



ANNO OCTAVO
VICTORIÆ REGINÆ.

CAP. XLIX.

An Act to regulate the Culling and Measurement of Timber, Masts, Spars, Deals, Staves, and other articles of a like nature, and to repeal a certain Act therein mentioned.

[29th March, 1845.]

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 whereas it is expedient and necessary to amend and repeal the Act passed in the seventh 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*: 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by the authority of the same, That from and after the passing of this Act, the above recited Act shall be and is hereby repealed: Provided always, that the Act repealed by the said Act shall nevertheless remain repealed.

Preamble.

Act 7 Vict.
cap. 25, repeal-
ed.

Proviso.

II. And be it enacted, That it shall be lawful for the 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 hereafter prescribed;

Supervisor of
Cullers to be
appointed.

He shall give security.

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 nonfeasance 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 the said Supervisor shall, before entering upon the duties of his office, take and subscribe the following oath before any of Her Majesty's Justices of the Queen's Bench for the District of Quebec, that is to say :

And take an oath of office.

The oath.

“ 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 culling and measurement of Timber, Masts, Spars, Deals, Staves, and other articles of a like nature ; and to repeal a certain Act therein mentioned*, 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 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 whomsoever ; and that I will act without partiality, favor, or affection, and to the best of my knowledge : So help me God ;”

Oath to be filed of record.

Any deputy appointed by him shall take the same oath.

Which oath and bond shall be filed and kept among the records of the office of the Registrar of this Province ; and any Deputy appointed by the Supervisor shall take and subscribe the above oath, so far as applicable to him, before any of Her Majesty's Justices of the Peace, and the same shall be filed in the office of the Supervisor, and any Deputy so appointed shall himself, with two responsible sureties, enter into bond to Her Majesty, Her Heirs and Successors, in the penal sum of two hundred pounds each, for the faithful discharge of his duty, which bond shall enure to the benefit of all parties who may be damnified by misfeasance, malfeasance or nonfeasance of the said Deputy, and all parties damnified shall be entitled to recover from the said Deputy 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.

The Supervisor with four merchants.

III. And be it enacted, That it shall be the duty of the Council of the Quebec Board of Trade, when required by the Supervisor so to do, to elect four Merchants, practically

practically acquainted with the Lumber Trade, and the said Supervisor shall, by an instrument under his hand and seal, appoint four licensed Cullers, and the said four Merchants and four Cullers shall constitute a Board of Examiners, of which Board the said Supervisor shall ex-officio be a member and Chairman, and that as often as vacancies shall occur in the said Board, by death, change of residence, or otherwise, such vacancies shall be filled up and supplied by election in the case of the Merchants, and by new appointment in the case of the Cullers forming the said Board, and the Board for the time being shall meet at the office of the Supervisor, or elsewhere, on the first Monday of May and August in each year, or upon any other day when notified by the Supervisor so to do, and four of the number of the Board for the time being shall constitute a *quorum* for the transaction of business, 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 such Board, before acting as such, shall take the following oath, (to be administered by the Supervisor,) that is to say :

and any four licensed Cullers selected by him, shall be a Board of Examiners of Cullers.

Members to be sworn.

“ I, A. B., do solemnly swear, that I will, to the best of my judgment and understanding, faithfully test the skill, capacity and qualification of any applicant who may come before me to be examined as to his fitness to be licensed as a Culler, and that I will act according to the true intent and meaning of the law, and without partiality, favour or affection : So help me God.”

The oath.

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 skill, experience, age, character, and knowledge of this Act, and practically acquainted with the department or departments of culling and measuring, for which he applies to be licensed.

Who may be appointed Cullers.

V. And be it enacted, That the duties of culling and measurement shall be divided into four different departments, that is to say : one department for the culling and measurement of square timber,—one department for the culling and measurement of staves,—one department for the culling and measurement of masts, spars, bowsprits, oars, and handspikes,—and one department for the culling and measurement of deals, boards, planks, and lathwood.

Cullers to be divided into four different departments.

