

The Provincial Statutes of Lower-Canada, Being the second session of the thirteenth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1829.

9 George IV – Chapter 11

An Act for the better regulation of the Lumber Trade. (14th March, 1829.)

Whereas the different Acts of the Provincial Legislature by which the Lumber Trade of the Province was regulated have expired; and whereas it is expedient to make Legislative Provisions for the regulation of the said Trade and of the matters concerning the same:—Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great-Britain, intituled, “An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, ‘An Act for making more effectual provision for the Government of the Province of Quebec, in North America,’ and for making further provision for the Government of the said Province.” And it is hereby enacted by the authority of the same, that from and after the passing of this Act, it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government of the Province for the time being, by a commission under his hand and seal, to constitute and appoint (at least five for each of the Cities of Quebec and Montreal, and three for the town of Three-Rivers [Trois-Rivières],) skilful persons, well and practically versed in the different kinds and qualities of boards, planks, staves, timber, masts and spars of all descriptions used in the Lumber Trade in this Province, to be a Board of Examiners, who before acting as such, shall take the following oath:

“I, A. B. do swear that I will not either directly or indirectly, personally or by means of any person or persons on my behalf, receive any fees, reward or gratuity whatever, by reason of any function of my office of Examiner, and that I will act without partiality, favor or affection, and to the best of my to knowledge; so help me God:”—And before whom all persons desirous of obtaining licenses, for the purpose of being appointed Cullers or Measurers of Lumber, shall, previous to obtaining a licence, undergo an examination as to fitness, character and capacity.

II. And be it further enacted by the authority aforesaid, that if the person desirous of obtaining a licence as aforesaid, shall, upon examination, be approved by such board of examiners, or a majority of them, and found unexceptionable in fitness, character and capacity, and in every respect qualified to become a master Culler and Measurer as aforesaid, it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government of the Province, for the time being, to issue a commission, appointing such person to be a Culler & Measurer of Lumber, of the kind or description for which he may have requested to be appointed a Culler and Measurer, and such person on receiving his commission, and on taking before one of the Justices of the Court of King's Bench the oath

hereinafter prescribed, and on entering into a bond, with two good and sufficient sureties, conditioned for the payment of five hundred pounds currency, for the faithful performance of his duty, which bond shall be taken before the Secretary of the Province or his Deputy, and shall by him be kept among the records and remembrances of his office, shall hereafter be authorised to act as a Culler and Measurer as aforesaid: Provided always, that for taking and executing such bond, the Secretary of the Province aforesaid or his Deputy shall be entitled to the sum of five shillings currency, and no more: and provided also, that no fee whatever shall on any account be exacted or received from any person holding a licence as a Measurer or Culler at the time of the passing of this Act, who on being re-examined pursuant to the same, shall be found duly qualified as herein above mentioned, but that such person shall be entitled to his licence free of charges, nor shall he be liable to any charge in respect to the same, other than the said charge of five shillings Currency for the aforesaid bond, into which he shall be held to enter.

III. And be it further enacted by the authority aforesaid; that every person applying for a Licence or commission as Culler and Measurer; before he is appointed as Culler and Measurer, shall produce a certificate of having undergone an examination as herein before provided, of his having taken and subscribed the following oath in presence of any one of His Majesty's Justices of the Court of King's Bench—that is to say:

"I, A. B. do solemnly swear that I will faithfully, truly and impartially to the best of my knowledge, skill and understanding, execute, do and perform the office and duty of a Culler and Measurer of (here insert the description of the Lumber of which he is to be Culler and Measurer,) according to the true intent and meaning of an Act intituled, 'An Act for the better Regulation of the Lumber Trade,' and that I will give a true and faithful account and certificate of the number, quality, dimensions or measurement (insert the description of the Lumber, of which he is to be Culler and Measurer.) as maybe submitted to my inspection and Judgment, according to best of my knowledge, and that I will not, directly or indirectly be a dealer in or interested in the buying or selling of any article of Lumber, either on my own account or on account of any other person or persons whatsoever, and that I will not at any time purloin or wilfully change any article of Lumber that may at any time be delivered or entrusted to me for the purpose of being Culled." So help me God—Which oath every such person shall file or cause to be filed in the Office of the Prothonotary of the Court of King's Bench for the District in which he resides, and it shall be the duty of the said Prothonotary, and he is hereby required to grant a certificate under his hand and seal of office, to every such person of his having taken and subscribed the said oath and filed the same in his office, in conformity to this Act, for which certificate the said Prothonotary shall not ask or receive more than two shillings and six pence currency.

