



ANNO TRICESIMO SECUNDO

VICTORIÆ REGINÆ.

A.D. 1868-9.

No. 12.

An Act for the Prevention of Frauds at Auction of Waste Lands of the Crown.

[Assented to, 30th January, 1869.]

WHEREAS it is expedient to make provision for the repression Preamble.
of certain abuses occurring at sales by auction of Waste Lands of the Crown—Be it therefore Enacted by the Governor 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. Every agreement, whether in writing or otherwise, whereby any person desiring or intending to purchase or obtain any Waste Lands of the Crown at any auction thereof, shall promise and agree, either directly or indirectly, to give or allow any sum of money, reward, benefit, or thing, to any other person, in consideration of such other person not bidding at any such auction, or of his not competing at any sale of such lands, or in consideration of his bidding to a limited amount only, or of his withdrawing from competition at any such auction sale, or in consideration of his doing any other thing with a view to, or which might have the effect of, enabling such intending purchaser, or some one for him and on his behalf, and for his use and benefit, to purchase or obtain any Waste Lands of the Crown in the said Province, at a lower price than that for which the same might, in the absence of such agreement, be sold, or which in any way might tend to prevent free and open competition, or diminish the price procurable for such lands, at such auction, shall be wholly illegal and void, both at law or in equity. Agreements preventing fair competition at auctions to be void.

2. Whenever

Frauds at Waste Lands Sale Act.—1868-9.

Employment of more than one agent to bid or act at auction illegal and void, and the same to be evidence that agreement with both agents is in contravention of last preceding clause.

2. Whenever any person who has engaged or employed any other person to bid or act for him at any such auction sale, shall, directly or indirectly, employ or agree to employ, or be party or privy to the employment of, any second or other person to bid or act for him in any manner at the same auction sale in the purchase of any Waste Lands of the Crown, the agreement with or employment of such second person shall be wholly illegal and void both at law and in equity, in the same manner as is declared in respect of agreements under the last preceding clause, and the employment of such second or other person shall be conclusive evidence that the agreement originally entered into with the person who was first employed, has been so entered into contrary to the provisions contained in the last preceding clause, and the same shall be wholly illegal and void, both at law or in equity.

Agreement to pay more than 6d. per acre void.

3. Any agreement by any person to pay more than the sum of Sixpence per acre to any other person for bidding or acting for such first-mentioned person at any such auction sale, shall be absolutely illegal and void.

Any money or reward received under any illegal agreement to be forfeited, and recoverable by any one suing for the same.

4. Every person who shall directly or indirectly take and receive any sum of money, bill, note, reward, premium, or thing whatsoever in pursuance of any such agreement as is herein declared to be void, or in consideration or payment of any negotiation, arrangement, or act on his part which it is herein declared would be illegal if agreed to be done, shall forfeit such sum of money, bill, note, reward, premium, or thing, and such sum of money, or the value of such bill, note, reward, premium, or thing, or an amount equal to the full value of the consideration paid, shall be recoverable at law by whosoever shall sue for the same within twelve months, whether such person suing be the person who made such agreement or paid such money, or gave such reward or thing, or any other person or persons whatsoever, in any Court of law in the said Province, having jurisdiction to hear a claim of like amount.

Certain proposals and arrangements to subject agent to forfeiture.

5. Whenever any person shall offer or propose to any intending purchaser, not being the principal for whom he is lawfully acting at any such auction sale, to bid in any particular manner, or not to bid except in some particular manner, or to bid to a certain limited extent only, or for certain waste lands only, in consideration of such intending purchaser's bidding or not bidding for, or purchasing or not purchasing certain specified waste lands, to be sold at any such auction, or shall offer, or propose to enter into any agreement which would be illegal under any of the provisions of this Act, such person, shall forfeit the full value of the lands, which formed the subject of such offer, proposal, or illegal agreement, or a sum of One Hundred Pounds, whichever shall be highest in amount; and such amount may be sued for and recovered in the manner hereinbefore provided in the last preceding clause.

6. Whenever

Frauds at Waste Lands Sale Act.—1868-9.

6. Whenever any person shall endeavor to induce any intending purchaser at any such auction to enter into any agreement which would be illegal and void under this Act, or shall offer and propose to make any agreement or arrangement for making which any forfeiture or penalty is provided under this Act, or shall make any such offer or proposal as mentioned in the last preceding clause, under, by means of, or accompanied with any threats or representations respecting the future biddings, purchases, competition, or respecting any particular course of proceeding of such person at any such auction sale, he shall forfeit twice the full value of the lands, which formed the subject of such offer, proposal, or illegal agreement, or a sum of Two Hundred Pounds, whichever shall be highest in amount; and such amount may be sued for and recovered in the manner hereinbefore provided for in the third clause.

Certain proposals and agreements made under and with threats subject to double forfeiture.

7. In any action, suit, or proceeding under this Act, all parties to any agreement, and all persons making or receiving any offer or proposal, with or without threats, as hereinbefore described, shall be obliged and compellable to give evidence upon all matters touching or relating to such agreement; and no information, or prosecution shall be preferred or maintained against any person for conspiracy in connection with or in consequence of any such agreement, offer, or proposal, if such person, being summoned as a witness, shall answer all questions that may be asked of him in relation to such agreement, offer, or proposal; and he shall not be convicted, by any evidence whatever, as guilty of conspiracy, in respect of any act done by him, if he, at any time previous to any information being laid against him for such offence, shall have fully disclosed such act on oath, under the compulsory process of any Court of law or equity, in any action, suit, or proceeding instituted under this Act.

Parties compellable to give evidence, but shall not be prosecuted for conspiracy, nor convicted if indicted when act charged has been previously disclosed on oath.

8. This Act may be cited as the "Frauds at Waste Lands Sale Act." Short Title.

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

F. G. HAMLEY, Governor.