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TRUSTEESHIP  
COUNCIL

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6 July 1948

ORIGINAL: ENGLISH

Third session

CONTINUATION OF THE EXAMINATION OF THE REPORT ON THE  
TRUST TERRITORY OF NEW GUINEA

Item 5 of the agenda

The Secretary-General has the honour to transmit herewith to the members of the Trusteeship Council a letter from the Australian representative on the Trusteeship Council, dated 3 July 1948, communicating an additional statement in answer to question 7 forwarded to the members of the Trusteeship Council in document T/138.

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3 July 1948

In answer to questions concerning the administration of the Trust Territory of New Guinea asked by representatives in connection with the preliminary examination of the Annual Report on that territory for 1946-47 at the second session of the Trusteeship Council, the Australian delegation supplied a paper circulated as document T/138.

The answer given to question No. 7 concerning administrative union was that a separate statement would be supplied to the Council. The separate statement on this subject is now forwarded herewith for circulation as an addendum to document T/138.

It will be noted that a copy of a Bill concerning the territory\* is annexed to the statement for the information of the Council in accordance with the undertaking given to the Council at the second session and re-affirmed during the course of the present Session.

The Bill is a public document, having passed the stage of first reading in the Australian Parliament.

W. D. FORSYTH

Australian Representative on the  
Trusteeship Council

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\* "A Bill for an Act to approve the placing of the Territory of New Guinea under the International Trusteeship System, to provide for the Government of the Territory of Papua and the Territory of New Guinea, and for other purposes", Parliament of the Commonwealth, House of Representatives, 18th June 1948.

TRUSTEESHIP COUNCIL

STATEMENT IN ANSWER TO QUESTION 7

(Administrative Union of Territories of Papua and New Guinea)

Introduction

The Government of the Commonwealth of Australia has taken a decision that the Trust Territory of New Guinea be placed in Administrative Union with the adjoining Australian Territory of Papua. This decision has been made in pursuance of Article 5 of the Trusteeship Agreement relating to the Territory of New Guinea, because it is the opinion of the Government of Australia that such an administrative union is in the interests of the peoples of the Territory of New Guinea and will greatly assist in carrying out the objectives of the trusteeship system. The former administrative arrangements for the two Territories and the factors which have influenced the decision to place the territories in Administrative Union are stated briefly in the following paragraphs.

Former Administrative and Legislative Arrangements

Before the war of 1939-45 the two Territories were separate with separate Administrations and Public Services. The administrative set-up was similar in the two Territories with Legislative Councils (nominated) and Executive Councils. There was an Administrator for Papua and an Administrator for New Guinea. The Legislative Councils were empowered to make Ordinances which were subject to the Administrators assent and could be disallowed by the Governor-General. Ordinances on certain subjects were reserved for the pleasure of the Governor-General.

The question of establishing an administrative union had been discussed prior to the war. The fact that the two administrations had grown up for historical reasons as separate entities with a natural desire on the part of each to continue its separate existence, made any change in the existing arrangements prior to the war rather difficult. Furthermore, both administrations considered that they had developed their own special techniques for handling their own problems although those problems were, in the final analysis, common ones.

The terms of the Mandate, moreover, made it doubtful whether the administrative union could be implemented without arousing argument as to the consistency of any such action with those terms. It was not that the Australian authorities necessarily believed that the institution of an

administrative union between the two territories was definitely contrary to the terms of the Mandate. It was rather that in the existing circumstances with Papua dependent upon the Australian Government for a grant to meet a deficit in its budget and New Guinea on the other hand self-supporting, it was contended by some that an administrative union would result in Papua benefiting from the resources of the mandated territory.

A Commission investigated the position in 1939 and although it found many good reasons for an Administrative Union it pointed out that the two territories were acquired at different times and under different titles and their history as separate units made a combined administration difficult in the circumstances then existing.

#### Period of Military Administration

The 1939-45 war, however, created an entirely new set of circumstances. The Civil Administrations of the Territories were suspended on 12 February 1942, on account of the Japanese invasion of New Guinea and part of Papua. A Military Unit (Australian New Guinea Administrative Unit) carried out in the Territories such functions of Civil Administration as were necessary and possible in the circumstances and administered the available portions of the Territories as one unit for Administration purposes.

The separate administrations were suspended in the period of military emergency arising from the Japanese invasion. The two territories had to be managed as a single strategic area from the point of view of defence - a lesson that was not lost on the Australian people and in particular on the military leaders of the Australian and United States forces which carried the burden of the war operations in the area. The military administration of course, at the end of the war, gradually gave place to the provisional civil administration until by June 1946 civil administration had been fully restored in New Guinea as well as in Papua.

#### Provisional Administration

In July 1945, the Papua-New Guinea Provisional Administration Act was passed by the Australian Parliament to provide for one Administration for the former separate Territories. The Provisional Administration was composed of a single Administrator and a single Public Service together with one Supreme Court for both territories. This was a tentative arrangement pending determination as to the future policy in regard to the Mandated Territory of New Guinea.

/The impact

The impact of the war had created additional problems common to the whole area and it would have been an extremely unwise step to have attempted to reconstitute the two separate administrations when the task of reconstruction had to be dealt with throughout the whole area of the two territories. The advantages of combined administration were clearly apparent.

The planning and organization of rehabilitation measures from one headquarters were accompanied by the establishment of essential services including native affairs, medical and hospitalization services, education services, agricultural and transport services and, of course, public works on a common basis. It was imperative that the resources of both the territories in manpower and materials should be used for the purpose of dealing with the urgent reconstruction problems.

#### Continuance of Administrative Union

The experience under Military Administration and Provisional Administration of working common services for the two Territories has demonstrated the distinct advantages of such an arrangement. This was indeed the period during which the arguments advanced previously in favour of administrative union were being thoroughly tested. These arguments were so amply justified by results that the Australian Government determined that it was essential to have included in the Trusteeship Agreement which was submitted to the United Nations General Assembly in 1946, an article specifically covering the question of capacity to implement an administrative union between the trust territory and the neighbouring territory. Such an article, it was realized would finally remove any doubt that may have existed under the Mandate concerning the Government's capacity to carry out an administrative union. The approval by the United Nations Assembly of Article 5 in the New Guinea Agreement was therefore very much welcomed by the Australian authorities.

The following general considerations influenced the Australian authorities in coming to the decision that the provisional administrative union between the Territory of New Guinea and the Territory of Papua should be continued.

The two territories are geographically united, the division between them being merely a line drawn on a map. The racial groups are, broadly speaking, Negritos, Papuans and Melanesians and are scattered indiscriminately throughout the two territories.

The problems involved in the raising of the living standards of the population of both territories which amounts to over a million people demand the most efficient utilization of all resources and equally

/efficient

efficient execution of the policies evolved for the advancement and welfare of the inhabitants of the two territories. It is very difficult for services subject to different executive controls to do this. It is essential that in the carrying out of these policies of development reliance should not be placed merely upon consultation and collaboration between the two different administrations. The fact is that whilst a certain amount of co-operation along these lines takes place, the degree of co-ordination effected is never entirely satisfactory. In fact, prior to the war, the chairman of the 1939 commission commented on the paucity of the consultation between people in the two territories and between officers of the two services.

