

by the authority aforesaid, That the act, entitled "An act for limitation of actions,"¹ passed the twenty-seventh day of March, one thousand seven hundred and thirteen, shall not run or operate during the time courts of justice were shut in this state, nor during the time of any suspension act of this state in any action or distress prohibited to be made or brought by such act, under the penalty of taking depreciated money in full payment.

Passed April 3, 1781. Recorded L. B. No. 1, p. 422, etc. See the Acts of Assembly passed February 20, 1781, Chapter 927; June 21, 1781, Chapter 945.

CHAPTER CMXXXVI.

AN ACT TO PREVENT THE EXPORTATION OF BREAD AND FLOUR NOT MERCHANTABLE, AND FOR REPEALING AT A CERTAIN TIME ALL THE LAWS HERETOFORE MADE FOR THAT PURPOSE.

(Section I, P. L.) Whereas, the regulations hitherto made for the inspection of bread and flour have not been quite effectual and a variety of laws on the same subject tend to mislead the people:

[Section I.] (Section II, P. L.) Be it therefore enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That the act, entitled "An act to prevent the exportation of bread and flour not merchantable,"² passed the fourteenth day of October, one thousand seven hundred and thirty-three (excepting that part of it which repeals the act therein mentioned and called an act to prevent the exportation of bread and flour not merchantable), and the act, entitled "A supplement to the act, entitled 'An act to prevent the exportation of bread and flour not merchantable, and to the act which is an amendment thereof,'"³ passed on the sixth [sic] [ninth] day of October, one thousand seven hun-

¹ Passed March 27, 1713, Chapter 196.

² Passed October 17, 1733, Chapter 332.

³ Passed October 9, 1779, Chapter 855.

dred and seventy-nine, be and continue in force until the first day of October next, and that from and after that day the same acts be and the same are hereby repealed.

(Section III, P. L.) Provided always, That the millers and bolters shall be allowed until the first day of October next to sell and dispose of, for exportation, their flour in barrels of any other dimensions than those by the said acts, or any of them, prescribed.

(Section IV, P. L.) And whereas, it is the duty and interests of all governments to prevent fraud and promote the interests of just and useful commerce:

[Section II.] (Section V, P. L.) Be it therefore further enacted by the authority aforesaid, That from and after the said first day of October next all flour casks shall be made of good seasoned materials, well made and tightened with ten hoops, sufficiently nailed with four nails in each chine hoop and three nails in each upper bilge hoop, and of the following dimensions, viz.: The staves to be of the length of twenty-seven inches, but of different diameters at the heads according to their numbers, That is to say, casks, number one, shall be of the diameter of eighteen inches at the head; casks number two, sixteen inches and a half, and casks number three, fifteen inches and a half; that every miller or bolter of flour and baker of bread for transportation out of the state shall provide and have a distinguishable brand mark, which he shall cause to be entered with the clerk of the quarter sessions of the county where he doth reside, together with his name and place of abode, under the penalty of the sum of five shillings for every day during which he shall have exercised his said business of a miller, bolter or baker without such entry; for the making of which entries, the said clerk shall be entitled to the sum of one shilling each. And that every miller or bolter of flour or baker of bread shall, with his said mark, brand each and every cask of flour or bread before the same shall be removed from the place where the same was bolted or baked; and every miller or bolter shall also brand every cask of flour according to the respective diameters above specified with the said numbers one, two or three, and with the weight, respectively, under the penalty of

one shilling and six pence for every barrel of flour not hooped and nailed as aforesaid, and for every cask of flour or bread so removed and not branded as aforesaid.

[Section III.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said millers or bolters shall put in the cask number one, the full quantity or weight of two hundred and twenty-four pounds of flour; in the cask number two, the full quantity or weight of one hundred and ninety-six pounds, and in the casks number three, the full quantity or weight of one hundred and sixty-eight pounds of flour; and that if any miller or bolter shall use or pack with flour any other casks than [those] of three several sizes and dimensions aforesaid, he shall forfeit to the purchaser thereof the value or charge of such cask in his account; and that if any miller or bolter shall pack any casks of the said sizes or dimensions with a less quantity of flour than is above specified for the same, respectively, he shall forfeit the same casks and flour.

[Section IV.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That all wheat flour bolted for sale and transportation out of the state shall be made merchantable and of due fineness without any mixture of coarser and other flour.

