

materials of the growth or produce of the said province, and are clear of all mixtures of rum or any other foreign spirits whatsoever (and the said retailer shall account for and pay the duty thereof to the said collector, pursuant to the directions of this act), anything herein contained to the contrary in anywise notwithstanding.

Provided also, That the collectors of the excise aforesaid nor any of them nor their or either of their deputies nor any other person or persons to be appointed in their or either of their places or stead shall during the continuance of this act vend, barter, sell, exchange or trade in any of the liquors aforesaid made excisable by this act under the penalty of fifty pounds, to be recovered by action of debt, bill, plaint or information by any person who will sue for the same to effect, one-half thereof to the use of the person so suing, the other half to be paid in to the provincial treasurer aforesaid towards the support of the government of this province; and the person or persons duly convicted of any such offense or offenses against this act is and are hereby disabled from acting any longer in their respective offices; and the treasurer aforesaid is hereby authorized and required to name another or others in lieu or stead of the person or persons so offending, who shall have the same powers and authorities and be liable to the same restrictions and penalties as the collectors named in this act until others are appointed by the general assembly of this province.

Passed January 19, 1733-34. Expired before being considered by the Crown. See the Act of Assembly passed August 25, 1733, Chapter 346.

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## CHAPTER CCCXXXII.

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### AN ACT TO PREVENT THE EXPORTATION OF BREAD AND FLOUR NOT MERCHANTABLE.

Whereas by a law of this province made for preventing the exportation of flour not merchantable, the credit of the said province in one of its most considerable branches hath in some

measure been retrieved; but forasmuch as it becomes the prudence of the legislature to do all that in them lies to advance the credit of this our staple commodity in foreign markets, and it having been found by experience that some farther regulations may be necessary to promote the good intention of the said act:

Therefore to the end that the said credit of our trade and the benefits thence arising may be continued and improved:

[Section I.] Be it enacted by Patrick Gordon, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, by and with the advice and consent of the freemen of the Province aforesaid in General Assembly met, and by the authority of the same, That every bolter of flour and baker of bread residing or (at any time hereafter during the continuance of this act) to reside within this province shall, each one for himself, provide and have a distinguishable brand-mark, and shall therewith brand each and every cask of flour or biscuit of his own bolting or baking before the same shall be removed from the place where the same was so as aforesaid bolted or baked under the penalty of one shilling for every cask so removed and not branded as aforesaid; but before any such bolter or baker shall bolt any flour or bake any bread for exportation out of this province, every such bolter or baker shall cause such his brand-mark, together with his name and place of abode, to be entered with the clerk of the court of quarter-sessions for the county where he doth reside (if not already done), and so from time to time as often as any such bolter or baker shall move the place of his residence from one county of this province into another, within the space of one month after such removal or any alteration of his brand-mark he shall there cause his mark, name and place of residence to be entered with the clerk of the respective county, for recording whereof the clerk shall have and receive one shilling each and no more, and every bolter or baker offending herein shall forfeit and pay the sum of twenty shillings for every such offense.

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

That all wheat flour bolted for exportation from and after the publication of this act shall, by the bolter thereof, be and be made merchantable and of due fineness without any mixture of coarser or other flour, and honestly and well packed in good, strong casks well made, and of staves thoroughly seasoned, with the tare thereof thereupon marked, the cask being first weighed by weights tried by or made agreeable to the standard of weights in this province, wherewith the bread and flour packed shall also be weighed, and each and every cask thereof (bread in tight casks excepted) shall be well and sufficiently nailed before the same be moved or carried from the place where the same was made as aforesaid. And if any bolter or baker shall offend in all or any of the premises, he, she or they shall forfeit and pay for every such offense the sum of one shilling for each cask.

[Section III.] And be it enacted by the authority aforesaid, That if any person or persons shall put a false or wrong tare on any cask of flour or bread to the disadvantage of the purchaser, he, she or they shall forfeit and pay for every such cask falsely tared as aforesaid the sum of five shillings. And the officer for each county respectively or his deputy, upon suspicion or upon the request of the buyer, shall and are hereby required to unpack any such cask of flour or bread in order to try the tare thereof, and if the said cask or casks be found to weigh more than is marked thereon, the baker or bolter shall pay the charge of unpacking and repacking over and above the five shillings for each cask as aforesaid; but if the tare thereon marked be found just and true, then the officer (or purchaser, if the trial be made at his request) shall pay the costs of unpacking and repacking.

