

Queensland.



An Act to make Provision for the better Protection and Care of the Aboriginal and Half-caste Inhabitants of the Colony, and to make more effectual Provision for Restricting the Sale and Distribution of Opium.

61 Vic. No. 17.
THE
ABORIGINALS
PROTECTION
AND
RESTRICTION
OF THE SALE
OF OPIUM ACT.

[ASSENTED TO 15TH DECEMBER, 1897.]

WHEREAS it is desirable to make provision for the better protection and care of the aboriginal and half-caste inhabitants of the Colony: And whereas great and widespread injury is being caused to the aboriginal and half-caste and certain other inhabitants of the Colony by the consumption of opium: And whereas the restrictions heretofore imposed by law upon the sale and distribution of opium are found to be insufficient, and it is expedient to make more effectual provision for restricting such sale and distribution, and for preventing the evils arising therefrom: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same as follows:—

1. This Act shall be styled, and may be cited as, "*The Aboriginals Protection and Restriction of the Sale of Opium Act, 1897*," and shall commence and take effect on and from the first day of January, one thousand eight hundred and ninety-eight.

Short title
and com-
mencement.

2. The Acts mentioned in the Schedule hereto are hereby repealed, to the extent mentioned in the third column of the said Schedule, except as to anything lawfully done thereunder before the commencement of this Act, and except so far as may be necessary for the purpose of supporting and continuing any proceeding taken, or of prosecuting or punishing any person for any offence committed before the commencement of this Act.

Repeal.

Interpreta-
tion.

3. The following terms shall, in this Act (unless the context otherwise indicates), bear the several meanings set against them respectively :—

“ 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 aboriginal inhabitants of the Colony, under the provisions of any law in force in Queensland relating to Crown lands ;

“ Minister ”—The Home Secretary or other Minister of the Crown administering this Act ;

“ Protector ”—A Protector of Aboriginals appointed under the provisions of this Act ;

“ Superintendent ”—A Superintendent appointed under the provisions of this Act for any Reserve ;

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

“ Regulations ”—Regulations made under this Act ;

“ Prescribed ”—Prescribed by this Act or the Regulations under it ;

“ Liquor ”—Liquor as defined by “ *The Licensing Act of 1885*,” and any Act amending the same ;

“ Opium ”—Opium, whether in the form of gum or liquid, and every substance, whether solid or liquid, which contains opium, not being a substance compounded exclusively for medicinal purposes, and every substance which is or contains the ash of opium, or charcoal of opium ;

“ Half-caste ”—Any person being the offspring of an aboriginal mother and other than an aboriginal father: Provided that the term “ half-caste,” wherever it occurs in this Act elsewhere than in the next following section, shall, unless the context otherwise requires, be construed to exclude every half-caste who, under the provisions of the said section, is deemed to be an aboriginal.

Persons
deemed to be
aboriginals.

4. Every person who is—

(a) An aboriginal inhabitant of Queensland; or

(b) A half-caste who, at the commencement of this Act, is living with an aboriginal as wife, husband, or child; or

- (c) A half-caste who, otherwise than as wife, husband, or child, habitually lives or associates with aboriginals ;

shall be deemed to be an aboriginal within the meaning of this Act.

5. The Governor in Council may, by Proclamation, declare any portion or portions of the Colony to be a District, or Districts, for the purposes of this Act. Proclamation of Districts.

6. The Governor in Council may from time to time appoint, for the purpose of carrying the provisions of this Act into effect, fit and proper persons, to be severally called "Protector of Aboriginals," who shall, within the Districts respectively assigned to them, have and exercise the powers and duties prescribed. Protectors to be appointed.

7. The Governor in Council may appoint such and so many Superintendents for the reserves, situated within such Districts as aforesaid, as may be necessary for carrying the provisions of this Act into effect. Superintendents to be appointed.

8. Every reserve shall be subject to the provisions of this Act and the Regulations. Reserves to be subject to Act and Regulations.

9. It shall be lawful for the Minister to cause every aboriginal within any District, not being an aboriginal excepted from the provisions of this section, to be removed to, and kept within the limits of, any reserve situated within such District, in such manner, and subject to such conditions, as may be prescribed. The Minister may, subject to the said conditions, cause any aboriginal to be removed from one reserve to another. Aboriginals may be removed to reserves.

10. Every aboriginal who is—

- (a) Lawfully employed by any person under the provisions of this Act or the Regulations, or under any other law in force in Queensland ; Aboriginals excepted from liability to removal to a reserve.
- (b) The holder of a permit to be absent from a reserve ; or
- (c) A female lawfully married to, and residing with, a husband who is not himself an aboriginal ;
- (d) Or for whom in the opinion of the Minister satisfactory provision is otherwise made ;

shall be excepted from the provisions of the last preceding section.

Persons who
are prohibited
from entering
a reserve.

11. 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.

Any person, without lawful excuse, entering or remaining or being upon such reserve as aforesaid, shall, for every such offence, be liable on conviction to a penalty not exceeding fifty pounds, or to imprisonment for any term not exceeding three months, and the proof of such lawful excuse shall be on the person charged.

