

CHAP. 105.

An Act for the safe keeping of Petroleum and other substances of a like nature. [21st August 1871.]

A.D. 1871.

WHEREAS it is expedient to consolidate and amend the law relating to the safe keeping of petroleum and other substances of a like nature:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title of Act.

1. This Act may be cited as "The Petroleum Act, 1871."

Interpretation of certain terms in the Act:

2. In this Act, if not inconsistent with the context, the following terms have the meanings herein-after assigned to them; (that is to say,)

"Borough:"

The term "borough" means—

In England any place for the time being subject to the provisions of the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, "to provide for the regulation of municipal corporations in "England and Wales," and the Acts amending the same;

In Scotland any royal burgh and any burgh or town returning or contributing to return a member or members to serve in Parliament;

In Ireland any place for the time being subject to the provisions of the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter one hundred and eight, "for the regulation of municipal cor-"porations in Ireland, and the Acts amending the same:"

"Person:"

The term "person" includes a body corporate:

"Secretary of State:"

The term "Secretary of State" means one of Her Majesty's Principal Secretaries of State:

"Lord Lieutenant:"

The term "Lord Lieutenant" means the Lord Lieutenant of Ireland or the lords justices or other chief governors or governor of Ireland for the time being:

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"Harbour:" The term "harbour" means any harbour properly so called, whether natural or artificial, and any port, haven, estuary, tidal river or other river, canal or inland navigation navigated by sea-going ships, and any dock, pier, jetty, or other works in or at which ships do or can ship or unship goods or passengers:

"Harbour authority:" The term "harbour authority" includes any persons or person being or claiming to be proprietors or proprietor of or intrusted with the duty or invested with the power of improving, maintaining, or managing any harbour:

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

"Summary Jurisdiction Acts:" The term "Summary Jurisdiction Acts" means as follows:

As to England, the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance "of the duties of justices of the peace out of sessions within "England and Wales with respect to summary convictions "and orders," and any Acts amending the same;

As to Scotland, "The Summary Procedure Act, 1864;"

As to Ireland, within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police of such district; and elsewhere in Ireland, "The Petty Sessions (Ireland) Act, 1851," and any Act amending the same:

"Court of Summary Jurisdiction:" The term "Court of Summary Jurisdiction" means and includes any justice or justices of the peace, sheriff or sheriff substitute, metropolitan police magistrate, stipendiary or other magistrate, or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to, or to proceedings before whom the provisions of the Summary Jurisdiction Acts are or may be made applicable:

"County rate." 31 & 32 Vict. c. 82. The term "county rate" means as regards Scotland the county general assessment leviable in pursuance of "The County General Assessment (Scotland) Act, 1868," and as regards Ireland the grand jury cess.

Definition of "petroleum" and application of Act.

3. For the purposes of this Act the term "petroleum" includes any rock oil, Rangoon oil, Burmah oil, oil made from petroleum, coal, schist, shale, peat, or other bituminous substance, and any products of petroleum, or any of the above-mentioned oils; and the term "petroleum to which this Act applies," means such of the petroleum so defined as, when tested in manner set forth in Schedule

One to this Act, gives off an inflammable vapour at a temperature of less than one hundred degrees of Fahrenheit's thermometer. A.D. 1871.

4. Every harbour authority shall frame and submit for confirmation to the Board of Trade byelaws for regulating the place or places at which ships carrying petroleum to which this Act applies are to be moored in the harbour over which such authority has jurisdiction, and are to land their cargo, and for regulating the time and mode of, and the precautions to be taken on, such landing. The harbour authority shall publish the byelaws so framed with a notice of the intention of such authority to apply for the confirmation thereof. The Board of Trade may confirm such byelaws with or without any omission, addition, or alteration, or may disallow the same. Byelaws as to ship carrying petroleum.

Every such byelaw when confirmed shall be published by the harbour authority, and may be from time to time altered or repealed by a byelaw made in like manner. Byelaws under this section shall be published in such manner as the Board of Trade may from time to time direct.

If at any time it appears to the Board of Trade that there is no byelaw for the time being in force under this section in any harbour the Board of Trade may, by notice, require the harbour authority of such harbour to frame and submit to them a byelaw for the purposes of this section, and if such harbour authority make default in framing a byelaw and obtaining the confirmation thereof within the time limited by such notice the Board of Trade may make a byelaw for the purposes of this section, and such byelaw shall have the same effect as if it had been framed by the harbour authority and confirmed by the Board of Trade.

