



THE TORRES STRAIT BOUNDARY

REPORT BY

THE SUB COMMITTEE ON TERRITORIAL BOUNDARIES

OF

THE JOINT COMMITTEE ON
FOREIGN AFFAIRS AND DEFENCE

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SUB-COMMITTEE A - TERRITORIAL BOUNDARIES

REPORT ON BOUNDARY BETWEEN AUSTRALIA AND
PAPUA NEW GUINEA

To Senator Sir Magnus Cormack,
Chairman,
Joint Committee on Foreign Affairs,
and Defence

Sir

On 4 May 1976 this Sub-Committee was appointed with the following terms of reference "to consider investigate and report on the boundaries between Australia and Papua New Guinea, Indonesia and Portuguese Timor (East Timor) and that first priority be given to the boundary with Papua New Guinea".

One member, Mr. R. Jacobi, M.P. had reservations regarding some sections of the report. His reservations are set out in a statement attached to the report.

The Sub-Committee has pleasure in submitting their report on the first section of this reference.

R.F. Shipton, M.P.
Chairman

MEMBERS OF THE SUB-COMMITTEE

Mr N.A. Brown, MP, Chairman (Victoria)*
Mr R.F. Shipton, MP, Chairman (Victoria)*
Mr K.L. Fry, MP (A.C.T.)
Mr R. Jacobi, MP (South Australia)
Lt Col. J.W. Sullivan, MP (New South Wales)

- * Mr N.A. Brown was Chairman from the formation of the Sub-Committee on 5 May 1976 until 26 August 1976 when he left the Sub-Committee to act as adviser to the Australian delegation to the 31st meeting of the United National General Assembly. In the period of his absence Mr R.F. Shipton acted as Chairman of the Sub-Committee.

Secretary

L.O. Goldsmith,
The Senate,
Parliament House,
CANBERRA. A.C.T.

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THE COMMITTEE'S
CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS

The Committee has examined the question of the boundary between Australia and Papua New Guinea. The Committee visited and travelled through a large area of Torres Strait and contacted local leaders and residents. Submissions were received from governmental and private organisations and from individuals. Witnesses gave evidence to the Committee which was supplemented by information from published sources.

The Committee has looked at the problem in an analysis of the question of demarcation in the Torres Strait. Until the general principle of demarcation between national entities is settled the subsidiary problems that flow from such agreement (if obtained) remain.

The Committee's principal conclusions are:

1. The Committee supports the existing boundary which is taken to be the 1879 line. The inhabitants of the border region have access to Torres Strait waters as does marine traffic between the Papuan coast in the boundary area and other parts of Papua New Guinea.
2. No definitive statement was received, from the Australian Government presenting a case in support of changes in the existing boundary with Papua New Guinea. Possibly the Government was inhibited by the continuance of negotiations with Papua New Guinea. As far as such a statement can be inferred, the reasons for supporting a change appear to be based on a moral feeling that Papua New Guinea is disadvantaged by the existing boundary. To maintain good relations therefore the existing boundary should be altered in favour of that country.

3. Evidence presented to the Committee indicated that no significant deposits of commercial hydrocarbons had been discovered in the Torres Strait region to date and that prospects for future discoveries are not considered to be favourable.

4. Available published information and investigation at the local level suggests that the Torres Strait community is heavily dependent on welfare payments as a source of cash income. It appears unlikely that this trend towards a dependent community will be reversed in the foreseeable future.¹

5. Migration both of family groups and of individuals from the Torres Strait area to mainland Australia has been an established pattern over the past 25 years. Of a total population of some 10,000 persons in the Torres Strait community more than 60 per cent now live permanently in Australia. The Committee found no evidence that this pattern of migration was likely to be reversed.

6. The existing provisions of the Australian Constitution, particularly s.123, places legal restraints on proposals to change the boundary of a State, or to cede a portion of a State to another country without the consent of the people of the State concerned.

