

CAP. XXV.

An Act to regulate the Inspection and Measurement of Timber, Masts, Spars, Deals, Staves, and other articles of a like nature.

[9th December, 1843]

WHEREAS it is expedient and necessary that Legislative provision should be made for regulating the Measurement and Culling of Timber, Masts, Spars, Deals, Staves, and other articles of a like nature, intended for shipment and exportation from this Province, and other matters relative to the same, and the Act hereinafter mentioned has been found insufficient for attaining the objects for which it was passed; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that from and after the commencement of this Act, the Act of the Legislature of this Province, passed in the sixth year of Her Majesty's Reign, and intituled, *An Act to regulate the Inspection and Measurement of Timber, Masts, Spars, Deals, Staves, and other articles of a like nature, intended for shipment and exportation from this Province, and for other purposes relative to the same*, shall be and it is hereby repealed.

Preamble.

II. And be it enacted, that it shall be lawful for the Governor, Lieutenant Governor, or the Person administering the Government of this Province for the time being, to constitute and appoint during pleasure, a fit and proper person, well skilled and practically acquainted with the Timber Trade of this Province, to be the Supervisor of Cullers, whose duty it shall be to manage, supervise and control the culling, measuring and examination of every description of Lumber in the manner hereinafter prescribed, and who shall himself, with two responsible sureties, enter into bonds to Her Majesty, Her Heirs and Successors, in the penal sum of one thousand pounds, currency, each, for the faithful discharge of his duty, (which bonds shall enure to the benefit of all parties who may be damnified by the misfeasance, malfeasance or non-feasance of the said Supervisor of Cullers, and all parties damnified shall be entitled to recover from the said Supervisor and his sureties before any Court of competent jurisdiction, upon such bond, by suit or action to the amount to which he may have been so damnified,) and shall before entering upon the duties of his office, take and subscribe the following oath before any of Her Majesty's Justices of the King's Bench, for the District of Quebec, that

Supervisor of Cullers to be appointed.

Supervisor to give security.

And to take an oath of office.

The oath. that is to say :—“ I, A. B. do solemnly swear that I will faithfully, truly and
 “ impartially, to the best of my skill and understanding, execute, do and perform
 “ the office and duty of Supervisor of Cullers, according to the true intent and
 “ meaning of the Act, intituled, *An Act to regulate the Inspection and Measurement*
 “ *of Timber, Masts, Spars, Deals, Staves, and other articles of a like nature*, that I
 “ will not either directly or indirectly, personally, or by means of any other person
 “ or persons on my behalf, receive any fee, reward, or gratuity whatever by reason
 “ of any function of my office as Supervisor, except such as are allowed to me
 “ by the said Act ; and that I will not directly nor 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 whomsoever ; and that
 “ I will act without partiality, favor or affection, and to the best of my knowledge :
 Oath to be filed of record. “ So help me God :” which oath and bond shall be filed and kept among the
 records of the office of the Registrar of this Province.

The Quebec Board of Trade to appoint a Board of Examiners of Cullers. III. And be it enacted, that it shall be the duty of the Council of the Quebec Board of Trade to constitute and appoint in that City, at least seven and not more than eleven persons to be a Board of Examiners, to examine and test the skill and qualification of all applicants to be admitted and licensed as Cullers, and from time to time to fill any vacancies which may occur in the said Board by death, resignation or permanent removal from the said City ; and the Supervisor shall be *ex officio* a member of the said Board and the Chairman thereof ; and such Board, shall meet from time to time as circumstances may require, when notified by the Supervisor so to do, at the office of the Board of Trade or of the Supervisor, to test the skill, capacity and qualifications of such applicants, and shall also meet at the office of the Supervisor or at the Board of Trade Room, or such other place as they may appoint on the first Monday of January, May and August in each year, to examine and test the skill, capacity and qualification of all such applicants as aforesaid ; and any majority of the Members of the Board for the time being shall be a *Quorum* for holding any meeting of the Board, and the decision of any majority of the Members present at any such meeting shall be held to be the decision of the Board ;—and each member of the said Board before acting as such, shall take the following oath, (to be administered by a Justice of the Peace resident in the City of Quebec,) that is to say :—“ I, A, B. do solemnly swear
 Duties of such Board. “ that I will not directly or indirectly, personally or by means of any other person
 “ or persons on my behalf, receive any fee, reward or gratuity whatever, by rea-
 “ son of any function of my office as an Examiner of Cullers, and that I will act
 “ without partiality, favor or affection, and to the best of my knowledge : So
 “ help me God.”
 Members to be sworn. The oath.