Where any ship or cargo is moored, landed, or otherwise dealt with in contravention of any byelaw for the time being in force under this Act in any harbour, the owner and master of such ship, or the owner of such cargo, as the case may be, shall each incur a penalty not exceeding fifty pounds for each day during which such contravention continues, and it shall be lawful for the harbour master or any other person acting under the orders of the harbour authority of such harbour to cause such ship or cargo to be removed, at the expense of the owner thereof, to such place as may be in conformity with the said byelaw, and all expenses incurred in such removal may be recovered in the same manner in which penalties are by this Act made recoverable.

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Notice by owner or master of ship carrying petroleum.

5. The owner or master of every ship carrying a cargo any part of which consists of petroleum to which this Act applies, on entering any harbour within the United Kingdom, shall give notice of the nature of such cargo to the harbour authority having jurisdiction over such harbour.

If such notice is not given the owner and master of such ship shall each incur a penalty not exceeding the sum of five hundred pounds, unless it is shown to the satisfaction of the court before which the case is tried that neither the owner nor the master knew the nature of the goods to which the proceedings relate, nor could with reasonable diligence have obtained such knowledge.

Label on vessels containing petroleum.

6. Where any petroleum to which this Act applies—

(*a.*) Is kept at any place except during the seven days next after it has been imported; or,

(*b.*) Is sent or conveyed by land or water between any two places in the United Kingdom; or,

(*c.*) Is sold or exposed for sale;

the vessel containing such petroleum shall have attached thereto a label in conspicuous characters, stating the description of the petroleum, with the addition of the words "highly inflammable," and with the addition—

(*a.*) In the case of a vessel kept, of the name and address of the consignee or owner:

(*b.*) In the case of a vessel sent or conveyed, of the name and address of the sender:

(*c.*) In the case of a vessel sold or exposed for sale, of the name and address of the vendor.

All petroleum to which this Act applies which is kept, sent, conveyed, sold, or exposed for sale, in contravention of this section, shall, together with the vessel containing the same, be forfeited, and in addition thereto the person keeping, sending, selling, or exposing for sale the same shall for each offence be liable to a penalty not exceeding five pounds.

Regulations as to storage of petroleum.

7. Save as herein-after mentioned, after the passing of this Act petroleum to which this Act applies shall not be kept, except in pursuance of a license given by such local authority as is in this Act mentioned.

All petroleum kept in contravention of this section shall, together with the vessel containing the same, be forfeited, and in addition thereto the occupier of the place in which such petroleum is so kept shall be liable to a penalty not exceeding twenty pounds a day for each day during which such petroleum is so kept.

This section shall not apply to any petroleum kept either for private use or for sale, provided the following conditions are complied with: A.D. 1871.

(1.) That it is kept in separate glass, earthenware, or metal vessels, each of which contains not more than a pint, and is securely stopped:

(2.) That the aggregate amount kept, supposing the whole contents of the vessels to be in bulk, does not exceed three gallons.

8. The following bodies shall respectively be the local authority to grant licenses under this Act in the districts herein-after mentioned; (that is to say,) Definition of local authority.

(1.) In the city of London, except as hereafter in this section mentioned, the court of the Lord Mayor and aldermen of the said city:

(2.) In the metropolis, (that is, in places for the time being within the jurisdiction of the Metropolitan Board of Works under the Metropolis Management Act, 1855,) except the city of London, and except as hereafter in this section mentioned, the Metropolitan Board of Works:

(3.) In any borough in England or Ireland, except as hereafter in this section mentioned, the mayor, aldermen, and burgesses acting by the council:

(4.) In any place in England or Ireland, except as hereafter in this section mentioned, within the jurisdiction of any trustees or improvement commissioners appointed under the provisions of any local or general Act of Parliament, and not being a borough or comprising any part of a borough, the trustees or commissioners:

(5.) In any place in England (except as hereafter in this section mentioned) within the jurisdiction of a local board constituted under the Local Government Act, 1858, and not being any of the districts before mentioned or comprising any part of any such district, the local board:

(6.) In any borough in Scotland, except as hereafter in this section mentioned, the town council:

(7.) In any place in Scotland, except as hereafter in this section mentioned, within the jurisdiction of police commissioners or trustees exercising the functions of police commissioners under any general or local Act, and not being a borough or comprising any part of a borough, the police commissioners or trustees:

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(8.) In any harbour within the jurisdiction of a harbour authority, whether situate or not within the jurisdiction of any local authority before in this section mentioned, the harbour authority, to the exclusion of any other local authority:

(9.) In any place in which there is no local authority as before in this section defined, in England or Ireland, the justices in petty sessions assembled, and in Scotland any two or more justices of the peace for the county sitting as judges in the justice of peace court.

Mode of granting licenses.

