

LOG AND LUMBER OWNERS ON SUSQUEHANNA RIVER - PROTECTION OF
Act of Apr. 10, 1862, P.L. 383, No. 393
AN ACT

Cl. 32

For the more effectual protection of the owners of Logs and Lumber on the Susquehanna river.

Section 1. Marks and devices for identifying lumber

From and after the passage of this act it shall and may be lawful for any person or persons, party or company, who are or shall be engaged in lumbering, in any manner, upon the West Branch of the river Susquehanna, or any of its tributaries, to adopt one mark of designation, which mark may be either in letters, figures, words, names, or other devices, at the discretion of such person, party or company, wherewith to stamp or mark all logs, masts, spars, shingles, shingle-bolts, square timber, boomsticks, boards, or other lumber put or intended to be put in said stream or its tributaries to be run, driven or floated to any mills, booms or markets anywhere, at or above the Susquehanna boom at Williamsport, and to furnish to the prothonotary of the court of common pleas, at Williamsport, in the County of Lycoming, or other county, where the said kinds of lumber shall be put into said stream or tributary, a statement in writing of the mark so adopted, as aforesaid, with a certificate appended, that the same has been so adopted, as a mark of designation, as aforesaid, signed by the person, party, or some officer of the company adopting the same, as aforesaid; and no person, party or company shall be entitled to adopt more than one of any of the kinds of marks aforesaid, as a mark of designation, but any such person, party or company shall not be prohibited from using any other mark or marks, in addition to the mark of designation, for distinguishing different kinds or lots of lumber, or lumber obtained from different localities, so always as that it interfere not with the mark of designation of any other person, party or company; and it shall be the duty of the prothonotary aforesaid, to receive and file of record, in his office, any mark stated and certified as aforesaid, and to give a certificate thereof to the person filing the same, and certificates thereof from time to time to any person demanding the same, under his hand and seal of the court; and the said prothonotary shall be entitled to demand and receive for the first certificate as aforesaid, the sum of one dollar, and for every subsequent certificate, the sum of twenty-five cents; and the certificates shall be prima facie evidence of the right of the person, party or company filing the same, to the use of the mark mentioned therein, and that all logs, shingles, shingle-bolts, masts, spars, square timber, boom-sticks, boards or other lumber in and along said streams, or in and along the main river Susquehanna, are the property of the person, party or company, whose mark of designation duly registered, as aforesaid, shall be thereon; the right to the use of any mark of designation as aforesaid, shall depend upon the priority of the registry on record, as aforesaid, and no mark of designation, as aforesaid,

shall be received or filed or certificate given therefor, by the prothonotaries aforesaid, if the same shall have been previously registered it, it being the true intent and meaning of this act to prevent the use of the same mark of designation by more than one person, party or company. 1862, April 10, P.L. 383, Sec. 1.

Section 2. Taking up marked lumber

From and after the passage of this act it shall not be lawful for any person or persons, without authority from the owner or owners, to catch, stop, take up or detain any lumber of any of the kinds mentioned in the first section of this act excepting masts, spars, square timber and boards, which shall be floating in any of the streams or main river above said Susquehanna Boom, mentioned in said section, having thereon any duly registered mark, under any pretense whatsoever, and the owner or owners of any of the kinds of lumber aforesaid, marked with duly registered marks, or his, her or their agent or agents, shall be entitled to take possession of and remove, at his or their pleasure, any lumber of any of the kinds before mentioned, so taken up, stopped or detained, as aforesaid, contrary to the provisions of this act without being in any manner liable for damages or expenses incurred by any person or persons so taking up, stopping or detaining the same, as aforesaid, without let or hindrance, upon the production of the certificate of the prothonotary made in conformity with the provisions of this act either by the owner of the mark mentioned therein, or by any other person or persons, agent or agents, with the authority from the owner or owners, in writing, indorsed thereon or annexed thereto for the purpose, and duly acknowledged before any officer authorized to take acknowledgments of deeds or other writings: Provided, That this section shall not apply to any incorporated boom company, or to lumber of any of the kinds aforesaid, taken up below said Susquehanna Boom; and that for the purpose of encouraging persons to catch, take up and secure logs and lumber floating down the Susquehanna river, below the Susquehanna Booms, it shall and may be lawful for any person or persons so taking up and securing any of this said kinds of lumber, so found floating down the said river, below said booms, to charge and receive from the owner or owners of said lumber the sum of fifty cents per thousand feet, board measure, and to have a lien upon the same until payment is made or tendered by the owner or his agent; and for all such lumber, as aforesaid, taken up below the Columbia bridge, seventy-five cents per thousand feet, board measure. 1862, April 10, P.L. 383, Sec. 2.

