

*The Provincial Statutes of Canada*, passed in the year 1841. Kingston: Stewart Derbishire & George Desbarats, 1841.

4 & 5 Victoria – Chapter 21

**An Act to make certain alterations in the Laws relative to the duty upon Sales of Property by Auction. 18th September, 1841.**

Most Gracious Sovereign,

Whereas certain duties are payable on goods sold by Public Auction in that part of this Province heretofore Upper Canada, and it is expedient that duties should also be levied in that part of this Province heretofore Lower Canada, to aid in the construction of the Public Improvements of the Province, May it therefore please Your Majesty, that it may be enacted; And be it therefore enacted by the Queens Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to Re-unite the Provinces of Upper and Lower Canada and for the Government of Canada*, and it is hereby enacted by the authority of the same, that all goods, wares, merchandise and effects which shall or may at any time or times from and after the first day of January next after the passing of this Act, be put up to sale at any Public Auction or outcry within that part of this Province called Lower Canada, by any Auctioneer, or by any person whomsoever duly qualified and licensed as by this Act is hereafter prescribed and directed, and sold to the highest bidder, shall be and are hereby declared to be subject to a duty of one pound for every hundred pounds of the value or price at which the same shall be sold, as aforesaid, and at and after the same rate for every greater or less sum, which duty shall be retained, and paid to the District Inspector by the Auctioneer who shall sell the same, out of the proceeds of the sale, in the manner hereinafter mentioned; and at the cost of the seller, unless it be expressly stipulated that the same shall be at the cost of the buyer, and so added to the amount bid by him.

II. And be it enacted, that no person whomsoever, other than a person licensed in the manner hereinafter prescribed, shall from and after the said first day of January next, after the passing of this Act, sell, dispose of, or expose to sale at Public Auction or outcry within Lower Canada, any goods, wares, merchandise or effects whatsoever; and that it shall be lawful for the District Inspector and he is hereby required by licence under his hand and seal, to authorize and empower any person, being a subject of Her Majesty, who shall or may apply for the same (being qualified as by this Act is hereinafter required) to act as Auctioneer within Lower Canada; and such license shall remain in force for one year from the date thereof; and the person receiving the same shall pay therefore to such Inspector the sum of five pounds currency, to be by him paid over to the Receiver General.

III. And be it enacted, that no License shall be granted to any person in the manner hereinbefore mentioned, until such person shall have entered into recognizance to our Sovereign Lady the Queen, with two good and sufficient sureties before the said Inspector, or before some person by

him duly authorized to that effect, in the sum of five hundred pounds, current money of this Province, with condition for the payment of the duty hereinbefore mentioned, to the District Inspector or to some person by him duly authorised to receive the same; and conditioned also that the person so licensed as an Auctioneer shall in all things well, truly and faithfully behave and demean himself according to the true intent and meaning of this Act; which recognizance the Inspector or person taking the same shall cause to be made in duplicate, and one duplicate shall be transmitted to the Receiver General and the other shall be left in the office of the Inspector.

IV. And be it enacted, that any person who shall sell or dispose of by Public Auction or outcry, any goods, wares, merchandize or effects on the sale of which a duty is by this Act imposed, without having a License, as aforesaid, then in force, shall forfeit the sum of one hundred pounds, currency, for each offence; and one moiety of such forfeiture shall belong to the prosecutor and the other moiety to Her Majesty, or if any Officer of the Crown be the prosecutor the whole shall belong to Her Majesty: and such forfeiture may be sued for and recovered by action at law in any Court of Record having competent civil jurisdiction in the place where the offence shall have been committed, or recovered in any way in which debts to the Crown may be recovered in Lower Canada: Provided always, that the prosecution or action shall be brought within three months next after the offence shall have been committed, and not afterwards.

V. Provided always, and be it enacted that the goods or effects belonging to the Crown and all goods or effects seized by any public officer in execution or under process of any Court, or as being forfeited, and all goods and effects of deceased persons or appertaining to any Dissolution de Communauté, or belonging to any Church, shall be free from the duty aforesaid, and may be sold by Auction without a license.