9. Licenses in pursuance of this Act shall be valid if signed by two or more of the persons constituting the local authority, or executed in any other way in which other licenses, if any, granted by such authority are executed. Licenses may be granted for a limited time and may be subject to renewal or not in such manner as the local authority think necessary.

There may be annexed to any such license such conditions as to the mode of storage, the nature and situation of the premises in which, and the nature of the goods with which petroleum to which this Act applies is to be stored, the facilities for the testing of such petroleum from time to time, the mode of carrying such petroleum within the district of the licensing authority, and generally as to the safe keeping of such petroleum as may seem expedient to the local authority.

Any licensee violating any of the conditions of his license shall be deemed to be an unlicensed person. There may be charged in respect of each license granted in pursuance of this Act such sum, not exceeding five shillings, as the local authority may think fit to charge.

In case of refusal of license the applicant may memorialize Secretary of State or Lord Lieutenant.

10. If on any application for a license under this Act the local authority refuse the license, or grant the same only on conditions with which the applicant is dissatisfied, the local authority shall, if required by the applicant, deliver to him in writing under the hand or hands of one or more of the persons constituting the local authority, a certificate of the grounds on which they refused the license or annexed conditions to the grant thereof.

The applicant within ten days from the time of the delivery of the certificate may transmit the same to a Secretary of State if the application is for a license in England or Scotland, and to the Lord Lieutenant if the application is for a license in Ireland, together with a memorial, praying that notwithstanding such refusal the license may be granted, or that the conditions may not be imposed,

or may be altered or modified in such manner and to such extent as may be set forth in such memorial.

It shall be lawful for the Secretary of State, or the Lord Lieutenant, if he think fit, on consideration of such memorial and certificate, and, if he think it necessary or desirable, after due inquiry and a report by such person as he may appoint for that purpose, to grant the license prayed for, either absolutely or with such conditions as he thinks fit, or to alter or modify the conditions imposed by the local authority; and the license so granted, or altered and modified, as the case may be, when certified under the hand of a Secretary of State, or the Lord Lieutenant, shall be to all intents as valid as if granted by the local authority.

Testing of petroleum by officer of local authority.

11. Any officer authorised by the local authority may purchase any petroleum from any dealer in it, or may, on producing a copy of his appointment, purporting to be certified by the clerk or some member of the local authority, or producing some other sufficient authority, require the dealer to show him every or any place, and all or any of the vessels in which any petroleum in his possession is kept, and to give him samples of such petroleum on payment of the value of such samples.

When the officer has by either of the means aforesaid taken samples of petroleum, he may declare in writing to the dealer that he is about to test the same, or cause the same to be tested, in manner set forth in Schedule One to this Act, and it shall be lawful for him to test the same or cause the same to be tested, at any convenient place at such reasonable time as he may appoint, and the dealer or any person appointed by him may be present at the testing, and if it appear to the officer or other person so testing that the petroleum from which such samples have been taken is petroleum to which this Act applies, such officer or other person may certify such fact, and the certificate so given shall be receivable as evidence in any proceedings that may be taken against a dealer in petroleum in pursuance of this Act; but it shall be lawful for a dealer proceeded against to give evidence in proof that such certificate is incorrect, and thereupon the court before which any such proceedings may be taken may, if such court think fit, appoint some person skilled in testing petroleum to examine the samples to which such certificate relates, and to declare whether such certificate is correct or incorrect.

Any expenses incurred in testing any petroleum of such dealer in pursuance of this section shall, if such dealer be convicted of keeping, sending, conveying, selling, or exposing for sale, petro-

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leum in contravention of this Act, be deemed to be a portion of the costs of the proceedings against him, and shall be paid by him accordingly. In any other event such expenses shall be paid by the local authority out of any funds for the time being in their hands, and in case the local authority are the justices, out of the county rate.

Penalty for refusing information and obstructing officer.

12. Any dealer who refuses to show to any officer authorised by the local authority every or any place or all or any of the vessels in which petroleum in his possession is kept, or to give him such assistance as he may require for examining the same, or to give to such officer samples of such petroleum on payment of the value of such samples, or who wilfully obstructs the local authority, or any officer of the local authority, in the execution of this Act, shall incur a penalty not exceeding twenty pounds.

Search for petroleum. See 23 & 24 Vict. c. 139. s. 25.