VI. And be it enacted, That it shall and may be lawful for the 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 as 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

Cullers may be licensed by the Governor.

Provido, as to their qualification.

two

Proviso: they shall give security.

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 nonfeasance 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 Queen's Bench, or other Superior Court of Civil Jurisdiction, take and subscribe the following oath, that is to say:

The oath.

“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 culling and measurement of Timber, Masts, Spars, Deals, Staves, and other articles of a like nature, and to repeal a certain Act therein mentioned,* 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 celled: So help me God.”

Oath to be filed in the office of the Supervisor.

Which oath every such person 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 the Provincial 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 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 each season 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

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, masts, spars, deals, staves, or other description of lumber, so as to avoid unnecessary delay, and if such assistance be refused, the Supervisor or Culler may employ the number required at the expense of the parties concerned.

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, for whose acts, in the performance of their duties, the Cullers shall be responsible.

Holders of measuring tapes, &c., shall be apprentices.

IX. And be it enacted, That square timber shall be measured only in accordance with some one of the three following modes, that is to say :

Square timber to be measured according to three modes.

First. Measured off in the raft or otherwise, giving the full cubic contents without any allowance or deduction.

Secondly. Measured in shipping order, which shall mean sound, fairly made timber; gum seams closed at the but and sound knots, not to be considered unsoundness, lengths under the merchantable standard hereinafter mentioned and not less than twelve feet long to be received, if in the opinion of the Culler the same be fit for shipment.

Thirdly. Culled and measured in a merchantable state in accordance with the rules, standards and limitations hereinafter described.

X. 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 such entry and calculations on the said books, a copied specification thereof having been checked and examined in the office of the Supervisor, and being signed by him or his deputy, shall be furnished to the owner of the property, or person entitled to the same, as soon as practicable after the measuring, culling, or counting of any lumber is completed, if called for; it shall also be the duty of all Cullers employed by the Supervisor to obey his lawful commands, and they shall respectively hold themselves in readiness on all lawful days, to execute the duties of their office from day-light 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 so employed, guilty of impropriety of conduct or disobedience of orders, or incapacity, may be suspended from office by the Supervisor, subject to an appeal to the Board of Examiners.

How specifications of lumber culled and measured shall be made.

XI.

Cullers to be employed in rotation.

XI. 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 Supervisor has at the time Cullers unemployed or obtainable, and the Supervisor shall be empowered to recall every such Culler at any time if he may conceive it necessary.

How lumber shall be marked.

XII. 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 or culled 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, that is to say :

The marks.

M shall indicate and denote what is merchantable ;

U shall indicate and denote what is sound and of merchantable quality, but under merchantable size ;

S shall indicate and denote what is second quality ;

T shall indicate and denote what is third quality ;

R shall indicate and denote what is rejected and unmerchantable.

Which marks shall be indented or stamped on the end of each article of lumber which shall have been culled in terms of the merchantable standard hereinafter prescribed, except West India and Barrel Staves, Boards, Lathwood and Handspikes.

Copy of agreement as to mode of measurement, shall be lodged in the Supervisor's office.

XIII. And be it enacted, That a copy of every agreement as to any of the modes of measurement or culling mentioned in this Act, signed by the seller and buyer, shall be lodged in the office of the Supervisor, at the same time that a requisition is made to the Supervisor for a Culler to measure or cull any lumber for the guidance of the Supervisor and Culler, in the performance of their duty, and such requisition shall state the river and section of the Province wherefrom such lumber is produced : Provided always, that it shall be competent for the owner or agent of any lumber to cause it to be measured, culled or counted before any sale, in

Proviso.

in which case the specification of such lumber shall set forth the mode in which the measurement, culling or counting, shall have been performed.

XIV. 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 size and quality of lumber submitted to their culling :

Square White Oak Timber, first quality, shall be free from rot, rotten knots, (affecting the surrounding wood,) open rings and grub or large worm holes, but small worm holes and shakes shall be allowed according to the judgment of the Culler ; second quality, shall be oak not coming within the definition of first quality, and which in the judgment of the Culler is not culls. Square oak.