7. Apart from these general constitutional difficulties, in regard to cession of territory, under the archipelagic theory advanced by Dr Prescott, there appears to be a strong case for the Torres Strait islands to remain Australian territory.

1. As has been stated in Chapter 2 p.33 the community also receives a considerable income from remittances of islanders who have migrated to the mainland seeking employment.

8. The establishment of a Protected Zone in the Torres Strait would clarify the existing situation and could defuse the relatively low level of political activity caused by proposals to alter the existing boundary.

9. An essential provision of the establishment of this Zone is that mining and drilling of the seabed is to be prohibited for an agreed period and no new commercial activities would be permitted unless they were compatible with protection of the environment.

10. The Committee is not clear on how such a Protected Zone would be administered. If an independent Commission were established for this purpose the powers of the Commission should be clearly defined, particularly in relationship to the powers already exercised by State and local government authorities operating within the Torres Strait.

11. To be effective such a Commission should be representative of all parties including: Australia, Papua New Guinea, Queensland and the Torres Strait Islanders.

12. The Committee considers the Government should, at an appropriate time, make a public statement, preferably in Parliament, setting out the progress made in the negotiations outlined in Chapter IV, the general principles and parameters within which Australia is conducting these negotiations, and the tentative date for final agreement.

B. RECOMMENDATIONS

1. The Torres Strait Islands should remain part of Australia. The Committee supports the existing boundary which is taken to be the 1879 line.
2. The Committee is attracted to the concept of a "Protected Zone" in the Torres Strait area and if this is accepted the zone should be clearly defined to include:
 - . freedom of passage through the area for Australians and Papua New Guineans;
 - . prohibition of mining and drilling in the seabed until satisfactory agreement has been achieved between all interested parties;
 - . compatibility of new commercial ventures with environmental considerations.
3. Every effort should be made to preserve the existing culture and customs of the Torres Strait Islanders.
4. Negotiations between Australia and Papua New Guinea should ensure the continuation of the existing rights of free access to the area and the right to engage in fishing for domestic purposes of Papua New Guinea and its citizens. Any agreement would also need to cover significant subsidiary matters such as
 - i) powers of arrest and pursuit of law breakers, e.g. illegal fishing
 - ii) inspection of vessels for human and

- animal quarantine
 - iii) conservancy laws and which ones should be observed and on what terms
 - iv) pilotage
 - v) lighthouses and beacons
 - vi) rights of refuge for storm-beset vessels
 - vii) control over migration
 - viii) contraband, i.e. prohibited cargoes
 - ix) airspace
5. In any negotiations on such matters as a seabed boundary and a Protected Zone it is necessary to take cognisance of the fact that all islands inhabited and uninhabited in the Torres Strait within the 1879 line are part of Queensland.
 6. That the Government should, at an appropriate time, make a statement in Parliament setting out its position on the Torres Strait boundary and the issues involved.
 7. The difference between a seabed boundary and a normal international boundary should be stated in clear, unambiguous terms.
 8. The people of the Torres Strait may see the need for competent counsel subject to their own direction and if so steps should be taken to ensure they have such counsel.

DEFINITION OF TORRES STRAIT AREA

The Committee could not locate a recent, reasonably succinct description which delineated the Torres Strait. For the purposes of this report the Committee adopted the following definition as delineating the area with a fair degree of accuracy.

"Generally that area of sea and islands lying between Cape York and the Papuan coast bounded as follows : in the East by the north east extremity of the Great Barrier Reef and thence in a north westerly direction to include Bramble Cay terminating at Bampton Point on the Papuan Coast; in the West by Parliament Point on the Papuan Coast; and thence South to latitude 11° south including Turu Cay and Cook, Merkara and Proudfoot Shoals".

