

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1845. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1845.

8 Victoria – Chapter 81

An Act to regulate the Survey and Exportation of Lumber. Passed 14th April 1845.

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the first day of May next, no Lumber of the descriptions hereinafter mentioned shall be shipped for Exportation from this Province, until the same shall have been surveyed and measured, as hereinafter directed, under the 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 or measured.

II. And be it enacted, That it shall and may be lawful for the Justices of the Peace in each County, at their first General Sessions annually, to appoint a sufficient number of fit persons in their respective Counties to be Surveyors of Lumber in each County, Town or place where such may be necessary; which persons so appointed shall enter into Bonds to Her Majesty, Her Heirs and Successors, in the sum of one hundred pounds, with two good and sufficient Sureties in the sum of fifty pounds each, conditioned for the due performance of his duty as Surveyor of Lumber, to be filed in the Office of the Clerk of the Peace in such County, and shall take and subscribe the following oath, before one of Her Majesty's Justices of the Peace, or before the Clerk of the Peace for the County in which he may be appointed, either of whom 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 Survey and Exportation of Lumber*, 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, according to the best of my knowledge, and that I will not survey any Lumber in which I may be directly or indirectly interested, otherwise than for the compensation prescribed in the said Act, and that I will not change any article of Lumber that may be delivered or intrusted to me for the purpose of being so surveyed."

—Which affidavit every Surveyor so appointed and sworn 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 of his having filed the said Bond, and to furnish him with a copy of this Act, for which copy so furnished he is to receive one shilling from the Sessions of said County; and it shall be lawful for them to survey Lumber in any part of the County in which they shall be 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 opinion may appear objectionable under this Act, so far as the same can be then ascertained, (of which each Surveyor is hereby required to provide himself with and retain a copy) they shall, when required, furnish the buyer and seller each with a true and faithful account in writing, of the number, length, dimensions or measurement of the articles they shall respectively find to be merchantable; Provided always, that when any dispute shall arise between the buyer or seller and the Surveyor, and a re-survey shall be required, it shall and may be lawful for the party requiring such re-survey, and for the said Surveyor respectively, to choose one disinterested Surveyor, duly appointed under this Act, which two Surveyors so appointed, shall choose a third disinterested Surveyor duly appointed under this Act, whose duty it shall be to examine and re-survey said Lumber, and the decision of the said three Surveyors, or any two of them, as to the said re-survey, shall be final and conclusive; and when such dispute shall arise between the buyer and seller, it shall and may be lawful for the party who shall have had the choice of the first Surveyor, to choose one disinterested Surveyor, and for the other party to choose two disinterested Surveyors, which said three Surveyors so chosen shall proceed to examine and re-survey the said Lumber, and the decision of the said three Surveyors, or any two of them, shall be final and conclusive; and should the original Survey be confirmed, then and in such case the person requiring said re-survey shall pay the expenses thereof; and should the said original survey not be confirmed, then and in such case the expenses of the said re-survey shall be paid by the person requiring such re-survey, who shall and is hereby authorized to recover the same again from 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 Plank, Deals, Boards or Scantling, the sum of five shillings; for every thousand superficial feet of Saw Logs, the sum of two shillings and six pence; for every Spar, the sum of one shilling; for every thousand Shingles, the sum of two shillings and six pence; for every thousand Staves, five shillings; for every cord of Lathwood, two shillings and six pence: and if any Surveyor appointed under this Act, shall at any time wilfully change any article of Lumber submitted to him for inspection or to be surveyed, by substituting any other article of Lumber, he shall, upon due conviction thereof, incur a penalty not exceeding fifty pounds, nor less than five pounds, to be recovered as hereinafter prescribed in the twelfth section of this Act; 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, the conviction for any such offence shall be deemed and taken to be a dismissal from his office as Surveyor, and be incapable for re-appointment for ever after.