Aboriginals
and half-
castes may be
employed.

12. A Protector may permit any aboriginal or half-caste who, before the commencement of this Act, was employed by any trustworthy person, to continue to be so employed by such person, and, in like manner, may permit any aboriginal or half-caste not previously employed to be employed by a like person.

Duration,
renewal, and
revocation of
permit.

13. Every permit, so granted as aforesaid, shall remain in force for twelve months only, but may at any time, before the expiration of such period, be renewed for any period not exceeding twelve calendar months, to commence from the expiration of the previous period of twelve months, and so, from time to time, so long as such aboriginal or half-caste is willing to continue to be employed by such person. Any such permission as aforesaid may be revoked at any time by a Protector by writing under his hand, and thereupon, if such related to an aboriginal, such aboriginal may be removed, by order of the Protector under and subject to the conditions prescribed, to a reserve, or, at the discretion of the Protector, the aboriginal or half-caste to whom such license related may be permitted, in like manner, to enter the employment of some other such trustworthy person as aforesaid. Such revocation shall not entitle any such employer to claim or recover any compensation for the loss of the service of such aboriginal or half-caste, or to maintain any action in respect of any alleged loss or damage that may be occasioned by such revocation.

Harbouring
of aboriginals
and female
half-castes
prohibited.

14. Any person who, except under the provisions of any Act or Regulations thereunder in force in Queensland, employs an aboriginal or a female half-caste, otherwise than in accordance with the provisions of this Act or the Regulations, or suffers or permits an aboriginal or a female half-caste to be in or upon any house or premises in his occupation or under his control, shall be guilty of an offence against this Act, and shall be liable, on conviction,

to a penalty not exceeding fifty pounds and not less than ten pounds, or to imprisonment for any term not exceeding six months.

15. Every person desirous of employing an aboriginal or female half-caste under the provisions of this Act, shall forthwith, upon permission being granted by a Protector, enter into an agreement with such aboriginal or female half-caste, in the presence of any justice of the peace or member of the Police Force, for any period not exceeding twelve months. Every such agreement shall contain particulars of the names of the parties thereto, the nature of the service to be rendered by such aboriginal or female half-caste, 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 accommodation to be provided for such aboriginal or female half-caste, and the conditions on which the agreement may be determined by either party. Every such agreement shall be in duplicate and be attested by such justice or member of the Police Force, who shall forthwith forward one of the said agreements to the nearest Protector.

Aboriginals and female half-castes to be employed under written agreement.

16. Every aboriginal or female half-caste employed by any person, under the provisions of this Act, shall be under the supervision of a Protector, or such other person as may be authorised in that behalf by the Regulations; and every employer of such aboriginal or female half-caste shall permit any Protector, or such other person as aforesaid, to have access to such aboriginal or female half-caste at all reasonable times, for the purpose of making such inspection and inquiries as he may deem necessary.

Aboriginals and female half-castes in employment to be subject to supervision.

17. Any person who, without the authority of a Protector, by writing under his hand, removes, or causes to be removed, an aboriginal or female half-caste from one District to another District, or to any place beyond the Colony, shall be guilty of an offence against this Act, and shall be liable, on conviction, to a penalty not exceeding one hundred pounds, or to imprisonment for any term not exceeding six months.

Prohibition of removal of aboriginals from one District to another or beyond the Colony.

18. Every blanket issued by an officer of the Government to any aboriginal or half-caste shall be and remain the property of Her Majesty, and any person, other than an aboriginal or half-caste, who has in his possession or custody any such blanket or portion thereof which shall reasonably appear to the justices, from the marks thereupon or otherwise, to have been so issued for the use of an

Possession of blanket, &c., issued to an aboriginal or half-caste a punishable offence.

aboriginal or half-caste, shall be guilty of an offence against this Act, and shall be liable, on conviction, to a penalty not exceeding ten pounds.

Penalty for
supplying
liquor to
aboriginals
and
half-castes.

19. Any person who supplies, or causes or permits to be supplied, any liquor to an aboriginal or a half-caste, 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, and in every case to the costs of the conviction. In the case of a licensed victualler or wine-seller who is convicted of such offence, the penalty, by this section provided, shall be substituted for the penalty provided in respect of such offence by the sixty-seventh section of "*The Licensing Act of 1885.*"

Persons
supplying
opium to
aboriginals
or half-castes,
guilty of a
punishable
offence, and
penalty
therefor.

20. Any person who supplies, or causes or permits to be supplied, any opium to an aboriginal or a half-caste, shall be guilty of an offence against this Act, and shall be liable, on conviction, for the first offence, to a penalty not exceeding one hundred pounds and not less than twenty pounds, one-half of which shall be paid to the person giving the information which leads to such conviction, or to imprisonment for any term not exceeding three months, and for the second and every subsequent offence to imprisonment for any term not exceeding six months, and in every case to the costs of the conviction.

Possession or
sale of opium
by certain
persons
unlawful.

