

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-FIRST LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1852.

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Published by the Secretary of State, agreeably to resolves of June 28, 1820, February  
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1852.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1852.

SECT. 7. When an executor or administrator shall die, resign, or be removed from office, pending an action brought by or against him, the same may be prosecuted by or against any administrator de bonis non, who shall be appointed after due notice given; and, if after such notice, he shall not appear and become a party to the suit, judgment may be rendered against him in the same manner, as if he had voluntarily appeared; or as if the suit had been originally commenced by or against him, and he had afterwards been non-suited or defaulted.

Decease, &c. of executor or administrator, proceedings in case of.

[Approved April 23, 1852.]

Chapter 281.

An act regulating the survey of lumber on the Kennebec river.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECT. 1. The governor hereby is authorized, with the advice of the council, to appoint some suitable person to be surveyor general of lumber, for the counties of Kennebec and Lincoln, and the town of Brunswick, in the county of Cumberland, and town of Fairfield, in the county of Somerset, to hold his office for the term of four years, unless sooner removed by the governor and council, who shall give bond with sufficient sureties to the treasurer of the county of Kennebec, in the sum of two thousand dollars, for the faithful discharge of his duty, to be approved by the governor and council, 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 sworn 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 contract, heretofore made, with express reference to a survey by a particular individual.

Surveyor general of lumber for certain districts.

Term of office.

Bond of.

Deputies.

Bond of.

Proviso.

SECT. 2. In the survey and admeasurement of lumber, of the sorts, in this act hereafter mentioned, the following rules and regulations are hereby established. Pine boards and planks shall be divided into four sorts. The first sort shall be denominated number one, and shall include boards not less than one inch thick, straight-grained and free from rot, sap, knots and

Qualities of lumber, how divided.

No. 1.

- CHAP. 281.** shakes. The second sort shall be denominated number two, and shall include boards not less than one inch thick, free from rot and large knots, and suitable for planing, *provided* that such boards as are clear but may be deficient in thickness as aforesaid, shall be received as number two, by making such allowances for the deficiency in thickness as may be required to make them equal to one inch thick. The third sort shall be denominated number three, and shall include boards not less than seven eighths of an inch thick, nearly free from rot, and nearly square edged, and suitable for covering buildings. The fourth sort shall be denominated number four, and shall include all boards and planks of every description, not being within the other three denominations. Spruce, hemlock and juniper boards, planks and joists shall be of two sorts. The first shall be denominated number one, and shall include all boards, planks and joists that are sound and square edged. The second sort shall be denominated number two, and shall include all other descriptions. Pine joists shall be divided into two sorts. The first sort shall be denominated number one, and shall include all joists that are sound and square edged. The second sort shall be denominated number two, and shall include all other descriptions.
- No. 2.** Spruce, hemlock, and juniper boards, &c.
- No. 1.**
- No. 2.** Pine joist.
- No. 1.**
- No. 2.**
- Timber, 40 foot per ton.** **No. 1.** **SECT. 3.** Timber shall be surveyed forty cubic feet to the ton, and shall be divided into two sorts. The first sort shall be sound, straight and square edged, and in lengths or joints of not less than sixteen feet, and due allowance shall be made for sap. The second sort or number two, shall include all other timber. No provisions in this act shall change the present method of surveying ship timber, knees, masts, spars or ship plank.
- No. 2.** Ship timber, masts, &c.
- Marking, &c.** **SECT. 4.** In surveying the lumber aforesaid, the contents thereof shall be truly marked thereon in plain characters, and all other marks erased. Allowance and deduction shall be made for splits, not exceeding in any case one half of the length of said splits. And all said lumber shall be received and sold according to the aforesaid marks; and it shall not be lawful for any person or persons to sell or purchase any of said sorts of lumber, within the aforesaid territory, on said river, unless the same shall be surveyed and marked as aforesaid by the surveyor general or by one of his deputies, except such as may be purchased by any person or persons, for his or their own use, or home consumption. In all surveys by the surveyor general or his deputies, there shall be placed upon each piece of lumber
- Allowance, &c.**
- Not lawful to purchase by any other survey, except in certain cases.**
- Quality of lumber to be marked thereon.**

except such as belongs to number four, the numerical mark, showing the particular sort or quality, to which it belongs.

SECT. 5. The fees of the surveyor general or his deputies, for marking and surveying said lumber, and giving certificates therefor, shall be paid by the purchaser, and at the following rates, viz : for boards, plank and joists, sixteen cents per thousand feet board measure, and for timber, six cents per ton. And whenever said survey and marking shall have been 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.

Fees.

Perquisites of surveyor general.

SECT. 6. If any person shall sell or purchase within the aforesaid territory, any of the aforesaid descriptions of lumber, not surveyed and marked as this act requires, he shall forfeit one dollar for every ton of timber or every thousand feet of said 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, sold or purchased as aforesaid, he shall forfeit not less than two nor more than ten dollars for every ton of timber or every thousand feet of said other lumber which he shall survey or take an account of ; but said forfeiture shall not extend to such lumber as the parties may agree to have shipped without survey ; *provided* the same be actually shipped in pursuance of said agreement.

Penalty for violation of this act.

Exception.

SECT. 7. Whenever any seller or purchaser of any of the lumber aforesaid, shall be dissatisfied with the survey made by any of said deputies, he may appeal to the surveyor general, who shall decide the points of difference, and the survey and certificate shall be made according to said decision.

Survey, how determined, in case of disagreement of parties.

SECT. 8. If the surveyor general or any deputy, shall unreasonably refuse to do and perform any duty required of him by this act, or shall be guilty of any fraud or deceit in the performance of any such duty, he shall forfeit a sum not less than ten or more than fifty dollars for every such offense.

Neglect, &c. of duty.

Penalty.

SECT. 9. 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 district court or supreme judicial court, one half to the use of the county in which such offense may have been committed, and the other half to the person who shall sue or prosecute for the same.

Fines and forfeitures, how recovered, &c.

SECT. 10. Any person aggrieved shall have a right to com-

Parties aggrieved, remedy of.

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mence and prosecute to final judgment and execution, an action on the bond given by the surveyor general in the name of the treasurer of the county of Kennebec, for the benefit of the persons 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.

Surveyor general, records of.

Deputies, returns of.

SECT. 11. The said surveyor general shall be required to keep a record of all lumber surveyed by him, and by his deputies; and his deputies shall be required to make return of all lumber surveyed by them respectively to the surveyor general, as often as once in each month, and oftener, if required by said surveyor general.

SECT. 12. All acts and parts of acts inconsistent with the provisions of this act, be and the same hereby are repealed.

[Approved April 23, 1852.]

Chapter 282.

An act relating to publication of intentions of marriage.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

Notice of intention of marriage.

SECT. 1. All persons resident in this state, intending to be joined in marriage, shall cause notice of their intentions to be entered, before their marriage, in the office of the clerk of the city, town or plantation in which they may respectively dwell; and if there be no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town or plantation.

Town clerk to give certificate.

SECT. 2. The clerk shall deliver to the parties a certificate, under his hand, specifying the time when notice of the intention of marriage was entered with him, which certificate shall be delivered to the minister or magistrate in whose presence the marriage is to be contracted, before he shall proceed to solemnize the same. *Provided*, that no clerk shall issue such certificate to a male under twenty-one or a female under eighteen years of age, unless the party applying for said certificate shall first present to him the written consent of the parents or guardians of such applicant, if any they have residing within this state, that such certificate may issue; or to any town pauper,

Proviso.