Who may be appointed Cullers. IV. And be it enacted, that no person shall be recommended by such Board of Examiners, to be licensed as a Culler, unless he is in every way capable, as to knowledge

knowledge, education, age and character, and practically acquainted with the department or departments of Culling and Measuring for which he applies to be licensed.

V. And be it enacted, that the duties of inspection and measurement shall be divided into four different departments, that is to say:—One department for the inspection and measurement of Square Timber; one department for the inspection and measurement of Masts, Spars, Bowsprits, Oars and Handspikes; one department for the inspection and measurement of Staves; and one department for the inspection and measurement of Deals, Boards, Planks and Lathwood.

Culling to be divided into four departments.

VI. And be it enacted, that it shall and may be lawful for the Governor, Lieutenant Governor or Person Administering the Government, to grant licenses (to be issued by the Supervisor) to all duly qualified applicants as Cullers, for one or more of the departments aforesaid: Provided always, that each such applicant shall produce a certificate of his fitness and qualification from the Board of Examiners, which shall be filed in the Supervisor's Office: And provided also, that such applicant shall, himself with two sufficient sureties, enter into a bond to Her Majesty, Her Heirs and Successors, in the penal sum of one hundred pounds, currency, each, for the faithful discharge of his duties, and such bond shall enure to the benefit of all parties who may be damnified by the misfeasance, malfeasance or non-feasance of the said Culler, and all parties damnified shall be entitled to recover from the said Culler and his sureties, before any Court of competent jurisdiction, upon such bond by suit or action, to the amount to which they may have been so damnified, which bond shall be taken before the Supervisor, and the Culler shall also, before one of the Justices of any Court of King's Bench, or other Superior Court of Civil Jurisdiction, take and subscribe the following oath, that is to say:—" I, A. B. do solemnly swear that I will faithfully, truly and impartially to the best of my knowledge and understanding, execute, do and perform the duty of a Culler of (*here insert the description of the Lumber of which he is to be a Culler,*) according to the true intent and meaning of an Act, intituled, *An Act to regulate the Inspection and Measurement of Timber, Masts, Spars, Deals, Staves and other articles of a like nature*, and that I will give a true and faithful account and certificate of the number, quality and dimensions or measurement of the lumber of which I am to be licensed a Culler, which may be submitted to my judgment and inspection, 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 other person or persons whatsoever; and that I will not at any time purloin or wilfully change or omit any article of lumber submitted to me for the purpose of being measured, counted or culled: So help me God."—which oath every such person

Cullers may be licensed by the Governor

Proviso, as to their qualification.

Proviso. They shall give security.

And be sworn.

Their oath.

Oath to be
filed in the
Office of the
Supervisor.

son shall file or cause to be filed in the office of the Supervisor, and it shall be the duty of the Supervisor, when any applicant to be a Culler shall have complied with the requirements of this Act, to report and certify the same to the Governor or his Secretary, and to procure for such applicant, his license, without any fee to the Supervisor, and subject only to the payment of such fees of office as are usual and reasonable for such documents.

Supervisor's
Office, how to
be kept.

VII. And be it enacted, that it shall be the duty of the said Supervisor of Cullers, to open an office in a central and convenient place, at the Port of Quebec, for the transaction of his official business, which Office shall be kept open by him or his deputy, on all lawful days, from six o'clock in the forenoon to six o'clock in the afternoon, during the open season of navigation, and at other times during ordinary office hours; and the said Supervisor shall employ such number of Cullers as may be necessary to do the work required in the different departments of culling and measuring; and the duty of such Cullers in each department shall be performed by them in rotation, and the Supervisor shall have authority to dictate the number of men required to be employed under the direction of the Cullers, for the expeditious culling of Timber, Deals, Staves, or other description of Lumber, so as to avoid unnecessary delay.

Authority of
the Supervisor.

VIII. And be it enacted, that the holders of Measuring Tapes, and Scribes of Timber, shall in all cases when practicable, be Apprentices or Candidates for becoming Cullers.

How speci-
fications of Lum-
ber culled and
measured shall
be made.

IX. And be it enacted, that it shall be the duty of every Culler, to check and examine the entry of his measurements and counting, on the books of the Supervisor, and to sign a copied specification thereof, such specification having been checked and examined in the office of the Supervisor, and being countersigned by him or his deputy; and such specification shall be furnished to the owner of the property, or person entitled to the same, as soon as practicable after the measuring or culling of any Lumber is completed, if called for; it shall also be the duty of all Cullers to obey the lawful commands of the Supervisor, and they shall respectively hold themselves in readiness, on all lawful days, to execute the duties of their office from daylight until dark; and for every neglect, refusal or delay, when not otherwise employed about the duties of his office, the Culler so refusing, neglecting or delaying, shall forfeit and pay the sum of twenty pounds currency, to the use of the person or persons injured by such neglect, refusal or delay; and any Culler guilty of impropriety of conduct or disobedience of orders, may be suspended from office by the Supervisor, subject to an appeal to the Board of Examiners.