[Section IV.] And be it enacted by the authority aforesaid, That every miller or bolter of flour and every baker of bread for exportation as aforesaid shall deliver with the said flour or bread an invoice of the contents thereof with his said brand-mark made thereon, together with his name signed thereto, under the penalty of forty shillings for every invoice delivered contrary to the true intent and meaning hereof. And if any cask or casks of flour or bread upon trial be found lighter than

is set down in the said invoice, every such bolter or packer thereof shall forfeit and pay three pence for every pound of flour or bread the same is found wanting or lighter than invoiced. And if any person or persons shall be convicted of any other willful fraud or cheat in packing of flour or bread or of willfully making a fraudulent invoice of the net proceeds or weight of any flour or bread, the person offending therein shall forfeit and pay the sum of five pounds for every such offense.

[Section V.] And be it enacted by the authority aforesaid, That no cart, wain or wagon shall be made use of for the carrying or conveying of flour or bread from any mill or other place to the place of exportation or to any landing place but such as shall have and be provided with a good and sufficient covering; and that no flour shall be left at any landing or other place in order to be transported or carried to the place of exportation, except the same be put in a store or shelter sufficient to keep it dry; and that no flour or bread shall be carried or conveyed by water from any mill or landing place to the place of exportation in any open boat, flat or shallop without a good and sufficient covering or tarpaulin to secure the same in case of rain.

[Section VI.] And be it enacted by the authority aforesaid, That if the owner or possessor of any cart, wain, wagon, boat, flat or shallop cause or suffer any flour or bread to be wet or take damage for want of due care or not being provided as aforesaid in the moving, carrying or transporting the same from any mill or landing place to the place of exportation, every such person or persons shall forfeit and pay for every cask of flour or bread damaged as aforesaid the sum of one shilling.

[Section VII.] And be it enacted by the authority aforesaid, That no merchant or person whatsoever shall lade or ship any flour for exportation out of this province before he shall first submit the same to the view and examination of the officer or his deputy of the respective county from whence the same is intended to be shipped, who shall search and try the same by boring the head and piercing it through with an instrument to be contrived for that purpose, in order to prove

whether it be honestly and well packed as also to enable him to judge of its goodness, and shall afterwards plug up the hole; and if the said officer shall judge the same to be merchantable according to the direction of this present act, he shall brand every such cask of flour on the quarter with the provincial brand-mark, which the said respective officers shall, each one for himself, provide and have for that end and purpose, sufficient and capable to impress in a fair and distinguishable manner the arms of the province of Pennsylvania, with the letter P on one side thereof; and to distinguish the counties, Philadelphia county brand-mark shall have the letter P, Bucks county the letter B, and Chester county the letter C on the other side thereof, for which trouble of the said respective officer he shall have and receive of the shipper one penny for each cask and no more.

Provided always nevertheless, That if any dispute shall happen to arise between the said officers and possessor of such flour concerning the fineness or goodness thereof, upon application made to one of the magistrates of the city or county where the dispute arises he shall issue his warrant to two indifferent judicious persons of skill and integrity to view and search the said flour and make report forthwith according as they find the same, and the said magistrate is hereby empowered and required to give judgment accordingly; and in case the said flour is judged not fit to be exported, the said magistrate shall order it not to be exported, under the penalty of forfeiture of all such flour, and shall also award and order the owner or possessor of the said flour to pay the said officer one shilling for each cask for all such flour as shall be adjudged not fit for exportation as aforesaid with reasonable charges, who shall recover the said costs and charges from the bolter or maker thereof; but in case the said flour upon trial shall be found to be good and merchantable according to the directions of this act, the charges of prosecution shall be paid by the officer; and in case any flour shall upon trial be found not merchantable or fit to be exported, the officer shall take the bolter's brand and the marks and numbers of such casks of flour, and shall also note upon the invoice of the said flour the numbers

of so many of them as shall be found not merchantable; and if the same flour be afterwards shipped in order for exportation, the proof that it is not the said flour shall lie wholly on the owner or shipper thereof, and shall not be incumbent on the said officer.

