

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1829. Fredericton, NB: George K. Lugin, Printer to the King's Most Excellent Majesty, 1829.

9 & 10 George IV – Chapter 23

An Act to regulate the Exportation of Lumber, and to repeal all the Acts now in force relating to the same. Passed 10th February, 1829.

Whereas it is expedient that more ample provisions for the regulation of the Lumber Trade, than hath been heretofore enacted, should be made:

I. Be it therefore enacted by the Lieutenant-Governor, Council and Assembly, That an Act, made and passed in the fifty-ninth year of His late Majesty's reign, intituled, "An Act to regulate the Exportation of Lumber, and to repeal all the Acts now in force relating to the same," shall be, and it is hereby repealed.

II. And be it further enacted, That from and after the passing of this Act, no Lumber of the discriptions hereinafter mentioned, shall be shipped for Exportation from this Province until the same has been surveyed and measured, under a penalty, for every offence, not exceeding fifty pounds, nor less than five pounds currency, to be forfeited and paid by the person or persons who knowingly shall have shipped or caused the same to be shipped for Exportation without having been so surveyed and measured.

III. And be it further enacted, That it shall and may be lawful for the Justices of the Peace in each County, at their first General Sessions, annually, or the Mayor, Aldermen and Commonalty of the City of Saint John, to appoint a sufficient number of fit persons to be Surveyors of Lumber in each County, Town or place where such may be necessary: which persons shall give Bonds in the sum of one hundred pounds, with two sufficient sureties in the sum of fifty pounds currency each, and he shall take and Subscribe the following oath before any one of His Majesty's Justices of the Peace, who is hereby authorized and required to administer the same, without any fee, that is to say; "I do solemnly swear, that I will faithfully, truly and impartially, to the best of my knowledge, skill and ability, execute, do and perform the office and duty of a Surveyor of Lumber, according to the true intent and meaning of an Act, intituled, 'An Act to regulate the exportation of Lumber, and to repeal the Act now in force relating to the same,' and that I will give a true and faithful account of the number, dimensions or measurement of all such Lumber as may be submitted to my inspection and judgment, according to the 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 person or persons whatsoever, and that I will not at any time purloin or wilfully change any article of Lumber, that may be delivered or intrusted to me for the purpose of being so surveyed." Which oath every such person shall deliver unto the Clerk of the Peace for the County in which he shall be appointed, together with the private mark which he shall adopt, and the said Clerk of the Peace is hereby required to grant a Certificate to every such person of his having taken and subscribed the said oath, and the said Persons shall thereafter continue in such office until the annual appointment of Parish Officers, and it shall be lawful for

them to survey Lumber in any part of the County in which they are appointed, and it shall be their duty respectively, personally, diligently and carefully to ascertain the qualities of the articles submitted to their inspection, and after rejecting all such as in their judgment, may appear to be in any respect objectionable under this Act, of which each Surveyor is hereby required to provide himself with a copy, they shall furnish the buyer and seller each with a true and faithful account in writing of the number, dimensions or measurement of the articles they shall respectively find to be merchantable, and every such account duly certified under the hand of a Surveyor, shall be final and conclusive between the buyer and seller. Provided also, that if any dispute shall arise between the buyer and any of the Surveyors, and the buyer and seller of any article of Lumber, the buyer may call upon three skilful and disinterested persons, duly appointed Surveyors under this Act, whose duty it shall be to examine and resurvey the said Lumber, and their determination, or any two of them shall be final and conclusive, and if the opinion of the first Surveyor shall be confirmed, then the buyer is to pay the expense of the resurvey, if not confirmed, the expense to be paid by the first Surveyor: Provided also, that if any Surveyor shall pass any article of Lumber, contrary to the provisions of this Act, such Surveyor so offending shall be liable to the party injured for all damages sustained by him or them, and be subject to the following penalties, namely, for every forty cubic feet of Timber so passed, the sum of two Shillings and six Pence; for every thousand superficial feet of Deals, Planks, Boards or Scantling, the sum of five Shillings; for every mast, the sum of five Shillings; for every spar, the sum of one Shilling; for every thousand Shingles, the sum of two Shillings and six Pence; for every thousand Staves, the sum of three Shillings; and for every cord of Lathwood, the sum of two Shillings and six Pence: Provided also, that if any Surveyor 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 of the article or articles submitted to him for inspection as aforesaid, or of knowingly marking or shipping, or causing to be marked or shipped any article of Lumber surveyed by him of unmerchantable size, quality or manufacture, or in any manner contrary to what is required by Law, for exportation, shall be dismissed from his office, and be incapable of ever after holding such situation or employment.

