

James C. Child
35
THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

COMPILED BY
MOSES SHERBURNE and WILLIAM HOLLINSHEAD, Esqrs.,
COMMISSIONERS.

PUBLISHED BY STATE AUTHORITY.

SAINT PAUL:
THE PIONEER PRINTING COMPANY.

1859.

(3.) SEC. III. In order to enable the governor more effectually to execute the provisions of this act, it is hereby made the duty of the governor to appoint some suitable person to attend to the preservation, cleaning and repairing the capitol, muskets, accoutrements, and all other property belonging to the state, in and around the capitol. Such person to be appointed by the governor, shall receive an annual salary of (\$600) six hundred dollars, to be paid quarterly, out of any money remaining in the treasury, not otherwise appropriated by law. Appointment of person to take care of capitol, &c.

(4.) SEC. IV. This act shall take effect and be in force from and after its passage. Take effect.

CHAPTER 122.

LOGS AND LUMBER.

SECTION

1. Taking saw logs; penalty for.
2. Justices have concurrent jurisdiction.
3. Arrests by officers, when allowed.
4. Purchasing stolen logs, penalty for; proviso.
5. Scaling stolen logs; penalty.
6. Act to take effect when.
7. Logs, &c., not to be removed from booms.
8. Penalty for such removal.
9. Sections 7 and 8 to apply only on St. Croix river.
10. Act when to take effect.
11. Cannon river a public highway.
12. Dams on same, how to be built.
13. Act when to take effect.
14. Rivers public highways for passage of logs, &c.
15. Dams or booms to have sluice, &c., for passage of timber, &c.
16. Dams and booms not so provided, nuisances, unless provided, &c.
17. Act when to take effect.
18. Districts, for survey, &c., of lumber, &c.
19. Boundaries of such districts.
20. Surveyors general of same how elected.
21. Location of their offices.

SECTION

22. Their oath and bond.
23. Violations of bond, proceedings on.
24. Survey of lumber; payment for.
25. Allowance for defective lumber.
26. Scribner's rule to be used; proviso.
27. Survey of logs running out of booms.
28. Survey by surveyor general out of his district.
29. His deputies.
30. Purchaser's scale marks to have precedence.
31. Fees for surveying and scaling.
32. Surveyor general's books open for inspection.
33. His annual report.
34. His record of mortgage liens and bills of sale.
35. Marks on logs to be recorded.
36. Surveyor's record of orders for scaling.
37. His certificate conclusive as to ownership of logs.
38. No logs to be scaled unless mark recorded.
39. Logs in side booms to be turned out on demand of owner.
40. Penalty for defacing marks.
41. Conflicting acts repealed.
42. Act when to take effect.

An Act for the protection of the owners of Saw Logs in this Territory.

[Passed March 3, 1854.] c. 1

(1.) SEC. I. Any person who shall willfully, and without authority, Taking logs. take any saw logs that may be on any river, on the land adjoining or near a river, which may have floated down said river, or on to said land, and shall remove or attempt to remove the said logs, or who shall cut or split said logs, or otherwise destroy or injure them, shall be held guilty of a misdemeanor, and upon conviction of any of the said offenses, shall be Penalty for. punished by imprisonment in the county jail of the proper county, not more than one year, or less than three months, and shall pay a fine of not more than one hundred dollars, or less than ten dollars.

(2.) SEC. II. Any justice of the peace shall have concurrent jurisdiction Justices have

concurrent jurisdiction. tion in his own county, with the district court, of any offenses in the preceding section specified, when the value of the logs taken or removed, shall be alleged not to exceed the sum of one hundred dollars, and in such case the punishment shall be by fine, not less than twenty, nor more than eighty dollars; and if any person, on conviction of such offense, shall refuse or neglect, for the space of three days, to pay such fine, it shall be lawful for the justice before whom the conviction was had, to commit such person to the jail of the proper county, for a period not less than one, nor more than three months.

Arrest by officers; where allowed. (3.) SEC. III. It shall be lawful for any officer, in whose hand a writ shall have been placed, for the apprehension of any person or persons charged with taking or removing any saw logs, to arrest such person or persons on any part of a river or lake, or any island in a river or lake, contiguous to his proper county, and to secure the logs so taken or removed, so that the owner thereof may be put in possession of the same.

