

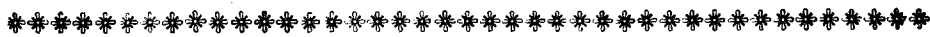
T A S M A N I A.



1881.

ANNO QUADRAGESIMO-QUINTO
VICTORIÆ REGINÆ,

No. 17.



AN ACT to make provision for the Pre-vention of Pollution of Rivers. A.D. 1881.

[8 November, 1881.]

WHEREAS it is expedient to make provision for the prevention of the Pollution of Rivers, and to prevent the establishment of new sources of Pollution : 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 This Act may be cited as “The Rivers Pollution Prevention Act.” Short title.

2 In this Act, if not inconsistent with the context, the following terms have the meanings hereinafter respectively assigned to them ; that is to say,— Interpretation.

“ Person ” includes any body of persons, whether corporate or unincorporate :

“ Stream ” includes rivers, streams, lakes, lagoons, reservoirs, and watercourses other than watercourses at the passing of this Act mainly used as sewers, and emptying directly into the sea :

“ Local Authority ” shall mean in any Municipal District not being a Municipality, the Justices in General or Quarter Sessions assembled : in any Municipality the Municipal Council of such Municipality :

“ Solid matter ” shall not include particles of matter in suspension in water :

“ Polluting ” shall not include innocuous discoloration.

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Prohibition as to putting solid matter into streams.

3 Every person who puts or causes to be put or to fall or knowingly permits to be put or to fall or to be carried into any stream, so as either singly or in combination with other similar acts of the same or any other person to interfere with its due flow, or to pollute its waters, the solid refuse of any manufactory, manufacturing process, quarry, or mine, or any rubbish or cinders, or any other waste, or any putrid solid matter, shall be deemed to have committed an offence against this Act.

In proving interference with the due flow of any stream, or in proving the pollution of any stream, evidence may be given of repeated acts which together cause such interference or pollution, although each act taken by itself may not be sufficient for that purpose.

Prohibition as to drainage into streams of sewers.

4 Every person who causes to fall or flow, or knowingly permits to fall or flow, or to be carried into any stream any solid or liquid sewage matter, shall (subject as in this Act mentioned) be deemed to have committed an offence against this Act.

Where any sewage matter falls or flows or is carried into any stream along a channel used, constructed, or in process of construction at the date of the passing of this Act for the purpose of conveying such sewage matter, the person causing or knowingly permitting the sewage matter so to fall or flow or to be carried shall not be deemed to have committed an offence against this Act if he shows to the satisfaction of the Justices having cognizance of the case that he is using the best practicable and available means to render harmless the sewage matter so falling or flowing or carried into the stream.

Prohibition as to drainage into streams from manufactories.

5 Every person who causes to fall or flow, or knowingly permits to fall or flow, or to be carried into any stream any poisonous, noxious, or polluting liquid proceeding from any factory or manufacturing process shall (subject as in this Act mentioned) be deemed to have committed an offence against this Act.

Where any such poisonous, noxious, or polluting liquid as aforesaid falls or flows or is carried into any stream along a channel used, constructed, or in process of construction at the date of the passing of this Act, or any new channel constructed in substitution thereof, and having its outfall at the same spot for the purpose of conveying such liquid, the person causing or knowingly permitting the poisonous, noxious, or polluting liquid so to fall or flow or to be carried, shall not be deemed to have committed an offence against this Act if he shows to the satisfaction of the Justices having cognizance of the case that he is using the best practicable and reasonably available means to render harmless the poisonous, noxious, or polluting liquid so falling or flowing or carried into the stream.

Prohibition as to drainage into streams from mines.

6 Every person who causes to fall or flow, or knowingly permits to fall or flow, or to be carried into any stream any solid matter from any mine in such quantities as to prejudicially interfere with its due flow, or any poisonous, noxious, or polluting solid or liquid matter proceeding from any mine, other than water in the same condition as that in which it has been drained or raised from such mine, shall be deemed to have committed an offence against this Act, unless in the case of poisonous, noxious, or polluting matter he shows to the satisfaction of the Justices having cognizance of the case that he is using the best practicable and reasonably available means to render harmless the poisonous, noxious, or polluting matter so falling or flowing or carried into the stream.

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7 Every local authority having sewers under their control shall give facilities for enabling manufacturers within their district to carry the liquids proceeding from their factories or manufacturing processes into sewers: Provided that this section shall not extend to compel any local authority to admit into their sewers any liquid which would prejudicially affect such sewers or the disposal by sale, application to land, or otherwise of the sewage matter conveyed along such sewers, or which would from its temperature or otherwise be injurious in a sanitary point of view: Provided also, that no local authority shall be required to give such facilities as aforesaid where the sewers of such authority are only sufficient for the requirements of their district.