Square Hard Grey or Rock Elm shall be free from rots, open rings and rotten knots, (affecting the surrounding wood,) but shakes and slivers shall be allowed according to the judgment of the Culler. Rock Elm.

Square White or Yellow Pine Timber shall be free from rot, rotten knots, (affecting the surrounding wood,) worm holes, open shakes, and open rings, but sound knots shall be allowed according to the judgment of the Culler. Square Pine,
White or Yellow.

Square Red Pine Timber shall be free from rots, rotten knots, (affecting the surrounding wood,) worm holes, shakes and splits, but sound knots to be allowed according to the judgment of the Culler. Square Red
Pine.

Square Ash, Basswood and Butternut shall be of the same quality as white or yellow pine square timber. Ash, Bass-
wood, &c.

Square Birch shall be free from rot, rotten knots, splits and shakes, and shall be allowed two inches wane. Birch.

Masts, Bowsprits, and Red Pine Spurs, shall be sound, free from bad knots, rents and shakes, and the heart shall be visible in spots at or near the partners. Masts, Bow-
sprits, &c.

Hickory Handspikes shall be six feet long, and three and a half inches square at the smaller end. Handspikes.

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 large knots, splits and shakes. Ash Oars.

Lathwood

Lathwood.

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; the same, to be merchantable, shall be free from rot, split freely, and each billet may contain to the extent of three or four open case knots, provided they run in line or nearly so, and not to have more than one twist.

Pine or Fir Boards.

Pine or Fir Boards shall not be less than ten feet in length, not less than one inch in thickness, nor less than seven 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 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 Deals,
White or Yellow.

White or Yellow Pine Deals to be merchantable shall be free from rot, rotten knots, grub-worm holes, open case knots, shakes and splits, (a slight sun crack excepted,) and sound knots and hard black knots to be allowed as follows: if not exceeding three in number, and not exceeding upon the average one inch and a quarter diameter, if exceeding three and not exceeding six in number, and upon the average not exceeding three quarters of an inch in diameter; this proportion of knots to be allowed for a deal eleven inches in width and twelve feet in length, and deals of greater or less dimensions shall be allowed for in proportion, according to the judgment of the Culler; wane equal to half an inch on one edge if running the whole length of the deal to be allowed, and if not exceeding half the length of such deal, three quarters of an inch to be allowed; to be free from black or dead sap, (with a slight exception, at the discretion of the Culler.)

Red Pine Deals.

Red Pine Deals, to be merchantable, shall be free from rot, rotten knots, grub-worm-holes, open case knots and splits, several small sound knots to be allowed, according to the judgment of the Culler; heart shake to be allowed, if it does not run far into the deal or form a split through at the ends, to be free (or nearly so) from black or dead sap, but sound sap on the corners or on a portion of one face of the deal to be allowed, according to the judgment of the Culler.

Spruce Deals.

Spruce Deals, to be merchantable, shall be free from rot, rotten knots, grub-worm-holes, open case knots, splits and shakes, (a heart shake not exceeding one-fourth of an inch to half an inch in depth excepted,) several small sound knots and hard black knots to be allowed, according to the judgment of the Culler, and in the exercise of such judgment he shall keep in view the peculiar nature of the wood, and govern his judgment accordingly; wane equal to half an inch on one edge, if running the whole length of the deal, to be allowed, and if not exceeding one quarter the length of such deal, three quarters of an inch to be allowed.