21. Notwithstanding anything in "*The Sale and Use of Poisons Act, 1891,*" to the contrary contained, it shall not be lawful for any person, not being a legally qualified medical practitioner, or a pharmaceutical chemist, or a wholesale dealer in drugs, to sell, or in any manner dispose of, deliver, or supply, opium to any other person, or to have or keep in his possession any opium for any purpose whatever; and it shall not be lawful for any legally qualified medical practitioner or pharmaceutical chemist, residing or carrying on business at a greater distance, by the nearest practicable road, than one hundred miles from Brisbane, Rockhampton, or Townsville, to have or keep in or upon any premises in his occupation or under his control, at any one time, any greater quantity of opium than two pounds weight avoirdupois :

Provided that it shall not be unlawful for a common carrier to have in his possession opium, for the purpose of conveying the same, for delivery to the person to whom it has been lawfully consigned.

22. Any person who unlawfully has in his possession any opium, or unlawfully sells, or in any manner disposes of, delivers, or supplies opium to any person other than an aboriginal or a half-caste, shall, for every such offence, be liable, on conviction, to a penalty not exceeding fifty pounds, one-half of which shall be paid to the person giving the information which leads to such conviction. Any legally qualified medical practitioner or pharmaceutical chemist, residing or carrying on business at a greater distance, by the nearest practicable road, than one hundred miles from Brisbane, Rockhampton, or Townsville as aforesaid, who has or keeps, in or upon any premises in his occupation or under his control, any greater quantity of opium than two pounds weight avoirdupois, shall be liable, on conviction, for the first offence, to a penalty not exceeding fifty pounds and not less than ten pounds, and for the second, and every subsequent, offence to imprisonment for any term not exceeding six months.

Penalty for unlawful possession or sale or delivery of opium.

23. Upon complaint made or laid on oath, before any justice of the peace, by any person, that he believes that opium is kept or concealed in any house, building, or place, contrary to any of the provisions of this Act, whether by a person authorised under the provisions of "*The Sale and Use of Poisons Act, 1891*," to sell or deal in poisons or not, such justice may grant a warrant, to any member of the Police Force, to enter and search such house, building, or place, between the hours of six in the morning and twelve at night, and, if admission is refused, to break into the same, and to seize and detain all opium found therein contrary to the provisions of this Act.

Premises may be searched for opium believed to be kept contrary to provisions of Act.

24. Any member of the Police Force, and any person acting under the direction and in the presence of a justice of the peace, may detain any person, found travelling, whom such member of the Police Force or such justice of the peace may suspect to have in his possession any opium contrary to the provisions of this Act, and may search such person, and may open and search any pack, swag, or other receptacle carried or conveyed by such person, and may seize any such opium as aforesaid found in the possession of such person, and may forthwith arrest such person without warrant, and detain him in custody until he can be brought before justices to be dealt with according to law.

Travellers suspected to be in unlawful possession of opium may be searched, &c.

25. If, upon the hearing of a complaint against any person in whose possession opium has been found in contravention of any of the provisions of this Act, the

Opium found in unlawful possession to be forfeited.

justices, before whom such complaint is heard, convict such person of the offence stated in such complaint, they shall, in addition to any penalty imposed upon the offender, order that all the opium so found in his possession be forfeited to the Crown, and the same shall be forfeited accordingly.

Averment in complaint sufficient evidence of certain matters.

26. In every prosecution for an offence against any of the provisions of this Act relating to an aboriginal or a half-caste, the averment in the complaint, that any person named therein is an aboriginal or a half-caste, shall be sufficient evidence of the fact unless the contrary is proved.

Persons by whom certain proceedings may be instituted.

27. All actions and proceedings against any person for the recovery of any wages due to an aboriginal or a half-caste, 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 Minister by writing under his hand.

Persons by whom certain complaints may be made.

28. Every complaint for an offence against the provisions of this Act or the Regulations, other than the provisions contained in the twenty-second, twenty-third, twenty-fourth, and twenty-fifth sections hereof, 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. Every complaint for an offence against any of the provisions of this Act, contained in the sections hereinbefore in this section mentioned, shall be made or laid by a member of the Police Force or a justice of the peace only.

Provision for penalties where not specified.

29. Any person who shall be convicted of an offence against this Act or the Regulations, shall, unless hereinbefore or in the Regulations otherwise provided, be liable to a penalty not exceeding ten pounds.

Offences to be prosecuted before any two justices.

30. All offences against this Act, or the Regulations, not herein otherwise specially provided for, may be prosecuted in a summary way before any two justices.

Regulations.

