

in the districts. It is an exception to the common law and must be strictly construed. See *Dallaire v. Gauthier*, Q.R. 24 S.C. 495, Can. An. Digest, 1904, p. 170.

By a strict interpretation of sub-s. 1 of s. 2 the words "logs or timber" mean and include only what the sub-section defines them to mean, viz.: logs, timber, cedar posts, telegraph poles, railroad ties, tan bark, shingle bolts or staves or any of them, also by amendment of the Act, pulp wood.

I might here note that before the amendment, it had been decided by some of the district judges that pulp wood came within the definition of "logs and timber," and so was subject to the operation of the Act. Nevertheless the Legislature deemed it advisable to amend the Act by having the words "pulp wood" added. It is reasonable to assume that if it was intended to include lumber that it would have been specially named.

Applying the principle of strict construction to the present case, I cannot so far stretch the literal meaning of the Act as to hold that the word "timber" includes boards, planks, scantling, etc., when, if it had been the intention of the Legislature to include these, the word "lumber" would have naturally been inserted in order to express such an intention. Tan bark and shingle bolts are specially named, although, according to the same reasoning employed on behalf of the plaintiff, they might be included in the word "timber." Cordwood might also, according to the same reasoning come within the meaning of the word "timber," but it could not be successfully argued that cordwood is subject to the Act. The only authorities cited all go to shew that when the logs are sawn and converted into lumber the lien ceases to attach.

The case of *Baxter v. Kennedy*, 35 N.B. Rep. 179, is directly applicable. In that case it was held that the words "logs and timber" were not intended to include deals and other manufactured lumber. In the absence of any Ontario case deciding the point, I must give effect to the cases cited, and to the language of the statute defining the meaning of the words "logs and timber."

I am of the opinion, therefore, that the liens of the plaintiff and the other lien-holders who have come in and proved their claims against Dinsmore do not attach and cannot be enforced against the lumber seized thereunder belonging to the Simms Lumber Co. This lumber must be released from seizure and the liens vacated and the action dismissed as against the Simms Lum-