

THE ISLAND OF NAURU

No. 3 of 1957

A N O R D I N A N C E

To establish Courts of Law for the Island of Nauru, and for other purposes.

I, the Administrator of the Island of Nauru, in pursuance of the powers conferred by Article I of the Agreement dated the second day of July, 1919, between the Government of the United Kingdom, the Government of the Commonwealth of Australia and the Government of the Dominion of New Zealand, hereby make the following Ordinance.

Dated this 28th day of November, 1957.

W. Chapman
Administrator of the Island
of Nauru.

JUDICIARY ORDINANCE 1957.

PART I. - PRELIMINARY.

Short title.

1. This Ordinance may be cited as the Judiciary Ordinance 1957.

Commencement.

2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the Gazette.

Parts.

3. This Ordinance is divided into Parts, as follows:-

Part I. - Preliminary (Sections 1 - 7).

Part II. - Establishment of Courts.

Division 1. - General (Sections 8 - 12).

Division 2. - The District Court (Sections 13-18).

Division 3. - The Central Court (Sections 19-25).

Division 4. - The Court of Appeal (Sections 26-32).

Part III. - Appeals

Division 1. - Appeals from the District Court (Sections 33-38).

Division 2. - Appeals from the Central Court (Sections 39-47).

Part IV. - Miscellaneous (Sections 48-52).

Repeal and
Savings.

4. - (1.) The Ordinances specified in the First Schedule to this Ordinance are repealed.

(2.) The rules relating to the Small Debts Court contained in Administration Order No.13 of 1925 of the Island are repealed.

(3.) The rules of court in force immediately before the commencement of this Ordinance under the Ordinances repealed by this Ordinance -

(a) shall, subject to this Ordinance, continue in force in relation to the Central Court established by this Ordinance as if made under this Ordinance; and

(b) may be repealed or amended by rules of court made under this Ordinance.

(4.) A person whose name appears on the Roll of Barristers and Solicitors of the Central Court immediately before the commencement of this Ordinance shall be deemed to have been admitted as a barrister and solicitor of the Central Court established by this Ordinance.

(5.) Every order made, commission issued, judgment entered, direction given or act done before the commencement of this Ordinance by the Central Court established by the Judiciary Ordinance 1922-1952 or by a judge, magistrate or officer of that Court shall be deemed to have been made, issued, entered, given or done by the Central Court established by this Ordinance or by a judge, magistrate or officer of that Court, as the case may be.

(6.) Every order made, commission issued, judgment entered, direction given or act done before the commencement of this Ordinance by the District Court established by the Judiciary Ordinance 1922-1952 or by a magistrate or officer of that Court shall be deemed to have been made, issued, entered, given or done by the District Court established by this Ordinance or by a magistrate or officer of that Court, as the case may be.

Definitions.

5. In this Ordinance, unless the contrary intention appears -

"cause" includes a criminal proceeding;

"judgment" includes decree, decision, order, conviction or sentence;

"matter" includes a proceeding in a court, whether between parties or not, and also an incidental proceeding in a cause or matter;

"practice and procedure" includes matters relating to the attendance of witnesses, the custody or bail of accused or convicted persons and the enforcement and execution of judgments;

"prescribed" means prescribed by this Ordinance or by rules of court;

"proceeding" includes an appeal, action, cause, matter and suit;

"rules of court" means rules of court in force under this Ordinance;

"the Central Court" means the Central Court of the Island of Nauru established by this Ordinance;

"The Court of Appeal" means the Court of Appeal of the Island of Nauru established by this Ordinance;

"the District Court" means the District Court of the Island of Nauru established by this Ordinance;

"trial" includes hearing.

References to
Central Court
etc.

6. - (1) In relation to anything done, or required or permitted to be done, after the commencement of this Ordinance -

(a) a reference in a law in force in the Island to the Central Court or a judge or magistrate of that Court shall be read as a reference to the Central Court of the Island of Nauru established by this Ordinance or a Judge or magistrate of that Court, respectively; and

(b) a reference in any such law to the District Court or a magistrate of that Court shall be read as a

reference to the District Court of the Island of Nauru established by this Ordinance, or a magistrate of that Court, respectively.

(2.) This section does not confer on a magistrate any jurisdiction that is required by or under this Ordinance to be exercised by not less than three magistrates.

