

COMMONWEALTH OF AUSTRALIA.

Department of External Affairs,

Departmental No. [60].....

.....26th May, 1911.

Executive Council No. [18].....

MINUTE PAPER FOR THE EXECUTIVE COUNCIL.

SUBJECT.

**SUPREME COURT ORDINANCE 1911 – NORTHERN
TERRITORY.**

Recommended for the approval of His Excellency the
Governor-General in Council that assent be given to
the attached Northern Territory Ordinance
entitled the “Supreme Court Ordinance, 1911”.

Approved in Council.

[?]

[for] Governor-General.

[E. Findley] ?

[26th May].....190[11].....

Filed in the records of
the Council.

[?]

Secretary to the Executive Council.

THE NORTHERN TERRITORY OF AUSTRALIA.

No. [9] of 1911.

AN ORDINANCE

To establish a Supreme Court for the Northern Territory of Australia.

B

Be it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Northern Territory Acceptance Act 1910* and the *Northern Territory (Administration) Act 1910*, as follows :-

1. This Ordinance may be cited as the *Supreme Court Ordinance 1911*.

2. This Ordinance shall come into operation on the date thereof.

3. There shall be a Supreme Court of the Northern Territory which Court shall be constituted in the manner provided by this Ordinance.

4. Subject to this Ordinance, the Supreme Court shall have in the Northern Territory all the jurisdiction and powers of the Supreme Court of the State of South Australia, and of the Court of Insolvency of that State, immediately prior to the acceptance by the Commonwealth of the Northern Territory.

5. -(1.) An appeal shall lie to the Supreme Court from every Court in the Northern Territory from which an appeal lay to any Court of the State of South Australia immediately prior to the acceptance of the Northern Territory by the Commonwealth.

(2.) This section shall extend to authorize an appeal from any judgment, decree or decision made or given before the commencement of this Ordinance if the time for appealing had not expired before the appeal was instituted.

6. The Supreme Court shall be constituted by the Judge of the Northern Territory sitting as such Supreme Court.

C.6986

Short Title

Commencement.

Establishment of Supreme Court.

Jurisdiction of Supreme Court.

Appellate Jurisdiction of Supreme Court

Constitution of Supreme Court.

- 7.** The qualifications of the Judge of the Northern Territory shall be as follows:—He must either be or have been a practising barrister or solicitor of the High Court or of the Supreme Court of a State or of the Supreme Court of the Northern Territory of not less than five years' standing.
- Qualifications of Judge.
- 8.** —(1.) The Judge of the Northern Territory shall be appointed by the Governor-General by commission, and shall hold office for a period of five years, or such longer period as is specified in his commission, unless sooner removed by the Governor-General, on the ground of misbehavior or incapacity.
- Appointment of Judge.
- (2.) The Judge of the Northern Territory, holding office at the commencement of this Ordinance, shall be the Judge of the Northern Territory while his commission remains in force, or until a Judge of the Northern Territory is appointed under this Ordinance.
- 9.** Where, by any law of the State of South Australia which is continued in force in the Northern Territory as a law of that Territory, any power or function is vested in any Judge of the Supreme Court of South Australia, that power or function shall, in relation to the Northern Territory, be vested in the Judge of the Northern Territory.
- Powers of Judge.
- 10.** The Judge of the Northern Territory may exercise in chambers the like jurisdiction as that which immediately prior to the acceptance of the Northern Territory by the Commonwealth could have been exercised in chambers by a Judge of the Supreme Court of South Australia.
- Jurisdiction in chambers.
- 11.** The Governor General may—
- Appointment of officers.
- (a) appoint a person to be Registrar of the Supreme Court; and
- (b) appoint such other officers of the Supreme court as he thinks necessary.
- 12.** The Sheriff of the Northern Territory under the *Sheriff Ordinance* 1911 (No. 3 of 1911) shall be deemed to be the Sheriff of the Supreme Court.
- Sheriff.
- 13.** —(1.) Subject to this Ordinance, and any Rules of Court thereunder, the laws of the State of South Australia regulating the practice and procedure of the Supreme Court of South Australia, and of the Court of Insolvency of that State, in force immediately prior to the acceptance of the Northern Territory by the Commonwealth, shall, so far as they are applicable, apply to the Supreme Court of the Northern Territory.
- Rules of procedure.
- (2.) All powers and functions exercisable in South Australia under any such laws by the Master, Chief Clerk, Registrar of Probates, or other officer of the Supreme Court of Court of Insolvency of South Australia, shall be exercisable by the Registrar, or by such officer as is prescribed in that behalf by Rules of Court.
- (3.) All powers and functions exercisable in South Australia under any such laws by the Sheriff of South Australia, shall be exercisable by the Sheriff.
- 14.** —(1.) The principal seat of the Supreme Court shall be at Darwin, in the Northern Territory, and the offices of the court shall be there situated.
- Principal seat of court and sittings.
- (2.) The Supreme Court shall sit at the principal seat of the court at such times as are appointed in that behalf by Rules of Court.
- 15.** —(1.) Sittings of the Supreme Court at places other than the principal seat of the court shall be held at such times and for such purposes as the Administrator thinks fit by commission under his hand to direct.
- Sittings at places other than the principal seat.
- (2.) A commission under this section shall be directed to the Judge of the Northern Territory, and a notification of the issue of the commission shall be published in the *Gazette* at least thirty days before the date fixed for holding the sitting.
- 16.** Every male adult person of European race or extraction, who is not disqualified from serving as a juror and who resides within fifty miles from the place fixed by the commission for the holding of a sitting of the Supreme Court, shall be liable to serve as a juror at such sitting, and may be summoned to serve thereat
- Jurors.

