

CHAPTER 76.

Of Forest Fires.

SECTION

- 1.—No person shall light a fire near any woods.
- 2.—Every person lighting a fire for clearing land shall use care.
- 3.—Precautions to be taken by persons lighting fires.
- 4.—Owner of land upon which a fire takes place shall be deemed to be the offender.
- 5.—If fire happens on Crown lands, parties engaged near the place shall be deemed the offenders.
- 6.—Every person in charge of surveying, &c., parties to be provided with a copy of this Act.
- 7.—Locomotive engines shall be guarded.
- 8.—Duty of engine driver to see engine guarded.
- 9, 10, 11.—Penalty.

SECTION

- 12.—Proof of name or number of engine not necessary.
- 13.—Railway companies shall remove combustible material from track.
- 14.—Penalty.
- 15.—Duty of Government Engineer.
- 16.—Power of Government Engineer.
- 17.—Penalty for obstructing.
- 18.—Mode of prosecution and recovery of penalties.
- 19.—Appropriation of fine or penalty.
- 20.—Imprisonment.
- 21.—Compensation.
- 22.—Limitation of actions.
- 23.—Duty of Crown lands' officers and constables.
- 24.—Meaning of "Woods."
- 25.—Right to bring civil action not affected.

1. It shall not be lawful for any person to set out, light or start, or cause to be set out, lighted or started, any fire in or near any woods in this colony, except for the purposes of clearing land, cooking, obtaining warmth, or for some industrial purpose; and, in case of lighting or starting fires for any such purpose, the obligations and precautions imposed by the two following sections shall be observed.

2 Every person who shall make or start, or cause to be made or started, a fire for the purpose of clearing land, shall exercise and observe every reasonable care and precaution in the making and starting of such fire, and in the managing of, caring for and controlling the said fire after it has been made and started, in order to prevent the same from spreading and burning up the trees, shrubs or plants surrounding, adjoining, or in the neighborhood of the place where it has been so made or started.

3 Every person who shall, between the first day of May and the thirtieth day of November, make or start, or cause to be made or started, a fire in or near the woods for cooking, for obtaining warmth, or for any industrial purpose, shall—

- (1.) Select a locality in the neighborhood in which there is the smallest quantity of dead wood, branches, brushwood, dry leaves, resinous trees, heath, peat, turf, dry moss, or vegetable matter of any kind.
- (2) Clear the place in which he is about to light the fire by removing all dead wood, branches, brushwood, dry leaves, resinous trees, heath, peat, turf, dry moss and other vegetable matter from the soil, within a distance of not less than five feet in every direction from any part of the fire.
- (3.) Exercise and observe every reasonable care and precaution to prevent such fire from spreading, and carefully extinguish and see that the same is extinguished before quitting the place

4. The owner or occupant of the land upon which any fire mentioned in the foregoing section shall be made or originate, shall be deemed and taken to be the party offending, and shall be liable to the several penalties provided by this chapter, unless such owner or occupant shall, when called upon so to do, declare upon oath before a stipendiary Magistrate that such fire was not made, started or lighted by him, or by any person by his direction

5. Whenever a fire originates on Crown lands, and in the neighborhood of any place where it has been ascertained that a person or a number of persons were a short time previously to the happening of such fire, camping, cooking, fishing, or engaged in some industrial occupation, he or they shall be taken to be the party or parties offending, and shall be liable to the several penalties provided by this chapter, unless he or they shall, when called upon to do so, declare upon oath before a stipendiary Magi-

strate, that such fire was not made, started or lighted by him or them, or by anyone in his or their company or service, or by his or their direction.

6. Every person in charge of any party of men engaged in lumbering, railroad building, surveying or exploring, shall provide himself with a copy of this chapter, and shall take steps to make the men employed by or under him acquainted with its provisions.

7. All locomotive engines shall, by the person, company, or manager thereof, using the same, be provided with and have in use all the most improved and efficient means to prevent the escape of fire from the furnace or ash-pan of such engines, and the smoke-stack or the boiler extension of each wood-burning locomotive so used, shall be provided with a bonnet, screen or spark-arrester of iron or steel-wire netting, the size of the wire used in making the netting to be not less than No. 19 of the Birmingham wire gauge, or three sixty-fourth parts of an inch in diameter, and shall contain in each square inch at least eleven wires each way at right angles to each other, that is, in all twenty-two wires to the square inch; or, in the case of coal-burning locomotives, the smoke-stack, furnace and ash-pan shall be constructed of the newest and most improved pattern, the standard to be that which at the passing of the Act 53 Victoria, chapter nine, was used by the Placentia railway.

