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No. 152.

1st Session, 6th Parliament, 21 Victoria, 1868.

BILL.

An Act for the protection of the owners of saw logs and other timber, and to afford them summary relief in certain cases.

Received and read, first time, Tuesday, 11th
May, 1868.

Second reading, Wednesday, 12th May, 1868.

MR. BURWELL.

TORONTO:

PRINTED BY JOHN LOVELL, YONGE STREET.

An Act for the protection of the Owners of Sawlogs and other Timber, and to afford them summary relief in certain cases.

WHEREAS it has been found that adequate protection is not afforded to the owners of Sawlogs and other timber against persons fraudulently obtaining possession of the same, and it is expedient to grant certain special powers to Magistrates and Justices of the Peace, to enable them to take summary proceedings when called upon so to do, to enforce the return of such sawlogs and other timber to the rightful owners thereof, and to make further provisions for the protection of the owners of such property: Therefore Her Majesty, &c., enacts as follows:—

Preamble.

10 I. The owner or owners, or occupier or occupiers of any saw-mill, shall exhibit in a conspicuous place in his or their mill, a true representation of all the marks of saw logs which he or they claims or claim, either as his or their own particular mark or marks, or the mark or marks of his or their customer's logs; and in default thereof, he or
15 they, upon conviction before any Justice of the Peace, shall pay a fine of not less than *two pounds ten shillings* nor more than *ten pounds*, and in default of payment shall be imprisoned in the county gaol for any period not exceeding thirty days.

Owners of saw mills to post up copies of their marks and those of their customers.

20 II. Any mill-owner or occupier, or mill-owners or occupiers who shall exhibit any marks to which he or they have no legal claim, shall upon conviction thereof before any Magistrate, be subject to the penalties by the second section of this Act imposed.

Penalty for posting marks not theirs.

25 III. Any servant or workman employed by the owner or occupier of a saw-mill, who shall saw up or superintend the sawing up of any log or other timber, marked with any other marks than those exhibited in the mill where he shall be at work, and which are claimed to be the marks of his employer, or the marks of the customers of his employer, or who shall cut off or deface any mark on any sawlog or other timber, not the mark of his employer, or the mark of the customers of his
30 employer, shall, upon conviction before any Magistrate, be fined in any sum not less than *five pounds ten shillings* nor more than *ten pounds* for each sawlog, and in default of payment shall be committed to the common gaol of the county for any period not exceeding thirty days.

Penalty for cutting logs bearing other persons marks.

35 IV. If any board, deal, or other piece of sawed lumber, upon which there is any other mark than that of the owner or occupier of the mill premises, shall be found in any pile of lumber in the possession of the person who shall have manufactured the same, or in the possession of his agent or

Penalty if any timber bearing any mark than that of the owner of

the mill be found on his premises.

workman, and the person claiming to be the owner thereof shall prove to the satisfaction of some Justice of the Peace having jurisdiction in the premises, that such lumber belongs to him, it shall be deemed to be the property of the owner of such mark, unless the manufacturer shall show he became possessed of the same in some lawful manner; and in case such manufacturer shall be convicted of having obtained possession thereof by unlawful means, he shall be sentenced to pay a fine of not less than *fifty shillings* nor more than *ten pounds*, and in default of payment shall be committed to the common gaol of the county for any period not exceeding thirty days, and for every deal, plank, scantling, or other sawed lumber so found with such mark, not his or their own, shall restore to the owner the lumber found in his possession two hundred feet of the same quality of lumber within twenty-four hours after judgment is given against him by the Magistrate, and in default the Magistrate before whom any such case shall be tried, shall add an amount equal to the value of said lumber to be restored, to the execution, and shall issue his warrant for the collection of the same, and shall cause the same to be paid over to the party complaining, after deducting the fine and costs in the case.

A Search Warrant may issue for saw-log or timber sworn to be detained illegally in any boom or yard, &c.

V. If the owner of any saw-log or timber, or his agent or servants shall have good and sufficient reason to believe that such property is in the boom or yard, or upon the premises of any owner of occupier of a saw-mill, and such owner or occupier shall refuse to the party so claiming such property the right to enter upon his or their premises to search for the same, either by himself or agent, or if found thereon, shall refuse to deliver up such property to the party so identifying the same by his marks, then it shall be lawful for the party claiming such property, or his agent or servant, to apply to any Justice of the Peace having jurisdiction within the limits, for a search warrant, and if upon the affidavit of either of the parties aforesaid, such Justice of the Peace shall be satisfied that there is good reason to suppose that such property is in the possession of the party designated, he shall grant a search warrant for the same, directed to some constable of the county, and to the owner, his agent or servant: Such search warrant shall be in the usual terms of such instruments, and if upon search such property shall be found, then the officer in charge of the warrant shall remove the property and place the same in the possession of the owner, and shall by virtue of the warrant aforesaid apprehend and bring before the Magistrate the person or persons in whose possession such property was found; And if upon the hearing of the case no sufficient reason shall be assigned by the parties arrested for their having possession of the property, then he or they shall be fined in any sum not exceeding *ten pounds*, and in default of payment shall be committed to the common gaol of the county for any period not exceeding thirty days; Provided always, that in making such search no unnecessary damage or injury shall be done to the property of the person or persons supposed to have possession of the same: And provided also, that it shall not be lawful for any Magistrate or other Justice of the Peace to grant any such warrant upon the mere supposition of any individual, but the affidavit shall in all cases set forth the grounds for believing the property to be in the party's possession, and it shall be from facts within the knowledge of the party making the affidavit, and not from hearsay or common report.

Owner of boom or yard to be arrested and fined, &c., if the charge be proved. Proviso.

Proviso.

VI. Hereafter it shall not be lawful for any mill owner or occupier to demand any toll or water rent whatsoever from persons running their sawlogs or other timber over the dams belonging to his mill, when the depth of the water in the stream shall admit of the logs passing such dams without it being necessary to open the gates thereof, or to stop the working of the mill while the timber is passing, but the person running the logs shall be liable as heretofore for all damages which may be occasioned in the event of the water not being deep enough to admit of the passing of the timber without the opening of the said damgates, or occasioning the stoppage of the mill.

No toll allowed for passing logs over a dam, without opening gates or stopping mill.

VII. In estimating the value of any property under the provisions of this Act, such value shall be that of the article in the condition as found upon the premises of the party, whether sawlogs, timber, or sawed lumber, and not what would be the value if manufactured or taken to another place or market.

Value to be that upon the spot.

VIII. All fines to be recovered under the provisions of this Act shall be sued for and levied, collected and applied in the same manner as provided for the suing, levying, collecting and application of fines under the Acts to facilitate the performance of the duties of Justices of the Peace, out of Sessions, with respect to summary convictions and orders in Upper and Lower Canada respectively.

Fines to be recovered and levied under summary convictions Acts.

IX. All Acts or parts of Acts inconsistent with the provisions of this Act, shall be and the same are hereby repealed.

Inconsistent enactments repealed.