IV. And whereas disputes and litigations frequently arise between the buyers and sellers of lumber, respecting quality or dimensions; be it therefore further enacted, that if any dispute shall arise between any of the cullers and measurers and the buyer or seller of any Lumber, with regard to the dimensions or quality thereof, upon application to any one of His Majesty's Justices of the Peace for the district where such Culler and Measurer shall reside, the said Justice of the Peace shall issue a summons to three persons of skill and integrity,

one whereof to be named by the Culler and Measurer, another by the party complaining, and the third by the Justice of the Peace, in the form prescribed in the Schedule to this Act, (letter A) requiring the said persons immediately to examine the said Lumber, and report their opinion of the dimensions and quality thereof, under oath (which oath the said Justice of the Peace is hereby authorised and required to administer) in the form hereinafter prescribed in the Schedule to this Act (letter B.) and their determination, or any two of them, shall be final and conclusive; and if the opinion of the Culler and Measurer be thereby confirmed, the reasonable cost and charges of re-examination, to be ascertained by the said Justice, shall be paid by the party complaining, or if otherwise, by the Culler and Measurer.

V. And be it further enacted by the authority aforesaid, that all and every Culler or Cullers, Measurer or Measurers of any article of Lumber, who shall wilfully and knowingly change any article of Lumber, delivered to him or them, to be culled or inspected, by substituting any other article or articles of Lumber of a like description with that which may have been delivered to him or them for the purpose aforesaid, shall, upon being thereof lawfully convicted, incur a forfeiture and penalty of fifty pounds, current money of this Province.

VI. And be it further enacted by the authority aforesaid, that it shall not be lawful for any Culler and Measurer of any article of Lumber to buy or sell directly or indirectly, or be a dealer, in or interested in the buying or selling of any article of Lumber either on his own account or on account of any other person or persons whatsoever, under a penalty for each and every offence not exceeding two hundred pounds, nor less than fifty pounds, currency.

VII. And be it further enacted by the authority aforesaid, that the persons so appointed Cullers and Measurers as aforesaid, shall respectively hold themselves in readiness, on all lawful days, to execute the duties of their office when thereunto required; and for every neglect, refusal or delay, when not otherwise employed in duties of their office, to proceed, within the space of six hours, after such requirement, to do and perform the duties prescribed by this Act, they shall respectively, for every such offence forfeit and pay the sum of fifty pounds, current money of this Province, to the use of the person or persons injured or delayed by such neglect or refusal: Provided always, that in case any Culler or Measurer, when required to proceed to the execution of his office, shall be detained or impeded therein, either by the buyer or seller, for more than two hours, such Culler and Measurer shall, in such case, be reasonably indemnified for his and their trouble and loss of time, by the person so detaining or impeding such Culler and Measurer as aforesaid, which indemnity, in case of difference between the parties, shall be ascertained and adjusted, in a summary manner, by any one of His Majesty's Justices of the Peace, and may be sued for and recovered, with costs in the same manner as other debts of the same value are recoverable in this Province.

VIII. And whereas it will be necessary that, the Cullers and Measurers respectively, should be governed in their official duty by the contract or agreement between the buyer and seller, in so far as it respects the dimensions and description of the article or articles submitted to their inspection; Be it therefore further enacted by the authority aforesaid,

that in all cases where there is a written contract or agreement between the buyer and seller, such contract or agreement shall be a law to the parties, in so far the same expresses the dimensions and description of the article or articles so contracted or agreed for. Provided always, that it shall be the duty of the Cullers and Measurers respectively, to ascertain whether such articles are of the dimensions and description so contracted or agreed for.

