

3 GEO. VI. No. 7, 1939. *Torres Strait Islanders Act.*

TORRES STRAIT ISLANDERS.

An Act to Make Provision for the Government of the Native Inhabitants of the Islands of Torres Strait and their Descendants, and for other purposes.

3 GEO. VI.
No. 7.
THE
TORRES
STRAIT
ISLANDERS
ACT OF
1939.

[ASSENTED TO 12TH OCTOBER, 1939.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

PART I.—
PRELIMINARY.
Short title.

1. (1.) This Act may be cited as "*The Torres Strait Islanders Act of 1939.*"

*(2.) Subject as otherwise provided, this Act shall come into operation on a date to be proclaimed by the Governor in Council by Proclamation published in the *Gazette*, which date is hereinafter referred to as the commencement of this Act.

(3.) (i.) This Act shall for all purposes also extend and apply to any vessel in any river, harbour, or other water within the territorial jurisdiction of the State in the same manner as if it were a house within the State.

(ii.) The master or other person in charge of any such vessel shall be deemed to be the occupier of such vessel.

(iii.) This section does not apply to any vessel which is under the command or charge of any officer bearing His Majesty's commission or to any vessel which belongs to the Government of any foreign State.

(4.) Subject to the provisions hereinafter contained—

(a) All reserves under † "*The Aborigines Protection and Restriction of the Sale of Opium Acts, 1897 to 1934,*" existing upon any Torres Strait island at the commencement of this Act shall be reserves under this Act and be subject to this Act in all respects;

Repeals
(Schedule).

* Act proclaimed in force on and from 12th October, 1939, See Proclamation dated 12th October, 1939, published in *Gazette* of 14th October, 1939, at page 1273.

† 61 Vic. No. 17 and amending Acts, *supra*, pages 3 *et seq.* (Repealed by 3 Geo. VI. No. 6, *supra*, page 17455).

(b) All contracts and agreements entered into with islanders, permits and certificates of exemption granted with respect to islanders, and removal orders issued pursuant to **“The Aboriginals Protection and Restriction of the Sale of Opium Acts, 1897 to 1934,”* shall be of the same validity as if they had been entered into, granted, and issued under this Act, and shall be subject to this Act in all respects.

Parts of
Act.

2. This Act is divided into Parts as follows:—

PART I.—PRELIMINARY ;

PART II.—CENTRAL AUTHORITY ;

PART III.—ISLAND LOCAL GOVERNMENT ;

PART IV.—ISLAND COURT ;

PART V.—PRESERVATION AND PROTECTION ;

PART VI.—ISLAND INDUSTRIES BOARD.

Definitions.

3. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively, that is to say:—

Council.

“ Council ”—The island council constituted under this Act ;

Director.

“ Director ”—The Director of Native Affairs appointed under †*“The Aboriginals Preservation and Protection Act of 1939”* and charged with the administration of this Act: the term also includes the Deputy Director of Native Affairs or any officer who may be appointed as Assistant Director of Native Affairs ;

Islander.

“ Islander ”—Any person who is—

(a) One of the native race of the Torres Strait islands,

(b) A descendant of the native race of the Torres Strait islands and is habitually associating with islanders as defined in paragraph (a) of this definition, or

* 61 Vic. No. 17 and amending Acts, *supra*, pages 3 *et seq.* (Repealed by 3 Geo. VI. No. 6, *supra*, page 17455).

† 3 Geo. VI. No. 6, *supra*, page 17455.

1939.

*Torres Strait Islanders Act.*PART I.—
PRELIMINARY.

- (c) A person other than an islander as defined in paragraph (a) or (b) of this definition who is living on a reserve with an islander as so defined as wife or husband or any such person other than an official or person authorised by the protector who habitually associates on a reserve with islanders as so defined ;
- “ Minister ”—The Secretary for Health and Home Affairs or other Minister of the Crown charged for the time being with the administration of this Act ; Minister.
- “ Prescribed ”—Prescribed by this Act ; Prescribed.
- “ Protector ”—The Protector of Islanders : the term shall also include the Deputy Protector of Islanders ; Protector.
- “ Regulations ”—Regulations made under this Act ; Regulations.
- “ Reserve ”—Any Torres Strait island or part of a Torres Strait island heretofore or hereafter granted in trust or reserved from sale or lease by the Governor in Council for the benefit of islanders under the provision of any law in force in Queensland relating to Crown lands ; Reserve.
- “ This Act ”—This Act and all Proclamations, Orders in Council, regulations and by-laws thereunder ; This Act.
- “ Torres Strait island ”—Any island north of eleven degrees south latitude which is part of the State of Queensland. Torres Strait island.

PART II.—CENTRAL AUTHORITY.

PART II.—
CENTRAL
AUTHORITY.

4. (1.) The Director, subject to the Minister, shall be charged with the administration of this Act. Director of Native Affairs.

(2.) The person for the time being holding office as the Protector of Aborigines, Somerset District, shall *ex officio* be the Protector of Islanders for the purposes of this Act. Protector of Islanders.

