

CAP. XVII.

An Act for the better Regulation of Sales by Auction.

Passed 10th February 1829.

WHEREAS Sales by Public Auction or Preamble.
 Outcry, have, of late, much increased, and tend to the injury of the regular Trade of the Province: And whereas doubts have arisen whether under the Act now in force, the Auction Duty can be exacted on the sales of large quantities of Goods which are sold by Auctioneers, at, or shortly after the times of holding their Public Sales, and which ought to be subject thereto: And whereas other provisions are deemed necessary to enforce the more punctual collection of the duty; and for the better regulation of such Sales—

I. *Be it therefore enacted by the Lieutenant-Governor, Council and Assembly,* That from and after the time hereinafter limited and appointed for this Act going into operation, the Act passed in the twenty-sixth year of the reign of His late Majesty King George the Third, intituled, “An Act to regulate the Sale of Goods sold at Public Auction or Outcry,” be, and the same is hereby declared to be repealed, 26. Geo. 3, c. 44, repealed. saving saving right of recovering Duties. nevertheless the right of recovery of all the Duties and Penalties which are now due, or hereafter may become due or be incurred, under and by virtue of the said Act.

II. *And be it further enacted,* That there be granted to the King’s most Excellent Majesty, His Heirs and Successors, for the use of this Province, and for the support of the Government thereof, the rate and duty hereinafter mentioned, that is to say.—

On all Goods, Chattels, Wares, Merchandize and effects whatsoever, sold by Public Vendue, Auction or Outcry, within this Province the sum two poundsten shillings for every hundred pounds Goods sold at Auction subject to a Duty of two and a half per cent.

of

of the value or price at which the same shall be sold, and after the same rate for every greater or lesser sum; and that all Goods sold by any Vendue Master or Vendue Masters, Auctioneer or Auctioneers (not being really and bona fide, either wholly or in part, his or their property) at or near the place and during the time, or within twenty-four hours after the time of any Auction; also all such Goods bargained or treated for during that period, the sale of which may be afterwards effected, shall be deemed and taken to be Goods sold by Auction and subject to the aforesaid Duty.

III. *Provided always, and be it further enacted,* That all Goods belonging to the Crown, or seized by any public officer or officers, for, or on account of any forfeiture or forfeitures, penalty or penalties, houses, cattle, lands, ships, vessels and salt, goods and effects of deceased persons, or goods distrained for rent, or taken in execution; effects of insolvent debtors, goods damaged at sea and sold on account of the owners or insurers, within twenty-one days after the same shall be landed, shall in no wise be subject to, but are hereby altogether exempted and declared free from the duty before mentioned.

IV. And in order more effectually to secure the duty hereby imposed as aforesaid. *Be it further enacted,* That no Vendue Master or Vendue Masters, Auctioneer or Auctioneers, already appointed or hereafter to be appointed, shall presume to sell or dispose of any goods, chattels, wares, or merchandise, or effects, by Public Vendue, Auction, or Outcry, until he or they shall have first given Bond to our Sovereign Lord the King, His Heirs and Successors, with two good and sufficient Sureties, to be approved of by the Treasurer or Deputy Treasurer, as the case may be, conditioned for the payment of the duties hereinbefore mentioned, to the Treasurer of the Province for the time being,

What Goods shall be deemed to have been sold by Auction.

Goods exempted from Duty.

Auctioneers to give Bond with two Sureties to be approved by the Treasurer or his Deputy, for the payment of the Duties.

being, or his Deputy; and for his or their good behaviour, and due observance of this Act; such Bond, if within the City of Saint John, to be taken in the penal sum of five hundred pounds; and if within any other part of the Province, to be taken in the penal sum of two hundred Pounds.

Amount of Bonds.

V. *Provided always, and be it further enacted,* That if at any time hereafter, it should happen that any person or persons, so becoming Surety for any Vendue Master or Auctioneer, should die, remove from the Province, or become insolvent, or in the opinion of the Treasurer or Deputy Treasurer, as the case may be, insufficient; it shall and may be lawful for such Treasurer or Deputy Treasurer, to require such Vendue Master or Auctioneer, to enter into a new Bond, with other good and sufficient Sureties, conditioned as aforesaid; and if such Vendue Master or Auctioneer shall refuse or neglect to give such Security, within one month after being required so to do, he shall be deemed and taken to have forfeited his appointment or licence.