Furthermore it is believed that through the establishment of a single Public Service greater opportunities are given for advancement and there is greater diversity of training and opportunity for gaining of knowledge and experience. In consequence a more efficient technical staff can be built up.

There should be little need to point to the advantages gained from the building up of the area comprising both territories as one economic unit. It will be possible to develop much more easily the communications between the two territories by air and by land and also communications with the outside world. Furthermore, from the point of view of trade, a large unit should be much more effective in securing the best terms for the marketing of products in the area and in particular should be in an advantageous position to arrange marketing schemes for those products.

So far as the old argument regarding dependence of Papua on New Guinea goes, it is apparent that the cost of rehabilitation of New Guinea and of Papua over a period of many years will be far higher than the income of either the individual territories or the combined territories. In other words, it will be essential for the Australian Government for some time to come to provide money in the form of grants to meet expenditure on the re-establishment and development of the services which will ensure higher standards of living for the inhabitants. It should be noted also that it is possible to make provision for the keeping of accounts in such a way as to enable the outside observer to know what amounts of money are being spent on each territory and where the money comes from. It is the view of the Australian Government that there should be expended upon the administration, welfare and development of the trust territory an amount which is not less than the amount of the public revenue raised in the trust territory.

*/It should be recalled*

It should be recalled that the Australian Government, during the discussion on the Trusteeship Agreement for New Guinea, gave a definite assurance that any action taken to implement administrative union under the provisions of Article 5 of the Trusteeship Agreement would not involve the loss by New Guinea of its identity as a separate territory administered under the provisions of the international trusteeship system. That assurance has been fully borne in mind in drafting the legislation for an administrative union of the territory of Papua and the territory of New Guinea (Annex A) and will be honoured by the Australian authorities when the administrative union plans are put into effect.

A Bill for an Act entitled "The Papua and New Guinea Act 1948" was presented on 18 June 1948 for the consideration of the Parliament of the Commonwealth of Australia. The Bill had not been discussed when Parliament adjourned. The Bill has not therefore become law but it is intended that it will be listed for consideration during a session of the Parliament to commence later this year. A copy of the bill is furnished with this statement so that the Trusteeship Council might be informed as to the steps that have so far been taken by the administering authority to give effect to the decision that has been taken to provide for the government of the trust territory of New Guinea in administrative union with the territory of Papua.

1946-47-48

THE PARLIAMENT OF THE COMMONWEALTH

HOUSE OF REPRESENTATIVES

Read 1° 18th June, 1948, a.m.

(Brought in by the Minister for External Territories, the  
Honorable E. J. Ward)

A BILL For AN ACT

To Approve the Placing of the Territory of New Guinea Under the  
International Trusteeship System, to Provide for the  
Government of the Territory of Papua and the  
Territory of New Guinea, and  
for Other Purposes

Preamble

WHEREAS in accordance with the Covenant of the League of Nations a Mandate, in the terms of an instrument made on the seventeenth day of December, One thousand nine hundred and twenty, was conferred upon His Britannic Majesty for and on behalf of Australia under which Australia was empowered to administer certain territories and islands, being former German possessions, situated in the South Pacific Ocean:

AND WHEREAS those territories and islands have, in accordance with that Mandate, been administered by Australia as a territory under the authority of the Commonwealth, by the name of the Territory of New Guinea, and in accordance with the New Guinea Act 1920-1935:

AND WHEREAS the Territory of Papua has been administered by Australia in accordance with the Papua Act 1905-1940 as a Territory placed by His Majesty the King under the authority of the Commonwealth:

AND WHEREAS, since the twelfth day of February, One thousand nine hundred and forty-two, the provisions for the administration of the Territory of Papua and the Territory of New Guinea were temporarily affected by regulations under the National Security Act 1939-1946 and by the Papua-New Guinea Provisional Administration Act 1945-1946:

/AND WHEREAS, immediately

AND WHEREAS, immediately before the commencement of this Act, the Territory of Papua and the Territory of New Guinea were, for the time being, administered jointly in accordance with the Papua-New Guinea Provisional Administration Act 1945-1946:

AND WHEREAS the League of Nations ceased to exist (except for the purpose of certain measures of liquidation) from the nineteenth day of April, One thousand nine hundred and forty-six:

AND WHEREAS Australia is a member of the United Nations and the Charter of the United Nations was approved by the Charter of the United Nations Act 1945:

AND WHEREAS Chapter XI of the Charter of the United Nations is applicable to Australia's administration of the Territory of Papua:

AND WHEREAS, in accordance with the provisions of Chapter XIII of the Charter of the United Nations, the General Assembly of the United Nations, on the thirteenth day of December, One thousand nine hundred and forty-six, approved the terms of a Trusteeship Agreement for the Territory of New Guinea, submitted to it by the Government of Australia for approval, in substitution for the terms of the Mandate, which agreement designates the Government of Australia as the sole authority to exercise the administration of the Territory of New Guinea:

AND WHEREAS Australia has undertaken to administer the Territory of New Guinea in accordance with the terms of the Trusteeship Agreement:

AND WHEREAS it is desirable that the Parliament should approve the placing of the Territory of New Guinea under the International Trusteeship System by means of, and upon the terms of trusteeship embodied in, the Trusteeship Agreement and should provide for the government of that Territory in accordance with the terms of the Trusteeship Agreement:

AND WHEREAS the Trusteeship Agreement recognizes that Australia has the same powers of legislation, administration and jurisdiction in and over the Territory of New Guinea

/as if it were

as if it were an integral part of Australia, including power to bring that Territory into an administrative union with other dependent territories under its jurisdiction or control, if, in its opinion, it would be in the interests of that Territory and not inconsistent with the basic objectives of the trusteeship system to do so:

AND WHEREAS the Government of Australia is of opinion that it would be in the interests of the Territory of New Guinea, and not inconsistent with the basic objectives of the International Trusteeship System to provide for the government of the Territory of Papua and the Territory of New Guinea in an administrative union, whilst, however, maintaining the identity and status of the Territory of New Guinea as a Trust Territory administered as a Territory under the authority of the Commonwealth, and the identity and status of the Territory of Papua as a Possession of the Crown administered as a Territory under the authority of the Commonwealth:

BE it therefore enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:

## PART I - PRELIMINARY

1. This Act may be cited as the Papua and New Guinea Act 1948. Short title
2. This Act shall, except to the extent to which a contrary intention appears, come into operation on a date to be fixed by proclamation (which date shall, for the purposes of any provision of this Act referring to the commencement of this Act, be deemed to be the date of commencement of this Act). Commencement
3. The Acts specified in the First Schedule to this Act are repealed. Repeal
4. This Act is divided into parts as follows: Parts
- Part I - Preliminary (Sections 1-5).
- Part II - The Trusteeship Agreement for the Territory of New Guinea (Sections 6-7).
- Part III - Administrative Union of the Territory of Papua and the Territory of New Guinea (Sections 8-12).
- Part IV - Administration.
- Division 1 - The Administrator (Sections 13-18).
- Division 2 - The Executive Council (Sections 19-24).
- Division 3 - Advisory Councils for Native Matters, and Native Village Councils (Sections 25-29).
- Division 4 - The Public Service (Sections 30-31).
- Part V - Legislation.
- Division 1 - Laws (Sections 32-34).
- Division 2 - The Legislative Council (Sections 35-53).
- Division 3 - Interim Legislative Powers of the Governor-General (Sections 54-57).
- Part VI - The Judicial System (Sections 58-64).
- Part VII - Welfare and Development (Section 65).
- Part VIII - The Australian Institute of Pacific Administration (Sections 66-70).
- Part IX - Miscellaneous (Sections 71-77).
5. In this Act, unless the contrary intention appears - Definitions
- "Acting Administrator" means a person appointed under section sixteen of this Act to act in the office of Administrator;