The protector shall, subject to the Director, have and exercise such powers and duties as may be prescribed, and be responsible to the Director for the administration of this Act.

The Governor in Council may from time to time appoint a Deputy Protector of Islanders.

Officers.

(3.) The Minister may from time to time appoint such medical officers, teachers, and other officers for the medical care, education, and social welfare of islanders as may be necessary.

Reserves for
swim-divers.

5. The Governor in Council may from time to time by Proclamation set apart areas within the territorial waters of Queensland and reserve the same solely for islanders and/or aboriginals as defined by **The Aboriginals Preservation and Protection Act of 1939*” for getting by swim-diving pearl-shell, bêche-de-mer, or trochus shell from any port, bank, channel, reef, or cluster of reefs, or any part of the same within any such area. Any person other than an islander or aboriginal aforesaid who gets pearl-shell, bêche-de-mer, or trochus shell from any area so reserved shall be liable to a penalty not exceeding fifty pounds, and in addition any pearl-shell, bêche-de-mer, or trochus shell so got and found in his possession shall be forfeited to the Crown by the court which convicts the defendant.

Regulations.

6. The Governor in Council may from time to time make regulations providing for all or any purposes whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to further and carry out the objects and purposes of this Act and, where there may be in this Act no provision or no sufficient provision in respect of any matter or thing necessary or expedient to give effect to this Act, providing for and supplying such omission or insufficiency.

Without limiting the generality of the foregoing provisions, regulations may be made for all or any of the following purposes, that is to say—

Care of
Islanders.

(i.) Providing for the medical care, education, and social welfare of islanders.

Apprentice-
ship.

(ii.) Prescribing the conditions on which children of islanders may be apprenticed or placed in service.

* 3 Geo. VI. No. 6, *supra*, page 17455.

1939.

Torres Strait Islanders Act.

- (iii.) Providing for the inspection of reserves and for the control and supervision of islanders employed under this Act. Control and supervision.
- (iv.) The form and manner in which the annual budget of island reserve revenue and expenditure shall be framed and the books of the island council shall be kept. Annual budget.
- (v.) Providing for the civil and/or criminal jurisdiction of island courts and the procedure in respect of their jurisdiction, either civil or criminal: Island courts.
- Provided that the maximum pecuniary penalty which may be inflicted by any such court for any offence or breach of duty shall not exceed five pounds and the maximum term of imprisonment which may be imposed by any such court (either in lieu of or on default in payment of a pecuniary penalty or on default in payment of a sum of money) shall not exceed three months.
- (vi.) Authorising the establishment of and regulating island gaols on reserves, and the carrying out therein of sentences of imprisonment or detention imposed upon islanders or inmates of a reserve by an island court. Gaols, &c.
- (vii.) Providing for the establishment of insurance funds for the purpose of indemnifying against the loss of or damage to vessels or plant the property of islanders used for fishing or other purposes, and compensating islanders or dependents of islanders engaged on vessels or plant in such industries who may suffer personal injury which is not otherwise covered by **“The Workers’ Compensation Acts, 1916 to 1936”* (or any Act amending or in substitution for such Acts), setting out the basis on which such indemnity or compensation shall be paid and the manner in which such funds shall be maintained by contributions from the earnings of islanders or of such vessels or plant.
- (viii.) All matters required or permitted by this Act to be prescribed in so far as not required or permitted to be otherwise prescribed.

* 6 Geo. V. No. 35 and amending Acts, *supra*, pages 9851 *et seq.*

Orders in
Council and
regulations.

7. All Proclamations, Orders in Council, and regulations made or purporting to be made under this Act shall upon being published in the *Gazette* have the same effect as if they were enacted in this Act and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever.

The publication in the *Gazette* of any such Proclamation, Order in Council, or regulation shall be conclusive evidence of the matters contained therein, and of the power and authority to make such Proclamation, Order in Council, or regulation, as the case may be.

All such Proclamations, Orders in Council, and regulations shall be laid before Parliament forthwith if then sitting; and, if not then sitting, within fourteen days after the commencement of the next ensuing session.

If the Legislative Assembly, within the next fourteen sitting days after any Proclamation, Order in Council, or regulation has been so laid before such House, resolves that such Proclamation, Order in Council, or regulation ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such Proclamation, Order in Council, or regulation or to the making of any new Proclamation, Order in Council, or regulation.

For the purpose of this section the term "sitting days" shall mean days on which the House actually sits for the despatch of business.

Protector
may
intervene.

8. (1.) The protector may at any time suspend any resolution or order of the island council or prohibit the expenditure of any moneys from the Island Fund which in his opinion are unnecessary or unauthorised or not in the interests of the residents of the reserve.

Extravagant
payments.

(2.) If, whether in pursuance of any resolution or order of the council or otherwise, any payment of money has been made to any person out of the Island Fund which the protector considers to be unnecessary, extravagant, or is not authorised by this Act, the protector may order such person to repay such money to the island council forthwith or within such time as the protector allows, and any person who fails to comply with such order shall be guilty of an offence.

1939.

*Torres Strait Islanders Act.*PART II.—
CENTRAL
AUTHORITY.

