



ANNO VICESIMO QUINTO ET VICESIMO SEXTO

VICTORIÆ REGINÆ.

A.D. 1862.

No. 9.

An Act to regulate Sales by Auction.

[Assented to, 21st October, 1862.]

WHEREAS it is expedient to amend the law relating to Sales by Auction—Be it therefore Enacted, by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

1. The Ordinances mentioned in the Schedule hereto are hereby repealed, save so far as is necessary to give validity to all licences granted and acts done in pursuance thereof respectively, to enable any penalty to be imposed, enforced, or recovered, or any punishment to be inflicted for any offence against the repealed Ordinance No. 9, of 1843, and also save so far as such Ordinance repeals any other Ordinance.

Repeal No. 9, 1843;
No. 6, 1848.

2. No person who shall exercise the trade or business of an Auctioneer or Seller by Commission, at any sale of any estate, horses, cattle, goods, or effects whatsoever, by outcry, knocking down of hammer, or any other mode of sale at auction, or whereby the highest bidder becomes the purchaser, or who, not being an auctioneer's clerk licensed as hereinafter mentioned, shall act in the capacity of an auctioneer, shall deal in, sell, or put up to sale, any estate, horses, cattle, goods, or effects whatsoever, by public sale or by way of auction as aforesaid, without previously having obtained a town or country licence in that behalf in manner hereinafter mentioned, in which licence shall be set forth the true name and place of business

Auctioneers must be
licensed according
hereto.

S-4

Town licence £25.

Country licence £10.

Persons employed to sell Government property, or authorized by law to make sales, exempted.

of the person taking out the same, and upon taking out such licence, paying down for the same the sum of Twenty-five Pounds sterling if for a town licence, and the sum of Ten Pounds sterling if for a country licence.

3. Every person employed to sell by auction any of the Waste Lands of the Crown, or Crown Lands, or any estate or interest therein respectively, or any goods, chattels, or other property of the Crown, and every person expressly authorized by any law to make any sale by auction, shall, so far as the sales which he may as aforesaid be employed or authorized to make, be exempted from the operation of this Act.

Certificates of licences to be obtained.

4. Every person who shall be desirous of obtaining an Auctioneer's licence (other than such as are licensed according to the provisions of the Ordinances hereby repealed) shall apply for the same to the Local Court, nearest to his usual place of residence, at a Court of Full Jurisdiction, and shall lodge such application with the Clerk of the said Court at least one week before the day of meeting, and the Magistrates present, if they be satisfied that such applicant is a fit and proper person, shall deliver to such applicant a certificate under their hands to that effect, and upon presenting such certificate (or in the case of Auctioneers holding licences in force at the passing hereof, on presenting such licence) to the Collector of Internal Revenue at the Treasury in Adelaide, or other proper officer in that behalf duly appointed, and upon payment of the licence fee or sum hereinbefore prescribed, such Collector or proper officer shall issue and deliver to the person so applying such a licence as is required by this Act.

No uncertificated insolvent to receive a licence or renewal of licence.

5. No person adjudicated an insolvent, shall, unless such adjudication be annulled, be entitled to receive a licence or renewal of a licence, until he shall receive a certificate under the provisions of the laws, for the time being, in force within the said Province respecting insolvency.

Effect of town licence and of country licence.

6. A town licence shall authorize the person holding the same to act as an auctioneer anywhere in the said Province, but a country licence shall only authorize the person holding the same to act as an auctioneer at any place in the said Province upwards of ten miles from the City of Adelaide; and every licence issued under this Act shall continue in force for a year from the date thereof unless such licence be a renewed licence; and in such case it shall continue in force for a year after the expiration of the last preceding licence, whether such preceding licence shall have expired at the time of the granting of the renewed licence or not.

Partnership licences.

7. When more than two persons in partnership as Auctioneers, constituting *bonâ fide* and in fact one firm, and having or proposing to have a place of business as Auctioneers within the City of Adelaide, or in some place within ten miles thereof, either with

*See my book on
for cuts pp 35-6
and "nearest" p. 8*

or without additional places of business in the same capacity in the country districts, shall apply in manner aforesaid to be licensed as partners, the proper officer shall, on compliance with the provisions hereof and on payment of Twenty-five Pounds each by two of the partners for their licences, issue partnership licences to the other member or members of such firm on payment of the sum of Ten Pounds each.

8. When any such Auctioneer shall apply for a licence to authorize his known clerk to act in his stead at sales by auction, the proper officer shall issue such a licence accordingly on payment of the annual sum of Ten Pounds sterling in addition to the licence-money payable by such Auctioneer as aforesaid: Provided always that in every such case such Auctioneer shall from time to time as occasion may require enter the name of such clerk at the office of the Collector of Internal Revenue, who shall register the same on payment for every such registration of a fee of Ten Shillings. Auctioneers' clerks.

9. Every person who shall take out any such licence as aforesaid is hereby required, if he desires to continue in business as an Auctioneer, to take out a fresh licence, ten days at least before the expiration of twelve calendar months after the taking out the first licence, and in the same manner to renew every such licence from year to year, paying the same regulated dues for every renewed licence; and the Collector of Internal Revenue, or other proper officer appointed in that behalf, shall, on the due application of the holder of a licence for any current year, issue and deliver to the person so applying, a fresh licence in renewal of the then subsisting licence of such person; but if any person licensed under this Act shall not renew his licence in manner aforesaid, and shall afterwards desire to renew the same, it shall be lawful for, but not obligatory on, such Collector or other officer to require such a certificate as would have been necessary if such person were then for the first time applying to be licensed. Renewals of licences.

10. If any person shall act as an Auctioneer without a valid and subsisting licence authorizing him in that behalf, every such person shall be liable for every such offence to forfeit and pay any sum not exceeding One Hundred Pounds, and to be imprisoned with or without hard labor for any period not exceeding three calendar months. Penalties.

11. All offences against this Act, or against the hereby repealed Ordinance No. 9, of 1843, whether committed before or after the commencement of this Act, shall be punished; and all fines and penalties under either the said Ordinance or this Act shall be recoverable upon summary conviction before two Justices of the Peace for the said Province. Mode of proceeding.

12. Any person may lay informations for any such offences.

Who may lay informations.

13. Every

Appeals.

13. Every person aggrieved by any conviction under this Act, or any informant whose information under this Act may have been dismissed, may appeal to the Local Court of Adelaide of Full Jurisdiction; and the proceedings on such appeal shall be conducted under the provisions of the Ordinance No. 6, of 1850, "To facilitate the performance of the Duties of Justices of the Peace out of Sessions with respect to Summary Convictions and Orders;" but the said Local Court may make any order as to the costs of such appeal, although such costs may exceed Ten Pounds.

Appropriation of penalties.

14. The money arising by all such fines, penalties, and forfeitures shall be appropriated to Her Majesty, Her heirs, and successors, for the public uses of the said Province and support of the Government thereof.

Short title.

15. This Act may be cited as "The Auctioneers' Act, 1862."

In the name and on behalf of the Queen I hereby assent to
this Act.

D. DALY, Governor.

SCHEDULE.

Reference to and Date of Ordinance.	Title of Ordinance.
1843, No. 9. Nov. 1, 1843	An Ordinance further to regulate Sales by Auction
1848, No. 6. August 2, 1848	An Ordinance to amend an Ordinance (1st November, 1843, No. 9) further to regulate Sales by Auction