/ "elector"

"elector" means a person qualified and enrolled as an elector of the Territory in accordance with Ordinance;

"judge" means a judge of the Supreme Court, and includes the Chief Judge, and an acting judge;

"native" means an aboriginal inhabitant of the Territory, and includes a person who follows, adheres to or adopts, the customs, or who lives after the manner, of the aboriginal inhabitants of the Territory;

"officer" or "officer of the Territory" means a person appointed to the Public Service under sub-section (2) of section thirty of this Act;

"Ordinance" means an Ordinance made under, or continued in force by, this Act;

"province" means a province defined as such under section eleven of this Act;

"the Administration" means the Administration or Government of the Territory;

"the Administrator" means the Administrator of the Territory appointed under this Act, and includes an Acting Administrator;

"the Executive Council" means the Executive Council for the Territory;

"the Legislative Council" means the Legislative Council for the Territory;

"the Public Service" means the Public Service of the Territory;

"the Supreme Court" means the Supreme Court of the Territory of Papua and New Guinea established by this Act;

"the Territory of New Guinea" means the Territory of New Guinea as described in the Second Schedule to this Act;

"the Territory of Papua" means the Territory of Papua as described in the Third Schedule to this Act;

"the Territory" means the Territory of Papua and New Guinea (being the Territory of Papua and the Territory of New Guinea together called by that name by virtue of section eight of this Act);

"the Trusteeship Agreement" means the Trusteeship Agreement for the Territory of New Guinea approved by the General Assembly of the United Nations on the thirteenth day of December, One thousand nine hundred and forty-six (a copy of which Agreement is set out in the Fourth Schedule to this Act.)

PART II - THE TRUSTEESHIP AGREEMENT FOR THE TERRITORY OF NEW GUINEA

6. Approval is given to the placing of the Territory of New Guinea under the International Trusteeship System by means of, and upon the terms of trusteeship embodied in, the Trusteeship Agreement.

Approval of placing of New Guinea under International Trusteeship System

7. The Minister shall make to the General Assembly of the United Nations the annual report required by the Charter of the United Nations on the political, economic, social and educational advancement of the inhabitants of the Territory of New Guinea.

Report to the General Assembly of the United Nations

PART III - ADMINISTRATIVE UNION OF THE TERRITORY OF PAPUA AND  
THE TERRITORY OF NEW GUINEA

Declaration respecting the Territory of Papua and the Territory of New Guinea

Administrative union of the two Territories

Amount to be expended in respect of the Territory of New Guinea

Provinces

References to territories in other laws

8. (1) The Territory of Papua and the Territory of New Guinea shall continue to be territories under the authority of the Commonwealth, and shall, for the purposes of this Act, be together called the Territory of Papua and New Guinea.

9. The Territory of Papua and the Territory of New Guinea shall be governed in an administrative union to the extent and in the manner provided by or in pursuance of this Act.

10. There shall be expended in each year, upon the administration, welfare and development of the Territory of New Guinea, an amount which is not less than the total amount of public revenue raised in that year in respect of the Territory of New Guinea.

11. For the purposes of this Act or for any administrative purpose, the Governor-General may, by proclamation, define provinces within the Territory by such names and with such boundaries as are specified in the proclamation.

12. A reference in any other law of the Commonwealth (whether made before or after the commencement of this Act) to a Territory of the Commonwealth, a Territory under the control of the Commonwealth, or a Territory under the authority of the Commonwealth, shall, unless the contrary intention appears, be deemed to include a reference to

- (a) the Territory of New Guinea;
- (b) the Territory of Papua; and
- (c) the Territory of Papua and New Guinea as administered under this Act.

PART IV - ADMINISTRATION

Division 1 - The Administrator

13. There shall be an Administrator of the Territory, who shall be charged with the duty of administering the government thereof on behalf of the Commonwealth. Office of Administrator
14. The Administrator shall be appointed by the Governor-General by commission under the Seal of the Commonwealth, and shall hold office during the pleasure of the Governor-General. Appointment of Administrator
15. The Administrator shall exercise and perform all powers and functions that belong to his office in accordance with the tenor of his Commission and in accordance with such instructions as are given to him by the Governor-General. Functions of Administrator
16. (1) The Governor-General may, by Commission under the Seal of the Commonwealth, appoint a person to act in the office of Administrator, and to administer the government of the Territory, during any vacancy in the office of Administrator, or when the Administrator is absent from the Territory or unable by reason of illness or incapacity to perform his duties, and a person so appointed, while he is so administering the government of the Territory, shall have and may exercise and perform all the powers and functions of the Administrator. Acting Administrator
- (2) In default of such appointment, or in the event of the absence or inability to act of the person so appointed, the senior member of the Executive Council present in the Territory and able to act shall have and may exercise and perform all the powers and functions of the Administrator.
- (3) The exercise and performance, by virtue of this section, by any person of the powers and functions of the Administrator, during his absence from the Territory, shall not affect the exercise or performance by the Administrator himself of any power or function.

Deputies of  
Administrator

17. (1) The Administrator may appoint a person, or any persons jointly or severally, to be the deputy or deputies of the Administrator within the Territory, or a part of the Territory, and in that capacity to exercise during the pleasure of the Administrator such powers and functions of the Administrator as he assigns to the deputy or deputies.

(2) The appointment of a deputy shall not affect the exercise or performance by the Administrator himself of any power or function.

Oaths to be  
taken by  
Administrator,  
&c.

18. (1) The Administrator, every Acting Administrator and every deputy of the Administrator shall, before entering on the duties of his office, make and subscribe an oath or affirmation of allegiance, in the form in the Schedule to the Constitution, and also an oath or affirmation of office, in the form in the Fifth Schedule to this Act.

(2) An oath or affirmation under this section shall be made before the Governor-General, a judge or a person thereunto authorized by the Governor-General.

#### Division 2 - Executive Council

Executive  
Council

19. (1) There shall be an Executive Council for the Territory to advise and assist the Administrator.

(2) The Executive Council shall consist of not less than nine officers of the Territory who shall be appointed by the Governor-General and shall hold their places in the Council during his pleasure.

(3) Where, on account of illness or absence from the Territory, a member of the Executive Council is unable to perform his duties as a member, the Governor-General may appoint an officer of the Territory to act as a member of the Executive Council in his stead, and the officer so appointed, during the illness or absence from the Territory of the member, shall have, and may exercise and perform, all the powers and functions of a member of the Executive Council.