INTRODUCTION

ESTABLISHMENT OF SUB-COMMITTEE

By a joint resolution of the House of Representatives and the Senate of 17 and 18 March 1976 the Parliamentary Joint Committee on Foreign Affairs and Defence for the Thirtieth Parliament was established. The Committee was empowered to report on -

- (a) foreign affairs and defence matters generally and
- (b) such matters as may be referred to the committee
 - (i) by the Minister for Foreign Affairs
 - (ii) by the Minister for Defence or
 - (iii) by resolution of either House of Parliament

The Committee comprises twenty one members, fourteen from the House of Representatives and seven from the Senate with the Government having a majority of three on the Committee.

At the first meeting of the Committee on 6 April Senator Sir Magnus Cormack was elected unopposed as chairman. The Committee agreed that its operations should be conducted so that it operated as a study group, received information from important guest speakers and that investigations and reports should be conducted by sub committees. At a subsequent meeting of the Committee on 4 May three sub committees; A, B, and C were appointed, terms of reference defined and membership determined. Sub-Committee A henceforth known as the Territorial Boundaries Sub-Committee was formally appointed with the following terms of reference "That the sub-committee

consider, investigate and report to the main Committee on the boundaries between Australia and Papua New Guinea, Indonesia and Portuguese Timor (East Timor) and that first priority be given to the boundary with Papua New Guinea and that a report on this aspect be presented within six months".

Mr N.A. Brown was appointed as chairman of the Sub-Committee other members of the Sub-Committee being -

Mr K.L. Fry, M.P.
Mr R. Jacobi, M.P.
Mr R.F. Shipton, M.P.
Lt Col. J.W. Sullivan, M.P.

The Sub-Committee held its first meeting on 5th May 1976.

The report of the Sub-Committee has been examined by the whole Committee and was adopted by it on 1 December 1976.

PRELIMINARY CONSIDERATIONS AND CHRONOLOGY

At its initial meetings the Sub-Committee accepted the fact that it was conducting an investigation of a matter which was already the subject of negotiation between Australia and Papua New Guinea. It was realised this would have an inhibiting effect on evidence tendered, particularly by official witnesses. Some evidence was tendered in camera and clear definitive statements of position could not be obtained from the Government of Papua New Guinea nor, despite repeated requests, from the State of Queensland. The Australian Minister for Foreign Affairs, Mr A.S. Peacock, appeared before the Sub-Committee and gave evidence in camera, indicating the broad approach of the Australian Government. The fourth major party involved in this question, the Torres Strait Islanders, who whilst inhabitants of the State of Queensland, have been accepted as having a separate and discrete interest, have stated their position vigorously and almost unanimously. That is, they want no change in the border and generally, subject to such

qualifications as the discovery of significant mineral or hydro-carbon deposits on the sea bed, no change in the existing status quo.

The Sub-Committee visited the Torres Strait area in the period from August 2 to August 8 1976 in an endeavour to obtain at first hand some knowledge both of the region and the attitude of the Torres Strait people to the Boundary issue. The Sub-Committee visited and held public hearings at the islands of Sue (Warraber) Yorke, Yam, Saibai, Badu (Mulgrave) Moa (Banks) and Horn, and Bamaga Reserve (Cape York). A public hearing was also held on Thursday Island, the main centre of the group and at Tamwoy Reserve (Thursday Island). As the result of this visit the Sub-Committee felt it obtained a clear expression of opinion from a significant cross-section of the population on their attitude to any changes in the existing boundary.

The Sub-Committee took as the parameters within which the investigation should be conducted that there were four parties principally concerned: Australia, Papua New Guinea, the State of Queensland and the Torres Strait Islanders, a distinct ethnic group living on the islands in the Strait between Australia and Papua New Guinea which links the Arafura and the Coral Seas. The Sub-Committee considered that the principal legal factors which must influence any agreement reached were: clause 9 of the Commonwealth of Australia Constitution Act (The Constitution), and that body of international law known collectively as the Law of the Sea.