IX. And be it further enacted by the authority aforesaid, that in all cases where there is no specific agreement between the buyer and seller, the Cullers and Measurers shall respectively be governed by the following descriptions; rules, standards, and limitations, in ascertaining and certifying the merchantable quality of Lumber submitted to their inspection respectively, that is to say: square oak timber shall not be less than twenty feet in length, and not less than ten inches at the smaller end, and the taper not more than two inches under thirty feet nor more than three inches for any greater length, and shall be free from rot, rings, shakes and other defects, properly hewed, squared and butted, and shall not have more than one bend or twist in a log, which bend or twist shall not be more than three inches hollow for every twenty feet in length; square elm shall not be less than thirty feet in length, and not less than twelve inches square at the smaller ends, and the taper not more than two inches under thirty feet, nor more than three inches for any greater length, free from rot, rings and shakes, and other defects, which bend or twist shall not be more than three inches hollow for every twenty feet in length, properly hewed, squared and butted, and shall not have more than one bend or twist in a log, which bend or twist shall not be more than three inches hollow for every twenty feet in length; square white or yellow pine timber shall not be less than twenty feet in length, and not less than twelve inches square at the smaller end, and the taper not more than two inches under thirty feet, nor more than three inches for any greater length, and shall be free from rot, bad knots, rings, shakes and other defects, and properly hewed; squared and butted, and shall not have more than one bend or twist in a log; which bend or twist shall not be more than three inches hollow for every twenty feet in length; red pine timber shall not be less than ten inches square, and not less than twenty-five feet in length: pine boards shall not be less than ten feet in length, and not less than one inch in thickness, and not less than eight inches in breadth, equally broad from end to end, edged by a saw or neatly trimmed by a straight line, free from rot, sap stains, bad knots, rents and shakes, and of an equal thickness on both sides from end to end; deals shall not be less than twelve feet in length, and not less than two and a half inches in thickness, and seven, and nine, and eleven inches in breadth, (the proportion of seven inches not to exceed one sixteenth part of the whole); pipe staves shall not be less than five feet six inches in length, and five inches in breadth at the narrowest part, free from sap, and not less than one inch and a half thick; and the staves commonly called the standard pipe staves, by which the price of all other sizes excepting West India staves and heading, is commonly regulated, shall be of the length and breadth aforesaid, and one and a half inch thick at the thinnest part, and on all thicker pipe staves one fifth of the price of the standard stave shall be allowed for each additional half inch in thickness; and pipe staves of one inch thick, shall be reckoned only at one half of the price of the standard staves; hogshead staves shall be four feet six inches long, four and a half inches broad, free from sap, and none less

than one inch thick at the thinnest part, and shall be reckoned at two-thirds of the price of pipe staves of corresponding thickness; puncheon staves shall be three and a half feet long, four inches broad, free from sap, and none less than one inch in thickness at the thinnest part, and shall be reckoned at one half the price of pipe staves of corresponding thickness; heading shall be two and a half feet long, five inches and a half broad or upwards, free from sap, and not less than one inch thick at the thinnest part, and shall be reckoned at one half the price of pipe staves of corresponding thickness; tierce staves to be two feet eight inches long, three and a half inches broad, and not less than three quarters of an inch thick, and to be reckoned at one-third the price of pipe staves of proportionate thickness; West India dressed puncheon staves shall be three and a half feet long, four inches broad and three-fourths of an inch thick; and dressed heading shall be two and a half feet long, five and a half inches broad, and three-fourths of an inch thick, and shall be reckoned at the same price as puncheon staves, but the proportion of heading shall not exceed one stave in four; West India dressed hogshead staves shall be three and a half feet long, three inches broad, and three-fourths of an inch thick, and shall be reckoned at two-thirds the price of West India dressed puncheon staves; all these descriptions of staves, respectively, shall be of clean white oak straight timber, properly split with straight edges, free from worm-holes, knots, veins, Tents, shakes and splinters; and the Cullers shall always measure their length, breadth and thickness at the shortest, thinnest and narrowest part; and in all cases where it shall appear that timber, boards, plank or staves, are not properly squared, butted and edged, the same being merchantable in other respects, it shall be the duty of the cullers and Measurers, respectively, and they are hereby severally authorized and required, to order or cause such timber to be properly squared and butted; such boards or planks to be properly edged, and such staves to be properly chopped should the purchaser require it, at the expense of the seller, previous to their being respectively received and certified to be merchantable; and in measuring squared timber, the Culler and Measurer thereof shall take the square at such part of the piece, and in such manner as in his judgment shall give the truest medium; masts and spars shall be three feet in length for every inch in diameter at the partners, adding nine feet for extreme length, sound and straight, free from rot, bad knots, rent or shakes; bowsprits shall be two feet in length for every inch in diameter at the partners, adding two feet for extreme length; hickory handspikes to be five and a half feet long, and three and a half inches square at the small end; ash oars shall have three inches square on the loin, and five inches broad on the blade, the blade to be one-third the length of the oar, to be cleft straight on all sides, to be free from rot, large knots, splits and shakes; lath wood, made from, pine timber, to be cut in lengths of four or six feet, and measured by the fathom of six feet high and six feet long; cedar and pine shingles to be not less than twenty-two inches long, and not less than six inches in breadth; West India hoops of white ash or hickory, to be well split, and not less than twelve feet long, and of a suitable strength and thickness; provided always that the measure mentioned and intended in all cases by this Act, shall be and the same is hereby declared and enacted to be English measure.