[Section V.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That all casks wherein bread shall be packed, shall be weighed and the tare marked thereon, and if any person shall put a false or wrong tare on any cask of bread to the disadvantage of the purchaser, he or she shall forfeit for every cask so falsely tared the sum of five shillings; and the inspectors, or their deputies, respectively, upon suspicion or upon the request of the buyers, shall and are hereby required to unpack any such cask of flour or bread as aforesaid; and if there shall be a lesser quantity of flour than is above directed, or if the cask or casks wherein bread is packed shall be found to weigh more than is marked thereon, then the miller, bolter or baker, as the case may be, shall pay the charges of unpacking and repacking over and above the penalties aforesaid; but, otherwise, the said charges shall be paid

by the inspector or by the purchaser if the trial be made at his request.

[Section VI.] (Section VIII, P. L.) And be it enacted by the authority aforesaid, That every baker of bread for exportation, shall deliver with the said bread an invoice of the contents thereof, with his brand mark made thereon, together with his name signed thereto, under the penalty of forty shillings for every invoice delivered contrary thereto; and if any cask or casks of bread, upon trial, be found lighter than is set down in the invoice, such baker shall forfeit the bread and casks so falsely invoiced.

[Section VII.] (Section IX, P. L.) 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 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, 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 tarpauling to secure the same in case of rain.

[Section VIII.] (Section X, P. L.) And be it enacted by the authority aforesaid, That if the owner or possessor of any cart, wain or wagon, boat, flat or shallop shall 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 other place to the place of exportation, every such person shall forfeit, for every cask of flour or bread so damaged, the sum of one shilling.

[Section IX.] (Section XI, P. L.) And be it enacted by the authority aforesaid, That no merchant or other person whatsoever shall lade or ship any flour for transportation out of this state before he, she or they shall offer the same to the view and examination of the inspector of the port from whence the same is shipped, or intended to be shipped, or his deputy, under the penalty of five shillings for every cask. And the said in-

spector or deputy shall search and try the same by boring the head and piercing it through with a proper instrument, in order to prove whether it be honestly and well packed, as also to enable him to judge of the goodness thereof, and shall afterwards plug up the hole. And if the said inspector shall judge the same to be merchantable, he shall brand every such cask of flour, on the quarter, with the arms of the state of Pennsylvania, in a fair and distinguishable manner, for which he shall receive one penny for each cask, and no more. But if he shall judge such flour not to be merchantable, and the possessor or owner thereof shall acquiesce under such judgment, he shall, in such case, pay to the said inspector the said sum of one penny for each and every such cask, and on his refusal or neglect, the inspector may recover the same, as debts under forty shillings are recoverable, with costs of suit; and if the possessor of any flour shall offer to transport the same out of this state, without being approved and branded in the manner hereinbefore mentioned the same flour shall be forfeited.

[Section X.] (Section XII, P. L.) And be it further enacted by the authority aforesaid, That where any dispute shall arise between any of the said inspectors or their deputies with the owner or possessor, concerning the fineness or goodness of such flour or the goodness of the materials of which the casks are made, 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 shall arise, the said magistrate shall issue his warrant to three indifferent and judicious persons to be triers thereof (one of them to be named by the said owner or possessor, one by the said inspector or his deputy and the third by the said magistrate), directing the said triers to view and examine the said flour and make report to him forthwith touching the condition thereof, and that if they shall find the said flour not merchantable, that they certify to him the cause thereof, and whether it be that the said flour wants due fineness, is musty, 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 or 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 shall thereupon give his judgment agreeable to the report of the said triers, or any two of them; and in case the said magistrate shall, on such report, adjudge the said flour not to be merchantable, he shall award the owner or possessor thereof to pay into the hands of the said inspector one shilling for each and every such cask so adjudged to be unmerchantable, besides reasonable costs; but in case the said flour shall be found merchantable, the inspector shall be adjudged to pay all the costs which shall have accrued, and the said officer shall thereupon brand the said flour in the manner before directed. And if it shall appear, either by the report aforesaid or otherwise, that any flour is become unmerchantable by fault of the miller, bolter or shallopman, flatman, carter or wagoner in every such case the owner of such flour shall recover against the said miller, bolter, shallopman, flatman, carter or wagoner, by default of whom or of whose servant or servants such flour shall have been injured, the damages which such owner shall have sustained, with full costs of suit.

[Section XI.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the masters of ships and other vessels lading flour for exportation from this state shall, in their manifests, which in pursuance of the act, entitled "An act for regulating trade and navigation in this state,"¹ they are obliged to exhibit and deliver to the naval officer thereof, expressly and distinctly declare how many barrels of flour are shipped on board of their respective vessels, and by whom each parcel thereof is shipped, to which manifest or declaration the inspector aforesaid shall have free access and liberty to take abstracts thereof, and if any master of a vessel shall refuse or neglect to make such return to the naval officer as aforesaid, he shall, over and above the penalty in the said last named act mentioned, forfeit to the said inspector the amount of his fees for trying and examining the whole cargo of flour shipped on board of his vessel.

