

# MAINE STATE LEGISLATURE

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PRIVATE AND SPECIAL

ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

THIRTEENTH LEGISLATURE,

AT ITS SESSION COMMENCING JANUARY 2, 1833.

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PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 28, 1820.

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1833.

said waters may be demolished.

Fines—how to be recovered and applied.

placed or erected in either of said ponds or any of the streams or waters thereof, to take up, pull down and demolish the same. And all fines, arising from the violation of this Act, may be recovered by action of debt, one moiety thereof to the use of said town, and the other moiety thereof to the person who may sue therefor.

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### CHAPTER 373.

AN ACT to regulate the survey of Lumber in the County of Penobscot.

Approved March 2, 1833.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That in addition to the Surveyors, usually chosen by towns and plantations, that the County Commissioners for the County of Penobscot, are hereby directed and required to appoint some suitable person, to be Surveyor General of lumber for said County; who shall make his residence in Bangor, and hold his office for the term of four years, unless sooner removed by said Commissioners; and shall give bond with sufficient sureties, to the Treasurer of said County, in the sum of Two Thousand Dollars, for the faithful discharge of his duties, to be approved of by said Commissioners, and shall be sworn to the upright, and faithful performance of his trust; and said Surveyor General shall be authorized and required to appoint such number of Deputies not less than ten, who shall be on oath to the faithful performance of their duties, and give bond therefor, to the Surveyor General, and may be removed by him at pleasure—*Provided* that nothing in this Act shall be construed to prevent any person or persons, from completing any survey, on any contract heretofore made, with express reference to a survey by a particular individual.

County Commissioners required to appoint a Surveyor General of Lumber for the County of Penobscot—

Tenure of his office.

He shall give Bond.

Shall be sworn.

Shall appoint Deputies who shall give Bond to S. G. who may remove them at pleasure.

Proviso.

SECT. 2. *Be it further enacted,* That in the survey and admeasurement of the sorts in this Act hereinafter mentioned, the following rules and regulations are hereby established: (viz.) That in the survey, and admeasurement of all boards, plank or other lumber, usually measured superficial or board measure and made from what is commonly known, and usually denominated, pumpkin pine, timber pine or up-river saplin pine timber, and all such as belongs to the description of what is usually denominated, up-river pine logs shall be distinguished in four sorts, qualities and descriptions; (viz.) all boards not less than one inch thick, and free from rot, sap, knots and shakes, shall be denominated number *One*; *provided* that all such boards as are clear, and over three fourths of an inch in thickness, may be surveyed number *One*, by making due allowance for deficiency in thickness, or number *Two*, without such allowance at the discretion of the surveyor; the second sort shall include all boards not less than one inch thick, free from large knots and free from shakes and rots, square edged, and suitable for planing; the third sort shall include all boards not less than three fourth of an inch in thickness, nearly free from rots, and nearly square edged, and suitable for covering buildings; the fourth sort shall include all boards not being included in the other three denominations; and all other sawed lumber made from the aforesaid description of timber, and surveyed as aforesaid to be distinguished by the aforesaid denominations, and requiring the same qualities as in the aforesaid description of boards.

Rules and Regulations for the Survey and admeasurement of Lumber.

SECT. 3. *Be it further enacted,* That all spruce, juniper, and hemlock joist, or slit work, which may be surveyed board measure, to be of three sorts, the first sort shall be sound, and square edged, and shall be denominated number *One*; the second sort shall include all of said lumber, as shall be sound and nearly square edged, and be denominated number *Two*; the third sort shall include all that are not included in the other denominations—All boards and plank of the aforesaid descriptions of timber, as well as also all boards, plank, joist or other slit work usually sur-

Survey of Joist

veyed superficial or board measure and made from what is usually denominated common home saplin pine timber, to be of *three* kinds or qualities—the first quality shall include all boards that are not less than seven eighths of an inch in thickness, nearly or quite clear of sap and coarse large knots, clear of rots, and shakes, and such as will answer for planing, and shall be denominated number *One*; the second quality shall be as thick as the first, sound and nearly square edged, and shall be denominated number *Two*; the third quality shall include all boards not mentioned in the other denominations, or they may be surveyed in the manner pointed out in the second Section of this Act at the election of the buyer and seller; and all plank, joist, or other slit work, made from any of the aforesaid descriptions of timber and surveyed board measure, to be of the same respective qualities and shall be surveyed and denominated in the same order as boards aforesaid, multiplying the superficial admeasurement by the inches in thickness for the contents in feet.

SECT. 4. *Be it further enacted*, That all timber usually measured by cubic feet shall be ten inches square or more, and surveyed forty cubic feet to the ton, and shall be distinguished in three sorts or qualities—the first sort shall be straight, sound and square edged, and in length or joints not less than sixteen feet, and be denominated number *One*; the second sort shall include all timber, which shall be sound but which may not be hewed or sawed to a square edge, and shall be denominated number *Two*; the third sort shall include all other ton timber. All ranging, dimension, or scantling timber, usually sold by running measure, shall be distinguished and denominated in the same manner as the ton timber aforesaid as it respects quality.

SECT. 5. *Be it further enacted*, That in surveying the lumber aforesaid, the contents thereof shall be truly marked thereon, in plain characters, and all marks put thereon by millmen or others, if erroneous shall be corrected or erased, and in all surveys by the Surveyor General or his Deputies, there shall be placed on each piece of lumber,

Survey of  
Timber.

Contents of  
Lumber to be  
marked thereon  
by Surveyor.

