

T A S M A N I A.



1875.

ANNO TRICESIMO-NONO

VICTORIÆ REGINÆ,

No. 8.



AN ACT to regulate the Importation, Carriage, A.D. 1875.
and Custody of Gunpowder.
[30 September, 1875.]

WHEREAS it is expedient and necessary to make better provision PREAMBLE.
than now exists for regulating the importation, carriage, and custody of
Gunpowder :

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 Gunpowder Act, 1875.”

Short title.

2 In this Act—

Interpretation.

“Gunpowder” includes “gun-cotton” and any substance used for
blasting rocks or exploding mines :

“Public magazine” means any magazine the property of Her
Majesty :

“Storekeeper” means the person in charge of a public magazine :

“Prescribed” means prescribed by regulations made by the
Governor in Council under this Act :

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“Importer” means the owner or other person for the time being possessed of or beneficially interested in any gunpowder imported into this Colony.

Repeal.

3 The Acts mentioned in the Schedule (1) to the extent to which the same are therein expressed to be repealed shall be and the same are hereby repealed ; but nothing herein contained shall affect any act or thing lawfully done, or any liability for rent or charges incurred under the said Acts or either of them ; and all offences committed and penalties incurred under the said Acts or either of them may be prosecuted and enforced as if this Act had not been passed.

Act not to apply to gunpowder on board Queen's or foreign ships of war.

4 This Act shall not extend to the keeping of gunpowder on board of any ship or vessel of war belonging to Her Majesty, or to any foreign ships or vessels being vessels of war, or to the carriage of gunpowder to or from a public magazine by a special order of the Governor.

Governor in Council may make Regulations.

5 The Governor in Council may from time to time make, alter, and rescind such Regulations as he sees fit for carrying into effect the objects and intentions of this Act, so far as the same are not herein provided for by express enactment ; and the Governor in Council may by such Regulations appoint such penalties not exceeding Twenty Pounds as he deems necessary for enforcing such Regulations ; and such Regulations, upon being published in the *Gazette*, shall have the force of Law ; and copies thereof shall be laid before both Houses of Parliament forthwith, if sitting, and if not sitting, then within Fourteen days after the commencement of the next Session.

Gunpowder to be landed at *Hobart Town* or *Launceston* and not elsewhere.

6 All gunpowder imported into this Colony shall, save as hereinafter provided, be landed at such places as shall be prescribed at *Hobart Town* or *Launceston* as the case may be, and not elsewhere ; and the Governor in Council may prescribe the limits within which no ship or vessel having more than Twenty-five pounds of gunpowder on board arriving within the Rivers *Derwent* and *Tamar*, as the case may be, shall be permitted to anchor.

Vessels arriving with gunpowder to hoist Union-jack.

7 All vessels arriving at *Hobart Town* or *Launceston* having gunpowder on board exceeding the quantity of Twenty-five pounds in weight shall hoist a Union-jack at the main, and keep the same hoisted until such gunpowder has been duly landed at the place prescribed ; and if any vessel is moored or anchored within the prescribed limits before all the gunpowder on board exceeding that quantity has been placed in the custody of the storekeeper of the public magazine where the same shall arrive, and conformably with such regulations, if any, as are for the time being in force for that purpose, the master of such vessel shall forfeit a penalty not exceeding Fifty Pounds.

Master of vessel to report having gunpowder on board.

8 The master of every ship arriving in the Rivers *Derwent* or *Tamar* with gunpowder on board, whether as stores or cargo, shall specially report the same to the boarding officer or pilot, whichever shall first go on board such vessel ; and if any gunpowder be not so reported it shall be forfeited ; and the master neglecting or omitting to make such report shall for such neglect or omission forfeit and pay a penalty not exceeding One hundred Pounds.

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9 The importer of gunpowder shall within Twenty-four hours after the arrival of the importing ship enter such gunpowder at the Custom House, and shall obtain from the Collector a permit in such form as may be prescribed and describing such gunpowder, for the same to be landed and deposited in a public magazine, which gunpowder shall only be landed at such place as may be prescribed.

Gunpowder may, without landing the same, be transhipped to be carried coastwise, if the Collector of Customs approves, provided that the Duties of Customs are first paid thereon.

