

I.
PUBLIC ACTS
OF THE
PARLIAMENT OF QUEENSLAND,
3° GEORGII VI.

ABORIGINALS.

See also TORRES STRAIT ISLANDERS.

**An Act to Consolidate and Amend the Law relating
to the Preservation and Protection of
Aboriginals, and for other purposes.**

3 GEO. VI.
NO. 6.
THE
ABORIGINALS
PRESERVATION
AND
PROTECTION
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 Legis-
lative Assembly of Queensland in Parliament assembled,
and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

PART I.—
PRELIMINARY.

1. (1.) This Act may be cited as "*The Aboriginals Preservation and Protection Act of 1939.*" Short title.

*(2.) Except as herein otherwise provided, this Act shall commence and take effect on and from a date to be proclaimed by the Governor in Council by Proclamation published in the *Gazette*, which date is herein referred to as the commencement of the Act. Commence-
ment of
Act.

(3.) This Act shall for all purposes also extend and apply to any vessel in any river, harbour, or other water within a district in the same manner as if it were a house within such district. Application
to vessels.

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

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

(4.) 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.

Parts of
Act.

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

PART I.—PRELIMINARY—

Section 1—*Short Title, Commencement of Act, and Application to Vessels,*

Section 2—*Parts of Act,*

Section 3—*Repeals and Savings, (Schedule),*

Section 4—*Meanings of Terms ;*

PART II.—PURPOSES OF THIS ACT—

Section 5—

(1) *Preservation and Protection of Aboriginals,*

(2) *Definition of Aboriginals,*

(3) *Exemption ;*

PART III.—ADMINISTRATION—

Section 6—*Appointment and Powers of Director of Native Affairs,*

Section 7—*Deputy Director of Native Affairs,*

Section 8—

(1) *Proclamation of Districts,*

(2) *Protectors of Aboriginals,*

Section 9—

(1) *Reserves,*

(2) *Appointment of Superintendents,*

(3) *Religious Organisations,*

(4) *Settlements,*

Section 10—*Appointment of Visiting Justice to Reserve,*

Section 11—*Reserves for Swim-divers,*

Section 12—*Regulations,*

Section 13—*Proclamations, Orders in Council, and Regulations ;*

1939. *Aboriginals Preservation and Protection Act.*

PART IV.—PRESERVATION AND PROTECTION OF
ABORIGINALS—

Section 14—*Employment Generally,*

Section 15—*Employment on Vessels,*

Section 16—*Care of Property,*

Section 17—*Maintenance of Children,*

Section 18—*Guardianship of Minors,*

Section 19—*Marriages,*

Section 20—*Contagious Disease,*

Section 21—*Removal of Camps,*

Section 22—*Removal of Aboriginals to Reserves,*

Section 23—*Injurious Customs,*

Section 24—*Opium and Liquor ;*

PART V.—OFFENCES BY PERSONS OTHER THAN
ABORIGINALS—

Section 25—*Harbouring and Illegal Employment
of Aboriginals,*

Section 26—*Illegal Removal from District or
State,*

Section 27—*Possession of Blankets,*

Section 28—*Supplying Liquor,*

Section 29—*Carnal Knowledge of Females,*

Section 30—*Illegally Frequenting Camps,*

Section 31—*Trespass on Reserves,*

Section 32—*Unauthorised Mining on Reserves,*

Section 33—

(1) *Illegal Removal of Products of Reserves,*

(2) *Illegal Trading,*

Section 34—*Legal Proceedings,*

Section 35—*Jurisdiction of Justices,*

Section 36—*Penal Proceedings,*

Section 37—*Aiding and Abetting Offences,*

Section 38—*Institution of Proceedings ;
Averment as Evidence.*

SCHEDULE.

Repeals
and savings.
(Schedule).

3. Subject to the provisions hereinafter contained, the Acts specified in the Schedule to this Act are repealed to the extent in that Schedule indicated :

Provided that, but without prejudice to * “*The Acts Shortening Acts*” —

- (a) All districts, reserves, settlements, and institutions for aboriginals existing at the commencement of this Act and not situated upon a Torres Strait island within the meaning of † “*The Torres Strait Islanders Act of 1939*,” shall remain as such and be subject to this Act in all respects ;
- (b) All protectors, superintendents, and other officers appointed under and for the purposes of the Acts hereby repealed, and still in office, shall be deemed to have been appointed under and for the purposes of this Act ;
- (c) All contracts and agreements entered into, permits and certificates of exemption granted, and removal orders issued pursuant to the Acts hereby repealed, or any of them shall be of the same validity as if they had been entered into, granted, and issued under the analogous provisions of this Act, and shall be subject to this Act in all respects ;
- (d) All penalties incurred under the Acts hereby repealed or any of them and recoverable at the commencement of this Act may be recovered as if the Act concerned had not been repealed.

Meanings
of terms.

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

Aboriginal.

“ Aboriginal ”—Any person defined by this Act to be an aboriginal ;

Contagious
disease.

“ Contagious disease ”—Venereal disease within the meaning of ‡ “*The Health Act of 1937*” (or any Act amending or in substitution for that Act), and any disease which the Governor in Council from time to time on the recommendation of the Director-General of Health

* 31 Vic. No. 6 and amending Acts, *supra*, pages 15 *et seq.*

† 3 Geo. VI. No. 7, *infra* page 17801.

‡ 1 Geo. VI. No. 31, *supra*, page 16597.

and Medical Services declares by Order in Council to be a contagious disease for the purposes of this Act ;

“ Director of Native Affairs ” or “ Director ”—Director of Native Affairs or Director.

The Director of Native Affairs appointed under the provisions of this Act: the term shall also include the Deputy Director of Native Affairs and the officer (if any) appointed as Assistant Director of Native Affairs so far as may be necessary to enable either such officer to duly do or execute any power, authority, function, or jurisdiction of the Director which may be legally done or executed by him ;

“ District ”—A district proclaimed under the District. provisions of this Act ;

“ Half-blood ”—A person— Half-blood.

- (i.) One of whose parents was an aboriginal and whose other parent had no strain of the blood of an aboriginal or aboriginals ; or
- (ii.) Both of whose parents have a strain of aboriginal blood, and who himself has a strain of more than twenty-five per cent. of aboriginal blood but who has not a preponderance of such blood :

In this definition the term “ aboriginal ” relates to an aboriginal native of the mainland of Australia or of any islands in the territorial jurisdiction of Australia, but such term does not include an islander ;

“ Islander ”—An islander within the meaning of Islander. * “ *The Torres Strait Islanders Act of 1939* ” ;

“ Liquor ”—Liquor within the meaning of † “ *The Liquor Acts, 1912 to 1935* ” (or any Act amending or in substitution for those Acts) ;

“ Minister ”—The Secretary for Health and Home Minister. Affairs or other Minister of the Crown charged for the time being with the administration of this Act ;

“ Prescribed ”—Prescribed by this Act ; Prescribed.