Transitional provisions.

7. - (1.) An appeal under section seventeen of the Judiciary Ordinance 1922-1952 which was pending immediately before the commencement of this Ordinance is, by force of this section, transferred to the Court of Appeal and may be continued in that Court as if it had been instituted in that Court.

(2.) A proceeding which, immediately before the commencement of this Ordinance, was pending in the Central Court established by the Judiciary Ordinance 1922-1952 is, by force of this section, transferred to the Central Court established by this Ordinance and may be continued in that Court as if it had originated in that Court.

(3.) A proceeding which, immediately before the commencement of this Ordinance, was pending in the District Court established by the Judiciary Ordinance 1922-1952 is, by force of this section, transferred to the District Court established by this Ordinance and may be continued in that Court as if it had originated in that Court.

PART II. - ESTABLISHMENT OF COURTS.

Division 1. - General

Establishment of Courts.

8. There shall be -

- (a) a Court of Appeal for the Island, to be known as the Court of Appeal of the Island of Nauru;
- (b) a Central Court for the Island, to be known as the Central Court of the Island of Nauru; and
- (c) a District Court for the Island, to be known as the District Court of the Island of Nauru.

Registries.

9. The Administrator may establish a registry for each Court and shall notify its establishment in the Gazette.

Appointment
of Registrars.

10. - (1.) The Administrator may appoint a Registrar and such other officers as are necessary for each Court.

(2.) The Registrar has the care, custody and control of the records of the Court for which he is appointed.

Seals.

11. Each Court shall have -

- (a) a seal for the sealing of writs and other instruments and documents issued out of that Court for which sealing is necessary; and
- (b) a seal or stamp with which summonses, office copies, certificates, reports and other documents for which authentication is necessary may be sealed or stamped.

Sittings.

12. - (1.) Sittings of each Court shall be held at such places as the Administrator appoints.

(2.) A sitting of the Court of Appeal may, if the Administrator so directs, be held at a place outside the Island.

Division 2. - The District CourtConstitution
of the District
Court.

13. - (1.) The District Court is a court of record and consists of such magistrates as the Administrator appoints.

(2.) The jurisdiction of the District Court is exercisable by a magistrate, or any three magistrates, and may be so exercised notwithstanding that the jurisdiction of the Court is being exercised at the same time by another magistrate or other magistrates.

(3.) Where the District Court is constituted by three magistrates -

- (a) the magistrates shall, before proceeding to exercise the jurisdiction of the Court, elect one of their number to preside; and
- (b) if the magistrates are not in agreement as to any matter or question before the Court, the decision of the majority of them on that matter or question shall be deemed to be the decision

of the Court.

Appointment
of
Magistrates.

14. - (1.) The Administrator may appoint such persons as he thinks fit to be magistrates of the District Court and may at any time revoke the appointment of a person so appointed.

(2.) A magistrate shall, before proceeding to discharge the duties of his office, take before the Administrator, or a person thereunto authorized by the Administrator, an oath or affirmation of office in the form in the Second Schedule to this Ordinance.

Jurisdiction
of District
Court in
respect of
offences.

15. - (1.) Subject to this section, the District Court has jurisdiction in respect of all offences against the law in force in the Island.

(2.) The District Court shall not, in respect of an offence, impose a penalty exceeding a fine of One hundred pounds or imprisonment, with or without hard labour, for twelve months.

(3.) The District Court may, at any time before delivering judgment in a proceeding to which this sub-section applies, decline to proceed further with the hearing of the proceeding and remit the proceeding to the Central Court, and in such a case the proceeding shall be heard and determined by the Central Court as if it had originated in the Central Court.

(4.) The last preceding sub-section applies to a proceeding in respect of an offence against a law in force in the Island where the penalty for the offence exceeds the maximum penalty that may be imposed by the District Court.

Civil juris-
diction of
District
Court.

16. - (1.) The District Court has jurisdiction to hear and determine civil claims, whether arising in contract or tort, in respect of a sum or matter at issue that does not exceed, or the value of which does not exceed, One hundred pounds.

(2.) A person having a civil claim in respect of a sum exceeding One hundred pounds may abandon the excess over One hundred pounds and that claim may then be heard

and determined by the District Court.

