



Western Australia.

ANNO QUINQUAGESIMO NONO

VICTORIÆ REGINÆ.

No. XXXVI.

AN ACT to provide for the better Prevention of Fires caused by Sparks and Cinders from Locomotive Engines, and to facilitate the Recovery of Damages in such cases.

[Assented to, 12th October, 1895.]

WHEREAS considerable damage to Crops and other Agricultural Produce and to natural vegetation is done by Fire caused by the falling of Sparks and Cinders from passing Engines, and it is expedient to prevent as far as possible such Fires arising, and to afford further facilities to persons injured by such Fires to recover Damages for Injuries occasioned thereby: Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Preamble.

1. THIS Act may be cited for all purposes as "The Engine Sparks Fire Prevention Act, 1895," and shall apply only to such parts of the Colony as the Governor may by Order in Council direct.

Short Title. Application.

2. FOR the purposes of this Act, the following words shall have the meanings hereby assigned to them respectively:—

Interpretation.

"Owner" shall mean and include any company and manager thereof, or other person for the time being in principal

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charge of the company's business, and every person using or having the lawful possession or control of any engine other than the driver thereof, and the "contractor" for any railway or other works in the course of construction or repair.

"Engine" shall mean and include any locomotive steam engine or steam tram or traction engine.

Every engine to be fitted with spark-arrester

3. (1.) EVERY engine under steam shall be fitted by the owner thereof with a spark arrester, to be approved by an Inspector to be appointed by the Governor-in-Council, and the owner of such engine shall maintain such spark-arrester in good order and fit for its purpose.

and steam jet.

(2.) Every such engine shall also be fitted by the owner thereof with a steam jet (to be in like manner approved) connected with the engine, and carried into the ash-pan of such engine, for the purpose of extinguishing the live cinders in such ash-pan, and the owner of such engine shall maintain such steam jet in good order and fit for its purpose.

Owner of line to burn grass, &c.

4. (1.) THE owner of every line of railway shall, at such period of every year and in such manner as the Governor, by notice to be served on such owner, may direct, burn or remove all grass and herbage within the fences on either side of the line of railway on such parts of the line as mentioned in such notice, or if there be no such fences then within sixty-six feet on either side of the centre of such line.

Notice of intention to burn.

(2.) Before such burning is proceeded with, at least three days' notice of the day and hour when it is intended to burn shall be given to the occupier of the adjoining lands by the owner of the railway.

Burning to be continuous.

(3.) Such burning, when commenced, shall be proceeded with from day to day.

Inspection of engines.

5. (1.) INSPECTORS shall be appointed by the Governor in Council for the purposes of this Act, and an Inspector shall, on the request of the owner of any engine, forthwith inspect the same, or may inspect the same without request, and on being satisfied that the engine is fitted with a spark-arrester reasonably sufficient for its purposes and with such steam jet as aforesaid, shall grant his certificate of approval thereof in writing.

(2.) An Inspector may enter upon any land and inspect any engine being thereon, for the purpose of ascertaining whether the same is fitted with a spark arrester and steam jet as aforesaid; and it shall be lawful for every such Inspector, and for every person who is

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the occupier or owner of lands adjoining a railway, to lay an information for breach of this Act.

6. IN any action brought against any company or person after the commencement of this Act to recover damages for injuries to property occasioned by fire caused by the falling of sparks or cinders from a passing engine, the plaintiff shall be entitled to such damages as may be awarded by the Court or Jury, as the case may be, unless the defendant proves to the satisfaction of such Court or Jury that the requirements of this Act have been complied with.

Onus of proof in proceedings to recover damages.

7. (1.) THE owner of any engine which is used under steam without a spark-arrester and steam jet approved by an Inspector under this Act, or on which such spark-arrester and steam jet is not maintained in good order and fit for its purpose, shall be liable to a penalty of not less than Ten nor more than Fifty pounds.

Penalties for Offences.

(2.) Any owner of an engine failing to comply with any of the requirements of section four of this Act shall, in addition to any civil proceedings to which he may be liable, be liable to a penalty of not less than Five nor more than Twenty pounds.

(3.) Every person who hinders or obstructs an Inspector in the exercise of any of his powers or duties under this Act shall be liable to a penalty not exceeding Five pounds.

(4.) All offences under this Act shall be summarily punishable upon conviction before any two or more Justices of the Peace in Petty Sessions.

8. ANY person convicted under this Act may appeal, and such appeal shall be made to the Court and be subject to the procedure mentioned in section one hundred and thirty-nine of "The Police Act, 1892."

Appeal.

9. SECTIONS A, C, F, and H of "The Shortening Ordinance, 1853," shall be incorporated with and taken to form part of this Act to all intents and purposes, and in as full and ample a manner as if the said sections had been introduced and fully set forth in this Act.

Sections of Shortening Ordinance.

10. NOTHING in this Act shall apply to any railway or engine belonging to Her Majesty's Colonial Government.

Act not to apply to Government property.

In the name and on behalf of the Queen I hereby assent to this Act.

ALEX. C. ONSLOW, Administrator.