

After hearing both sides, the Commissioner of Crown Lands, under the authority conferred by sec. 43, disallowed the schedule of tolls fixed by plaintiffs, and appointed 27th April to consider and fix a proper schedule of tolls, which he is empowered to do by the same section.

In order that the Commissioner may fix the proper tolls to be so paid to a timber slide company, the company may, under sec. 44, demand from the owners of any timber intended to be passed through the works of the company, a written statement of the quantity of every kind of timber which it is intended to pass, and if a false statement is given, the whole of the timber, or such part of it as has been omitted by a false statement, shall be liable to double toll. Defendants, in compliance with the demand made upon them by plaintiffs, represented that they would have logs measuring 2,000,000 feet board measure, which would pass over a section of plaintiffs' works, and the Commissioner, upon the basis of that being the true quantity which would pass through and over the said works, on 6th May fixed the tolls for saw logs 17 feet and under in length at 81 cents per 1,000 feet. And it is alleged by plaintiffs, and not denied, that, after the tolls were so fixed, defendants passed through and over the said works logs which measured only 1,575,845 feet, on which measurement they have paid the tolls as determined by the Commissioner.

The last paragraph of sec. 44 provides that "in case any owner or person in charge, knowingly or wilfully, falsely returns a larger quantity than it is his intention or the intention of such proprietor or person in charge to pass over any of the said sections, the company shall be entitled, in addition to any other remedies it may have, to collect tolls on the difference between the quantity so falsely estimated and the quantity actually passing over the works."

The present action is brought to recover tolls on the difference between the quantity alleged to have been so falsely estimated and the quantity which actually passed over plaintiffs' works.

The numbers of the questions asked Mr. Hancock on his examination for discovery, and which he refused to answer, appear in the notice of motion, and all the questions have reference to the original value of plaintiffs' works; to the cost of renewals and repairs up to 31st December, 1903; as to whether any work was being done by the company this fall; and what was being paid for; what the plaintiffs had done with their sinking fund; how the aggregate sum put in the report for repairs was made up; what were the expenses of management, the manager's and secretary's salaries, etc.