(3.) A judgment of the District Court in respect of a claim to which the last preceding sub-section applies -

- (a) shall not be given for a sum exceeding One hundred pounds; and
- (b) shall be in full discharge of all demands in respect of the claim.

(4.) Where the District Court is, at any stage of a proceeding, of opinion that a cause of action in respect of a civil claim has been split or divided in order that the District Court may have jurisdiction to hear and determine the claim, it shall dismiss the proceeding in respect of that cause of action.

Practice and
procedure of
District
Court.

17. - (1.) The District Court shall hear and determine all proceedings in respect of offences in a summary way and the provisions of The Criminal Procedure Ordinance of 1889 of the Territory of Papua in its application to the Island and as modified by section four of the Criminal Procedure Ordinance 1957 apply to and in relation to the District Court, and proceedings in that Court, as if -

- (a) a reference in the first-mentioned Ordinance to the Central Court were a reference to the District Court; and
- (b) in relation to a particular proceeding, a reference in that Ordinance to the Chief Magistrate were a reference to the magistrate or magistrates exercising the jurisdiction of the District Court in respect of that proceeding.

(2.) Where any matter of practice or procedure, either civil or criminal, is not regulated by this or any other Ordinance or by rules of Court, the District Court may give directions as to that matter.

Costs.

18. - (1.) The District Court may make such order as to costs as it thinks fit and, until otherwise provided by rules of court, shall assess the amount of those costs.

(2.) An order for the payment of costs has the

same force and effect as a judgment of the Court.

Division 3. - The Central Court.

Constitution
of Central
Court.

19. - (1.) The Central Court is a superior court of record and consists of such judges and magistrates as the Administrator appoints.

(2.) The jurisdiction of the Central Court is exercisable -

(a) by such judge; or

(b) by such magistrates, not being less than three in number,

as the Administrator in each particular case directs.

(3.) The judge or magistrates may sit in Court or, to the extent and in the cases provided by rules of court, in chambers.

(4.) The jurisdiction of the Court may be exercised by a judge or magistrates notwithstanding that the jurisdiction is being exercised at the same time by another judge or other magistrates.

(5.) Where the Court is constituted by magistrates -

(a) the Administrator shall direct one of them to preside; and

(b) the decision of the majority of the magistrates or, if they are equally divided, the decision of the magistrate directed to preside, shall be deemed to be the decision of the Court.

Reconstitution
of Court.

20. Where the Administrator is of opinion that there will for any reason be undue delay in the trial of a proceeding in the Central Court by the judge or magistrates directed to constitute the Court for the purpose of that trial, he may direct another judge, or other magistrates, as the case requires, to constitute the Court for the trial.

Appointment
and retire-
ment of
judges and
magistrates.

21. - (1.) A judge or magistrate of the Central Court -

(a) shall be appointed by the Administrator by Commission;

(b) may be removed from office by the Administrator

on the grounds of proved misbehaviour or incapacity; and

- (c) subject to this section shall hold office until he attains the age of sixty-five years.

(2.) The Administrator may revoke the appointment of a magistrate of the Central Court if the magistrate has ceased to reside permanently in the Island.

(3.) A person shall not be appointed a judge of the Central Court unless he is a barrister or solicitor of not less than five years' standing of the High Court of the Commonwealth or of the Supreme Court of a State or Territory of the Commonwealth or of the Central Court.

(4.) The remuneration of a judge or magistrate shall not be diminished during his continuance in office.

(5.) A judge or magistrate shall, before proceeding to discharge the duties of his office, make before the Administrator, or a person thereunto authorized by the Administrator, an oath or affirmation in the form in the Second Schedule to this Ordinance.

Jurisdiction
of the
Central
Court.

22. The Central Court has -

- (a) jurisdiction to hear and determine all civil proceedings (including jurisdiction to grant probate of the wills of, and letters of administration of the estates of, persons dying possessed of real or personal property in the Island);
- (b) jurisdiction in respect of all offences against the law in force in the Island;
- (c) subject to this Ordinance, jurisdiction to hear and determine appeals from judgments of the District Court; and
- (d) such jurisdiction, whether civil or criminal and whether original or appellate, as is conferred on the Central Court by or under an Ordinance.

Practice and procedure in criminal matters.

23. - (1.) The Central Court shall hear and determine all proceedings in respect of offences in a summary way.