White

White or Yellow Pine second quality Deals shall be free from rot, rotten knots and splits, with slight exceptions, at the discretion of the Culler, and sound knots and hard black knots to be allowed as follows, to wit: if not exceeding six in number and not exceeding upon the average one inch and a half diameter; if exceeding six and not exceeding twelve in number, and not exceeding upon the average one inch and a quarter in diameter, (small knots under half an inch diameter not to be counted or considered,) this proportion of knots to be allowed for a deal eleven inches in width and twelve feet in length, and deals of greater or lesser dimensions to be allowed for in proportion, according to the judgment of the Culler; heart shakes and sun cracks not exceeding three-fourths of an inch to one inch in depth to be allowed, as also worm-holes, at the judgment of the Culler; wane of half an inch to one inch to be allowed according to the quality of the deal in other respects, at the judgment of the Culler; deals rejected as not coming within the standard of merchantable or second quality to be classed as culls, but it shall be lawful for the Culler, if requested by buyer and seller, to select and classify as third quality the best of the deals so rejected.

White or Yellow Pine Deals, second quality

Spruce and Red Pine second quality Deals shall be deals not coming within the definition of merchantable, and which, in the opinion and judgment of the Culler, are not culls, shall be classed as second quality; and it shall be lawful for the Culler, if required by seller and buyer, to select and classify as third quality the best of the deals unfit to be seconds; the Quebec standard hundred of deals shall be one hundred pieces twelve feet long, eleven inches broad, and two and a half inches thick; and deals of all other dimensions shall be computed according to the said standard; deals of all qualities shall not be less than eight feet long, seven 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; all merchantable deals to be well sawn and squared at the end with a saw, and the colour alone to be no objection to their being merchantable; all deals when culled shall in all cases be stamped with the initials of the Culler, and the capital letter denoting the quality of such: Provided always, that spruce deals, if not sawn at the ends prior to or at the time of culling, shall be marked with the capital letter denoting their respective qualities with red chalk, in large bold letters; and to prevent mistakes in piling, all other deals shall be marked with bold strokes in red chalk as follows:

Spruce and Red Pine Deals, second quality.

Proviso.

Merchantable shall be marked I

Second quality shall be marked II

Third quality (if made) shall be marked III

Rejected or Culls shall be marked X

Standard

Standard
Staves.

Standard or Measurement Staves shall be of the dimensions set forth in the words and figures following, that is to say :

$5\frac{1}{2}$	feet long,	5	inches broad,	and from	1	to	3	inches thick.
$4\frac{1}{2}$	do	$4\frac{1}{2}$	do					
$3\frac{1}{2}$	do	4	do					
$2\frac{1}{2}$	do	5	do					

Head-Staves, five and a half feet long, and four and a half inches broad, to be received as if of merchantable dimensions.

Standard
Mille.

And the standard *mille* shall be twelve hundred pieces of five and a half feet long, five inches broad, and one and a half inches thick, and standard or measurement staves of other dimensions shall be reduced to the said standard by the tables of calculations now used.

Puncheon
Staves.

West India or Puncheon Staves shall be three and a half feet long, four inches broad, and three-fourths of an inch thick ; all staves shall be straight-grained timber, properly split, with straight edges, free from the grub or large worm-holes, knots, veins, shakes and splinters, and small worm-holes not exceeding three in number, to be allowed according to the judgment of the Culler, (provided there are no veins running from or connected therewith,) and the Culler shall measure the length, breadth, and thickness of standard staves at the shortest, narrowest and thinnest parts ; and the thickness of West India and barrel staves exceeding the standard breadth to be measured at such standard breadth, to wit : four and three and a half inches respectively, provided the thinnest edge is not less than half an inch.

Barrel Staves.

Dimensions of
merchantable
Timber.

Dimensions of Merchantable Timber shall be as set forth in the following words and figures :

Oak shall not be less than twenty feet in length, nor less than ten inches square in the middle.

Elm shall not be less than twenty feet in length, nor less than ten inches square in the middle.

White Pine shall not be less than twenty feet in length, and twelve inches square in the middle, and fifteen feet and upwards in length, if sixteen inches and upwards in the middle.

Red

Red Pine shall not be less than twenty-five feet in length, and ten inches square in the middle, and twenty feet and upwards in the length, if twelve inches square and upwards in the middle.

Ash, Basswood, and Butternut, shall not be less than fifteen feet in length, and twelve inches square in the middle, nor less than twelve feet in length, if fifteen inches and upwards in the middle.