31. The Governor in Council may from time to time, by Proclamation, make Regulations for all or any of the matters following, that is to say,—

(1) Prescribing the mode of removing aboriginals to a reserve, and from one reserve to another;

- (2) Defining the duties of Protectors and Superintendents, and any other persons employed to carry the provisions of this Act into effect;
- (3) Authorising entry upon a reserve by specified persons or classes of persons for specified objects, and defining those objects, and the conditions under which such persons may visit or remain upon a reserve, and fixing the duration of their stay thereupon, and providing for the revocation of such authority in any case;
- (4) Prescribing the mode of distribution and expenditure of moneys granted by Parliament for the benefit of aboriginals;
- (5) Apportioning amongst, or for the benefit of, aboriginals or half-castes, living on a reserve, the net produce of the labour of such aboriginals or half-castes;
- (6) Providing for the care, custody, and education of the children of aboriginals;
- (7) Providing for the transfer of any half-caste child, being an orphan, or deserted by its parents, to an orphanage;
- (8) Prescribing the conditions on which any aboriginal or half-caste children may be apprenticed to, or placed in service with, suitable persons;
- (9) Providing for the mode of supplying to any half-castes, who may be declared to be entitled thereto, any rations, blankets, or other necessities, or any medical or other relief or assistance;
- (10) Prescribing the conditions on which the Minister may authorise any half-caste to reside upon any reserve, and limiting the period of such residence, and the mode of dismissing or removing any such half-caste from such reserve;
- (11) Providing for the control of all aboriginals and half-castes residing upon a reserve, and for the inspection of all aboriginals and half-castes, employed under the provisions of this Act or the Regulations;
- (12) Maintaining discipline and good order upon a reserve;
- (13) Imposing the punishment of imprisonment, for any term not exceeding three months, upon any aboriginal or half-caste who is guilty of a

breach of the Regulations relating to the maintenance of discipline and good order upon a reserve ;

(14) Imposing, and authorising a Protector to inflict summary punishment by way of imprisonment, not exceeding fourteen days, upon aboriginals or half-castes, living upon a reserve or within the District under his charge, who, in the judgment of the Protector, are guilty of any crime, serious misconduct, neglect of duty, gross insubordination, or wilful breach of the Regulations ;

(15) Prohibiting any aboriginal rites or customs that, in the opinion of the Minister, are injurious to the welfare of aboriginals living upon a reserve ;

(16) Providing for the due carrying out of the provisions of this Act ;

(17) Providing for all other matters and things that may be necessary to give effect to this Act.

Regulations
to have the
force of law.

Certain half-
castes may be
exempted
from
provisions of
Act.

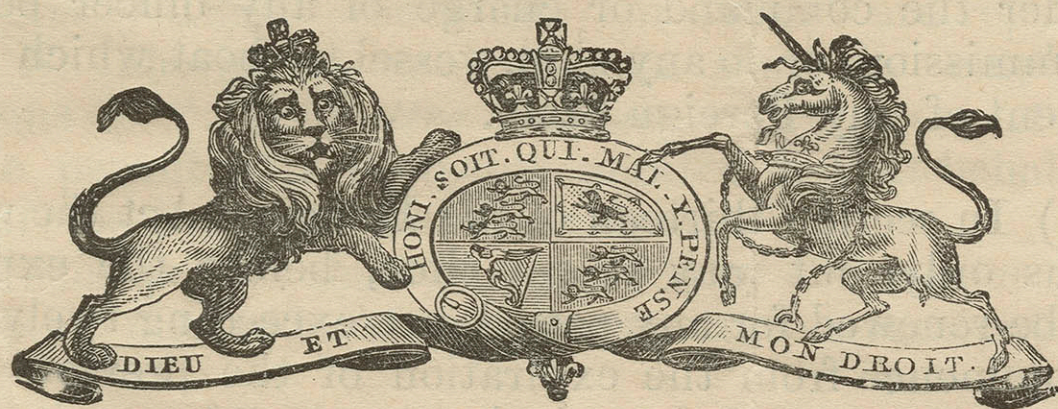
32. Such Regulations, not being contrary to the provisions of this Act, shall have the force of law.

33. It shall be lawful for the Minister to issue to any half-caste, who, in his opinion, ought not to be subject to the provisions of this Act, a certificate, in writing under his hand, that such half-caste is exempt from the provisions of this Act and the Regulations, and from and after the issue of such certificate, such half-caste shall be so exempt accordingly.

THE SCHEDULE.

Date of Act.	Title of Act.	Extent of Repeal.
55 Vic. No. 31	<i>"An Act for Regulating the Sale and Use of Poisons"</i>	Section 13.
59 Vic. No. 29	<i>"An Act to Amend the Laws relating to the Sale of Intoxicating Liquor"</i>	So much of Section 13 as is contained in the words, "aboriginal native of Australia or half-caste of that race, or to any"; and in the further words, "of Australia or."

Queensland.



ANNO SECUNDO

EDWARDI SEPTIMI REGIS.

No. 1.

An Act to Amend "The Aborigines Protection and Restriction of the Sale of Opium Act, 1897," and for other purposes.

[RESERVED: HIS MAJESTY'S ASSENT PROCLAIMED, 3RD MAY, 1902.]

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

1. This Act shall be read and construed with and as an amendment of "*The Aborigines Protection and Restriction of the Sale of Opium Act, 1897*" (hereinafter called the Principal Act), and may be cited together with that Act as "*The Aborigines Protection and Restriction of the Sale of Opium Acts, 1897 to 1901*," or separately as "*The Aborigines Protection and Restriction of the Sale of Opium Act, 1901*."