* 3 Geo. VI. No. 7, *infra*, page 17801.

† 3 Geo. V. No. 29 and amending Acts, *supra*, pages 5527 *et seq.*

PART I.—
PRELIMINARY.*Aboriginals Preservation and Protection Act.* 3 GEO. VI. No. 6.

Protector.	“ Protector ”—A protector of aboriginals appointed under this Act: the term shall include the Director, the Deputy Director of Native Affairs, the Assistant Director of Native Affairs, or any person authorised to act in the absence of the Director ;
Regulations.	“ Regulations ”—Regulations made under this Act ;
Reserve.	“ Reserve ”—Any reserve heretofore or hereafter granted in trust or reserved from sale or lease by the Governor in Council for the benefit of the aboriginals of the State under the provisions of any law in force in Queensland relating to Crown lands ;
Shipping master.	“ Shipping master ”—A person purporting to have been appointed whether before or after the commencement of this Act by the Governor in Council as a shipping master ;
Superintendent.	“ Superintendent ”—A superintendent appointed under the provisions of this Act for any reserve ;
This Act.	“ This Act ”—This Act and all Proclamations, Orders in Council, and regulations thereunder ;
Vessel.	“ Vessel ”—Any ship, boat, or other vessel used in navigation ;
Vessel trading in Queensland waters.	“ Vessel trading in Queensland waters ”—A vessel sailing from any port in Queensland and engaged in any fishery, or in trading between Queensland ports, or between any Queensland port and any island or islands belonging to or dependent on Queensland.

PART II.—
PURPOSES OF
THIS ACT.

PART II.—PURPOSES OF THIS ACT.

5. (1.) The purposes of this Act shall be the preservation and protection of aboriginals in the State of Queensland.
- Definition of aboriginals. (2.) The following persons shall be and be deemed to be “ aboriginals ” within the meaning of this Act, namely—
- (i.) Any aboriginal native of the mainland of Australia or of any islands in the territorial jurisdiction of Australia ;

1939. *Aboriginals Preservation and Protection Act.*

PART II.—
PURPOSES OF
THIS ACT.

- (ii.) Any person who has a preponderance of the blood of aboriginals as defined in paragraph (i.) hereof ;
- (iii.) Any half-blood declared by a judge or police magistrate or two or more justices after trial to be in need of the protection of this Act, and who is ordered to be so protected ;
- (iv.) Any half-blood who lives as wife or husband with an aboriginal as hereinbefore defined, or who habitually associates with aboriginals as so defined ; Half-bloods.
- (v.) Any resident of a reserve other than an official or person authorised by the protector ;
- (vi.) A child living on a reserve with a mother who is an aboriginal as hereinbefore defined :

Provided that an islander shall not be deemed to be an " aboriginal " within the meaning of this Act unless he is residing on a reserve.

(3.) The Director may, by writing under his hand in the prescribed form grant exemption from the provisions of this Act to any aboriginal who in his opinion, ought no longer to be subject to this Act, and thereupon such aboriginal shall no longer be subject to this Act : Exemption.

Provided that such exemption may be granted subject to such conditions as the Director may impose, including a condition that all money or property belonging to such aboriginal and held in trust by a protector shall continue to be held in trust by such protector for such time as may be determined by the Director.

(4.) The Director may at any time revoke any exemption, and thereupon the provisions of this Act shall apply to such aboriginal as if no exemption had ever been granted.

PART III.—ADMINISTRATION.

PART III.—
ADMINIS-
TRATION.

6. (1.) The Governor in Council may from time to time appoint a Director of Native Affairs who, subject to the Minister, shall be charged with the administration of this Act. Appoint-
ment and
powers of
Director of
Native
Affairs.

The Chief Protector of Aboriginals appointed under the repealed Acts shall without any further or other appointment be the Director of Native Affairs.

Annual
report.

(2.) The Director shall as soon as practicable, after the expiration of each calendar year, make a report in writing to the Minister respecting the administration of this Act, and such report shall forthwith be laid before Parliament if it be then sitting; and if not then sitting, within fourteen days after the commencement of the next session thereof.

Inquiries.

(3.) (a) The Director may make or cause to be made such inspections, investigations, and inquiries as he thinks fit in relation to any matters respecting the administration of this Act and shall make or cause to be made such inspections, investigations, and inquiries as are directed by the Minister or by this Act.

(b) When any inspection, investigation, or inquiry is made by the Director he shall for the purposes of making such inspection, investigation, or inquiry have and may exercise all the powers, authorities, protection, and jurisdiction of a commission under **"The Official Inquiries Evidence Acts, 1910 to 1929,"* and may enter and inspect any building, premises, or place the entry or inspection whereof appears to him requisite for the purposes of such inspection, investigation, or inquiry.

(c) When any inspection, investigation, or inquiry is directed to be made by the Minister or the Director, the person directed to make the same shall for the purposes of making such inspection, investigation, or inquiry have and may exercise all the powers, authorities, protection, and jurisdiction conferred upon the Director by this subsection.

(d) Where the Minister has directed an inspection, investigation, or inquiry, the Director shall as soon as possible furnish a full report of such inspection, investigation, or inquiry to the Minister.

(e) The person directed by the Director to make any inspection, investigation, or inquiry shall as soon as practicable furnish a full report of such inspection, investigation, or inquiry to the Director.

Deputy
Director of
Native
Affairs.

7. (a) The Governor in Council may from time to time appoint a Deputy Director of Native Affairs and/or an Assistant Director of Native Affairs.

* 1 Geo. V. No. 26 and amending Act, *supra*, pages 748 *et seq.*

1939. *Aboriginals Preservation and Protection Act.*

The Deputy Chief Protector of Aboriginals appointed under the repealed Acts shall without any further or other appointment be the Deputy Director of Native Affairs.

(b) The Deputy Director of Native Affairs or, in his absence the Assistant Director of Native Affairs, may subject to the Minister and the Director do and execute any power, authority, function, or jurisdiction of the Director.

(c) Any act, matter, or thing which the Director has power under this Act to do or omit to do shall, when done or omitted to be done by the Deputy Director of Native Affairs or the Assistant Director of Native Affairs, be deemed to be a lawful act or omission until the contrary is proved.