III. And be it enacted, That all Square Timber, except Red Pine, shall not be less than ten inches square nor shorter than sixteen feet, except White Pine Timber over sixteen inches square, and Hardwood over twelve inches square, which may be twelve feet long, to be squared and smoothly hewed, and free from knotty tops, plugs, rots, rotten or concase knots, decayed sap or worm holes, to be square butted, and the taper not to exceed one inch for every eighteen feet in length, the wane not to exceed one inch on each and every corner where the square is under sixteen inches, and from sixteen 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; and in

order to ascertain the contents of such Timber, the Surveyor shall girt or measure the same at the middle of the stick, and the difference of the squares between any two of the sides shall not exceed two inches; and no Log shall have a sweep unless it has two straight sides, and such sweep shall not exceed the rate of five inches to every forty feet in length; Provided nevertheless, that all Pine Timber over sixteen inches square, smoothly hewed and free from the defects aforesaid, shall be deemed merchantable if over twelve feet long.

IV. And be it enacted, That in the Survey of Pine or Spruce Logs, the following regulations shall be observed by the Surveyors : Logs for the manufacture of Deals shall be twelve feet long and upwards, and not less than eleven inches in diameter, to have an allowance of from six to nine inches in the length, to permit the Deals when sawed to be trimmed, to be sound, free from bad shakes, auger or plug holes, crooked gum seam or seams, ring or bowl shakes, rot, bad knots, and worm holes: all Logs of twenty six feet long and upwards shall be measured in two lengths; an adequate allowance to be made by the Surveyor on all crooked Logs; the diameter at the small end exclusive of bark to be taken as the diameter for ascertaining the contents; and the Surveyor shall mark or scribe on all Logs surveyed by him the superficial contents of each Log, with his private mark and the initials of the name of the purchaser of such Logs:

Contents to be calculated by the following Table, viz:-

		Contents																							
1 inch diameter	Lenghts in feet	12	14	16	18	20	21	22	24	26	28	30	32	34	36	38	40	42	44	46	48	50			
11	60	70	80	90	100	105	110	120	142	154	164	176	186	198	208	220	231	242	252	264	286	298			
12	72	84	96	108	120	126	132	144	168	182	194	208	220	234	246	260	273	286	298	312	336	366			
13	84	98	112	126	140	147	154	168	196	212	226	242	256	273	287	303	318	333	347	364	392	450			
14	98	114	130	147	163	171	179	196	226	245	261	280	297	315	331	350	367	384	401	420	450	515			
15	112	131	150	168	187	196	205	224	259	280	299	320	336	360	379	400	419	439	458	480	515	596			
16	128	149	170	192	213	223	234	256	298	323	344	368	390	415	436	461	484	509	531	554	596	690			
17	149	174	198	223	248	261	275	298	346	374	398	427	452	481	506	534	562	590	613	642	690	788			
18	172	200	229	258	286	301	315	344	396	428	457	490	519	552	580	612	644	674	703	736	788	903			
19	196	228	261	294	326	343	359	392	453	490	523	561	594	631	663	701	736	771	804	842	903	1003			
20	225	262	300	337	375	393	412	450	509	550	588	627	664	707	745	786	825	865	903	944	1003	1104			
21	247	228	327	370	411	432	453	494	560	605	644	689	732	778	829	864	908	951	992	1038	1104	1208			
22	272	317	362	408	453	476	498	544	614	653	698	738	784	853	898	948	995	1042	1088	1138	1208	1308			
23	297	336	376	445	495	519	544	594	660	716	756	808	877	931	981	1035	1088	1138	1188	1242	1308	1430			
24	324	380	432	486	540	569	594	648	730	788	840	898	952	1011	1065	1123	1181	1235	1289	1348	1430	1630			