2. In section four of the Principal Act the words "husband or child," where those words twice occur, are repealed, and the words "or husband" are inserted in lieu thereof.

The following provision is inserted after subsection (c) of the said section, and the said section shall be read and construed as if the said provision had been inserted therein at the commencement of the said Act:—

"(d) A half-caste child whose age does not in the opinion of a Protector exceed sixteen years ;"

Aboriginals Protection and Restriction of the Sale of Opium Act.

Amendment of
61 Vic. No. 17, s. 9.

3. In section nine of the Principal Act the words "such District" are repealed, and the words "the same or any other District" are inserted in lieu thereof.

Provisions as to
ships.

4. (1.) The Principal Act and this Act and the Regulations shall, for all purposes, extend and apply to any ship, vessel, or boat lying in any river, harbour, or other water within a District, in the same manner as if it were a house within such District.

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

(3.) This section does not apply to any ship, vessel, or boat which is under the command or charge of any officer bearing His Majesty's Commission, or to any ship, vessel, or boat which belongs to the Government of any Foreign State.

Amendment of
61 Vic. No. 17, s. 13.

5. (1.) In section thirteen of the Principal Act the words "for twelve months only, but may at any time, before the expiration of such period, be renewed for any period not exceeding twelve calendar months, to commence from the expiration of the previous period of twelve months," are repealed, and the words "for such period not exceeding twelve months as the Protector may fix, but may at any time before the expiration of such period be renewed for such further period as he may fix, not exceeding twelve months, to commence from the expiration of the previous period," are inserted in lieu thereof.

Forms.

(2.) Every permit to employ an aboriginal or half-caste and every agreement for such employment granted under the provisions of the Principal Act shall be in the prescribed form :

Proviso.

Provided that no such permit shall be granted to any alien of the Chinese race.

Amendment of
61 Vic. No. 17, s. 33.

6. The following proviso is added to section thirty-three of the Principal Act :—

Provided that, if at any time he thinks it necessary so to do, the Minister may revoke any certificate issued by him to any half-caste under the provisions of this section, and thereupon the provisions of this Act and the Regulations shall apply to such half-caste as if no such certificate had ever been issued.

Recognisance on
removal of
aboriginal.

7. A Protector shall not authorise the removal of any aboriginal or of any female half-caste 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 or female half-caste to the place from which such aboriginal or female half-caste is to be removed, and to pay all wages due to such aboriginal or female half-caste during the period of absence.

Every such recognisance may be taken by a Protector or officer in charge of police, and shall be in the prescribed form.

Penalty under
61 Vic. No. 17, s. 20,
not to be mitigated.

8. Notwithstanding the provisions of section one hundred and seventy-three of "*The Justices Act of 1886*," in the case of a conviction of a first offence under sections nineteen and twenty of the Principal Act, the justices, if they impose a penalty for such offence, shall not

Aboriginals Protection and Restriction of the Sale of Opium Act.

be competent to reduce such penalty below the sum of twenty pounds; and, if they impose imprisonment, shall not be competent to impose imprisonment for a less period than two months

9. No marriage of a female aboriginal with any person other than an aboriginal shall be celebrated without the permission, in writing, of a Protector authorised by the Minister to give such permission. Marriage of female aboriginals.

And the Protector who grants such permission shall forthwith transmit a copy of the same to the Minister.

10. (1.) In sections three and four of "*The Native Labourers Protection Act of 1884*," the words "or owner" are repealed. Amendment of 48 Vic. No. 20, ss. 3, 4.

(2.) No aboriginal or half-caste shall be employed under the provisions of "*The Native Labourers Protection Act of 1884*," without the permit of a Protector granted in that behalf under the provisions of the Principal Act and this Act. Permit for employment of aboriginals, &c., under 54 Vic. No. 20.

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.

(3.) No person shall employ on board of or in connection with, or suffer or permit to be upon, any ship, vessel, or boat, any male aboriginal who has not arrived at puberty, or any female aboriginal or female half-caste, unless under a written permit given by a Protector: Females and children not to be allowed on ships.

Provided always that no female aboriginal or female half-caste who has not been tribally or otherwise lawfully married shall be employed upon any ship, vessel, or boat.

(4.) A Protector shall not grant a permit for the employment of any aboriginal or half-caste on board of, or in connection with any ship, vessel, or boat trading, fishing, pearling, or voyaging outside the territorial waters of Queensland. No permit for employment outside Queensland waters.

(5.) If any aboriginal or half-caste employed on board of or in connection with any ship, vessel, or boat, dies or deserts his employment, all wages due to such aboriginal or half-caste shall be paid to the shipping master at the port of discharge up to the date of such death or desertion. Wages in event of death or desertion.

(6.) When any aboriginal or half-caste employed on board of or in connection with a ship, vessel, or boat is discharged at any port the employer shall, in addition to the payment of his wages, pay to the shipping master at the port of discharge a sum which such shipping master considers sufficient to defray all expenses of returning him to the place from which he was brought for the purpose of being engaged. Aboriginals to be returned to native place.