/(4) The members

(4) The members of the Executive Council shall have such seniority as the Governor-General specifies, and, if the Governor-General has not specified their seniority, they shall have seniority according to the priority of their appointment, for which purpose members appointed by the same instrument shall be deemed to have been appointed in the order in which they are named therein.

20. (1) The Executive Council shall not proceed to the despatch of business unless summoned by, or by authority of, the Administrator.

Meetings of Executive Council

(2) The presence of at least five members shall be necessary to constitute a meeting of the Executive Council for the despatch of business.

21. (1) The Administrator shall preside at all meetings of the Executive Council at which he is present.

President at meetings

(2) In the absence of the Administrator, the senior member of the Council who is present shall preside.

22. The Administrator only shall be entitled to submit matters to the Executive Council, but, if the Administrator declines to submit any matter to the Council when requested in writing by any member so to do, that member may require that his written request, together with the answer of the Administrator thereto, be recorded in the minutes, and the request and answer shall be recorded accordingly.

Submission of matters to Executive Council

23. The Administrator may, if he thinks fit, act in opposition to the advice of a majority of the members of the Executive Council present at the meeting at which it is decided to tender the advice, but in any such case the Administrator shall forthwith fully report the matter to the Minister with his reasons for his action.

Administrator may act in opposition to advice.

24. (1) Minutes of the proceedings at all meetings of the Executive Council shall be kept, and a copy of the minutes relating to each meeting shall be transmitted by the Administrator to the Minister as soon as practicable after the meeting is held.

Minutes of Executive Council meetings

(2) A member

(2) A member of the Executive Council may require that his views in respect of any matter duly submitted to the Council shall be adequately recorded in the minutes, and those views shall be recorded accordingly.

Division 3 - Advisory Councils for Native Matters, and Native Village Councils

Establishment of Councils 25. Subject to this Act, provision may be made by Ordinance for and in relation to the establishment of (a) Advisory Councils for Native Matters; and (b) Native Village Councils, in respect of areas defined by or under Ordinance.

Functions of Advisory Councils 26. (1) An Advisory Council may consider, and tender advice to the Administrator concerning, any matter affecting in any way the welfare of natives in the area in respect of which it is established.

(2) Any such matter may be brought before an Advisory Council by any member of the Council, by any native, by any Native Village Council or, with the permission of the Chairman of the Council, by any other person or institution.

(3) If any such matter is submitted to an Advisory Council by a Native Village Council, it shall be the duty of the Advisory Council to consider that matter and tender advice to the Administrator concerning it.

Membership 27. (1) An Advisory Council shall consist of such number of native members and such number of other members as is provided by Ordinance.

(2) The number of native members shall be at least a majority of the total number of members.

(3) The members of an Advisory Council shall be appointed by the Administrator, and shall hold office during the Administrator's pleasure and subject to such conditions as the Administrator determines.

(4) The native members of an Advisory Council shall, as far as practicable, be natives who have performed meritorious service as members of Native Village Councils.

Official minutes of meetings 28. (1) Minutes of each meeting of an Advisory Council shall be kept, and copies thereof shall be forwarded to the Administrator.

(2) Copies

(2) Copies of the minutes shall be transmitted to the Minister by the Administrator as soon as practicable after each meeting.

29. A Native Village Council shall have such functions as are provided by Ordinance in relation to the peace, order and welfare of natives in the area in respect of which it is established.

Functions of Native Village Councils

#### Division 4 - The Public Service

30. (1) There shall be a Public Service of the Territory, consisting of persons appointed to or employed in the Public Service in pursuance of this section or of Ordinances made under this Act.

The Public Service

(2) The Governor-General may appoint, or may delegate to the Minister or to the Administrator power to appoint, to the Public Service such officers as are necessary for the purposes of this Act and for the proper government of the Territory.

(3) Provision may be made by Ordinance for or in relation to the employment in the Public Service of persons other than officers (whether on a temporary basis or otherwise).

(4) Subject to this Act, the terms and conditions of appointment to, and of employment and service in, the Public Service shall be as provided by or under Ordinance.

31. Without limiting the generality of the powers to make Ordinances conferred by this Act, Ordinances under this Act relating to the Public Service may make provision, in relation to persons, who, before becoming officers under this Act, have been officers appointed under any Act repealed by this Act, for or in relation to the recognition or preservation, under or for the purposes of any Ordinance, of their service, rights, obligations or liabilities arising out of that previous appointment.

Officers holding office under repealed Acts

## PART V - LEGISLATION

### Division 1 - Laws

- Continuance of laws 32. (1) Notwithstanding the repeal of the Acts repealed by section three of this Act, but subject to this Act
- (a) all other laws in force immediately before the commencement of this Act in or in relation to the Territory of Papua shall continue in force in or in relation to that Territory;
  - (b) all other laws in force immediately before the commencement of this Act in or in relation to the Territory of New Guinea shall continue in force in or in relation to that Territory; and
  - (c) all other laws in force immediately before the commencement of this Act in or in relation to both the Territory of Papua and the Territory of New Guinea shall continue in force in or in relation to the Territory.
- (2) In this section, "laws" includes Ordinances made under an Act repealed by section three of this Act, and laws made under any such Ordinance.
- Application of Commonwealth Acts and Imperial Acts 33. (1) Except as provided in any Act, an Act or a provision of an Act (whether passed before or after the commencement of this Act) shall not be in force as such in the Territory or any part thereof unless expressed to extend thereto.
- (2) The application, of its own force, in or in relation to the Territory or any part thereof, of any Act or Imperial Act shall not be affected by any Ordinance.
- Ordinances may amend or repeal existing laws 34. Subject to this Act, a law continued in force by this Act may be amended or repealed by an Ordinance made under this Act, or by a law made under any such Ordinance.

### Division 2 - The Legislative Council

- Legislative Council 35. (1) There shall be a Legislative Council for the Territory.

/(2) The Legislative

(2) The Legislative Council shall commence to perform its powers and functions under this Act upon a date to be fixed by proclamation.

(3) The date to be fixed under the last preceding sub-section shall be as soon as practicable after the expiration of one year after the commencement of this Act.

36. (1) The Legislative Council shall consist of twenty-nine members, namely:

Composition of  
Legislative  
Council

(a) the Administrator;

(b) sixteen officers of the Territory (who shall be known as official members);

(c) three non-official members, possessing such qualifications as are provided by Ordinance and elected, as provided by Ordinance, by electors of the Territory;

(d) three non-official members representing the interests of the Christian missions in the Territory;

(e) three non-official native members; and

(f) three other non-official members.

(2) A person appointed to or employed in the Public Service shall not be eligible to be or remain a member of the Legislative Council except (in the case of an officer) as an official member.

(3) The members of the Legislative Council (other than the Administrator and the elected members) shall be appointed from time to time, as occasion requires, by the Governor-General, on the nomination of the Administrator.

(4) The Administrator shall, in the exercise of his powers of nomination, have regard to the desirability of the inclusion in the Legislative Council of an equitable number of residents of the Territory of Papua and of the Territory of New Guinea respectively.

(5) Subject to this Act, an elected member shall hold office for a period commencing on the date of his election and ending on the date immediately preceding the next general election.