8. (1.) The Governor in Council may by Proclamation declare any portion or portions of the State to be a district or districts for the purposes of this Act, and may in like manner abolish or vary the boundaries of any district, or join any two or more districts together to form one district.

Proclama-
tion of
districts.

(2.) The Governor in Council may from time to time appoint fit and proper persons to be severally called "protectors of aboriginals" who 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 in the districts to which they are respectively assigned or, in the case of a protector specially authorised by the Director, in the district or districts to which such special authority relates.

Protectors of
aboriginals.

9. (1.) Every reserve shall be subject to this Act.

Reserves.

(2.) The Governor in Council may appoint a superintendent for each reserve within which such superintendent shall have and exercise the powers and duties prescribed, and such superintendent shall be a protector of aboriginals for his own reserve.

a. Appoint-
ment of
super-
intendents.

(3.) The Governor in Council may by Order in Council place any reserve under the management and control of a religious organisation.

Religious
organ-
isations.

Settlements.

(4.) The Governor in Council may establish on any reserve a settlement for the preservation and protection of aboriginals, and in addition to the superintendent may appoint such resident or visiting medical officers and such other officers as may be necessary.

Appoint-
ment of
visiting
justice to
reserve.

10. (1.) The Governor in Council may appoint a justice of the peace to be a visiting justice to a reserve for the inspection of the condition of aboriginals thereon.

(2.) The visiting justice shall at least once every three months visit the reserve to which he has been appointed and shall—

- (a) Inspect the villages and all schools, hospitals, dormitories, gaols, houses, and other buildings in which aboriginals are accommodated on such reserve ;
- (b) Investigate complaints by aboriginals upon the reserve ;
- (c) Inspect the records of punishments inflicted upon aboriginals by the aboriginal court or by the protector ;
- (d) Deal in a summary manner with complaints against aboriginals on reserves where no aboriginal court is established ;
- (e) Furnish a report to the Director within seven days after his inspection of the condition of all buildings, sanitation of the village and accommodation, discipline of aboriginals, conduct of staff and general welfare of the aboriginals upon the reserve, and on such other matters as the Director may require.

Reserves for
swim-divers.

11. The Governor in Council may from time to time by Proclamation set apart areas within the territorial waters of Queensland and reserve the same for aboriginals and/or islanders 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 aboriginal and/or islander 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 him.

12. 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. Regulations.

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

- (1) Defining the duties and powers of superintendents.
- (2) Providing for the preservation, detention, Control and supervision. control, and employment of aboriginals on reserves ; discipline and good order upon and the inspection of reserves.
- (3) Providing for the establishment of aboriginal Aboriginal courts. courts on reserves and the constitution and civil and/or criminal jurisdiction of such aboriginal courts and the procedure in respect of their jurisdiction, either civil or criminal :

Provided that the maximum pecuniary penalty which may be inflicted by any such court for any offence or breach of duty shall not exceed one pound 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 weeks.
- (4) Authorising the establishment of aboriginal Police. police on reserves, and prescribing the powers and duties of such police.
- (5) Providing for the establishment of aboriginal Gaols, &c. gaols on reserves, and the carrying-out therein of sentences of imprisonment imposed upon aboriginals by an aboriginal court.
- (6) Regulating the employment of aboriginals on vessels and elsewhere.
- (7) Providing for the care, custody, and education of the children of aboriginals.

- Welfare fund.
- (8) Prescribing the conditions on which aboriginal children may be apprenticed or placed in service.
- (9) Providing for the establishment of a welfare fund for the general benefit of aboriginals and the maintenance of such fund by the payment thereto of moneys earned by the sale of produce of reserves under the control of the State, proceeds of undertakings conducted on such reserves, contributions by aboriginals as may from time to time be prescribed, unclaimed moneys, and such other moneys as may from time to time be prescribed; the management, control, and disbursement of such fund.
- Trust funds.
- (10) Providing for the establishment of such trust funds as may be necessary for the control of the savings of aboriginals, estates of deceased and missing aboriginals and unclaimed moneys.
- (11) Prescribing a penalty not exceeding in any case twenty pounds for any breach of a regulation :
- Provided that a different maximum penalty may be prescribed according as to whether such offence is committed by an aboriginal or some other person.
- General.
- (12) All matters required or permitted by this Act to be prescribed.

Proclama-
tions,
Orders in
Council, and
regulations.

13. 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 force and 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.

1939. *Aboriginals Preservation and Protection Act.*

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 thereunder or to the making of any new Proclamation, Order in Council, or regulation, as the case may be.

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

PART IV.—PRESERVATION AND PROTECTION OF
ABORIGINALS.

PART IV.—
PRESERVATION
AND
PROTECTION
OF
ABORIGINALS.

Employment Generally.

14. (1.) No person shall employ an aboriginal without the permission of a protector. Permit to employ.

(2.) A protector may refuse to permit any person to employ an aboriginal. Protector may refuse permit.

(3.) Every person employing an aboriginal under the provisions of this Act shall forthwith upon permission being granted by a protector enter into a written agreement with such aboriginal in the presence of such protector, a person authorised by him, a justice of the peace, a member of the Police Force, or an officer of the Public Service. Every agreement relating to the employment of aboriginals under this Act shall be in the prescribed form and shall contain particulars of the names of the parties thereto, the nature of the service to be rendered by such aboriginal, the period during which such employment is to continue, the wages or other remuneration to be paid or given by the employer for such service, the nature of the food and accommodation to be provided for such aboriginal, and any other conditions which may be prescribed. To be employed under written agreement.

Every such agreement shall be attested by the protector or person authorised by him before whom it is entered into.

(4.) Every permit to employ an aboriginal shall remain in force for such period not exceeding twelve months as the protector may fix. Maximum period of employment.

PART IV.—
PRESERVATION
AND
PROTECTION
OF
ABORIGINALS.

Aboriginals Preservation and Protection Act. 3 GEO. VI. No. 6,

Minimum
wages and
conditions.

(5.) Unless otherwise approved by the Director, the wages payable to an aboriginal employed under this Act shall be not less than prescribed, nor shall the food, accommodation, and other necessaries be of lower standard than is prescribed.

Payment of
wages to
responsible
person.

(6.) A protector may direct employers or any employer to pay the whole or any portion of the wages of aboriginals to himself or some other person on his behalf, and any employer who fails to observe such direction shall be deemed to have not paid such wages.

Aboriginals
in
employment
to be subject
to
supervision.

