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AN ACT

To authorize the Governor of Vancouver Island and its Dependencies to Erect a Powder Magazine for the custody of Gunpowder, and to regulate the Sale, Storage, and Keeping of Gunpowder.

WHEREAS, by the "Powder Magazine Act, 1860," advantages were offered to private enterprise to erect a Magazine for the reception of Gunpowder;

And whereas, such advantages have failed to induce any person to erect a Magazine for the purpose aforesaid;

And whereas, large quantities of gunpowder are now stored within the Town of Victoria, to the great peril of Her Majesty's liege subjects.

Be it enacted by His Excellency the Governor on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly, as follows :

Governor may appropriate £700 to the erection of a Powder Magazine.

I. That the Governor for the time being of Vancouver Island and its Dependencies is hereby authorized to appropriate a sum not exceeding Seven Hundred Pounds, (£700) to the erection of a safe and sufficient building for the purpose of a Powder Magazine, in a suitable position, for the use of the Merchants and other inhabitants of the Colony. Provided, always, that such Powder Magazine shall not be erected on any point within Laurel Point, in the Harbor of Victoria.

The Magazine to be under the Superintendence of the Surveyor General.

II. The Magazine, when erected, shall be under the superintendence of the Surveyor General for the time being, who shall make such regulations as may be deemed expedient.

Surveyor General to notify the opening of the Magazine.

III. The Surveyor General shall, as soon as the said Magazine is ready for the reception of Gunpowder, publish a notification to that effect, for the space of one week, in one of the papers circulating in the Colony.

Surveyor General to publish regulations for the governance of the Magazine

IV. The Surveyor General shall in like manner publish such regulations as aforesaid, and the same shall come into effect, and be binding on all persons, at the end of the said week.

No person to store Gunpowder for reward within three miles of Victoria, under a Penalty.

V. No person or persons shall, after the expiry of the seven day's publication by the Surveyor General of the notification that the Magazine is ready as aforesaid, warehouse for reward any Gunpowder within three miles of the Towns of Victoria and Esquimalt, under a penalty not exceening £50, to be recoverable before a Magistrate in a summary manner.

Twelve Shillings and sixpence a ton to be charged for the Storage of Powder.

VI. There shall be paid for the storage of gunpowder in the said Magazine a sum not exceeding Twelve Shilling and Sixpence a ton for every ton, or part of a ton, stored for one month or part of a month.

No person to store more than fifty pounds of powder.

VII. No person or persons shall, after the expiry of the publication aforesaid, keep in any house, store, building, or curtilage to a building, more than Fifty Pounds weight of Powder.

VIII. No person or persons shall, after the expiry of the publication aforesaid, keep in any house, store, building, or curtilage to a building, more than ten pounds of gunpowder; unless the same be kept in a moveable fire-proof magazine, fitted with wheels, capable of easy transportation. Nor more than ten pounds unless in Magazine.

IX. Every such moveable magazine may be inspected at any time by the Surveyor General aforesaid, who may either approve or condemn the same; and until the Surveyor General shall have approved the same, such magazine shall not be deemed a moveable fire-proof magazine, as aforesaid. Description of Magazine.

X. No person or persons shall have or convey at any one time, within three miles of the Towns of Victoria and Esquimalt, more than twenty-five barrels of gunpowder in any waggon, cart, or other carriage by land, or more than two hundred barrels of gunpowder in any barge, boat, or other vessel by water, (except in vessels with gunpowder imported from, or to be exported to, any place beyond the sea, or going coastwise); and all gunpowder conveyed on land or water, (except in such vessels for importation or exportation of gunpowder, or going coastwise,) shall be in barrels close joined and hooped, without any iron about them, and so secured that no part of the gunpowder be scattered in the passage; and each barrel shall contain no more than one hundred pounds of gunpowder; and when conveyed by land shall be entirely enclosed in a leather bag, commonly called a saltpetre-bag; and every carriage in which gunpowder shall be conveyed by land shall have a complete covering of wood, painted cloth, tarpaulin, or wadmill tilts, over all the gunpowder therein contained; and, also, no gunpowder shall be conveyed in any barge, boat, or other vessel by water, (except in vessels with gunpowder imported, or to be exported in manner aforesaid, or going coastwise) that hath not a close deck; and as soon as any gunpowder is put on board such vessel, all such gunpowder shall be covered with raw-hides or tarpaulins; and all gunpowder which shall be carried or conveyed (except in such vessels with gunpowder for importation or exportation as aforesaid, or going coastwise,) within three miles of Victoria or Esquimalt aforesaid, in greater quantity, or in other manner, than is hereinbefore prescribed, and the barrels in which such gunpowder shall be, may be seized by any person or persons, under a warrant from a Justice of the Peace as is hereinafter prescribed, who shall have the same authority to remove such gunpowder and barrels, and to use for that purpose during the space of Penalties on carrying more than 25 barrels of powder by land, or 200 barrels by water. Character of barrels and wrappings.