11. If any aboriginal or half-caste who is employed under a permit 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 ship, vessel, or boat, within thirty days after the arrival of such ship, vessel, or boat 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.

12. (1.) The wages of an aboriginal or half-caste employed under a permit, exclusive of food, accommodation, and other necessities, shall not be less than ten shillings per month, if he is employed on board of, or in connection with a ship, vessel, or boat, or five shillings per month, if he is employed elsewhere. Minimum wages.

Aboriginals Protection and Restriction of the Sale of Opium Act.

Payment of wages
to responsible
person.

(2.) A Protector may direct employers or any employer to pay the wages of aboriginals or female half-castes to himself or some officer of police named by him, and any employer who fails to observe such direction shall be deemed to have not paid such wages. The Protector or officer of police who receives such wages shall expend the same solely on behalf of the aboriginal or female-caste to whom they were due, and shall keep an account of such expenditure.

Protector to manage
property of
aboriginals.

13. The Protector shall undertake the general care, protection, and management of the property of all aboriginals in the district assigned to him, and 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:

Provided that the powers conferred by this section shall not be exercised by the Protector without the consent of the aboriginal, except so far as may be necessary to provide for the due preservation of such property.

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 of this section, and shall for such purpose be deemed to be a public accountant within the meaning of "*The Audit Act of 1874*" or any Act amending or in substitution for that Act.

Burden of proof of
age of consent.

14. 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 or aboriginal half-caste 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.

Mining on reserves
for aboriginals
without permit
prohibited.

15. Notwithstanding the provisions of "*The Mining Act of 1898*," 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 a Protector. In all cases where such permit is refused or withdrawn, such holder of a miner's right shall have the right to appeal to the Minister, who may confirm or reverse the decision of the Protector. Any such person who, without such permit, 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.

Persons prohibited
from frequenting
camps, &c.

16. 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

Aboriginals Protection and Restriction of the Sale of Opium Act.

lawful excuse, to enter or remain or be within or upon any place where any aboriginals or female half-castes 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 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 Minister.

17. If at any time he thinks it necessary so to do, the Protector may cause any aboriginals or half-castes who are camped or are about to camp within or near the limits of any township to remove their camp or proposed camp to some place at such distance from such township 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.

18. Any two justices may, notwithstanding any Act to the contrary, hear and determine any complaint for any offence against the provisions of the Principal Act or this Act or "*The Native Labourers' Act of 1884*," or any Regulation made under any of those Acts, at any place within Queensland where the offender may be or where any ship, vessel, or boat 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 ship, vessel, or boat, and all things found thereon, as they think fit.

Jurisdiction of justices, &c.
[Cf. 45 Vic. No. 2, s. 14; 55 Vic. No. 29, s. 10.]

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 ship, vessel, or boat 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 the justices may hear and determine the matter in a summary manner. The Protector may order the detention of any such ship, vessel, or boat until the alleged offence has been adjudicated upon.

Any person who disobeys any order of a Protector under the provisions of this section shall be liable to a penalty not exceeding twenty pounds, or to be imprisoned for any period not exceeding two months.

19. (1.) In all cases where any half-caste child whose age does not exceed sixteen years is being maintained at the cost of the Government, the father of such child shall, if of sufficient ability to do, contribute to his support while such child continues to be so maintained. A Protector may apply to a justice for a summons to be served on the alleged father of such child for the purpose of obtaining such contribution.

Father liable to contribute to support of half-caste child.
[Cf. 43 Vic. No. 16, ss. 9 to 13 and 15; 22 Vic. No. 6, s. 8.]

(2.) On the return of such summons, any two justices shall proceed to hear the matter of the complaint, and if the paternity of the defendant and his ability to contribute to the support of such child is proved to the satisfaction of the justices, they may by order adjudge the defendant to pay such weekly sum not exceeding ten shillings for the maintenance of such child as such justices think fit:

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

Aboriginals Protection and Restriction of the Sale of Opium Act.

(3.) Any two justices, 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 they see cause so to do, so that the amount shall not in any case exceed the weekly sum hereinbefore mentioned.

(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 him or some other justice to answer the complaint.

(5.) On the return of such warrant the justice 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 half-caste child shall be paid into the Consolidated Revenue.

By Authority: GEORGE ARTHUR VAUGHAN, Government Printer, William street, Brisbane.

1904.

QUEENSLAND.

THE ABORIGINALS PROTECTION AND RESTRICTION OF THE SALE OF
OPIUM ACTS, 1897 TO 1901."

(REGULATIONS UNDER)

Presented to both Houses of Parliament by Command.

Department of Public Lands,
Brisbane, 25th March, 1904.

HIS Excellency the Governor, with the advice of the Executive Council, has been pleased to approve of the following Regulations under "The Aboriginals Protection and Restriction of the Sale of Opium Acts, 1897 to 1901."

JOSHUA T. BELL.

