

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1766, and continued by adjournments until the twenty-sixth day of September, 1767, the following acts were passed:

CHAPTER DXLVIII.

AN ACT TO AMEND THE ACT, ENTITLED "AN ACT TO PREVENT THE EXPORTATION OF BREAD AND FLOUR NOT MERCHANTABLE."¹

Whereas by an act of the general assembly of this province passed in the seventh year of His late Majesty George the Second, entitled "An act to prevent the exportation of bread and flour not merchantable,"¹ it is among other things enacted "that no merchant or other person shall lade or ship any flour for exportation out of this province before he, she or they shall first submit the same to the view and examination of the officers therein named;"² but the method of trying and determining the goodness and fineness of the flour directed by the said act on any dispute arising between the said officers and possessors of flour not being so well adapted to the purpose intended as might be, therefore, for amending the said act in that and other matters which, on experience, are found to be necessary:

[Section I.] Be it enacted by the Honorable John Penn, 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

¹ Passed January 19, 1733-34, Chapter 332.

² Act of January 19, 1733-34, Chapter 332, Section VII.

from and after the publication of this act no merchant or other person whatsoever shall lade or ship any flour for exportation out of this province before he, she or they shall first offer the same to the view and examination of the officer or his deputy of the respective county hereinafter named from whence the said flour is intended to be shipped, under the penalty of five shillings for every cask so shipped, who shall thereupon search and try every cask of the same flour in the manner by the said in part recited act is directed; and if on such search the flour shall be adjudged by the officer or his deputy to be fit for exportation, he shall brand the same and be paid as directed and enjoined by the act aforesaid; but if the officer shall adjudge such flour not to be merchantable and unfit for exportation, and the possessor or owner of the said flour shall acquiesce under such judgment, he shall in such case pay to the said officer one penny for each cask so found unfit for exportation and no more; and on his refusal or neglect to pay to the said officer the one penny per cask as aforesaid, the officer may recover the same as debts under forty shillings are recoverable, with costs of suit; and if the possessor of any flour shall ship or offer to ship the same for exportation out of this province without being approved and branded as by the act aforesaid is directed, the said flour shall be forfeited, to be recovered by the said officers respectively in any court of record within this province, with costs of suit, and when recovered shall be applied in the same manner as other forfeitures by virtue of the said recited act are directed to be applied.

[Section II.] And be it enacted by the authority aforesaid, That where any dispute shall arise between any of the said officers or their deputies, or any one of them, with the owner or possessor concerning the fineness or goodness of such flour, or the casks not being made of timber well seasoned, then, upon application made by the owner or possessor of such flour to one of the magistrates of the city or county where the dispute arises, he shall issue his warrant to three indifferent and judicious persons, one of them to be named by the owner or possessor of such flour, a second to be named by the officer and the third person to be named by the said magistrate, directing them,

the persons so named, to view and search the said flour and to make report to him forthwith according as they shall find the same; and that if they shall find the said flour not merchantable that they certify to the said magistrate the cause thereof, and whether it be that the said flour wants due fineness, is musty or sour or the like, and if sour, whether such sourness is occasioned by the greenness of the timber whereof the casks are made or by being brought in any open boat, shallop, or upon the deck of any other vessel without a tarpaulin or cover or for any other and what cause, and the said magistrate is hereby empowered and required to give judgment agreeable to the report of the persons so named or to the report of any two of them, and in case the said flour on such report is judged unfit to be exported, the magistrate shall order it not to be exported under the penalty in the said act mentioned, and shall also award the owner or possessor of such flour to pay into the hands of the said officers one shilling for every cask so judged not fit for exportation and no more, besides reasonable costs, but in case the said flour on trial shall be found merchantable, the officer shall be adjudged to pay all the costs which shall accrue on every such trial.

Provided always, That if it shall appear by any of the reports of the triers aforesaid that the flour is found unmerchantable by fault of the miller, bolter, shallopman, flatman, carter or wagoner, that in every such case the owner of such flour shall or may recover the damages which he or she shall sustain, against such miller, bolter or the owner or master of any shallop, flat, cart or wagon by default of whom, or his or her servant or servants, such flour shall be damaged, with full costs of suit.

[Section III.] And be it further enacted by the authority aforesaid, That Thomas Prior, the younger, of Philadelphia, 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 John Priestly, of Bucks county, shall be and hereby is 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 that Edward Russell, of Chester, 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 said officers hereby appointed or hereafter to be appointed shall happen to die or shall by any accident be rendered incapable or shall knowingly suffer any flour to be shipped for exportation out of this province without trying every cask thereof as in the aforesaid act is directed, or shall neglect to keep a sufficient number of deputies to assist him in the execution of his office, whereby the possessor of such flour shall suffer any damage or delay or shall otherwise misbehave him or themselves therein, 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 city of Philadelphia or of the respective counties aforesaid, and they are hereby enjoined and required, on the conviction of the said officer of any of the crimes aforesaid, or on his death, to nominate and appoint some other fit person in his or their place or places, who shall thereupon be the officer for putting this act and the act hereinbefore in part recited in execution for the respective county until the assembly shall appoint another, the said officers so to be appointed first taking the qualification for the faithful and impartial discharge of their respective duties as by the aforesaid act is enjoined; and the said officers herein named shall and are enjoined on their qualifications aforesaid respectively to account for and pay to the overseers of the poor, for the use of the poor of the place where the forfeitures shall happen, once in three months or oftener, if thereunto required, all such sum or sums of money as shall from time to time arise from or be paid by the owners or possessors of such flour which shall so be adjudged not merchantable as aforesaid, deducting thereout six pence for every cask for the trouble and charges they shall respectively be at on the trial of every such case.

[Section IV.] And be it further enacted by the authority aforesaid, That the officers aforesaid shall continue in their respective offices from the publication of this act for the space of four years and from thence until the end of the next sitting of

of assembly and no longer, except they shall be reappointed by the assembly.

[Section V.] And be it further enacted by the authority aforesaid, That so much of the act before mentioned, entitled "An act to prevent the exportation of bread and flour not merchantable,"¹ as is hereby altered and supplied, shall be and is hereby repealed and declared null and void, but that all other clauses, matters and things in the said act contained shall be and are hereby declared to be in full force and virtue as fully to all intents, purposes and constructions as if this present act had not been made.

[Section VI.] And be it further enacted by the authority aforesaid, That this act shall continue in force for the term of seven years and from thence to the end of the next sitting of assembly and no longer.

Passed February 21, 1767. Referred for consideration by the King in Council, December 17, 1767, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXVI, Sections I and II, and the note to the Act of Assembly passed January 19, 1733-34, Chapter 332. Expired.

CHAPTER DXLIX.

AN ACT TO ENABLE THE OWNERS AND POSSESSORS OF THE MOYAMENSING MEADOWS, IN THE COUNTY OF PHILADELPHIA, TO KEEP THE BANKS, DAMS, SLUICES AND FLOODGATES IN REPAIR AND TO RAISE A FUND TO DEFRAY THE EXPENSES THEREOF.

Whereas there is a certain parcel of meadow land situate in the townships of Moyamensing and Passyunk, in the county of Philadelphia, beginning at the new bridge which crosses Hollander's creek, thence along the road leading from Joseph Turner's plantation into the road leading from Reynold Keen's house, now in the tenure of Jacob Whitman, to Passyunk road, thence round the several meadows of Reynold Keen, Samuel Wheeler, John Lownes and Jacob Bankson so far as is over-

¹ Passed January 19, 1733-34, Chapter 332.