X.

X. And be it enacted, that it shall be the duty of the Supervisor to record the several requisitions for measuring or culling each description of Lumber; and that the culling or measuring of the same shall be performed in the order of such requisitions, and the Supervisor shall when required, within twelve business hours after such requisition, send a Culler to do the measuring, culling or counting so required, in any place within the Harbour of Quebec, provided the said Supervisor has, at the time required, Cullers unemployed or obtainable.

Cullers to be employed in rotation.

Proviso.

XI. And be it enacted, that it shall be the duty of every Culler to provide himself with a measuring rod and tape, which shall in all cases be English Measure, and tested and compared by a standard kept in the office of the Supervisor, (such rod having a hook at the end five eighths of an inch long,) and also with a scribing-knife to mark in legible characters, the length, breadth and thickness of all square timber measured and inspected by him, together with the mark, initials or number of the party if required; and it shall also be the duty of every Culler to provide himself with a proper stamp, with the initials of his name in legible characters, and with the additional capital letters M. U. and R., wherewith to indent or stamp on the end of each piece of Timber, Mast, Spar, Deal, Stave, Oar and Handspike, the quality thereof, if requested by the Seller or Buyer so to do; the letter M. shall be used to indicate and denote what is Merchantable; the letter U. to indicate and denote what is sound and of good quality, but under merchantable size; and the letter R. to indicate and denote what is rejected and unmerchantable.

How Lumber shall be measured and marked.

The marks.

XII. And be it enacted, that in all cases the Supervisor and Cullers, respectively, shall be governed by the following descriptions, rules, standards and limitations, in ascertaining and certifying the merchantable quality of Lumber submitted to their inspection, that is to say: Square White Oak Timber shall not be less than twenty feet in length, and not less than ten inches in the middle, and the taper shall not be more than one inch in any length under thirty feet, nor more than two inches for any greater length, and the Timber shall be free from rot, rings, shakes and other defects, and properly hewn, squared and butted, and shall not have more than one bend or twist in any log, which bend or twist shall not be more than two and a half inches hollow for every twenty feet in length: Square Rock or Hard Grey Elm, shall not be less than thirty feet in length, nor less than ten inches in the middle, and the taper shall not be more than one inch in any length under thirty feet, nor more than two inches for any greater length: and the Timber shall be free from rot, rings, shakes and other defects, and shall be properly hewn, 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 thirty feet in length, and so in proportion for any greater length: Square White

Description and classes of Lumber.

Square Oak.

Square Elm.

Square Pine,
White or Yellow.

White or Yellow Pine Timber, shall not be less than twenty feet in length, and not less than twelve inches square in the middle, unless it be sixteen inches in the middle, in which case it shall be received if not less than fifteen feet in length, and the taper shall not be more than one inch in any length under twenty feet, and so in proportion for any greater length, and the Timber shall be free from rot, bad knots, rings, shakes and other defects, and properly hewn, 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 two inches hollow, for every twenty feet in length, and so in proportion for any greater length :

Square Red Pine.

Square Red Pine Timber, shall not be less than ten inches square in the middle, nor less than twenty five feet in length, unless it be twelve inches square, in which case it shall be received if not less than twenty feet in length, and the taper shall not be more than two inches in any length under twenty five feet, and so in proportion for any greater length, and the Timber shall be free from rot, bad knots, shakes and other defects, and properly hewn, 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 five feet in length :

Ash, Basswood, &c.

Ash, Basswood and Butternut, shall be of the same standard, quality and dimensions, as White Pine : Birch, if twelve inches square, may be received if it be not less than six feet in length and have not more than two inches wane on any part, and in other respects the standard shall be the same as for Square White Pine :

Pine or Fir Boards.

Pine or Fir 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 with a saw, or neatly trimmed by a straight line, and shall be free from rot, bad knots, rents and shakes, and of equal thickness on both edges from end to end, but the colour alone of any plank or board shall not be a sufficient cause for its rejection, if it be in other respects sound and merchantable, and of the dimensions required by this Act :

Pine or Fir Deals.

