

## No. 2.—1880.

1st April.

AN ORDINANCE to amend the Law as to Gunpowder and other Explosive Substances.

(L.S.) HENRY T. IRVING.

7th April, 1880.

BE it enacted by His Excellency the Governor, with the advice and consent of the Legislative Council, as follows :

*Preliminary.*

1. This Ordinance may be cited for all purposes as Short title. "The Explosives Ordinance, 1880."

2. This Ordinance shall come into operation on the passing thereof. Commencement.

3. In this Ordinance  
The term "explosive"

Interpretation.

(1.) Means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to those above mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect; and

(2.) Includes fog-signals, fireworks, fuzes, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined :

The term "safety cartridge" means cartridges for small arms of which the case can be extracted from the small arm after firing, and which are so closed as to prevent any explosion in one cartridge being communicated to the other cartridges :

The term "ship" includes every description of vessel used in sea navigation whether propelled by oars or otherwise :

The term "boat" means every vessel not a ship as above defined, which is used in navigation in any inland water or any harbour whether propelled by oars or otherwise :

The term "carriage" includes any waggon, cart, truck, barrow tray, or other receptacle used or intended to be used for conveying goods or passengers by land :

The term "magazine" means a magazine duly appointed under this Ordinance :

The term "permit" means a permit granted under this Ordinance :

The term "prescribed" means prescribed by a proclamation of the Governor :

The term "Inspector Commandant" means the Inspector Commandant of Police.

### *Gunpowder.*

Appointment  
of magazines.

4. The Governor may from time to time, with the sanction of the Legislative Council expressed by resolution, appoint any place to be a magazine for the reception of gunpowder.

Such resolution and appointment must, unless the magazine be a floating magazine, define the land forming the site of such magazine, and the land so defined, with every building thereon, for whatever purpose used or intended, shall be deemed to constitute a magazine.

Production of a copy of the *Royal Gazette* purporting to contain minutes or a copy of minutes of the proceedings of the Legislative Council at a meeting at which any such resolution as aforesaid was passed shall be *prima facie* evidence of such resolution.

General rules  
for  
magazines.

5. In every magazine the following general rules shall be observed :—

- (1.) Every building in which gunpowder is kept shall be used only for the keeping of gunpowder and receptacles for or tools or implements for work connected with the keeping of such gunpowder ; and

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- (2.) The interior of every such building and all benches, shelves and fittings in such building other than machinery shall be so constructed or so lined or covered as to prevent the exposure of any iron or steel in such manner, and the detaching of any grit, iron, steel or similar substance in such manner, as to come into contact with the gunpowder, and such interior benches, shelves and fittings shall be kept free from grit and otherwise clean; and
- (3.) Charcoal, whether ground or otherwise, and oiled cotton, oiled rags and oiled waste, and any articles whatever liable to spontaneous ignition, shall not be taken into any such building; and
- (4.) No repairs shall be done to or in any part of such building except in accordance with the directions of the Governor; and
- (5.) All tools and implements used in any repairs to or in any such building shall be made only of wood or copper or brass or some soft metal or material, or shall be covered with some safe and suitable material; and
- (6.) Every person entering into any such building shall wear clothes without pockets, and shoes (if any) without any iron or steel therein, and no person shall introduce into any such building any lucifer matches or any artificial light (except luminous surfaces incapable of producing ignition) or any substance or article likely to cause explosion or fire, or any iron, steel, or grit; and
- (7.) No person shall smoke in any part of a magazine except in such part, if any, as may be allowed by the Governor; and
- (8.) Any carriage in which gunpowder is conveyed to or from any magazine shall be constructed without any exposed iron or steel in the interior thereof, and shall contain only the gunpowder and shall be closed or otherwise properly covered over; and the gunpowder shall be so conveyed with all due diligence and with such precautions

and in such manner as will sufficiently guard against any accidental ignition; and

- (9.) A person under the age of sixteen years shall not be employed in or enter any building containing gunpowder except in the presence and under the supervision of some competent older person.

The Governor may from time to time by regulations make, alter, or revoke such modifications in the foregoing general rules as may appear to him to be necessary for adapting the same to floating magazines, and such modifications shall have effect as if they were contained in this section.

In the event of any breach by any act or default of any of the foregoing general rules, the person committing such breach shall be liable to a penalty not exceeding twenty pounds: and, moreover, where such breach was not committed by the person having the charge of the magazine, such person shall, nevertheless, be liable to a penalty not exceeding ten pounds, unless he proves to the satisfaction of the Stipendiary Justice by whom the case is heard that such breach happened without any negligence or failure in duty on his part.

