

I.

PUBLIC ACTS

OF THE

PARLIAMENT OF QUEENSLAND,

2° EDWARDI VII.

ABORIGINALS.

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.]

2 Ed. VII.
No. 1.
THE
ABORIGINALS
PROTECTION
AND
RESTRICTION
OF THE
SALE OF
OPIUM ACT,
1901.

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 In section four of the Principal Act the words "husband or child," where those words twice occur, are repealed, and the words "or husband" are inserted in lieu thereof.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

* 61 Vic. No. 17, *supra*, page 6173.

Aboriginals Protection, &c., Act. 2 EDW. VII. No. 1.

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 In section nine of the Principal Act the words "such District" are repealed, and the words "the same or any other District" are inserted in lieu thereof.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

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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.

8. Notwithstanding the provisions of section one hundred and seventy-three of "*The Justices Act of 1886*,"* Penalty under 61 Vic. No. 17, s. 20, not to be mitigated. 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 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.

* 50 Vic. No. 17, *supra*, page 1030.

† 48 Vic. No. 20, *supra*, page 1615.

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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.

No permit for employment outside Queensland waters.

(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.

Wages in event of death or desertion.

(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.

Aboriginals to be returned to native place.

(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.

Death of employed aboriginals.

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.

Minimum wages.

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.

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 half-caste to whom they were due, and shall keep an account of such expenditure.

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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—

Protector to manage property of aboriginals.

- (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.

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.

Burden of proof of age of consent.

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

Mining on reserves for aboriginals without permit prohibited.

* 38 Vic. No. 12, *supra*, page 38.

† 63 Vic. No. 9, Schedule 1., *supra*, page 6829.

‡ 62 Vic. No. 24, *supra*, page 6609.

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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 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.

Removal of
camps in or
near
townships.

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.

Jurisdiction of
justices, &c.

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' Protection 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.

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

* 48 Vic. No. 20, *supra*, page 1615.

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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 so 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.

(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.

(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

Appropriation Act No. 1. 2 Edw. VII. No. 2, 1902.

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.

APPROPRIATION ACTS.

See CONSTITUTION.

CONSTITUTION.

APPROPRIATION ACTS.

<i>Appropriation Act of 1902-1903, No. 1 ...</i>	<i>2 Edw. VII. No. 2</i>	
<i>Appropriation Act of 1902-1903, No. 2 ...</i>	<i>2</i>	<i>" "</i> 5
<i>Appropriation Act of 1902-1903, No. 3 ...</i>	<i>2</i>	<i>" "</i> 9
<i>Appropriation Act of 1902-1903, No. 4 ...</i>	<i>2</i>	<i>" "</i> 11

2 Edw. VII. No. 2. **THE APPROPRIATION ACT, 1902-1903, No. 1.** **An Act to Authorise the Appropriation out of the Consolidated Revenue Fund of Queensland of certain Sums of Money towards the Service of the Year ending on the thirtieth day of June, 1903.**

[ASSENTED TO 30TH JULY, 1902.]

Preamble.

WHEREAS we, your Majesty's most dutiful and loyal subjects, the members of the Legislative Assembly of Queensland in Parliament assembled, have in the present Session of Parliament cheerfully granted to your Majesty the several sums hereinafter mentioned towards the services of the year ending on the thirtieth day of June; One thousand nine hundred and three: And whereas we desire to make good out of the Consolidated Revenue Fund of Queensland the several sums granted to your Majesty as aforesaid: Be it therefore 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:—

Appropriation.

1. There shall and may be issued and applied towards making good the supplies granted to His Majesty for the