X. And be it further enacted by the authority aforesaid, that the persons so appointed Cullers and Measurers as aforesaid, shall respectively be entitled to ask, demand and receive, for their skill and labour, at and after the following rates, for Culling and Measuring;

that is to say: for every hundred pine boards, not more than one and a half inch thick, and not more than eleven feet long nine pence current money of this Province; for every hundred pine plank, one and a half and two inches thick, and not more than eleven feet long one shilling like current money; for pine board, of any greater length than eleven feet, and not exceeding one and a half inch thick one shilling and sixpence like current money; for every thousand superficial feet, for pine plank, of any greater length than eleven feet and not exceeding two inches in thickness, three shillings like current money: for every thousand superficial feet and for pine plank, exceeding two inches, and not exceeding four inches in thickness four shillings and six pence like current money; for every thousand superficial feet oak plank, to be paid for in the same proportion to pine plank, as the price of oak timber bears to that of pine timber for every thousand superficial feet; for oak staves five feet long and upwards ten shillings like current money for every thousand staves, of twelve hundred; for oak staves, under five feet and not less than four feet long, eight shillings like current money, for every thousand staves, of twelve hundred; for oak staves, under four feet, and not less than two feet long, six shillings like current money; for every thousand staves of twelve hundred; for oak timber, nine pence current money, per ton of forty cubic feet: for pine and all other square timber seven pence and one half penny like current money, per ton of forty cubic feet: for masts and bowsprits of twenty one inches in diameter, and upwards, three shillings and nine pence like current money each: for masts, bowsprits and spars of sixteen to twenty inches in diameter two shillings and sixpence like current money each: for spars of ten to fifteen inches in diameter, one shilling like current money each: for spars of five to nine inches in diameter, four pence like current money each; and so in proportion for any greater or less quantity of the Merchantable articles aforesaid; which rates shall be equally borne by the buyer and seller, in all cases where there is no agreement to the contrary; and the seller shall moreover pay to the Culler and Measurer, in the proportion of one half of the said rates, on all such articles as may by him be rejected as unmerchantable, in compensation of the extra trouble thereby occasioned: Provided always, that where there is no agreement to the contrary, the seller shall defray all the expense attendant upon Lumber, up to the day of sale and delivery, except as before provided for.

XI. And be it further enacted by the authority aforesaid, that each of the persons so appointed Cullers and Measurers of square oak, elm and pine timber, and masts and spars, shall provide himself with a proper stamp, wherewith to stamp or indent on the butt end of each piece of oak, elm or pine timber, inspected by him, and found merchantable, the letter M. with the initials of his name, in legible characters, to denote that the same has been inspected, and found merchantable; and also with a scribing knife mark in legible characters the length, thickness and breadth of each piece of timber, on the side of the same, as well the merchantable as timber of other qualities and sizes, and that each person so appointed Culler and Measurer shall be bound to provide himself with a proper stamp, wherewith to stamp or indent on the end of each piece of oak timber, of a smaller size than ten inches square, at the smaller end, and on square white or yellow pine timber, under twelve inches square, and on red pine timber under ten inches square, and on square elm timber under twelve inches square, at the smaller end, and of sound and good quality, the letter U. with the initials of his name, in legible characters, to indicate that the same has been inspected