13. Where any court of summary jurisdiction is satisfied by information on oath that there is reasonable ground to believe that any petroleum to which this Act applies is being kept, sent, conveyed, or exposed for sale within the jurisdiction of such court in contravention of this Act, at any place, whether a building or not, or in any ship or vehicle, such court shall grant a warrant by virtue whereof it shall be lawful for any person named in such warrant to enter the place, ship, or vehicle named in such warrant, and every part thereof, and examine the same and search for petroleum therein, and take samples of any petroleum found therein, and if any petroleum to which this Act applies be found therein, which is kept, sent, conveyed, or exposed for sale, in contravention of this Act, to seize and remove such petroleum, and the vessel containing the same, and to detain such petroleum and vessel until some court of summary jurisdiction has determined whether the same are or not forfeited, the proceedings for which forfeiture shall be commenced forthwith after the seizure.

Any person seizing any petroleum to which this Act applies in pursuance of this section shall not be liable to any suit for detaining the same, or for any loss or damage incurred in respect of such petroleum, otherwise than by any wilful act or neglect while the same is so detained.

If any petroleum to which this Act applies is seized in pursuance of this section in any ship or vehicle, the person seizing the same may use for the purposes of the removal thereof, during twenty-four hours after the seizure, the said ship or vehicle, with the tackle, beasts, and accoutrements belonging thereto, and if he do so shall pay to the owner thereof a reasonable recompense for the

use thereof, and the amount of such recompense shall, in case of dispute, be settled by the court of summary jurisdiction before whom proceedings for the forfeiture are taken, and may be recovered in like manner as penalties under this Act may be recovered. A.D. 1871.

Any person who, by himself or by any one in his employ or acting by his direction or with his consent, refuses or fails to admit into any place occupied by or under the control of such person, any person demanding to enter in pursuance of this section, or in any way obstructs or prevents any person in or from making any such search, examination, or seizure, or taking any such samples as authorised by this section, shall be liable to pay a penalty not exceeding twenty pounds, and to forfeit all petroleum to which this Act applies which is found in his possession or under his control.

Application of Act to other substances.

14. Her Majesty may from time to time make, revoke, and vary Orders in Council directing this Act or any part thereof to apply to any substance, and this Act, or the part thereof specified in the Order shall, during the continuance of the Order, apply to such substance, and shall be construed and have effect as if throughout it such substance had been included in the definition of petroleum to which this Act applies, subject to the following qualifications:

(1.) The quantity of any substance to which this Act is directed by Order in Council to apply, which may be kept without a license, shall be such quantity only as is specified in that behalf in such order, or if no such quantity is specified no quantity may be kept without a license:

(2.) The label on the vessel containing such substance shall be such as may be specified in that behalf in the order.

Summary proceedings for offences, penalties, &c.

15. In England and Ireland all offences and penalties under this Act, and all money and costs directed by this Act to be recovered as penalties, may be prosecuted and recovered in manner provided by the Summary Jurisdiction Acts.

In Scotland all offences and penalties under this Act, and all money and expenses by this Act directed to be recovered as penalties, shall, save as herein-after provided, be prosecuted and recovered at the instance of the procurator fiscal or of any officer authorised in that behalf by the harbour authority or local authority under the provisions of the Summary Jurisdiction Acts before a court of summary jurisdiction, and all necessary powers and jurisdictions are hereby conferred on such court in Scotland.

Provided as follows:

1. A court of summary jurisdiction shall not impose a penalty exceeding fifty pounds, but any such court may impose that

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2. In Scotland any penalty exceeding fifty pounds shall be recovered and enforced in the same manner in which any penalty due to Her Majesty under any Act of Parliament may be recovered and enforced.

3. The "Court of Summary Jurisdiction," when hearing and determining an information or complaint, shall be constituted in some one of the following manners; (that is to say,)

(*a.*) In England, either of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions, or of one of the magistrates herein-after mentioned, sitting alone or with others at some court or other place appointed for the administration of justice; that is to say, the Lord Mayor, or any alderman of the City of London, a metropolitan police magistrate, a stipendiary magistrate, or some other officer or officers for the time being empowered by law to do alone or with others any act authorised to be done by more than one justice of the peace:

(*b.*) In Scotland, of two or more justices of the peace sitting as judges in a justice of the peace court, or of one of the magistrates herein-after mentioned sitting alone or with others at some court or other place appointed for the administration of justice; that is to say, the sheriff of the county or his substitute, or the provost or other magistrate of a royal burgh, or some other officer or officers for the time being empowered by law to do alone or with others any act authorised to be done by more than one justice of the peace:

(*c.*) In Ireland, within the police district of Dublin metropolis, of one of the divisional justices of the police district of Dublin metropolis, sitting at a police court within the said district; and elsewhere, of a stipendiary magistrate, sitting alone or with others, or of two or more justices of the peace in petty sessions, sitting at a place appointed for holding petty sessions.