Pine or Fir Deals shall not be less than twelve feet long, seven inches wide and two and a half inches thick, (the proportion of seven inch deals shall not exceed one sixteenth part of the whole,) and shall be free from rot, rotten knots, black knots and case knots, splits and shakes, and shall be well sawn and squared at the end with a saw, but the colour alone shall be no objection to their being deemed of merchantable quality ; and it shall be lawful for the Culler, to divide Deals, Plank and Boards, into merchantable, second and third qualities, and Culls :

Quebec Standard, of Deals.

The Quebec standard hundred of Deals, shall be one hundred pieces, twelve feet long, eleven inches broad, and two and a half inches thick : Deal ends shall not be less than six feet long, and shall be computed according to the Quebec Standard : Standard or Measurement Staves, shall be of the dimensions set forth in the words and figures following, that is to say :

Standard Staves.

5½ feet long, 5 inches broad, and from 1 to 3 inches thick,
 4½ do. do. 4½ do. do. do.
 3½ do. do. 4 do. do. do.
 2½ do. do. 5 do. do. do.

and the Standard Mille shall be one thousand pieces, five and a half feet long, five inches broad, and two inches thick : West India or Puncheon Staves shall be three and a half feet long, four inches broad, and three-fourths of an inch thick, and the Standard Mille shall be one thousand two hundred pieces of these dimensions : Barrel Staves shall be two feet eight inches long, three and a half inches broad, and three-fourths of an inch thick, and the Standard Mille shall be one thousand two hundred pieces of these dimensions : all Staves shall be straight grained timber properly split, with straight edges, free from worm holes, knots, veins, shakes or splinters, and four-fifths, at least, of the whole quantity of any number of Standard Staves contracted for shall be five and a half feet long, and not more than one-third of the remaining fifth shall be as short as two and a half feet in length ; and the Culler shall always measure the length, breadth and thickness of Staves at the shortest, narrowest and thinnest parts : Masts shall be three feet in length for every inch in diameter at the partners, adding six feet of extreme length for all Masts of twenty-two inches and under that size : Red Pine Spars shall be three feet in length for every inch in diameter at the partners, adding nine feet of extreme length ; and Masts and Red Pine Spars shall not have more than four inches hollow, and shall be sound and free from bad knots, rents and shakes : Bowsprits shall be two feet in length for every inch in diameter at the partners, adding two feet for extreme length, and shall be sound and free from defects, with not more than two inches hollow : Hickory Handspikes shall be six feet long and three and a half inches square at the smaller end : Ash Oars shall be three inches square on the loin, and five inches broad on the blade, the blade shall be one-third of the length of the Oar, and such Oars shall be cleft straight on all sides, and free from rot, large knots, splits and shakes : Lathwood shall be cut in lengths of from three to six feet, and measured by the cord of eight feet in length by four feet in height.

Standard Mille.
 Puncheon Staves.
 Barrel Staves.
 Masts.
 Red Pine Spars.
 Bowsprits.
 Handspikes.
 Ash Oars.
 Lathwood

XIII. And be it enacted, that in all cases where it shall appear that Timber, Masts, Spars, Boards, Planks, Deals, Staves, Oars, and any other description of Lumber, are not properly squared, butted or edged, but are merchantable in other respects and sold as such, it shall be the duty of the Supervisor and Culler, respectively, and they are hereby severally authorized and required to order or cause the same to be properly dressed and chopped at the expence of the seller, previously to their being respectively received and certified to be merchantable ; and in measuring off squared timber in the raft or otherwise, it shall be the duty of the Culler to take the square at such part of the piece, and in such manner as

Lumber im-
 properly squar-
 ed, &c., to be
 redressed.
 Mode of mea-
 suring in cer-
 tain cases.

in

in his opinion shall give the truest medium and full cubic contents thereof, without reference to what it may contain or measure when re-dressed and made merchantable: Provided always, that such piece of timber or part thereof so measured off, be visibly sound and of use.

Proviso.

Where there is no agreement, Timber shall be measured without deduction.

XIV. And be it enacted, that unless there be a specific agreement to the contrary, Timber shall be measured off without any allowance or deduction, and that a certain portion of the said Timber, that is to say, not exceeding ten per cent. thereof, to be selected by the buyer and seller, shall be afterwards broken up and made sound, and that a reduction on the residue of the said Timber shall be made in proportion to the loss ascertained in that portion broken up and made sound, and the expense of making it sound shall be paid by the Seller; a copy of every agreement as to the mode of measurement upon the sale of any description of Lumber mentioned in this Act, signed by the seller and buyer, shall be lodged in the Office of the Supervisor of Cullers at the same time that a requisition is made to the said Supervisor for a Culler to measure or cull any of the said Lumber, for the guidance of the Supervisor and Culler in the performance of their duty: Provided always, that it shall be competent for the owner of a raft to cause it to be measured before any sale, in which case the specification of such raft shall set forth the mode in which the measurement shall have been performed.