[Section VIII.] And be it enacted by the authority aforesaid, That the said officer or his deputies shall have full power and authority by virtue of this act and without any further or other warrant to enter on board any ship, sloop or vessel whatsoever lying or being in any port or place of this province, and into any house, store or place whatsoever within the province aforesaid, to search for and make discovery of any flour shipped or intended to be shipped for exportation; and if the owner or possessor thereof or their servants or others shall deny him or them entrance, or if the said officer or his deputies shall be anyways molested in making such discovery as aforesaid, or if such merchant or owner shall refuse to permit the said officer or his deputies to view and examine any flour or not permit him or them to brand the same if merchantable according to the direction of this act, every such person so offending shall forfeit and pay the sum of ten pounds, or shall ship off any cask or casks of flour not branded with the provincial brand-mark aforesaid, every such person so offending shall forfeit and pay the sum of five shillings for every cask of flour so shipped.

[Section IX.] And be it enacted by the authority aforesaid, That Samuel Carpenter, of Philadelphia, merchant, shall be and is hereby appointed the officer for viewing and examining all flour shipped or intended to be shipped directly out of this province from the city and county of Philadelphia; and that William Atkinson, of Bucks county, yeoman, shall be and is hereby appointed the officer for viewing and examining all flour shipped or intended to be shipped directly out of this province from the county of Bucks; and John Owen, of Chester, gentleman, shall be and is hereby appointed the officer for viewing and examining all flour shipped or intended to be shipped directly out of this province from the county of Chester. And if any or either of the officers hereby appointed or hereafter to be ap-

pointed shall by any accident be rendered incapable or neglect to execute the said office, or shall misbehave him or themselves therein or shall happen to die, then and so often and from time to time it shall and may be lawful to and for a majority of the justices of the peace of the respective counties to supply his or their place by some other fit and capable person, who shall thereupon be the officer for putting this act in execution for the respective county until the assembly appoints another. But before the said officers hereby or hereafter to be appointed shall do anything in the execution of their said office, they shall each of them take an oath or affirmation before any one justice of the peace of any county of this province faithfully and impartially to perform his duty and trust to the best of his capacity according to the directions of this present act.

[Section X.] And be it enacted by the authority aforesaid, That the said respective officers hereby appointed or hereafter to be appointed are hereby empowered to appoint deputies in the respective counties for whom he or they shall be accountable, which said deputies, having taken the same oath or affirmation required to be taken by the principals, are hereby fully empowered to act as deputy officers in their respective counties for the searching and branding flour and for all other things required to be done by this act to all intents and purposes whatsoever.

But forasmuch as all the endeavors and skill that can be used in the making of flour good will prove ineffectual except due care be taken in the management of the grain before it be ground; therefore,

[Section XI.] Be it enacted by the authority aforesaid, That every owner, possessor or occupier of any grist mill shall have and be provided with a screen, wherewith all the wheat to be ground into flour for exportation shall be first screened; and if any owner, possessor or occupier of any grist mill shall by himself, servants or others presume to grind or suffer to be ground into meal for bolting for exportation out of this province any wheat before the same be screened as aforesaid, or shall grind or suffer to be ground any unsound, ill-dressed, foul or unmerchantable wheat to be bolted for exportation as afore-

said, or shall bolt any meal so ground before the same be thoroughly cooled and dried, he, she or they so offending in the premises shall forfeit and pay for every such offense the sum of thirty-five shillings on due proof thereof made by one or more credible witnesses before any one justice of the peace of the county or place where the fact was committed.

[Section XII.] Be it enacted by the authority aforesaid, That every miller, bolter and baker within this province is hereby required within six months after the publication of this act, and afterwards once in every three years, to bring his or their weights and measures to the standard in each county to be examined and tried, and to have them made to agree with the standard and stamped and marked as directed by an act of assembly of this province of the twelfth of King William the Third, entitled "An act for regulating weights and measures,"<sup>1</sup> under the penalties and fines imposed by the same act.

[Section XIII.] And be it enacted by the authority aforesaid, That if any person or persons shall counterfeit the said provincial brand-marks or either of them, or impress or brand the same on any cask of flour, he, she or they, being thereof legally convicted, shall for the first offense forfeit and pay the sum of five pounds, and for the second offense the sum of ten pounds, and for the third and every other such offense the offender shall be committed to gaol and sentenced to the pillory, there to stand the space of two hours on a market day in any city, borough or town of the respective counties of this province where the fact was committed.