10 No gunpowder shall be removed from the ship or vessel in which the same may be imported or deposited in a public magazine except between the hours of Seven in the morning and Four in the afternoon, from the First day of *April* to the Thirtieth day of *September* following, both days inclusive, and between the hours of Seven in the morning and Six in the afternoon from the First day of *October* to the Thirty-first day of *March* following, both days inclusive; and when any quantity of gunpowder is so removed the same shall be brought direct from such ship or vessel to the prescribed place, and thence without delay to such magazine as aforesaid by and at the expense of the importer thereof, and with such precautions as shall be prescribed; and any person who does any act contrary hereto, or wilfully omits to do any act required by this Section to be done by him, shall forfeit and pay the sum of Five Pounds for every barrel or package of gunpowder landed or removed contrary to this provision.

11 No boat shall be used for the conveyance of gunpowder either to or from any ship or landing-place unless the same is provided with tarpaulins both under and over the gunpowder conveyed therein; and no gunpowder shall be landed or conveyed from any ship until the permit granted by the Collector of Customs has been deposited with the storekeeper of the public magazine where such gunpowder is to be stored, who shall forthwith give such directions as may be necessary to prevent damage to such gunpowder or danger to the public; which directions the person in charge of such gunpowder shall in all things obey.

No gunpowder shall be landed at any landing-place except in the presence of the storekeeper with whom such permit has been deposited, or some person appointed by him for that purpose.

12 The storekeeper of every public magazine shall receive into his custody all gunpowder for which a permit has been issued and deposited with him, and shall enter in a book to be kept for that purpose the name of the importer or proprietor thereof, together with the particulars of the packages of the gunpowder so to be deposited, in such form as may be prescribed.

13 No gunpowder shall be removed from any public magazine except between the hours specified in Section 10 of this Act, and upon payment of the rent, storage charges, and other expenses due in respect thereof, nor shall any gunpowder be removed except in accordance with the Regulations made under this Act.

14 No gunpowder shall be received into or removed from any public magazine except in packages or barrels closely joined or hooped without any iron about them, and not containing in any one package or barrel more than One hundred pounds in weight, and the said

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Importer to enter gunpowder, and get permit to land and store it.

Hours for landing gunpowder, and mode of landing same.

Only boats provided with tarpaulins to convey gunpowder.

Storekeeper to receive gunpowder.

Gunpowder not to be removed from magazine except between authorised hours, and on payment of rent and charges.

Packages of gunpowder to be properly secured.

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packages or barrels shall be so secured that no part of the gunpowder can be scattered in the removal thereof, and in case of failure thereof the storekeeper in charge of any public magazine shall remove the contents of the said packages or barrels into secure and proper packages, and charge the expense attending the same to the importer or proprietor thereof; and the storekeeper may refuse to deliver the gunpowder so removed into fresh packages until the said expenses shall be first paid.

Regulating storage rent.

15 The storage rent and other charges for the depositing of gunpowder in any public magazine to be paid by the importer or proprietor of such gunpowder shall be at the rate mentioned in the Schedule (2).

Appropriation of storage rents, charges and penalties.

16 All payments made for the storage of gunpowder and all other charges in respect thereof payable under this Act, and one moiety of all penalties recovered hereunder shall be paid into the Colonial Treasury and form part of "The Consolidated Revenue Fund."

Gunpowder upon which storage rent for Five years is due to be sold.

17 Whenever the storage-rent or charges or both for the storage of gunpowder in any public magazine shall not be paid by the person liable to pay the same for the space of Five years, it shall be lawful for the storekeeper to cause the gunpowder in respect of which the storage-rent and charges are due and payable to be sold by public auction at such price as the same may then produce; but no such sale shall in any case be made of any such gunpowder until after notice of such intended sale has been published in Three consecutive numbers of the *Gazette*, in which notice shall be stated the name of the person who appears to be the registered owner of such gunpowder.

Appropriation of proceeds.