Section 3. Owners of marked lumber may search for and remove same., suits for damages

The owner or owners of any of the kinds of lumber aforesaid, their agent or agents, shall have the right and by this act are authorized to enter peaceably upon the lands, mills or other premises of any person or persons, above said Susquehanna Booms, doing no damage, to search for any such lumber, duly marked with registered marks, as aforesaid, and shall have the right, and by this act are authorized to remove any such lumber, marked as aforesaid, without let or hindrance, first paying to the owner or owners of such mill, premises or land the actual damage done thereto, by occasion of such lumber having floated or remained

thereon, or damage done in the removal of such lumber therefrom; and if the parties cannot agree as to the amount of damages done, as aforesaid, the said lumber shall be delivered up to the owner or owners thereof, his, her or their agents, upon the production of a certificate, as provided in the second section of this act; and the owner or owners thereof, his, her or their agents, as aforesaid, shall be liable to arrest, at the suit of the owner or owners of any such mill, premises or land, as aforesaid, upon a capias ad respondendum, from which he or they shall not be discharged until he or they shall give bail absolute, before the justice or prothonotary who shall issue the same, to pay to the owner or owners of any such mill, premises or land, as aforesaid, the amount of the judgment that may be finally recovered for the damages as aforesaid, with costs of suit: Provided, That if the person or persons commencing any such suit, as aforesaid, shall fail to recover, on final hearing, a greater amount than was tendered by the owner or owners, his, her or their agents, as aforesaid, at the time of claiming such lumber, as aforesaid, then the party plaintiff shall pay the party defendant, his, her or their necessary costs of suit, and for his, her or their witnesses; which costs, as aforesaid, shall be paid before the amount of the judgment obtained shall be collected, or be made a set off against the same; and it shall not be required, upon the trial of any such case, to bring the money offered into court. 1862, April 10, P.L. 383, Sec. 3.

Section 4. Forfeiture of lumber

If any of the kinds of lumber aforesaid, duly marked with registered marks, as aforesaid, which may float or come upon any land, as aforesaid, shall not be claimed, as aforesaid, within three months thereafter, the same shall be forfeited to the use of the owner or owners of any such land, as aforesaid: Provided, That the said lumber shall have been first advertised for three successive weeks, in the newspaper published nearest to said land, the cost of which to be added to the other charges and paid by the owner, before he shall be entitled to remove the said lumber. 1862, April 10, P.L. 383, Sec. 4.

Section 5. Penalty for wrongful acts

If any person or persons shall fraudulently or wilfully use the registered mark of another, or shall fraudulently make claim to be the owner of any lumber of any kind, whether marked or not, in and along said streams and main river, or shall fraudulently refuse to deliver up any lumber of the kinds aforesaid, duly stamped or marked as aforesaid, in accordance with the second and third sections of this act; or shall, without authority from the owner or owners thereof, wilfully deface or obliterate any marks, names, figures, letters or other devices of designation thereon, whether registered or not; or shall fraudulently saw, split, consume, destroy, or injure or knowingly permit to be sawed or consumed upon his, her or their mill, or other factory, or shall fraudulently sell or purchase, or convert to his, her or their use any lumber of the kinds mentioned in the first section of this act, whether marked with registered marks as aforesaid, or not, unless the same shall have become duly forfeited, according to the provisions of this

act, or the provisions of existing laws, every such person so offending shall, for every such offense, upon conviction thereof, forfeit and pay a sum, not exceeding one thousand dollars, and if the court deem proper, also undergo an imprisonment by separate and solitary confinement at labor, or simple imprisonment, not exceeding three years. 1862, April 10, P.L. 383, Sec. 5.

Section 6. Boom companies not liable except for marked lumber

No incorporated boom company upon said streams shall be held legally responsible for any logs or lumber, such as they are authorized by their respective charters to catch or stop, that may escape from any booms, unless the same shall have been duly marked as aforesaid, with registered marks, and the production to the officers of said companies of a certificate, as provided in the second section of this act, shall be sufficient evidence to warrant the delivery of any lumber caught in said booms, to the person, party or company certified to be the owner or owners of the marks thereon, or his, her or their agent or agents, in the absence of any express notice of any other claim to the same: Provided, That this section shall not be so construed as to prevent the said companies from collecting boomage upon such nonmarked lumber, according to the provisions of their respective charters: Provided, Further, That such boom companies shall not be released from legal responsibility for any such logs or lumber as may escape from the control of the owner or owners, by reason of high water, or from other causes, which may be stopped by, or come into any boom, as aforesaid. 1862, April 10, P.L. 383, Sec. 6.

Section 8. Bills of sale of marked lumber

Any bill of sale of any of the kinds of duly marked lumber aforesaid, executed and acknowledged as provided in the second section of this act, either by the owner of the mark stamped thereon, or his, her or their administrators or executors, or by any sheriff or other public officer, that he has made sale of any such marked lumber as aforesaid, by virtue of lawful authority, shall be prima facie evidence that the title of the person, party or company owning the mark thereon in such lumber has become vested in the grantee or grantees mentioned in such bill of sale, as aforesaid, and the like effect shall be given to every subsequent bill of sale of any such lumber, made and acknowledged as hereinbefore provided. 1862, April 10, P.L. 383, Sec. 8.