(6) An official member shall hold office during the pleasure of the Governor-General.

Disqualifications 37. (1) A person shall not be qualified to be elected or appointed or to continue as a member of the Legislative Council if

- (a) he is an undischarged bankrupt or insolvent;
- (b) he has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth, or of a State or Territory of or under the authority of the Commonwealth, by imprisonment for one year or longer; or
- (c) he, in any way otherwise than as a member, and in common with other members, of an incorporated company consisting of more than twenty-five members
  - (i) is concerned or interested in any contract or agreement made by or on behalf of the Government of the Commonwealth or of the Territory; or
  - (ii) participates, or claims to be entitled to participate, in the profit of any such contract or agreement or in any benefit or emolument arising therefrom.

(2) A person shall not be qualified to continue as a member of the Legislative Council if

- (a) he is absent from three consecutive meetings of the Council, except on leave granted by the Administrator (which leave the Administrator is hereby authorized to grant); or
- (b) except as authorized by Ordinance, he directly or indirectly takes or agrees to take any fee or honorarium for services rendered in the Council.

38. (1) A member, other than the Administrator, an official member or an elected member

- (a) may at any time be removed from office by the Governor-General; and
- (b) shall (unless re-appointed) vacate his seat at the end of three years from the date of his appointment.

(2) A member,

Vacancies

(2) A member, other than the Administrator or an official member, may at any time resign his seat by delivering a written resignation to the Administrator for transmission to the Governor-General.

(3) In the event of the happening of a vacancy in the office of an elected member before the expiration of his term of office

(a) if the vacancy occurs within two years after the date of the last preceding general election - an election shall be held, at the time and in the manner provided by or under Ordinance, for the election of a member to fill the vacant office; or

(b) in any other case - the Governor-General may appoint a person (being a person qualified to be an elected member) to hold the vacant office, and the person so appointed shall, for the purposes of this Act be deemed to be an elected member.

39. Elections (in this Division referred to as general elections) for the election of the three elected members shall be held at intervals not exceeding three years, at the times and in the manner provided by or under Ordinance.

Elections

40. The Administrator may, by notice published in the Government Gazette of the Territory, appoint such times for holding the sessions of the Legislative Council as he thinks fit, and may also, from time to time, in a similar manner, prorogue the Council.

Sessions and prorogations of Legislative Council

41. (1) The presence of at least one-third of the members of the Legislative Council shall be necessary to constitute a meeting of the Council for the exercise and performance of its powers and functions.

Quorum

(2) For the purposes of this section, the member presiding at a meeting (whether he is the Administrator or another member) shall be counted as a member present at the meeting.

42. The official members of the Legislative Council shall have such seniority as the Governor-General specially assigns and, if the Governor-General has not assigned seniority, then they shall have seniority according to the priority of their appointment, for which purpose members appointed by the same instrument shall be deemed to have been appointed in the order in which they are named therein.

Seniority of official members of Legislative Council

Presidency of Legislative Council

43. (1) The Administrator shall preside at all meetings of the Legislative Council at which he is present.

(2) In his absence, the senior official member of the Legislative Council who is present shall preside.

Voting in Legislative Council

44. (1) Matters arising in the Legislative Council shall be determined by a majority of votes.

(2) The Administrator or member presiding shall in all cases be entitled to vote, and shall also, if the voting is equal, have a casting vote.

Minutes of meetings

45. (1) The Legislative Council shall cause minutes of its meetings to be kept.

(2) As soon as practicable after each meeting of the Legislative Council, the Administrator shall forward to the Minister a copy of the minutes relating to the meeting.

Standing rules and orders

46. The Legislative Council may make standing rules and orders in respect of the order and conduct of its business and proceedings.

Proposal of money votes

47. An Ordinance, vote, resolution, matter or question, the object or effect of which is to dispose of or charge any part of the revenue of the Territory, shall not be proposed in the Legislative Council except by the Administrator, unless the proposal has been expressly allowed or directed by him.

48. (1) Subject to this Act, the Legislative Council may make Ordinances for the peace, order and good government of the Territory.

(2) Without limiting the generality of the last preceding sub-section, the powers conferred by that sub-section shall be deemed to include power to make Ordinances making provision in respect of all matters required or permitted by this Act to be provided by or under Ordinance, and in respect of all matters (other than matters which are required or permitted to be prescribed by the regulations) which are necessary or convenient to be provided for carrying out or giving effect to this Act.

Assent to Ordinances

49. (1) An Ordinance passed by the Legislative Council shall not have any force until it has been assented to as provided in this Division.

(2) Every Ordinance

(2) Every Ordinance passed by the Legislative Council shall be presented to the Administrator for assent.

(3) The Administrator shall thereupon declare, according to his discretion, to be exercised subject to this Act, that he assents thereto, or that he withholds assent, or that he reserves the Ordinance for the Governor-General's pleasure.

50. (1) Within six months after the Administrator's assent to an Ordinance, the Governor-General may disallow the Ordinance or any part thereof.

Disallowance  
of Ordinances  
assented to

(2) The disallowance shall, upon publication of notice thereof in the Government Gazette of the Territory, have the same effect as a repeal of the Ordinance, or of the part thereof, as the case may be, except that, if any provision of the Ordinance or of the part thereof, as the case may be, amended or repealed a law in force immediately before the coming into operation of that provision, the disallowance shall revive the previous law from the date of the publication of the notice of the disallowance as if the disallowed provision had not been made.

51. An Ordinance reserved for the Governor-General's pleasure shall not have any force unless and until, within one year after the day on which it was presented to the Administrator for assent, the Administrator causes to be published in the Government Gazette of the Territory a notification that it has received the Governor-General's assent.

Signification  
of pleasure  
on Ordinance  
reserved

52. The Administrator shall reserve for the Governor-General's pleasure an Ordinance of any of the following descriptions, namely:

Assent to  
certain  
Ordinances

- (a) An Ordinance relating to divorce;
- (b) An Ordinance relating to the granting or disposal of lands of the Administration or of the Crown;
- (c) An Ordinance whereby a grant of money or of an interest in land is made to the Administrator;

(d) An Ordinance

- (d) An Ordinance which, in the opinion of the Administrator, may not be fully in accordance with Australia's treaty obligations, or with Australia's obligations under the Trusteeship Agreement;
- (e) An Ordinance relating to naval, military or air forces;
- (f) An Ordinance relating to the sale or other disposition of, or other dealing with, lands by natives;
- (g) An Ordinance relating to the employment of natives;
- (h) An Ordinance relating to arms, ammunition, explosives, intoxicating liquor or opium;
- (i) An Ordinance relating to immigration, emigration or deportation;
- (j) An Ordinance relating to the Public Service; and
- (k) An Ordinance containing provisions from which the assent of the Governor-General has once been withheld, or which the Governor-General has disallowed.

Ordinances to be laid before Parliament 53. Every Ordinance assented to by the Administrator or by the Governor-General shall, as soon as is practicable after that assent, be laid before both Houses of the Parliament.