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Local authorities to afford facilities for factories draining into sewers.

8 It shall be lawful for any two Justices of the Peace upon the complaint of any person by order to require any other person to abstain from the commission of an offence against this Act, and where such offence consists in default to perform a duty under this Act may require him to perform such duty in manner in the said order specified; the Justices may insert in any order such conditions as to time or mode of action as they may think just, and may suspend or rescind any order on such undertaking being given, or condition being performed, as they may think just, and generally may give such directions for carrying into effect any order as to such Justices may seem meet. Previous to granting such order the Justices may, if they think fit, require the evidence of skilled parties as to the "best practicable and available means," and the nature and cost of the works and apparatus required, who shall in all cases take into consideration the reasonableness of the expense involved.

Offences to be restrained by order of Justices.

Any person making default in complying with any requirement of an order of such Justices made in pursuance of this section shall pay to the person complaining, or such other person as such Justices may by such order direct, such sum, not exceeding Fifty Pounds a day for every day during which he is in default, as the Justices may order: Moreover, if any person so in default persists in disobeying any requirement of any such order for a period of not less than a month, or such other period less than a month as may be prescribed by such order, the Justices may by such order, in addition to any penalty they may impose, appoint any person or persons to carry into effect such order, and direct that all expenses incurred by any such person or persons to such amount as may be allowed by the Justices shall be paid by the person in default.

9 If any person does any of the following things he shall be liable on conviction to a penalty not exceeding Fifty Pounds, or to be imprisoned for any term not exceeding Six Months, or both, in the discretion of the Justices before whom the case may be heard—

Punishment of persons committing certain offences.

Throws, or causes to be thrown, into any stream or any water-hole used for obtaining potable water, any dead animal, or any live animal for the purpose of drowning the same, or leaves, or causes the same to be left, upon the shores or banks of any stream, or any such water-hole:

Throws, or causes or allows to be thrown, any night-soil into any stream or any water-hole hereinbefore mentioned:

Places, or causes, or allows to be placed, any night-soil on any land whence such night-soil flows or falls, or is liable to flow or fall, into any stream, or any such water-hole as is hereinbefore mentioned.

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Appeal.

10 If either party in any proceedings before the Justices under this Act feels aggrieved by the decision of the Justices in point of law or on the merits, or in respect of the admission or rejection of any evidence, he may appeal from that decision to the Supreme Court of *Tasmania*, under the provisions of "The Magistrates Stated Cases Acts, 1860 and 1877," and the General Rules and Orders of the Supreme Court made thereunder, and the provisions of the said Acts, and the mode of practice thereunder, save and except so far as the same are inconsistent herewith, shall be applicable to an appeal under this section in like manner as if the party aggrieved were appealing on a question of law only. The Court may draw any inferences from the facts stated in the case that the justices might draw from facts stated by witnesses.

Certificate of
Officer of Health
as to best practicable means.

11 A certificate granted by an Officer of Health appointed under *The Police Act*, 1865, or under the provisions of any Act now in force or hereafter to be in force in *Tasmania*, to the effect that the means used for rendering harmless any sewage matter or poisonous, noxious, or polluting solid or liquid matter falling or flowing or carried into any stream, are the best or only practicable and available means under the circumstances of the particular case, shall in all proceedings under this Act be conclusive evidence of the fact; such certificate shall continue in force for a period to be named therein, not exceeding Twelve Months, and at the expiration of that period may be renewed for the like or any less period:

All expenses incurred in or about obtaining a certificate under this section shall be paid by the applicant for the same.

Powers of Act
not to prejudice
other rights or
powers.

12 The powers given by this Act shall not be deemed to prejudice or affect any other rights or powers now existing or vested in any person or persons by law, and such other rights or powers may be exercised in the same manner as if this Act had not been passed: And nothing in this Act shall legalise any act or default which would but for this Act be deemed to be a nuisance or otherwise contrary to law: Provided, nevertheless, that in any proceedings for enforcing against any person such rights or powers the tribunal before which such proceedings are pending shall take into consideration any certificate granted to such person under this Act.

Saving of rights of
impounding or
diverting water.

13 This Act shall not apply to or affect the lawful exercise of any rights of impounding or diverting water.

Offences, &c. to
be dealt with
summarily.
19 Vict. No. 8.

14 All offences against this Act shall be heard and determined, and all orders under this Act shall be made and enforced, in the mode prescribed by *The Magistrates Summary Procedure Act*.

Commencement
of Act.

15 This Act shall commence and take effect on and from the first day of *January*, 1882.