18 Out of the proceeds to arise by the sale of such gunpowder it shall be lawful for the said storekeeper to deduct and pay all costs, charges, and expenses whatsoever incurred by him in respect of such sale, and in the next place, so far as the said proceeds shall extend, to deduct and pay the storage-rent and other charges payable in respect of the gunpowder so sold by him as aforesaid, and the surplus, if any, after payment of such costs, expenses, storage-rent, and other charges as aforesaid shall be paid if demanded to the importer or proprietor of such gunpowder, his executors, administrators, or assigns; and the gunpowder sold as aforesaid shall immediately upon the sale thereof be re-stored in the name of the purchaser thereof in such magazine as aforesaid in manner hereinbefore mentioned, and such purchaser shall be deemed and taken to be the proprietor of such gunpowder.

Restrictions as to carriage of gunpowder.

19 No gunpowder shall be carried from any magazine or from any one place to any other place except on the first landing thereof, in quantities exceeding One thousand pounds weight on the same carriage, cart, dray, waggon, or other vehicle; and no gunpowder whatever shall be carried on any vehicle licensed or used for the conveyance of passengers, nor in any cart, dray, or waggon, or other vehicle, or any railway truck attached to a train, except with such precautions and in such manner as may be prescribed.

Steam vessels not to carry gunpowder except in accordance with Regulations.

20 No steam vessel arriving in or departing from or employed within or on the coasts of *Tasmania* shall carry gunpowder either as stores or cargo, except in such quantities and in such manner as may be prescribed.

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21 No gunpowder shall be put on board any ship or vessel except beyond such limits as may be prescribed for the shipment of gunpowder; nor except between the hours of Seven in the morning and Four in the afternoon.

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Vessels receiving gunpowder to be beyond certain limits.

Meaning of certain terms herein after mentioned.

22 In the following provisions :—

“Town” includes the City of *Hobart Town* :

“Municipal Council” includes the Municipal Councils of the City of *Hobart Town*, the Town of *Launceston*, and of every Rural Municipality, and where there is no Municipal Council the said term shall mean any two Justices of the Peace acting together, one of whom shall be a Police or Stipendiary Magistrate :

“Mayor” and “Warden” include a Police or Stipendiary Magistrate.

23 No packet containing gunpowder shall be opened, and no gunpowder excepting in canister as originally imported shall be sold or delivered within any town by candle or other artificial light under a penalty not exceeding One Pound for each offence; and if any person shall have at any time on any premises within any town more than Thirty-five pounds weight of gunpowder, without the permission of the Municipal Council as hereinafter mentioned, he shall for every such offence forfeit and pay a penalty of not less than Five Pounds nor more than Twenty Pounds.

Gunpowder not to be sold by candle-light, nor more than 35 lbs. kept without a licence.

24 Any person desirous of obtaining permission under this Act to have more than Thirty-five pounds weight of gunpowder on any premises within any town shall make application in writing for that purpose to the Municipal Council; and if the Council approves thereof, the Mayor or Warden, as the case may be, shall, upon payment of such sum not exceeding Two Pounds as the Council sees fit, forthwith issue to such person a licence authorising such person to have on the premises mentioned in such licence such a quantity of gunpowder not exceeding Two hundred and fifty pounds weight as may be specified in such licence, for any period not exceeding One year from the date of such licence.

Mode of obtaining such licence and fee for same.

Where there is no Municipal Council the sum of money hereinbefore mentioned shall be such sum as the Governor determines.

Every licence granted under any Act hereby repealed authorising any person to have on the premises mentioned in such licence such a quantity of gunpowder exceeding Two hundred and fifty pounds weight as may be specified in such licence, shall, until the expiration thereof, be deemed to be good and valid, anything herein contained to the contrary notwithstanding.

25 The person applying for any such licence shall, before the issuing thereof, have or cause to be built on such premises a magazine constructed of such material and in such manner as the Municipal Council may approve of; and if any such person having obtained such licence shall have upon such premises more than Thirty-five pounds weight of gunpowder otherwise than in such magazine, he shall forfeit and pay a penalty of Five Pounds for every pound weight of gunpowder over Thirty-five pounds weight so found on such premises otherwise than in such magazine.

Magazines to be erected on the premises of licensed persons:

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Penalty for having more than allowed quantity of gunpowder in magazine.
Inspectors of Magazines.

26 If any person shall have in any such magazine any combustible or inflammable material, or any greater quantity of gunpowder than is specified in his licence, he shall for every such offence forfeit and pay a penalty not exceeding Twenty Pounds.