(7.) The employer of an aboriginal shall permit any protector, or such other person as may be authorised by a protector, to have access to such aboriginal at all reasonable times for the purpose of making such inspection and inquiries as the protector may deem necessary.

Cancellation
of
agreement.

(8.) Any permit and/or agreement to employ an aboriginal may be cancelled at any time by a protector by writing under his hand :

Provided that no such agreement authorised by the Director shall be cancelled except by him.

Effect of
cancellation
of agree-
ment.

(9.) The cancellation of an agreement shall not entitle an employer to claim or recover any compensation for the loss of the services of the aboriginal concerned or to maintain any action in respect of any alleged loss or damage that may be occasioned by such cancellation.

Investiga-
tion of
complaint.

(10.) A protector may investigate any complaint made by either the employer or the employee of any breach of an agreement to employ any aboriginal or any complaint made by any employee under such agreement of ill-treatment by his employer.

If upon such investigation the protector is satisfied that the employer is at fault he may cancel such agreement in the manner set out in subsection eight of this section and remove the employee, but if he is satisfied that the employee is at fault he shall order such employee to return to work and to properly observe the conditions of such agreement.

Breaches by
employer or
employee.

(11.) Any employer who continues to employ any aboriginal after the cancellation of his agreement to employ shall be guilty of an offence and liable to a penalty of not more than fifty pounds ; and any employee

1939. *Aboriginals Preservation and Protection Act.*

PART IV.—
PRESERVATION
AND
PROTECTION
OF
ABORIGINALS.

who fails to comply with the order of a protector made pursuant to subsection ten hereof shall be guilty of an offence and shall be liable to a penalty of not more than two pounds.

(12.) Any person who causes or induces, or attempts to cause or induce, an aboriginal to leave any lawful employment without the consent of a protector shall be guilty of an offence. Inciting to desert.

(13.) If any aboriginal who is employed under this Act dies during the period of his employment, the employer within thirty days after the death, or if the deceased was employed on board of or in connection with a vessel within thirty days after the arrival of such vessel at any port in Queensland, shall transmit to the nearest protector notice in writing of such death under the hand of the employer, and containing such particulars as will enable the deceased to be identified. Death of employed aboriginals.

(14.) A protector shall not authorise the removal of any aboriginal from one district to another district, or to any place beyond Queensland, for any period exceeding twelve months, nor until the person desiring such removal enters into a recognisance with a surety, or sureties at the discretion of the protector, in a sum which the protector considers sufficient to defray all expenses of the return of such aboriginal to the place from which such aboriginal is to be removed, and to pay all wages due to such aboriginal during the period of absence : Recognisance on removal of aboriginal.

Provided that the Director of Native Affairs may, subject to this Act, grant a permit to remove an aboriginal to a place outside Queensland for a longer period than twelve months.

(15.) Every recognisance may be taken by a protector or officer in charge of police, and shall be in the prescribed form. Form recognisance.

(16.) Nothing in subsections fourteen and fifteen of this section shall apply to aboriginals employed on vessels whose conditions of employment for which they were engaged compel them to go from one district to another district. Saving.

(17.) In any proceeding under section fourteen or section fifteen of this Act the averment in the plaint, complaint, information, or statement of claim that any person named therein is an aboriginal shall be sufficient proof thereof until the contrary is proved. Onus of proof.

Employment on Vessels.

To be carried
on articles.

15. (1.) No aboriginal shall be employed or carried on board of any vessel trading in Queensland waters unless he is carried on the ship's articles in like manner as one of the crew of the vessel, and has been engaged to serve in accordance with the provisions of this Act.

Not to be
engaged
except in
the presence
of the
shipping
master.

(2.) No aboriginal shall be engaged to serve on board of or in connection with any such vessel for any voyage or period of time by any person other than the master thereof, nor shall any aboriginal be so engaged except in the presence and with the sanction of the shipping master of the port at or nearest to which such engagement is made.

Particulars
to be
entered in
register.

(3.) The shipping master shall enter particulars of every such engagement in a register book to be kept by him for that purpose, and the aboriginal and the master engaging him shall respectively sign their names in the book in testimony of such engagement.

Agreement
to be
explained
and attested.

(4.) Every agreement of hiring of an aboriginal for employment on a vessel shall be signed by him in the presence of the shipping master, who shall carefully explain the agreement to him or otherwise ascertain that he understands the same before he signs it, and shall attest the signature of such aboriginal.

Contents of
agreement.

(5.) Every such agreement shall contain particulars of the nature of the intended voyage or engagement and all particulars set out in subsection three of section fourteen of this Act.

Penalties.

(6.) If any vessel trading in Queensland waters carries any aboriginal with respect to whom the provisions of this Act have not been observed, the master and owner shall each be liable to a penalty not exceeding one hundred pounds.

To be
discharged
and paid
before
shipping
master.

(7.) Every aboriginal employed on board of or in connection with a vessel trading in Queensland waters, whether he was engaged before or is engaged after the commencement of this Act, shall be discharged in the presence of a shipping master, who shall collect all wages due to such aboriginal and pay such wages to a protector.

Master to
bring
aboriginal
back to port.

(8.) If any such vessel arrives in any port in Queensland having a less number of aboriginals on board than are carried on the ship's articles, the master and owner shall each be liable to a penalty not exceeding

1939. *Aboriginals Preservation and Protection Act.*

PART IV.—
PRESERVATION
AND
PROTECTION
OF
ABORIGINALS.

twenty-five pounds for every aboriginal so deficient in respect of whom such master or owner shall not prove to the satisfaction of the court that he has been prevented by circumstances beyond his control from bringing such aboriginal to such port.

(9.) If the master or owner of any such vessel or any other person discharges an aboriginal who has been employed on board of any such vessel or pays his wages otherwise than as is herein provided, he shall be liable to a penalty not exceeding twenty pounds. Penalty.

(10.) The employment of any aboriginal engaged on any vessel which does not proceed beyond the limits of the port at which he was engaged may be exempt from the provisions of this section at the discretion of the protector. Vessel within limits of port.

(11.) A protector may issue a permit to the master of a vessel trading in Queensland waters or to such agent of the master as he may approve to engage aboriginals for employment on such vessel and notwithstanding the provisions of **“The Pearl-shell and Béche-de-mer Fishery Acts, 1881 to 1931,”* may permit any aboriginals so engaged to be employed for any term not exceeding ninety days while proceeding to the nearest port for registration of their engagement in accordance with the provisions of this Act. Permit to engage crew.

