

PAPUA AND NEW GUINEA  
(VALIDATION OF APPOINTMENTS).

No. 86 of 1953.

An Act to remove Doubts as to the Validity of the Appointments of the Chief Judge and other Judges of the Supreme Court of the Territory of Papua and New Guinea and of certain Officers of the Public Service of that Territory.

[Assented to 11th December, 1953.]

Preamble.

WHEREAS by sub-section (1.) of section fifty-nine of the *Papua and New Guinea Act 1949-1950* it is provided, among other things, that the Chief Judge and each other judge of the Supreme Court of the Territory of Papua and New Guinea shall be appointed by the Governor-General by Commission under the Seal of the Commonwealth and 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 :

AND WHEREAS it is further provided by sub-section (1.) of that section that the Chief Judge and each other judge of that Court, except in the case of an acting judge, shall, subject to that section, retire upon reaching the age of sixty-five years :

AND WHEREAS, in pursuance of those provisions as in force as provisions of the *Papua and New Guinea Act 1949*, the Governor-General, by Commission dated the twenty-ninth day of June, One thousand nine hundred and forty-nine, appointed Frederick Beaumont Phillips, Esquire, C.B.E., to be Chief Judge of the Supreme Court of the Territory of Papua and New Guinea, and by Commissions dated the twenty-ninth day of June, One thousand nine hundred and forty-nine, the fifteenth day of September, One thousand nine hundred and forty-nine, and the thirtieth day of November, One thousand nine hundred and forty-nine, respectively, appointed Ralph Thomas Gore, Esquire, Esme Baron Bignold, Esquire, and Andrew Kelly, Esquire, to be judges of that Court :

AND WHEREAS, by reason of the inclusion of the words " to have, hold, exercise and enjoy the said office during the pleasure of the Governor-General " in each of those Commissions, doubts have arisen as to the validity of the appointments :

AND WHEREAS, in connexion with certain appointments of officers to the Public Service of the Territory of Papua and New Guinea that purported to be made by the Minister of State for Territories,

doubts have arisen whether there was in force a delegation by the Governor-General by virtue of which that Minister was empowered to make those appointments :

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

1. This Act may be cited as the *Papua and New Guinea* Short title.  
(*Validation of Appointments*) Act 1953.

2. This Act shall come into operation on the day on which it Commencement.  
receives the Royal Assent.

3. The appointments referred to in the preamble to this Act of Validation of judges' appointments.  
Frederick Beaumont Phillips, Esquire, C.B.E., as Chief Judge of the Supreme Court of the Territory of Papua and New Guinea and of Ralph Thomas Gore, Esquire, Esme Baron Bignold, Esquire, and Andrew Kelly, Esquire, as judges of that Court, shall be deemed to be, and at all times to have been, as valid and effectual as if the words "to have, hold, exercise and enjoy the said office during the pleasure of the Governor-General" had not been included in the respective Commissions by which those appointments were made.

4.—(1.) Notwithstanding the validity, by force of this Act or Issue of fresh Commissions by Governor-General.  
otherwise, of the appointments to which the last preceding section applies, the Governor-General may, by Commission under the Seal of the Commonwealth—

(a) re-appoint Frederick Beaumont Phillips, Esquire, G.B.E., as Chief Judge of the Supreme Court of the Territory of Papua and New Guinea ; and

(b) re-appoint Ralph Thomas Gore, Esquire, C.B.E., Esme Baron Bignold, Esquire, and Andrew Kelly, Esquire, as judges of that Court.

(2.) Upon the re-appointment as judges, in pursuance of the last preceding sub-section, of the persons mentioned in paragraph (b) of that sub-section, those judges shall, notwithstanding the provisions of sub-section (5.) of section fifty-eight of the *Papua and New Guinea Act* 1949-1950, have seniority according to the dates of their respective Commissions of appointment referred to in the preamble to this Act.

(3.) Subject to the next succeeding sub-section, a person re-appointed in pursuance of this section shall be deemed to hold office as Chief Judge or judge, as the case may be, by virtue of that re-appointment as if it were an appointment under section fifty-nine of the *Papua and New Guinea Act* 1949-1950, but his tenure of that office after re-appointment shall, for all purposes, be deemed to be a continuation of his tenure of that office before re-appointment.