Purchasing stolen logs; penalty for. (4.) SEC. IV. Any person who shall purchase, receive, or secrete saw logs so taken or removed, or who shall cut, or otherwise injure logs so taken or removed, shall be punished in the same manner, and to the same extent as is provided in this act for taking, removing or destroying saw logs, as herein provided: *provided*, that no person shall be so punished for receiving or buying logs as aforesaid, if he received or bought them under and by virtue of any scale list, signed by a legal surveyor of logs or lumber in this territory, and shall be in possession of said scale list.

Proviso. (5.) SEC. V. If any surveyor-general or deputy, shall scale or give a scale list of any logs to any person or persons, in this territory, which logs were taken or removed as aforesaid, the said surveyor-general or deputy so offending, shall forfeit and pay for every such offense, the sum of twenty-five dollars, to be recovered in an action of debt by any person suing for the same in any court of competent jurisdiction.

Scaling stolen logs; penalty. (6.) SEC. VI. This act shall take effect and be in force from and after its passage.

Act to take effect when. An Act for the benefit of Common Schools of the Territory of Minnesota and for other purposes.

[Passed March 2, 1855.] C. 2

Unlawful to remove logs or timber from booms. (7.) SEC. I. *Be it enacted by the legislative assembly of the territory of Minnesota:* It shall be unlawful for any person or persons, to remove, take, haul, or drive away, or cause to be taken, hauled or driven away from within the limits of any boom or booms of any incorporate boom company within the territory, any log, or logs, or hewn timber which shall come, or may be within the limits of such boom or booms, before the said logs or hewn timber, shall be delivered by said boom company.

Penalty for removing logs or timber before being delivered. (8.) SEC. II. If any person or persons, shall at any time before the same have been delivered by said boom company, as aforesaid remove, take, haul or drive away, or cause to be removed, taken, hauled or driven away, from within the limits of any such boom or booms, within this territory, any log or logs, or hewn timber, which shall have come or may be within the limits of such boom or booms, such persons shall be liable to pay to such company, to be recovered in an action at law, the value of such log or logs, or hewn timber, together with all charges that may have accrued to such company, on such log or logs, or hewn timber, and shall also be subject to a penalty of five dollars for each and every log or piece of hewn timber so removed, taken, hauled or driven away, or caused to be removed, taken, hauled or driven away as aforesaid, which penalty shall be so recovered according to the laws of this territory, in an action at law

to be brought in the name of the territory of Minnesota, in any court of justice of the peace, or any court of record of said territory by any boom company, or person or persons who may desire to institute the same, and said penalty when so recovered, shall be paid to the county treasurer of the county, in which the boom from within the limits of which such log or logs, or hewn timber shall have been removed, taken, hauled or driven away, shall be situated, and be appropriated to the support of the common schools of such county: *provided*, that if such boom or booms, or any part thereof shall be situated in more than one county, within this territory, the said penalty when recovered as aforesaid, shall be equally divided between such counties, and the respective portion thereof to which each county shall be entitled, shall be paid to the treasurer thereof and appropriated as aforesaid.

(9.) SEC. III. This act shall only apply to booms on the St. Croix river. Act shall apply.

(10.) SEC. IV. This act shall take effect and be in force, from and after its passage. Act take effect.

An Act to secure the free passage of Logs and Lumber down Cannon River.

[Passed March 1, 1856.] *C. 43*

(11.) SEC. I. *Be it enacted by the legislative assembly of the territory of Minnesota:* That the Cannon river from its junction with the Mississippi to Cannon lake, be and the same is hereby declared to be a public highway so far as to prevent the obstruction of the passage of logs and lumber down said stream. Lumber.

(12.) SEC. II. No dam shall be constructed on said river, unless it shall have connected therewith a sluice or lock sufficient to permit logs and lumber to pass over or through such dam without unnecessary delay or hindrance. Dams.

(13.) SEC. III. This act shall take effect and be in force from and after its passage. To be in force.

An Act to secure the free passage of Logs and Lumber down the several rivers of this State.

See chap 50 [Passed July 23, 1858.] *C. 46*
173 1861

(14.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* That all rivers within the state of Minnesota, of sufficient size for floating or driving logs, timber or lumber, and which may be used for that purpose, are hereby declared to be public highways, so far as to prevent obstructions to the free passage of logs, timber or lumber down said streams, or either of them. Rivers public highways.