Birch shall not be less than six feet in length, nor less than twelve inches square in the middle.

Taper of Merchantable Timber.

Oak, 3 inches under 30 feet, and in proportion for any greater length.

Elm, 2 do for 30 do. do. do. do. do.

White Pine, $1\frac{1}{2}$ do for 20 do. do. do. do. do.

Red Pine, 2 do for 25 do. do. do. do. do.

Ash, Basswood, and Butternut, $1\frac{1}{2}$ do. under 20 feet do. do.

Bends or twists not to exceed one in number.

Hollow allowed on Merchantable Timber.

Oak, 3 inches for every 20 feet in length, and in proportion for any greater length.

Elm, 3 do. do. 20 do. do. do.

White Pine, $2\frac{1}{2}$ do. 20 do. do. do.

Red Pine, 3 do. 20 do. do. do.

Ash, Basswood, and Butternut, $2\frac{1}{2}$ do 20 feet do. do.

Dimensions of White Pine Masts, Bowsprits, and Red Pine Spars.

White Pine Masts of 23 inches and upwards at the partners, shall be 3 feet to the inch in diameter.

22 inches do. 3 feet do. do. and 2 feet extreme length.

21 do. do. 3 feet do. do. and 3 feet do.

20 do. and under 3 feet do. do. and 4 feet do.

Hollow or bend not to exceed six inches for seventy feet, and in proportion for any greater length.

Bowsprits

Bowsprits shall be two feet in length for every inch in diameter at the partners, adding two feet for extreme length.

Red Pine Spars shall be three feet to the inch in diameter at the partners, and nine feet extreme length; hollow not to exceed seven inches for sixty feet, and in proportion for any greater length.

Lumber im-
properly squar-
ed, &c., to be
redressed.

XV. 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 hewn, 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 expense of the seller or the buyer, as the case may be, previously to their being respectively received and certified to be merchantable, and such dressing and chopping to be done under the direction of Culler in charge of the measuring or culling.

Fees for cul-
ling, measur-
ing and count-
ing.

XVI. 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, measuring or counting off 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 canting, dressing, butting, chopping and piling, is necessary and required, that is to say :

For Measuring off or Counting Lumber.

Fees for mea-
suring and
counting.

White Pine, Bass, or Butternut, per ton, two pence half-penny.

Red Pine, three pence half-penny.

Hardwood, three pence half-penny.

Oars and Handspikes, counted off, per 100 pieces, one shilling.

Deals, counted off, one shilling per hundred standard.

For Culling and Measuring in a Merchantable State, or Measuring in Shipping Order, or Counting off, where not herein otherwise provided for, viz :

White Pine Timber per ton, five pence.

Red

Red Pine Timber per ton, five pence half-penny.

Hardwood Timber per ton, six pence half-penny.

Deals per standard hundred, two shillings and six pence.

Planks, two inches and under, per hundred pieces, one shilling and nine pence.

Standard Staves per mille, twelve shillings and six pence.

West India Staves per mille, five shillings and six pence.

Barrel Staves per mille, four shillings.

Oars per hundred pieces, four shillings.

Handspikes per hundred pieces, three shillings.

Spars, from 12 to 19 inches each, two shillings.

Masts and Bowsprits, 19 to 24 inches each, three shillings.

Masts and Bowsprits, 24 inches and upwards each, three shillings and six pence.

Lathwood per cord, one shilling and six pence.

And one-half of such rates for culling, measuring or counting, shall be paid by the buyer, and the other half by the seller; but all such fees and rates shall in all cases be paid to the Supervisor or his Deputy, on the delivery of the specification, or on the presentation of an account thereof, by the person or persons jointly or severally who shall have filed a requisition or order for such measuring, counting or culling, whether such person or persons be buyer, seller, owner, or possessor of such lumber.

XVII. 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 him, that is to say :

Fees for Cullers.

Lumber Measured off or Counted off.

White Pine, Bass, or Butternut, one penny half-penny per ton.

