

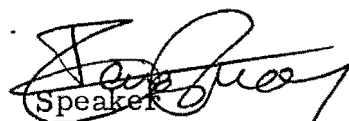
I HEREBY CERTIFY that the attached document is a fair print of an Act entitled the Appeals Act, 1972 that has been made by Parliament and is now presented to the Speaker for his Certificate under Article 47 of the Constitution.



Acting Clerk of Parliament

26/1/72

Pursuant to Article 35 (3) and 47 of the Constitution, I, KENAS AROI, Speaker of Parliament, HEREBY CERTIFY that the Appeals Act, 1972 a copy of which is attached, has been passed by Parliament.



Speaker

26/1/72

REPUBLIC OF NAURU

APPEALS ACT 1972

ARRANGEMENT OF CLAUSES

PART I

Clause PRELIMINARY

1. Short title and commencement.
2. Interpretation.

PART II

APPEALS FROM THE DISTRICT COURT IN CRIMINAL CAUSES

3. Appeal to the Supreme Court.
4. Limitation of appeal on plea of guilty and in petty cases.
5. Appeal to be by way of petition.
6. Form and contents of petition.
7. Petition to be forwarded to the Supreme Court.
8. Summary dismissal of appeal.
9. Notice of hearing.
10. Admission to bail and suspension of sentence pending appeal.
11. Suspension of order for restoration or payment of compensation, expenses, etc.
12. Costs.
13. Discontinuance of appeal.
14. Determination of appeal by the Supreme Court in ordinary cases.
15. Powers of the Supreme Court in special cases.
16. Adjournment.
17. Further evidence.
18. No appeal on point of form or matter of variance unless raised in the District Court.
19. Supreme Court order on appeal to be certified to the District Court.
20. Right of appellant to be present.
21. Power of the Supreme Court to call for records.
22. Power of the Resident Magistrate to call for records of the District Court and to report to the Supreme Court.
23. Powers of the Supreme Court on revision.

Clause

- 24. Discretion of the Supreme Court as to hearing parties.
- 25. Number of judges on revision.
- 26. Supreme Court order on revision to be certified to the District Court.

PART III

APPEALS FROM THE DISTRICT COURT
IN CIVIL CAUSES AND MATTERS

- 27. Appeal to the Supreme Court in civil causes and matters.
- 28. Appeal to be by way of petition.
- 29. Time for appeal.
- 30. Security for appeal.
- 31. Cross-appeals.
- 32. Procedure where appeal not prosecuted.
- 33. Powers of the Supreme Court.
- 34. Supreme Court order to be certified to the District Court.

PART IV

PROCEDURE AND RULES

- 35. Appeals to be by way of rehearing.
- 36. Rules for appeals.

REPUBLIC OF NAURU

(No. 1 of 1972)

AN ACT

To provide for appeals from the District Court.

(Certified: 26-1-1972)

Be it enacted by the Parliament of Nauru as follows:

PART I - PRELIMINARY

SHORT TITLE AND COMMENCEMENT

1. This Act may be cited as the Appeals Act 1972 and shall come into force on a date to be notified by the Minister in the Gazette.

INTERPRETATION

2. In this Act, unless the context otherwise requires -
"appeal" for the purpose of Part III of this Act includes a motion for a new trial or to set aside any decision;
"appellant" includes a person who has been convicted and desires to appeal under this Act and, where the Director of Public Prosecutions is, or is deemed to be, a party to any proceedings and desires to appeal under this Act, includes the Director of Public Prosecutions;
"Clerk" means the Clerk of the District Court appointed under section 15 of the Courts Act 1972;
"conviction" includes an acquittal on the ground of insanity;
"count" has the same meaning as in the Criminal Procedure Act 1972;
"decision" includes an order, judgment or decree;
"public prosecutor" has the same meaning as in the Criminal Procedure Act 1972;
"Registrar" means the Registrar of the Supreme Court appointed under section 6 of the Courts Act 1972;
"sentence" includes any order of the District Court made on

conviction with reference to the person convicted, and any disqualification, penalty, punishment or recommendation made or imposed by the District Court, and an order made upon acquittal on the ground of insanity, and "sentenced" shall be construed accordingly.

