jamaica, The Gun Court Act, 1974, (No. 8 of 1974) as amended by Act No. 1 of 1976. For commentary see "The Gun Court" in Selected Memoranda prepared for the 1977 Meeting of the Commonwealth Law Ministers, Winnipeg (London, 1977), p. 23 and R.H. Hickling, "The Jamaican Gun Court Act", (1974), 16 Malaya Law Review 248.

<sup>20</sup>Hinds and others v. The Queen; D.P.P. v. Trevor Jackson

<sup>21</sup>"The Gun Court", supra footnote 19 at p. 580.

<sup>22</sup>Id.

<sup>23</sup>"Delays in the Administration of Justice" in Selected Memoranda etc., supra footnote 19 at p. 23.

<sup>24</sup>[1974] Bulletin of Legal Developments 4.

<sup>25</sup>No. 12 of 1974. For commentary see B.M. Narokobi, "Adaptation of Western Law in Papua New Guinea", (1977) 5 Melanesian Law Journal 52.

<sup>26</sup>Village Courts Act, 1973, section 19.

<sup>27</sup>A. Paliwala et al., "Economic Development and the Changing Legal System of Papua New Guinea", (1978) 16 African Law Studies 3 at p. 52.

<sup>28</sup>Id. at p. 53.

<sup>29</sup>"Western Samoa Proposal to confer Judicial Authority on Village Councils" in Selected Memoranda etc. supra footnote 19 at p. 30.

<sup>30</sup>Ordinance LXI of 1976.

<sup>31</sup>R.L. Misner, "Administration of Justice on Aboriginal Settlements", (1974), 7 Sydney Law Review 257 at p. 258.

<sup>32</sup>Id. at p. 259.

<sup>33</sup>"Aboriginals Involvement in the Administration of Justice", (1979), 5 Commonwealth Law Bulletin 1359.

<sup>34</sup>E.I. Nwogugu, "Abolition of Customary Courts - The Nigerian Experiment", (1976) 20 Journal of African Law 1 at p. 12.

<sup>35</sup>Id. at p. 15.