

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1834.

FOURTEENTH LEGISLATURE.

NO. 30.

SENATE.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND THIRTY-FOUR.

AN ACT to regulate the Survey of Lumber in
the County of Kennebec.

SECT. 1. *Be it enacted by the Senate and
2 House of Representatives in Legislature as-
3 sembled, That, in addition to the Surveyors usu-
4 ally chosen by towns in the County of Kennebec
5 it shall be the duty of the County Commission-
6 ers for said County to appoint some suitable per-
7 son to be Surveyor General of Lumber for said
8 County, who shall make his residence at Au-
9 gusta, Hallowell or Gardiner, and hold his
10 office for the term of four years, unless sooner
11 removed by said Commissioners, and shall give
12 bond, with sufficient sureties, to the Treasurer*

13 of said County in the sum of two thousand
 14 dollars, for the faithful discharge of his duties,
 15 to be approved of by said Commissioners, and
 16 shall be sworn to the upright and faithful per-
 17 formance of his trust. And said Surveyor Gen-
 18 eral shall be authorized and required to appoint
 19 a suitable number of Deputies, not less than ten,
 20 who shall be on oath as aforesaid, and shall give
 21 bond to said Surveyor General for the faithful
 22 discharge of their duties, and may be removed
 23 by him at pleasure. *Provided, That nothing*
 24 *in this Act shall be construed to prevent any*
 25 *person from completing any survey, on any con-*
 26 *tract heretofore made, with express reference to*
 27 *a survey by a particular individual.*

SECT. 2. *Be it further enacted, That in*
 2 *the survey and admeasurement of the sorts in*
 3 *this Act, hereinafter mentioned, the following*
 4 *rules and regulations are hereby established, viz:*
 5 *In the survey of all pine boards and plank, four*
 6 *distinct and separate sorts shall be recognized, as*
 7 *follows: Boards, not less than one inch thick,*
 8 *free from rot, sap, knots and shakes, shall be*
 9 *known and denominated as number one; pro-*
 10 *vided, that clear boards over three fourths of an*

11 inch in thickness may be surveyed number one,
 12 by making due allowance for deficiency in thick-
 13 ness; or they may be surveyed number two,
 14 without such allowance, at the discretion of
 15 the Surveyor. The second sort shall include all
 16 boards not less than one inch thick, free from
 17 large knots, shakes and rots, square edged and
 18 suitable for planeing. The third sort shall in-
 19 clude all boards not less than three fourths of an
 20 inch in thickness, nearly free from rots, nearly
 21 square-edged, and suitable for covering build-
 22 ings. The fourth sort shall include all boards
 23 not belonging to either of the three other sorts.
 24 And all other descriptions of sawed pine lum-
 25 ber shall be distinguished and denominated ac-
 26 cording to the qualities in the different sorts of
 27 boards aforesaid.

SECT. 3. *Be it further enacted,* That
 2 spruce, juniper and hemlock joist or slit work,
 3 such as is usually surveyed board measure,
 4 shall be distinguished into three sorts; the first
 5 shall be sound and square-edged; the second
 6 shall be sound and nearly square-edged; the
 7 third shall include all not belonging to the other
 8 two sorts. All spruce, juniper and hemlock

9 boards shall be distinguished into three qualities
 10 or sorts; the first to include all boards that are
 11 not less than seven-eighths of an inch thick,
 12, nearly or quite clear of sap and coarse large
 13 knots, clear of rot and skakes, and such as will
 14 answer for planeing ; the second to include all
 15 boards not less than seven-eighths of an inch
 16 thick, sound and nearly square-edged; the third
 17 to include all such as do not belong to either of
 18 the two other sorts ; or they may be surveyed
 19 as prescribed in the second section of this Act,
 20 at the election of the buyer and seller.

SECT. 4. *Be it further enacted,* That all
 2 timber usually measured by cubic feet shall be
 3 of a size, equal at least to ten inches square,
 4 and surveyed forty cubic feet to the ton.

SECT. 5. *Be it further enacted,* That, in
 2 surveying the lumber aforesaid, the contents
 3 thereof shall be truly marked thereon in plain
 4 characters, and all marks put thereon by mill-
 5 men or others, if erroneous, shall all be correct-
 6 ed or erased. And in all surveys by the Sur-
 7 veyor General or his Deputies, there shall be
 8 placed on each piece of lumber, if requested by
 9 the buyer or seller, except the last denomina-

tion mentioned in each sort, the numerical mark showing the particular sort or quality to which it belongs, excepting all such lumber as is not intended to be transported, by such survey, out of said County. And any survey of lumber, not exported or to be exported, by such survey, out of said County, may be made by any Surveyor, duly chosen by any town of said County and sworn to said office. *Provided*, That such Surveyors shall be governed by the rules for defining the several sorts of lumber prescribed in this Act; and it is also hereby provided, that any person or persons may buy or sell at the mill-marks for home consumption, or may transport the same out of said County to be surveyed in places elsewhere, any description of lumber.