twenty-four hours after the seizure, the carriage or vessel in which such gunpowder shall be seized, and the tackling, beast and accoutrements belonging thereto, on the terms of paying a recompense for the use thereof, and to detain such gunpowder and barrels, as is hereinafter given to persons searching under a warrant of a Justice of the Peace, and such seizure shall be for his, or her, or their use, on conviction of the offender or offenders.

Penalties against using fire.

XI. That if any person or persons having the care or management of any barge, boat, or other vessel whatsoever (except ships or vessels with gunpowder on board imported from, or to be exported to, places beyond sea, or going coastwise,) loaded with gunpowder, or any other person on board the same shall bring have or use, or permit any person or persons to bring, have or use any charcoal or other combustible, or any fire or lighted candle, or shall smoke or wittingly permit any person to smoke on board the same, all and every such person and persons shall forfeit a sum not exceeding Ten Pounds (£10).

Penaltiesto be recovered before a Justice of the Peace, and to be appertionable between Her Majesty and the informer.

XII. That all penalties created by this Act shall be recoverable before any Justice of the Peace, on proof of the offence by the oath or oaths of one or more credible witness or witnesses, or on confession of the offender, and one moiety of each penalty shall belong to Her Majesty, her heirs or successors, and the other moiety thereof to the informer or informers prosecuting the same ; and where the penalty shall be pecuniary, in case of non-payment it shall be levied by distress and sale of the offender's goods and chattels by warrant under the hand and seal of such Justice, and the overplus of the money raised, after deducting the penalty and expenses of the distress and sale, shall be rendered to the owner, and for want of sufficient distress the offender shall be sent by such Justice to jail, there to be kept to hard labor for any time not exceeding six months nor less than three months, as such Justice shall think most proper.

Al actions to be commenced wilthin six calendar months.

XIII. That all actions, suits and prosecutions to be commenced in this Colony against any person or persons for anything to be done in pursuance of this Act, shall be commenced within six calendar months after the fact committed, and not otherwise.

XIV. It shall be lawful for any Justice of the Peace, whenever Gunpowder is suspected to be kept or carried contrary to this Act, on demand made, and a reasonable cause assigned upon oath by any person or persons, to issue a warrant or warrants under his hand and seal, for searching, in the day time, any house, magazine, storehouse, warehouse, shop, cellar, yard, wharf, or other place; or any carriage, ship, boat or vessel, in which such Gunpowder is suspected to be kept or carried contrary to this Act; and also the Gunpowder and barrels shall be immediately seized by the searcher or searchers, who shall with all convenient speed after the seizure remove such Gunpowder and the barrels in which it shall be, to such proper places as they, in conformity to the restrictions of this Act, shall think fit; and in the case of any such Gunpowder seized in any carriage or vessel, may use for the purpose of removal, during the space of twenty-four hours after seizure, such carriage or vessel, with the tackling, boats and accoutrements belonging thereto, (paying afterwards to the owner or owners thereof a sufficient recompense for the use thereof, to be settled by the Justice before whom the complaint shall be heard after the seizure, and in case of non-payment immediately after settlement by such Justice, to be recoverable by distress and sale of the parties' goods and chattels, as is hereinbefore directed concerning the pecuniary penalties of this Act,) and may detain such Gunpowder and the barrels in which it shall be, till it shall be adjudged on a hearing before any two or more such Justices, whether the same shall be forfeited; and such searcher or searchers, seizer or seizers, shall not be liable to any suit for such detainer, or for any loss or damage which may happen to the said Gunpowder or barrels, other than by the wilful acts or neglect of them or the persons with whom they shall intrust the keeping thereof.

Power to Justice of the Peace to issue a search warrant.

XV. Any act of commission or omission prohibited by this Act shall be punishable by fine of not less than forty shillings nor more than twenty-five pounds, in the discretion of the Justice or Justices hearing the same.

Pecuniary Penalty.

XVI. This Act may be cited as "The Gunpowder Act, 1862."

Short Title.

Passed the House of Assembly, 12th August, 1862.

E. BOWERS DOGGETT,
Clerk of the House.

Passed the Council, 19th September, 1862.

JOSEPH PORTER,
Acting Clerk of Council.

Received my assent this 12th day of December, A. D. 1862.

JAMES DOUGLAS,
Governor.