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Ordinances 1836-1841

Governor of Malta, with the advice and consent of the Council of Government thereof, for abolishing the Censorship, and for providing against Abuses of the consequent liberty of publishing printed writings; which is to be observed as law within these Possessions.

Valletta, 15th March, 1839.

By Command of His Excellency,

H. GREIG,

Chief Secretary to Government.

(L.S.) *H. F. Bouverie,*
Governor.

ORDINANCE N° IV OF 1839.

An Ordinance enacted by the Governor of Malta, with the advice and consent of the Council of Government thereof, for abolishing the Censorship, and for providing against Abuses of the consequent liberty of publishing printed writings.

CHAPTER I.

Censorship abolished.

SECT. I.—Whereas printed writings, printed in these islands, are liable and subjected to the censorship immediately hereafter described; and other printed writings are liable to the same censorship, although in practice they are not subjected thereto: And whereas it is expedient that the aforesaid censorship should be abolished:—Now his Excellency the Governor, with the advice and consent of the Council of Government, hereby enacts as follows:

From the day of the promulgation of the present Ordinance, no printed writing shall be subjected or liable to the censorship which is now exercised in these islands by Her Majesty's Government therein.

Consequent liberty of publishing, and force of law given to provisions against abuses thereof.

SECT. II.—Whereas the aforesaid censorship will be abolished by virtue of the enactment in the first section of the present chapter: And whereas a liberty of publishing printed writings (printed in or out of these islands) will result from the abolition of the aforesaid censorship: And whereas it is expedient that the provisions against abuses of the aforesaid liberty of publishing, which are contained in the second and following chapters, should be substituted for the aforesaid censorship, on the abolition thereof:—Now his Excellency the Governor, with the advice and consent of the Council of Government, hereby enacts as follows:

From the day of the promulgation of the present Ordinance, the provisions in the second and following chapters thereof, shall have in these islands the force of laws.

CHAPTER II.

Abuses determined.

SECT. I.—The only publications and contributions to publications, which are within the purposes of the present Ordinance, are publications of printed writings, and contributions to similar publications; and the only abuses of the aforesaid liberty of publishing, which are within the same purposes, are such publications, of printed writings, and such contributions to similar publications, as are prohibited in the third chapter and are not exempted in the fourth.

Printed writings defined.

SECT. II.—Any words printed in alphabetical or other characters, and with types or in any other manner, on one or more papers or other substances, shall be deemed, for the same purposes, a printed writing.

Publications defined.

SECT. III.—Any delivery of a printed writing to one or more persons, or any offer to deliver it to one or more persons, shall be deemed, for the same purposes, a publication thereof.

Any exposition of a printed writing, being neither a delivery of it nor an offer to deliver it, which probably might cause it to be read by one or more persons, shall also be deemed, for the same purposes, a publication thereof.

Contributions thereto defined.

SECT. IV.—Any act or omission causing, or helping to cause, an actual publication of a printed writing, shall be deemed, for the same purposes, a contribution to the publication.

Publications and contributions equivalent.

SECT. V.—A publication and a contribution to a publication are, for the same purposes, equivalent; and any of the provisions in the third and following chapters, which in its terms is restricted to publications, extends notwithstanding to contributions to publications, unless the contrary be declared by another of the same provisions.

What publications,

SECT. VI.—A publication, embraced by a prohibition in the third chapter, shall not be imputed to the publisher, as an offence against the present Ordinance, unless he published with culpable knowledge, or unless he published negligently.

He shall be deemed to have published with culpable knowledge, if, at the time of the publication, he knew that he was publishing the writing, and also knew that the publication fell within the prohibition. If, at the time of the publication, he was ignorant of those facts, or either of them, but, with due attention, might have been aware of both, he shall be deemed to have published negligently.

and what contributions, are not imputable to the publisher or contributor.

SECT. VII.—A contribution to a like publication shall not be imputed to the contributor, as a like offence, unless he contributed with culpable knowledge, or unless he contributed negligently.

He shall be deemed to have contributed with culpable knowledge, if, at the time of the contribution, he knew that he was contributing to the publication, and also knew that the publication fell within the prohibition. If, at the time of the contribution, he was ignorant of those facts, or either of them, but, with due attention, might have been aware of both, he shall be deemed to have contributed negligently.

CHAPTER III.