(2.) A provision in a law in force in the Island relating to -

- (a) trial by jury;
- (b) committal for trial; or
- (c) a preliminary investigation or hearing by a magistrate or justice,

does not apply to, or in relation to, a trial before the Central Court.

Practice and procedure in civil proceedings.

24. Subject to this Ordinance and to rules of Court, and except as otherwise directed by the Central Court at any stage of a proceeding, the practice and procedure in and in relation to civil proceedings in the Central Court is the practice and procedure for the time being provided by law in relation to matters of that kind in the Supreme Court of the State of Queensland.

Costs.

25. - (1.) The Central Court may award costs to the successful party in any proceeding before the Court and until otherwise provided by rules of court, shall assess the amount of those costs.

(2.) An order for the payment of costs has the same force and effect as a judgment of the Court.

Division 4. - The Court of Appeal

Definition.

26. In this Division, unless the contrary intention appears, "the judge" includes a person appointed under sub-section (2) of section twenty-eight of this Ordinance to act as judge.

Constitution of Court of Appeal.

27. - (1.) The Court of Appeal is a superior court of record and consists of one judge.

(2.) The jurisdiction of the Court of Appeal is exercisable by the judge sitting in court or, to the extent and in the cases prescribed, sitting in chambers.

Appointment of judge.

28. - (1.) The judge of the Court of Appeal shall be appointed by the Administrator by commission.

(2.) The Administrator may, by commission, appoint a person to act as judge of the Court of Appeal during any period in respect of which the Administrator is satisfied that the judge appointed under the last preceding sub-section is or will be unable to act.

(3.) A person shall not be appointed to be a judge or acting judge of the Court of Appeal unless he is, or has been, a justice of the High Court of the Commonwealth or of the Supreme Court of a State or Territory of the Commonwealth.

(4.) The judge shall, before proceeding to discharge the duties of his office, make before the Administrator, or a person thereunto authorized by the Administrator, an oath or affirmation in the form in the Second Schedule to this Ordinance.

(5.) The oath or affirmation referred to in the last preceding sub-section may be made outside the Island and the Administrator may authorize a person outside the Island to take that oath or affirmation.

(6.) The remuneration of the judge shall not be diminished during his continuance in office.

(7.) The judge may be removed from office by the Administrator on the grounds of proved misbehaviour or incapacity.

Jurisdiction
of the Court
of Appeal.

29. The Court of Appeal has -

- (a) subject to this Ordinance, jurisdiction to hear and determine appeals from judgments of the Central Court; and
- (b) such jurisdiction as is conferred on the Court of Appeal by or under Ordinance.

Determination
of matters on
written
argument.

30. The Court of Appeal may, if it thinks fit, direct that a matter be determined by the Court upon the legal argument, if any, being submitted in writing and, in that case, the parties shall not be entitled to appear on the hearing of the matter either personally or by counsel.

Practice
and
procedure.

31. - (1.) Where a matter of practice or procedure in or in relation to an appeal to the Court of Appeal is not regulated by this Ordinance or by rules of court, the judge of the Court of Appeal or, in his absence from the Island, a judge or magistrate of the Central Court, may give such directions as he considers necessary to ensure a proper hearing of the appeal.

(2.) A party to an appeal who is dissatisfied with a direction given under the last preceding sub-section by a judge or magistrate of the Central Court may, within seven days after the date on which the direction was given, by writing under his hand, request that judge or magistrate to refer the direction to the Court of Appeal.

(3.) On receipt of a request referred to in the last preceding sub-section, the judge or magistrate shall refer the direction to the Court of Appeal and all proceedings are stayed pending the direction of the Court of Appeal.

Costs of
appeal.

32. - (1.) The Court of Appeal may, on the hearing of an appeal, make such order as to costs as it thinks fit and, until otherwise provided by rules of court, shall assess the amount of those costs.

(2.) Such an order for costs shall be enforced by the Central Court as if it were an order of the Central Court.

PART III - APPEALS.

Division 1 - Appeals from the District Court

Appeal from
District
Court.

33. - (1.) A party to a proceeding before the District Court to which this section applies who is dissatisfied with a judgment of that Court may, within fourteen days after the date of the judgment, appeal to the Central Court.

