

The Provincial Statutes of Lower-Canada, Being the second session of the fourth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1806.

46 George III – Chapter 4

An Act to repeal an Ordinance made and passed in the twenty fifth year of His Majesty's Reign, intituled, "An Ordinance to prevent the exportation of unmerchantable Flour and the false taring of Bread and Flour Casks," to regulate the packing and inspection of Four and Indian Meal, and to provide for ascertaining the quality of Biscuit in future. (19th April, 1806.)

Whereas an Ordinance was made and passed in the twenty fifth year of His Majesty's Reign by His Honor the Lieutenant Governor and Legislative Council of the late Province of Quebec, intituled, "An Ordinance to prevent the exportation of unmerchantable Flour and false taring of Bread and flour Casks;" And whereas it hath been necessary to make further and more efficient regulations regarding the same, Be it therefore enacted by the King's most Excellent Majesty by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America,' and to make further provision for the Government of the said Province." And it is hereby enacted by the authority of the same, that from and after the passing of this Act, the said Ordinance made and passed in the twenty fifth year of His Majesty's Reign, intituled, "An ordinance to prevent the exportation of unmerchantable Flour and false taring of Bread and flour Casks," shall be and the same and every part thereof, is hereby repealed.

II. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, each and every manufacturer of Wheat and packer of Flour, shall provide himself or themselves, with iron or other metal brands, containing his or their name or names wherewith he or they shall brand or cause to be branded, each and every Cask of Flour packed for sale or exportation, in a plain and distinguishable manner before delivery thereof, and previous to such inspection as is herein after provided, under the penalty of one shilling for each and every barrel of Flour so delivered without such Brand marks.

III. And be it further enacted by the authority aforesaid, that all Flour to be hereafter packed for exportation, shall be honestly and carefully packed in new oak, beech or ash Barrels, with heads of the same, well seasoned and bound with at least ten wooden hoops. three whereof at each end with a lining hoop within the chimes, the whole well secured by nails; and further, that each and every Cask shall have the tare or weight thereof legibly marked in large figures on the end, under the penalty of one shilling, for each and every Cask on which the same shall not be so marked at the time of packing the same, or which shall not be of one or other of the foregoing description of Barrels.

IV. And be it further enacted by the authority aforesaid, that it shall not hereafter be lawful to pack Flour in Barrels for sale or exportation, of any other than the following weights viz. containing ninety eight pounds nett, one hundred and ninety six pounds nett, or two hundred and twenty four pounds nett, avoir-du-pois weight, which weight shall be branded on one end of each and every Barrel, previous to the delivery thereof, under the penalty of one shilling, for each and every Cask offered for sale or inspection, without such brand mark.

V. And be it further enacted by the authority aforesaid, that in branding the different qualities or descriptions of Flour, the same shall be designated as follows, viz. that of the quality, called superfine, by the letters S.F: of the quality called fine, by the letter F: of the quality called middlings by the letters MID: and the quality called, Farine entire, by the letters ENT. by which latter description of Flour shall be understood the whole produce of the wheat when ground, excepting the course bran and pollard; and when the Wheat from which Flour of any of the above qualities hath been manufactured, was previously kilndried, the same shall be branded on each and every Barrel, either at length or by the letters KILN.D: and all Barrels or Hogsheads in which Indian Meal shall be packed, shall be branded by the packer, and the tare of the Cask marked on one end as well as the net weight thereof, and the Barrels in which Indian Meal shall be so packed, shall contain one hundred and sixty eight Pounds net avoir-du-pois weight of the said Meal.

VI. And be it further enacted by the authority aforesaid, that His Excellency the Governor, the Lieutenant Governor or Person administering the Government of the Province for the time being, shall and may from time to time, by and instrument under his Hand and Seal at Arms, nominate and appoint an Inspector of Flour and Meal in the respective Cities of Quebec and Montreal and in the Town of Three Rivers [Trois-Rivières], and it shall and may be lawful for said Inspectors respectively, by writing under their Hands and Seals. to appoint two or more Deputies to act under their immediate direction, and for whose conduct and capacity they shall be respectively responsible, and the said Inspectors and their Deputies so to be nominated and appointed, are severally hereby authorised and required, previous to the shipment for exportation, to examine and inspect each and every Barrel of Flour or Indian Meal, and to ascertain the respective qualities and condition thereof, by boring the head of each Barrel or Cask and probing the contents to the whole depth of the Cask, by an instrument such as is now used for that purpose, and after inspecting Flour or Meal, the said Inspectors and Deputy Inspectors, respectively, shall plug or cause to be plugged the hole bored in each Cask, for inspection.