and found undersize; and that each of the persons so appointed Cullers and Measurers of staves, shall in like manner provide himself with a proper stamp, wherewith to stamp or indent on the end of each stave and piece of heading, of one inch thick or upwards, inspected by him and found merchantable, the letter M. with the initials of his name, to denote that the same has been inspected and found merchantable; and that each of the persons so appointed Cullers and Measurers of oak and pine plank and boards, shall in like manner provide himself with a proper stamp, wherewith to stamp or indent on the end of each plank or board, inspected by him and found merchantable, the letter M. with the initials of his name, to denote that the same has been inspected and found merchantable; and each of the Cullers and Measurers of oak and pine timber, shall also provide himself with a proper stamp, wherewith to stamp or indent on each and every piece of oak and pine timber, mast and spar, inspected by him and rejected, the letter R. with the initials of his name, in legible characters, to denote that the same has been inspected and rejected as unmerchantable.

XII. And be it further enacted by the authority aforesaid, that any person or persons who shall prevent or any wise molest any Culler, or Measurer as aforesaid, from marking or branding any or such of the above enumerated articles as he may have been called upon and required by the owner or owners thereof to cull or measure as aforesaid, or any Culler or Measurer who shall neglect to mark or brand the same, shall, upon being thereof lawfully convicted, incur a forfeiture and penalty, not exceeding one hundred pounds nor less than fifty pounds currency, and in default of payment of such forfeiture and penalty as aforesaid, such person so offending and convicted, shall be imprisoned for a space of time not exceeding three months nor less than one month from the date of such conviction.

XIII. And be it further enacted by the authority aforesaid, that in all cases of dispute between Cullers and Measurers of timber, and the buyer or seller of such timber, with respect to the dimensions or quality thereof, the Culler and Measurer, shall, in the case whereupon the re-examination of any timber or lumber by him culled, he shall be found in default, be liable to the party damnified for such damages as he shall have sustained, by reason of the default or misconduct of such Culler and Measurer, which damages shall be recovered, together with the costs and charges of such re-examination, (as herein-before mentioned) from such Culler and Measurer, or from his sureties, in any of His Majesty's Courts of competent jurisdiction.

XV. And be it further enacted by the authority aforesaid, that if any person or persons shall unlawfully use, or shall counterfeit or forge, or procure to be counterfeited or forged, any stamp directed to be provided for use, in pursuance of this Act, or shall counterfeit or imitate the impression of the same, on any piece of oak or pine timber, masts or spars, or on any staves, or on any plank and boards, with an intent to defraud, he, she, or they, being thereof legally convicted, shall forfeit and pay a sum not exceeding one hundred pounds current money of this Province, nor less than fifty pounds like money, for every such offence, and in default of payment thereof, shall be imprisoned for a period not less than three months, nor exceeding one month.

XVI. And be it further enacted by the authority aforesaid, that in case any Culler and Measurer shall at any time be found guilty of wilful neglect of duty, or of partiality, in the execution of his office, or of wilfully giving a false account or certificate of the article or articles submitted to his inspection as aforesaid, or of knowingly stamping or causing to be stamped or omitting to stamp and mark any article of lumber, culled or measured by him, whether the same be merchantable, undersize, or unmerchantable in the manner required by Law or otherwise contrary to this Act, he shall for every such offence forfeit and pay the sum of one hundred pounds current money of this Province, and be dismissed from his office, and forever afterwards be incapable of holding or enjoying any such office, situation or employment.

XVII. And be it further enacted by the authority aforesaid, that the ten following sections of this Act shall be inserted under the direction of the master of the Trinity House by the Captain of the Port of Quebec, in the Book of regulations for the Ports of Quebec and Montreal, and be by the said Captain of the Port of Quebec delivered to Masters of Ships on their arrival at the Port of Quebec.