accordingly, and for the purpose of this section shall be subject to the same responsibilities and entitled to the same privileges as if his name were on a jury roll.

17. –(1.) Any person committed for trial for an indictable offence may be put upon his trial before the Supreme Court by information in the name of the Sheriff of the Northern Territory, or of some person appointed by the Administrator by commission in that behalf.

How offenders may be put on their trial.

(2.) The Sheriff or any person so authorized shall have in relation to persons committed for trial before the Supreme Court the like powers as the Attorney-General of South Australia had immediately prior to the acceptance of the Northern Territory by the Commonwealth in relation to persons committed for trial before the Supreme Court of South Australia.

18. –(1.) The following persons may be admitted as Practitioners of the Supreme Court:-

Practitioners of the Supreme Court.

- (a) Persons who have served under articles for the period, and possess the qualifications or have passed the examinations prescribed by Rules of Court; and
- (b) Persons who are entitled to practise as barristers or solicitors or both in any Federal Court.

(2.) Every person on being admitted as a Practitioner of the Supreme Court shall pay the admission fee prescribed by Rules of Court, and thereupon his name shall be entered on the Roll of Practitioners of the Supreme Court.

(3.) Every Practitioner of the Supreme Court who has paid the admission fee and other fees payable by him under the Rules of Court shall, so long as his name remains on the Roll of Practitioners of the Supreme Court, be entitled to practise in any branch of the law in any Court in the Northern Territory.

19. The Supreme Court may suspend the right of any Practitioner to practise for such period as it thinks proper, or may remove his name from the Roll of Practitioners, on the ground of misconduct in the practise of his profession. The Supreme Court may restore the name of any person to the Roll of Practitioners on such grounds, and on such terms, as it thinks proper.

Suspension or removal of Practitioners.

20. Every Practitioner of the Supreme Court of South Australia, residing in and practising his profession in the Northern Territory at the commencement of this Ordinance, shall be entitled to have his name entered on the Roll of Practitioners without payment of any fee.

Practitioners practising at commencement of Ordinance.

21. –(1.) The Full Court of the Supreme Court of South Australia, constituted by at least two Judges, may grant leave to appeal to the Supreme Court of South Australia from any conviction, sentence, judgment, decree, or order of the Supreme Court of the Northern Territory.

Appeal to Supreme Court of South Australia.

(2.) When an Order granting leave to appeal is made, certified copies of the proceedings and evidence in the case shall be forwarded to the proper office of the Supreme Court of South Australia.

(3.) The Supreme Court of South Australia sitting as a Full Court (constituted by at least two Judges) may hear the appeal, and may make such order therein as it thinks just.

(4.) If the Supreme Court sees fit to permit it, an appeal under this section may be by case stated, with the legal argument (if any) attached thereto in writing, and in that case it shall not be necessary for the parties to appear on the hearing of the appeal either personally or by counsel.

(5.) The Order of the Court on appeal shall have effect in the Northern Territory as if it were a judgment of the Supreme Court of the Northern Territory, and may be enforced by the Supreme Court accordingly.

22. –(1.) The Judge of the Northern Territory may make Rules of Court for regulating the practice and procedure of the Supreme Court, and for prescribing all matters and things which are necessary or convenient to be prescribed for carrying out this Ordinance or for the conduct of any business of the Supreme Court.

Rules of Court.

(2.) All Rules of Court made in pursuance of this section shall be published or notified in the *Gazette*, and copies thereof shall be forwarded to the Minister after the making thereof.

(3.) The Minister may by notification in the *Gazette* disallow any Rule of Court, and thereupon the Rule so disallowed shall cease to have effect.

23. This Ordinance shall not effect the holding of the Circuit Court of any circuit district in or partly in the Northern Territory, or the trial of any person or cause at such Court, or the continuance of any proceedings, or the hearing of any appeal, if the proclamation or commission appointing the holding of the Court was issued, or the proceedings were commenced, or the appeal was instituted, prior to the commencement of this Ordinance. Saving clause.

Dated the [26th] day of [May]
One thousand nine hundred and eleven.

[Dudley]
Governor-General.

By His Excellency's Command,

[E. Findley] ?