27 It shall be lawful for the Governor to appoint a sufficient number of competent persons to be Inspectors of licensed magazines, and such persons may at all reasonable times inspect any licensed magazine for the purpose of examining into the construction and state of such magazine and the nature and contents thereof, and any person who wilfully obstructs any Inspector in the performance of his duty shall be liable to a penalty of Ten Pounds.

Licences may be revoked.

28 It shall be lawful for the Municipal Council, upon the report of any Inspector of licensed magazines, to require any defects in such magazine to be remedied forthwith, and if such defects are not remedied within Seven days after notice in writing to that effect has been served upon the proprietor of such magazine, then the licence for such magazine shall at the expiration of such time be *ipso facto* revoked, and the proprietor of such magazine may be proceeded against in respect of the gunpowder then in such magazine under this Act.

Power to enter premises to search for gunpowder.

29 It shall be lawful for the Inspector or Surveyor of any town, or for any Constable having reasonable grounds to suspect any person of having gunpowder on any premises within such town contrary to the provisions of this Act, under the written direction of the Mayor of *Hobart Town* or *Launceston*, or the Warden of any Municipality, or any Justice of the Peace, as the case may be, to enter in and upon and search such premises, and to seize and detain any gunpowder found on such premises for the purpose of being produced on the hearing of any information laid against any person under this Act; and if admittance to such Inspector, Surveyor, or such Constable is in any case refused, or wilfully delayed, the person so offending shall forfeit and pay a penalty of not less than Five Pounds nor more than Fifty Pounds.

Justice on oath to issue a search warrant.

30 It shall be lawful for any Justice of the Peace upon demand made and reasonable cause assigned upon oath by any person, to issue a warrant under his hand for searching in the day-time any house, storehouse, warehouse, shop, cellar, yard, wharf, or other building or place, or any ship or vessel in which gunpowder is suspected to be kept contrary to this Act; and all gunpowder found upon search to be kept contrary to this Act, and also the barrels and packages in which the same is contained, shall be immediately seized by the searcher, who shall with all convenient speed after seizure remove the same to such proper place as he thinks fit, and may detain such gunpowder and the barrels and packages containing the same until it shall be adjudged by Justices whether the same shall be adjudged forfeited; and such searcher shall not be liable to any suit for such detainer or for any loss or damage which may happen to such gunpowder or barrels or packages other than by his wilful act or neglect.

Gunpowder provided for military purposes excepted.

31 Nothing hereinbefore contained shall apply to any quantity of gunpowder provided for military or police purposes.

Penalty for offences not

32 If any gunpowder is landed, carried, or shipped contrary to this Act it shall be forfeited; and if any person violates any of the provisions

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of this Act with respect to which no penalty (or the forfeiture of gunpowder only) is specified, he shall on conviction forfeit a sum not exceeding One hundred Pounds. A.D. 1875.
—
otherwise provided for.

33 All penalties and forfeitures incurred under this Act shall be recoverable and enforced in a summary way before any Two Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*; and any person aggrieved by any conviction or forfeiture may appeal therefrom in the manner provided by *The Appeals Regulation Act*. Recovery of penalties.

34 One moiety of all penalties recoverable under this Act shall go to the person who sues for the same. One moiety of penalty to informer.

SCHEDULE.

(1.)

ACTS TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>
2 Vict. No. 12.	An Act for better regulating the Keeping and Carriage of Gunpowder.	The whole.
8 Vict. No. 1.	<i>An Act to amend the Act of this Island intituled An Act for the better regulating the Keeping and Carriage of Gunpowder.</i>	The whole.
21 Vict. No. 16.	<i>The Marine Board Act.</i>	Section 54.
29 Vict. No. 10.	<i>The Police Act, 1865.</i>	Sections 251 to 256, both inclusive.

(2.)

RATES OF STORAGE RENT.

	<i>s.</i>	<i>d.</i>
For each and every barrel or package of gunpowder containing 50lbs. and upwards for any period not exceeding Six weeks	0	6
Ditto above Six weeks, per week	0	1
For each and every barrel or package containing less than 50lbs. for any period not exceeding Six weeks.....	0	3
Ditto above Six weeks, per week	0	0½

For blasting powder only one-half the rates to be charged.

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