Special rules  
for  
magazines.

6. The Collector of Customs or other person having the superintendence of any magazine may, with the sanction of the Governor, make special rules for the regulation of the persons employed in or about such magazine with a view to secure the observance of this Ordinance therein, and the safety and proper discipline of the said persons and the safety of the public.

There may be annexed to any breach of special rules made in pursuance of this section such penalties not exceeding five pounds for each offence as may be deemed just.

Storage on  
gunpowder.

7. Any gunpowder lawfully imported into this colony shall be taken to a magazine provided by the Government, and may there remain without payment of rent or other charge for any period not exceeding eighteen months.

If any gunpowder remains in such magazine beyond the said period of eighteen months, rent shall be paid in

respect thereof at the prescribed rate, which shall not exceed twopence per pound per month. Such rent shall accrue due from day to day, and shall be paid on the last day of successive periods of six months, the first of which periods shall commence at the expiration of the before-mentioned period of eighteen months, or shall be paid in case any such gunpowder is removed or sold during any of the said periods of six months at the time of such removal or sale, and no gunpowder shall be removed until all rent and other charges due in respect thereof are paid.

Where six months' rent in respect of any gunpowder is in arrear and unpaid, such gunpowder may be sold by the Collector of Customs in such manner and subject to such conditions as he thinks fit. Out of the purchase money arising from such sale the Collector of Customs shall, in the first place, pay the charges and expenses of and incident to the sale, and in the next place all rent due in respect of the gunpowder up to the time of sale, and the surplus (if any) he shall pay to the owner of the gunpowder on demand if such demand is made at any time during the day of sale, but if demand is not made as aforesaid, he shall pay such surplus to the Receiver-General, who shall hold the same in trust for the owner, his executors, administrators or assigns: Provided that at the expiration of two years from the time of sale such surplus, if not applied for by some person or persons lawfully entitled thereto, shall be forfeited to Her Majesty, and the rights of all other persons therein or thereto shall be extinguished.

8. The Governor may from time to time make, alter, and revoke regulations as to the having or keeping and as to the unloading and conveyance within the waters of this Colony of gunpowder, and as to the landing of gunpowder and the subsequent conveyance thereof to a magazine, and as to the conveyance of gunpowder for exportation from a magazine to any wharf or shipping place and the subsequent conveyance and loading thereof within the waters of the Colony, and as to the transshipping of gunpowder within such waters and in particular regulations declaring or regulating all or any of the following matters, namely:—

Regulations as to the importing, exporting and transshipping of gunpowder.

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- (1.) Determining the notice to be given by ships and boats having on board, or conveying, loading, or unloading gunpowder ; and
- (2.) Regulating the navigation and place of mooring of such ships and boats ; and
- (3.) Regulating, subject in cases in which the general rules with respect to packing in this Ordinance contained are applicable to such general rules, the mode of stowing and keeping gunpowder on board any such ship or boat, and of giving notice by brands, labels, or otherwise of the nature of the package containing the gunpowder ; and
- (4.) Regulating the description, construction, fitting up, and licensing of the ships, boats, or carriages to be used for the conveyance of gunpowder, and the licensing and dress of the persons having charge thereof ; and
- (5.) Prohibiting or subjecting to conditions and restrictions the keeping or conveyance of gunpowder with any explosive or any other articles or substances, or in passenger ships, boats, trains or carriages ; and
- (6.) Fixing the places and times at which gunpowder is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one ship, boat, or carriage ; and
- (7.) Regulating the mode of and the precautions to be observed in conveying any gunpowder, and in the loading or unloading any ship, boat, or carriage conveying gunpowder, and the time during which gunpowder may be kept during such conveyance, loading, or unloading ; and
- (8.) Fixing the times at which lights or fires are to be allowed or not allowed on board such ships or boats, as before mentioned, or at which a constable or other officer is to be on board them ; and
- (9.) Providing for the publication and supply of copies of the regulations ; and
- (10.) Enforcing the observance of this Ordinance ; and

(11.) Generally for protecting, whether by means similar to those above mentioned or not, persons and property from danger.