Red Pine, two pence per ton.

Hardwood, two pence per ton.

Oars and *Handspikes*, counted off, nine pence per hundred pieces.

Deals counted off, nine pence per hundred standard.

For Culling and Measuring in a Merchantable State, or Measuring in Shipping Order, or Counting off, where not herein otherwise provided for, viz :

White Pine, Bass, or Butternut, three pence half-penny per ton.

Red Pine, four pence per ton.

Hardwood, four pence half-penny per ton.

Deals, per standard hundred, two shillings.

Planks and *Boards*, per hundred pieces, one shilling and five pence.

Standard Staves, per mille, ten shillings.

West India Staves, per mille, four shillings and six pence.

Barrel Staves, per mille, three shillings and three pence.

Oars, per hundred pieces, three shillings and three pence.

Handspikes, per hundred pieces, two shillings and three pence.

Spars, from 12 to 19 inches each, one shilling and four pence.

Masts and *Bowsprits*, 19 to 24 inches each, two shillings.

Masts and *Bowsprits*, 24 inches and upwards each, two shillings and six pence.

Lathwood, per cord, one shilling and two pence.

Provided always, that the Cullers shall pay their Attendants or Assistants out of the proportion of fees hereby assigned to them.

XVIII. 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 and counting off, 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.

Governor in
Council may
alter fees.

XIX. And be it enacted, That it shall and may be lawful for the Supervisor to procure an office, the necessary office furniture, books, stationery, 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, 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, all of which accounts shall be audited by the Inspector General, or by any other person authorized by him, 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.

Supervisor's
duties.

XX. And be it enacted, That the Measurement Books, and all 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 transactions between them, and to the perusal of any other party interested therein.

Supervisor's
Books to be
open to inspec-
tion.

XXI. And be it enacted, That it shall be lawful for the Supervisor to receive and take out of the funds coming into his hands, the sum of four hundred pounds, currency, as an annual salary for his services, exclusive of all the expenses of his office,

Supervisor's
salary.

office, and it shall be his duty to report in his return to the Government, and for the use of the Legislature, 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 and applied as may hereafter be found expedient, exclusively for the purposes of this Act, under the control of and as directed by the Governor in Council.

Licensed Cullers may hire themselves to Merchants.

XXII. 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, cull, 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 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 and 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 one hundred 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 person not licensed as a Culler, who shall measure, cull, mark, or stamp any article of lumber, the same being shipped or intended to be shipped by such measurement, or measured, culled, 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 one hundred 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, cull, 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 one hundred pounds, currency, or be imprisoned for a term not exceeding six calendar months, in the discretion of the Court, for each such offence.

Penally.

In case of disputes.

XXIII. And be it enacted, That if any dispute shall arise between the first buyer, seller, or the person or persons making the requisition, 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, or his Deputy, (upon a written complaint thereof being made, demanding a survey,) as soon as possible to cause a Board of Survey to be held for examining the quality and dimensions of the same,

same, and it shall be the duty of such Board to take into consideration the position of such lumber when measured or culled, and all other circumstances and considerations connected therewith, in reporting thereon ; and such Board of Survey shall consist of three persons, 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 costs and charges of re-examination shall be paid by the party complaining, but if otherwise, by the Culler : Provided such survey be demanded when the culling or measuring is completed, or within two lawful days after the party demanding the survey shall have been furnished with the specification thereof, and such right of survey shall cease on and after the fifteenth day of November in each year ; and for the more ready settlement of disputes with the consent and at the request of buyer, seller and culler concerned, the Supervisor or his Deputy shall be empowered to name one Culler to act as Surveyor ; and if the Culler so named be not objected to by any of the parties interested, he shall be empowered to act in the capacity of a Board of Survey, and his determination shall be final and conclusive.

