

TASMANIA



1901.

ANNO PRIMO

EDWARDI VII. REGIS,

No. 20.



AN ACT to facilitate the Recovery of ^{A.D. 1901.}
Possession of Tenements after due Deter-
mination of the Tenancy.

[13 December, 1901.]

WHEREAS it is expedient to provide for the more speedy and **PREAMBLE.**
effectual recovery of the possession of tenements unlawfully held
over after the determination of the tenancy :

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 Recovery of Possession of Tene- **Short title.**
ments Act, 1901.”

2 In this Act—

Interpretation.

“Agent” shall mean any person usually employed by the land-
lord in the letting of the premises or in the collection of
the rents thereof :

“Landlord” shall mean the person entitled to the immediate
reversion of the premises, or, if the premises be held in
joint-tenancy, co-parceny, or tenancy-in-common, shall
mean any one of the persons entitled to such reversion :

“Premises” shall mean lands, houses, or other corporeal here-
ditaments :

4d.]

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“Tenant” shall mean and include not only any tenant, but also any person who claims through or under any tenant, and also any person who came into possession of premises by the licence or with the consent of the tenant thereof, and also any person who being upon any such premises with the consent of the tenant thereof continues thereon after the tenant vacates possession thereof, or dies.

Tenant holding
may be
summoned before
Justices.

3 On and after the commencement of this Act, if the term or interest of the tenant of any premises held by him at will or for any term not exceeding seven years, either without being liable to the payment of any rent, or at a rent not exceeding the rate of Forty Pounds a year, and upon which no fine shall have been reserved or made payable, shall have ended or shall have been duly determined by a legal notice to quit or otherwise, and such tenant shall neglect or refuse to quit and deliver up possession of the premises, or any part thereof, it shall be lawful for any Justice of the Peace, upon the complaint of the landlord or his agent, to issue his summons to bring such tenant so complained against before any two Justices of the Peace in Petty Sessions assembled, and such Justices are hereby empowered to hear and determine such complaint.

Justices may
order possession
to be given by
tenant to landlord.

4—(1.) Upon the hearing of any such complaint as aforesaid, it shall be lawful for the Justices, upon proof to their satisfaction of the tenant still neglecting or refusing to deliver up possession of the premises, and of the rent payable in respect of the premises, and of the holding, and of the expiration or other determination of the tenancy, with the time and manner thereof, and of the Title of the landlord, if such Title has accrued since the letting of the premises, and of the service of the summons if the tenant shall not appear thereto, to order that possession of such premises shall be given by the tenant to the landlord or his agent on or before such day as the Justices shall name, not being more than Fourteen days nor less than Forty-eight hours after the hearing of the complaint.

(2.) The Justices may also, if they think fit, allow to the landlord such sum as they may think fit for rent or mesne profits of the premises, to be paid on or before a day to be named by such Justices. Provided, that any such order for payment of rent or mesne profits shall be enforceable by distress only and not by imprisonment.

Justices may
issue warrant to
give possession of
premises.

5 If the tenant shall neglect or refuse to give possession of the premises to the landlord or his agent within the time named in the Order, it shall be lawful for the Justices by whom such Order was made, or one of them, to issue a warrant addressed to all Constables in *Tasmania*, commanding them to enter into the premises, and to give possession of the same to the landlord or his agent. Entry upon any such warrant shall not be made on a *Sunday*, *Good Friday*, or *Christmas Day*, or at any time except between the hours of nine in the morning and four in the afternoon.

For the purpose of executing any such warrant every Constable is

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hereby authorised and empowered, if necessary, to break and enter into the premises and eject the tenant or any other person therefrom. A.D. 1901.

Every such warrant may be in the form in the Schedule hereto, or to the like effect.

6 Subject to the provisions of this Act, the provisions of *The Magistrates Summary Procedure Act* shall apply to all proceedings under this Act. Provisions of 19 Vict. No. 8 to apply.

7 All the powers conferred by this Act for recovery of possession of premises and of payment of rent and mesne profits shall be in addition to and not in substitution for any other powers now by law vested in or conferred upon any person. Saving as to existing law.

SCHEDULE.

WARRANT TO CONSTABLES TO TAKE AND GIVE POSSESSION.

Police Office,

To all Constables in the State of Tasmania.

WHEREAS on the _____ day of _____ 19____ complaint was made before one of His Majesty's Justices of the Peace that *A.B.*, being the tenant of certain premises situate at _____ the tenancy whereof has ended [*or* been legally determined], and the said *A.B.* has neglected or refused to quit and deliver up possession of the same: And whereas on such complaint being made a summons was issued which was duly served upon the said *A.B.*: And whereas the said complaint was on the _____ day of _____ 19____ heard before me and _____, Esquire, one of His Majesty's Justices of the Peace for _____, and it was thereupon ordered that the said *A.B.* should, on or before the _____ day of _____ 19____ deliver up possession of the said premises to *C.D.* [*or* to *E.F.*, his agent]: And whereas such time has now expired but the said *A.B.* has not delivered up possession of the said premises to the said *C.D.* [*or* to *E.F.* his agent], but therein has made default: These are therefore to authorise and command you and each of you, as soon as possible after the issuing of this Warrant, except on Sunday, Christmas Day, or Good Friday, between the hours of Nine in the forenoon and Four in the afternoon, to enter (by force if needful), and with or without the aid of [*the landlord or agent, as the case may be*], or any other person whom you may think requisite to call to your assistance, into and upon the said premises, and to eject therefrom any person, and of the said premises full and peaceable possession to deliver to the said *C.D.*, [*or* to *E.F.*, his agent]. And for so doing this shall be your sufficient warrant.

Given under my hand at _____ this _____ day of _____ 19____

Justice of the Peace.