9. (1.) The council shall furnish the protector Returns.
at his request from time to time with such information relating to matters under its jurisdiction as he may require, and the protector shall fix a reasonable time within which such information so required shall be furnished.

(2.) Any person appointed by the protector for that purpose shall at any time have access to all records of the council and may examine such records for the purpose of ascertaining if information furnished is correct.

(3.) The clerk, chairman, and every other member of a council which neglects or refuses to furnish any information required as aforesaid or furnishes any such information which is false, who causes or is privy to any such neglect, refusal, or falsity, and any person who impedes or obstructs any person appointed by the protector to perform any duty under this section shall be each liable to a penalty not exceeding five pounds.

10. (1.) Notwithstanding anything in this Act Dissolution
contained the Director may upon the petition of at least of council.
two-thirds of the electors of the reserve at any time, if in his opinion circumstances have arisen rendering it necessary so to do, by notice in writing dissolve any council, whereupon the following consequences shall ensue :—

- (a) The chairman and members of the council shall forthwith go out of office ;
- (b) A fresh election of the chairman and members of the council shall be held at such time as the protector may appoint.

(2.) In the event of any delay in holding a fresh election the protector may make such arrangements as he considers necessary for carrying on the essential services of the reserve.

PART III.—ISLAND LOCAL GOVERNMENT.

PART III.—
ISLAND
LOCAL
GOVERNMENT.

Constitution of the Council.

11. (1.) Every island reserve shall be governed by a Constitution
council comprised of such number of members (not of council.
exceeding five, including the chairman) as the protector shall fix from time to time.

The members of the council shall be called “councillors.”

Qualification
and election
of chairman
and
members.

(2.) Every male islander who is eighteen years of age or over and who resides on the reserve and is qualified under this Act to vote shall be qualified under this Act to be nominated as a candidate and to be elected or appointed and to act as chairman or member of the council but only so long as he continues to hold such qualifications.

Disqualifi-
cation.

(3.) No person who—

(a) Is undergoing a sentence of imprisonment whether or not the execution of such sentence has been suspended under section six hundred and fifty-six of “*The Criminal Code*”; or

(b) Has been convicted of an offence against this Act or the by-laws of the island council within the period of two years next preceding his election; or

(c) Holds an appointment as island policeman, shall be capable of being or continuing as chairman or a member.

Tenure of
office.

(4.) (i.) Subject to this Act, the chairman and every member of the council shall hold office for three years. The office of chairman or member shall—

(a) Commence on the day of his election; and

(b) Become vacant at the conclusion of the next triennial election under this Act unless sooner vacated as hereinafter provided.

When office
is vacant.

(ii.) The office of chairman or member of a council shall be vacated—

(a) If he is or has become disqualified or has ceased to be qualified under the provisions of this Act; or

(b) If he ceases for any reason to hold office before the day on which the office would ordinarily become vacant.

Disqualified
person
acting.

(iii.) If a chairman or member before he is capable of acting as such or after his office has become vacated acts or continues to act as chairman or member knowing that he is not capable or that his office has become vacated he shall be liable to a penalty not exceeding five pounds.

1939.

*Torres Strait Islanders Act.*PART III.—
ISLAND
LOCAL
GOVERNMENT.

(5.) The chairman shall be elected by the electors Voters.
of the reserve.

(6.) (i.) At any election under and for the purpose One vote
of this Act each elector shall have one vote only. only.

(ii.) The voting shall be by ballot.

(iii.) The election shall be held on a day to be fixed
by the protector during the month of January during
the year of the triennial election.

(7.) The election of chairman and members shall be
held in the month of January, one thousand nine
hundred and forty, on a day to be fixed by the protector,
and thereafter on such day in January in every third
year as the protector appoints.

(8.) The teacher, or such other person as the
protector may appoint, shall be the returning officer for
every election held under this Act.

(9.) For the purpose of every election, the returning Voters'
officer shall compile a roll of residents of the reserve roll.
qualified to vote at such election.

Every islander who is eighteen years of age or over,
and who resides upon the reserve, and who is not for
the time being subject to the disqualification mentioned
in paragraph (a) of subsection three of this section, shall
be qualified to vote.

(10.) (i.) In every reserve a triennial election of the Triennial
chairman and members shall be held. elections.

(ii.) At every triennial election the chairman and
the whole number of members shall be elected.

(iii.) Elections held in pursuance of this Act shall be Rules as to
conducted in accordance with such rules, forms, and elections.
directions as may be prescribed by the protector.

(11.) A chairman or any member may resign his Resignation.
office by notice orally or in writing to the protector
and such resignation shall be complete and shall take
effect from the time when it is received by the protector.

(12.) (i.) Save as hereinafter provided, when any Vacancy.
vacancy arises in the office of chairman or member an
election shall be held to fill such vacancy on a day to be
fixed by the protector.

(ii.) A person elected under this subsection to fill
any vacancy shall subject to this Act hold office for the
remainder of the period for which his predecessor was
elected.

Members
may be
re-elected.

(iii.) Nothing herein contained shall prevent any person from being immediately or at any time re-elected to the office of chairman or member if he is capable for the time being under this Act of being and continuing as such chairman or member.