The penalties to be annexed to any breach or attempt to commit any breach of any such regulations may be all or any of the following penalties, and may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first or second or other subsequent offence, that is to say, pecuniary penalties not exceeding fifty pounds for each offence, and ten pounds for each day during which the offence continues, and forfeiture of all or any part of the gunpowder in respect of which, or found in the ship, boat, or carriage in respect of which, the breach of regulation has taken place.

In the event of any breach of a regulation under this section in the case of any ship, boat, carriage, or gunpowder, whether there has or has not been any conviction for such breach, it shall be lawful for any Harbour-master, Assistant Harbour-master, or other officer named in the regulations, or any person acting under the orders of such Harbour-master, or Assistant Harbour-master, to cause such ship, boat, carriage, or gunpowder, at the expense of the owner thereof, to be removed to such place or otherwise dealt with in such manner as may be in conformity with the regulations, and all expenses incurred in such removal may be recovered in the same manner as a penalty under this section; and any person resisting such Harbour-master, Assistant Harbour-master, or officer or other person, in such removal, shall be liable to the same penalties as a person is liable to for obstructing a constable in the execution of his duty.

9. Except gunpowder in the course of removal under and according to a permit, no person shall have in his possession or custody for any purpose whatsoever more than ten pounds of gunpowder: Provided that this section shall not apply to gunpowder in any ship or in any magazine or in the course of conveyance according

Possessing of  
gunpowder.

to regulations made under this Ordinance from or to any ship, wharf, landing place, or shipping place.

**Prohibition of sale of gunpowder to children.** 10. Gunpowder shall not be sold to any child apparently under the age of sixteen years, whether for his own use or the use of any other person. Any one selling gunpowder contrary to this section shall be liable to a penalty not exceeding five pounds.

**Package of gunpowder for sale.** 11. All gunpowder exceeding one pound in weight, when publicly exposed for sale or sold, shall be in a substantial case, bag, canister, or other receptacle, made and closed so as to prevent the gunpowder from escaping, and in every case the outermost receptacle containing such gunpowder shall have affixed the word "Gunpowder," in conspicuous characters, by means of a brand, or securely attached label, or other mark.

If any gunpowder is sold or exposed for sale in contravention of this section,

- (1.) The person selling or exposing for sale the same shall be liable to a penalty not exceeding five pounds; and
- (2.) All or any part of the gunpowder so exposed for sale shall be forfeited.

**Removal of gunpowder.** 12. No gunpowder shall be removed or conveyed except according to this Ordinance.

**Removal of gunpowder over five pounds.** 13. No quantity of gunpowder exceeding five pounds shall be removed or conveyed except under and according to a permit: Provided that this section shall not apply to gunpowder in the course of conveyance according to regulations made under this Ordinance from or to a magazine, or any ship, wharf, landing place, or shipping place.

**Penalty on illegal removal of gunpowder.** 14. Any person removing or conveying any gunpowder contrary to this Ordinance, or aiding or assisting in such removal or conveyance, shall be liable to a penalty not exceeding fifty pounds, and any gunpowder removed or conveyed or being removed or conveyed contrary to this Ordinance shall be forfeited.

15. A permit for the removal of any gunpowder may be granted by the Inspector Commandant to any person being apparently above the age of sixteen years upon an application in writing. Such application shall state the quantity of gunpowder intended to be removed, the places to which and the persons to whom it is to be distributed, the quantities to be left at each destination, the hours within which and the route by which the removal is intended to be effected and the place or places, if any, where such gunpowder or any part thereof is intended to be deposited until the removal and distribution is completed.

Application  
for a permit  
to remove  
gunpowder.

16. Subject to the provisions of this Ordinance, the Inspector Commandant shall within twenty-four hours, exclusive of Sundays and public holidays, after an application for a permit has been left at his office, grant a permit specifying the total quantity allowed to be removed, the places to which and the persons to whom the parcels making up such total quantity are to be distributed, the hours within which and the route by which the removal may be effected, and the place or places, if any, where the gunpowder or any part thereof may be deposited until the removal and distribution is completed.

Grant of  
permit.

Provided that

- (1.) No permit shall authorise the having on the same premises or in the same carriage more than fifty pounds of gunpowder, and
- (2.) The Inspector Commandant, if upon any application for a permit, he is satisfied that a permit according to the application cannot consistently with public safety be granted, may postpone or absolutely refuse the grant of such permit or may grant the same with any variations from the application and subject to any conditions which he considers proper for the protection of the public.