SECT. 6. *Be it further enacted*, That the fees of the Surveyor General and his Deputies, for surveying and marking said lumber and giving certificates therefor, shall be paid by the purchaser as follows, viz.—for surveying all boards, plank and slit-work which may be and usually are surveyed by board measure, sixteen cents per thousand feet; and for each ton of timber, twenty-eight cents per ton. And when requir-

10 ed to place the numerical mark on the lumber,
 11 sold at board measure, the Surveyor shall have
 12 two cents additional per thousand feet. And
 13 said Surveyor General shall, for his perquisite,
 14 be entitled to receive of his Deputy one-eighth
 15 part of the fees received by said Deputy for the
 16 services aforesaid.

SECT. 7. *Be it further enacted,* That if any
 2 person or persons shall sell or purchase any of
 3 the aforesaid descriptions of lumber not surveyed,
 4 or not surveyed and marked as this Act requires,
 5 with the above named exceptions, he or they
 6 shall forfeit one dollar for each ton of timber or
 7 each thousand feet of boards or other lumber, so
 8 sold or purchased. And if any person, other
 9 than the Surveyor General or his Deputy, shall
 10 take an account of or survey any of the said
 11 descriptions of lumber, with the exceptions afore-
 12 said, he shall forfeit not less than two or more
 13 than ten dollars for every ton of timber and for
 15 every thousand feet of such other lumber, which
 16 he shall in any way or manner survey or take
 17 account of.

SECT. 8. *Be it further enacted,* That when-
 2 ever any seller or purchaser of lumber aforesaid
 3 shall be dissatisfied with the survey made by

4 any Deputy, he may appeal to the Surveyor
 5 General, who shall decide the points of differ-
 6 ence, and said survey shall be made agreeably
 7 to said decision. *Provided*, That said appeal
 8 be made in season to avoid the necessity of re-
 9 surveying the same.

SECT. 9. *Be it further enacted*, That if
 2 the Surveyor General, or his Deputy, or any
 3 town Surveyor, shall unreasonably refuse to per-
 4 form any duty required of him by this Act, or
 5 be guilty of any fraud or deceit in the perform-
 6 ance of any such duty, he shall forfeit a sum not
 7 less than ten dollars nor more than fifty dollars
 8 for every such offence.

SECT. 10. *Be it further enacted*, That all
 2 fines and penalties, forfeited by any person or
 3 persons under the provisions of this Act, may be
 4 recovered by action of debt or by indictment in
 5 the Court of Common Pleas, one half to the
 6 use of said County and the other half to the per-
 7 son who may sue or prosecute for the same.

SECT. 11. *Be it further enacted*, That any
 2 person aggrieved by the survey of said Surveyor
 3 General or either of his Deputies, shall have the
 4 right to commence and prosecute, to final judg-
 5 ment and execution, an action on the bond given

6 by said Surveyor General, in the name of the
 7 Treasurer of the County, for the benefit of the
 8 person so aggrieved, who shall endorse the writ;
 9 and the judgment, when for the defendant, shall
 10 be rendered against said person for whose bene-
 11 fit the suit was brought therefor.

SECT. 12. *Be it further enacted,* That if
 2 any person, not being the Surveyor General or
 3 his Deputy, shall presume to be a common Sur-
 4 veyor of any of the aforesaid descriptions of
 5 lumber for transportation, or which shall be de-
 6 signed for transportation by said survey out of
 7 said County, he shall forfeit a sum not less than
 8 five hundred dollars. And the surveying or
 9 taking account of twenty tons of timber or twen-
 10 ty thousand feet of other lumber aforesaid, shall
 11 constitute a person a common Surveyor within
 12 the meaning of this Act; and a recovery of this
 13 penalty shall be no bar to the recovery of any
 14 penalty mentioned in other sections of this Act.

SECT. 13. *Be it further enacted,* That in
 2 all prosecutions against the purchaser or seller
 3 of any of the aforesaid descriptions of lumber,
 4 for the recovery of any penalty incurred under
 5 any provision of this Act, it shall be incumbent
 6 on the individual prosecuted, to prove that the

7 lumber sold or purchased by him was surveyed
8 according to law. And in any of the prosecu-
9 tions or suits under the provisions of this Act,
10 any buyer or seller or Surveyor shall be bound
11 to testify ; but no statement of said witness,
12 while under oath, shall be used as evidence in
13 any suit or prosecution against him.

SECT. 14. *Be it further enacted.* That, in
2 all said suits and prosecutions, it shall be lawful
3 under one count to recover any number of pen-
4 alties and forfeitures declared for therein. And
5 all Acts and parts of Acts, inconsistent with
6 the provisions of this Act, be and the same are
7 hereby repealed.

STATE OF MAINE.

IN SENATE, February 20, 1834.

ORDERED, That two hundred and fifty copies of the foregoing
Bill be printed for the use of the Legislature.

[Extract from the Journal.]

Attest, WILLIAM TRAFTON, *Secretary.*