

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1839.* Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1839.

2 Victoria – Chapter 48

**An Act to provide for the summary punishment of persons committing trespasses upon square Timber and other Lumber. Passed 23d March 1839.**

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act, if any person or persons, shall possess himself or themselves of any squared timber, logs or sawed lumber that may be found adrift, or in any other situation, or shall injure, cut up or destroy any such timber, log or lumber, or shall cut away or cast adrift any boom for preserving the same, or any raft of timber, logs or lumber as aforesaid, or shall hew out the mark or marks of the owner or owners thereof, or otherwise deface or obliterate the same, with intent and design to defraud the owner or owners thereof, he or they shall, for each and every offence, forfeit and pay a sum not exceeding ten pounds, to be recovered before any two of Her Majesty's Justices of the Peace in the County where such offence shall be committed, with costs of prosecution, upon the oath or oaths of one or more credible witness or witnesses, and levied by warrant of distress and sale of the offender's goods and chattels, one half of the said fine to be paid to the Overseers of the Poor of the Town or Parish where the said offence shall have been committed, for the use of the Poor of the said Town or Parish, and the other half to the person who shall sue for the same, and in case the said offender or offenders so tried and convicted as aforesaid shall not have any goods or chattels whereon to levy the said fine, then it shall and may be lawful for the said Justices, under their hands and seals, to commit the said offender or offenders to the common gaol of the County where the said offence shall have been committed, there to remain without bail or mainprize for a space not exceeding twenty days, as the said Justices shall in their discretion think fit.

II. And be it enacted, That whenever complaint shall be made on oath before such Justices or either of them, by any person claiming to be owner of any square timber, logs or sawed lumber, or by his lawful agent, that any person hath possessed himself of any such timber, logs or lumber, with the intent and design aforesaid, it shall be lawful for the said Justices, or either of them, to issue a warrant directed to any Constable of the Parish where the said property may be, requiring him to seize and take into his possession the said property and the same safely to keep for the benefit of the owner thereof; and upon conviction of the said person so offending, or upon his absconding or keeping out of the way so as to avoid being brought to justice, or after trial of the said offender without a conviction, if in any such case the said Justices shall be satisfied the said property shall belong to the said person so claiming as aforesaid, such Justices shall forthwith order the same to be delivered to the said person so claiming to be the owner thereof, or his lawful agent as aforesaid, upon payment of such reasonable charge for keeping the same as the said Justices shall in the said order direct, not exceeding the sum of twenty shillings; and if the said Justices shall not be satisfied that the said property belongs to the said person so claiming to be the owner thereof, they shall order the same to be delivered to any person who may appear to them to be the owner thereof, or his lawful agent, or on refusal of such last mentioned person to

take the same, or on failure of satisfactory proof of ownership in any other person, then the said Justices shall order the delivery of the said property to the person from whose possession the same may have been taken by the said Constable by virtue of the said warrant, upon payment of the like charge as in the case of delivery to the person claiming to be the owner thereof and prosecuting as aforesaid: Provided always, that no adjudication or proceeding under this Act shall be evidence in any Court of law or equity of the right of property in any such timber, logs or lumber.

III. And be it further enacted, That proof of the fact of cutting out, defacing, or otherwise obliterating the mark or marks of the owner or owners of any squared timber, logs or sawed lumber, shall be deemed and taken to be prima facie evidence of fraud in all prosecutions to be had under the provisions of this Act.

IV. And be it further enacted, That this Act shall be in force until the first day of May which will be in the year of our Lord one thousand eight hundred and forty one, and no longer.