Proviso.

Fees for Culling.

XV. And be it enacted, that the rates hereinafter set forth in words and figures, shall be charged and collected by the Supervisor, as the Fees and charges for culling and measuring each description of Lumber, and such Fees and charges shall include all charges and expenses against such Lumber, except in cases where extra labour for dressing, butting, chopping and piling is necessary and required, that is to say:—For culling Pine or Fir Boards, not more than one and a half inch thick, and more than eleven feet long, two shillings and six pence currency, for every hundred pieces thereof: for Pine or Fir Planks, one and a half and two inches thick, and not more than eleven feet long, two shillings and six pence currency, for every hundred pieces thereof: for Pine or Fir Boards of any greater length than eleven feet, and not exceeding one and a half inch thick, two shillings and six pence currency, for every hundred pieces thereof: for Pine or Fir Plank, of any greater length than eleven feet, and not exceeding two inches in thickness, two shillings and six pence currency, for every hundred pieces thereof:

Culling boards.

For measuring off Timber.

Table of Fees for measuring.

	<i>s.</i>	<i>d.</i>	
White Pine, Bass, or Butternut,.....	0	3	per ton.
Red Pine,.....	0	4	do.
Hardwood,.....	0	4	do.

For

For Culling and Measuring.

	s.	d.	
White Pine Timber,.....	0	6	per ton. For Culling and measuring.
Red Pine do.,	0	7	do.
Hardwood do.,	0	8	do.
Deals, per Standard hundred,.....	3	0	
Standard Staves, per Mille,.....	15	0	
West India do. do.	7	6	
Barrel do. do.	5	0	
Oars and Handspikes, per hundred pieces,.....	3	0	
Spars, from 15 to 20 inches, each,.....	2	0	
Masts and Bowsprits, from 19 to 24 inches each,.....	3	0	
Do. do. 24 inches and upwards, each,....	4	0	
Lathwood, per Cord,.....	1	6	

and such rates for culling and measuring shall in all cases be paid to the Supervisor on the delivery of the specification, or on the presentation of an account thereof, and one half of such rates shall be paid by the buyer, and the other half by the seller.

Fees, by whom paid.

XVI. And be it enacted, that it shall and may be lawful for the Supervisor of Cullers to procure an office, the necessary office furniture, books, stationary and other indispensable requisites, all of which, and every record and voucher appertaining to his office shall be the property of Her Majesty for the public uses of the Province; and also to employ such number of Clerks as may be required to perform the duties of his office; and all such charges and expenses together with Cullers' Fees, shall be paid out of the amount of Fees collected by him, at the rates aforesaid: Provided always, that such charges, expenses and services shall be made, done, performed and procured by him at their lowest current value; and it shall also be the duty of the Supervisor of Cullers, on or before the first day of January, in each and every year, under oath, (to be administered by any of Her Majesty's Justices of the Peace,) to render in duplicate, to the Governor, and for the use of the Legislature, a correct and detailed statement of his receipts and disbursements during the year then last past: together with an inventory of such articles of public property as he shall then have in his possession; and an abstract of the number of pieces, and number of cubic feet of each description of Lumber measured under his superintendence, and the sections of the Province wherefrom such Lumber respectively came; and all the transactions of his office shall be traced, set forth and kept in detail in a regular and proper set of Books adapted thereto, which Books shall belong to Her Majesty, for the public uses of the Province.

Expenses of Supervisor's Office, how paid.

Proviso.

Accounts to be attested on oath, yearly, — and certain statements transmitted to the Governor.

XVII.

Supervisor's Book to be open to inspection.

XVII. And be it enacted, that the measurement Books and other public documents in the Office of the Supervisor, shall be open to the perusal of the seller and buyer of Lumber, with reference to any transaction between them, and to the perusal of any other party interested therein.

Supervisor's Salary.

XVIII. And be it enacted, that it shall and may be lawful for the Supervisor of Cullers to receive and take out of the funds coming into his hands, the sum of three hundred pounds, currency, as an annual salary for his services, exclusive of all the expenses of his office; and it shall also be his duty to report to the President of the Quebec Board of Trade, on or before the first day of January, in each and every year, the surplus or deficiency of funds which shall be after the payment and discharge of his said salary and the expenses of his office, and such surplus (if any) shall be disposed of and applied as may hereafter be found necessary and expedient, exclusively for the purposes of this Act, under the control of and as directed by the Governor in Council.