PART II - APPEALS FROM THE DISTRICT COURT IN CRIMINAL CAUSES

APPEAL TO THE SUPREME COURT

3. (1) Save as hereinafter provided, a person convicted on the trial of a cause held before the District Court may appeal under this Part of this Act to the Supreme Court against either his conviction or the sentence passed on his conviction or both such conviction and sentence.

(2) Where the District Court has ordered the acquittal of any person in any cause, the Director of Public Prosecutions or, with his sanction in writing, any person who prosecuted the case before the District Court, may appeal under this Part of this Act to the Supreme Court against the order of acquittal.

(3) Where the District Court has convicted any person in any cause, the Director of Public Prosecutions may appeal to the Supreme Court against the sentence passed on such person's conviction.

(4) Save as hereinafter provided, a prosecutor ordered by the District Court to pay costs or compensation may appeal to the Supreme Court against that order.

(5) Where a person convicted on a trial by the District Court is not represented by a barrister and solicitor or a pleader he shall be informed by the magistrate having charge of the proceedings of his right of appeal at the time when sentence is passed.

(6) An appeal to the Supreme Court may be on a matter of fact or of mixed law and fact, or on a matter of law.

(7) For the purpose of this Part of this Act the extent of a sentence shall be deemed to be a matter of law.

(8) The Director of Public Prosecutions shall be deemed to be a party to any criminal cause or matter in which the proceedings were instituted and carried on by a public prosecutor.

LIMITATION OF APPEAL ON PLEA OF GUILTY AND IN PETTY CASES

4. (1) Save with the leave of the Supreme Court, an appeal may not be brought by a person who has pleaded guilty and has been convicted on that plea by the District Court, except as to the extent or legality of the sentence.

(2) Save with the leave of the Supreme Court, an appeal may not be brought against conviction or, except by the Director of Public Prosecutions, against sentence or order for payment of the costs or compensation where in the District Court no sentence of imprisonment has been imposed, otherwise than in default of payment of a fine or costs, and no fine exceeding ten dollars has been imposed and no order of disqualification has been made.

(3) No conviction or sentence which would not otherwise be liable to appeal shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace.

(4) For the purposes of this section "fine" includes costs and compensation ordered by the District Court to be paid by a prosecutor or by a person convicted on a trial held before it.

APPEAL TO BE BY WAY OF PETITION

5. (1) Every appeal shall be in the form of a petition in writing signed by the appellant or by his barrister and solicitor or pleader and shall be presented to the Clerk within fourteen days of the date of the decision appealed against: Provided that a magistrate of the District Court or a judge of the Supreme Court may, at any time for good cause, enlarge the period of limitation prescribed by this section.

(2) For the purposes of this section and without prejudice to its generality, "good cause" shall be deemed to include -

- (a) a case where the barrister and solicitor or pleader engaged by the appellant was not present at the hearing before the District Court and ~~for that reason~~ requires further time for the preparation of the petition; and
- (b) any case in which a question of law of unusual difficulty is involved.

FORM AND CONTENTS OF PETITION

6. (1) Every petition shall contain in a concise form

the grounds upon which it is alleged that the District Court has erred.

(2) If the appellant is not represented by a barrister and solicitor or pleader the petition may be prepared by the Clerk.

(3) If the appellant is in prison custody and is not represented by a barrister and solicitor or pleader, the petition may be prepared by the officer in charge of the prison and forwarded by him to the District Court.

(4) Additional grounds of appeal may be filed by leave of the Supreme Court at any time not later than three days before the date fixed for the hearing of the appeal in accordance with section 9 of this Act.

