

## CHAPTER LXXIV.

*An Act to Amend Chapter One hundred and Twenty-two of the Compiled Statutes Relating to Logs and Lumber.*

- SECTION 1. Amendment to section 24. Duty of surveyor general—no surveyor general to survey logs or lumber owned by himself.
2. Amendment to section 27. Surveyor general to survey all logs or lumber running out of any chartered boom—when to deliver original bill to owner.
3. Repeal of section 28.
4. Amendment to section 30. Purchasers scale marks to have precedence.
5. Amendment to section 31. Fees of surveyor general—in case of non-payment of fees, how collected.
6. Amendment to section 32. Surveyor general's books open for inspection.
7. Amendment to section 35. Marks on logs to be recorded.
8. Amendment to section 36. Surveyors record of orders for scaling.
9. Amendment to section 37. His certificate conclusive as to ownership of logs.
10. Amendment to section 39. Logs in side booms to be turned out on demand of owner.
11. Act, when to take effect.

*Be it enacted by the Legislature of the State of Minnesota:*

SECTION 1. That section 24 of chapter 122 of the compiled statutes be amended so as to read as follows:

Duty of surveyor general—no surveyor general to survey logs or lumber owned by himself

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, or the request of any sheriff, coroner or constable, who shall have replevied, attached or levied on any logs, timber or lumber, or the request of any person who shall have a written order from the owner for the delivery 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 true and correct scale bill thereof, stating the person by whom, the time when and place where such logs, timber or lumber was scaled, at whose request and to whom scaled, if to any one, and the scale mark placed thereon, the number of logs or pieces of timber, together with the mark or marks thereon, and the number of feet therein contained, and shall sign the same, and thereupon he shall record such bill in the books of his office, and upon being paid his fees for such services shall deliver the origi-

nal bill to the person to whom the logs, timber or lumber is scaled, if any, if not then to the person requesting the survey; and such bill and the record thereof shall each be *prima facie* evidence of the facts therein stated, and such record shall be as high evidence as the original bill. No surveyor general or deputy surveyor shall in person survey any logs, timber or lumber, owned wholly or in part by himself, but either may survey any such logs, timber or lumber owned wholly or in part by the other.

SEC. 2. That section 27 of said chapter 122 be amended so as to read as follows:

It shall be the duty of the surveyor general by himself or deputy, to survey all logs and timber running out of any boom now chartered or which may hereafter be chartered by law in his district, and at the end of each week when he shall have surveyed any such logs or timber, to make out and deliver to the owner of such boom or the managing agent thereof a true and correct scale bill, stating the date of such survey, the number of logs and pieces of timber, the mark or marks thereon respectively, and the number of feet of each mark so surveyed during the week, and shall sign the same; and he shall immediately record such bill in the books of his office, and upon being paid his fees for such services shall deliver the original bill to the owner or managing agent of such boom, and all boomage or fees of such boom on any logs or timber shall be collected in accordance with such survey.

To survey all logs  
or lumber run-  
ning out of any  
chartered boom  
—when to deliver  
original bill

SEC. 3. That section 28 of said chapter 122 is hereby repealed.

SEC. 4. That section 30 of said chapter 122 be amended so as to read as follows:

In all cases of a sale or other transfer of any logs or timber by one party to another, if the surveyor general by himself or deputy surveys the same, he shall at the time of making such survey, place upon each of such logs or pieces of timber the scale mark of the purchaser or other transferee, and thereupon such scale mark shall supersede all prior marks upon such logs and timber, and together with the prior marks thereon shall become and be the log mark of such purchaser or transferee on the same logs and timber, and in all cases of a sale or other transfer of any logs or timber, the purchaser or other transferee shall pay for the scaling thereof, and shall be entitled to receive and have the scale bill. And when

Purchasers scale  
marks to have  
precedence

the surveyor general shall deliver a scale bill to any person, he shall note upon the margin of the record thereof the name of the person to whom delivered and the date of the delivery.

SEC. 5. That section 31 of said chapter 122 be amended so as to read as follows :

