

TASMANIA.

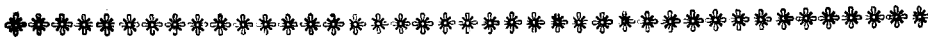


1880.

ANNO QUADRAGESIMO-QUARTO

VICTORIÆ REGINÆ,

No. 25.



AN ACT for more effectually preventing the Sale of Obscene Books, Pictures, Prints, and other Articles. A.D. 1880. [1 November, 1880.]

WHEREAS it is expedient to give additional Powers for the suppression of the trade in Obscene Books, Prints, Drawings, and other Obscene Articles : PREAMBLE.

Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1 It shall be lawful for any Police Magistrate, or for any two Justices of the Peace, upon complaint made before him or them upon oath that the complainant has reason to believe, and does believe, that any obscene books, papers, newspapers, pamphlets, magazines, periodicals, letter-press, writings, prints, pictures, photographs, lithographs, drawings, or other representations are kept in any house, shop, room, or other place within the limits of the City, Town, or Police District for which such Magistrate has been appointed to act, or within which such Justices shall reside, for the purpose of sale or distribution, exhibition for purposes of gain, lending upon hire, or being otherwise published for purposes of gain, which complainant shall also state upon oath that one or more articles of the like character have been sold, distributed, exhibited, lent, or otherwise published as aforesaid, at or in connection with such house, shop, room, or other place, so as to satisfy such Magistrate or Justices that the belief of the said complainant is well Justices, &c. may authorise search of suspected premises.

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founded, and upon such Magistrate or Justices being also satisfied that any of such articles so kept for any of the purposes aforesaid are of such a character and description that the publication of them would be a misdemeanor, or an offence under the provisions of this Act, and proper to be prosecuted as such, to give authority by special warrant to any Superintendent of Police or Chief District Constable, into such house, shop, room, or other place, with such assistance as may be necessary, to enter in the daytime, and, if necessary, to use force, by breaking open doors or otherwise, and to search for and seize all such obscene books, papers, newspapers, pamphlets, magazines, periodicals, letter-press, writings, prints, pictures, photographs, lithographs, drawings, or other representations as aforesaid found in such house, shop, room, or other place, and to carry all the articles so seized before the Magistrate or Justices issuing the said warrant, or some other Justices; and such Magistrate or Justices shall thereupon issue a summons calling upon the occupier of the house, shop, room, or other place which may have been so entered by virtue of the said warrant to appear within seven days before such Police Magistrate, or any two Justices sitting in Petty Sessions, to show cause why the articles so seized should not be destroyed; and if such occupier or some other person claiming to be the owner of the said articles shall not appear within the time aforesaid, or shall appear, and such Magistrate or Justices shall be satisfied that such articles or any of them are of the character stated in the warrant, and that such or any of them have been kept for any of the purposes aforesaid, it shall be lawful for the said Magistrate or Justices, and he or they are hereby required to order the articles so seized, except such of them as he or they may consider necessary to be preserved as evidence in some further proceeding, to be destroyed at the expiration of the time allowed for lodging an appeal, unless notice of appeal is given, and such articles shall be in the meantime impounded; and if such Magistrate or Justices shall be satisfied that the articles seized are not of the character stated in the warrant, or have not been kept for any of the purposes aforesaid, he or they shall forthwith direct them to be restored to the occupier of the house, shop, room, or other place in which they were seized.

Mayors and
Wardens may
issue warrant, &c.

2 It shall be lawful for the Mayors of *Hobart Town* and *Launceston* or Warden of any Rural Municipality to issue any such special warrant and summons as aforesaid, and when any such summons shall be issued by such Mayor or Warden the person to whom such summons shall be directed shall be required to appear before any two Justices sitting in Petty Sessions to show cause why the articles seized under any such warrant should not be destroyed; and all the provisions contained in the last preceding Section shall be applicable to such summons and all proceedings thereunder in the same manner in all respects as if such summons had been issued by a Police Magistrate or two Justices under such Section.

Occupier of house,
&c. where articles
found, and owner
and person
printing, selling,
&c. same, liable
to penalty.

3 Every such occupier of the house, shop, room, or other place wherein such articles shall have been seized; every owner and every person who, in the opinion of the Police Magistrate or Justices adjudicating thereon, appears to be the owner of such articles; and every person printing, photographing, lithographing, drawing, making, selling, publishing, distributing, or exhibiting such obscene articles, or assisting therein, shall be liable on conviction before any two Justices

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of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*, for a first offence to a penalty not exceeding Twenty Pounds, or to be imprisoned for any term not exceeding Six months, and for any second or subsequent offence to a penalty not exceeding Fifty Pounds, or to be imprisoned for any term not exceeding Twelve months. A.D. 1880.

4 Any person aggrieved by any conviction under this Act, or by any act or determination of such Magistrate or Justices in or concerning the execution of this Act, may appeal against the same in the mode prescribed by *The Appeals Regulation Act*; and if such appeal is dismissed or decided against the appellant or is not prosecuted, the Court may order the articles seized forthwith to be destroyed. Appeal.

5 No plaintiff shall recover in any action for any irregularity, trespass, or other wrongful proceeding made or committed in the execution of this Act, or in, under, or by virtue of any authority hereby given, if tender of sufficient amends has been made by or on behalf of the party who has committed such irregularity, trespass, or other wrongful proceeding, before such action brought; and in case no tender has been made it shall be lawful for the defendant in any such action, by leave of the Court or a Judge thereof in which such action is brought, at any time before issue joined, to pay into Court such sum of money as he thinks fit, whereupon such proceeding, order, and adjudication shall be had and made in and by such Court as in other actions where defendants are allowed to pay money into Court. Tender of amends, &c.

6 No action, suit, or information, or any other proceeding, of what nature soever, shall be brought against any person for anything done or omitted to be done in pursuance of this Act, or in the execution of the authorities under this Act, unless notice in writing is given by the party intending to prosecute such action, suit, information, or other proceeding to the intended defendant, One calendar month at least before prosecuting the same, nor unless such action, suit, information, or other proceeding is brought or commenced within Three calendar months next after the act or omission complained of, or in case there is a continuation of damage, then within Three calendar months next after the doing such damage has ceased. Limitation of Actions.

7 This Act may be cited as "The Obscene Publications Act, 1880." Short title.