4. The description of any offence under this Act in the words of such Act shall be sufficient in law.

5. Any exception, exemption, proviso, excuse, or qualification, whether it does or not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified

or negatived in the information, and if so specified or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant or prosecutor.

6. No conviction or order made in pursuance of this Act shall be quashed for want of form or be removed by certiorari or otherwise, either at the instance of the Crown or of any private party, into any superior court. Moreover, no warrant of commitment shall be held void by reason of any defect therein, provided that there is a valid conviction to maintain such warrant, and it is alleged in the warrant that the party has been convicted.

7. All forfeitures may be sold or otherwise disposed of in such manner as the court may direct.

8. In Scotland all penalties imposed under the provisions of this Act by a Court of Summary Jurisdiction may be enforced in default of payment by imprisonment for a term not exceeding three calendar months; and all such penalties recovered and the proceeds of all forfeitures sold under this Act shall be paid to the clerk of the Court of Summary Jurisdiction, and by him accounted for and paid to the persons and for the purposes under stated; (that is to say,)

(*a.*) To the Queen's and Lord Treasurer's Remembrancer, on behalf of Her Majesty, when the court is the sheriff's court:

(*b.*) To the collector of county rates in aid of the general county assessment when the court is the justice of the peace court:

(*c.*) To the treasurer of the burgh in aid of the funds of the burgh when the court is a burgh court.

9. In Ireland all penalties recovered under the provisions of this Act shall be applied according to the Fines, Ireland, Act, 1851, or any Act amending the same.

Reservation of previous powers with respect to inflammable substances.

16. All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred on any local or harbour authority by Act of Parliament, law, or custom, and every local authority and harbour authority may exercise such other powers in the same manner as if this Act had not passed; and nothing in this Act contained shall be deemed to exempt any person from any penalty to which he would otherwise be subject in respect of a nuisance.

Repeal of Acts.

17. The Acts mentioned in Schedule Two to this Act are hereby repealed to the extent in that schedule mentioned.

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Provided that such repeal shall not affect any Order in Council made, or any license granted, under any Act hereby repealed or any liability or penalty incurred in respect of any offence committed before the passing of this Act, or any remedy or proceeding for enforcing such liability or penalty, and every such order, so far as relates to the matters provided for by this Act, and every such license, shall have effect as if it had been made or granted under this Act.

Duration of Act.

18. This Act shall continue in force until the first day of October one thousand eight hundred and seventy-two, and no longer.

SCHEDULES.

SCHEDULE ONE.

Directions for testing petroleum to ascertain the temperature at which it gives off inflammable vapour.

The vessel which is to hold the oil shall be of thin sheet iron; it shall be two inches deep and two inches wide at the opening, tapering slightly towards the bottom; it shall have a flat rim, with a raised edge one quarter of an inch high round the top; it shall be supported by this rim in a tin vessel four inches and a half deep and four and a half inches in diameter; it shall also have a thin wire stretched across the opening, which wire shall be so fixed to the edge of the vessel that it shall be a quarter of an inch above the surface of the flat rim. The thermometer to be used shall have a round bulb about half an inch in diameter, and is to be graduated upon the scale of Fahrenheit, every ten degrees occupying not less than half an inch upon the scale.

The inner vessel shall be filled with the petroleum to be tested, but care must be taken that the liquid does not cover the flat rim. The outer vessel shall be filled with cold, or nearly cold, water; a small flame shall be applied to the bottom of the outer vessel, and the thermometer shall be inserted into the oil so that the bulb shall be immersed about one and a half inches beneath the surface. A screen of pasteboard or wood shall be placed round the apparatus, and shall be of such dimensions as to surround it about two thirds, and to reach several inches above the level of the vessels.

When heat has been applied to the water until the thermometer has risen to about ninety degrees Fahrenheit, a very small flame shall be quickly passed across the surface of the oil on a level with the wire. If no pale blue flicker or flash is produced, the application of the flame is to be repeated for every rise of two or three degrees in the thermometer. When the flashing point has been noted, the test shall be repeated with a fresh sample of the oil, using cold, or nearly cold, water as before, withdrawing the source of heat from the outer vessel when the temperature approaches that noted in the first experiment, and applying the flame test at every rise of two degrees in the thermometer.

SCHEDULE TWO.

Year and Chapter.	Title.	Extent of Repeal.
25 & 26 Vict. c. 66.	An Act for the safe keeping of Petroleum.	The whole Act.
29 & 30 Vict. c. 69.	The Carriage and Deposit of dangerous Goods Act, 1866.	Sections eight and nine.
31 & 32 Vict. c. 56.	The Petroleum Act, 1868 - -	The whole Act.

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