The question of the border between Australia and Papua

New Guinea has received considerable publicity in the years since 1972. Consideration of this question has, however, been continuing in a sporadic form both prior to and almost immediately after Federation, largely at the instigation of successive Administrators of British New Guinea. An Order in Council was actually issued in 1898, making over the islands north of a line through the Moon Passage (see map) to British New Guinea, but was never submitted to the Queensland Parliament for approval. After Federation, the matter became one of Commonwealth Government concern, and the matter was raised in Federal Parliament on 22 July, 1902.¹ An advisory opinion on implementing the 1898 Order in Council was submitted to Prime Minister Alfred Deakin on 28 June 1906 by the Attorney-General, the Hon. Isaac Isaacs. However, as the Queensland Premier proved uncooperative, no action followed. In fact, in 1925 the Queensland Government took action to further strengthen its claim in law to the islands in question by issuing new Letters Patent on 10 June explicitly quoting the Letters Patent of 1878 which defined the islands annexed to Queensland in 1879.

The question continued to arouse sporadic interest in the period between the wars and in the immediate post-war period. In August, 1964, Paul W. van der Veur published an article entitled "Papua Irredenta: Queensland's Northern boundary and the territory of Papua".² Mr E.G. Whitlam (then Deputy Leader of the Opposition) to raise the matter in the debate on the Native Members of the Forces Benefits

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1. Australia, House of Representatives, Debates, 22 July 1902, p.14486
 2. Australian Journal of Politics and History, 10(2), Aug '64: 183-195

Bill 1965.³ Van der Veur's books Search for New Guinea's Boundaries: From Torres Strait to the Pacific, and Documents and Correspondence on New Guinea's Boundaries,⁴ were published in 1966. Mr Ebia Olewale referred to Van der Veur's work when he moved a motion on "Adjustment of the Boundary between Papua New Guinea and the State of Queensland" in the Papua New Guinea House of Assembly on 21 August 1969,⁵ and in April 1971 the Report of the United Nations Visiting Mission to the Trust Territory of New Guinea drew attention to what it called the "border" with Queensland:

"467. The united Territory's relationship with Australia will continue to be of the utmost importance for its future peace and prosperity.... The border runs within a mile of the Papuan coast and includes under Queensland jurisdiction all the intervening islands, including three, with a total population of 370, which lie close inshore. This situation is regarded locally on the Papuan side as anomalous and there is incipient pressure for revision of the boundary in the Territory's favour. This is far from being a national issue as yet, but could develop into a source of potential friction unless sympathetically handled. The Australian Government has sought to establish an equitable settlement of fishing and oil exploration rights in the Torres Straits and Papuan Gulf area; but they point out that boundary revision would raise constitutional problems in Australia as well as particular difficulties in relation to possible resettlement of the inhabitants of the islands, who have expressed opposition to being transferred to the jurisdiction of Papua and New Guinea."⁶

The Chronology of the main developments in the matter subsequently is as follows:

3. Australia, House of Representatives, Debates, 9 Dec '65 3881-2
4. Canberra, Australian National University Press, 1966
5. Papua New Guinea, House of Assembly, Debates, 21 Aug '69 1485-6, 1564-6.
6. United Nations, Trusteeship Council, Visiting Mission to New Guinea, Canb., Govt P., 1971.

CHRONOLOGY OF THE TORRES STRAIT DISPUTE

(DECEMBER 1972 TO JULY 1976)

15 December 1972: Prime Minister the Hon. E.G. Whitlam writes to Premier of Queensland Mr. Joh Bjelke-Petersen suggesting discussions between officials of Papua New Guinea, Queensland and Australian governments.

11 January 1973: Premier replies saying he could see no good purpose being served by such discussions.

17 January 1973: Joint statement by the Prime Minister and the Chief Minister of Papua New Guinea -- Australia willing to negotiate relocation of border but reluctant to be party to any settlement not accepted by Islanders. Recognition of need for prior consultation between Australian and Queensland Governments.