#### Division 3 - Interim Legislative Powers of Governor-General

Legislative power of Governor-General

- 54. (1) Until the date fixed by proclamation under section thirty-five of this Act, the Governor-General may, subject to this Act, make Ordinances for the peace, order and good government of the Territory.  
(2) Without limiting the generality of the last preceding sub-section, the powers conferred by that sub-section shall be deemed to include power to make Ordinances making provision in respect of all matters (other than matters which are required or permitted to be prescribed by the regulations) required or permitted by this Act to be provided by or under Ordinance, and in respect of all matters which are necessary or convenient to be provided for carrying out or giving effect to this Act.

(3) Notice

(3) Notice of the making of every Ordinance made under this section shall be published in the Commonwealth of Australia Gazette, and every such Ordinance shall, unless the contrary intention appears in the Ordinance, take effect from the date of publication of the notice.

55. (1) Every Ordinance made under this Division shall be laid before each House of the Parliament within fifteen sitting days of that House after making of the Ordinance, and any such Ordinance which is not so laid before each House of the Parliament shall be void and of no effect.

Tabling of  
Ordinances in  
Parliament

(2) If either House of the Parliament passes a resolution (of which notice has been given at any time within fifteen sitting days after an Ordinance has been laid before that House) disallowing that Ordinance or any part thereof, the Ordinance or part so disallowed shall cease to have effect.

(3) If, at the expiration of fifteen sitting days after notice of a resolution to disallow any such Ordinance or part of any such Ordinance has been given in either House of the Parliament in accordance with the last preceding sub-section the resolution has not been withdrawn or otherwise disposed of, the Ordinance or part, as the case requires, shall thereupon be deemed to have been disallowed.

(4) Where an Ordinance or part of an Ordinance is disallowed, or is deemed to have been disallowed, under this section, the disallowance shall have the same effect as a repeal of the Ordinance, or part as the case may be, except that, if any provision of the Ordinance or part amended or repealed any law in force immediately before the coming into operation of that provision, the disallowance shall revive the previous law from the date of the disallowance as if the disallowed provision had not been made.

(5) If an Ordinance or part of an Ordinance is disallowed, or is deemed to have been disallowed, under this section, and an Ordinance containing any provision being the same in substance as any provision so disallowed, or deemed to have been disallowed, is made within six months after the date of the disallowance, that provision shall be void and of no effect, unless:

/(a) in the

(a) in the case of an Ordinance, or part of an Ordinance, disallowed by resolution - the resolution has been rescinded by the House of the Parliament by which it was passed; or

(b) in the case of an Ordinance, or part of an Ordinance, deemed to have been disallowed - the House of the Parliament in which notice of the resolution to disallow that Ordinance, or part was given approves, by resolution, the making of a provision the same in substance as the provision deemed to have been disallowed.

Ordinances to continue in force

56. All Ordinances made under this Division in force immediately before the date fixed by proclamation under section thirty-five of this Act shall continue in force on and after that date, but may be amended or repealed by Ordinances made by the Legislative Council.

Commencement of division

57. (1) Without limiting the power to make Ordinances conferred by the Papua-New Guinea Provisional Administration Act 1945-46, this Division shall come into operation on the day on which this Act receives the Royal Assent and shall, on and from that date, operate as if the whole of this Act were in operation.

(2) Subject to section four of the Acts Interpretation Act 1901-1947, as applied by section forty-six of that Act, no Ordinance made under this Division shall come into operation before the date fixed by proclamation under section two of this Act.

## PART VI - THE JUDICIAL SYSTEM

58. (1) There shall be, within the Territory, a Supreme Court of the Territory which shall be known as the Supreme Court of the Territory of Papua and New Guinea. Constitution of Supreme Court

(2) The Supreme Court shall consist of a Chief Judge and such other judges as the Governor-General appoints.

(3) The Supreme Court shall be a superior court of record.

(4) The jurisdiction of the Supreme Court may be exercised -

(a) by a judge or judges sitting in court; and  
(b) to the extent and in the cases provided by or under Ordinance, by a judge sitting in chambers, and the jurisdiction of the Court may be so exercised notwithstanding that that jurisdiction is being exercised at the same time by another judge or judges.

(5) The Chief Judge shall be the senior judge of the Supreme Court, and the other judges shall, unless otherwise stated in their commissions, have seniority according to the dates of their commissions.

(6) During the absence on leave of the Chief Judge, or during a vacancy in the office of Chief Judge, the next senior judge who is available shall act as Chief Judge, and, while so acting, shall have, and may exercise and perform, all the powers, functions and duties of the Chief Judge.

59. (1) The Chief Judge and each other judge of the Supreme Court:

Appointment and tenure of Chief Judge and judges

(a) shall be appointed by the Governor-General;  
(b) may be removed from office by the Governor-General on the ground of proved misbehaviour or incapacity, but shall not otherwise be removed from office;  
(c) except in the case of an acting judge, shall, subject to this section, retire upon reaching the age of sixty-five years.

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

(3) A judge

(3) A judge who has held office as a judge of the Supreme Court of the Territory of Papua-New Guinea may continue in office during the pleasure of the Governor-General after he has attained the age of sixty-five years.

Acting judges 60. (1) The Governor-General may appoint a person (being a person who is qualified to be a judge) to be an acting judge:

(a) while a judge is absent on leave or is for any other reason unable for the time being to discharge the duties of his office; or

(b) until the appointment of a judge in place of a judge who has died or has otherwise ceased to hold office.

(2) Where the Governor-General considers it necessary so to do by reason of a temporary increase in the business of the Court, he may appoint a person (being a person who is qualified to be a judge) to be an acting judge during a period specified by the Governor-General.

(3) An acting judge shall have the jurisdiction and powers of, and may exercise all the authorities which are vested in, or may be exercised by, a judge.

(4) The appointment of a person to be an acting judge during the absence, or inability to act, of a judge shall not be determined by the death or resignation of that judge, but shall, unless the Governor-General otherwise directs, continue, subject to this section, until a judge is appointed in place of the judge who has died or resigned.

(5) An acting judge who holds office by virtue of paragraph (b) of sub-section (1), or of sub-section (4) of this section shall not so hold office for a period longer than twelve months.

Qualifications of judges 61. (1) A person shall not be appointed to be a judge of the Supreme Court unless:

(a) he has been a judge of the Supreme Court of the Territory of Papua-New Guinea; or

(b) he has:

(i) for a period or periods amounting to not less than ten years, been a barrister or solicitor of the High Court or of the

Supreme Court of a State or Territory of  
the Commonwealth (including the Supreme  
Court of the Territory of Papua-New Guinea);  
and

(ii) for a period or periods amounting to not  
less than three years, practised as such a  
barrister or solicitor.

(2) For the purposes of this section:

(a) a period during which a person has been, or has  
practised as, a barrister or solicitor of one Court  
referred to in this section may be added to a period  
during which that person has been, or has practised  
as, a barrister or solicitor of any other such court;  
and

(b) a period during which a person has been, or has  
practised as, a solicitor only may be added to a period  
during which that person has been or has practised as,  
a barrister only.

62. The jurisdiction, practice and procedure of the Supreme  
Court shall be as provided by or under Ordinance.

Jurisdiction of  
Supreme Court

63. Courts and tribunals, including native village courts  
and other tribunals in which natives may sit as  
adjudicating officers or assessors, may be established  
by or under Ordinance.