8. It shall be the duty of every engine driver in charge of a locomotive, to see that all such appliances as are above mentioned are properly used, and so as to prevent the unnecessary escape of fire from any such engine, so far as it is reasonably possible to do so.

9. Any person violating the first, second or third sections of this chapter, shall be liable to a penalty of not less than twenty-five dollars, nor more than one hundred dollars, for each offence.

10. Any person violating the sixth or eighth sections of this chapter, shall be subject to a penalty of not less than twenty-five dollars, nor more than one hundred dollars, for each offence.

11. Any person, railway company, or the manager thereof, permitting any locomotive engine to be used in violation of the seventh section of this chapter, shall be liable to a penalty of one hundred dollars for each offence.

12. In any prosecution under this chapter for a breach of the seventh section, or for damages in a civil action, resulting from fires set by locomotive engines, it shall not be necessary to prove the name or number of the engine, nor the name of the engineer or fireman in charge of such locomotive when the fire was started.

13. Whenever a railway passes through woods, the railway company shall clean from off the sides of the railway to a reasonable distance therefrom, all combustible material by safe burning or otherwise,

14. Any railway company violating the thirteenth section of this chapter, shall be subject to a penalty of one hundred dollars for each offence.

15. It shall be the duty of the Government Engineer to inspect and examine, or cause to be inspected or examined, from time to time, all locomotive engines used in the colony, with a view of ascertaining whether the provisions of this chapter are complied with, and for the purpose of enforcing the said provisions.

16. The Government Engineer, or other person authorized by him in writing, shall have power to enter into any shed or shop or upon any premises where locomotive engines are kept, for the purpose of inspecting and examining such locomotive engines.

17. Any person or persons obstructing or interfering with such engineer or other person authorized by him in the discharge of his duty, shall be subject to a penalty not exceeding one hundred dollars for each offence.

18. All offenders against the provisions of this chapter may be prosecuted and convicted, and all fines, penalties and punishments imposed, recovered and made in a summary manner before a stipendiary Magistrate by any person who shall make complaint and prosecute the offender to conviction.

19. Whenever any fine or penalty imposed under the provisions of this chapter is recovered, one moiety thereof shall be awarded to the person prosecuting the offender to conviction, and the other moiety shall be paid to the Receiver General for the use of the colony.

20. In case the amount of any penalty recovered under the provisions of this chapter and costs be not paid forthwith, the offender shall be subject to a term of imprisonment of one day for each dollar of such penalty and costs.

21. Whenever any fire is caused or originated by any locomotive engine under the control or in the service of the Government of this colony, and loss by such fire is occasioned to the owner or lessee of any property through those in charge of any such locomotive engine not adopting the precautions contained in the provisions of this chapter, for the purpose of ascertaining the damage that has been occasioned the owner or lessee by such fire, the Governor may appoint one person and the party so affected another person, which two persons shall determine by arbitration the amount of compensation to be paid such party according to his interest therein; and in case such two parties should not agree in their award, then they shall name a third arbitrator, and in case they should not agree over the nomination of such third arbitrator, either party may apply to the Supreme Court or a judge thereof, and upon

hearing such application the said Court or a judge thereof shall appoint such third arbitrator; and the said arbitrators shall be sworn before a magistrate to do justice between the parties, and may summon and require the attendance before them of all parties interested in the property, their agents and all necessary witnesses, and require before them the production of all deeds and papers requisite to establish the title or interest of any party claiming compensation as aforesaid, and may examine upon oath (to be administered by any one of such arbitrators) all such parties, agents or witnesses touching the matters to be enquired into by such arbitrators, and the award and decision of such arbitrators or any two of them shall in all cases be final and binding on all parties.

22. All proceedings for offences against the provisions of this chapter shall be commenced within six calendar months following the day of the commission of such offence, and all claims against the Government for damages occasioned by any locomotive engine under the control or in the service of the Government, shall be furnished at the office of the Government Engineer within six months from the happening of such casualty by fire.

23. It shall be the duty of all officers of the Crown lands and all constables to enforce the provisions and requirements of this chapter, and in all cases coming within their knowledge to prosecute every person who may be guilty of a breach of the provisions and requirements of the same, under a penalty of not less than twenty-five nor more than one hundred dollars for each omission of duty.

24. In this chapter the word "woods" shall include forest, wood, tract covered by underwood, barren, dry marsh or bog.

25. Nothing in this chapter contained shall be held to limit or interfere with the right of any party to bring and maintain a civil action for damages occasioned by fire, and such right shall remain and exist as though this chapter had not been passed except such right shall not extend to cases provided for under section twenty-one of this chapter.