(15.) SEC. II. That no dam or boom shall hereafter be constructed or permitted on any river, as specified in this act, unless said dam or boom shall have connected therewith a sluiceway, lock or other fixture, sufficient and so arranged, as to permit logs, timber and lumber to pass around, through or over said dam or boom, without unreasonable delay or hindrance. Sluices on dams.

(16.) SEC. III. Any boom or wear now in or on any river, as aforesaid, that is so constructed as to prevent the free passage of logs or lumber, is hereby declared a public nuisance, which shall be abated unless a suitable sluiceway, lock or passage, as above provided, be made thereon as aforesaid, within thirty days after written notice given by any person interested; and any person or persons so owning, holding or occupying said boom or wear, shall be liable to pay five dollars for every day the same Booms without provision for free passage of logs, &c.; to be abated; penalty.

shall be permitted to remain in or on said river, after having had thirty days' notice to remove said nuisance, which may be recovered before any justice of the peace having jurisdiction of the case, and the amount so recovered shall be collected by said justice, and paid into the township treasury, of the proper township, for the use of common schools; and shall also be liable for any damages sustained by individuals by reason of said nuisance: *provided*, that nothing in this act shall be so construed as to interfere with the vested right of any chartered company now in existence.

Act take effect.

(17.) SEC. IV. This act to take effect and be in force from and after its passage.

An Act to regulate the Traffic in Logs and Lumber.

[Passed August 9, 1858.] C. 80

CHAPTER I.

(18.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* There shall be, and there are hereby created four districts for the purpose of surveying and regulating the survey or measurement of logs, timber, and lumber, within this state.

(19.) SEC. II. The Saint Croix river and its tributaries shall constitute the first district; the Mississippi river and the mouth of Elk river, shall constitute the second district; the Mississippi river and its tributaries below the mouth of the Saint Croix river, shall constitute the third district; the Mississippi river and its tributaries above the mouth of Elk river, shall constitute the fourth district.

(20.) SEC. III. There shall be annually elected by the legislative assembly of the state of Minnesota, a surveyor-general for each of the districts aforesaid, who shall be a citizen of the district for which he is elected at the time of his election, and shall enter upon the duties of his office on the first Monday of April next succeeding his election, and shall hold his office for one year, and until his successor is elected and qualified.

(21.) SEC. IV. The surveyor-general of the first district shall keep his office at the city of Stillwater, of the second district at the Falls of Saint Anthony, and of the third district at the city of Red Wing, and of the fourth district at Swan river.

(22.) SEC. V. The surveyor-generals shall each, before entering upon the duties of their office, take an oath before some person qualified to administer oaths, that he will faithfully discharge the duties of his office, and shall also execute a bond to the county in which he holds his office, with five or more sufficient sureties, to be approved by the county commissioners of such county, in the penal sum of five thousand dollars, conditioned for the faithful discharge of his duties as surveyor-general, and for the delivery over to his successors, all bills, bonds, certificates and papers, and other effects appertaining to his said office.

(23.) SEC. VI. The bond and oath of office shall be deposited with the clerk of the board of county commissioners of the county where such office is kept, and when a failure to comply with the conditions of such bond by the surveyor-general, any person feeling himself aggrieved may commence an action thereon before any court having jurisdiction, and a recovery thereon (by one) shall not render the bond void, but the same may be prosecuted from time to time until the whole penalty shall be recovered.

Handwritten notes:
 Surveying districts
 Boundaries of the districts
 261
 61
 1975

Election of surveyors by legislature.

Location of surveyors' offices.

Oath of office and bond of surveyor.

Violation of bond; suits thereon.

5C
CHAPTER II.

(24.) SEC. I. It shall be the duty of the surveyor-general, by himself or his deputy, at the request of the owner of any logs, timber, or lumber, to repair to any part of his district, and survey such logs, timber, or lumber, and upon completing such survey, to make out a bill stating the number of logs or pieces of timber, together with the mark or marks thereon, the number of feet therein contained, and at whose request the same were scaled, and to whom scaled, a copy of which bill he shall enter upon the books of his office, and the original bill or copy thereof he shall give to the owner of the logs, timber, or lumber, with a certificate thereon that it is a true and correct bill; but no surveyor-general or his deputy shall in person survey logs or timber owned wholly or in part by him or them.

annulled
Survey of lumber; bill of amount to owner
1862

(25.) SEC. II. The said surveyors and their deputies shall, in surveying or measuring logs or lumber, make such allowance for hollow, rotten, and crooked logs, as would reduce and make them equal to good, sound and straight merchantable logs; and in surveying lumber, shall throw off all rotten, shakey, or waney stuff, and make the same equal to good merchantable lumber.