(iv.) If vacancies occur at any time to prevent a quorum of members from being obtained the protector may make such arrangements as he considers necessary for carrying on the essential services of the reserve until such vacancies are filled.

Election of
deputy
chairman.

(13.) (i.) At the first meeting of the council after the conclusion of the triennial election of members or a fresh election of members or at some adjournment thereof the members present shall elect one of the members to be deputy chairman who shall, except as hereinafter provided, hold office until the conclusion of the next triennial election of members.

(ii.) If the deputy chairman resigns his office as deputy chairman or member or his office otherwise becomes vacant the council shall elect a member to be deputy chairman in his stead who shall hold office until the period aforesaid.

(iii.) The office of deputy chairman shall—

- (a) Commence on the day of his election thereto ;
- (b) Become vacant on the day of the conclusion of the next triennial election or on his ceasing to be a member.

Powers and
duties of
chairman.

(14.) (i.) The chairman shall preside at every meeting of the council at which he is present and if he is prevented by absence, illness, or otherwise from presiding at any meeting the deputy chairman shall preside at the meeting.

When
deputy
chairman
may act.

(ii.) A deputy chairman may act in the office of chairman during such time as the chairman is prevented by absence or illness or otherwise from performing the duties of chairman or during such time as a vacancy exists in the office of chairman.

Meetings.

(15.) (i.) The first meeting of the Council shall be held within seven days after the conclusion of the first election at a time to be fixed by the chairman.

(ii.) The first meeting of the council after the conclusion of every triennial election or fresh election

1939.

*Torres Strait Islanders Act.*PART III.—
ISLAND
LOCAL
GOVERNMENT.

of all the members of the council shall be held within seven days after the conclusion of such election at a time to be fixed by the chairman.

(iii.) The council shall have power to fix by by-law or resolution when meetings shall be held.

(16.) (i.) No business shall be transacted at any meeting unless a majority of the whole number of members of the council are present when such business is transacted.

Quorum
voting.

(ii.) All powers vested in the council may be exercised by the majority of the members present at any meeting duly held and all questions shall be decided by a majority and by open voting.

(17.) (i.) On every question the chairman shall have a vote and if the numbers are equally divided he shall have a second or casting vote.

Chairman's
casting
vote.

(ii.) At all meetings save as by this Act is otherwise provided all members present shall vote.

(iii.) If a member refuses to vote his vote shall be counted for the negative.

(18.) (i.) The members present at a meeting may from time to time adjourn the meeting.

Adjourn-
ments.

(ii.) If a quorum is not present within one hour after the time appointed for a meeting the members present or the majority of them or any one member if only one is present or the clerk if no member is present may adjourn such meeting to any time not later than seven days from the date of such adjournment.

12. The council shall cause minutes of all the proceedings of the council with the names of the members present at each meeting and the names of all members voting upon any question to be duly recorded from time to time in minute-books to be provided for the purpose, which shall be kept by the clerk.

Records;
minutes of
proceedings.

The minutes of each meeting shall be signed after confirmation by the council by the chairman at the meeting next succeeding the meeting at which such proceedings have taken place.

Such minute-books shall be open to inspection.

PART III.—
ISLAND
LOCAL
GOVERNMENT.

Torres Strait Islanders Act. 3 GEO. VI. No. 7,

Safe custody
of books.

13. The chairman shall be responsible for the safe custody of the minute-books and other books, papers, correspondence, and writings belonging to or relating to the business of the council.

Correspondence with the council shall be addressed to the chairman.

Clerk of
the council.

14. The council shall appoint a suitable islander to be clerk of the council :

Provided that the protector may direct the teacher or such other officer to assist the council and/or the clerk appointed by the council as he deems necessary.

In the event of the council failing to appoint a clerk the protector shall appoint the teacher or some other officer to be the clerk.

Public
office of
council.

15. The council shall hold its meetings in the court house or in such other building on the reserve as may be approved by the protector.

Island Fund.

16. The protector shall establish a fund, to be called the "Island Fund," which shall consist of all moneys received in respect of the island tax and all moneys received in respect of fees, charges, fares, rents, dues, fines imposed by the island court, and grants (if any) and be applied to expenditure incurred by the council in the exercise and performance of the functions of island government under this Act.

Budget :
annual
budget to be
prepared.

17. (i.) On or before a date to be fixed by the protector or such extended date thereafter as he may permit in special circumstances, the council shall cause to be framed the budget for the Island Fund for the year in the form and manner prescribed. The protector may appoint the teacher or some other person to assist the council in framing the budget.

Framing
the budget.

(ii.) In framing the budget the council shall estimate for the current year :—

- (a) The amounts to be disbursed upon the several works, matters, and things to which the Island Fund may be applied as hereinbefore directed ;
- (b) The moneys expected to be received from the island tax, fees, charges, fares, rents, dues, fines, and grants (if any) hereinbefore directed to be paid into the Island Fund.

1939.

Torres Strait Islanders Act.