XXIV. And be it enacted, That nothing contained in this Act shall be held or construed to make it compulsory for any article of lumber to be measured, culled, or assorted, under the provisions of this Act, provided such lumber be shipped for exportation by sea for account (in good faith) of the actual and *bonâ fide* producer or manufacturer thereof ; but all other lumber shipped for exportation by sea, shall be either measured, culled, or counted (at the option of parties) by a licensed Culler, under the control and superintendence of the Supervisor, under a penalty equal to the market value of any article of lumber so illegally shipped, and such penalty shall be recoverable before any Court of competent jurisdiction, from the owner or shipper, or from the proprietor or proprietors, lessee or lessees of the premises from which such lumber shall have been so illegally shipped, and proof of the fact of lumber being or having been placed alongside, or taken on board any sea-going ship or vessel, shall be deemed sufficient evidence of such illegal shipping for exportation by sea ; and proof of the measuring, culling or counting of such lumber, in pursuance of the provisions of this Act, shall fall upon the party charged with such illegal shipping, and the market value of any article of lumber so illegally shipped, shall be ascertained by the certificate of the Council of the Quebec Board of Trade, or by a certificate under the hand of the Supervisor : Provided always, that the provisions of this Act shall not extend, or be construed to extend, to any place below the eastern end of the Island of Orleans.

Culling of
lumber not
compulsory
when shipped
by the pro-
ducer.

Act not to ex-
tend below
Island of
Orleans.

XXV. 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

Supervisor and
Cullers not to
deal in lumber.

Penalty.

buying or selling any article of lumber, either on his own or on account of any other person whomsoever, under a penalty for each and every offence not exceeding one hundred pounds, nor less than fifty pounds, currency, and the forfeiture of his office.

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

XXVI. And be it enacted, That if the Supervisor, or his Deputy, 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 the duties 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 duly convicted before a competent jurisdiction, 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.

Persons assaulting any Culler ;

Shall incur a penalty.

XXVII. 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 or more of Her Majesty's Justices of the Peace of the District in which the offence is committed, upon the oath of one credible witness, shall incur a penalty not exceeding ten pounds, and not less than five pounds, currency, and in default of payment shall forthwith be committed to the common Gaol, there to be detained for a space not exceeding two months, unless he shall sooner pay such penalty so imposed.

New sureties required in cases of removal, &c.

XXVIII. And be it enacted, That in the event of the removal from this Province, or the declared or known insufficiency, or the death of any of the sureties of the 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.

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

XXIX. 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, indented, 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

Court of competent jurisdiction, incur and forfeit a penalty not exceeding fifty pounds, currency, or be imprisoned for a term of not more than three calendar months, in the discretion of the Court.

XXX. 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, planks, boards, sawlogs, or other description of lumber, or any boat, bateau or scow, or shall wilfully and unlawfully conceal any lumber, masts, spars, staves, oars, handspikes, planks, boards, sawlogs, or other description of lumber, or any boat, bateau 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 lake, 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, planks, boards, sawlogs, or other description of lumber, or on such boat, bateau 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 complaint and oath 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 one hundred 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 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 Gaol of the District wherein such conviction shall be had, there to remain not exceeding twelve calendar months.

Penalties on persons setting adrift timber, &c;

Or concealing timber found adrift;

Or defacing marks.

Distribution of penalty.

XXXI. 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.

Rafts to have bright fires at night.

XXXII. 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 calendar 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

Penalties how recoverable;

Justice

Justice or Judge of such Court, in a summary manner, and shall be also 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 disposed of.

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

Defendant, if successful, to have costs.

XXXIII. 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 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.

All commissions, &c., under the Act 7 Viet. cap. 25, shall be lawful and valid. Proviso.

XXXIV. And be it enacted, That all commissions and licenses, bonds, right of action, and any other act or thing performed in virtue of and under the authority of the Provincial Act herein first above cited and hereby repealed, shall be lawful and valid: Provided always, that the Supervisor and Cullers respectively shall take and subscribe the several oaths, and register and file the same as provided for in this Act.

Limitation of Act.

XXXV. And be it enacted, That this Act shall not apply to any lumber already culled or measured within the Ports of Montreal and Quebec.

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