VII. And be it further enacted by the authority aforesaid, that the said Inspectors to be appointed as aforesaid, shall provide and have a sufficient number of iron or other metal Brands for the use of themselves and Deputies, wherewith they shall respectively brand or cause to be branded, immediately after inspection, each and every Barrel of Flour and Meal, the words Quebec, Montreal or Three Rivers, as the case may be, and the initial of the Christian name and surname at full length of the Inspector with the quality thereof as herein before directed, and on every Barrel of such Flour or Meal as may on inspection be found of

unsound or unmerchantable quality, such Inspectors or their Deputies respectively, shall brand or cause to be branded the word, rejected, at full length and in plain legible characters, and in all cases where the quality of the Flour or Meal inspected may appear inferior to the bran mark of the Manufacturer or Bolter, it shall be the duty of the respective Inspectors and their Deputies, and they are hereby authorised and required to erase the same, and for such inspection and branding the said Inspectors respectively, shall be intitled to receive of and from the person who may have applied to them for each and every Barrel of Flour and Meal inspected and branded, the sum of Three Pence, and where a certificate of the inspection shall be required, the same shall be given by the said Inspectors or their Deputies without fee or reward, and if any Inspector or Deputy Inspector, shall knowingly and wilfully give an untrue or incorrect certificate of the quantity or quality of any Flour or Meal by him inspected, he shall forfeit and pay the sum of Twenty Pounds, and be dismissed from his office, and declared incapable of ever after filling the same. Provided always, that it shall be the duty of the said Inspectors and Deputy Inspectors, respectively, to examine each and every Barrel of Flour or Meal offered for inspection, and which shall have been packed in this Province, and in no case to brand the same unless the name of the Manufacturer or Packer and the net weight are branded and the tare legibly marked thereon as herein before provided. Provided always, that in all cases the person applying to the Inspector, shall be intitled to reimbursement of the price of inspection from the vendor, if such applicant be not the vendor himself.

VIII. And be it further enacted by the authority aforesaid, that if any dispute shall arise between any of the Inspectors or their Deputies, so to be appointed, and the proprietor or possessor of any Flour or Meal with regard to the quality or condition thereof, that upon application to any one of His Majesty's Justices of the Peace for the District where such Inspector or Deputy shall reside, the said Justice of the Peace shall issue a summons to three persons of skill and integrity, one whereof to be named by the Inspector, another, by the proprietor or possessor of the Flour, and the third by said Justice of the Peace, requiring the said persons immediately to examine the said Flour or Meal and report their opinion of the quality and condition thereof under oath (which oath the said Justice of the Peace is hereby authorised and required to administer) and their determination shall be final and conclusive, whether approving or disapproving the judgment of the Inspector or his Deputy, who shall immediately attend thereto, and brand or cause to be branded each and every Barrel of the qualities or condition directed by the determination aforesaid, and if the opinion of the Inspector or his Deputy be thereby confirmed, the reasonable costs and charges of re-examination to be ascertained by the said Justice, shall be paid by the said proprietor or possessor, or otherwise by the Inspector.

IX. And be it further enacted by the authority aforesaid, that it shall be lawful for the said Inspectors and their Deputies, respectively, having previously made oath before any of his Majesty's Justices of the Peace for the District, that he has or they have reason to believe that Flour or Meal is or are shipped or shipping on board any vessel or vessels for exportation, without having been inspected, and after receiving a Warrant under the hand and seal of such Justice for the purpose, to enter on board of any such ship or vessel, within

the limits of the District for which they may have been appointed, if the said vessel or vessels be not then cleared at the Custom House, and the same to search and examine, and if on searching, he or they shall find any Flour or Meal, (being part of the cargo of such ship or vessel,) that shall not have been inspected as provided by this Act, it shall be lawful for him or them to seize and detain the same, one half whereof for his or their own use and benefit, and the other half for the use of the prisoners detained in the Common Goal or House of Correction, as may be directed by any two of His Majesty's Justices of the Peace for the District, where such seizure may be made, and the master or commander of any ship or vessel who shall knowingly and wilfully receive into such ship or vessel, any quantity of Flour or Meal for exportation, which shall not have been previously inspected as by this Act is provided, or who shall by himself, his servants or seamen hinder or obstruct any Inspector in making such search as aforesaid, he shall for each Barrel of Flour or Meal, so received on board, forfeit and pay the sum of Ten Shillings, and for every such hindrance or obstruction, shall forfeit and pay the sum of Fifty Pounds.