(12.) No aboriginal shall be employed on any vessel under the provisions of this section without the permit of a protector granted in that behalf, and such permit shall be produced by the master of the vessel to the shipping master in whose presence the agreement of hiring is signed. Permit for employment as seamen, &c.

(13.) If any aboriginal employed on a vessel is taken by the master beyond the territorial limits of Queensland without the permission in writing of the protector, the master and owner of such vessel shall be jointly and severally liable to a penalty not exceeding twenty pounds. Employment beyond territorial limits.

(14.) If any aboriginal employed on board of or in connection with any vessel dies or deserts his employment all wages due to such aboriginal up to the date of such death or desertion shall be paid to the shipping master at the port of discharge for payment to the protector. Wages in event of death or desertion.

* 45 Vic. No. 2 and amending Acts, *supra*, pages 777 *et seq.*

PART IV.—
PRESERVATION
AND
PROTECTION
OF
ABORIGINALS.

Aboriginals Preservation and Protection Act. 3 GEO. VI. No. 6,

Employer to
return
discharged
seaman.

(15.) The employer of any aboriginal on a vessel shall within seven days from the date of his discharge return such aboriginal to the place from which he was brought for the purpose of being engaged and shall provide him with food and accommodation in accordance with the terms of the agreement covering his employment until he is returned to such place.

Protector
may return
discharged
seaman.

(16.) If any employer fails to comply with the provisions of the preceding subsection of this section, the protector may provide the aboriginal with food and accommodation and return him to the place from which he was brought for the purpose of being engaged, and the employer shall on demand pay to the protector a sum which the protector considers sufficient to defray all expenses so incurred; and the amount of such expenses may be recovered by the protector as a debt from any employer who fails to pay same on demand.

Care of Property.

Protector to
manage
property of
aboriginals.

16. (1.) The protector shall undertake the protection and management of the property of all aboriginals in the district assigned to him and, subject to the approval of the Director may—

- (a) Take possession of, retain, sell, or dispose of any property of an aboriginal, whether real or personal;
- (b) In his own name sue for, recover, or receive any money or other property due or belonging to an aboriginal, or damages for any conversion of or injury to any such property;
- (c) Exercise in the name of an aboriginal any power which the aboriginal might exercise for his own benefit;
- (d) In the name and on behalf of an aboriginal appoint any person to act as attorney or agent for an aboriginal for any purpose connected with the property of the aboriginal;
- (e) Require a statement from any person or persons who have had contractual, financial, or property dealings with an aboriginal within the previous twelve months:

The protector shall keep proper records and accounts of all moneys and other property and the proceeds thereof received or dealt with by him under the provisions

1939. *Aboriginals Preservation and Protection Act.*

PART IV.—
PRESERVATION
AND
PROTECTION
OF
ABORIGINALS.

of this section, and shall for such purpose be deemed to be a public accountant within the meaning of **“The Audit Acts, 1874 to 1936”* (or any Act amending or in substitution for those Acts).

(2.) Notwithstanding any Act or law to the contrary, no testamentary instrument or deed of gift or transfer of any land or other property executed by an aboriginal shall be valid or of any effect whatsoever unless it shall have been approved and witnessed by the Director or a protector or officer authorised in that behalf by the Director.

Consent of
protector
to wills, &c.

Any person who knowingly causes or induces an aboriginal to execute any such document otherwise than in accordance with this subsection shall be guilty of an offence and liable to a penalty of not more than one hundred pounds.

(3.) (a) Notwithstanding the provision of any Act or law to the contrary, the Director shall administer the estate of any deceased or missing aboriginal and, in the absence of a will made in accordance with this Act, shall decide which person or persons shall be entitled to succeed to such estate or any part of such estate in such order as may be prescribed.

Estates of
deceased
and
missing
aboriginals.

(b) Where there is no person entitled according to the order so prescribed to succeed to the estate of any deceased or missing aboriginal such estate shall vest in the Director for the benefit of aboriginals generally.

(c) A certificate under the hand of the Director shall be conclusive evidence as to the person or persons entitled to succeed to the estate of any deceased or missing aboriginal or that there is no person or persons so entitled.

(d) No person shall have any right or remedy to or against any property or money held by a protector for or on behalf of any aboriginal or any estate of a deceased or missing aboriginal on account of any debt due and owing to such person by such aboriginal or deceased or missing aboriginal for or on account of any money lent or goods supplied to him on credit unless such money or goods have been so lent or supplied with the prior consent of a protector.

Debts.

* 38 Vic. No. 12 and amending Acts, *supra*, pages 74 *et seq.*

The provisions of this paragraph shall apply to any money or property held by a protector for and on behalf of any aboriginal exempted under the provisions of subsection three of section five of this Act.

Maintenance of Children.

Father
liable to
contribute
to support of
child.

17. (1.) In all cases where any child whose mother is an aboriginal, and whose age does not exceed sixteen years, is being maintained at the cost of the State or the mother of the child, the father of such child shall, according to his ability, pay or contribute to the support of such child while it continues to be so maintained. Upon the complaint of a protector or other person authorised in that behalf by the Director that any person is the father of any such child and is able to pay or contribute towards the maintenance or past maintenance of such child, such person may be summoned to appear before a court of petty sessions at a time and place to be named in the summons.

(2.) If the court is satisfied that the person summoned is the father of such child and is able to pay for or contribute towards the past or future maintenance of such child, the court may order payment to be made by such person to the Director as it thinks fit—

- (a) Of such sum for past maintenance of the child as seems sufficient; and
- (b) Of such sum for future maintenance and for such period as seems sufficient,

but not being in either case more than ten shillings per week :

Provided that no man shall be taken to be the father of any such child which is illegitimate upon the oath of the mother only.

(3.) Any court of petty sessions, on the complaint of any such father or of a protector while the first or any subsequent order continues in force, may make further inquiry into such father's ability to contribute as aforesaid, and may remit or lessen the amount of the weekly payment that has been adjudged by the last preceding order, or may increase the same if it sees cause so to do, so that the amount shall not in any case exceed the weekly sum hereinbefore mentioned.

1939. *Aboriginals Preservation and Protection Act.*

PART IV.—
PRESERVATION
AND
PROTECTION
OF
ABORIGINALS.

(4.) Whenever, after the making of any such order as aforesaid, it is made to appear to any justice, by a complaint in writing and upon oath, that any weekly sum to be paid in pursuance thereof has not been paid, or that any father named in such order is about to leave Queensland, or remove from his usual place of residence, without having first notified his intention to the clerk of petty sessions officiating at the court at which the order was made, or without having made due provision for the payment of such weekly sum, such justice may by warrant cause such father to be brought before a court of petty sessions to answer the complaint.