Allowance for defective logs.

(26.) SEC. III. The surveyor-general shall keep posted in his office a written rule or scale of logs of all sizes and lengths, which shall govern him in his surveys, and the scale-rule known as Scribner's rule is hereby adopted as the only legal rule for the survey of logs in the state of Minnesota: *provided*, that every log shall be surveyed by the largest number of even feet which it contains in length over ten feet and under twenty-four feet, and all logs of twenty-four feet in length or more, shall be surveyed as two logs or more.

Scribner's rule, legal rule for surveying; proviso.

(27.) SEC. IV. It shall be the duty of the surveyor-general, by himself or deputy, to survey all logs running out of any boom now chartered, or which may hereafter be chartered by law in his district, and at the expiration of each week, to make out and deliver to the owner or agent of such boom, a bill stating the number of logs, the mark or marks thereon, and the number of feet of each mark; a copy of which bill he shall enter upon the books of his office, and the original, duly certified by him, he shall deliver to the said boom owner or agent, who shall collect the boomage, or fees of said boom, in accordance with such survey.

Survey of logs running out of booms; bills thereof to be made out.

(28.) SEC. V. Whenever the owner of any logs, timber or lumber, shall request the surveyor-general of any district to repair to any other district and survey such logs, timber or lumber, it shall be lawful for such surveyor, by himself or his deputy, to survey such logs or timber, and to act in all respects as if the same were in his proper district; and the scale-bills or certificate of surveys thereof shall be recorded in his office in like manner as if logs, timber or lumber had been surveyed in his proper district.

Survey by surveyor-general not in his own district
1862

(29.) SEC. VI. The surveyor-general may appoint such number of deputies as may be necessary to transact the business of his district; and for the correctness of their acts and their doings, he shall be responsible upon his bond.

Appointment of deputies.

(30.) SEC. VII. In surveying logs from one party to another, the surveyor-general shall place the purchaser's scale-mark upon said logs, and said scale-mark shall thereafter take preference of the original or other antecedent mark: *provided*, that in all such cases, the purchaser shall pay for the scaling, and shall be entitled to the scale-bill.

Scale-marks of purchaser to take precedence of original.

(31.) SEC. VIII. The surveyor-general shall be entitled to receive, and may sue for and collect the sum of five cents per thousand feet for

Fees for surveying and scaling.

surveying, scale making and making survey bills for all logs that he may be required to survey, and the sum of twenty-five cents per thousand feet for all lumber, and for all services performed by said surveyors by virtue of their office at a greater distance than thirty miles from their offices, they are authorized to receive and collect ten cents per mile traveling fee. The surveyor-general shall be entitled to receive and collect the sum of fifty cents for each and every mark of logs recorded in his office pursuant to section 12 of this act.

Books of surveyor-general to be open to inspection.

(32.) SEC. IX. The books of the surveyor-general's office shall be open for and subject to the inspection of all persons wishing to examine the same, and the surveyor general or his deputy shall furnish, when required, duplicate scale bills or certificates, upon being paid therefor fifteen cents per folio.

Annual reports to legislature.

(33.) SEC. X. The surveyor-general shall report to the legislative assembly of this state, at the beginning of each regular session thereof, the total number of feet of logs, and lumber which he has surveyed in his district for the year ending the thirtieth day of November last past.

Records of mortgage liens and bills of sale.

(34.) SEC. XI. It shall be the duty of the surveyor-general to record all mortgages, liens and bills of sale or other written instruments in any way affecting the ownership of any mark of logs in his district, in a book kept for that purpose: *provided*, that said instruments shall specify the marks placed upon the said logs, and when they were cut, and shall be recorded in the office of the surveyor-general in which the said marks are recorded, and no conveyances, lien, mortgage or transfer shall be valid until the same is so recorded, and the surveyor-general shall be entitled to and shall receive the same fees as is allowed by law to register of deeds for recording like instruments.