V. And be it enacted, That all Deals and Battens for exportation shall be surveyed and classed according to their qualities and marked No. 1, 2 or 3, as the case may be, on each Deal and Batten, with red chalk, in legible figures, and also the length, breadth and thickness, and denominational or standard dimensions of twelve, fourteen, sixteen, eighteen, twenty, twenty one, twenty two, twenty three and twenty four feet long; the standard breadth of Deals to be nine inches and eleven inches broad, thickness, three inches, with an addition of one inch on the length, and not more than three-eighths of an inch on the breadth, and not more than one-quarter of an inch on the thickness, to be trimmed at both ends, contents to be in superficial feet of one inch: Battens to be of the same length as Deals, with the same addition in length, breadth and thickness, trimmed at ends, the standard breadth to be seven inches, and thickness three inches and two and a half inches, to be of the same description in quality as Deals: that first quality number one or merchantable Spruce Deals shall be square edged from the saw, with an addition of one inch on the length, to be trimmed square at each end, straight, smooth and well sawed, free from rot, and every description of bad knot or knots, rotten, loose or black knots, shakes, splits, sap stain, gum seam and gum galls, plug or plugs, worm holes and auger hole or holes, and shall not have more than three sound knots, not exceeding one inch in diameter on any one surface and edge, on a twelve, nine, three Deal, and not more than four sound knots of one inch in diameter in twelve, eleven, three Deal, and for every additional two feet in length, one knot as before described in addition, allowing all the sound knots less than one inch; all clear Deals of the aforesaid dimensions not having more than three quarters of an inch wane on the diagonal on one edge of the Deal, and free from dark sap, to be classed as number one or first quality:

Number one or first quality Spruce Battens to be of the dimensions hereinbefore mentioned, and to have the allowances and to be in all respects of the same quality as number one Deals:

Number two or second quality Spruce Deals shall be of the same dimensions as number one, with the addition of Deals of ten feet in length, with trimming, thickness, breadth and allowances as in number one, free from rot, rotten knots, bad shakes, rents or splits, auger hole or holes, bad or large worm holes, allowing wane on the edge not more than three quarters of an inch at the widest part, and not to have more than three knots of one inch and a half in diameter on the surface and edges which may contain the greatest number of knots, all smaller sized knots allowed as in the case of number one Deals; all clear Deals which may have wane exceeding three quarters and not exceeding one inch and a half on the diagonal on the edge, classed as number two or second quality:

Number two or second quality Battens to be the same as number two Deals, excepting that no wane shall be allowed, and the knots in proportion as in number two Deals:

Number three or third quality Spruce Deals shall include all Deals of ten feet in length and upwards, and nine inches and eleven inches in width and three inches in thickness:

Number three or third quality Battens shall include all Battens of ten feet in length and upwards, seven inches in width, and three inches and two and one half inches in thickness; both Deals and

Battens of the third quality shall be free from bad rots, splits, loose splinters, auger holes and wane exceeding two inches on the diagonal on one edge:

All Deals and Battens not classed in the foregoing description, shall be taken and deemed refuse, and marked 'R' in addition to the mark of contents:

All Pine Deals and Battens to be of the same description in quality, and classified as Spruce Deals and Battens, and marked 'P' in addition to the contents:

All Pine and Spruce Deals and Battens classed as numbers one, two and three, shall be free from stub shot:

And all Deals and Battens not of the length and breadth hereinbefore described as the standard dimensions, but in all other respects equal in quality with number one, two or three, shall be classed as number one, two or three, as the case may be, non-dimension Deals or Battens:

First quality or merchantable Pine and Spruce Boards and Plank, shall not be less than ten feet in length nor less than seven inches in breadth and not less than seven eighths of an inch in thickness for Boards, and one and one half of an inch and two inches in thickness for Plank, shall be square edged from the saw, free from rot, sap stain, bad knots of every description, (allowing two sound knots not over two and a quarter inches in diameter, and all knots under that size that are perfectly sound) rents and shakes, worm holes, gum seam and gall, auger holes, and to be of equal thickness on both edges from end to end, with an allowance of one half of the straight split to the length of two feet:

Second quality Pine and Spruce Boards and Plank shall be in size same as first quality, and in quality same as number two Deals, excepting the wane, which shall not exceed two thirds the length of the Board or Plank:

All Boards and Plank not classed as number one or two shall be deemed refuse: Clear Boards— Pine may be sawed out, of the round Log, without edging, (optional with the party manufacturing the same) to be free from rots, knots, rents, shakes, worm holes, auger holes, gum seam and gum gall, the width for measurement to be taken at the centre, inside of and not including the wane and dark sap:

Masts shall not be less than three feet and one quarter in length to every inch in diameter, to be hewed smoothly and reduced sufficiently to shew the 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, ring shakes, butt rots, concase or rotten knots, large knots at the top, bark on the waness, auger holes and other defects, to be square butted, the diameter for measurement to be taken 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 proportionate size at the top with the butt, to be square butted, and the diameter for

measurement to be taken one third of the length from the butt, exclusive of bark, and to be four and one half feet in length for every inch of diameter, where the Spar exceeds nine inches diameter, and five feet at least for all Spars under nine inches diameter:

Lathwood shall be of straight rift, free from bark, hearts, knots, and rots, 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, rot, and worm holes, to be put up in bundles not less than twenty five tiers or courses of twenty inches wide, four of which bundles shall be reckoned a thousand:

Cedar Shingles, for exportation, shall be twenty inches long and three eighths of an inch thick at the butt, the said thickness to be continued three fourths of the length, and shaved from thence to the point; to be from four to four and half inches in width, and the account shall be taken by tale of ten hundred to the thousand, and that all Pine Shingles manufactured in the same manner for Exportation, shall be subject to the like rules and regulations; the whole of which Cedar and Pine Shingles for Exportation to be free from the defects above mentioned relative to Shingles:

Hogshead Staves shall be forty two inches long, three fourths of an inch thick on the thinnest edge, and not exceeding one and one eighth inches thick on the back, and shall also be from three and one half to five and one half inches wide: Barrel Staves shall be thirty two inches long, half an inch thick on the thinnest edge, and not exceeding seven eighths of an inch thick on the back; the whole to be of good rift, free from twists, fairly split, and free from knot holes, rotten knots, worm holes and shakes, and the account of all Staves shall be taken by tale of twelve hundred to the thousand.

VI. And be it enacted, That the persons so appointed Surveyors under this Act, shall be entitled to ask, demand and receive for their skill and labor in surveying, marking and re-surveying, at and after the following rates:—

For every ton of forty cubic feet of Square Timber,.....	£0 0 4
For every thousand feet of Saw Logs,.....	0 0 9
For every thousand feet of Deals, Plank, Scantling, and Boards,.....	0 1 0
For Masts under 17 inches diameter, each,.....	0 1 6
For do. Over 17 do. do. do.	0 2 0
For Spars under 9 do. do. do.	0 0 2
For do. over 9 do. do. do.	0 0 4
For Lathwood, per cord,.....	0 1 3
For Pine Shingles, per thousand,.....	0 0 6
For Cedar do. per do.	0 0 6
For Hogshead Staves per do.	0 3 0
For Barrel do. per do.	0 1 6

Which rates for the survey of Merchantable Lumber shall be paid by the first buyer after the survey, provided it be purchased within four months, and should it not be purchased within that time, then the Surveyor to be paid by the person or persons who employed him; 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 should the seller or sellers refuse or neglect to do the same, it shall and may be lawful to do or cause it to be done, and to charge the seller with the necessary expense of the same, which expense may be sued for and recovered in any Court competent to try the same.

VII. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to prevent the exportation of Lumber of other qualities than Merchantable; provided always, that such Lumber be actually shipped and marked as of its proper denomination.

VIII. And whereas certain articles of Lumber are measured afloat, and cannot conveniently be inspected; Be it therefore enacted, that when such Lumber or any part thereof shall prove unmerchantable, it shall be the duty of such purchaser or purchasers of such Lumber to give the seller or sellers, or his or their agent, ten days notice that such Lumber has so proved unmerchantable, in order that the same may be removed; and if the seller or sellers, or his or their agent, shall not within the time of such notice given as aforesaid, apply for such Lumber, and remove the same from the possession of such purchaser or purchasers, then the said purchaser or purchasers shall, and he or they are hereby required to call upon the Surveyor who first measured such Lumber, or some other Surveyor, which Surveyor shall examine the said Lumber so found defective, and take an account of the marks and contents of the same, and the purchaser shall put or cause the said Lumber to be put in Merchantable order under the superintendence of such Surveyor, by having the same overhauled, lined, hewed, sawed or repaired in any way that may be thought advisable by such Surveyor, and the purchaser or purchasers shall be at liberty to charge the seller or sellers of such Lumber with the expense of putting the same in order as aforesaid, and with any deficiency thereon; which said expenses and deficiency shall be kept account of and estimated by such superintending Surveyor: Provided always, that no purchaser or purchasers of any Lumber shall be allowed to have the same repaired or re-surveyed at the risk or expense of the seller or sellers, after he has had the same in possession more than twelve months; and provided also, that the seller or sellers of any Lumber, in order to avail himself or themselves of the provisions contained in this section, if he or they reside more than twenty miles from the place where such sale is made, shall at the time of making sale of any such Lumber, nominate and appoint an Agent or Agents to attend to such unmerchantable Lumber, and the person or persons so nominated and appointed Agent or Agents, shall be made known to the purchaser of such Lumber at the time of such sale and purchase; and provided that nothing in this Section shall extend or be construed to extend to Pine and Spruce Saw Logs.