(2.) The proceedings to which this section applies are -

- (a) criminal proceedings where a person has been fined not less than Five pounds or sentenced to imprisonment for any term; and
- (b) civil proceedings where the judgment is given or

pronounced for, or in respect of, a sum or matter at issue amounting to, or of the value of, Twenty-five pounds.

(3.) Except as provided by this section or the next succeeding section, a judgment of the District Court -

(a) is final and conclusive between the parties;

(b) may not be challenged, appealed against, reviewed, quashed or called in question in any court on any account; and

(c) is not subject to prohibition, mandamus, certiorari or injunction in any court.

(4.) A question which, but for the last preceding sub-section, could have been raised by way of prohibition, mandamus, certiorari or injunction may, if an appeal lies from the judgment of the District Court or if special leave to appeal from the judgment of the District Court is granted, be raised by way of appeal.

Special leave to appeal.

34. The Central Court may, on the application of a party to a proceeding before the District Court who is aggrieved by a judgment of the District Court (including the prosecutor in a criminal proceeding where the judgment is that a charge be dismissed or that an accused person be acquitted), grant special leave to appeal against the judgment in a case where -

(a) an appeal does not otherwise lie against the judgment; and

(b) the Central Court is of opinion that the granting of special leave to appeal would be in the public interest.

Method of appeal.

35. - (1.) A person intending to appeal, or to apply for special leave to appeal, against a judgment of the District Court shall file in the office of the Registrar of the Central Court a notice in writing setting out -

(a) the part of the judgment appealed against;

(b) the grounds of the appeal; and

(c) where the notice is an application for special leave

to appeal, the grounds on which the Central Court is asked to grant special leave to appeal.

(2.) An appellant or applicant for special leave to appeal shall, within fourteen days after filing a notice in accordance with the last preceding sub-section, serve a copy of the notice on the Registrar of the District Court and on every party directly affected by the appeal or the application for leave to appeal, as the case may be.

(3.) The Central Court may -

- (a) extend the time within which a notice is to be served under the last preceding sub-section, whether or not the time has expired; and
- (b) if satisfied that a party to be served with such a notice has left the Island - dispense with service of the notice on that party or make an order for the service of the notice on that party by post or by such other method as the Court thinks fit.

36. - (1.) Within seven days after filing a notice of appeal to, or an application for special leave to appeal to, the Central Court, the appellant or the applicant shall give security for the costs of the appeal or for the costs of the application for special leave to appeal and, if the application is granted, for the appeal, as the case may be.

(2.) Security shall be given in the sum of Ten pounds and shall be by deposit of money with the Registrar of the Central Court or by such other method as the Registrar approves.

(3.) If security is not given in accordance with this section the appeal, or the application for special leave to appeal, as the case may be, shall be deemed to have been abandoned.

37. - (1.) Except as provided by this section, an appeal or an application for special leave to appeal to

Security for appeal.

Stay of proceedings on appeal.

the Central Court does not operate as a stay of proceedings.

(2.) In a proceeding other than a criminal proceeding, where security has been given under the last preceding section -

(a) an appeal stays the judgment appealed from and all process in execution of it or to compel obedience to it until the determination of the appeal; and

(b) an application for special leave to appeal stays the judgment appealed from and all process in execution of it or to compel obedience to it until the determination of the appeal or until special leave to appeal is refused, as the case may be.

(3.) After notice of appeal has been given, or an application has been made for special leave to appeal, in a criminal proceeding, a judge or magistrate of the Central Court may, upon application and on being satisfied that notice of the application has been given to the prosecutor, grant a stay of execution or admit the appellant to bail upon such terms and conditions as he thinks just.

Judgment of
the Central
Court.

38. - (1.) An appeal to the Central Court shall be by way of rehearing.

(2.) On the hearing of such an appeal, the Central Court may affirm, reverse or modify the judgment appealed from and may give such judgment as ought to have been given in the first instance and make such other order as justice requires.

Division 2. - Appeals from the Central Court

Appeals from
the Central
Court.

39. - (1.) A party to a proceeding before the Central Court to which this sub-section applies, who is dissatisfied with the judgment of that Court, may, within twenty-one days after the date of the judgment, appeal to the Court of Appeal.