Fees of surveyor  
general—in case  
of non-payment  
of fees, how col-  
lected

The fees of surveyor generals shall be: for surveying, scale marking, making scale bills and recording the same and posting in the ledger, five cents per thousand feet for all logs and timber he may be required to survey, except in the first district, where the fee shall be three cents per thousand feet; for surveying lumber, twenty-five cents per thousand feet; for travelling to perform any service more than two miles from their respective offices, five cents per mile going and returning; for recording any log mark fifty cents; for making and certifying a copy of any matter which may be of record in his office, or for making any duplicate scale bill, ten cents per folio; for recording any instrument in writing authorized to be recorded in his office, other than scale bills, ten cents per folio, payable when such instrument is presented for record and before it shall be recorded, and no such instrument shall be deemed to be recorded until it is entered upon the index to the record. And for the purpose of securing to the surveyor general the payment of his fees, whether the same be for travelling, surveying, making scale bills, or recording the same or for any or all of such services, such surveyor general shall have a lien upon all such logs, timber or lumber surveyed and marked by him, for the amount due for his services thereon, and may retain such lien by affixing to the scale bill of such logs, timber or lumber, before the delivery thereof, a true statement of the amount due him thereon, and that he scaled such logs, timber or lumber, relying upon such lien, and that he claims a lien thereon for such amount and costs of collection; and thereupon such surveyor general may take actual possession of a sufficient amount of such logs, timber or lumber, and may retain the same until he is paid the amount due him thereon, and such logs, timber or lumber shall not be removed or taken from the possession or control of such surveyor general until such payment is made. If the amount is not paid within sixty days after the delivery of such scale bill, the surveyor general may sell at public auction enough

of such logs, timber or lumber to pay the amount due him with the costs of collection, first giving ten days notice of such sale by posting up five written notices thereof, one in his office and one in each of the four most public places in the town or city where the sale is to be made; and at such sale the surveyor general may become the purchaser. The sale may be made by the sheriff or any constable of the county, and the only costs of collection allowed shall be ten per cent. on the amount due, for taking care of the property, and to the officer making the sale, ten per cent. on the amount payable to the surveyor general.

SEC. 6. That section 32 of said chapter 122 be amended so as to read as follows:

The books of record of the surveyor general's office in each district shall be:

1st. A book or books in which shall be recorded the log mark of any person desiring to have the same recorded.

2d. A book or books in which shall be recorded all bills of sales, mortgages, and orders, and other instruments in writing for the sale, transfer, incumbrance or delivery of any logs or timber in the same district.

3d. A book or books in which shall be recorded the scale bills of all the logs, timber and lumber surveyed by the surveyor general in that or any other district.

4th. A book or books to be kept in ledger form, in which shall be posted and recorded from time to time, as soon as any logs or timber shall be surveyed and the scale bill thereof recorded separately and under their respective marks all the logs and timber of each particular mark surveyed, together with the date of scaling, the number of logs or pieces of timber, to whom scaled, and the number of feet, and an index of the names and marks contained in each of said books, shall also be kept. Any book or books of the descriptions before named, which have been kept in the office of any such surveyor general, and which belong to said office, are hereby declared to be the records of such office, and to have and be of the same validity, force and effect, as if the same had been kept by express authority of law. All the books of record hereinbefore mentioned, and authorized to be kept in the office of any surveyor general, are hereby declared to be public records, and of as high degree of ev-

Surveyor general's books open for inspection

idence as the original instruments therein recorded, and shall in all courts and places in this State be taken and held to be *prima facie* evidence of the matters therein stated; and such books shall not be removed from the surveyor general's office, except for use as evidence in court in the town or city where such office is situated. A copy of any matter or thing of record in such office, certified under the hand of the surveyor general or his deputy to be a correct transcript from the record in such office, shall be received and read in any court of this State as of the same degree of evidence and with the same force and effect that the original instrument or record thereof might have been.

SEC. 7. That section 35 of said chapter 122 be amended so as to read as follows:

Marks on logs to  
be recorded.

Any person who shall cut any logs in either of the districts of this State shall, before proceeding to mark the same, cause to be recorded in the office of the surveyor general in whose district such logs may be, a copy of the log mark which is to be put upon said logs, and which mark shall be distinctly different from any other mark recorded in the same district. And it shall be the duty of any and all persons who may have cut any logs in this State previous to the passage of this act, and which logs shall not have been consumed or removed out of this State, to cause the mark of such logs to be recorded in the district where the same were cut on or before the first day of April, 1862; and all log marks recorded in the fourth district shall be recorded in the second district. Any person who has cut or who shall hereafter cut any logs in any State adjoining either of the districts of this State, and who shall intend to bring such logs into any such district, may have his log mark recorded in the district into which he intends to bring such logs, and into which they may be brought, with the same rights, force and effect as if such logs had been cut in such district. And when any log mark shall be recorded in pursuance of the provisions of this act, such mark shall be deemed and held to be the property of the person in whose name it is recorded, and such mark borne upon any logs or timber, and not superseded by any other mark, shall be *prima facie* evidence that the logs or timber bearing such mark are the property of the person owning the mark. Any such log mark may be sold or transferred by bill of

sale recorded in the office of the surveyor general where the mark is recorded in the name of the first owner, and a note of such transfer made in the margin of the book where the mark is recorded; and a sale or transfer of any mark so made shall operate as a sale or transfer of all the logs bearing such mark and at the time owned by the person transferring the mark. Any logs or timber cut in this State or coming into this State in the first district at any point on the lake St. Croix above the city of Stillwater, the marks of which are not recorded in the district in which they were cut or into which they may come, and all logs or timber not bearing any distinctive mark shall not, in favor of the person who shall have cut the same or claiming to be the owner thereof, be recognized, deemed or held in any of the courts of this State to be the property of any such person, for any purpose whatever, in any action or proceeding.