Establishment  
of other  
judicial  
tribunals

64. (1) The High Court shall have jurisdiction, with  
such exceptions and subject to such conditions as are  
provided by Ordinance, to hear and determine appeals  
from all judgments, decrees, orders, and sentences of  
the Supreme Court of the Territory, and the decision of  
the High Court on any such appeal shall be final and  
conclusive.

Appeals to  
High Court

(2) It may be provided by Ordinance that an appeal  
to the High Court may be by case stated, with the legal  
argument, if any, attached to the case in writing, and  
that it shall not be necessary in any such case for the  
parties to appear either personally or by counsel.

(3) Nothing in this Act shall affect any right of  
appeal to the High Court, any jurisdiction of the High  
Court to give leave to appeal to the High Court, or any

/jurisdiction

jurisdiction of the High Court to hear and determine any appeal, from any judgment, decree, order or sentence of any court or judge given, made or pronounced before the commencement of this Act.

PART VII - WELFARE AND DEVELOPMENT

65. Without prejudice to the operation of any other provision of this Act or any law of the Territory:
- (a) the Minister, with the concurrence of the Treasurer of the Commonwealth, may make arrangements or agreements for any purpose likely to promote the development of the resources of the Territory or the welfare of its inhabitants, and any sums required by the Minister for the purpose of any such arrangement or agreement shall be paid out of moneys appropriated by the Parliament for that purpose; and
- (b) the regulations may provide for the establishment of boards, committees or authorities for the purpose of promoting and controlling the production of primary products of the Territory, and for the marketing thereof, and may define the powers and functions of any such board, committee or authority.

Welfare and development projects

## PART VIII - THE AUSTRALIAN INSTITUTE OF PACIFIC ADMINISTRATION

Establishment 66. (1) There shall be an institution under the name of and functions of the ~~Commonwealth~~ the Australian Institute of Pacific Administration. Institute

(2) The functions of the Institute shall be:

- (a) to provide special courses for the education of officers and prospective officers of the Territory, and of such other persons as are prescribed; and
- (b) subject to the Minister's approval, to undertake research in matters related to those special courses.

Council of 67. (1) There shall be a Council of the Institute which the Institute shall be constituted and appointed as prescribed.

(2) The Council shall have such powers and functions (including powers of delegation) in relation to the Institute as are prescribed.

(3) A member of the Council shall hold office on such terms and conditions as are prescribed.

(4) A member of the Council shall not, by reason only of that membership, be subject to the Commonwealth Public Service Act 1922-1947.

Director and 68. (1) There shall be a Director of the Institute, staff who shall have such powers, functions and duties in relation to the Institute as are prescribed.

(2) Except as otherwise prescribed, the Director and all other persons required for the academic and other staff of the Institute shall be appointed under, and be subject to the provisions of, the Commonwealth Public Service Act 1922-1947.

Regulations 69. The regulations may make provision for or in relation to:

- (a) the management, control and discipline of the Institute;
- (b) the eligibility, selection and admission of students of the Institute;
- (c) the appointment, tenure of office, remuneration, superannuation and other conditions of service of the Director and other persons employed for the purposes of the Institute;
- (d) the fees and allowances payable to members of the Council of the Institute;

(e) the fees

- (e) the fees to be charged to students of the Institute; and
- (f) all other matters necessary or convenient to be prescribed for carrying out or giving effect to this Part.
70. If at any time the Governor-General is satisfied that the Institute is no longer necessary because adequate provision has been made by the Australian National University for the performance by that University of the functions of the Institute (either by incorporation of the organization, and staff of the Institute into the organization and staff of the University or otherwise) or for any other reason, the Governor-General may, by proclamation, declare that, on a date specified in the proclamation, this Part shall cease to have effect, and this Part shall be deemed to be repealed on the date so specified.

Duration of Part

PART IX - MISCELLANEOUS

Prohibition of  
slave trade and  
forced labour

71. (1) The slave trade is prohibited in the Territory.  
(2) Forced labour is prohibited in the Territory except in such circumstances as are permitted by the Convention on Forced Labour adopted by the International Labour Organization and ratified by Australia, or any Convention replacing or amending that Convention.

Prohibition of  
supply of liquor  
to natives

72. Subject to such exceptions and exemptions as are provided for by Ordinance, the supply of intoxicating liquor to natives is prohibited in the Territory.

Prohibition of  
Import Duties  
Discriminating  
against  
Commonwealth

73. No Ordinance shall impose higher duties upon the importation into the Territory of any goods produced or manufactured in, or imported from, Australia than are imposed on the importation into the Territory of the like goods produced or manufactured in, or imported from, any other country.

Vesting of  
public funds  
of former  
Administration

74. (1) Subject to the next succeeding sub-section, all public funds, revenues and moneys of the Territory of Papua, the Territory of New Guinea or the Territory of Papua-New Guinea, and all investments and property representing the same, shall, from the commencement of this Act, be deemed to be public funds, revenue, moneys, investments or property of the Territory.

(2) The Minister may give such directions as he thinks necessary in relation to the control, disposal and investment of the unexpended portion of the moneys which, at the thirtieth day of October, One thousand nine hundred and forty-five, stood to the credit of the public funds of the Territory of Papua and the Territory of New Guinea, and of any investments representing any such moneys.

Public funds

75. (1) The revenues of the Territory shall be available for defraying the expenditure thereof.

(2) The receipt, expenditure, control and audit of revenues and moneys of the Territory shall be regulated as provided by Ordinance.

(3) No revenues or moneys of the Territory shall be issued or expended except under appropriation made by law, and except by warrant under the hand of the Administrator.

Inquiries, &c.,  
for purposes of  
Ordinances

76. The regulations may make provision for or in relation to:

(a) the holding

- (a) the holding of inquiries in the Commonwealth or in any Territory under the authority of the Commonwealth for the purposes of any Ordinance, including the summoning and examination of witnesses;

(b) the requiring of statutory declarations for the purposes of any Ordinance; and

(c) the imposition of penalties, not exceeding a fine of Fifty pounds or imprisonment for three months, for offences against the regulations made in pursuance of this section.

77. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which, by this Act, are required or permitted to be prescribed or provided by the regulations. Regulations

THE SCHEDULES

Section 3

FIRST SCHEDULE

Acts Repealed

Papua Act 1905.

Papua Act 1920.

Papua Act 1924.

Papua Act 1940.

New Guinea Act 1920.

New Guinea Act 1926.

New Guinea Act 1932.

New Guinea Act 1935.

Papua-New Guinea Provisional Administration Act 1945-1946.