23 March 1973: Discussions with Premier who agrees to Council for Aboriginal Affairs consulting with Islanders.

13 June 1973: Prime Minister meets Islanders.

19, 20 September 1973: Yam Island meeting between Islanders and coastal Papuans, Dr Coombs and two Queensland officials present as observers.

. 2 April 1974: The Premier of Queensland moves Parliamentary Resolution for establishment of Marine Park. Adopted by Queensland Parliament on 3 April 1974.

. 7 April 1974: Prime Minister's telegram to the Premier advising him of the Commonwealth Government's concept of an environmentally protected area and proposing discussions between officials.

. 29 April 1974: Premier seeks more information before agreeing to discussions.

. 29, 30 May 1974: Daru Island Conference between Islanders and coastal Papuans. Dr Coombs and two Queensland officials present as observers.

. 26 June 1974: Prime Minister writes to Premier, indicating much common ground and again invites discussions.

. 19 August 1974: Premier replies agreeing to discussions.

. 24 September 1974: Premier makes statement in Queensland Parliament on Torres Strait.

. 13 November 1974: Discussions between Australian and Queensland Government officials in Canberra.

20, 21 February 1975: Discussions between Australian and Queensland Government officials in Brisbane.

30 June 1975: Prime Minister meets Islanders in Sydney.

3, 4 July 1975: Discussion between Australian and Queensland Government officials in Brisbane.

13 September 1975: Prime Minister writes to Premier, passing him a copy of letter of 8 September from Papua New Guinea Minister for Defence, Foreign Relations and Trade and expressing the hope that they can meet after officials have conferred further.

18 September 1975: A statement signed by the Councils of Darnley, Murray and Stephen Islands said that they were appalled at the political confrontation between the Queensland Premier and the Minister for Aboriginal Affairs (Mr Johnson); accused both of not caring what the Islanders thought; and said that Mr. Bjelke-Petersen was wrong in most of his allegations about bungling of Federal projects in the area.

19, 20 September, 1975: Dr Coombs attends Conference of Torres Strait Island Chairmen on Thursday Island. Islander's views set out in a memorandum signed by their Group Representatives.

24 September 1975: Prime Minister passes copy of letter of 15 September from Sir Maori Kiki, Papua New Guinea Minister for Defence, Foreign Relations and Trade (addressed to Minister for Defence) to Premier of Queensland.

4 March 1976: Joint communique issued by the Prime Ministers of Papua New Guinea and Australia during Mr Somare's visit to Canberra. It was agreed that one object of the negotiations was to draw a seabed line between Australia and Papua New Guinea and to establish a protected zone in the area to preserve the environment and traditional way of life of the inhabitants.

15 March 1976: Mr Somare withdraws a series of bills seeking to define the seabed limits of Papua New Guinea.

18 April 1976: Telegram to the Prime Minister by Mr. Getano Lui stating in part that if Australia did not support them, the Islanders would take their case to the International Court of Justice and the United Nations.

3 May 1976: Talks in Brisbane between the Premier and the Deputy Prime Minister, the Rt. Hon. J.D. Anthony.

5 May 1976: Newspaper claims that Papua New Guinea is seeking to extend the 'present border' more than 100 klm south.^{2.}

2. "Canberra Times" 6th May 1976.

6 May 1976: Claims that Papua New Guinea seeking to extend present border more than 100 km southwards denied by the Prime Minister during question time.

11 May 1976: Talks in Canberra between the Prime Minister, Deputy Prime Minister and the Queensland Premier.

18, 19, 28 and 29 May 1976: Meetings in Port Moresby between the Foreign Ministers of Australia and Papua New Guinea. Mr Peacock states that it is 'most important' to settle the border issue 'as soon as possible'.

19 May 1976: National President of Returned Services League, Sir William Hall, urges Federal Government to 'stand firm' against any requests from Papua New Guinea to have the Islands transferred to its 'jurisdiction'.