XVIII. And whereas, from tempestuous weather, and other causes, divers quantities of timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, frequently get loose and go adrift in the river St. Lawrence, the river Ottawa, or the rivers that fall into them, and are taken possession of by evil disposed persons, who secretly appropriate such timber, masts, spars, staves, oars, handspikes, plank and boards, boats, batteaux and scows, to their own use, to the great damage of the owners thereof: be it therefore enacted by the authority aforesaid, that if any person or persons, not employed by the owner or owners, or other persons lawfully authorised for the salvage of any timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, which shall at any time hereafter be adrift in the said rivers, or in either of them, shall save any such timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, which shall be so adrift in the said rivers or in either of them, or which, having been adrift, shall be cast on shore, in any part of the said rivers, or either of them such person or persons shall place or caused to be placed, such timber, masts, spars, staves, oars, handspikes, plank or boards, boats, batteaux and scows so saved in some convenient or safe situation, for the benefit of the owner or owners thereof, and shall forthwith give notice thereof, to the Harbour Master at Quebec, if such timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, shall have been saved in the district of Quebec; to the Harbour Master at Montreal, if such timber, masts, spars, staves, oars, handspikes, plank or boards, boats, batteaux and scows, shall have been so saved in the district of Montreal; and to the Clerk of the Peace for the district of Three Rivers, if such timber, masts, spars, staves, oars, handspikes, plank or boards, boats, batteaux and scows, shall have been so saved in the district of Three Rivers; and such Harbour Master or Clerk of the Peace, as the case may be, shall cause immediate notice to be given, by public advertisement, in the Quebec Gazette the amount of the costs and expenses thereof being previously deposited in his hands, with the fee of two shillings and sixpence currency, for

such publishing as aforesaid; of the saving of such timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, and of the number and marks thereof, (if any there be) of the person or persons by whom the same shall have been saved, and of the place at which such timber, masts, spars, staves, oars, handspikes, or boards, boats, bateaux and scows, shall, so as aforesaid have been placed, and all and every person or persons who shall aid and assist in the saving of such timber, masts, spars, staves oars, handspikes, planks or boards, boats, bateaux or scows, shall be paid for his or their charges and expenses incurred in saving the same, with a reasonable reward or salvage, by the owner or owners of such timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows so saved; and in default of such payment, such timber, masts, spars, staves, oars, handspikes, plank or boards, boats, batteaux and scows so saved, shall remain in the custody of the person or persons who shall have so saved the same, until such charges, expenses and reward as aforesaid, shall be paid or security given for that purpose, to his or their satisfaction: and in case of disagreement respecting the quantum of such charges, expenses and rewards aforesaid, or any or either of them, it shall be lawful for the owner or owners of the timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows so saved, or the merchant or person therein interested on the behalf of such owner or owners, and for the person or persons who shall have so saved such timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, to nominate three of His Majesty's Justices of the Peace who shall adjust and decide the quantum of such charges, expenses and reward aforesaid, and of any or either of them; and such adjustment or decision shall be final and conclusive and binding upon all parties, and the amount thereof shall and maybe recovered in an action of law, in any of His Majesty's Courts of Law in this Province, having jurisdiction in civil causes, to the amount of such adjustment and decision; and if such timber, masts, spars, staves, oars, handspikes, plank or boards, boats, batteaux and scows, within six months after such information, by public advertisement as aforesaid, shall not be claimed, or if the person or persons claiming such timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, shall not, to the satisfaction of the Harbour Master or Clerk of the Peace, by whom such information, by public advertisement as aforesaid, shall be given, or otherwise in due course of law, prove the property of such timber, masts, staves, oars, handspikes, plank or boards, boats, bateaux and scows so saved by him or them, public sale shall be made thereof, by order of such Harbour Master or Clerk of the Peace as aforesaid, and the charges and expenses incurred in saving such timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, and such reasonable reward for salvage as aforesaid, (to be in this case also adjusted and decided by three of His Majesty's Justices of the Peace being first deducted,) the residue of the money arising from such sale, with an account of the whole, shall be paid into the hands of the Treasurer of the Corporation of the Trinity House of Quebec, or to any Warden of the said Trinity House resident at Montreal, to be by him transmitted to the said Treasurer, for the benefit of the owner or owners of such timber, masts, spars, staves, oars, handspikes, planks or boards, boats, bateaux or scows, who, upon affidavit, or other proof of his property, to the satisfaction of the Master or Deputy Master, and of one Warden of the said Trinity House at Quebec, and of two Wardens thereof at Montreal, shall receive the same upon their Warrant addressed to the said

