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.

(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.

(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 Bêche-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.

(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.

(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.

(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.

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

(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.

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.
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.

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.

(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.

* 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.**

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.
(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.

(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.**

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.

(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.**

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.

(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...
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 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.

(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.

(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.

(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
PART IV.—
ABORIGINALS.

Protection of Aboriginals.

Section 17478

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.

23. If in the opinion of a protector or superin-
tendent 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.

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.

Harbouring and Illegal Employment of Aboriginals.

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.

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.
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.

**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.

**Carnal Knowledge of Females.**

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

(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.

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.

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.
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.

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.

(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.

(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.

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

(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.

(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.
(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.

(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.

(2.) All penalties under this Act shall be recoverable in a summary way under "*The Justices Acts, 1886 to 1932.*"
PART V.—
OFFENCES
BY PERSONS
OTHER THAN
ABORIGINALS.

Aboriginals Preservation and Protection Act. 3 Geo. VI. No. 6.

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.

(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.

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.
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.

(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.

(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.

(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.
### Schedule

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

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<td>&quot;The Aboriginals Protection and Restriction of the Sale of Opium Act, 1901&quot;</td>
<td>The whole Act.</td>
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