Sureties dying, removing from the Province, or becoming insolvent, Treasurer may require new Bonds to be given,

and if not given within one month, Licence forfeited.

VI. *And be it further enacted,* That every Auctioneer or Vendue Master shall, at or within ten days after the expiration of every three months, to be computed from the time at which this Act goes into operation, render a just, exact, and true account in writing, upon oath, to the Treasurer of the Province for the time being, or to the Deputy Treasurer of the District within which the sales shall take place, of all and singular the goods, chattels, wares, and merchandise, with the amount thereof, which he or they may have sold within the period for which such account is rendered, and which are made subject and liable to duty by this Act, and shall forthwith pay to the said Treasurer or Deputy Treasurer, as the case may be, the full amount of duties on such sales;

the

Auctioneers to account every three months and pay over Duties to the Treasurer or Deputy.

For Form of Oath
see Schedule.

the oath required by this Section to be according to the form set forth in the Schedule to this Act, or to that effect: And if any Vendue Master or Auctioneer shall neglect or refuse to deliver such account on oath, and pay the duties as herein directed, he shall, for each and every offence, forfeit and pay the sum of fifty pounds.

Auctioneers selling
without Licence or
having given Bond,
to forfeit, £100.

VII. *And be it further enacted,* That any person or persons presuming to sell or dispose of any lands, tenements, ships, vessels, goods, wares, or merchandise, by Public Vendue, Auction, or Outcry, without being thereunto duly licenced and appointed, and without having given Bond as directed by this Act, shall for every offence forfeit and pay the sum of one hundred pounds: *Provided Always,* that nothing herein contained shall extend or be construed to affect sales made under the process, order, or decree of any Court of Justice, or by any public officer or officers, or by any Executor or Administrator of the lands or effects of the Testator or Intestate, or of any property, real or personal, belonging to the Crown.

Not to extend to
sales under Process
of Law, or by public
officers, or by
Executors, or of
property belonging
to the Crown.

Penalties how re-
covered and applied.

VIII. *And be it further enacted,* That the Penalties imposed by the sixth and seventh Sections of this Act, shall, and may be recovered by information to be made and filed by His Majesty's Attorney-General, in the Supreme Court of Judicature; and the said Penalties, after deducting the costs and charges of prosecution, shall be paid into the Treasury of the Province for the use of the same.

Treasurer to require
Returns and ac-
counts and to pro-
ceed against delin-
quent Auctioneers.

IX. *And be it further enacted,* That it shall be the duty of the Treasurer of the Province, and the Deputy Treasurers within their respective Districts, to require the returns and accounts to be regularly made as directed by this Act; and to cause proceedings to be instituted against such Vendue Masters, or Auctioneers as neglect or refuse to render the same; and it shall

shall and may be lawful for such Treasurer and Deputy Treasurers, respectively, to examine, upon oath any Vendue Master or Auctioneer, as to any sales made by him, or touching the sale of any goods by auction, or which may be considered by the said Treasurer or Deputy Treasurer, subject to Duty under this Act.

Treasurer may examine Auctioneers on Oath.

X. *And be it further enacted*, That every Vendue Master or Auctioneer, who may be licenced or appointed within any of the Counties of this Province, (the City of Saint John excepted,) shall pay to the Treasurer of the County, within ten days after the beginning of every year, such yearly sum as the Justices of the Peace of the County; at any General Sessions of the Peace, may direct and appoint, not exceeding ten pounds per annum, the same to be applied in like manner as other County Rates; and every Vendue Master or Auctioneer, neglecting or refusing to pay the same, shall forfeit and pay the sum of twenty pounds, to be sued for and recovered by the County Treasurer for the time being, in his own name by action of debt, in any Court of competent Jurisdiction, together with Costs of Suit; and the same, when recovered, to be applied as above mentioned, in which action any Inhabitant of the County shall be considered a competent witness.