Treasurer; and if within forty days next, after the said Treasurer shall have received the monies arising from the sale of the timber, masts, spars, staves, oars, handspikes, planks or boards, boats, bateaux and scows, which shall have been found so cast on shore, the owner or owners of such timber, masts, spars, staves, oars, handspikes, planks or boards, boats, bateaux and scows, shall not claim the same, in the manner and form above-mentioned, then, and in such case, the said Treasurer shall pay in and remit the said monies to such person or persons, as by the Laws of this Province might have a legal right and claim to such timber, masts, spars, staves, oars, handspikes, planks or boards, boats, bateaux and scows, so cast on shore as aforesaid.

XIX. Provided always and be it further enacted by the authority aforesaid, that nothing herein-before contained, shall be construed to prevent the salvor or person finding any article of lumber as herein-before described, and the owner or claimant of the same, from nominating and appointing two persons (each party nominating and appointing one of the said persons) to adjust and settle the difference between them, concerning such lumber as aforesaid, which persons so nominated, shall, in case of any difference of opinion, call in such Harbour Master or Clerk of the Peace as aforesaid, whose decision or umpirage, shall be final and conclusive between the parties which said Harbour Master or Clerk of the Peace shall for such decision or umpirage and for his certificate thereof, be entitled to ask, have and receive from the parties, the sum of five shillings, currency, previous to the delivery of such his decision or umpirage.

XX. And be it further enacted by the authority aforesaid, that any person or persons as aforesaid, who shall save any timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, which shall at any time hereafter be adrift in the river St. Lawrence, the river Ottawa, or the rivers that fall into them, or which having been adrift, shall be cast on shore, in any part of the said rivers or either of them; and shall neglect to give such notice thereof, as is by this act required to the Harbour Master at Quebec, to the Harbour Master at Montreal, or to the Clerk of the Peace for the District of Three Rivers, as the case may be, shall forfeit and pay a sum not exceeding fifty pounds nor less than five shillings current money of this Province, to be recovered by bill, plaint or information, in any of His Majesty's Courts of King's Bench in this Province, one half to the use of the informer, and one half to His Majesty, his heirs and successors.

XXI. And be it further enacted by the authority aforesaid, that if any person shall wilfully and unlawfully, with the intention to set adrift, unmoor, by cutting, or otherwise, any timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, or shall wilfully and unlawfully, set adrift any timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, or shall wilfully and unlawfully conceal any timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, which having been adrift in the river Saint Lawrence, the river Ottawa, or the rivers that fall into them, shall be found so adrift, or cast on shore in any part of the said rivers or either of them, and be saved, or shall wilfully and unlawfully deface any marks or numbers of such timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows so

saved, or shall wilfully or unlawfully aid or assist in unmooring, by cutting or otherwise, any timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, with intention to set the same adrift, or setting adrift any timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, or in concealing any timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, which having been adrift in the said rivers, or in either of them, shall be found so adrift, or cast on shore, in any part of the said rivers, or either of them, and be so saved as aforesaid, or in defacing any marks or numbers on such timber, masts, spars, staves, oars, handspikes, plank or boards, boats, bateaux and scows, so saved, such person or persons, being indicted and convicted thereof, in any of His Majesty's Courts of King's Bench, of and for this Province, shall forfeit and pay a sum not exceeding fifty pounds, nor less than ten pounds, current money of this Province, one moiety to His Majesty, and the other moiety thereof to the informer, if any there be, and shall and may be imprisoned until such forfeiture be paid, but such imprisonment shall not exceed six months, and being a second time thereof indicted and convicted, such person shall stand committed to the Common Gaol of the District wherein such conviction shall be had, there to remain for and during the space of six months, in which period he shall be publicly whipped or pilloried, or both, as the Court, before whom such conviction shall be had, shall see fit to order and direct.