(iii.) The budget shall be adopted by the council at the first meeting after the date fixed for the framing of the budget or before such later date as the protector may permit in special circumstances.

(iv.) The council shall have power to make and levy a tax (herein referred to as the "island tax") upon such basis as may be prescribed by the by-laws or in so far as not so prescribed; determined by the council and to impose fees, charges, fares, rents, and dues in respect of any property service matter, and thing for the purpose of enabling it to exercise and perform its functions.

(v.) The island tax shall be founded on the budget and shall be made and levied by the council by resolution and shall be collected by the council: Provided, however, that the protector shall, if required by the council, as far as practicable collect the island tax by deductions from the earnings of islanders.

(vi.) The council shall not make any disbursement in any year from the Island Fund which has not been provided for in the budget except in emergent or extraordinary circumstances approved by the protector.

Functions and Powers of Council.

18. (1.) The council shall have delegated to it the ^{General} functions of local government of the reserve, and shall ^{powers.} be charged with the good rule and government of the reserve in accordance with island customs and practices, and shall have power to make by-laws for such good rule and government and to cause all such by-laws to be observed and carried out.

(2.) The council shall in addition have power to make by-laws for promoting, maintaining, regulating, and controlling the peace, comfort, health, moral safety, convenience, food supply, housing, and welfare of the inhabitants of the reserve, and for the planning, development, and embellishment of the reserve, and for the direction, administration, and control of the working and business of the local government of the reserve, and shall cause all such by-laws to be carried out.

(3.) Without limiting the generality of its powers and authorities, the council shall have and possess and may exercise and perform express powers and authorities including the power to make by-laws in relation to the

following matters: The undertaking, provision, construction, maintenance, management, execution, control, regulation, and/or regulation of the use of roads, bridges, viaducts, and culverts, baths, and bathing-places, health, sanitation, cleansing, and scavenging, drainage, removal, suppression and abatement of nuisances, public conveniences, water conservation, disposal of the dead, village planning, subdivision of land and use and occupation of land, buildings and use and occupation of buildings, protection from fire, boundaries and fences, eradication and destruction of noxious weeds, animals, agricultural drainage and reclamation of land, and generally all works, matters, and things in its opinion necessary or conducive to the good rule and government of the reserve and the well-being of its inhabitants.

(4.) The power to control and regulate shall include power to license or permit or refuse to license or permit or prevent or prohibit by by-laws in that behalf.

By-laws.

(5.) Fees, charges, fares, rents, and/or dues may be imposed by by-law but this subsection shall not prejudice the power of the council to impose same or any of them by resolution.

(6.) A by-law may be amended or repealed at any time by another by-law.

(7.) The council shall cause printed copies of all by-laws to be kept at the office of the council.

(8.) A by-law shall have no force or effect until it is approved by the Director, but every by-law approved by the Director shall come into operation on the day of such approval or such later date as the Director shall fix.

(9.) A by-law may prescribe a penalty for the breach thereof or of any other by-law, but no pecuniary penalty prescribed shall exceed five pounds and no term of imprisonment prescribed shall exceed three months.

Appoint-
ment and
duties of
island police.

19. (1.) The council may, subject to the approval of the protector, appoint island police.

(2.) The island police shall have and exercise such powers and duties as are directed by the protector or, in so far as not directed, prescribed by the by-laws.

1939.

*Torres Strait Islanders Act.*PART IV.—
ISLAND
COURT.

PART IV.—ISLAND COURT.

20. (1.) The island council may at any time constitute the island court for the purpose of exercising the jurisdiction of such court within its reserve.

Council to
constitute
court.

The island court shall be duly constituted at any time by a majority of the whole number of members of the council.

No councillor shall sit as a member of the island court constituted for the purpose of hearing and determining any offence alleged to have been committed by him.

(2.) The island court shall adjudicate on all offences committed by islanders on the reserve against the by-laws of the reserve.

Offence and
penalties.

(3.) (i.) The clerk of the council shall be clerk of the court.

(ii.) The teacher or such officer as the protector may direct shall attend the sittings of the court to assist the court in any matter upon which the court desires to be advised or assisted: Moreover, it shall be the duty of the teacher or such officer to assist the clerk of the court in the execution of his office.

(4.) The records of the court shall be entered in a book to be called the "court book." The particulars to be entered therein shall be as prescribed by the by-laws. The council shall have the custody of the court book, which shall be open to the inspection of the protector at any time.

Custody of
court book.

(5.) Any person against whom a complaint is made shall be notified of the day and hour at which he is required to attend the court. If he fails to attend the court may order the police to bring him before them; if he then fails to give a satisfactory explanation of his non-attendance he may be fined two shillings and six pence or imprisonment for twenty-four hours, in addition to any other penalty to which he may be liable on conviction of the offence with which he is charged.

Issue of
summons.

(6.) Any witness failing to attend the court after having been notified to do so may be fined two shillings and six pence or imprisonment for twenty-four hours.

Witnesses.

(7.) All offenders shall be charged in open court and the nature of their offence clearly explained to them and their plea of guilty or not guilty shall be recorded in the court book before any statement is made or evidence is taken.

Charge in
open court.