Marks upon logs to be recorded.

(35.) SEC. XII. Any person who shall cut logs in either of the districts aforesaid, shall, before proceeding to mark the same, deposit in the office of the surveyor-general, in whose district the logs may be, a copy of the said mark which is to be put upon the said logs, but which copy shall not be that of any other mark already recorded in said district, and cause the same to be recorded in a book kept by the surveyor-general for that purpose: *provided*, that it shall be the duty of any and all persons who may have cut any logs previous to the passage of this act, to cause the mark of the same to be recorded on or before the first [day] of January, A. D. eighteen hundred and fifty-nine, and that all marks of logs in the fourth district shall be recorded in the second district.

Record of orders for scaling to be kept.

(36.) SEC. XIII. The surveyor-general shall keep a book or books in which he shall record in the order in which they are presented to him, all orders drawn by the owner of any logs directing him to scale any logs of his mark or marks to any other person, and the first logs scaled of the marks given in said order, and within the limits therein prescribed, shall be scaled to and belong to the person in whose favor the order is drawn according to priority of record.

Certificate of surveyor-general conclusive as to ownership of logs.

(37.) SEC. XIV. The certificate of the surveyor-general that any mark has been recorded agreeably to the provisions of this act, and that the same has not been transferred, and that there is no incumbrance recorded in the books of his office, upon the logs marked with the said mark, shall be conclusive evidence of the ownership of the logs marked with the said mark, in any court in this state.

No logs to be scaled unless mark is recorded.

(38.) SEC. XV. No logs shall be scaled by the surveyor-general or his deputies, unless the marks upon the said logs are properly recorded in accordance with the provisions of this act, and no survey of any logs shall be received in any court in this state, except the survey of the surveyor-general or his deputy.

(39.) SEC. XVI. In case any logs shall be found in any side-boom which have not been bargained for by the owner or holder of such boom, the owner of such logs may demand that the same shall be turned out of such boom, and unless such logs are so turned out within three days after such demand is made, then the owner of such logs shall be at liberty to open such boom and remove such logs, doing no unnecessary damage to the property of such boom owner or holder.

Logs in side-booms unauthorized, to be turned out on demand.

(40.) SEC. XVII. That any person who shall take from any of the rivers or their tributaries in or bordering on this state, or from any sloughs, ravine, island or land adjoining said rivers or tributaries into or upon which any logs may run, or shall cut out, mutilate, destroy or render illegible the mark or marks thereon, or in any manner willfully injure any such logs not his own, or any person other than the surveyor-general or his deputy, who shall place upon any log or piece of timber, any mark except the original mark, shall be guilty of a misdemeanor, and upon conviction thereof in any court having competent jurisdiction, shall be punished by a fine of not less than fifty dollars or more than one thousand dollars, or by imprisonment in the state prison for not less than one year, nor more than three years, and shall be further liable for double the market value of said logs at the time so taken or injured, to be recovered by the owner of such logs in an action of debt before any court having competent jurisdiction in the case.

Penalty for defacing marks.

(41.) SEC. XVIII. All acts and parts of acts inconsistent with this act, are hereby repealed.

Repeal of acts inconsistent.

(42.) SEC. XIX. This act shall take effect and be in force from and after the first day of January, A. D. eighteen hundred and fifty-nine.

Act when to take effect.

CHAPTER 123.

REGULATION OF LABOR.

SECTION

1. Hours of labor limited to ten hours daily for women and children in factories, work-shops, &c.; penalty.
2. Ten hours to be considered a day's work, where there is no express contract.

SECTION

3. Fines for violation of this act, to go into school fund.
4. Act takes effect on passage.

An Act Regulating the Hours of Manual Labor.

[Passed August 2, 1858.] C. 66

(1.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* That in all manufactories, work-shops, and other places used for mechanical or manufacturing purposes in the state of Minnesota, where children under the age of eighteen years and women are employed, the time of labor of the persons aforesaid, shall not exceed ten hours for each day, and any owner, stockholder, overseer, employer, clerk, or foreman, who shall compel any woman or any child under eighteen years of age to labor in any day exceeding ten hours, or shall permit any child under the age of fourteen,

Ten hours a day's work for women and children; penalty against employers for violation of this act.