IV. And be it further enacted, That all and every Surveyor who shall wilfully and knowingly change any article of Lumber delivered or submitted to him or them to be surveyed, by substituting any other article or articles of lumber of a like discription with that which may have been delivered to him or them for the purpose aforesaid; or who shall 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 person or per-sons whatsoever, shall upon being lawfully convicted of each, or either, and every offence as aforesaid incur a forfeiture or penalty not exceeding fifty pounds nor less than one pound currency.

V. And be it further enacted, That in all cases where there is no specific agreement between the buyer and seller for a superior quality of Lumber, the Surveyors shall respectively be governed by the following rules, in ascertaining the merchantable qualities of Lumber submitted to their inspection, respectively, that is to say; All square Timber for the British market shall not be less than ten inches square nor shorter than sixteen feet, (hardwood excepted, which maybe twelve feet long if not less than twelve inches square) to be square and smoothly hewed and butted, and the taper not to exceed one inch for every twenty feet in length, the wane not to exceed one inch

on each and every corner, when the square is under sixteen inches; from sixteen inches to twenty inches square, on each and every corner, two inches wane; and from twenty-one inches square and upwards, three inches wane on each and every corner, to be measured on the waness in the middle of the stick, and the difference of the square between any of the sides, shall not exceed two inches, and no piece of Timber shall have a sweep, unless it has two straight sides, and such sweep shall not exceed the rate of four inches to thirty-five feet in length; no Log shall be jogged on any pretext that can possibly be lined in one piece, but if unavoidably necessary to be made into two pieces, the top end to be lined down as near the root as the crook of the tree will admit, in order that the top piece be as long as possible, the jogs to be all cut, the ends and sides to be free from red or decayed stains, ring shakes, butt rots, concase or rotten knots, decayed sap, worm holes, large case or solid knots or other defects, and no piece shall be bored in rafting or otherwise, at a greater distance than twelve inches from the ends: that all Timber before exportation, shall be surveyed by a sworn Surveyor, who in ascertaining the contents shall girth or measure every piece in the middle: dimension Deals shall be cut to the lengths ten, twelve fourteen, sixteen, eighteen, twenty, and twenty-one-feet in length, to the breadths of nine inches and of eleven inches; to the thickness of three inches, each, having an allowance of one inch, and not exceeding two inches on the length; of one fourth of an inch, and not exceeding one half of an inch on the breadth; of one eighth of an inch and not exceeding one fourth of an inch on the thickness; to be sawed smooth and fair, of equal width and thickness at both ends, to be butted at both ends with a saw, the stubshot to sawn off, to be free from rots, sap stains, large knots, rents, shakes, wormholes, worm and auger bores; all merchantable boards, plank and scantling, shall be square edged with the saw; all clear boards shall not be less than one inch thick, and merchantable not less than seven eighths of an inch thick; no board or plank shall be deemed merchantable if split at both ends, or have one continued split of more than two feet at one end, that is less than twelve feet long, and nine inches wide, and is not sawed of a thickness throughout, to be free from rots, sap stains, large knots, rents, shakes, worm holes, wane and auger holes; and purchasers shall not be obliged to take planks with boards, unless by special agreement, the breadth of the plank and boards to be taken at the middle for measurement, the stubshots of all boards, plank and scantling for exportation, shall be sawed off at the Mills where they are manufactured, previous to being surveyed; Provided always, that the modes of sawing off the stubshotting of boards, shall not extend to boards manufactured on the River Saint John and its branches. Masts shall not be less than three feet and one fourth of a foot in length, to every inch of diameter; to be hewed smoothly and reduced sufficiently to show the real wood free from sap on the centre of all the four sides at the partners; to be as small at the butt as at the partners, and of proportionate and full size at the top; to be straight, free from rot or decayed stains, ring shakes, butt rots, concase or rotten knots, decayed sap, worm holes, case knots, large knots at top, bark on the waness, auger holes and other defects, and to be square butted; the diameter for measurement to be taken at the partners one third from the butt, exclusive of sap: Spars shall be of straight growth, free from large knots, rots and other defects, to be of a proportionate size at top with the butt, to be square butted, and the diameter for measurement to be taken at one third of the length from the root, exclusive of bark, and to be four and one half feet in length for every inch in diameter, where the spar exceeds nine inches in diameter, and five feet at least for all spars under nine inches in diameter: Lathwood shall be of fresh growth, straight rift, free from bark, hearts, knots and splinters, to be measured by the cord of four feet high and eight feet long, and piled as close as it