(2.) Subject to the next succeeding sub-section, the proceedings to which the last preceding sub-section applies are -

- (a) criminal proceedings where a person has been sentenced to death or to imprisonment for more than twelve months otherwise than in default of payment of a fine; and
- (b) civil proceedings where the judgment -
 - (i) is given or pronounced for, or in respect of, a sum or matter at issue amounting to, or of the value of, Five hundred pounds; or
 - (ii) affects the status of any person under a law relating to nationality or citizenship, the Nauruan Community, aliens, marriage, divorce, bankruptcy or insolvency.

(3.) Where an Ordinance provides that a judgment of the Central Court given in a proceeding under that Ordinance is final, sub-section (1.) of this section does not apply to such a proceeding.

Leave to appeal.

40. - (1.) Subject to the next succeeding sub-section, the Court of Appeal may, if it thinks fit, on the application of a party to a proceeding before the Central Court who is aggrieved by a judgment of that Court, grant special leave to appeal against the judgment in a case where an appeal does not lie under the last preceding section.

(2.) The Court of Appeal shall not grant special leave to appeal against the dismissal of a charge or the acquittal of an accused person or against the judgment of the Central Court given in a proceeding referred to in sub-section (3.) of the last preceding section.

Method of appeal.

41. - (1.) A person intending to appeal, or to apply for special leave to appeal, shall file in the office of the Registrar of the Court of Appeal a notice in writing setting out -

- (a) the parts of the judgment appealed against;
- (b) the grounds of the appeal; and
- (c) where the notice is an application for special leave to appeal, the grounds on which the Court of Appeal is asked to grant special leave to appeal.

(2.) An appellant or applicant for special leave to appeal shall, within fourteen days after filing a notice in accordance with the last preceding sub-section, serve a copy of the notice on the Registrar of the Central Court and on every party directly affected by the appeal or application for special leave to appeal, as the case may be.

(3.) The Central Court may -

- (a) extend the time within which a notice is to be served under the last preceding sub-section, whether or not the time has already expired; and
- (b) if satisfied that a party to be served with such a notice has left the Island - dispense with service of the notice on that party or make an order for the service of the notice on that party by post or by such other method as the Court thinks fit.

Security.

42. - (1.) Within seven days after filing a notice of appeal, or an application for special leave to appeal, the appellant or the applicant shall give security for the costs of the appeal or for the costs of the application for special leave to appeal and, if the application is granted, for the appeal, as the case may be.

(2.) Security shall be given in the sum of Twenty pounds and shall be by deposit of money with the Registrar of the Court of Appeal or by such other method as the Registrar approves.

(3.) If security is not given in accordance with this section the appeal, or application for special leave to appeal, as the case may be, shall be deemed to have been abandoned.

Stay of proceedings.

43. - (1.) Except as provided by this section, an appeal, or an application for special leave to appeal, to the Court of Appeal does not operate as a stay or proceedings.

(2.) In a proceeding other than a criminal proceeding, when security has been given under the last

preceding section -

- (a) an appeal stays the judgment appealed from and all process in execution of it or to compel obedience to it until the determination of the appeal; and
- (b) an application for special leave to appeal stays the judgment appealed from and all process in execution of it or to compel obedience to it until the determination of the appeal or until special leave to appeal is refused.

(3.) After notice of appeal has been given or an application has been made for special leave to appeal in a criminal proceeding, the Central Court may, upon application and on being satisfied that notice of the application has been given to the prosecutor, grant a stay of execution or admit the appellant to bail upon such terms and conditions as it thinks just.

Case stated.

44. - (1.) The Central Court -

- (a) may, at any time during a trial on the application of a party to a proceeding or, if it thinks fit, without such an application; and
- (b) shall, upon application by a party to a proceeding entitled to appeal against the judgment of the Central Court in that proceeding made within twenty-one days after the date of that judgment, state a case for the opinion of the Court of Appeal.

(2.) Where a case is stated on the Application of a party -

- (a) that party shall -
 - (i) file the case and serve copies as if it were a notice of appeal; and
 - (ii) give security, within seven days after filing the case, in accordance with section forty-two of this Ordinance;
- (b) the provisions of sub-sections (1) and (2) of section forty-three of this Ordinance apply

as if the application were an appeal; and
 (c) in a criminal proceeding, the Central Court may, at any time after the application, admit the accused to bail upon such terms and conditions as it thinks just.