Any erroneous  
marks erased  
&c.

if requested by the buyer or seller, except the last denomination mentioned in each sort, the numerical mark, showing the particular sort or quality to which it belongs—excepting and the same is hereby excepted, all of such lumber as is not intended for transportation out of said County, by such survey, and any survey of lumber aforesaid not exported nor intended to be exported out of said County by such survey, excepting and the same is hereby excepted, all of the aforesaid descriptions of lumber which shall be surveyed in the town of Bangor may be made by any Surveyor who shall be duly appointed, chosen and qualified by the towns and plantations in said County, at their annual meetings for the choice of other town and plantation officers—*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 any port or place elsewhere any of the descriptions of lumber aforesaid. Proviso.

SECT. 6. *Be it further enacted*, That the fees of the Surveyor General for surveying and marking said lumber and giving certificates therefor, shall be paid by the purchaser, and at the following rates; (viz.) for surveying all boards, plank and slit work which may be and is usually surveyed by board measure, Sixteen Cents per thousand feet; and for each ton and hundred feet of timber Eight Cents per ton and hundred; and when he shall be required to place the numerical mark on the lumber sold by board measure, he shall have therefor, in addition, Two Cents per thousand feet. And that whenever said survey, or survey and marking shall be done by a Deputy of said Surveyor General, he shall pay to said Surveyor General for his perquisite one eighth part of the fees therefor. Rates of fees to be paid to Surveyor General.

SECT. 7. *Be it further enacted*, That if any person or persons shall sell or purchase any of the aforesaid descriptions of lumber not surveyed, or not surveyed and marked as this Act requires, excepting as is herein previously excepted and provided for, he shall forfeit One Dollar for Forfeiture for selling or purchasing Lumber not surveyed and marked as this Act requires.

every ton and hundred of timber or every thousand feet of other lumber, sold or purchased as aforesaid; and if any person not being the Surveyor General or one of his Deputies shall take an account of, or survey any of the aforesaid descriptions of lumber, except as herein excepted and previously provided for he shall forfeit not less than Two nor more than Ten Dollars for every ton and hundred of timber, and thousand feet of said other lumber which he or they shall in any way and manner survey or take account of.

Persons dissatisfied with the surveys of Deputies, may appeal to the Surveyor General.

SECT. 8. *Be it further enacted,* That whenever any seller or purchaser of lumber aforesaid, shall be dissatisfied with the manner of survey by any of said Deputies, he may appeal to the Surveyor General, who shall decide the points of difference, and said survey shall be made agreeable to said decision; *Provided* That said appeal be made in season to avoid the necessity of resurveying the same.

Forfeiture incurred by the Surveyor General or his Deputies, by refusing to perform his or their duties &c.

SECT. 9. *Be it further enacted,* That if the Surveyor General or any Deputy thereof, or any town or plantation surveyor, shall unreasonably refuse to do and perform any duty required of him by this Act or be guilty of any fraud or deceit in the performance of any such duty, he shall forfeit a sum not less than Ten nor more than Fifty Dollars for every such offence.

Fines and penalties forfeited under this Act to be recovered by action of debt.

SECT. 10. *Be it further enacted,* That all fines and penalties, forfeited by any person or persons under the provisions of this Act, may be recovered by action of debt, or the same may be recovered by indictment in the Court of Common Pleas, or Supreme Judicial Court one half to the use of the County of Penobscot, and the other half to the person who shall sue or prosecute for the same.

Persons aggrieved by the survey of said Surveyor General or his Deputies may prosecute an action on his bond &c.

SECT. 11. *Be it further enacted,* That any person aggrieved by the survey of said Surveyor General, or either of his Deputies shall have right to commence and prosecute to final judgment and execution, an action on the bond given by said Surveyor General, in the name of the Treasurer of the County, for the benefit of the person so aggrieved—and said aggrieved person shall endorse the writ, and the judgment, when for the defendant, shall be

rendered against said person for whose benefit the suit was brought and execution shall issue thereon.

SECT. 12. *Be it further enacted,* That if any person not being the Surveyor General or one of his Deputies, shall presume to be a common Surveyor of any of the aforesaid descriptions of lumber for transportation, or which shall be designed for transportation, out of said County by said survey, he shall forfeit a sum not less than Five Hundred Dollars, nor more than Two Thousand Dollars, and the surveying or taking account of twenty tons or hundreds or more of ton or ranging timber, or twenty thousand feet of said other lumber by any Surveyor or Surveyors, or other individual, excepting said Surveyor General or one of his Deputies, as aforesaid, shall constitute said person a common Surveyor within the purview of this Act, and a recovery of this penalty, shall be no bar to the recovery of any penalty mentioned in other Sections of this Act.

Forfeiture incurred by any person not being the Surveyor General or one of his Deputies, who shall presume to be a Common Surveyor.

What shall constitute a person a Common Surveyor.

SECT. 13. *Be it further enacted,* That in all prosecutions against the purchaser or seller of any of the aforesaid descriptions of lumber, for the recovery of any penalty or penalties incurred under any of the provisions of this Act, it shall be incumbent on the individual prosecuted, to prove that the lumber sold or purchased by him, was surveyed according to law: and in any of the prosecutions or suits under the provisions of this Act, any buyer or seller or surveyor shall be bound to testify; but no statements of said witness while under oath, shall be used as evidence in any prosecutions or suit against him.

Individual prosecuted required to prove that the Lumber sold or purchased was surveyed according to law.

SECT. 14. *Be it further enacted,* That in all said prosecutions and suits it shall be lawful under one count in any indictment or writ, to recover any number of penalties and forfeitures declared for in any count.

It shall be lawful under one count in any indictment to recover any number of penalties &c.

SECT. 15. *Be it further enacted,* That all Acts and parts of Acts inconsistent with the provisions of this Act, be and the same are hereby repealed.

Former Acts repealed.