Supervisor to report to the Chairman of the Board of Trade.

Extra fund, how disposed of.

Portion of the Fees which shall belong to the Cullers.

XIX. And be it enacted, that Cullers employed by the Supervisor shall, in consideration of their labour and services, receive from the Supervisor the following proportion of the fees charged and collected by the Supervisor, that is to say:— For the Culling and Measuring of Timber, Deals, Staves and other Lumber, two-thirds of the amount of the fees established by this Act; and for measuring off every description of Timber, or other description of Lumber, one half of the amount of fees established by this Act: Provided always, that the Cullers shall pay their attendants or assistants, out of the share of the said fees hereby assigned to them.

Proviso.

The Governor in Council may increase or diminish the fees.

XX. And be it enacted, that it shall and may be lawful for the Governor in Council, from time to time, to raise or lower the tariff of fees and charges for culling and measuring established by this Act, in such manner as to meet and defray, as nearly as possible, the expenses of the Supervisor's office, and to provide for the sufficient payment of the Cullers, and also to apportion, and divide such fees between the Cullers in the different departments, respectively, and the expense of the Supervisor's establishment, in such manner as to the Governor in Council shall seem equitable and just; any thing in this Act to the contrary notwithstanding.

Licensed Cullers not engaged by the Supervisor may be hired by Merchants.

On certain conditions.

XXI. And be it enacted, that any Culler licensed under this Act, and not employed by the Supervisor, may engage or hire to merchants or others as a Shipping Culler, but such Culler shall in no case measure, count, stamp or mark any description of Lumber before the same shall have been first measured by some licensed Culler, other than himself, under the direction of the Supervisor, except by the written permission of the Supervisor, and in accordance

accordance with the same rules and on the same terms by which Cullers acting under the Supervisor are bound, according to this Act; and also, on condition of keeping a record of all his operations, returns of which shall be made monthly to the Supervisor; and any Culler, so hired or engaged, offending against the provisions of this Act, shall, on being duly convicted thereof, before any Court having competent jurisdiction, forfeit and pay a sum not exceeding ten pounds, currency, or be imprisoned for six calendar months, in the discretion of the Court, for each such offence; and any person not licensed as a Culler, who shall measure, mark or stamp any article of Lumber, the same being shipped or intended to be shipped by such measurement, or measured, marked or stamped with intent to evade or elude the provisions of this Act, shall, on being duly convicted thereof, before any Court having competent jurisdiction, forfeit and pay a sum not exceeding ten pounds, currency, or be imprisoned for a term not exceeding six calendar months, in the discretion of the Court, for each such offence: and any Culler employed by the Supervisor, who shall privily and without the knowledge and consent of the Supervisor, or for any hire or gain, and without the same being duly entered on the Books of the Supervisor, measure, mark or stamp any article of Lumber, shall, on being duly convicted thereof, before any Court of competent jurisdiction, forfeit and pay a sum not exceeding ten pounds currency, or be imprisoned for a term not more than six calendar months in the discretion of the Court, for each such offence.

Penalties for
contravening
this Act.

XXII. And be it enacted, that if any dispute shall arise between the buyer or seller, and the Culler employed to cull or measure any article of Lumber, with regard to the dimensions or quality thereof, it shall be the duty of the Supervisor (upon a written complaint thereof being made, demanding a survey, and before the situation or position of the Timber or Raft shall be altered,) as soon as possible, to cause a Board of Survey to be held for examining the quality and dimensions of the same and reporting thereon; and such Board of Survey shall consist of three Cullers, one to be appointed by the Culler whose decision is disputed, one by the party complaining, and one by the Supervisor, and their determination shall be final and conclusive; and if the opinion and act of the Culler be confirmed, the reasonable cost and charges of re-examination shall be paid by the party complaining, but if otherwise by the Culler.

Disputes between
Cullers, and parties interested, how
settled.