PART IV.—
ISLAND
COURT.

Torres Strait Islanders Act. 3 GEO. VI. No. 7,

Reduction of punishment. (8.) The protector may remit or reduce any penalty or term of imprisonment imposed by the island court. The protector shall, however, first hear the court.

Time to pay fines. (9.) If any person who on conviction is ordered to pay a fine or sum of money is unable to do so at once, the court may allow such fine or sum of money to be paid by instalments on specified dates. If default is made in payment of the first or any subsequent instalment the term of imprisonment ordered may then be enforced for the whole term or for a term proportionate to the sum remaining unpaid.

(10.) The council shall collect and recover fines imposed by the island court, and pay them into the Island Fund.

Appeals. (11.) Any person dissatisfied with the decision of the island court may, within one month after the pronouncement of the decision, appeal to the protector, who, after hearing the island court, may affirm, vary, or set aside the decision appealed against on such terms as he considers reasonable.

PART V.—
PRESERVATION
AND
PROTECTION.

PART V.—PRESERVATION AND PROTECTION.

Application
of "*The
Aboriginals
Preservation
and
Protection
Act of 1939.*"

21. Subsections two and three of section six, sections fourteen to seventeen, both inclusive, subsection one of section eighteen, paragraphs (a) and (d) of subsection one of section nineteen, section twenty, sections twenty-three to twenty-eight, both inclusive, subsections one and two of section twenty-nine, and sections thirty-one to thirty-eight, both inclusive, of *"*The Aboriginals Preservation and Protection Act of 1939*" shall, subject as hereinafter provided, be read and construed with this Act and shall, *mutatis mutandis*, apply and extend for the purposes of this Act.

For the purpose of so reading, construing, applying, and extending any such enactment of *"*The Aboriginals Preservation and Protection Act of 1939*," but without limiting the generality of this section, the terms hereunder set forth shall be read and construed as having the meanings respectively assigned to them, that is to say :—

Aboriginal.

" Aboriginal "—Islander ;

Aboriginal
court.

" Aboriginal court"—Island court ;

* 3 Geo. VI. No. 6, *supra*, page 17455.

1939.

*Torres Strait Islanders Act.*PART V.—
PRESERVATION
AND
PROTECTION.

- “ Director ”—The Director of Native Affairs Director.
except in subsection five of section fourteen,
subsections two and three of section sixteen,
section seventeen, and section thirty-three,
when this term shall be read and construed as
meaning the Protector of Islanders ;
- “ District ”—The islands north of eleven degrees District.
south latitude which are part of the State
of Queensland ;
- “ Protector ” or “ Protector of Aboriginals ”— Protector or
Protector of
Aboriginals.
Protector of Islanders ;
- “ Reserve ”—A reserve for islanders ; Reserve.
- “ Superintendent ”—In section thirty-three means Super-
intendent.
the island council ;
- “ This Act ”—*“ *The Torres Strait Islanders Act* This Act.
of 1939.”

Subsection fourteen of section fourteen of †“ *The Aboriginals Preservation and Protection Act of 1939* ” shall be so read and construed and applied and extended by reading therein the words “ from the district constituted by the Torres Strait islands to another place within the territorial jurisdiction of Queensland ” in lieu of the words “ from one district to another district.”

22. The Director may by writing under his hand Removal of
islanders.
from time to time cause any islander to be removed from any reserve to any other reserve (or to a reserve under †“ *The Aboriginals Preservation and Protection Act of 1939* ”) and kept there :

Provided that no such removal shall be effected without the recommendation of the island court.

Any person so removed shall not be released by the Director without the recommendation of the island court.

Subsection five of section twenty-two of †“ *The Aboriginals Preservation and Protection Act of 1939*,” shall, *mutatis mutandis*, apply and extend for the purposes of this section.

23. (1.) Notwithstanding anything contained in Protector to
be trustee
of island
vessels,
plant, and
produce.
this Act or any other Act or law, any vessel or other plant the property of any islander or islanders used by such islander or islanders for the purpose of engaging in

* This Act.

† 3 Geo. VI. No. 6, *supra*, page 17455.

any industry shall be deemed to be vested in the protector as trustee for the islander or islanders concerned upon the following trusts, namely:—

- (i.) To direct the working of such vessel or plant by such islander or islanders in the manner deemed by him to be to the best advantage of such islander or islanders; and
- (ii.) To sell or authorise the sale on behalf of such islander or islanders of such vessel, plant, or the produce of such vessel or plant.

(2.) The protector may repudiate any contract of sale of any such vessel, plant, or produce which has been made without his authority and may recover by action in any court of competent jurisdiction any vessel, plant, or produce delivered to the purchaser pursuant to such repudiated contract or, at the discretion of the adjudicating court, the fair market value thereof.

If the whole or any part of the stipulated purchase price is proved to have been paid to the islander or islanders entitled to the beneficial interest in the vessel, plant, or produce concerned, the amount thereof may be set off against the protector's claim.

(3.) The purchase price of any vessel, plant, or produce sold by or with the authority of the protector shall be paid to him and, if not so paid, may be recovered by him as the seller thereof.