(5) Where two or more persons have been jointly tried and convicted and their interests do not conflict, one petition of appeal may be presented on behalf of all of them:

Provided that in such a case the Supreme Court may hear the appeals separately or together as seems just.

(6) Except by leave of the Supreme Court it shall not be lawful for the appellant on the hearing of the appeal to allege, or give evidence on, any ground of appeal not included in the petition or in the additional grounds, if any, filed under subsection (4) of this section.

(7) If the case is one which requires the leave of the Supreme Court under section 4 of this Act, the application for leave to appeal shall be endorsed on the petition.

(8) For the purposes of considering or preparing a petition of appeal a person entitled to appeal or his barrister and solicitor or pleader, the Clerk or an officer in charge of a prison shall be entitled to peruse the original record of the proceedings at such time as the Registrar or the Resident Magistrate may allow.

PETITION TO BE FORWARDED TO THE SUPREME COURT

7. Upon receiving a petition of appeal the Clerk shall forthwith forward the petition together with the record of the proceedings to the Registrar.

SUMMARY DISMISSAL OF APPEAL

8. (1) When the Registrar has received the petition of appeal and the record of proceedings a judge shall peruse it.

(2) Where an appeal is brought on one or more matters of fact alone or on the ground that the sentence is excessive and it appears to the judge that the evidence is sufficient to support the conviction and that there is no material in the circumstances of the case which could raise a reasonable doubt whether the conviction was right or lead him to the opinion that the sentence ought to be reduced, the appeal may, without being set down for hearing, be summarily dismissed by an order of the judge certifying that he has perused the record and is satisfied that the appeal has been lodged without any sufficient ground of complaint.

(3) Whenever an appeal is summarily dismissed notice of such dismissal shall forthwith be given by the Registrar to the appellant or his barrister and solicitor or pleader.

NOTICE OF HEARING

9. If the Supreme Court does not dismiss the appeal summarily the Registrar shall -

- (a) enter the appeal for hearing;
- (b) serve on the parties a notice setting out the date and time of the hearing;
- (c) supply the respondent with a copy of the petition and a copy of the judgment or order appealed against;
- (d) except when the appeal is against sentence only, supply the respondent with a copy of the proceedings; and
- (e) where additional grounds of appeal are filed by the appellant under the provisions of subsection (4) of section 6 of this Act, serve notice on the respondent of such filing and supply the respondent with a copy of the document containing such additional grounds of appeal.

ADMISSION TO BAIL AND SUSPENSION OF SENTENCE PENDING APPEAL

10. (1) Where a convicted person presents or declares his intention of presenting a petition of appeal, the Supreme Court or the District Court may, if in the circumstances of the case it thinks fit, order that he be released on bail, with or without securities, or if such person is not released on bail shall, at the request of such person, order that the execution of the sentence or order against which the appeal is pending be suspended pending the determination of the appeal. If such order be made before the petition of

appeal is presented and no petition is presented within the time allowed, the order for bail or suspension shall forthwith lapse.

(2) Where the appellant is released on bail or the sentence is suspended, the time during which he is at large after being so released or during which the sentence has been suspended shall be excluded in computing the term of any sentence to which he is for the time being subject.

(3) An appellant whose sentence is suspended but who is not admitted to bail shall during the period of such suspension be treated in like manner as a prisoner awaiting trial.

SUSPENSION OF ORDER FOR RESTORATION OR PAYMENT OF COMPENSATION, EXPENSES, ETC.

11. (1) The operation of any order made on conviction by the District Court for the payment of compensation or of any of the expenses of the prosecution or for the restoration of any property to any person, and the operation of any provision of any law re-vesting in the original owner or his personal representative the property in stolen goods in case of any such conviction, shall, unless the District Court directs to the contrary in any case in which in its opinion the title to the property is not in dispute, be suspended -

(a) in every case until the expiration of fourteen days after the date of the conviction and of any further time allowed for appealing; and

(b) in any case where notice of appeal or leave to appeal is given within fourteen days after the date of conviction or any further time allowed for appealing, until the determination of the appeal;

and in a case where the operation of any such order or provision is suspended until the determination of the appeal the order or provision shall not take effect as to the property in question if the conviction is quashed on appeal.

