

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1840. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1840.

3 Victoria – Chapter 77

An Act to provide for the more effectual prevention of Trespasses and protection of Timber growing on the Crown Lands within this Province. Passed 31st March 1840.

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That no person or persons shall cut, fell, haul, remove or destroy any white, yellow or red Pine, Spruce, Hemlock, Hacmatack, Beech, Birch Trees, Timber or Wood of any other description, standing or being on any part of the ungranted Crown Lands within this Province, without Licence first had and obtained from His Excellency the Lieutenant Governor or Commander in Chief of the Province for the time being or without right derived from the Crown so to do, under the penalty of not less than two pounds nor more than twenty pounds for each and every offence.

II. And be it further enacted, That all Timber, Logs, Trees or any description of Wood which shall or may be cut on or hauled from any part of the ungranted Crown Lands within this Province, without such Licence or right as aforesaid, and also all Deals, Plank, Boards or Scantling, Shingles, Clapboards, Staves or Lathwood which shall or may be made therefrom, or from Timber, Logs, Trees or any description of Wood on or hauled from any part of such Crown Lands, without such Licence or right as aforesaid, shall be and the same are hereby declared to be forfeited to the use of Her Majesty, Her Heirs and Successors, and shall be subject to seizure, prosecution and condemnation in manner hereinafter mentioned.

III. And be it further enacted, That all such Timber, Logs or any other description of Wood which shall be cut on or hauled from any part of the ungranted Crown Lands within this Province, contrary to the provisions of this Act, and all Deals, Plank, Boards, Scantling, Clapboards, Staves or Lathwood which shall or maybe made therefrom, or from any Timber or Logs found on any of such ungranted Crown Lands as aforesaid, contrary to the provisions of this Act, shall and may be seized, arrested and prosecuted by such person or persons as shall or may, from time to time, by warrant under the hand and seal of His Excellency the Lieutenant Governor or Commander in Chief of the Province for the time being, be appointed to seize the same.

IV. And be it further enacted, That in all cases when any Timber or Logs, or Deals, Plank, Boards, Scantling, Shingles, Clapboards, Staves, Lathwood or any other description of Wood, shall be arrested, seized or taken, as liable to such seizure, forfeiture and condemnation under the provisions of this Act, the same shall in all cases be deemed and taken, by the Court in which the same shall be prosecuted, to be forfeited as hereinbefore mentioned, unless it shall be made to appear to the satisfaction of such Court by some person owning or claiming the same, either that the same, if Timber, Logs or Wood of any other description was cut on or hauled from granted lands within this Province, or by and under a Licence or right as aforesaid to cut the same, or if Deals, Plank, Boards, Scantling, Shingles, Clapboards, Staves or Lathwood, that the same was

made of Timber or Logs which were cut either on such granted lands or by and under a Licence or right to cut and haul the same as aforesaid.

V. And be it further enacted, That all Timber or Logs, Deals, Plank, Boards, Scantling, Shingles, Clapboards, Staves, Lathwood or any other description of Wood which shall be arrested or seized as liable to forfeiture under this Act shall and may be deemed and taken to be condemned, unless the owner or owners thereof or some person duly authorized by him or them shall within fourteen days after the day of seizing the same, give notice to the seizing Officer that he claims the same; which notice shall be in writing specifying and particularizing to what the said claim applies, and delivered to the Officer or person by whom such seizure shall have been made; and the same being so deemed and taken to be condemned shall and may be forthwith sold at Public Auction by the said Officer or person who shall have made such seizure after ten days notice of sale being given.

VI. And be it further enacted, That if any person shall by force or violence assault, resist, oppose, molest, hinder or obstruct any seizing Officer appointed under and by virtue of this Act, whilst in the exercise and discharge of his duty as such seizing Officer or any other person employed to aid and assist him in the exercise and discharge thereof, or who shall wilfully remove or cut loose any Timber, Logs, Trees or any description of Wood which may have been seized by such seizing Officer, such person shall on conviction thereof before any Court of Record in this Province, pay a fine not exceeding one hundred pounds nor less than forty shillings at the discretion of the Court before which such offenders shall be tried, which fines shall be paid to Her Majesty, Her Heirs and Successors for the use of the Province, and in case such fine be not paid, such person shall be imprisoned not exceeding twelve months nor less than ten days at the discretion of the Court.

VII. And be it further enacted, That all fines, penalties and forfeitures incurred or to be incurred under the provisions of this Act, may be recovered and prosecuted to condemnation by action of debt, bill, plaint or information in any of Her Majesty's Courts of Record in this Province, in the name of Her Majesty's Attorney General or Solicitor General, and in every action or suit, the person against whom judgment shall be given for any fine, penalty or forfeiture under this Act, shall pay costs of suit; and every such action or suit shall and may be brought within one year after the offence committed and not afterwards: Provided always, That nothing in this section shall affect the case of any proceedings against Timber or Logs, Deals, Plank, Boards, Scantling, Shingles, Clapboards, Staves, Lathwood or any other description of Wood, not exceeding the value of one hundred pounds, before two Justices of the Peace, agreeably to the provisions of the following section of this Act.

VIII. And be it further enacted, That all white, yellow or red Pine, Spruce, Hemlock, Hackmatack, Beech, Birch, Trees, Timber or Wood of any other description, seized as forfeited by virtue of this Act, and claimed by any person or persons in manner hereinbefore directed, provided the value thereof does not exceed one hundred pounds, may be prosecuted to condemnation in the name of the Surveyor General or the seizing Officer who shall have seized the same, or by information of Her Majesty's Attorney General or Solicitor General, before any two of Her Majesty's Justices of the Peace residing near the place where such seizure shall have been made, who are hereby

required and directed to keep a book of Record, in which they shall fairly enter all causes tried before them under this Act, together with the evidence taken before them upon such trial.

IX. And be it further enacted, That in case of the arrest, seizure and prosecution of any Timber or Logs, Deals, Plank, Boards, Scantling, Shingles, Clapboards, Staves, Lathwood or any other description of Wood under this Act, if judgment of condemnation shall not pass, and the Court in which such prosecution shall be instituted shall certify that there was probable cause of seizure, such certificate shall be taken and received as a good and sufficient defence against any action to be prosecuted by any person or persons in any Court within this Province, against the Officer who made such seizure, and any Officer so prosecuted, shall in all cases be at liberty to plead the general issue, and give any special matter in evidence, the same as if such matter had been specially pleaded and set forth.

X. And be it further enacted, That this Act shall continue and be in force until the first day of April, which will be in the year of our Lord one thousand eight hundred and fifty.