The protector shall pay out of the purchase price all expenses properly incurred in respect of the sale of the vessel, plant, or produce concerned, all debts properly incurred with respect thereto, and the moneys due to the islanders entitled to the beneficial interest therein according to their respective shares, and shall at the time of payment to them account in the prescribed manner to the islanders concerned for such purchase price.

PART VI.—ISLAND INDUSTRIES BOARD.

The Island
Industries
Board
continued
under
changed
name.

24. The repeal of **"The Aborigines Protection and Restriction of the Sale of Opium Acts Amendment Act of 1934,"* shall not abolish the Corporation of "The Aboriginal Industries Board" established under that Act, but such Corporation shall, subject to this Act, continue in operation under the changed name of "The Island Industries Board," and neither the repeal of the abovementioned Act nor such change of name

* 25 Geo. V. No. 38, *supra*, page 14883.

1939.

Torres Strait Islanders Act.

shall affect any rights or obligations of the said Corporation, or render defective any legal proceedings by or against the said Corporation, and any legal proceedings that might have been commenced or continued against such Corporation by its former name may be commenced or continued against it by its new name.

The members, officers, and employees of such Corporation in office or employed at the commencement of this Act shall be deemed to be duly appointed or employed, as the case may be, under this Act and shall continue in their respective offices or employments accordingly.

25. (1.) In this Part of this Act, unless the context ^{Interpreta-} otherwise requires, the following terms shall have the ^{tion.} meanings set against them respectively, that is to say:—

“Board”—The Island Industries Board ^{Board.} hereinbefore mentioned;

“Prescribed”—Prescribed by this Part of this ^{Prescribed.} Act;

“Regulations”—Regulations made under the ^{Regulations.} authority of this Part of this Act,

and for the purposes of this Part the terms “islander,” “Minister,” “Director,” “protector,” and any other terms shall have the meanings respectively assigned to them by this Act.

(2.) (i.) In this Part of this Act the Corporation ^{Constitution} renamed “The Island Industries Board” is referred to ^{of Board.} as the “Board.”

(ii.) Such Board shall consist of three members, and such members shall be appointed by the Governor in Council by notification in the *Gazette*, and shall be appointed for such time as the Governor in Council shall deem fit and proper, and shall hold office at the pleasure of the Governor in Council.

(iii.) The members shall be eligible for reappointment for such period as the Governor in Council thinks fit and proper, and when so reappointed shall continue to hold office at the pleasure of the Governor in Council.

(iv.) One of the members of the Board shall be the protector of islanders for the time being who shall act as chairman of the Board.

(v.) At any meeting two members of the Board shall be required to form a quorum.

Board to
be a
corporation.

(3.) The Board shall be a corporation by the name of "The Island Industries Board," and by that name shall have perpetual succession and an official seal which shall be judicially noticed, and shall be capable in law of suing and being sued, and shall have power to take, purchase, sell, exchange, lease, and hold land, goods, chattels, wharves, boats, and other property.

Vacancies.

(4.) In the event of any vacancy arising at any time upon the Board, either through the effluxion of time or by reason of the death, disqualification, or removal of any member, such vacancy shall be filled by the appointment by the Governor in Council of another member to such vacancy.

Any member appointed to any such vacancy shall be appointed and shall be eligible for reappointment for such period as the Governor in Council thinks fit and proper, and shall when so appointed or reappointed, as the case may be, hold office at the pleasure of the Governor in Council.

Appoint-
ment of
officers.

26. (1.) The Board, subject to the direction of the Minister, shall appoint a secretary, and may appoint such administrative and technical officers, clerks, and other officers as may be considered necessary for the due administration of this Part of this Act.

Secretary
may affix
seal.

(2.) The secretary shall have power to execute documents on behalf of the Board and affix the official seal thereto, and also shall have such other powers and perform such other duties as are from time to time appointed by the Board.

Employment
of other
employees
and agents.

(3.) The Board may employ such employees and/or agents as may be necessary for carrying out the provisions of this Part of this Act.

Employee
to hold office
during
pleasure.

(4.) Every officer, agent, or employee other than an officer of the Public Service shall hold office during pleasure only, and shall be paid such salary or other remuneration as may be fixed by the Board, and the Board may dismiss any such agent or employee, and may discontinue the offices of or appoint other persons in the place of agents and employees who are dismissed, or die, or resign, or otherwise vacate their employment.

Acquisition
of land and
property.

27. (1.) The Board may acquire by purchase, lease, grant, or otherwise and hold land for carrying out any of the purposes of this Part of this Act, and may also purchase, construct, maintain, and alter such buildings,

1939.

*Torres Strait Islanders Act.*PART VI.—
ISLAND
INDUSTRIES
BOARD.

warehouses, ships, vessels, boats, wharves, tramways, plant, machinery, and other works, improvements, and things as it shall deem necessary or advisable for the purposes of this Part of this Act.

(2.) The Board shall, with respect to any of its real or personal property and any estate or interest therein, have the power—

Powers with
respect to
property.