XXIII. And be it enacted, that nothing in this Act shall be construed to make it compulsory on the parties interested to cause any Lumber to be culled, but if to be culled in order to determine the respective rights of any parties, it shall be culled in the manner prescribed by this Act, under the superintendence and control of the Supervisor of Cullers, nor shall any thing herein contained be construed to make it compulsory on any party interested, to cause any lumber shipped for exportation by Sea from the Port of Montreal to be measured or counted, but

What Lumber must be
culled or measured before it
can be shipped for exportation
by Sea.

but if it be measured or counted in order to determine the respective rights of any parties, it shall be measured or counted in the manner provided by this Act: Provided always that no lumber (except deals, planks and boards exported by the manufacturer thereof) arriving at the Port of Quebec after the first day of January one thousand eight hundred and forty four, shall be shipped for exportation by Sea from any place within the said Port above the Eastern end of the Island of Orleans, without its being first measured or counted in the manner prescribed by this Act, under the superintendence and control of the said Supervisor, under a penalty equal to double the market value, of each article of Lumber so illegally shipped, and such penalty shall be recoverable from the shipper of such timber: Provided always, that no Lumber arriving at any of the shipping Ports of this Province after the first day of January, one thousand eight hundred and forty four, shall be shipped for exportation by Sea, from any part of the Port of Quebec within the limits aforesaid, without its being first measured in the manner required by this Act, under the superintendence or control of the said Supervisor, under a penalty equal to double the market value of each article of lumber so illegally shipped; and such penalty shall be recoverable from the owner or shipper, or from the master of the vessel on board which such lumber shall have been illegally shipped, in which latter case it shall, if not forthwith paid, be levied, as well upon the furniture, tackle and apparel of the Ship, as upon the goods and chattels, or other property of such master.

Penalty.

How recovered.

Cullers not to deal in Lumber.

Penalty.

XXIV. And be it enacted, that it shall not be lawful for the Supervisor, or for any Culler, to buy or sell directly or indirectly, or be a dealer in or interested in buying or selling any article of Lumber, either on his own account, or on account of any other person whomsoever, under a penalty for each and every offence not exceeding one hundred pounds, currency, nor less than fifty pounds, currency, and the forfeiture of his office.

Penalty on Supervisor or Culler guilty of partiality, &c.

XXV. And be it enacted, that if the Supervisor of Cullers, or any licensed Culler, or any Clerk or Assistant Measurer, employed by the Supervisor or by any Culler, shall at any time be found guilty of wilful neglect of his duty, or of partiality in the execution of his office, or of wilfully giving a false account or certificate of the article or articles of Lumber, submitted to his inspection, measurement or calculation, or of any other wilful neglect, or prevarication with regard to the duty they are respectively intended to discharge, he shall, for every such offence, (on being convicted thereof,) forfeit and pay a sum not exceeding one hundred pounds, currency, and be dismissed from his office, and be for ever after incapable of holding or enjoying any such situation or employment.

New sureties required in certain cases.

XXVI. And be it enacted, that in the event of the departure from this Province, or the declared or known insufficiency, or the death of any of the sureties of the Supervisor

Supervisor, or of any Culler, respectively, it shall be the duty of each, respectively, immediately to procure other sufficient sureties, and to enter into a bond as provided for in this Act, and in default of his so doing his appointment or license shall become null and void.

XXVII. And be it enacted, 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 article of Lumber, or shall knowingly, wilfully and fraudulently deface, obliterate or remove, any of the marks or letters, which may have been marked, burned, or imprinted in or upon any article of Lumber, after the same shall have been as aforesaid culled or measured, every such person or persons so offending, shall, on being thereof lawfully convicted before any Court of competent jurisdiction, incur and forfeit a penalty not exceeding thirty pounds, currency, or be imprisoned for a term of not more than three calendar months, in the discretion of the Court: Provided always, that Timber re-dressed whereby the first measurement and dimensions shall necessarily become altered, may be re-measured, according to the provisions of this Act, by a shipping Culler.

Penalty on persons counterfeiting or fraudulently using stamps, &c.

Proviso.

XXVIII. And be it enacted, that if any person or persons 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, Boat, Batteau or Scow,—or shall wilfully and unlawfully conceal any Lumber, Masts, Spars, Staves, Oars, Handspikes, Planks or Boards, Boat, Batteau or Scow, which having been adrift in any river or lake in this Province, shall be so found adrift or cast on shore in any part of such river or lakes, or any of them, and be saved,—or shall wilfully and unlawfully, deface or add, any mark or number on such Timber, Masts, Spars, Staves, Oars, Handspikes, Plank or Boards, Boat, Batteau or Scow, so saved, or make any false or counterfeit mark thereon,—or shall unlawfully aid or assist in doing any such act as aforesaid, or shall refuse to deliver up to the proper owners thereof or person in charge of the same on behalf of such owner, any such article aforesaid,—such person or persons, being duly convicted thereof, on the oath or complaint of one or more credible person or persons, before any two Justices of the Peace for any part of this Province, shall forfeit and pay a sum not exceeding fifty pounds, currency, nor less than five pounds, currency, for each offence; and one moiety of such penalty shall go to Her Majesty, and the other moiety to the informer or prosecutor, and the offender shall and may be imprisoned until such forfeiture be paid, but no such imprisonment shall for any first offence exceed three calendar months; and if any person be a second time convicted of any such offence, such person may be committed to the common

Penalties on persons setting adrift Timber, &c.