X. And be it further enacted by the authority aforesaid, that each of said Inspectors and their respective Deputies, so to be appointed, shall, previous to entering upon the duties of their office take and subscribe the following oath, before one of His Majesty's Judges of the Court of King's Bench for the District wherein they shall be appointed, and shall lodge the same with one of the Prothonotaries of the said Court of King's Bench, to remain of record, and which said Prothonotary shall grant a Certificate thereof to such Inspector or Deputy Inspector, so often as thereunto required on payment of Two Shillings and no more, and each Inspector or Deputy Inspector may be called upon by any proprietor or possessor of Flour to produce such Certificate previous to his proceeding to inspect the same. Form the oath "I A B Inspector (or Deputy Inspector) of Flour and Meal for the City and District of Quebec and Montreal, or of the Town and District of Three Rivers, do solemnly swear that, to the best of my judgment, skill and understanding, I will faithfully, honestly and impartially fulfill, execute and perform the office and duty of and Inspector (or Deputy Inspector) of Flour or Meal according to the true intent and meaning of the Act of the Legislature of this Province, intituled, "An Act to repeal an Ordinance made and passed in the twenty fifth year of His Majesty's Reign, intituled, 'An Ordinance to prevent the exportation of unmerchantable Flour and the false taring of Bread and Flour Casks,' to regulate the packing and inspection of Flour and Indian Meal, and to provide for ascertaining the quality of Biscuit in future."

"So Help Me God."

XI. And be it further enacted by the authority aforesaid, that it shall not be lawful for any Inspector or Deputy Inspector of Flour or Meal to buy or sell, directly or indirectly, any of said articles for exportation, under the penalty of Twenty Pounds, for each and every contravention.

XII. And be it further enacted by the authority aforesaid, that if any of said Inspectors or Deputy Inspectors, so to be nominated and appointed, shall refuse or neglect, on application

to him or them made personally or by writing left at his or their dwelling houses on lawful days, between sunrise and sunset, by any proprietor or possessor of Flour or Meal, (and who shall not be at the time of such application employed inspecting Flour or Meal elsewhere) immediately or within two hours thereafter, to proceed to such inspection, shall, for every such neglect or refusal, forfeit and pay to such person so applying, on conviction thereof before any one Justice of the Peace on the oath of one credible witness, the sum of Five Pounds, over and above the damages occasioned by such refusal or neglect to the party applying.

XIII. And be it further enacted by the authority aforesaid, that if upon the inspection of any Cask or Barrel of Flour or Meal, the Inspectors or Deputy Inspectors respectively, shall discover any foreign substances mixed or blended therewith or packed therein, it shall be the duty of such Inspectors or Deputy Inspectors, and he and they are hereby authorised, enjoined and required immediately to seize the same, and to make report thereon to any one of His Majesty's Justices of the Peace under oath, and each and every person who shall or may hereafter be convicted in any of His Majesty's Courts of King's Bench or Quarter Sessions, of having wilfully and fraudulently mixed or blended any Flour or Meal by them packed for sale or exportation with any foreign matter, or shall, with a fraudulent intention, put or cause to be put any false tare or brand mark on any Cask of Flour or Meal by them packed for sale or exportation, shall, in every such case, be liable to a penalty not exceeding Twenty Pounds over and above the punishment to which they are now liable by the criminal Laws of this Province.

XIV. And be it further enacted by the authority aforesaid, that each and every Barrel of Flour or Meal brought into this Province from Upper Canada, or the United States of America, shall, previous to the exportation thereof, be inspected, and the Flour and Meal Casks branded by one of the Inspectors or their Deputies as herein before enacted.

XV. Provided always, that whereas Flour brought from beyond this Province being liable to injury from the weather in transportation, a greater trouble is thereby occasioned in the inspection, be it therefore further enacted by the authority aforesaid, that for the inspection and branding, as herein before directed, of all Flour not packed in this Province, the said Inspectors and their Deputies respectively shall be intitled to the sum of one penny per Barrel, over and above the allowance before mentioned.