can be laid: Pine shingles shall be eighteen inches long, not less than four inches wide and three eighths of an inch thick at the butt, free from sap and worm holes, to be put up in bundles not less than twenty-five tier or courses to twenty inches wide, four of which bundles shall be reckoned a thousand: Cedar Shingles for exportation, shall be half an inch thick at the butt, the said thickness to be continued three fourths of the length, and shaved from thence to the point, and shall also be from four to four and one half inches wide throughout, and that the account shall be taken by tale of ten hundred to the thousand; and that all pine Shingles manufactured in the same manner, shall be subject to the like rules and regulations: Hogshead Staves shall be forty-two inches long, three fourths of an inch thick on the thinnest edge, and not exceeding one inch on the back, and shall also be from three and one half inch, to five and one half inches wide: Barrel Staves shall be thirty-two inches long, one half inch thick on the thinnest edge, and not exceeding three fourths of an inch thick on the back, the whole to be of good rift, free of twists, fairly split, and free from knot holes, rotten knots, worm boles and shakes, and that the account shall be taken by tale of twelve hundred to the thousand: Provided also, that in all cases where it shall appear that Timber, Deals, Planks, Boards or Staves, are not properly lined, squared, butted and edged, the same being merchantable in other respects it shall be the duty of the Surveyors respectively, and they are hereby severally authorized and required, to order or cause such Timber to be properly lined, squared and butted, such Deals, Planks or Boards to be properly edged and butted, and such Staves, to be properly reduced at the expense of the seller: And whereas, certain articles of Lumber are measured afloat and cannot then be properly seen or inspected, it shall in such cases be the duty of the Surveyors, and they are severally hereby authorized and required, to re-examine all such Lumber, either before or at the time of shipment, and shall furnish the buyer and seller each with a true and faithful return of the same, and such re-survey shall be final and conclusive between the parties: Provided always, that the purchaser of any Lumber, shall not be allowed to re-survey any Timber by him so purchased on the account, or at the risk of the seller, after he has had the same in possession more than twelve months.

VI. And be it further enacted, That each of the Surveyors so appointed, shall score or mark in large and legible figures or characters, on the butt end of each piece of Timber inspected by him, his own mark, the length, the purchasers mark, and the contents;—Masts shall be marked in like manner, having, instead of contents, the diameter at the partners;—Deals shall be marked with lead, on the end, with length, breadth, thickness, and superficial contents, and Boards with the Superficial contents, and the surveyors private mark.