VI. And be it enacted, that the District Inspector who shall grant such license and cause such recognizance to be taken as aforesaid, shall take the sum of five shillings, and no more, for the said services.

VII. And be it enacted, that every Auctioneer qualified and licensed as in this Act is directed, who shall sell or dispose by public Auction or outcry, of any goods, wares, merchandize or effects, on the sale of which a duty is imposed by this Act, shall within the first ten days of each of the months of January, April, July and October in each year, render to the District Inspector or to some person by him authorized to receive the same, a just and true account in writing, signed by such Auctioneer or his Chief Clerk, Agent or Partner, stating the amount of all goods, wares, merchandize and effects on the sale of which a duty is imposed, as aforesaid, by him sold during the period for which no account shall have been previously rendered, stating also the amount of each day's sale; and such account shall be attested by the person making the same on oath (or affirmation if he be of the class of persons allowed to affirm in civil cases instead of taking an oath) in the following form:— "I \_\_\_\_\_ do solemnly swear (or affirm) that the account now exhibited by me and to which I have subscribed my name, contains a just and true account of the amount of all goods, wares, merchandize and effects sold by me (or by \_\_\_\_\_ as the case may be) within the time mentioned in the said account, and subject to duty on such sale, and of

the days on which the same were respectively so sold;—So help me God;” and such oath or affirmation may be made before any Justice of the Peace in and for any part of Lower Canada.

VIII. And be it enacted, that if any Auctioneer shall refuse or neglect to render such account, or cause the same to be rendered in the manner required by this Act, according to the true intent and meaning thereof, or to pay to the District inspector at the times hereby required, all monies due by him on account of such sales, he shall for such refusal or neglect, incur a forfeiture of one hundred pounds, currency, to Her Majesty, for the public use of the Province, which may, as well as the monies due for any such duties, be recovered with costs in any manner in which debts of like amount due to the Crown may be recovered in Lower Canada; and the said District Inspector may also cause a notice to be inserted in the public Gazette of this Province, declaring the person so in default to have forfeited his license as an Auctioneer, and such license shall be forfeited accordingly, and shall be thereafter of no effect, nor shall any new license be granted to such defaulter until after such forfeiture and debt shall have been paid and satisfied.

IX. And be it enacted, that any wilful false statement in any oath or a formation required by this Act, shall be deemed to be wilful and corrupt perjury, and the person convicted thereof, shall be liable to be punished accordingly.

X. And be it enacted, that all forfeitures or penalties recovered under this Act, or so much thereof as shall belong to Her Majesty, shall be paid over to the Receiver General, by the District Inspector or other person or persons receiving the same, within three months after they shall have been so received, and shall, as shall all other monies paid to him under this Act, form part of the consolidated Revenue Fund of this Province, and shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty’s Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

XI. And be it enacted, that the District Inspector may retain for his services under this Act, a sum equal to two and a half per cent on the duties by him collected under this Act; and that the recognizance given by any such District Inspector under the Act, passed in the present Session and intituled, *An Act to impose a duty upon Distilleries in that part of the Province heretofore called Lower Canada*, shall also be conditioned for the due payment to the Receiver General, of all duties received by such Inspector under this Act, and for the due performance of all duties hereby assigned to him.

XII. And in order to equalize the duties payable in such cases as aforesaid throughout this Province; Be it enacted, that from and after the said first day of January next after the passing of this Act, the duty payable on Sales by Auction under the provisions of the Act of the Parliament of Upper Canada, passed in the fifty eighth year of the Reign of His late Majesty King George the Third, and intituled *An Act granting to His Majesty a duty on Licenses to Auctioneers and on goods, wares and merchandise sold by Auction*, or any Act of the said Parliament continuing or amending the same, shall be one per cent on the amount of such sales, and no more; any thing in the said Act or Acts to the contrary notwithstanding.