IX. And whereas some evil disposed persons are in the habit of plugging or wedging Timber and Masts for the purpose of passing such Timber, Masts or Spars, by such deceptions, as Merchantable; Be it therefore enacted, that any person or persons convicted of plugging any Timber, Spars or Masts, when any defect is covered by such plugging or wedging, shall be liable to

pay a fine of five pounds currency for each and every offence, to be recovered in like manner as other penalties of like amount in this Act.

X. And be it enacted, That each of the Surveyors so appointed shall mark or score in large and legible figures or characters on one of the sides near the butt end on each piece of Timber inspected by him, his own mark, the length, the purchaser's mark, and contents, and shall at the place of girting the same, mark or score the girth thereof for measurement; Masts and Spars shall be marked in the same manner, having instead of the contents the diameter at the partners; Provided always, that any person or persons adopting or using the private mark of any Surveyor of Lumber under this Act, by placing the same upon any piece of Timber, Scantling, Mast, Spar or other article of Lumber, other than such Surveyor of Lumber, shall be for each and every offence liable to the penalty of five pounds currency, to be sued for and recovered as is prescribed in all penalties of the like amount in this Act.

XI. And be it enacted, That if any person appointed to be a Surveyor in any Town or Parish, or any other person whatsoever, shall measure or survey any Lumber intended for Exportation, before filing Bond or taking the oath required in and by the second section of this Act, such person so measuring or surveying any Lumber as aforesaid, shall, upon conviction thereof, forfeit and pay the sum of five pounds, to be recovered in like manner as other penalties of like amount in this Act.

XII. And be it enacted, That one half of the forfeitures or fines arising by virtue of this Act shall be paid to the person or persons who shall sue for the same, and the other half to the Overseer of the Poor or the Commissioners of the Alms House, as the case may be, of the Parish in which such forfeitures shall have been incurred, for the use of the Poor of said Parish; and where any of the penalties imposed by this Act shall not exceed five pounds, they shall be recovered, together with costs of prosecution, before any one of Her Majesty's Justices of the Peace of the County in which the offence shall be committed; and where the same shall be more than five pounds, and shall not exceed ten pounds, before any two of Her 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 offender's goods and chattels, (which Warrant to be under the hand and seal of such Justice or Justices) and for want of sufficient distress shall suffer not less than ten days nor more than thirty days imprisonment; and in case such forfeiture or the value thereof shall exceed ten pounds, the same shall be recovered in any of Her Majesty's Courts of Record competent to try the same, with costs of suit.

XIII. And be it enacted, That all prosecutions by virtue of this Act shall be commenced within twelve months from and after the time any offence shall have been committed.

XIV. And be it enacted, That all Surveyors of Lumber appointed before this Act comes into operation, shall remain in office, upon taking the oath prescribed by this Act, until the time appointed by this Act for the appointment of Parish Officers in the respective Counties of this Province.

XV. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to interfere with any existing Contracts relative to the Scale of Measurement, but that the same shall remain as if this Act had not been passed.

XVI. And be it further enacted, That no Surveyor of Lumber, under this Act, shall be a Pond Keeper or Dealer in Timber, either directly or indirectly.

XVII. And be it enacted, That this Act shall continue and be in force until the first day of May which will be in the year of our Lord one thousand eight hundred and forty seven.