5 June 1976: Joint statement by the Foreign Ministers of Australia and

6 June 1976: Mr Tei Abal, Opposition Leader in the Papua New Guinea National Parliament, states that if his party won government it would have to review any agreement signed by Mr Somare.

7 June 1976: Queensland Premier charges that the agreement has 'betrayed' the Torres Strait Islanders to a foreign country'.

8 June 1976: Officials from the Department of Prime Minister and Cabinet, National Resources and Primary Industry leave for talks in Port Moresby.

9 June 1976: Mr Olewale accuses the Queensland Premier of wanting to keep the Torres Strait in order to exploit any mineral reserves that may be located there.

10 June 1976: Minister of Aboriginal Affairs explains to Island Chairmen the joint statement of 5 June.

12 June 1976: Minister for Aboriginal Affairs announces that Islanders representatives have accepted the need for a new seabed resources boundary. Claim denied by Mr. Getano Lui.

16 June 1976: Minister for Aboriginal Affairs states that the Islanders had asked that the Prime Minister visit them before any final agreement was reached with Papua New Guinea on the border issue.

6 July 1976: Sir A. Maori Kiki announces that "the new boundary line will be on top of the water; under the sea and up in the sky...."³

8 July 1976: Australian Government sources state that they will not yield to Papua New Guinea's requests.

3. See statement to the National Parliament by Sir Maori Kiki p. 55.

14 July 1976: Torres Strait Islanders Advisory Council seeks withdrawal of Australian dollar note and its replacement with one bearing symbols of the island people.

15 June 1976: Statement to the Papua New Guinea Parliament on Torres Strait by Sir A. Maori Kiki. (See Appendix IV)

23 July 1976: Sir A. Maori Kiki emphasizes that the Torres Strait boundary now being negotiated between Australia and Papua New Guinea will be an 'all purpose international boundary' in which each nation will have 'full sovereignty'.

23 July 1976: Letter to the Minister for Aboriginal Affairs from Mr. Naseli Nona (Chairman Mabuiag Island Council), accusing Mr. Getano Lui of double talk and unilateral statements on behalf of the Islanders Advisory Council, was made public. Mr. Nona stated that Mr. Lui seemed to speak more on behalf of the Queensland Government than the Torres Strait Islanders. He further assured the Minister that he and other Island Chairmen recognised that the Australian Government was trying to look after their interests.

2-8 August 1976: Australian Parliament Sub-Committee on Territorial Boundaries visits Torres Strait area and holds public hearings.

CHAPTER I

ESTABLISHMENT OF THE EXISTING BOUNDARY

The maritime boundaries of the Colony of Queensland were defined in the letters patent of 6 June 1859 which established the new colony separate from New South Wales. Queensland was stated to have acquired "all and every the adjacent Islands, their members and appurtenances, in the Pacific Ocean". This vague description was soon proven inadequate, and in 1871 the Governor, Sir George Phipps, requested the British Colonial Secretary to extend his jurisdiction over all islands within 60 miles of the Queensland coast. This was granted in letters patent of 30 May 1872. The new definition brought all the islands of Torres Strait south of Mabuiag (Jervis) and Yam Islands under Queensland jurisdiction.

The next extension of Queensland's boundaries originated in the reluctance of Great Britain to accede to Australian prompting to take possession of eastern New Guinea. The background official correspondence relating to the 1879 extension of Queensland's boundaries and the 1884 proclamation of a protectorate by Britain over south-eastern New Guinea has been examined by Professor Marjorie Jacobs.¹ The Queensland Legislative Assembly passed a motion advocating Imperial annexation of non-Dutch New Guinea in 1871. Demand for annexation was further stimulated by Captain John Moresby's survey of the south-eastern part of the island in 1873. The British Government was most reluctant to incur what was foreseen as the great cost involved in annexation