(2) The Supreme Court may by order annul or vary an order made in the trial for the payment of compensation or of any of the expenses of the prosecution or for the restitution of any property to any person, even though the conviction is not quashed, and the order, if annulled, shall not take effect and, if varied, shall take effect as so varied.

COSTS

12. (1) The Supreme Court may make such order as to the costs to be paid by either party to an appeal as may seem just.

(2) Such costs shall be recoverable in the manner provided by section 47 of the Penal Code.

DISCONTINUANCE OF APPEAL

13. (1) An appellant may by giving notice in writing to the Registrar discontinue his appeal at any time before the date of hearing and, upon such discontinuance and without prejudice to the power of the Supreme Court to make an order for costs, no further steps shall be taken in the appeal and the District Court may proceed to enforce the decision appealed from.

(2) The Registrar shall send to the respondent a copy of the notice of discontinuance.

DETERMINATION OF APPEAL BY THE SUPREME COURT IN ORDINARY CASES

14. (1) At the hearing of an appeal the Supreme Court shall hear the appellant or his barrister and solicitor or pleader, if he appears, and the respondent or his barrister and solicitor or pleader, if he appears.

(2) The Supreme Court on any appeal against conviction shall allow the appeal if it thinks that the verdict should be set aside on the ground that -

(a) it is unreasonable or cannot be supported having regard to the evidence;

(b) any question of law has been wrongly decided; or

(c) there was a miscarriage of justice,

and in any other case shall dismiss the appeal:

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

(3) Subject to the special provisions of this Act, the Supreme Court shall, if it allows an appeal against conviction, either quash the conviction and direct a judgment and verdict of acquittal to be entered or, if the interests of justice so require, order a new trial.

(4) At the hearing of an appeal the Supreme Court may, if it thinks that a different sentence should have been passed, quash the sentence passed by the District Court and pass in substitution therefor such other sentence, whether more or less severe, which the District Court could lawfully have passed as it thinks ought to have been passed; any such sentence passed by the Supreme Court shall, for the purposes of this Act, be deemed to have been passed by the District Court, save that no further appeal shall lie thereon to the Supreme Court.

(5) The Supreme Court on an appeal against acquittal shall allow the appeal, if it thinks that the verdict should be set aside on the ground that -

(a) the facts found by the District Court to have been proved establish the offence charged or any other offence of which the accused person could have been convicted on the trial of that charge;

(b) on the evidence before it the District Court could not properly have decided that the facts establishing any such offence had not been proved; or

(c) the District Court wrongly excluded evidence tendered by the prosecution which, if admitted and believed by the Court, must have resulted in the Court finding facts proved which would have established any such offence; and in any other case shall dismiss the appeal; and, where the appeal is allowed on grounds (a) and (b), shall forthwith, unless it is a proper case for the charge to be dismissed under section 57 of the Penal Code, enter a conviction in respect of such offence; and, where the appeal is allowed on ground (c), shall order a new trial before the District Court.

(6) Where under the last preceding subsection the Supreme Court has set aside a verdict of acquittal and entered a conviction, it shall proceed to pass sentence on the person so convicted in respect of the offence of which it has convicted him and such sentence shall, for the purposes of this Act, be deemed to have been passed by the District Court, save that no further appeal shall lie thereon to the Supreme Court.

POWERS OF THE SUPREME COURT IN SPECIAL CASES

15. (1) If it appears to the Supreme Court that an

appellant, though not properly convicted on any count has been properly convicted on any other count, the Court may, on the count on which it considers that the appellant has been properly convicted, affirm the sentence passed by the District Court or pass in substitution therefor such other sentence, whether more or less severe, which the District Court could lawfully have passed, as it thinks proper.