17. When any gunpowder is removed or conveyed from place to place in this Colony either wholly by land or partly by land and partly by some navigable river or canal, the following general rules as to packing and other things shall be observed :

General rules  
as to removal  
of gunpowder  
within the  
colony.

- (1.) The gunpowder if not exceeding five pounds in quantity shall be contained in a substantial case, bag, canister or other package made and closed so as to prevent the gunpowder from escaping; and
- (2.) The gunpowder if exceeding five pounds in quantity shall be divided into parcels each of which shall comprise not more than five pounds, and be contained in a substantial case, bag, canister, or other package made and closed so as to prevent the gunpowder from escaping; and
- (3.) The interior of every package shall be kept free from grit and otherwise clean; and
- (4.) Every package when actually used for the package of gunpowder shall not be used for any other purpose; and
- (5.) There shall not be any iron or steel in the construction of any package unless the same is effectually covered with tin, zinc, or other material; and
- (6.) On the outside of every package there shall be affixed the word "Gunpowder" in conspicuous characters by means of a brand or securely attached label or other mark; and
- (7.) The gunpowder shall be in the charge and under the custody of some male person above the age of sixteen years, who when the quantity of gunpowder exceeds five pounds shall have the permit for its removal in his possession, and shall produce and show such permit to anyone who demands to see it.

In the event of any breach, by any act or default, of any general rule in this section, the gunpowder in respect of which the breach is committed shall be forfeited and the person committing such breach shall be liable to a penalty not exceeding fifty pounds.

The Governor may from time to time make, alter, and revoke rules rescinding, altering, or adding to the gene-

ral rules contained in this section, and the rules so made by the Governor shall have the same effect as if they were enacted in this section.

18. Where gunpowder is removed or conveyed from place to place in this Colony partly by land and partly by sea coastwise, the provisions of this Ordinance applicable to gunpowder removed or conveyed by land shall apply to such gunpowder when on land and the provisions of this Ordinance applicable to gunpowder in the waters of this Colony shall apply to such gunpowder when on the sea.

Removal of gunpowder within the Colony partly by land and partly by sea.

*Explosives other than Gunpowder.*

\* \* \* \* \*  
*Section 19 is repealed by Ordinance 8 of 1884.*

20. If any person except under and according to a license granted by the Inspector Commandant throws, casts, or fires, or suffers to be thrown, cast, or fired from out of his house, shop, dwelling, lodging, or habitation, or from out of any place thereto belonging any fireworks in or into any highway, or any place within sixty feet of the centre of a highway, or in or into any street, thoroughfare, or public place he shall be liable to a penalty not exceeding ten pounds.

Throwing fireworks in a public place.

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*Section 21 is repealed by Ordinance 8 of 1884.*

*General Provisions.*

22. If any person discharges or suffers to be discharged from out of his house, shop, dwelling, lodging, or habitation, or from out of any place thereto belonging, any fire-arms in or into any highway, or any place within sixty feet of the centre of any highway, or in or into any street, thoroughfare, or public place he shall be liable to a penalty not exceeding ten pounds.

Discharging firearms in a public place.

23. Every act or default in respect of which a penalty is imposed by this Ordinance, shall constitute an offence punishable on summary conviction by a Stipendiary Justice of the Peace, and the provisions of the Ordinance

Recovery of penalties.

No. 5 of 1868, intituled "An Ordinance respecting the Summary Administration of Justice," shall apply to such offences :

Provided that the person on whom the penalty is imposed shall in default of payment thereof be liable to imprisonment as follows and not otherwise, that is to say :—

- (1.) If the penalty does not exceed five pounds, to imprisonment with or without hard labour for a term not exceeding one month ;
- (2.) If the penalty exceeds five pounds but does not exceed ten pounds, to imprisonment with or without hard labour for any term not exceeding two months ;
- (3.) If the penalty exceeds ten pounds but does not exceed twenty-five pounds, to imprisonment with or without hard labour for any term not exceeding three months ;
- (4.) If the penalty exceeds twenty-five pounds but does not exceed fifty pounds, to imprisonment with or without hard labour for any term not exceeding six months ; and,
- (5.) If the penalty exceeds fifty pounds, to imprisonment with or without hard labour for any term not exceeding one year.

Power to  
search for  
explosives.

