

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1850.* Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1850.

13 Victoria – Chapter 35

**An Act to amend an Act, intituled *An Act to provide for the summary punishment of persons committing trespasses upon Square Timber and other Lumber.* Passed 26th April 1850.**

Whereas the Act intituled *An Act to provide for the summary punishment of persons committing trespasses upon Square Timber and other Lumber*, and the several Acts of Assembly in continuation thereof, are about to expire, and it is deemed advisable and necessary to continue and amend the provisions of the said Act, and provide more effectual protection to the honest dealer in the staple of the Province;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act if any person or persons shall by himself or another by his direction, fraudulently and wilfully take, carry away, convert to his own or their own use, or possess himself or themselves without the consent of the owner or person in lawful charge thereof, any Timber squared or unsquared, Saw Log, Mast, Spar, or other Lumber sawed or unsawed, the property of another, whether the owner be known or unknown, lying or being in on or near any River, Pond, Bay, Stream or Inlet, or the bank or shore thereof, within this Province, or shall injure, cut up or destroy any such Timber, Logs, or Lumber, or shall wantonly or maliciously 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 or otherwise obliterate or deface the mark or marks by which the same shall have been distinguished, such person or person shall for every such offence be deemed and taken to be guilty of larceny, and be liable to be imprisoned therefor for any term not exceeding two years, on conviction before any Court of competent jurisdiction.

II. And be it enacted, That in every case of prosecution under the preceding section of this Act, whenever it shall be proved that any such Timber, Log, Mast, Spar, or other Lumber was found in the possession of the defendant without the consent of the owner, with the marks thereof or any of them cut out, altered, obliterated or defaced, or said Timber, Log, Mast, Spar, or other Lumber shall be found partly sawed or manufactured, or partly destroyed, it shall be deemed and taken as prima facie evidence of the guilt of the said defendant, and the burden of proof shall be upon him to discharge himself; provided always, that no person shall be deemed or taken to be in possession of any Timber, Logs or other Lumber, only from the fact of such Timber, Logs and other Lumber being found upon lands in his possession and carried upon such land by force or action of the water.

III. 'And whereas it frequently happens that on the removal of Timber, Logs, Spars or other Lumber carried by the water upon the intervale lands adjoining the River Saint John, considerable damage is done to the said lands by the persons managing the same, who are either unknown or unable to pay such damage;' Be it enacted, That whenever such damage shall be sustained, the

owner or agent of such Timber, Logs, Spars and other Lumber shall be liable for all such damage to the owner or occupier of such intervale lands, and may be prosecuted for the same in the form of an action of trespass, or on the case, at the election of the party grieved, in any Court of Law in this Province, and where the damage claimed may not exceed the sum of five pounds, before any two Justices of the Peace in any County in this Province.

IV. And be it enacted, That in any and every case of prosecution under the first section of this Act, the Justice or Justices before whom the complaint shall be preferred shall and may when the same may to him or them seem proper, by warrant direct any Constable of the Parish where the property may be, to take the same into his possession and keep the same for the benefit of the owner thereof; and upon conviction of such offender, or upon his absconding or concealing himself to avoid being brought to justice, or after trial of the offender, without conviction, when the Justice or Justices shall be satisfied upon sufficient evidence that the ownership of such Timber, Log, Mast, Spar or other Lumber, is in the party claiming the same, or any other person, not being the defendant, shall order the same to be delivered up to the owner thereof or his lawful agent, on payment of the reasonable charges for keeping the same, and on failure of satisfactory evidence of ownership in any other person, the said Justice or Justices shall direct the redelivery of the said property to the person from whom the same may have been taken, on payment by him of the like reasonable charges; provided always, that no adjudication under this section shall be evidence in any Court of Law or Equity of the right of property in any such Timber, Logs, Masts, Spars or other Lumber.

IV. And be it enacted, That notwithstanding any conviction had under the first section of this Act, every person or persons guilty of either of the offences therein described, shall be liable to answer to the owner of any such Timber, Log, Mast, Spar or other Lumber, or raft or boom respecting which the offence shall have been committed, in an action or actions of trespass on the case, wherein the owner shall be entitled to receive double the value of the article taken or injured.

V. And be it enacted, That the owner of any such Timber, Logs, Masts or Spars may at any reasonable time by himself or his agent, enter in a peaceable manner upon any Mill, Mill Pond, Brow, Boom or Raft of Timber, Logs or other Lumber, in search of any such property which he may have lost, and any person who shall wilfully prevent or obstruct such search, shall forfeit for each offence not less than five pounds nor more than ten pounds, to be recovered in an action on the case to the use of the person by whom or on whose account such entry may have been claimed.

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