[Section XII.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That the said inspector, or

¹ Passed September 10, 1778, Chapter 815.

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 or other vessel whatsoever lying or being in any port or place of this state, or into any mill, store or granary within the same, to search for and discover any flour intended to be transported out of this state, and if the owner or possessor thereof, or their servants or others shall deny him or them entrance or if the said inspector or his deputies shall be in anywise molested in making such discovery as aforesaid, or if such owner or possessor shall refuse to permit the said inspector or his deputy to view or examine the same, every such person so offending shall forfeit and pay the sum of ten pounds for every such offense.

[Section XIII.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall counterfeit the aforesaid 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; for the second offense, the sum of ten pounds; and for the third offense 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 where the fact shall have been committed.

[Section XIV.] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That none of the said inspectors or their deputies shall, directly or indirectly, 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 who will sue for the same to effect in any court of record in this state, the one-half thereof to the use of the person or person so suing, the other half to be paid to the treasurer of the state for the public use. And every person or persons so offending and thereof convicted shall be and they are hereby disabled from acting thereafter in their respective offices.

[Section XV.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the said inspectors be empowered to appoint deputies under them, but before any

inspector or deputy shall do anything in his said office he shall take an oath or affirmation before any one justice of the peace of any county of this state, faithfully and impartially to perform his trust and duty to the best of his skill and understanding according to the directions of this present act.

[Section XVI.] (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That all and singular the fines, forfeitures and charges mentioned in this act, where the same, respectively, exceed not five pounds, shall be recovered in the same manner as other debts and demands under the said sum of five pounds are recoverable, and where the same exceed the said sum of five pounds they may be sued for and shall be recovered in any court of record in this state, by bill, plaint or information, wherein no essoin, protection or wager of law, nor more than one imparlance, shall be allowed, all which said fines and forfeitures not hereinbefore directed how to be applied shall be paid to the said inspector or his deputy, who shall keep a just and true account thereof, and shall, once in every year, at the time of appointing overseers of the poor, deliver unto the magistrates a true and exact list of all such fines and forfeitures, the one-half whereof he shall immediately pay into the hands of the overseers of the poor of the place where the forfeitures happen, and shall retain the other half to his own use. And if any of the said inspectors or deputies shall neglect or refuse to account and pay as aforesaid he shall forfeit his office.

[Section XVII.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That Jacob Bright be and he is hereby appointed inspector for the city and county of Philadelphia; and Adam Grubb, for the county of Chester; and Joseph McElvaine, for the county of Bucks. The said inspectors to hold their offices from the publication of this act for the space of four years, and from thence until the end of the next sitting of assembly, and no longer, except they shall be re-appointed by the assembly. And if any, or either of the said inspectors shall happen to die, or by any accident or otherwise shall be rendered incapable, or shall knowingly suffer any flour to be carried out of this state without trying every cask

thereof as aforesaid, 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, 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 before mentioned, and they are hereby enjoined and required, on the conviction of the said officer of any of the said crimes, or on his death, to nominate and appoint some other fit person in his or their place or places, who shall thereupon, on taking the said oath, be the inspector until the assembly shall appoint another to be invested with the powers and subject to the duties hereinbefore mentioned.

Passed April 5, 1781. Recorded L. B. No. 1, p. 423, etc. See the notes to the Acts of Assembly passed October 14, 1733, Chapter 332; October 6, 1779, Chapter 855, and the Acts of Assembly passed December 28, 1781, Chapter 956; March 9, 1783, Chapter 1017; September 15, 1784, Chapter 1112; September 12, 1789, Chapter 1433; September 30, 1791, Chapter 1595; April 18, 1795, Chapter 1862; March 16, 1798, Chapter 1975; March 15, 1800, Chapter 2144. Section XV of the Act in the text was repealed by the Act of Assembly passed March 31, 1860, P. L. 452.

CHAPTER CMXXXVII.

AN ACT TO VEST IN THE CONGRESS OF THE UNITED STATES, A POWER TO LEVY DUTIES OF FIVE PER CENTUM AD VALOREM, ON CERTAIN GOODS AND MERCHANDISE IMPORTED INTO THIS COMMONWEALTH, AND ON PRIZES AND PRIZE GOODS CONDEMNED IN THE COURT OF ADMIRALTY OF THIS STATE, AFTER THE FIRST DAY OF MAY, ONE THOUSAND SEVEN HUNDRED AND EIGHTY-ONE, AND FOR APPROPRIATING THE SAME.

(Section I, P. L.) Whereas, the Congress of the United States, by their act of the third day of February last, did resolve that it be recommended to the several states, as indispensably necessary, that they vest a power in Congress to levy, for the use of the United States, a duty of five per centum ad valorem, at the time and place of importation, upon all goods, wares and