(5.) On the return of such warrant the court shall proceed to hear the matter of the complaint, and if the same is proved to be true shall proceed to levy or enforce payment of the said weekly sums by distress or imprisonment for any period not exceeding three months.

(6.) All contributions and enforced payments under this section towards the support of a child shall be paid to the Director, who shall administer all such moneys for the benefit or support of the said child.

(7.) Nothing in this section shall prejudice any right or remedy which might be had or exercised under **“The State Children Acts, 1911 to 1928,”* in respect of any child hereinbefore mentioned.

Guardianship of Minors.

18. (1.) The Director shall be the legal guardian of every aboriginal child in the State while such child is under the age of twenty-one years, notwithstanding that any parent or relative of such child is still living, and may exercise all or any powers of a guardian where in his opinion the parents or relatives are not exercising their own powers in the interests of the child. Guardian-ship and adoption.

(2.) The Director may in this capacity consent or refuse to consent to the marriage of any aboriginal who is under the age of twenty-one years.

(3.) Notwithstanding anything contained in †*“The Adoption of Children Act of 1935”* the Director may, subject to such conditions as may be prescribed, execute agreements between or on the part of aboriginals in the

* 2 Geo. V. No. 11 and amending Acts, *supra*, pages 5076 *et seq.*

† 26 Geo. V. No. 7, *supra*, page 15350.

State of Queensland for the legal custody of aboriginal children by aboriginals or other persons who in his opinion are suitable persons to be given legal custody of such children.

Marriages.

Marriages.

19. (1.) (a) No marriage of an aboriginal with any person other than an aboriginal shall be celebrated without the permission in writing of the Director or of a protector especially authorised by the Director to give such permission.

(b) No marriage between aboriginals shall be celebrated without the permission of the protector of the district in which the parties to such marriage reside or, if the parties reside in different districts, of the protector of the district in which the female resides.

(c) In the case of aboriginals on a reserve, authority to so permit may be vested in the superintendent of the reserve.

(d) Any person who celebrates any marriage in contravention of this section, and/or any person who by giving false information causes any marriage to be celebrated in contravention of this section, shall be guilty of an offence.

Rights of
children of
tribal
marriages.

(2.) Where an aboriginal man and woman have lived together as husband and wife in accordance with recognised tribal practice the children of such union shall be regarded as legitimate, and the fact that such tribal marriage was not at any material time legally registered shall not prejudice the claim of the surviving member or the children of such union to succeed to the estate of the deceased member or to the benefit of any damages or workers' compensation which would be payable in respect of the death of the deceased member to such surviving member or children if such union were a lawful marriage.

Contagious Disease.

Contagious
disease.

20. (1.) If a protector suspects that any aboriginal is infected with any contagious disease he may order such aboriginal to submit himself or herself to medical examination.

Medical
attention.

(2.) A protector may order any aboriginal who upon medical examination is found to be infected with a contagious disease to personally attend or cause

1939. *Aboriginals Preservation and Protection Act.*

PART IV.—
PRESERVATION
AND
PROTECTION
OF
ABORIGINALS.

himself or herself to be attended by a medical practitioner until he or she has received a certificate of cure or apparent freedom from disease. Such attendances shall be made as instructed by the medical practitioner.

(3.) If any aboriginal fails or refuses to comply with any order under this section he or she shall be guilty of an offence and liable to a penalty of not more than five pounds.

Removal of Camps.

21. If at any time he thinks it necessary so to do, the protector may cause any aboriginals who are camped or are about to camp within or near the limits of any township or place to which in his opinion they should not be permitted to have access to remove their camp or proposed camp to such other place at such distance from such township or place as he may direct, and all police officers shall assist the protector in carrying out the provisions of this section.

Removal of
camps in or
near
townships.

Removal of Aboriginals to Reserves.

22. (1.) The Director may by writing under his hand from time to time cause any aboriginal, save and except an aboriginal to whom this section does not apply, to be removed from any district to a reserve and kept there for such time as may be ordered by the Director.

Removal
to reserve.

(2.) This section shall not apply to any aboriginal who is—

- (a) Lawfully married to and residing with a person who is not an aboriginal;
- (b) A half-blood child living with and supported by a parent of such child who is not subject to this Act.

(3.) The Director may release any aboriginal who is being kept on a reserve under this section.

Release
from reserve.

(4.) The Director may by writing under his hand from time to time cause any aboriginal on a reserve to be removed to another reserve and kept there.

Removal
from reserve
to reserve.

(5.) Any order issued by the Director for the removal of an aboriginal to a reserve or from one reserve to another reserve shall be sufficient authority for any protector, or any person acting under the authority

Director's
order
sufficient
authority.

PART IV.—
PRESERVATION
AND
PROTECTION
OF
ABORIGINALS.

Aboriginals Preservation and Protection Act. 3 GEO. VI. No. 6,

of the Director or a protector, or any officer of police to arrest such aboriginal and to remove him to the reserve named in such order and for the superintendent or other person in charge to keep him there during the period directed by such order.

Injurious Customs.

Injurious
customs.

23. If in the opinion of a protector or superintendent any customs or practices followed by aboriginals on a reserve are of such nature as to be injurious to the health and well-being of such or any other aboriginals or a menace to the peace and good order of the reserve he may prohibit such practices or customs.

Any aboriginal who contravenes any such prohibition shall be guilty of an offence.

Opium and Liquor.

Opium or
liquor, &c.
in
possession.

24. Any aboriginal who knowingly receives or has in his possession any opium or liquor shall be guilty of an offence and liable to a penalty of not more than five pounds or imprisonment not exceeding fourteen days.

PART V.—
OFFENCES BY
PERSONS
OTHER THAN
ABORIGINALS.

PART V.—OFFENCES BY PERSONS OTHER THAN
ABORIGINALS.

Harbouring and Illegal Employment of Aboriginals.

Harbouring,
illegal
employment
of
aboriginals
prohibited.

25. Any person who employs an aboriginal otherwise than in accordance with the provisions of this Act or who, without the permit of a protector, suffers or permits an aboriginal to be in or upon any house or premises in his occupation or under his control, shall be guilty of an offence and liable, (unless the offence is one for which this Act prescribes some other penalty) to a penalty not exceeding fifty pounds and not less than ten pounds, or to imprisonment for any term not exceeding six months.

Illegal Removal from District or State.

Prohibition
of removal
of
aboriginals
from one
district to
another or
beyond the
State.