(3.) Where a case is stated otherwise than on the application of a party -

- (a) the plaintiff or prosecutor shall file the case and serve copies as if it were a notice of appeal and shall have the carriage of the case;
- (b) it shall not be necessary for any party to give security; and
- (c) in a criminal proceeding, the Central Court may admit the accused to bail upon such terms and conditions as it thinks just.

Judgment of
 Court of
 Appeal.

45. - (1.) On the hearing of an appeal, not being an appeal by way of case stated, the Court of Appeal may affirm, reverse or modify the judgment appealed from and may give such judgment as ought to have been given in the first instance and make such other order as justice requires.

(2.) The Registrar of the Court of Appeal shall transmit to the Registrar of the Central Court a certified copy of every judgment of the Court of Appeal and when it has been filed in the Central Court it shall, subject to the next succeeding sub-section, be deemed for all purposes to be a judgment of the Central Court and that Court shall execute that judgment in the same manner as if it were its own judgment.

(3.) A judgment of the Court of Appeal is final and conclusive between the parties.

Decision of
 Court of Appeal
 on case stated.

46. - (1.) On the hearing of an appeal by way of case stated, the Court of Appeal may remit the case to the Central Court with an expression of opinion and, if the Court of Appeal thinks fit, may direct that judgment be entered for a party or that such order be made as the

Court of Appeal specifies.

(2.) Where the Court of Appeal gives a direction under the last preceding sub-section, the Central Court shall comply with the direction.

(3.) Where the Court of Appeal does not give a direction under sub-section (1) of this section, the Central Court shall determine the matter in accordance with the expression of opinion of the Court of Appeal.

Reading of
judgment of
Court of
Appeal.

47. - (1.) The Registrar of the Court of Appeal shall, at the direction of that Court and upon receipt of its judgment in writing, notify the parties or their respective representatives of the time and place at which the judgment will be read.

(2.) At the time and place referred to in the last preceding sub-section, the judgment shall be read in open court by a judge or magistrate of the Central Court.

(3.) A judgment read by a judge or magistrate under the last preceding sub-section has the same force and effect as if delivered by the judge of the Court of Appeal in open court.

PART IV. - MISCELLANEOUS.

Definition.

48. In this Part, unless the contrary intention appears, "court" means any court established by this Ordinance.

Inability of
court of
complete trial.

49. - (1.) Where, for any reason, a court is unable to complete a trial, the trial shall, by force of this section, be adjourned until a date to be fixed by the Registrar of the Court.

(2.) Where, by virtue of the last preceding sub-section, a trial before the Central Court or District Court is adjourned, the Administrator may, if he considers it desirable in the interests of justice to do so -

(a) in relation to a trial before the Central Court -
order that the trial be recommenced and direct a judge or magistrates to constitute the court for that purpose; or

(b) in relation to a trial before the District Court -
order that the trial be recommenced before the
court constituted otherwise than by the same
magistrate or magistrates who constituted the
court at the uncompleted trial.

Administration
of oaths.

50. A court and a judge or magistrate of a court may
require and administer all necessary oaths.

Representation
of parties.

51. The parties to a proceeding before a court may
appear personally, or by a barrister and solicitor of
the Central Court, or, with the leave of the court, by
another person.

Rules of court.

52. The Administrator may by notice in the Gazette,
make rules of court, not inconsistent with this Ordinance,
for regulating the practice and procedure to be followed
in a court and for regulating and prescribing all matters
incidental to or relating to any such practice or
procedure, or necessary or convenient to be prescribed
for the conduct of any business of that court.

THE SCHEDULES.

First Schedule.

Ordinances Repealed.

Section 4 (1.).

Judiciary Ordinance 1922.

Judiciary Ordinance Amendment Ordinance, 1925.

Judiciary Ordinance Amendment Ordinance, 1932.

Judiciary Ordinance 1948.

Judiciary Ordinance 1951.

Judiciary Ordinance 1952.

Second Schedule.

Oath.

Sections 14 (2.),
21 (5.) and
28 (4.).

I, A.B., do swear that I will well and truly serve in the office of Judge (or Magistrate or as the case may be) of the Court of Appeal (or as the case may be) of the Island of Nauru and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will:

So Help me God!

Affirmation

I, A.B., do solemnly and sincerely promise and declare that I will well and truly serve in the office of Judge (or Magistrate or as the case may be) of the Court of Appeal (or as the case may be) of the Island of Nauru and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will.