(2) Where the appellant has been convicted of an offence and the District Court could on the charge have found him guilty of some other offence, and on the findings of the District Court it appears to the Supreme Court that the District Court must have been satisfied of facts which proved him guilty of that other offence, the Supreme Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the District Court a verdict of guilty of that other offence and pass in substitution for the sentence passed by the District Court such sentence, whether more or less severe, as the District Court could lawfully have passed for that other offence.

(3) If on any appeal it appears to the Supreme Court that, although the appellant committed the act or made the omission charged against him he was not of sound mind at the time when the act or omission alleged to constitute the offence occurred, so as not to be responsible therefor according to law, the Court may quash the conviction and set aside the sentence passed at the trial and order the appellant to be kept in custody in such place and in such manner as the Court shall direct until the President's pleasure be known and the President may thereupon and from time to time give such order for the safe custody of the appellant during such pleasure in such place and in such manner as to the President may seem fit.

(4) Any sentence passed or order made by the Supreme Court under the provisions of this section shall for the purposes of this Act, be deemed to have been passed by the District Court, save that no further appeal shall lie thereon to the Supreme Court.

ADJOURNMENT

16. (1) The Supreme Court may at any stage adjourn the hearing of an appeal.

(2) An appeal may be heard and any judgment or order thereon made by one judge:

Provided that, where the Court is constituted by more than one judge and the Court is equally divided in opinion, the appeal shall be heard de novo by the Court constituted by three judges.

FURTHER EVIDENCE

17. (1) In dealing with an appeal from the District Court the Supreme Court, if it thinks additional evidence is necessary, may either take such evidence itself or direct it to be taken by the District Court.

(2) Where the additional evidence is taken by the District Court, that Court shall certify such evidence to the Supreme Court, which shall thereupon proceed to dispose of the appeal.

(3) Evidence taken in pursuance of this section shall be taken as if it were evidence taken at a trial before the District Court.

NO APPEAL ON POINT OF FORM OR MATTER OF VARIANCE UNLESS RAISED IN THE DISTRICT COURT

18. Save where the appellant was not represented at the hearing before the District Court by a barrister and solicitor or a pleader, no finding, sentence or order passed by the District Court shall be reversed or altered on appeal, or revision under the provisions of section 23 of this Act, on account of any objection to any information, complaint, charge, summons or warrant for any alleged defect therein in matter of substance or form or for any variance between such information, complaint, charge, summons or warrant and the evidence adduced in support thereof, unless it be found that such objection was raised before the District Court and that, notwithstanding that it was shown to the District Court that by such variance the appellant had been deceived or misled, the District Court refused to adjourn the hearing of the case to a future day.

SUPREME COURT ORDER ON APPEAL TO BE CERTIFIED TO THE DISTRICT COURT.

19. When a case is decided on appeal by the Supreme Court, the Registrar shall certify its judgment or order to the District Court which shall thereupon make such orders as are conformable to the decision of the Supreme Court and shall take such steps as may be necessary to enforce such decision.

RIGHT OF APPELLANT TO BE PRESENT

20. An appellant, notwithstanding that he is in custody, shall be entitled to be present, if he desires it, at the hearing of his appeal under the provisions of this Part of this Act.

POWER OF THE SUPREME COURT TO CALL FOR RECORDS

21. The Supreme Court may call for and examine the record of any criminal cause or matter of the District Court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of the District Court.

POWER OF THE RESIDENT MAGISTRATE TO CALL FOR RECORDS OF THE DISTRICT COURT AND TO REPORT TO THE SUPREME COURT

22. (1) The Resident Magistrate may call for and examine the record of any criminal cause or matter of the District Court constituted by three lay magistrates for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of the Court.

(2) If the Resident Magistrate acting under the last preceding subsection considers that any finding, sentence or order of the District Court is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the Supreme Court.