26. Any person who without the authority of a protector by writing under his hand removes, or causes to be removed, an aboriginal from one district to another district or to any place beyond the State, shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds, or to imprisonment for any term not exceeding six months.

1939. *Aboriginals Preservation and Protection Act.*

PART V.—
OFFENCES
BY PERSONS
OTHER THAN
ABORIGINALS.

This section shall not apply in the case of an aboriginal removed from one district to another by his employer when such removal is authorised by the permit and agreement under this Act pursuant to which he is employed.

Possession of Blankets.

27. Every blanket or other article of clothing or relief issued by an officer of the Government to any aboriginal shall be and remain the property of His Majesty, and any person other than an aboriginal who has in his possession or custody any blanket or other article or any portion of any blanket or other article which shall reasonably appear to the adjudicating court, from the marks thereupon or otherwise, to have been so issued for the use of an aboriginal shall be guilty of an offence and liable to a penalty not exceeding ten pounds.

Possession of blanket, &c., issued to an aboriginal a punishable offence.

Supplying Liquor.

28. Any person who supplies or causes or permits to be supplied any liquor to an aboriginal, except for *bona fide* medicinal purposes, proof of which shall be on the person accused, shall for every such offence be liable to a penalty not exceeding fifty pounds or to imprisonment for any term not exceeding three months.

Penalty for supplying liquor to aboriginals.

Carnal Knowledge of Females.

29. (1.) Any male person, other than an aboriginal who—

Offences :
carnal
knowledge,
&c.

- (a) Cohabits with or has or attempts to have carnal knowledge of any female aboriginal ; or
- (b) Consorts for immoral purposes with any female aboriginal ; or
- (c) Procures or induces or attempts to procure or induce any female aboriginal to have carnal knowledge either with such person or any other person ; or
- (d) Solicits or importunes for immoral purposes on behalf of any female aboriginal,

shall be guilty of an offence and liable to a penalty of not more than fifty pounds or to imprisonment for any period not exceeding six months.

(2.) It shall be a defence to a charge of an offence against either paragraph (a) or (b) of subsection one of this section for the person charged to prove that he is lawfully married (otherwise than by tribal marriage) to the female aboriginal concerned.

(3.) Proceedings shall not be instituted for a breach of this section except upon the direction of the Director.

Illegally Frequenting Camps.

Persons
prohibited
from
frequenting
camps, &c.

30. It shall not be lawful for any person other than a superintendent or protector, or person acting under the direction of a superintendent or under the written permit of a protector, without lawful excuse to enter or remain or be within or upon any place where any aboriginals are camped. Any person, save as aforesaid, who without lawful excuse, the proof whereof shall lie upon him, is found in or within five chains of any such camp shall be guilty of an offence and liable to a penalty not exceeding fifty pounds or to imprisonment for any period not exceeding three months:

Provided that no person shall be prosecuted for an offence against this section except by the direction of the Director.

Trespass on Reserves.

Persons
who are
prohibited
from
entering
a reserve.

31. (1.) It shall not be lawful for any person other than an aboriginal, not being a superintendent or a person acting under his direction, and not being a person authorised under the regulations, to enter or remain or be within the limits of a reserve upon which aboriginals are residing for any purpose whatever.

(2.) Any person without lawful excuse entering or remaining or being upon such reserve as aforesaid, or who, without lawful authority aids or abets an aboriginal who is being kept or detained on a reserve under this Act in leaving or escaping from the reserve without lawful permission shall, for every such offence, be liable to a penalty not exceeding fifty pounds, or to imprisonment for any term not exceeding three months, and the proof of such lawful excuse or authority shall be on the person charged.

1939. *Aboriginals Preservation and Protection Act.*

PART V.—
OFFENCES
BY PERSONS
OTHER THAN
ABORIGINALS.

Unauthorised Mining on Reserves.

32. (1.) Notwithstanding the provisions of **The Mining Act of 1898*” (or of any Act amending or in substitution for that Act) no holder of a miner’s right shall be entitled to enter or remain or be within the limits of any reserve for aboriginals except under the written permit of the protector. Mining on reserves for aboriginals without permit prohibited.

A protector may cancel any such permit as aforesaid issued by him.

In all cases where such permit is refused or cancelled, such holder of a miner’s right shall have the right to appeal to the Director, who may confirm or reverse the decision of the protector. Any person who, without a subsisting permit as aforesaid, or without lawful excuse, the proof whereof shall lie upon him, is found upon any such reserve shall be liable to a penalty not exceeding fifty pounds or to be imprisoned for any period not exceeding three months.

(2.) Every application for a mining lease for any area within a reserve shall be referred to the Director before approval.

33. (1.) No person shall remove any natural, primary, or manufactured product from an aboriginal reserve without the authority of the superintendent or of the Director, and no person shall purchase, lease, hire, rent, or receive by barter or otherwise any product or property whatsoever from any reserve without the authority of the superintendent or the Director. Illegal removal of products of reserves.

(2.) No person, without the written authority of a protector, shall supply, sell, lease, or hire to, or in any manner place under the control of, or buy, lease, rent, or receive by barter or otherwise from an aboriginal upon a reserve any property whatsoever, and no person shall trade in any manner with an aboriginal upon a reserve without the authority of the superintendent. Illegal trading.

(3.) Any person who, without lawful authority, permit, or excuse, the proof whereof shall lie upon him, is guilty of any contravention of subsection one or subsection two of this section shall be liable to a penalty not exceeding fifty pounds or to imprisonment for any period not exceeding three months. Penalty.

* 62 Vic. No. 24, *supra*, page 2178.

*Legal Proceedings.*Admission
of guilt by
aboriginal.

34. (1.) (a) No admission of guilt or confession before trial shall be sought or obtained from any aboriginal charged or suspected of any crime, misdemeanour, or offence indictable or otherwise in the first instance. If any such admission or confession is obtained it shall not be admissible or received in evidence.

When
female
aboriginal
not com-
pellable
witness.

(b) When a male and female aboriginal are living together at the time when the male aboriginal commits a crime, misdemeanour, or offence indictable or otherwise, and are likely to continue in such relationship, the female aboriginal shall not be a compellable witness against the male aboriginal.

Pleas by
aboriginal.

(2.) Except as in subsection three hereof provided, no court, judge, or justice shall accept or allow to be recorded or entered any plea of guilty when pleaded by or on behalf of an aboriginal to any indictment, complaint, or charge for or of any crime, misdemeanour, or offence indictable or otherwise preferred against such aboriginal; and in the event of any aboriginal pleading guilty to any such indictment, complaint, or charge, the court, judge, or justice before which or before whom the plea is pleaded shall reject the same and order a plea of not guilty to be recorded or entered, and thereupon the trial shall proceed as if the accused aboriginal had pleaded not guilty in the first instance; and no reference or comment shall be made or permitted during the course of the proceedings and trial to or upon the fact that the accused aboriginal originally pleaded guilty to the indictment, complaint, or charge.