24. Any inspector, non-commissioned officer or constable of police having a general authority in writing signed by the Inspector Commandant to act under this section may, for the purpose of ascertaining whether the provisions of this Ordinance with respect to the keeping or removal of an explosive are complied with, enter, inspect, and examine at any time, and as well on Sundays as on other days, any place, whether a building or not, and any carriage, in which place or carriage he has reasonable cause to suppose an explosive to be kept, or to be deposited in course of removal.

Any such inspector, non-commissioned officer, or constable, if he find any offence against this Ordinance

being committed in any such place or carriage, may seize and detain or remove the explosive or the said carriage in such manner and with such precautions as appear to him to be necessary to prevent any danger to the public, and may seize and detain the said explosive as if it were liable to forfeiture.

Any constable seizing, detaining, or removing any carriage or explosive in pursuance of this section, shall not be liable to damages or otherwise in respect of such acts or any acts incidental to or consequential thereon, unless it be proved that he acted without reasonable cause, or that he caused damage to the article seized, detained, or removed by some wilful neglect or default.

25. All actions or other proceedings for any thing done under this Ordinance, shall be commenced within four months after the matter complained of was done and not later, and notice in writing of such action or other proceeding, and the cause thereof, shall be given to the defendant one month at least before the commencement of such action or proceeding.

Limitation of actions.

26. Any person who is found committing any act for which he is liable to a penalty under this Ordinance and which tends to cause explosion or fire in or about any store, railway, harbour, or wharf, or in or about any sugar, cocoa, or coffee plantation, or any building thereon, or in or about any carriage, ship, or boat, may be apprehended without a warrant by any constable or assistant constable, or by the occupier or the agent or servant of, or other person authorised by the occupier of such store, plantation, or building, or by any person employed on the railway, or by any officer of Customs, or by any harbour-master, assistant harbour-master, or person authorised by any harbour-master or assistant harbour-master, and be removed from the place at which he was arrested and conveyed as soon as conveniently may be before a Justice of the Peace.

Power to arrest offenders.

27. Where any person is guilty of an offence which under this Ordinance is but for this section punishable by a pecuniary penalty only, and which in the opinion of the Stipendiary Justice who tries the case was

Power in certain cases to award imprisonment unconditionally.

reasonably calculated to endanger the safety of or cause serious personal injury to any person or to cause a dangerous accident, and was committed wilfully by the personal act, personal default, or personal negligence of the person accused, such person shall be liable, if the Stipendiary Justice is of opinion that a pecuniary penalty will not meet the circumstances of the case, to imprisonment with or without hard labour for any term not exceeding six months.

Exemption in certain cases of carriers and owners and masters of ships.

28. When a carrier or owner or master of a ship or boat is prevented from complying with this Ordinance by the wilful act, neglect, or default of the consignor or consignee of the explosive or other person, or by the improper refusal of the consignee or other person to accept delivery of the explosive, such consignor, consignee, or other person who is guilty of such wilful act, neglect, default, or refusal shall be liable to the same penalty to which the carrier, owner or master is liable for a breach of this Ordinance, and his conviction shall exempt the carrier, owner, or master from any penalty or forfeiture under this Ordinance.

Publication of regulations.

29. Every regulation or proclamation made by the Governor under this Ordinance shall be published in the *Royal Gazette*. Production of a copy of the *Royal Gazette* purporting to contain any such regulation or proclamation shall be *prima facie* evidence of the due making and tenor of such regulation or proclamation.

Exemption.

30. Nothing contained in this Ordinance shall apply to any explosive the property of Her Majesty and held for the purposes of any of Her Majesty's naval, military, or volunteer forces, or held for the public service of this Colony.

Repeal of enactments.

31. The enactments specified in the schedule to this Ordinance are hereby repealed to the extent mentioned in such schedule: Provided that such repeal shall not affect anything done or any right accrued or liability, penalty or forfeiture incurred before the passing of this Ordinance, or any remedy or proceedings in respect of any such right, liability, penalty or forfeiture.

Passed in Council this first day of April, in the year of our Lord one thousand eight hundred and eighty.

A. C. ROSS,  
*Clerk of the Council.*

THE SCHEDULE.

No. of Ordinance.	Title.	Extent of Repeal.
No. 1 of 1842 .	An Ordinance to regulate the storing of gunpowder ...	The whole.

No. 3.—1880.

*5th May.*

AN ORDINANCE to amend the Law as to the Water-works.

(L.S.) HENRY T. IRVING.

*11th May, 1880.*

**B**E it enacted by His Excellency the Governor with the advice and consent of the Legislative Council as follows :—