Auctioneers in the several Counties, except St. John, to pay within ten days after the beginning of each year, such sum not exceeding £10 as the Justices shall appoint

to be applied as other County Rates.

Auctioneers for neglect to forfeit £20

Inhabitants of the County made competent witnesses.

XI. *And whereas*, by the Charter of the City of Saint John, the Mayor of the said City for the time being, is authorized and empowered to licence and appoint Vendue Masters and Auctioneers within the said City: *Be it further enacted*, That nothing in this Act contained, shall extend or be construed to interfere with the right so granted as aforesaid: *Provided always*, that no Vendue Master or Auctioneer so licenced or appointed, shall presume to sell without having given Bond as hereinbefore directed: *And provided also*, that every Vendue Master or Auctioneer

Act not to interfere with the Charter Rights of St. John.

Auctioneers in St. John to give Bond and to pay to the Chamberlain such sum not exceeding 30*l.* per annum, as the Corporation shall appoint.

Treasurer to keep distinct accounts of Auction Duties.

Auctioneers not to sell smuggled goods under penalty of 100*l.*

False Swearing made perjury.

Act to commence on 1st of May 1829.

tioneer, so licenced or appointed, within the said City, shall pay to the Chamberlain of the said City, for the use of the Mayor, Aldermen and Commonalty of the said City, such yearly sum as they may direct and appoint, not exceeding thirty pounds in any one Year.

XII. *And be it further enacted*, That the said Province Treasurer and the Deputy Treasurers, shall keep exact and distinct accounts of the monies arising from time to time by virtue of this Act, which may be by them respectively received.

XIII. *And be it further enacted*, That no Auctioneer or Vendue Master shall knowingly sell or dispose of any contraband or smuggled Goods, under the Penalty of one hundred pounds, to be recovered and applied in the manner and to the uses directed in and by the eighth Section of this Act.

XIV. *And be it further enacted*, That if any person or persons shall be guilty of false swearing in any affidavit, or upon any examination taken under and by virtue of this Act, such person or persons so offending, shall, on due conviction thereof, be liable to suffer the pains and penalties by Law imposed for wilful and corrupt perjury.

XV. *And be it further enacted*, That this Act shall commence and go into operation on the first day of May next.

SCHEDULE CONTAINING THE FORM OF AFFIDAVIT.

I, *A. B.*, [or we *A. B.* and *C. D.*,] do solemnly swear, in the presence of Almighty God, that the Account now exhibited by me, [or us,] and to which I, [or we,] have subscribed my name, [or our names,] contains a just and true account of all the goods, wares, merchandise and effects sold by me, [or us,] or any person or persons under me, [or us,] within the time in the said Account mentioned, which are liable to the Duty imposed by an Act of the General Assembly, intituled,

intituled, "An Act for the better regulation of Sales by Auction," and that to the best of my, [or our,] knowledge and belief; none of the goods mentioned in the said account, or sold by me, [or us,] within the period aforesaid, were Contraband or Smuggled.

So help me God:

Sworn at the

day of before

Treasurer, [or Deputy Treasurer.]

CAP. XVIII.

An Act relative to the Election of Charter Officers for Guy's Ward and Brook's Ward, in the City of Saint John.

Passed 10th February 1829.

WHEREAS by the second Section of an Act passed in the forty-third Year of the Reign of His late Majesty King George the Third, intituled, "An Act for altering the division of four of the Wards in the City of Saint John and for changing the mode of Elections, within the two other Wards in the said City," an alteration was made in the mode of electing Charter Officers for Guy's Ward and Brook's Ward; which alteration, in consequence of the increase of Population in the said Wards is now found inconvenient, and the Mayor, Aldermen and Commonalty of the City of Saint John have by their Petition to the General Assembly prayed that the said second Section of the said Act be repealed: Preamble.

I. *Be it therefore enacted by the Lieutenant-Governor, Council and Assembly,* That the second Section of the Act passed in the forty-third Year of the Reign of His late Majesty, intituled, "An Act for altering the division of four of the Wards in the City of Saint John, and for changing the mode of Elections within the two other Wards in the said City," be, and the same is hereby repealed. 43 Geo. 3, c. 3, repealed.

II.