XXII. And be it further enacted by the authority aforesaid, that every Culler and Measurer of any article of Lumber, shall be obliged to keep an exact register of all Lumber culled and measured by him, and to produce the same if thereunto required, either by the buyer or seller of any Lumber so culled and measured by him.

XXIII. And be it further enacted by the authority aforesaid, that the senior Captain of Militia, or in his absence the senior Officer of Militia under him, of and in every parish within this Province, on the first Sunday of July in every year, at the church door, immediately after Divine service, in the forenoon, shall read or cause to be read, the five preceding sections of this Act and the following.

XXIV. And whereas damage is frequently occasioned by rafts to weirs, nets and other works made for the purpose of taking fish, the owners and conductors of which rafts are unknown to and cannot be discovered by the person by whom damage may be as aforesaid sustained, so as to obtain their remedy at law, and whereas also the said weirs, nets and other works as aforesaid, are frequently by high tides concealed from the view of such owners and conductors as aforesaid, whereby such damage may unintentionally occur, to remedy therefore such inconveniences in future; Be it further enacted by the authority aforesaid, that every owner or conductor of a raft or rafts of Lumber shall at all times, while on the Way to Quebec, Montreal, Three-Rivers, or to the Borough of William Henry [Tracy-Sorel], from any place or places out of this Province, after the arrival of such raft or rafts within this Province, or while in any of the rivers within this Province falling into the river Saint Lawrence on their way to Quebec, Montreal, Three-Rivers or to the said Borough of William Henry, be held to cause the name of such owner or conductor as aforesaid, written or marked in large and legible letters, to be exhibited and displayed on a flag or on both sides

of aboard raised above the raft to the height of at least eight feet by day, and by three lights raised above the raft to the height of ten feet by night, and throughout the night, whether at anchor or otherwise, under a penalty not exceeding forty shillings, currency, for each and every neglect so to do, and the persons owning such weirs, nets or other works for fishing, shall cause to be placed at each extreme of all such weirs, nets, or other fishing works, as aforesaid, a pole or poles, which at the highest tides shall appear at least three feet above water, and in case of neglect so to do, the person or persons whose weirs, nets or other fishing works shall have been injured by any raft or rafts, shall not be entitled to have or recover any damage for such injuries sustained.

XXV. And whereas it may be often times necessary to adopt speedy and effectual means for enforcing the provisions of this Act; Be it therefore enacted by the authority aforesaid, that all the penalties, fines and forfeitures by this Act imposed, shall be sued for, either in Term time before His Majesty's Court of King's Bench for the district wherein any of the offences herein-before mentioned shall have been committed, or in vacation before any of the Justices of the said Court, in a summary way, within twelve months after the fact committed, and not afterwards, and shall be recoverable with costs, in the same manner as other debts of the same value are recoverable in this Province, by suit, bill, plaint or information; the one moiety of all which penalties, lines and forfeitures (except such as are herein-before otherwise applied) when recovered, shall be paid into the hands of the Receiver General, and shall remain at the disposal of the Provincial Legislature for the public uses of this Province, and shall be accounted for to His Majesty, His Heirs and Successors, through the Lords Commissioners of Majesty's Treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct: and the other moiety to any person who shall inform and prosecute for the same.

XXVI. And be it further enacted by the authority aforesaid, that if any action or suit shall be commenced against any person or persons, for any thing done in pursuance of this Act, such suit or suits shall be commenced within the space of twelve months next after the offence shall have been committed, and not afterwards; and the defendant or defendants in such action or suit, may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act, and if it shall appear so to have been done, then the Court shall find for the Defendant or Defendants, and if the Plaintiff shall be non suited, or discontinue his action, after the Defendant or Defendants shall have appeared, or if Judgment shall be given against the Plaintiff, the Defendant or Defendants, shall and may recover treble costs, and have the like remedy for the same, as Defendants have in other cases by law.

XXVII. And be it further enacted by the authority aforesaid, that nothing contained in this Act shall prevent, or be construed to prevent the shipping or exportation of any lumber or timber of any inferior quality or size, or without inspection, where and when the shipper or exporter shall think proper to ship or export any such lumber or timber.