Publications prohibited, and punishments for offending against these prohibitions.

SECT. I.—Any publication tending to incite a person or persons to any act embraced by either of the descriptions immediately following, is hereby prohibited.

Descriptions referred to in the first paragraph of the present section.—1. Any attempt (or endeavour) to subvert Her Majesty's government in these islands. 2. Any act tending to subvert the aforesaid government, though not being strictly an attempt to subvert it.

Whoever shall offend against the prohibition contained in the present section, by any publication within the prohibition, or by

any contribution to any such publication, shall be punishable with an imprisonment not exceeding the term of twenty-four months.

SECT. II.—Any publication tending to incite a person or persons to any act embraced by any of the descriptions immediately following, is hereby prohibited.

Descriptions referred to in the first paragraph of the present section.—1. Preventing or obstructing by violence, or by offering or threatening violence, the lawful execution, or other lawful administration, of a law (or rule of law) in force in these islands. 2. Attempting to prevent or obstruct, in the like manner, the lawful execution, or other lawful administration, of any such law (or rule of law). 3. Preventing or obstructing, in the like manner, the lawful execution of a lawful command from a person or persons employed or concerned in administering Her Majesty's government in these islands. 4. Attempting to prevent or obstruct, in the like manner, the lawful execution of any such command. 5. Disobeying with violence, or with any offer or menace of violence, any such law or command. 6. Impeding by violence, or by offering or threatening violence, any such person or persons in the lawful exercise of his or their authority. 7. Attempting to impede, in the like manner, any such person or persons in the lawful exercise of his or their authority. 8. Doing or offering violence to any such person or persons in the lawful exercise of his or their authority. 9. Destroying or damaging unlawfully, or offering to destroy or damage unlawfully, any immovable or moveable thing possessed by the aforesaid government.

Whoever shall offend against the prohibition contained in the present section, by any publication within the prohibition, or by any contribution to any such publication, shall be punishable with an imprisonment not exceeding the term of eighteen months.

SECT. III.—Any publication of any writing censuring or disrespectfully mentioning Her Majesty the Queen, is hereby prohibited.

Whoever shall offend against the prohibition contained in the present section, by any publication within the prohibition, or by any contribution to any such publication, shall be punishable with an imprisonment not exceeding the term of twelve months.

SECT. IV.—Any publication of any writing embraced by the description immediately following, is hereby prohibited.

Description referred to in the first paragraph of the present section.—Any writing untruly imputing malversation in administering Her Majesty's government in these islands, to a person employed or concerned in administering the same.

Whoever shall offend against the prohibition contained in the present section, by any publication within the prohibition, or by any contribution to any such publication, shall be punishable with an imprisonment not exceeding the term of twelve months.

SECT. V.—Any publication of any writing embraced by the description immediately following, is hereby prohibited.

Description referred to in the first paragraph of the present section.—Any writing revelling, ridiculing, or otherwise insulting,

the person or persons at the head of a sovereign government in amity with the government of Her Majesty; or reviling, ridiculing, or otherwise insulting, the person or persons in any high office under any such sovereign government.

Any publication embraced by the description immediately following, is also hereby prohibited.

Description referred to in the third paragraph of the present section.—Any publication tending to incite a subject or subjects of any such sovereign government, to attempt the subversion thereof; or tending to incite a subject or subjects of any such sovereign government, to prevent or obstruct by violence, or by offering or threatening violence, the execution or other administration of any of its laws or other commands; or tending to incite a subject or subjects of any such sovereign government, to disobey with violence, or with any offer or menace of violence, any of its laws or other commands.

Whoever shall offend against either of the prohibitions contained in the present section, by any publication within the prohibition, or by any contribution to any such publication, shall be punishable with an imprisonment not exceeding the term of twelve months.

SECT. VI.—Any publication of any writing embraced by any of the descriptions immediately following, is hereby prohibited.

Descriptions referred to in the first paragraph of the present section.—1. Any writing reviling, ridiculing, or otherwise insulting, an essential or fundamental doctrine of the Christian religion: that is to say, a doctrine received by the generality of Christians of every church, society, or denomination. 2. Any writing reviling, ridiculing, or otherwise insulting, any doctrine of the Roman-catholic Church; or the government or discipline of the Roman-catholic Church, or any part of its government or discipline; or any ritual or other religious observance of Roman-catholic Christians of any class or description. 3. Any writing reviling, ridiculing, or otherwise insulting, any doctrine of the Established Church of England, or its government, discipline or rites. 4. Any writing reviling, ridiculing, or otherwise insulting, any doctrine of any church or society of Christians, other than the Roman-catholic Church, or the Established Church of England; or reviling, ridiculing, or otherwise insulting, the government, discipline or rites of any such church or society.