(3.) Notwithstanding subsections one or two hereof, a plea of guilty by or on behalf of an aboriginal may, subject to a note in writing of the circumstances being made by the presiding judge or justice, be accepted and acted upon if the same is pleaded in the presence and hearing of a protector, and the protector satisfies such judge or justice that the accused aboriginal understands the nature of the accusation against him and is aware of his right to trial and, without duress or pressure of any sort, desires to plead guilty, and that the protector approves of such plea of guilty being pleaded.

1939. *Aboriginals Preservation and Protection Act.*

PART V.—
OFFENCES
BY PERSONS
OTHER THAN
ABORIGINALS.

(4.) Any protector may address the court or the jury on behalf of an aboriginal indicted for or charged with any crime, misdemeanour, or offence and examine and cross-examine the witnesses.

(5.) Nothing in this section shall relate to proceedings before an aboriginal court.

Jurisdiction of Justices.

35. (1.) Any court of petty sessions may, notwithstanding any Act to the contrary, hear and determine any complaint for any offence against the provisions of this Act at any place within Queensland where the offender may be or where any vessel connected with any such offence may be found, or at any place within Queensland appointed for holding courts of petty sessions, and may make orders for the safe keeping, detention, seizure, or sale of such vessel and all things found thereon as such court thinks fit.

Jurisdiction
of justices,
&c.

(2.) If any person appears to a protector to have committed any such offence, the protector may, by written order under his hand, direct the offender, and if necessary the vessel to which he belongs, and the master or the whole or any of the crew or passengers thereof, to proceed to the nearest convenient place at which a court of petty sessions is held, and such court may hear and determine the matter in a summary manner. The protector may order the detention of any such vessel until the alleged offence has been adjudicated upon.

(3.) Any person who disobeys any order of a protector made under this section shall be liable to a penalty not exceeding twenty pounds, or to be imprisoned for any period not exceeding two months.

Penal Proceedings.

36. (1.) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence and liable, if no specific penalty is provided, to a penalty of not more than twenty pounds.

General
penalty.

(2.) All penalties under this Act shall be recoverable in a summary way under **"The Justices Acts, 1886 to 1932."*

Recovery of
penalties.

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

It shall be a defence to an aboriginal who is so charged to prove that he has already been convicted of the offence with which he is charged by an aboriginal court of competent jurisdiction.

Burden of
proof of age
of consent.

(3.) In any prosecution under sections two hundred and twelve, two hundred and thirteen, two hundred and fourteen, and two hundred and fifteen of **The Criminal Code*," the averment that any aboriginal girl is of or under any specified age need not be proved. It is a defence to a charge of any of the offences defined in these sections to prove that such girl had developed a state of puberty; and such proof shall be an absolute rebuttal and avoidance of any averment as to her age.

Aiding and Abetting Offences.

Penalty for
aiding and
abetting
offence.

37. Every person who—

- (a) Does or omits to do, or attempts to do or to omit to do, any act for the purpose of enabling or aiding an aboriginal to commit an offence against this Act; or
- (b) Aids or attempts to aid an aboriginal in committing an offence against this Act; or
- (c) Counsels or procures, or attempts to counsel or procure, or by any threat or promise induces or attempts to induce any aboriginal to commit an offence against this Act; or
- (d) Assaults, resists, intimidates, or obstructs, or counsels, procures, or incites any other person (whether an aboriginal or not) to assault, resist, intimidate, or obstruct, any protector, officer of police, medical practitioner, or other person in the exercise of his powers or in the discharge of his duties under this Act, or attempts so to do,

shall be guilty of an offence and liable to a penalty of not more than fifty pounds, or in the discretion of the court to imprisonment for any period not exceeding six months.

* 63 Vic. No. 9, Sch. I., *supra*, page 344.

1939. *Aboriginals Preservation and Protection Act.*

PART V.—
OFFENCES
BY PERSONS
OTHER THAN
ABORIGINALS.

Institution of Proceedings ; Averment as Evidence.

38. (1.) All actions and proceedings against any person for the recovery of any wages due to an aboriginal who is, or has been, employed by such person under the provisions of this Act, or for any breach of an agreement entered into by such person under the provisions of this Act, may be instituted and carried on by, or in the name of, a protector, or by, or in the name of, any other person authorised by the Director by writing under his hand.

Persons by whom certain proceedings may be instituted.

(2.) Every complaint for an offence against the provisions of this Act or the regulations may be made or laid by a protector or superintendent, or by a member of the Police Force, and the prosecution may be conducted by the person by whom the complaint is so made or laid.

Persons by whom certain complaints may be made.

(3.) In any proceedings the averment that an aboriginal was removed to and is or was being detained on a reserve under the authority of this Act, shall sufficiently prove the subject-matter of the averment until the contrary is proved.

Averment as to removal of aboriginal to a reserve.

(4.) In every prosecution for an offence against any of the provisions of this Act relating to an aboriginal, the averment in the complaint that any person named therein is an aboriginal shall be sufficient evidence of the fact unless the contrary is proved.

Averment in complaint sufficient evidence of certain matters.

SCHEDULE.

Aboriginals Preservation and Protection Act. 3 GEO. VI. No. 6, 1939.

SCHEDULE.

Date of Act.	Title of Act.	Extent of Repeal.
48 Vic. No. 20 ..	" <i>The Native Labourers' Protection Act of 1884</i> "	The whole Act.
61 Vic. No. 17 ..	" <i>The Aboriginals Protection and Restriction of the Sale of Opium Act, 1897</i> "	The whole Act.
2 Edw. VII. No. 1 ..	" <i>The Aboriginals Protection and Restriction of the Sale of Opium Act, 1901</i> "	The whole Act.
18 Geo. V. No. 24 ..	" <i>The Aboriginals Protection and Restriction of the Sale of Opium Acts Amendment Act of 1927</i> "	The whole Act.
19 Geo. V. No. 20 ..	" <i>The Aboriginals Protection and Restriction of the Sale of Opium Act Amendment Act of 1928</i> "	The whole Act.
25 Geo. V. No. 38 ..	" <i>The Aboriginals Protection and Restriction of the Sale of Opium Acts Amendment Act of 1934</i> "	The whole Act.