XVI. And be it further enacted by the authority aforesaid, that from and after the first day of July next, it shall not be lawful to export from this Province, any Bread commonly called Biscuit, unless the same shall be of a wholesome and merchantable quality, and shall have been manufactured from wheathen Flour without any foreign mixture whatsoever, and that every Biscuit thereof shall have the initial letters of the name and surname of the Baker, who shall have manufactured the same stamped thereon, and upon due proof by the oath of one or more credible witnesses being made before any one of His Majesty's Justices of the Peace for the District, that any manufacturer or Baker has baked or is in the act of baking biscuit, of any other substance whasoever than wheathen Flour, such Justice shall issue his Warrant,

authorising a Constable of the District, to seize the same, and shall immediately thereafter issue a summons to two indifferent persons of skill and judgment, one whereof to be named by the said Justice, and the other by the manufacturer or baker in whose possession the seizure may have been made, and which said persons shall nominate a third, whereupon the said three persons so nominated shall make oath before the said Justice of the Peace that they will examine and fairly and impartially determine to the best of their skill and judgment, the quality of the Biscuit that shall have been so seized, and should they or any two of them be of opinion that the same hath been manufactured from any other than wheaten Flour, or hath been adulterated by any foreign mixture, then and in such case, the said manufacturer or baker shall forfeit a sum not less than two Shillings and Six Pence, nor more than Ten Shillings, for each and every quintal thereof so seized and condemned, and also, the reasonable expences of such examination, and should the said three persons or any two of them be of opinion, that the said biscuit hath been manufactured from wheaten Flour, according to Law, then and in such case, the said Justice of the Peace shall declare the seizure null and of no effect, and shall award a reasonable compensation for loss of time to such baker or manufacturer, which shall not in any case, exceed Ten Shillings current money per day, recoverable by distress and sale.

XVII. And be it further enacted by the authority aforesaid, that if any manufacturer or packer of Flour or any other person or persons whatsoever, shall, with a fraudulent view or intention, efface or cause to be effaced or obliterated from any Cask or Barrel of Flour or Meal, having undergone inspection, all or any of the Inspectors Brand marks, or shall counterfeit any thereof, or impress or brand the same on any Cask or Casks of Flour or Meal, or shall empty any Cask or Casks of Flour or Meal branded after inspection, in order to put into the same, other Flour or Meal for sale or exportation, such persons so offending, shall, for every such offence, respectively, forfeit and pay the sum of Fifty Pounds.

XVIII. And be it further enacted by the authority aforesaid, that all Fines Penalties, and Forfeitures imposed by this Act not exceeding Ten Pounds sterling, shall be recoverable by the Inspectors, Deputy Inspectors or any other person or persons suing for the same, in a summary way before any two of His Majesty's Justices of the Peace for the District, and shall in failure of payment, be levied by Warrant of distress to be issued by such Justices against the goods and chattles of the offender, and where the same shall exceed the sum of Ten Pounds sterling, it shall be sued for and recovered by Bill, Plaint, or Information before the Judges of His Majesty's Courts of King's Bench, and levied by execution as in cases of debt, and one moiety of all such fines and forfeitures, (except such as are herein before otherwise applied,) when recovered, shall be immediately paid into the hands of His Majesty's Receiver General, for the use of His Majesty, towards the support of the Government of this Province, and shall be accounted for to His Majesty through the Commissioners of His Majesty's Treasury for the time being, in such manner and form, as His Majesty shall direct, and the other moiety to the person who shall sue for the same.

XIX. And be it further enacted by the authority aforesaid, that if any action or suit shall be brought or commenced against any person or persons for any thing done in pursuance of

this Act, such action or suit shall be commenced within six months next after the matter or thing done, and not afterwards, and the defendant or defendants in such action or suit, may plead the general issue, and give this Act and the special matter in evidence, at any trial to be had thereon, and if afterwards judgment shall be given for the defendant or defendants, or the plaintiff or plaintiffs shall be non-suited or discontinue his, her, or their action or suit, after the defendant or defendants shall have appeared, then such defendant or defendants shall have treble costs awarded against such plaintiff or plaintiffs, and have the like remedy for the same as any defendant or defendants hath or have in other cases to recover costs at Law.