

[Section V.] And be it further enacted by the authority aforesaid, That the clause in this act contained relating to the assuring and securing the loans to the respective lenders shall remain and is hereby declared to be in force until the said lenders shall receive their several and respective sums of money by them lent and advanced as aforesaid with the interest thereon accruing; and that the residue and remainder of this act shall be in force as long as and during the term of the said act of general assembly to which this act is a supplement and no longer.

Passed April 17, 1759. Confirmed by the King in Council September 2, 1760. See Appendix XXIII, Section I. Repealed by the Act of Assembly passed April 2, 1763, Chapter 499.

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## CHAPTER CCCCXXXIX.

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### 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:

[Section I.] Be it therefore enacted by the Honorable William Denny, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the [said] Province in General Assembly met, and by the authority of the same, 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.

[Section II.] And be it enacted by the authority aforesaid, 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 not 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.

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 a 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.

[Section III.] And be it enacted by the authority aforesaid,

That the officer appointed for inspecting and culling staves and heading shall have for every customary thousand of pipe staves and hogshead heading three shillings and for every customary thousand of hogshead and barrel staves two shillings and six pence, by him inspected and counted as aforesaid, to be paid, the one-half by the buyer and the other half by the seller.

And the said officer for measuring boards and plank shall [have] and receive the sum of two shillings and six pence for every thousand feet of plank and boards according to the superficial measure thereof, and for all timber according to the thickness and quality thereof, reduced to cubical feet, the sum of one shilling for every ton, consisting of forty cubical feet, and so in proportion for any greater or lesser quantity he shall measure, to be paid, the one-half by the buyer and the other half by the seller.

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 hereinbefore-mentioned.

[Section IV.] And be it further enacted by the authority aforesaid, 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 merchandise [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 purpose or his deputy,

every such person so offending shall forfeit and pay the sum of twenty shillings for every thousand of staves or heading and ten shillings for every thousand feet of boards, plank or timber so shipped or exported, and so in proportion for any greater or lesser quantity.

[Section V.] Provided always, and it is further enacted by the authority aforesaid, That where at any time hereafter any dispute shall arise between the officer and possessor of any of the staves and merchandise hereinbefore-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 merchandise, 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 merchandise and make report to him forthwith as they find the same, and the said justice is hereby required and empowered to give judgment accordingly.

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 merchandise shall be found good and merchantable, according to the direction of this act, the charges of prosecution shall be paid by the officer.

And to the end that the regulations by this act prescribed may be duly executed:

[Section VI.] Be it enacted by the authority aforesaid, That Hugh Davey, of Philadelphia, shall be and is hereby appointed the officer for inspecting, culling and counting all staves and heading and for the inspecting and measuring all boards, plank and timber shipped from the province as aforesaid. And the said Hugh Davey or any other person to be appointed by virtue of this act is hereby empowered and required to appoint a suf-

ficient number of deputies in the counties of Philadelphia, Berks and Chester, for whom he shall be accountable, which deputies are hereby fully empowered to act as deputy officers for putting this act in execution as fully as the said Hugh Davey could do by virtue of this act.

And if the said Hugh Davey or any other person hereafter appointed to be the officer aforesaid shall by any accident be rendered incapable or neglect to execute the said office, or shall happen to die before or after the time of putting this act in execution, then and so often, from time to time, it shall and may be lawful to and for the majority of the justices of the peace of the county of Philadelphia to supply his or their place by some other fit and capable person or persons, who shall thereupon be invested with as full and ample powers as the person or persons in whose place or stead he or they may be appointed until the assembly appoints another.

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 anything 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.

[Section VII.] And be it further enacted by the authority aforesaid, That the officer appointed or to be appointed by virtue of this act shall keep true accounts of the staves and other merchandise 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 show 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 merchandise which he or they are appointed to inspect and examine, he or they so offending shall be subject to the penalty of fifty pounds.

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.

[Section VIII.] And be it further enacted by the authority aforesaid, 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.

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.

Passed April 21, 1759. Confirmed by the King in Council, September 2, 1760. See Appendix XXIII, Section I, and notes to the (two Acts of) Assembly passed November 27, 1700, Chapters 76, 80; and the Acts of Assembly passed April 22, 1761, Chapter 469; May 20, 1767, Chapter 562; September 29, 1789, Chapter 1451; (the two acts of) April 5, 1790, Chapters 1512, 1514; April 20, 1795, Chapter 1363; March 17, 1796, Chapter 1880; March 16, 1798, Chapter 1978; March 15, 1800, Chapter 2136; March 30, 1803, P. L. 573; March 27, 1821, P. L. 133; February 24, 1823, P. L. 51; April 11, 1827, P. L. 236; April 15, 1835, P. L. 384; March 31, 1836, P. L. 332; April 1, 1837, P. L. 132; (repealed by the Constitution of 1873, Article III, Section XXVII.)