

A C T S

OF THE

General Assembly of Pennsylvania.

Passed at a Session which commenced October 14th, 1758,
and ended September 30th, 1759.

1759.

WILLIAM DENNY, LIEUTENANT GOVERNOR.

CHAPTER CCCCXXXIX.

An ACT to prevent the exportation of bad or unmerchantable staves, heading, boards and timber.

WHEREAS the reputation of this province hath been much advanced, by the care of the Legislature to prevent frauds and abuses in divers commodities of our country produce exported to foreign markets, and yet some further regulation is, by daily experience, found necessary to promote the interests of trade, and the good of the province: *Be it therefore enacted*, That no merchant, or other person or persons whatsoever, shall, from and after the publication of this act, lade or put on board any ship or vessels any staves, heading, boards, plank or timber, for exportation out of this province, before he or she shall first submit the same to the examination of the officer or officers, or his or their deputy or deputies, appointed by the direction of this act; and if the said officer or officers shall find the same sound, and fit for exportation, he or they shall measure, count and cull the same, in a just and impartial manner, between the buyer and seller.

II. *And be it enacted*, That every hewed or shaved pipe stave shall be four feet and eight inches long, three inches and a half broad in the narrowest place, clear of sap, five eighths of an inch thick in the thinnest place, nor more than one inch thick in any part, regularly split with the grain of the wood, and shall not have more than seven worm holes, and be otherwise fit for a good pipe stave.

No staves,
&c. to be
exported,
without be-
ing examin-
ed, &c.

Dimensions
of Pipe,
Hogshead,
and Barrel
staves, &c.

Every hewed or shaved hogshead stave shall be three feet and six inches long, three inches and a half broad, clear of sap, in the narrowest place, five eighths of an inch thick in the thinnest part, not more than one inch thick in any part, regularly split with the grain of the wood, and shall not have more than six worm holes, and be otherwise fit for a good hogshead stave.

Every hewed or shaved barrel stave shall be two feet and six inches long, three inches and an half broad in the narrowest place, half an inch thick in the thinnest part, regularly split with the grain of the wood, and shall not have more than five worm holes, and be otherwise fit for a good tight barrel stave.

Every hewed or shaved piece of hogshead heading shall be two feet and six inches long, the middle pieces six inches broad in the narrowest place, clear of sap, and the cantle pieces of the same breadth in their widest part, clear of sap, both sorts three quarters of an inch thick, and shall not have more than seven worm holes in each piece, and be otherwise fit for the head of a tight hogshead; the officer having a due regard that there be always a proper proportion of middle pieces in such heading.

All boards, plank and timber, shall be good and sound, and of the thickness and quality the same are declared to be by the seller.

III. [This section related to the fees for inspecting staves and heading, and is supplied and repealed by the act of April 5th, 1790, sect. 5, (chap. 1501.) And by act of March 20th, 1810, the inspector of staves and heading shall be entitled to receive from the exporter of the same, for every customary thousand thereof, twenty-five cents.]

IV. [Related to the fees for measuring plank and boards, and is supplied and repealed by the act of April 20th, 1795, sect. 1, (chap. 1852.)]

V. *Provided always*, That any person or persons may be allowed to vend or sell any rough staves or heading: and if they be of the length, breadth and qualities, before mentioned, they shall not be adjudged unfit for exportation, although they should be thicker than is herein before mentioned.

VI. *And be it further enacted*, That the officer hereby appointed, or to be appointed, or his deputy or deputies, shall have power and authority, by virtue of this act, without any further or other warrant, to enter on board any ship, sloop or other vessel, lying and being in the port of Philadelphia, or in any other place within this province, to search for and make discovery of any staves, heading, boards, plank and timber, shipped for exportation; and if the captain, master or owner, of such ship or other vessel, or his or their servant or servants, shall deny him or them entrance, or if the said officer shall be any way molested in making any discovery as aforesaid, or if such captain, master or owner, shall refuse to permit the said officer or his deputies to view, inspect and examine any of the said staves and merchandize aforesaid, according to the directions of this act, every person, so offending, shall forfeit and pay the sum of fifty pounds; or if any person shall ship off any staves, heading, boards, plank or timber, which have not been inspected, measured, culled and counted, as aforesaid, by the officer appointed for that

Officer to enter any vessel, and search for staves, &c. for exportation.

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Disputes arising concerning staves, &c. to be decided by applying to a Magistrate, &c.

VII. *Provided always, and be it further enacted,* That where at any time hereafter any dispute shall arise between the officer and possessor of any of the staves and merchandize herein before mentioned, concerning the same, upon application made by the possessor thereof to one of the Magistrates of the county where the dispute arises, he shall issue his warrant to three indifferent judicious persons of skill and integrity, one of them to be named by the possessor of such staves and merchandize, a second by the officer, and the third person to be named by the said Magistrate, directing them, the persons so named, to view and examine the said staves and merchandize, and make report to him forthwith as they find the same; and the said Justice is hereby required and empowered to give judgment accordingly.

Penalty on exporting staves, &c. not merchantable.

VIII. And in case the said staves, heading, boards, plank and timber, or any of them, be adjudged not fit for exportation, the said Justice of the Peace shall order them not to be exported, under penalty of forfeiture of all such staves, heading, boards, plank or timber, and shall also award and order the owner or possessor thereof to pay the said officer reasonable costs and charges, for his trouble in attending such trial, &c. but if the said staves and merchandize shall be found good and merchantable, according to the direction of this act, the charges of prosecution shall be paid by the officer.