Whoever shall offend against the prohibition contained in the present section, by any publication within the prohibition, or by any contribution to any such publication, shall be punishable with an imprisonment not exceeding the term of twelve months.

SECT. VII.—Any publication of any obscene writing is hereby prohibited.

Whoever shall offend against the prohibition contained in the present section, by any publication within the prohibition, or by any contribution to any such publication, shall be punishable with an imprisonment not exceeding the term of twelve months.

SECT. VIII.—Any publication of any writing embraced by the description immediately following, is hereby prohibited.

Description referred to in the first paragraph of the present section.—Any writing censuring any person in a private capacity;

The Supreme Council of Justice to decide causes pending.
Composition of the Court.

Suppression of Supreme Council of Justice on the termination of the pending causes.

Revision and republication of Court regulations.

Laws contrary to the provisions of this Ordinance abrogated.

Court of Appeal and Supreme Council of Justice to continue as before constituted, with the changes contained in this Ordinance.

This Ordinance to be in force on the 1st March, 1839.

7. The Supreme Council of Justice shall decide all the causes specified in the 6th section of this Ordinance; and for this purpose the President and the five other Her Majesty's Judges shall be members of the said Court, three of whom shall form a quorum.

8. When the causes indicated in the 6th section of this Ordinance shall be terminated, the Supreme Council of Justice shall cease and be at an end, and shall be deemed to be *ipso facto* suppressed and abolished.

9. The President and Judges of Her Majesty's Court of Appeal shall proceed forthwith to revise the regulations hitherto published for Her Majesty's Court of Appeal, and for the Supreme Council of Justice, and to reform and republish such regulations for Her Majesty's Court of Appeal, observing the dispositions of the 19th section of the General Constitution of all the Superior Courts of Justice, promulgated by the Proclamation (N° xv) of the 25th of May, 1814, and of the Minute of the 26th of December, 1815.

10. All those parts of the Proclamation (N° iv) of the 26th of March, 1827, intituled *A Law to regulate the jurisdiction of the Courts of Appeal, and to enlarge the functions of the Principal Law Officer of Government*,—of the Proclamation (N° v) of the 8th of May, 1826, intituled *A Law to authorize appeals from the decisions of the Commissioners in matters of Bankruptcy to be made direct to the Supreme Council of Justice*,—of the Proclamation (N° i) of the 10th of February, 1815,—of the Proclamation (N° v) of the 22nd of February, 1825,—of the Proclamation (N° iv) of the 27th of March, 1821,—of the Minute of the 4th of August, 1827,—of the Proclamation (N° xvi) of the 26th of May, 1814,—of the Proclamation (N° viii) of the 23rd of July, 1827, intituled *A Law to regulate the admission of parties to sue or defend actions in forma pauperis*,—of the Proclamation (N° x) of the 3rd of October, 1827, intituled *A Law for the regulation of His Majesty's Court of Appeal, and His Majesty's Criminal Court*, and of any other law, all which parts are contrary to the provisions contained in this Ordinance, shall be revoked and abrogated.

11. Her Majesty's Court of Appeal, and, until the termination of the causes specified in the 6th section of this Ordinance, also the Supreme Council of Justice, in all such matters as are not affected by the same Ordinance, shall continue to be regulated as they have hitherto been.

12. This Ordinance shall begin to have effect, and be in force on the first day of March, 1839.

Passed 26th February, 1839.
WM SIM,
Clerk of the Council.

By Command,
H. GREIG,
Chief Secretary to Government.

PROCLAMATION

(ANNO DOMINI 1839.)

[N° IV.]

By His Excellency SIR HENRY FREDERICK BOUVERIE, G.C. St M. & St G.
K.C.B. Governor, &c. &c. &c.

The Governor is hereby pleased to promulgate the following Ordinance, N° IV, passed on the 14th day of March instant, intituled: *An Ordinance enacted by the*