SEC. 8. That section 36 of said chapter 122 be amended so as to read as follows.

The surveyor general shall not be required, except upon the request of a sheriff or constable in case of an attachment or levy thereon, to scale any logs to any person other than the owner, as the title thereto shall appear by the records in his office without an order in writing therefor recorded in his office; and the surveyor general shall record in the books of his office, in the order in which they are presented for record, 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 off, of the marks given in such order and within the limits or of the lot or parcel prescribed therein, shall be scaled to the person in whose favor the order is drawn according to the priority of record. Such order shall be recorded in the same book with bills of sale and mortgages, and shall have preference over any subsequent sale, transfer or incumbrance of such logs; and the fees for recording such order shall be collected in the same manner and at the same time with the fees for scaling such logs.

SEC. 9. That section 37 of said chapter 122 be amended so as to read as follows:

The certificate of the surveyor general that any mark has been recorded in his office, in the district in which the logs were cut or into which they shall have come,

Surveyors record  
of orders for  
scaling

Certificate con-  
clusive as to own-  
ership of logs

and that there is no transfer of such mark recorded in the books of his office, shall be *prima facie* evidence in any court in this State that the logs bearing such mark, not superseded by any other mark, are the property of the person in whose name such mark is recorded. If the surveyor general shall certify that such mark has been transferred on the books of his office, and the name of the person to whom such mark was last transferred, such certificate shall be *prima facie* evidence of the ownership of the logs by the person to whom the mark was last transferred; and if the surveyor general shall certify that such mark has been superseded on any logs, naming the person in whose favor the same was last superseded, such certificate shall be *prima facie* evidence of the ownership of the logs bearing such mark superseded, by the person owning such superseded mark. No sale or transfer of any log mark, or sale, mortgage or other transfer or incumbrance of any logs cut in this State or which shall come into any district in this State, shall be legal or binding, except between the parties thereto, unless such sale, transfer, mortgage or incumbrance shall be in writing and recorded in the office of the surveyor general in the district where such logs were cut, or into which they shall have come if cut in another State.

SEC. 10. That section 39 of said chapter 122 be amended so as to read as follows:

Logs in side boom  
to be turned out  
on demand of  
owner

In case any logs shall be found in any side boom or any boom other than a chartered boom, which shall not have been bargained for by the owner holder or managing agent 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 turned out of such boom within three days after such demand is made, the owner of such logs may open such boom and turn out the same, doing no unnecessary damage to such boom nor allowing more of other logs to escape out of such boom than cannot be reasonably avoided.

If any person shall wilfully and maliciously open, break, cut or otherwise destroy or injure any side or other boom, or shall turn the whole or any part of the logs or timber contained therein loose or adrift, except for the purpose herein mentioned, and except also, in case such boom shall materially obstruct the navigation of any navigable stream, or unlawfully intrude upon the property of

any such person, the person so opening, breaking, cutting, injuring or destroying such boom or turning loose or adrift such logs, or who shall wilfully and maliciously cut loose or turn adrift any boom, brill, string or raft of logs, timber or lumber, shall be guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than six months, or by both such fine and imprisonment, in the discretion of the court, and shall further be liable for all the damage sustained by reason of such wrongful act.

SEC. 11. This act shall take effect and be in force from and after its passage.

Approved March 8th, 1862.

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## CHAPTER LXXV.

*An Act making Appropriations of Money for the Support of the State Government, for the year 1862, and for other purposes therein named.*

SECTION 1. Appropriations for salaries of State Officers and other expenses of Government, for the year 1862.

1. Salary of Governor.
2. Salary of Secretary of State.
3. Salary of Auditor of State.
4. Salary of Treasurer of State.
5. Salary of Attorney General.
6. Salary of Commissioner of Statistics.
7. Salary of Adjutant General.
8. Salary of State Librarian.
9. Salary of Clerk of Supreme Court.
10. Salary of Commissioner of State Land Office.
11. Salaries of Judges of Supreme and District Courts.
12. Salary of Private Secretary of Governor.
13. Salary of Supreme Court Reporter.
14. Salary of Janitor of Capitol.
15. Clerk hire in Auditor's office.
16. Clerk hire in office of Secretary of State.
17. Clerk hire in office of Treasurer of State.