IX. X. [*Hugh Davey* appointed Inspector; vacancies to be supplied by the Justices of Philadelphia county—Repealed by the existing constitution, which vests the appointment to all offices in the Governor. And by act of March 17th, 1796, the inspection of staves and heading shall be vested in an officer, other than the Inspector of boards, timber and shingles, to be appointed by the Governor, whose duties and compensation shall be the same as now enjoined on and allowed to the present inspector of lumber in like cases. (Chap. 1869.)]

The officer to be qualified.

XI. But before the said *Hugh Davey*, or any other officer hereafter to be appointed by virtue of this act, or any of his or their deputies, shall do any thing in the execution of his or their office, they shall respectively take and subscribe an oath or affirmation, before some Justice of the Peace of the city or county of Philadelphia, faithfully and impartially to perform his or their duty and trust, to the best of his or their capacity, according to the direction of this present act; which oath or affirmation the said Justices are hereby authorized and required to administer, at the expense of the said officer, and the same shall be entered in the public records of this province.

And to keep true accounts of the staves, &c.

XII. *And be it further enacted,* That the officer appointed, or to be appointed by virtue of this act, shall keep true accounts of the staves, and other merchandize by him or his deputies inspected, culled, counted, and measured; and of the names of the buyers and sellers thereof: and if any controversy shall happen to arise concerning the same, he or

they may be called upon to shew his or their book of entries, for which trouble, and copy of the entry, he or they shall be allowed the sum of six pence, and no more; and if he or they shall be convicted of making a fraudulent entry, he shall be liable to pay the sum of five pounds: And if the said officer or officers shall be convicted of buying or selling any of the staves and other merchandize, which he or they are appointed to inspect and examine, he or they, so offending, shall be subject to the penalty of fifty pounds.

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XIII. *Provided always*, That nothing herein contained shall debar any cooper or carpenter from purchasing a sufficient quantity of staves or heading, boards, plank or timber, to make up into casks, or to be used in buildings, in the way of his or their business, so always, that he shall not buy any of the cullings, which he hath before adjudged to be unmerchantable.

Cooper or carpenter, not within this act. [So, as to coopers, chap. 1501, sect. 5.]

XIV. *And be it further enacted*, That all and every the penalties and forfeitures in and by this act set and appointed shall be paid, one half to the contributors of the Pennsylvania Hospital, for the use of the said Hospital, and the other half to the informer, or to him or them who shall sue for the same; if under five pounds, to be recovered as debts under five pounds are usually recovered, and if above five pounds, to be sued for by bill, plaint, or information, in any court of record within this province, wherein no essoin, protection, or wager of law, shall be allowed the defendant.

Penalties how to be disposed of.

XV. And every of the officers, appointed by this act shall, if he so long behave himself well in the execution of his said office, continue therein for the space of four years, and from thence until a new nomination be made by the Assembly, and no longer. [Obsolete.]

The officer to continue four years.

Passed 21st April, 1759.—Recorded A. vol. IV. page 100. (a)

(a) A supplement was added to this act, (post. chap. 469,) but it was repealed by chap. 562, post.

By chap. 562, post. it was enacted, that staves, heading, boards, plank or timber, should not be shipped for exportation, before they were inspected, which inspection should take place, as near as conveniently might be, to the time of the lading, provided it was within forty-eight hours thereof; a penalty was imposed on any exporter, who should mix cullings, or unmerchantable staves or heading, with what has been inspected, and adjudged merchantable; and the deputies were directed, under a penalty, to report their proceedings to the principal inspector, within six hours after culling any quantity of staves or heading, in order that the inspector may enter the same in his books.

By an act of the fifth of April, 1790, (chap. 1501,) it was enacted, that staves and heading brought into Philadelphia, the district of Southwark, or the Northern Liberties, shall, before they are delivered to the consignee or pur-

chaser, and before they are received into any lumber yard or other place, for sale, or exportation, be inspected and called by the proper officer, subject to the forfeiture of the staves or heading delivered or received contrary to the act; it was declared that if any person should mix any staves or headings, adjudged merchantable, with any cullings, or unmerchantable or uninspected staves or headings, he shall forfeit the whole so mixed; it was provided that Leogan staves, used for sugar hogsheads, might lawfully be exported, provided they are four feet six inches long, three inches and an half broad, including sap, if it be sound, and half an inch thick, subject nevertheless to the same inspection as other staves; the fees of the inspector were regulated (but see the existing law on that subject, chap. 1852;) coopers were permitted to purchase a sufficient quantity of staves or heading, uninspected and uncullied, to make up into casks, or to use in the way of their business within the state; so much of the former acts, as this act altered, was de-

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By an act of the 29th of September, 1789, (chap. 1440,) the inspection of shingles was regulated, and subjected to the same officer that should be appointed inspector of staves and heading. But this act was altered, and suspended till the 1st of January, 1791, by an act of the 5th of April, 1790, 3d vol. chap. 1503. (*Note to former edition.*)

[See the act of March 17th, 1796, (chap. 1869.) The inspector of staves and heading, to be a different officer from the inspector of lumber.

A supplement to the act in the text was passed March 30th, 1803, (post. chap. 2462,) that no staves shall be deemed as merchantable and fit for exportation, which are not three inches wide, and otherwise conformable to the act to which this is a supplement.]

See chap. 295, (ante. pa. 170,) and the notes thereto subjoined.