REGULATIONS UNDER "THE ABORIGINALS PROTECTION
AND RESTRICTION OF THE SALE OF OPIUM ACTS, 1897
TO 1901."

Repeal of existing Regulations.

1. The Regulations under "The Aboriginals Protection and Restriction of the Sale of Opium Act, 1897," published in the *Government Gazette* dated 23rd September, 1899, and 18th November, 1899, respectively, are rescinded.

Definitions.

2. In these Regulations the term "the Act" means "The Aboriginals Protection and Restriction of the Sale of Opium Act, 1897," as amended by "The Aboriginals Protection and Restriction of the Sale of Opium Act, 1901," and any Act incorporated therewith; and the terms used have the meanings respectively assigned to them by sections 3 and 4 of the Act.

Chief protector.

3. One of the protectors appointed under the provisions of the Act shall be called the "Chief Protector," and shall, under the direction of the Minister, supervise the working of the Act and Regulations throughout the State.

The protectors.

4. Every protector appointed for a district or districts shall act as the assistant and deputy of the chief protector, and shall report to him, and communicate direct with him, in all matters of aboriginal interest.

Application for permit.

5. Every person who desires to employ an aboriginal or half-caste shall make application to the nearest police officer in charge of a station. Such application shall be in Form A of the Schedule hereto.

Application how dealt with.

6. Upon receipt of any such application as aforesaid such police officer shall endorse thereon his report upon the desirableness or otherwise of granting it, and forward it to the protector for his district. If the protector grants the application he shall forward a permit, in Form B of the Schedule hereto, to such police officer, together with a form of agreement in duplicate (Form C of the Schedule hereto), and it shall be the duty of such police officer to see that such agreement is duly executed in duplicate, and to forward the duplicate copy to the protector.

No permit shall be granted by the protector for the employment of an aboriginal or female half-caste at any hotel or licensed victualler's premises without reference to the chief protector. The reference to the chief protector shall set out such special circumstances as, in the opinion of the protector, warrant the issue of such permit.

Register of applications to be kept.

7. Every police officer as aforesaid shall keep a register, in Form G of the Schedule hereto, of all applications made under the next preceding Regulation and of the manner in which they have been dealt with.

Every protector shall also keep a like general register for the district for which he acts.

Termination and renewal of agreement.

8. Agreements for employment shall expire on the 31st March, 30th June, 30th September, or 31st December as may be arranged.

When the renewal of an agreement is desired, the original document may, with the approval of the protector, be endorsed "Agreement renewed for one year by mutual consent," and such endorsement shall be signed by the employer and employee in the presence of a witness, and be duly stamped in accordance with the provisions of "The Stamp Act, 1894."

Recognizance on removal of aboriginal.

9. A protector shall not authorize the removal of any aboriginal or female half-caste from one district to another district, or to any place beyond Queensland, for any period exceeding twelve months, nor unless or until the person desiring such removal enters into a recognizance, in Form E of the Schedule hereto, 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 the aboriginal or half-caste to the place from which such aboriginal or half-caste is to be removed, and to pay all wages due to such aboriginal or half-caste during the period such aboriginal or half-caste may be absent. In no case shall such sum be less than ten pounds.

Duty of person taking recognizance.

10. Every protector or officer in charge of police shall forthwith transmit to the chief protector a copy of every recognizance taken by him as aforesaid. The protector shall also, upon the expiration of the period limited for the return of the aboriginal or half-caste concerned, adopt such means as are in his power to ensure the return of such aboriginal or half-caste and the payment of wages due in pursuance of the condition of the recognizance, and shall report the performance or non-performance of such condition to the chief protector. A recognizance may be renewed from year to year at the discretion of the protector.

Wages.

11. The amount of wages to be paid to a female aboriginal or female half-caste shall be on the following scale:—

	s.	d.
Up to 12 years of age, at rate of	1	3
From 12 to 14 years, at rate of...	1	9
Over 14 years, at rate of	2	3

and upwards at the discretion of the protector.

The odd threepences of such rates of wages shall be paid to the female aboriginal or female half-caste weekly as pocket-money, and where the wages agreed upon are greater than the above rates of wages, sixpence shall be paid to the female aboriginal or female half-caste weekly as pocket-money. The remainder of all such wages of all female aboriginals and female half-castes in permanent lawful employment shall be paid to the protector every three or six months as may be arranged.

12. All wages or other moneys the property of aboriginals or half-castes received by a protector shall be deposited in the names of such aboriginals or half-castes, respectively, in the Government Savings Bank with himself as trustee. The protector may expend on behalf of any aboriginal or half-caste money held by the protector in trust for such aboriginal or half-caste, and the protector shall keep an account of all moneys so expended by him. The protector shall, when required, produce such accounts to the chief protector or other officer authorised by him.

13. All wages and other moneys received by a shipping master on behalf of any aboriginal or half-caste shall be paid by him to the protector for the district on account of such aboriginal or protector.

Aboriginals protection property account.