[Section XIV.] And be it enacted by the authority aforesaid, That all and singular the fines, forfeitures and charges mentioned in this act, where the same respectively exceed not forty shillings, the same shall be recovered in the same manner as other debts under forty shillings by the law of this province; and where the same exceed forty shillings, they may be sued for and shall be recovered in any court of record in this province by bill, plaint or information, wherein no essoin, protection or wager of law nor any more than one imparlance shall be allowed; all which said fines and forfeitures not hereinbefore

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<sup>1</sup>Passed November 27, 1700, Chapter 73.

directed how to be applied shall be paid to the respective officer or his deputy aforesaid, who is hereby strictly enjoined and required to keep just and true accounts thereof, and shall once every year at the time of appointing overseers of the poor deliver unto the magistrates a true and exact list of all the fines and forfeitures arising from this act for the year past in the respective counties, the one-half whereof he or they shall immediately pay into the hands of the overseers of the poor for the use of the poor of the place where the forfeitures happened, and the other he or they may detain to his or their own use as prosecutor; and if any or either of the officers as aforesaid shall refuse or neglect to account for and pay as aforesaid, he or they shall forfeit their office, any law, usage or custom to the contrary in any wise notwithstanding.

Provided always, That the officer herein appointed to examine and brand flour as aforesaid for the city and county of Philadelphia nor his deputies nor any other person or persons to be appointed in their or either of their places or stead shall during the continuance of this act, by him or themselves or by any other person to his or their use or by his or their procurement, vend, barter, sell, exchange or trade in flour under the penalty of fifty pounds, to be recovered by action of debt, bill, plaint or information by any person or persons who will sue for the same to effect in any court of record in this province, one-half thereof to the use of the person or persons so suing, the other half thereof to be paid to the treasurer of this province towards the support of government. And the person or persons duly convicted of any such offense or offenses against this act shall be and are hereby disabled from acting thereafter in their respective offices; and the justices of the city and county of Philadelphia are hereby authorized and required to appoint another or others in lieu or stead of the person or persons so offending, who shall have the same powers and authorities and be liable to the same restrictions and penalties as the officers in this act named until others are appointed by the assembly of this province.

[Section XV.] And be it enacted by the authority aforesaid, That the said act, entitled "An act to prevent the exportation-

of bread and flour not merchantable,"<sup>1</sup> and every article, clause or thing therein contained shall be and is hereby repealed to all intents and purposes whatsoever.

Passed January 19, 1733-34. Never submitted to the consideration of the Crown. See the Acts of Assembly passed March 7, 1745-46, Chapter 368; August 18, 1750, Chapter 386; September 27, 1758, Chapter 435; October 19, 1759, Chapter 452; February 21, 1767, Chapter 548; July 23, 1774, Chapter 698; October 6, 1779, Chapter 855. Repealed by the Act of Assembly passed April 5, 1781, Chapter 936.

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### CHAPTER CCCXXXIII.

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#### AN ACT FOR CONFIRMING THE REPEAL OF DIVERS LAWS OF THIS PROVINCE.

Whereas the late King Charles the Second, by his royal charter bearing date at Westminster, the fourth day of March, in the [thirty-] third year of his reign, was graciously pleased for the consideration therein mentioned to give and grant unto the late William Penn, Esquire, and to his heirs and assigns all that tract of land now known and called by the name of The Province of Pennsylvania; and by the same royal charter the said late King did, for himself, his heirs and successors, make, create and constitute him, the said William Penn, Esquire, true and absolute proprietary of the said country, saving always to the said late King, his heirs and successors, the faith and allegiance of the said William Penn, [Esquire,] his heirs and assigns, and of all other the proprietaries, tenants and inhabitants that then were or thereafter should be within the territories and precincts aforesaid, and likewise saving to the said late King, his heirs and successors, the sovereignty of the aforesaid country, to have, hold, possess and enjoy the said tract of land, together with all the islands therein contained, unto the said William Penn, Esquire, his heirs and assigns, to the only proper use and behoof of the said William Penn, his heirs and assigns forever. And whereas the said late King:

<sup>1</sup> Passed March 20, 1724-25, Chapter 282.