VII. And whereas, the Lumber Trade has heretofore sustained much injury by reason of Surveyors of Lumber becoming the keepers and Insurers of the Lumber so surveyed by them: —Be it therefore enacted, That it shall not be lawful for any Surveyor of any article of Lumber by him surveyed to become the keeper or the insurer of the same Lumber.

VIII. And be it further enacted, That the Persons so appointed Surveyors as aforesaid, shall respectively be entitled to ask, demand and receive for their skill and labour in surveying, and re-examining, at and after the following rates, that is to say, for every forty cubic feet of Timber, four Pence; for every thousand superficial feet of Deals, Planks, Scantling, and Boards, one Shilling, and three Pence more for marking the same; for Masts under seventeen inches diameter, one Shilling

and six Pence each, and if larger, two Shillings each; for Spars under six inches diameter, two Pence each, under nine inches diameter, three Pence each, and being nine inches diameter and upward, four Pence each; for Lathwood, one Shilling and three Pence per cord; for Pine Shingles, nine Pence per thousand; for Cedar Shingles, one Shilling per thousand; for Hogshead Staves, three Shilling per thousand; and for Barrel Staves, one Shilling and six Pence per house and which rates for the survey of merchantable Lumber shall be paid by the buyer, who shall employ or have the choice of his Surveyor; and the seller shall remove, or cause to be removed at his own expense, whatever may obstruct or prevent the Surveyor from ascertaining with facility, the measurement, manufacture, or quality of any article of Lumber, and when required, the same shall be canted; And it is hereby provided, That the purchaser of any article of Lumber, subsequent to its survey, shall not be called upon to pay the survey unless by special agreement.

IX. And whereas some evil disposed persons are in the practice of plugging Timber and Masts for the purpose of passing such Timber or Masts by such deceptions as merchantable:—Be it therefore enacted, That any person convicted of plugging any Timber or Masts, when any defect is covered by such plugging, shall be liable to pay a fine of five Pounds currency for each and every offence, and in default of payment, shall be imprisoned for a space of time not exceeding one month, nor less than ten days from the date of conviction.

X. And be it further enacted, That any person or persons who shall prevent, or in any way molest any Surveyor, as aforesaid, from measuring or marking any such of the above enumerated articles of Lumber as he may have been required to survey, shall, upon being thereof lawfully convicted, incur a forfeiture or penalty not exceeding five Pounds nor less than one Pound currency, and in default of payment, shall be imprisoned for a space of time not exceeding one month nor less than seven days from the date of conviction.

XI. And be it further enacted, That one half of all the forfeitures or fines arising by virtue of this Act, shall be to the person or persons who shall sue for the same, and the other half to the benefit of the Poor of the Parish where such offence shall be committed; and if the same shall not exceed five Pounds, shall be recoverable, together with the costs of prosecution, before any one of His Majesty's Justices of the Peace of the County where such offence shall have been committed; or when the same shall be more than five Pounds, and shall not exceed ten Pounds, before any two of His Majesty's Justices of the Peace on the oath of one or more credible witness or witnesses, by warrant of distress and sale of the offenders goods and chattels, under the hand and seal of such Justice or Justices; and for want of sufficient distress shall suffer, not less than three days nor more than forty days imprisonment; and in case such forfeiture, or the value thereof shall exceed ten Pounds, the same may be recovered in any of His Majesty's Courts of Record in this Province, competent to try the same, with costs of suit.

XII. And be it further enacted, That all prosecutions by force of this Act, shall be commenced within twelve months from and after the time such offence was committed.

XIII. And be it further enacted, That this Act shall be publicly read by the Clerk of the Peace annually at the opening of the Court of General Sessions of the Peace, at which the appointment of Town or Parish officers is made.

XIV. Provided always, and be further enacted, That this Act shall not be construed to extend to any Lumber manufactured or surveyed previous to the first day of July next, which shall be deemed merchantable, if manufactured agreeably to the provisions of the former Act.

XV. And be it further enacted, That this Act shall be in force for five years, and until the end of the then next Session of the General Assembly.