Section 5

SECOND SCHEDULE

The Territory of New Guinea

The north-eastern part of the island of New Guinea, the Bismarck Archipelago (comprising New Britain, New Ireland, New Hanover, the Admiralty Islands and outlying groups), the northern islands Buka and Bougainville, of the Solomons Group and all other islands, contained within an area bounded by a line commencing at the intersection of the meridian 141° east longitude with the parallel 5° south latitude, thence bearing north along the said meridian 141° east longitude to its intersection with the Equator, thence bearing east along the said Equator to its intersection with the meridian 160° east longitude, thence bearing south along the said meridian 160° east longitude to its point of intersection with the parallel 4° 50' south latitude, thence bearing west along the said parallel 4° 50' south latitude to its intersection with the meridian 159° east longitude, thence bearing generally south westerly to a point which lies 6 nautical miles north 42° east true from Cape Friendship thence bearing generally southerly to a point which lies 4 nautical miles north 70° 30' east true from Cape Friendship, thence bearing generally south westerly to a point which lies 3 nautical miles south true from the southern point of the Peninsula

/which

which bounds the harbour of Tonolei on the east, thence bearing generally south westerly to a point which lies 3 nautical miles south true from Moila Point (previously shown as Komalei Point on German Admiralty Chart No. 100) thence bearing generally westerly to a point which lies 8 nautical miles south  $69^{\circ}$  west true from the aforesaid Moila Point; thence south westerly to the intersection of the meridian  $154^{\circ}$  east longitude with the parallel  $80^{\circ}$  south latitude, thence continuing westerly along the said parallel  $80^{\circ}$  south latitude to its intersection with the meridian  $147^{\circ}$  east longitude thence generally north westerly to the point of intersection of the meridian  $144^{\circ}$  east longitude with the parallel  $6^{\circ}$  south latitude thence north westerly to the point of commencement.

## THIRD SCHEDULE

Section 5

## The Territory of Papua

The southern and south-eastern shores of New Guinea from the middle of the mouth of the Bensbach River, situated at about one hundred and forty-one degrees one minute forty-seven point nine seconds of east longitude, eastward as far as East Cape, and thence north-westward as far as the eighth parallel of south latitude in the neighbourhood of Mitre Rock, together with the Territory lying south of a line from Mitre Rock, proceeding along the said eighth parallel to the one hundred and forty-seventh degree of east longitude, then in a straight line in a north-westerly direction to the point of intersection of the sixth parallel of south latitude and of the one hundred and forty-fourth degree of east longitude, and continuing in a west-north-westerly direction to the point of intersection of the fifth parallel of south latitude and of the one hundred and forty-first degree of east longitude, and then proceeding south along the one hundred and forty-first meridian of east longitude to the most northerly intersection of that meridian with the Fly River, then following the waterway of the Fly River to its most southerly intersection with the meridian one hundred and forty one degrees one minute forty-seven point

nine seconds of east longitude, then proceeding along that meridian southerly to the point of commencement, together with the Trobrian, Woodlark, D'Entrecasteaux, and Louisiade Groups of Islands and all other Islands lying between the eighth and the twelfth parallels of south latitude and between the one hundred and forty-first and the one hundred and fifty-fifth degrees of east longitude and not forming part of the State of Queensland, and furthermore including all Islands and Reefs lying in the Gulf of Papua to the northward of the eighth parallel of south latitude.

Section 5

FOURTH SCHEDULE

TRUSTEESHIP AGREEMENT FOR THE MANDATED TERRITORY OF  
NEW GUINEA AS APPROVED BY THE GENERAL ASSEMBLY OF  
THE UNITED NATIONS ON 13TH DECEMBER, 1946

The Territory of New Guinea has been administered in accordance with Article 22 of the Covenant of the League of Nations and in pursuance of a Mandate conferred upon His Britannic Majesty and exercised on His behalf by the Government of the Commonwealth of Australia.

The Charter of the United Nations, signed at San Francisco on 26 June 1945, provides by Article 75 for the establishment of an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements.

The Government of Australia now undertakes to place the Territory of New Guinea under the trusteeship system, on the terms set forth in the present Trusteeship Agreement.

Therefore the General Assembly of the United Nations, acting in pursuance of Article 85 of the Charter, approves the following terms of trusteeship for the Territory of New Guinea, in substitution for the terms of the Mandate under which the Territory has been administered:

Article 1

The Territory to which this Trusteeship Agreement applies (hereinafter called the Territory) consists of that portion of the island of New Guinea and the groups of islands administered therewith under the Mandate dated 17 December 1920, conferred upon His Britannic Majesty and exercised by the Government of Australia.

### Article 2

The Government of Australia (hereinafter called the Administering Authority) is hereby designated as the sole authority which will exercise the administration of the Territory.

### Article 3

The Administering Authority undertakes to administer the Territory in accordance with the provisions of the Charter and in such a manner as to achieve in the Territory the basic objectives of the international trusteeship system, which are set forth in Article 76 of the Charter.

### Article 4

The Administering Authority will be responsible for the peace, order, good government and defence of the Territory and for this purpose will have the same powers of legislation, administration and jurisdiction in and over the Territory as if it were an integral part of Australia, and will be entitled to apply to the Territory, subject to such modifications as it deems desirable, such laws of the Commonwealth of Australia as it deems appropriate to the needs and conditions of the Territory.

### Article 5

It is agreed that the Administering Authority, in the exercise of its powers under Article 4, will be at liberty to bring the Territory into a customs, fiscal or administrative union or federation with other dependent territories under its jurisdiction or control, and to establish common services between the Territory and any or all of these territories, if in its opinion it would be in the interests of the Territory and not inconsistent with the basic objectives of the trusteeship system to do so.

### Article 6

The Administering Authority further undertakes to apply in the Territory the provisions of such international agreements and such recommendations of the specialized agencies referred to in Article 57 of the Charter as are, in the opinion of the Administering Authority, suited to the needs and conditions of the Territory and conducive to the achievement of the basic objectives of the trusteeship system.

### Article 7

The Administering Authority may take all measures in the Territory which it considers desirable to provide for the defence of the Territory and for maintenance of international peace and security.

### Article 8

The Administering Authority undertakes that in the discharge of its obligations under Article 3 of this agreement:

1. it will co-operate with the Trusteeship Council in the discharge of all the Council's functions under Articles 87 and 88 of the Charter;

2. it will, in accordance with its established policy:

(a) take into consideration the customs and usages of the inhabitants of New Guinea and respect the rights and safeguard the interests both present and future of the indigenous inhabitants of the Territory; and in particular ensure that no rights over native land in favour of any person not an indigenous inhabitant of New Guinea may be created or transferred except with the consent of the competent authority;

(b) promote, as may be appropriate to the circumstances of the Territory, the educational and cultural advancement of the inhabitants;

(c) assure to the inhabitants of the Territory, as may be appropriate to the particular circumstances of the Territory and its peoples a progressively increasing share in the administrative and other services of the Territory;

(d) guarantee to the inhabitants of the Territory, subject only to the requirements of public order, freedom of speech, of the press, of assembly and of petition, freedom of conscience and worship and freedom of religious teaching.

FIFTH SCHEDULE

Section 18

Oath

I, A. B., do swear that I will well and truly serve our Sovereign Lord the King in the office of Administrator (or Acting Administrator, or Deputy Administrator) of the Territory of Papua and New Guinea, and 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 our Sovereign Lord the King in the office of Administrator (or Acting Administrator or Deputy Administrator) of the Territory of Papua and New Guinea, and I will do right to all manner of people according to law, without fear or favour, affection or ill-will.

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