1. "The Colonial Office and New Guinea, 1874-84", Historical Studies, vol. 5, no. 18, May 1952, p. 110-118.

and consequent administration of eastern New Guinea, although, in the context of the imperialist rivalry at that time among Britain, France and Bismarck's new Germany, it was seen by the British Colonial Office as inevitable that New Guinea eventually be incorporated into the Empire. In 1875 the Colonial Office put forward the suggestion that the British claim to eastern New Guinea be established by the occupation of points on the coast.² This suggestion was at first turned down on the grounds of expense, but the next year rumours of a French expedition to New Guinea revived the Colonial Office fear that a foreign flag would be "hoisted ninety miles from Queensland".³ Professor Jacobs describes the subsequent developments:

Herbert, [Permanent Under-Secretary to the Colonial Office], was of the opinion that the Colonial Office could not afford to postpone annexation at least of the shore nearest to Australia, and that the British government should continue to object to any European power coming into the non-Dutch portion. How it could be done was a more difficult matter. Neither Cabinet nor Parliament would accept British annexation of New Guinea without Australian participation. In the circumstances, Herbert and Carnarvon reverted to the proposal of the previous year that several valuable points on the coast opposite Australia should be occupied in the belief that this would constitute a claim to the coastal areas strong enough to ward off foreign intruders. Carnarvon sought the Admiralty's advice about the points to be occupied and was informed that in view of the barrenness and inaccessibility of the coast opposite Australia, the islands of Tauan and Saibai, just off the coast, would be the only areas suitable for stations. These islands were then offered to Queensland, to quote the words of a Colonial Office official, 'as a test of the sincerity

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2. Great Britain, Colonial Office. Confidential Printing, Australia, No. 53, p. 64. C.O. 808/15, Herbert to F.O., 7 August 1875.
 3. Great Britain Colonial Office, 201/582. R. Armit to Carnarvon, 10 June 1876; idem, 201/577. Minute by Herbert, 21 November 1874, on Robinson to Carnarvon, 7 September 1874.

of the desires of the Australians for annexation'. Queensland's initial reponse was not encouraging. The colonial government refused to accept responsibilities beyond its territory, although it would contribute to the costs if the other Australian colonies did likewise. Eventually, it was only after what was described in the Colonial Office as "much shilly-shallying" that the islands were included in Queensland by the expedient of extending the borders of the colony in 1879.⁴

Dauan, Saibai, Boigu, and all the other islands in Torres Strait not previously annexed to Queensland by the letters patent of 1872, were annexed by the Queensland Coast Islands Act 1879. The schedule of the Act described the islands in the following words:

Certain islands in Torres Straits and lying between the Continent of Australia and Island of New Guinea that is to say all islands included within a line drawn from Sandy Cape northward to the south-eastern limit of Great Barrier Reefs thence following the line of the Great Barrier Reefs to their north-eastern extremity near the latitude of nine and a half degrees south thence in a north-westerly direction embracing East Anchor and Bramble Cays thence from Bramble Cays in a line west by south (south seventy-nine degrees west) true embracing Warrior Reef, Saibai and Tuan Islands thence diverging in a north-westerly direction so as to embrace the group known as the Talbot Islands thence to an embracing the Deliverance Islands and onwards in a west by south direction (true) to the meridian of one hundred and thirty-eight degrees of east longitude.

These islands were annexed to Queensland as from 1 August 1879, by proclamation in the "Gazette" of 21 July 1879.

4. Great Britain, Colonial Office. C.O. 201/582; Minute by Herbert on Tenterden to Col. Office, 21 July 1876; Minute by Herbert on Tenterden to Col. Office, 30 May 1876; R. Hall to Col. Office, 21 October 1876; Carnarvon to Kennedy, 29 Jan. 1877; Minute by W.R. Malcolm on Admiralty to Col. Office, 21 October 1876, C.O. 234/37; Kennedy to Carnarvon, 18 May 1877.