- (a) To sell, lease, exchange, or make partition ;
- (b) To accept or make surrender of leases ;
- (c) To assign, reconvey, or discharge mortgages, securities, or other obligations, either wholly or in part ;
- (d) To enter into, modify, or alter any contract or agreement with any person for all or any of the purposes of this Part of this Act ; and
- (e) Generally to exercise all other rights, powers, functions, and authorities thereover.

(3.) Any such property may from time to time be sold or disposed of upon such terms and conditions in all respects as the Board thinks proper.

28. Subject to this Part of this Act and to the provisions contained in the Schedule hereto, the Board shall have and may exercise all of the rights, powers, duties, and obligations set out in the schedule hereto.

Other
powers of
the Board.

29. The Board shall at the end of each year furnish to the Minister a full report of its operations.

Annual
report of
Board.

In this section the term "year" means the period of time from and including the first day of April in any calendar year to and including the last day of March in the next succeeding calendar year.

30. The books and accounts of the Board shall be audited by the Auditor-General.

Audit.

31. The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Part of this Act, or that may be necessary or convenient to carry out the objects and purposes of this Part of this Act, and where there may be in this Part of this Act no provision or no sufficient provision in respect of any matter or thing adequate, necessary, or expedient to give effect to this Part of this Act, providing for and supplying such omission or insufficiency.

Regulation-
making
power.

Without limiting the generality of the foregoing power to make regulations, regulations may be made prescribing—

- (a) The times of holding and the conduct of business at meetings of the Board.
- (b) Forms of records, books, documents, and accounts to be kept by the Board either generally or in connection with any particular business, trade, or occupation; and specifying, where necessary, what officers, employees, or agents of the Board shall be responsible for the keeping of any such records, books, documents, and/or accounts.
- (c) The manner in which the Board may do any act, matter, or thing authorised or permitted to be done by it under this Part of this Act; and more particularly the manner in which the Board may conduct any business, trade, or occupation (and whether in person or by or through any agent).
- (d) The conduct of officers, employees, and agents of the Board and of other persons who are in, about, or upon the property of the Board; and for preventing trespass, damage, or injury to any such property.
- (e) Penalties for the breach of any regulation, which may be recovered by complaint in a summary way under **"The Justices Acts, 1886 to 1932"* :

Provided that no such penalty shall exceed twenty pounds.

Section seven of this Act shall, *mutatis mutandis*, apply and be observed in respect of these regulations.

SCHEDULE.

SCHEDULE.

1. The Board may—

- (1) Carry on the business, trade, or occupation, as the case may be, of banker, blacksmith, builder, carpenter, commission agent, common carrier (whether by land or water), dealer (wholesale or retail), engineer, exporter, factor, farmer, fisherman (including fishing for pearl-shell, trochus-shell, and bêche-de-mer), forwarding agent, freight contractor, general merchant, grazier, importer, iron-worker, joiner, labour agent, lighterman, manufacturer,

* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

1939.

Torres Strait Islanders Act.

- mineowner, money-lender, plumber, shipping agent, ship's chandler, shipbroker, shipbuilder, shipowner, shopkeeper, stevedore, storekeeper, timber merchant, tinsmith, trustee, warehouseman, wharfinger, or any other trade or business incidental or ancillary to any such business, trade, or occupation as aforesaid, or which in the opinion of the Board can be effectually carried on in connection with any such business, trade, or occupation.
- (2) Acquire from time to time and at all times and either by construction, purchase, lease, or otherwise all such buildings, premises, plant, machinery, equipment, and stock as may in the opinion of the Board be necessary or desirable for the carrying on by the Board of any such business, trade, or occupation as aforesaid.
 - (3) Acquire and distribute information relating to or as to the best manner of carrying on any such business, trade, or occupation as aforesaid; and undertake the education, instruction, and training of islanders or other persons in any such business, trade, or occupation, and for that purpose establish, maintain, and conduct all such schools and classes as the Board may deem necessary; and enter into contracts of apprenticeship with any such person as aforesaid.
 - (4) For the purpose of carrying on any such business, trade, or occupation as aforesaid, have and exercise all such powers, authorities, and discretions, and do all such acts and things as a private person carrying on business in Queensland might have or exercise or do.
 - (5) Cause investigations to be made, and from time to time report and make recommendations to the Director, upon all or any of the following matters :—
 - (a) Any question relating to any trade, commerce, or business carried on by or in which islanders are interested or engaged;
 - (b) Markets for goods produced or manufactured by islanders, and trade with other countries in, and the method of marketing, such goods;
 - (c) Generally as to how the trade, industries, and commerce of islanders can be best encouraged, developed, and protected.
 - (6) Finance any such business, trade, or occupation as aforesaid, and for that purpose raise money on loan from the Governor in Council, the Treasurer, the Director, the Corporation of the Bureau of Rural Development, or any bank or financial institution or person, and mortgage or assign property of the Board (including contracts between the Board and islanders or other persons relating to or arising out of any such business, trade, or occupation as aforesaid).

2. Any surplus profits of the Board shall be allocated or appropriated for the general welfare of islanders and in such manner as the Governor in Council shall from time to time determine.