Or concealing timber found adrift.

Or defacing marks.

common Gaol of the District wherein such conviction shall be had, there to remain for and during the space of twelve calendar months.

Rafts to have
bright fires at
night.

XXIX. And be it enacted, that it shall be imperative on the owners or conductors of Rafts, to have bright fires kept burning during the night, while drifting on any of the navigable rivers, in this Province, on pain of being subject to pay a penalty not exceeding ten pounds, currency, upon conviction before any two of Her Majesty's Justices of the Peace.

Penalties, how
recoverable.

XXX. And be it enacted, that all the penalties, fines and forfeitures, by this Act imposed, shall be sued for, (except where otherwise provided for) within twelve months after the fact committed, and not afterwards, either in term time, before any of Her Majesty's Superior Courts of Record, or before any other Court having Civil Jurisdiction to the amount of the penalty, fine or forfeiture within the District wherein the offence shall have been committed, or in vacation before any Justice or Judge of such Court, in a summary manner, and shall also be recoverable, with costs, in the same manner as other debts of the same value are recoverable in this Province, by Bill, Suit, Plaint or Information; and one moiety of all such penalties, fines and forfeitures, (except such as are hereinbefore otherwise applied) shall be forthwith paid over to the Receiver General, and shall form part of the Consolidated Revenue Fund of this Province, and shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner as Her Majesty, Her Heirs and Successors shall direct, and the other moiety shall belong to the party aggrieved, or to the informer or person who shall prosecute or sue for the same.

And how dis-
posed of.

XXXI. And be it enacted, that any person who shall assault any Culler in the execution of his duty under this Act, or shall by threats, menaces or by violence, impede or prevent any Culler from the performance of his duty, such person upon being duly convicted thereof before any one of Her Majesty's Justices of the Peace, upon the oath of one credible witness, shall incur a penalty of five pounds, sterling money of Great Britain, and in default of payment shall forthwith be committed to the Common Gaol, there to be detained for the space of fifteen days, unless he shall sooner pay such penalty.

Time within
which actions
for things done
in pursuance
of this Act
must be
brought.

XXXII. And be it enacted, 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 Action shall be commenced within the space of twelve Calendar 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

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 judgment shall be given or a verdict found for the defendant or defendants; and if the plaintiff shall be nonsuited or shall discontinue his Action after the defendant or defendants shall have appeared, or if judgment shall be given against the plaintiff, the defendant may and shall recover costs, and have the like remedy for the same as defendants have in other cases by law.

Defendant if successful to have costs.

XXXIII. And be it enacted, that in case the Board of Examiners mentioned in this Act, or the Quebec Board of Trade, shall at any time refuse or neglect to comply with any of the requirements of this Act, it shall be lawful for the Governor of this Province, by and with the advice and consent of the Executive Council thereof, and on the complaint of the Supervisor of Cullers, to make any appointment which the said Quebec Board of Trade ought to have made, or to appoint any other persons to perform the duty which the said Board of Examiners ought to have performed.

The Governor in Council may appoint persons to carry this Act into effect if the Board of Trade or Board of Examiners shall fail so to do.

XXXIV. And be it enacted, that this Act shall commence and have force and effect, upon, from and after the first day of January, in the year one thousand eight hundred and forty-four.

Time when this Act shall take effect, &c.

C A P. XXVI.

An Act for securing the Province against any unnecessary loss on the judicial sale of certain parts of the vacant estate of the late Honorable Sir John Caldwell.

[16th November, 1843.]

WHEREAS, on the twentieth day of October, one thousand eight hundred and twenty-five, a judgment was rendered by the Honorable the Court of King's Bench for the District of Quebec, in favor of His late Majesty King George the Fourth, against the Honorable Sir John Caldwell, Baronet, (then the Honorable John Caldwell, Esquire,) formerly Receiver General of the late Province of Lower Canada, for the sum of ninety-six thousand, one hundred and seventeen pounds, thirteen shillings, and one penny and one half-penny, sterling money of Great Britain, equal to the sum of one hundred and six thousand, seven hundred and ninety-seven pounds, six shillings and eight pence, current money of the said late Province, being the balance of certain public monies of the said late Province then remaining unaccounted for in the hands of the said Honorable Sir John

Preamble.

Judgment recited.