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No. 116.

1st Session, 5th Parliament, 18 Victoria, 1854.

BILL.

To amend the Act 8 Vic. Cap. 49, and
to extend the provisions of the same.

Received and Read First time, Thursday, 12th
October, 1854.

Second reading, Monday, 16th October, 1854.

Mr. Ross (Northumberland East.)

QUEBEC :

PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

(116)

1854.]

BILL.

[No. 116.

An Act to amend the Act regulating the Culling and Measurement of Lumber, and to extend the provisions of the same.

WHEREAS the provisions of the Act regulating the Culling and Measurement of Lumber, passed in the eighth year of Her Majesty's Reign and chaptered 49, have been found insufficient to protect the owners of sawlogs and timber against persons fraudulently obtaining possession of the same: Be it therefore enacted, &c., as follows:

Preamble.

From and after the passing of this Act, if any sawlog or other timber shall be found within the boom or pond, or otherwise in the possession of any person not owning the same, in any place adjoining the river or stream into which such log or timber was put by the owner for the purpose of floating it to any place for his use there; he shall, upon demand in writing of the person whose mark such sawlog or timber bears, or his authorized agent, remove the same at his own cost into the open water of such river or stream; And if within twenty-four hours after such demand made, the person in whose boom or pond, or in whose possession such sawlog or other timber shall be, shall not remove the same as hereinbefore provided, he shall be liable to pay a fine of not more than nor less than in the discretion of the Justices before whom the same shall be sued for, for such refusal or neglect; And after such refusal or neglect the owner of the sawlog or other timber, or his authorized agent and servants, shall have full authority, peaceably to enter upon the boom, pond, or other premises of the party so refusing, in order to remove all sawlogs and timber bearing his mark, and he may sue for and recover the cost of such removal, from the party in whose possession such sawlog or timber found, in any Court having jurisdiction in civil cases on simple contract to the amount sought to be recovered, or at his option, he may leave the sawlog or timber in the possession of the party refusing, and may sue for and recover the value of the same, in manner aforesaid.

Proceedings where timber belonging to any person, shall be found in the booms. &c. of another

Fine if not given up on demand.

Removal at cost of wrong done.

II. Every person occupying or working a saw-mill, shall place and maintain in a conspicuous situation in such mill a true representation of all the marks with which any sawlogs or timber which he has a right to saw are marked, and if he shall fail to exhibit such marks which he claims to own, he shall be liable to a fine of not more than nor less than in the discretion of the Justices before whom the same shall be sued for; And any person so exhibiting any mark to which he has no right, shall be liable to the same punishment as that to which a person counterfeiting a mark is liable by the thirtieth section of the Act first above recited.

Duty of persons working said mills.

Penalty for contravention.

III. Any servant of, or workman employed by, the owner or occupier of a saw-mill, who shall saw up any log or other timber, marked with any other mark than those claimed to be owned by his employer, and exhibited

Penalty on persons cutting of logs

with the marks of other owners on them. as aforesaid; or who shall cut off or deface any other mark upon any sawlog or timber, shall be liable to a fine of not more than nor less than _____, in the discretion of the Justices before whom the same shall be sued for.

Proceedings where timber having one person's mark is found in another's premises.

IV. If any board, deal, or other piece of sawed lumber, be found in a pile at a mill, or elsewhere, in the possession of the person who manufactured it, before shipping or rafting, bearing the mark of any other person than the owner of the pile, it shall be deemed to be the property of the owner of such mark, unless the owner of the pile shall shew that he became possessed of such board, or other piece of lumber in some lawful manner, and the owner of the pile shall, moreover, be liable to a fine of not more than _____ nor less than _____ in the discretion of the Justices before whom the same shall be sued for, for every pile in which lumber so marked shall be found; and the owner of the mark may sue for and recover from the owner of the pile the value of three times the quantity of lumber so bearing his mark, in any Court having jurisdiction in civil matters in cases of simple contract, to the amount of such value, and shall recover the same to his own use, with costs, in default of such proof as aforesaid by the owner of the pile, and the owner or occupier of the mill or premises on which such pile is found, shall for the purposes of this Act be deemed the owner of the pile. 5 10 15 20

V. All the fines above mentioned shall be sued for, levied and applied in the same manner as the fines provided for by the thirtieth section of the Act first above recited are to be sued for, levied and applied, except that the fines hereby imposed shall not be sued for by any other person than the owner of or of the mark upon, the said log, deal board or other lumber in respect of which the offence by which the fine is incurred, was committed. 25

Proceedings if entry to any booms, &c., to search for logs or lumber be refused.

VI. If the owner of any sawlog or timber, or his agent or servant, shall have reason to believe that the same is in the booms or in the yard or upon the property of any other person, and such other person shall refuse to such owner, or his agent or servant, permission to enter at a proper hour upon such booms, yard or property, for the purpose of seeking for and removing the same, such owner, or his agent or servant, may apply to any Justice of the Peace having jurisdiction in the place, and if such Justice be satisfied by affidavit that there is probable cause to believe that such sawlog or timber is in such booms or yard, or upon such property, he shall grant a warrant to some Constable or Peace Officer, with such owner, or his agent or servant, to enter upon and search such booms, yard or property in the day time, and to remove such sawlog or timber if found there, and shall thereby command all Constables and Peace Officers, and others, to aid the Officer to whom such warrant is addressed in obtaining such entry and making such search; and such warrant shall be obeyed accordingly, and any resistance to such entry and search may be put down and punished in like manner as any resistance to the lawful order or warrant of a Justice of the Peace in any other matter. 30 35 40 45 50