

CAP. XLII.

An Act to regulate Sales by public Auction.

Passed 31st March 1831.

Preamble.

WHEREAS by the present Law for regulating Sales by Auction much Doubt has arisen as to the Construction of several Clauses: And Whereas several other Parts or Clauses in the said Law, are deemed injurious and oppressive to the Auctioneer, as well as to the general Interest of Trade and Commerce in this Province:

9 and 10 Geo. 4.
c 17,repealed, saving
the Right of re-
covering Duties.Duty of Two
and a Half *per*
Cent. granted
on all Goods
&c. sold by
Auction.Except Teas
imported direct
from China.

I. Be it enacted by the President, Council, and Assembly, That from and after the Time limited and appointed for this Act going into Effect, the Act passed in the Ninth and Tenth Years of the Reign of His late Majesty George the Fourth, intituled *An Act for the better Regulation of Sales by Auction*, be and the same is hereby declared to be repealed; saving nevertheless the Right of Recovery of all the Duties and Penalties which are now due, or may hereafter become due, under and by virtue of the said Act.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 herein after mentioned on Goods sold by Auction or public Outcry; 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 of Two Pounds Ten Shillings for every Hundred Pounds in Value sold as aforesaid, and at and after the same Rate for every greater or lesser Sum; Provided always, that the Auction Duties imposed by this Section, shall not extend to any Teas imported direct from China.

III. And be it further enacted, That all
Goods,

Goods, Wares and Merchandize advertised or exhibited for public Sale by any Auctioneer or Vendue Master, shall be liable and subject to the Duty aforesaid if sold during or within Twelve Hours after the Commencement of such Sale: 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 Penalty, Houses, Cattle, Lands, Ships, Vessels, Salt, Coal, Household Effects, Agricultural Products, and Manufactures of this Province or Nova Scotia, 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 Auctioneer, already appointed or hereafter to be appointed, shall sell or dispose of any Goods, Chattels, Wares, Merchandize 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 herein before mentioned, to the Treasurer of the Province for the Time being, or to his Deputy; 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 this Province, in the penal Sum of Two hundred Pounds.

V. Provided always, and be it further enacted, That

Goods sold within Twelve Hours after the Commencement of the Sale to be liable to the Duty.

What Goods shall be exempted from Duty.

Bonds with Sureties to be given by Auctioneers.

Amount.

If the Sureties die, remove from the Province, &c. new Bonds to be given.

That should any Person or Persons so becoming Surety for any Vendue Master or Auctioneer die or 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 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 Licence or Appointment.

Auctioneers to render Accounts of Duties and pay over the Amount every Three Months.

VI. And be it further enacted, That every Auctioneer or Vendue Master shall, at or within Thirty Days after the Expiration of every Three Months, to be computed from the Time at which this Act goes into Operation, render a just 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 Merchandize, 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 Oath required by this Act 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.

Penalty.

Penalty for selling by Auction without Li-

VII. And be it further enacted, That any Person or Persons who shall sell or dispose of any Lands,

Lands, Tenements, Ships, Vessels, Goods, Wares or Merchandize, by public Vendue, Auction or Outcry, without being First duly licensed and appointed, and without having First given Bond as directed by this Act, shall for each and 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 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.

cence and giving Bond.

Proviso.

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 the Prosecution, shall be paid into the Treasury of the Province for the Use of the same.

Penalties how to be recovered and applied.

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 Master or Auctioneer as shall neglect or refuse to render the same.

Treasurer or Deputy to require Returns and Accounts, and to cause Proceedings to be instituted if refused.

X. And be it further enacted, That every Vendue Master or Auctioneer who may be licensed 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 for the said County at any General Session of the Peace may direct and appoint, not exceeding Ten Pounds

Auctioneers (except in Saint John) to pay yearly such Sum, not exceeding Ten Pounds as the Justices shall direct.

Pounds *per Annum* ; the same to be applied in the 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 the 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.

Penalty.

Recovery.

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

Auctioneers in Saint John to give Bond and pay yearly a Sum not exceeding Thirty Pounds.

Distinct Accounts of the Duty to be kept.

Penalty for selling contraband Goods.

‘ 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 license 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 Rights so granted as aforesaid ; Provided always, that no Vendue Master or Auctioneer shall attempt to sell without First having given Bond as herein before directed ; and provided also, that every Vendue Master or Auctioneer so licensed 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,

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 Auctioneer or Auctioneers shall be guilty of false Swearing in any Affidavit taken under and by virtue of this Act, such Auctioneer or Auctioneers so offending shall, on due Conviction thereof, be liable to suffer the Pains and Penalties by Law imposed for wilful and corrupt Perjury. False Swearing
made Perjury.

XV. And be it further enacted, That this Act shall go into Operation on the First Day of May next. Limitation.

Schedule containing Form of Affidavit and Bond.

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 Goods, Wares, Merchandize and Effects sold by me [*or us*], or any Person or Persons under me [*or us*], within the Time set forth in the said Account, which are liable to the Duty imposed by an Act of the General Assembly, intituled *An Act to regulate Sales by public Auction.* So help me God. Affidavit.

Know all Men by these Presents, that We, _____, are held and firmly bound unto our Sovereign Lord the King, His Heirs and Successors, in the penal Sum of _____ of current Money of the Province of New-Brunswick, to be paid to our said Sovereign Lord the King, His Heirs and Successors; for which Payment well and truly to be made and done, we bind ourselves jointly and severally, our and each of our Heirs, Executors and Administrators, firmly by these Presents, sealed with our Seals. Dated _____ Bond.

this _____ Day of _____ in the Year of
Our Lord One thousand eight hundred and
_____.

Whereas in pursuance of an Act of Assembly passed in the First Year of His Majesty's Reign, intituled *An Act to regulate Sales by public Auction*, the above bounden _____ has been duly licensed and appointed an Auctioneer or Vendue Master, within the _____ County of _____ :

Now the Condition of the above written Obligation is such, that if the above bounden _____ shall and do from Time to Time, and at all Times hereafter, so long as he shall continue an Auctioneer or Vendue Master as aforesaid, render just, exact, and true Account upon Oath, to the Treasurer of the Province for the Time being, or the Deputy Treasurer (if any there shall be) within the District, of all and singular the Goods, Chattels, Wares and Merchandize which he the said _____ may from Time to Time sell, and which are liable to Duty under the said Act, and shall and do from Time to Time, well, truly and punctually pay to the said Treasurer or Deputy Treasurer, as in and by the said Act required, the full Amount of Auction Duty or Duties on such Sales, pursuant to the said Act, and shall in all Things well and truly obey and observe the Provisions of the said Act, then the said Obligation to be void, otherwise to remain in full Force and Virtue.

Sealed and delivered }
in the Presence of }

CAP. XLIII.

An Act to amend the Laws in Force relating to insolvent confined Debtors.

Passed 31st March 1831.

Preamble.

WHEREAS by an Act made and passed in the
the