14. Wages of aboriginals or half-castes absconding from service, and moneys of deceased aboriginals or half-castes, as well as moneys otherwise unclaimed, shall be forwarded to the chief protector and be placed by him to the credit of a trust account to be used in such manner as the Minister may direct, for the benefit of aboriginals generally. This trust account shall be known as "The Aboriginals Protection Property Account."

Relief expenditure.

15. A protector shall not incur any expenditure in relief of aboriginals, except with the permission of the chief protector. All vouchers shall be forwarded with despatch to the chief protector, duly certified by the protector.

Articles distributed to aboriginals.

16. Every blanket, article of clothing, tomahawk or other article issued by an officer of the Government to any aboriginal or half-caste shall be and remain the property of His Majesty.

F.

“THE ABORIGINALS PROTECTION AND RESTRICTION OF THE SALE OF OPIUM ACTS, 1897 TO 1901.”

Monthly Return of Aboriginal Attendance and Government Relief at Mission Station for , 19 .

Amount of Monthly Government Grant:

NUMBER OF ABORIGINALS OBTAINING RELIEF.		NATURE OF RELIEF.							Remarks.
Permanent.	Casual.	Flour.	Tobacco.	Meat.	Tea.	Sugar.			

Superintendent (or Protector).

G.

Register of Employment of Aborigines.

Date of Application for Permit.	Date of Issue of Permit.	No. of Permit.	Employer.	Occupation of Employer.	Residence of Employer.	Aboriginal's (or Half-caste's) Name.	Sex.	Approximate Age.	A Native of	Place of Employment.	Nature of Employment.	Remarks.

H.

“THE ABORIGINALS PROTECTION AND RESTRICTION OF THE SALE OF OPIUM ACTS, 1897 TO 1901.”

Certificate of Exemption.

This is to certify that , of , is hereby exempt from the provisions of “The Aborigines Protection and Restriction of the Sale of Opium Acts, 1897 to 1901,” and the Regulations thereunder.

Secretary for Public Lands.

Date:

N.B.—If at any time he thinks it necessary so to do, the Minister may revoke any certificate issued by him to any half-caste.

I.

“THE ABORIGINALS PROTECTION AND RESTRICTION OF THE SALE OF OPIUM ACTS, 1897 TO 1901.”

Return of Prosecutions for the month of 19 .

Date.	Prosecutor.	Offender.	Offence.	Where committed.	How disposed of.	Remarks.

Other Offences not under the above Acts.*

* e.g. Absconding from hired service, drunkenness, stealing, assault, murder, &c.

I hereby certify the above to be a correct return.

Protector.

Price 3d.]

By Authority: GEORGE ARTHUR VAUGHAN, Government Printer, William street, Brisbane.

J.

“THE ABORIGINALS PROTECTION AND RESTRICTION OF THE SALE OF OPIUM ACTS, 1897 TO 1901.”

Aboriginal School Return.

Return of the school for the quarter ending 19 .

Enrolment.*

Quarter ending	, 19	Boys	Girls	Total
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* All the children that have attended during any part of the quarter are to be reckoned.

Classification of the Pupils.

Classes.	Boys.	Girls.	Total.

Average Attendance.

Number of days on which the school was open:

Total Attendances (1)— Boys , Girls , Total :
Average Attendance (2)—Boys , Girls , Total :

(1) The total attendances are the totals of the daily attendance of every pupil enrolled for the quarter.

(2) Divide the total attendances for the quarter by the number of days the school was open in that quarter to get the average daily attendance.

I certify this return to be correct.

Teacher.

K.

“THE ABORIGINALS PROTECTION AND RESTRICTION OF THE SALE OF OPIUM ACTS, 1897 TO 1901.”

Order for Removal of Aborigines.

To all Officers and Constables of Police, Prison Officers, and others whom it may concern.

WHEREAS by section 9 of “The Aborigines Protection and Restriction of the Sale of Opium Act, 1897,” and section 3 of “The Aborigines Protection and Restriction of the Sale of Opium Act, 1901,” it is enacted that the Minister may cause aborigines within any district to be removed to and kept within the limits of any reserve situated in the same or any other district: Now therefore, I, the Honourable Secretary for Public Lands of the State of Queensland, the Minister administering the abovementioned Acts, do hereby order that the aborigines hereinafter named be removed from in the district of to the reserve at for the causes stated in connection with their names respectively, and to be kept within the limits of the said reserve in such manner and subject to such conditions as may be prescribed.

No.	Name.	Offence and Cause for Removal.

Given under my hand at Brisbane, this day of 190 .

Secretary for Public Lands.

L.

“THE ABORIGINALS PROTECTION AND RESTRICTION OF THE SALE OF OPIUM ACTS, 1897 TO 1901.”

Permission for Celebration of Marriage.

No. 19 .

I, , Protector of Aborigines, having been duly authorised, under section 9 of “The Aborigines Protection and Restriction of the Sale of Opium Act, 1901,” to give permission, in writing, for the celebration of the marriage of female aborigines with persons other than aborigines, hereby give permission for the celebration of the marriage of the female aboriginal with a native of .

Protector.

To