POWERS OF THE SUPREME COURT ON REVISION

23. (1) In the case of any proceedings in the District Court the record of which has been called for or which has been forwarded by the Resident Magistrate under the provisions of section 22 of this act, or which otherwise comes to its knowledge, the Supreme Court may -

(a) in the case of a conviction, exercise any of the powers conferred on it as a court of appeal by sections 14, 15 and 17 of this Act and may increase the sentence; and

(b) in the case of any other order, other than an order of acquittal, alter or reverse such order.

(2) No order under this section shall be made to the prejudice of an accused person unless he has had an

opportunity of being heard either personally or by a barrister and solicitor or a pleader in his own defence.

(3) Where the Supreme Court quashes the sentence passed by the District Court and passes sentence under the provisions of this section, such sentence shall, for the purposes of this Act, be deemed to be a sentence passed by the District Court, save that no further appeal shall lie thereon to the Supreme Court.

(4) Nothing in this section shall be deemed to authorise the Supreme Court to convert a finding of acquittal into one of conviction.

(5) No proceedings by way of revision shall be entertained at the instance of any party to the proceedings.

DISCRETION OF THE SUPREME COURT AS TO HEARING PARTIES

24. No party shall have any right to be heard either personally or by a barrister and solicitor or a pleader before the Supreme Court when it is exercising its powers of revision:

Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by a barrister and solicitor or a pleader and that nothing in this section shall be deemed to affect subsection (2) of the last preceding section.

NUMBER OF JUDGES ON REVISION

25. All proceedings before the Supreme Court in the exercise of its revisional jurisdiction may be heard and any judgment or order thereon may be made or passed by one judge sitting in Chambers:

Provided that where the Court is constituted by more than one judge and the Court is equally divided in opinion, the appeal shall be heard de novo by the Court constituted by three judges;

And provided further that, where the Court decides to hear any party, the hearing shall be in open court.

SUPREME COURT ORDER ON REVISION TO BE CERTIFIED TO THE DISTRICT COURT

26. Where a case is revised by the Supreme Court the Registrar shall certify its decision or order to the District Court which shall thereupon make such orders as are

conformable to the decision so certified and shall take such steps as may be necessary to enforce such decision or order.

PART III - APPEALS FROM THE DISTRICT COURT IN CIVIL CAUSES
AND MATTERS

APPEAL TO THE SUPREME COURT IN CIVIL CAUSES AND MATTERS

27. An appeal shall lie under this Part of this Act in any cause or matter, not being a criminal proceeding, to the Supreme Court against any final decision of the District Court.

APPEAL TO BE BY WAY OF PETITION

28. (1) Every appeal shall be in the form of a petition in writing signed by the appellant or by his barrister and solicitor or pleader and shall be lodged with the Clerk.

(2) The petition shall state whether the whole or only part of the decision is complained of and in the latter case shall specify which part.

(3) A copy of the petition shall be served by or on behalf of the appellant on all parties directly affected by the appeal either before or immediately after the petition is lodged in the Supreme Court, and it shall not be necessary to serve parties not so affected.

(4) The Supreme Court may direct notice of the appeal to be served on all or any parties to the proceedings or upon any person not a party, and may adjourn the hearing of the appeal on such terms as may seem just, and may give such judgment and make such order as might have been given or made if the persons served with the notice had originally been parties.

TIME FOR APPEAL

29. No appeal shall be brought after the expiration of twenty-one days from the day on which the decision of the District Court was given or made or after the expiration of such further time as may be allowed by the Supreme Court or a judge on application made within four months after the expiration of the said twenty-one days.

SECURITY FOR APPEAL

30. (1) Except where the Resident Magistrate orders otherwise on the ground of the appellant's poverty, the appellant

shall give security to the satisfaction of the Resident Magistrate to abide the event of the appeal. The security shall be for such amount, not exceeding one hundred dollars, as may be estimated by the Resident Magistrate to be the amount of the costs likely to be awarded in respect of the appeal in the event of its being dismissed.

(2) If no such security as is required under the last preceding subsection is given within seven days of the lodging of the petition of appeal, or within such further time as the Resident Magistrate may permit, the petition of appeal shall be deemed to be abandoned.

(3) As soon as security is given as provided in the foregoing provisions of this section, the Clerk shall forward to the Registrar -

(a) a copy of the pleadings;

(b) a copy, signed by the magistrate, of the record of the proceedings made by the magistrate; and

(c) all affidavits and exhibits remaining in his custody.

CROSS-APPEALS

31. (1) It shall not be necessary for a respondent to lodge a petition by way of cross-appeal, but if a respondent intends upon the hearing of the appeal to contend that the decision of the District Court should be varied, he shall give notice of his intention to any parties who may be affected by such contention and to the Registrar.

(2) The omission to give such notice within a reasonable time shall not diminish the powers conferred on the Supreme Court but may, at the discretion of that Court, be a ground for an adjournment of the appeal or for a special order as to costs.

PROCEDURE WHERE APPEAL NOT PROSECUTED

32. (1) If the appellant does not appear at the time appointed for hearing the appeal and is not represented by a barrister and solicitor or a pleader, his appeal shall, unless the Supreme Court for good reason orders otherwise, stand dismissed.

(2) If the appellant does not prosecute his appeal with due diligence, the respondent may by summons apply to the Supreme Court to dismiss the petition of appeal and the Supreme Court may dismiss the petition accordingly.

(3) In any cause to which this section applies the Supreme Court may order the payment by the appellant to the respondent of such amount for costs as it thinks proper.

POWERS OF THE SUPREME COURT

33. (1) On the hearing of an appeal under this Part of this Act the Supreme Court may -

- (a) order a rehearing of the case in the District Court upon such terms as it thinks fit;
 - (b) order that the case be referred back to the District Court for amendment;
 - (c) order judgment to be entered in the District Court for either party; or
 - (d) make a final or other order on such terms as it thinks proper to ensure the determination on the merits of the real questions in dispute between the parties;
- and

it may make such order as to costs as it thinks proper.

(2) The powers conferred by this section may be exercised by the Supreme Court notwithstanding that by the petition of appeal the appellant sought that part only of the decision be reversed or varied, and such powers may be exercised in favour of all or any of the respondents or parties, although those respondents or parties may not have appealed from or complained of the decision.

SUPREME COURT ORDER TO BE CERTIFIED TO THE DISTRICT COURT

34. When a case is decided on appeal by the Supreme Court, the Registrar shall certify its decision to the District Court which shall thereafter be deemed to have entered such judgment, or made such order, as accords with that decision, save that no further appeal shall lie thereon to the Supreme Court.

PART IV - PROCEDURE AND RULES

APPEALS TO BE BY WAY OF REHEARING

35. (1) All appeals shall be by way of rehearing.
- (2) Where any question of fact is involved in any appeal, the evidence taken in the District Court bearing on the question shall, subject to the provisions of section 17 of this Act, be brought before the Supreme Court as follows:

(a) as to any evidence given orally, by the production of a copy of the written record made by the magistrate or such other materials as the Supreme Court may deem expedient;

(b) as to any evidence received by written statements or by affidavits and as to any exhibits, by the production of the written statements and affidavits and such of the exhibits as may have been forwarded by the Clerk and by the production by the parties to the appeal of such exhibits as are in their custody.

(3) Where the language used by the District Court at the hearing of the cause or matter to which any appeal relates was Nauruan, the record made by the magistrate and any affidavits and exhibits in the Nauruan language shall be translated into the English language by the Clerk before the record is transmitted to the Registrar and shall be certified by the Clerk to be a correct translation; and any party to the appeal may, on payment of the prescribed fee, obtain from the Registrar a copy of that translation.

RULES FOR APPEALS

36. The Chief Justice may make rules of court for carrying this Act into effect, for regulating generally the practice and procedure under this Act and for prescribing fees and costs which may be demanded and received by the Clerk and the Registrar in connection with such practice and procedure.