

WESTERN AUSTRALIA

ANNO TRIGESIMO SEPTIMO

VICTORIÆ REGINÆ

No. 3

An Act to Repeal the Duties on Sales by Auction and to impose a new Duty on the License to be taken out by all Auctioneers in Western Australia.

[Assented to 8th July, 1873.]

WHEREAS it is expedient to repeal the Acts and Ordinances now in force for regulating the licensing of auctioneers and the collection of duties on property sold by auction: Be it enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. From and after the passing of this Act the said last-mentioned duties and all other duties now payable in Western Australia upon or for or in respect of auctioneers and auctions or sales at auction and all clauses, regulations, provisions, powers and authorities, exemptions, penalties and things contained in the several Acts and Ordinances of the Legislative Council of Western Australia passed in the third year of the reign of Her Majesty No. 1, in the sixth year of the reign of Her said Majesty No. 10, in the tenth year of the reign of Her said Majesty No. 2, and in the sixteenth year of Her said Majesty No. 13, are hereby repealed, save and except for the purpose of recovering any duties on auctions or any arrears of such duties or any fine, penalty, or forfeiture relating to auctions, or for allowing any exemptions from duties which have been incurred or become due or allowable at any time before the passing of this Act; but that all and every such regulations and provisions, powers and authorities, and all bonds for securing the payment of any such duties on auctions, in force at and immediately before the passing of this Act, shall be and remain in full force and effect for the levying and collecting the said last-mentioned duties, and arrears of duties, fines, penalties, and forfeiture, and for allowing the said exemptions.

Duties on sales
by auction
repealed

2. Sections A, E, F, G, H, of the shortening Ordinance 1853, 16 Victoria, No. 11, shall be incorporated with and form part of this Act.

Enforcing of
penalties

3. Every person who shall sell or offer for sale any goods or chattels, lands, tenements, or hereditaments or any interest therein at any sale, where any person or persons become the purchasers of the same by competition, and being the highest bidder, either by being the single bidder or increasing on the biddings made by others, or decreasing on sums named by the auctioneer or person acting as auctioneer, or other person at such sale, or by any other mode of sale by competition,

Interpretation of
term 'act as an
auctioneer.'

Auctioneers

shall (except as hereinafter in this Act mentioned) be deemed to act as an auctioneer within the meaning of this Act.

Licenses

4. From and after the passing of this Act licenses to act as an auctioneer shall be of three kinds: A general license, a country license, and a district license. A general license shall authorise the holder to act as an auctioneer in any part of the Colony. A country license shall authorise the holder to act as an auctioneer in any part of the Colony except within the limits of the city of Perth and town of Fremantle. A district license shall authorise the holder thereof to act as an auctioneer within the district of any Resident Magistrate or Police Magistrate that may be named in the license except Perth and Fremantle. There shall be payable for and in respect of such licenses the sums following, that is to say: for a general license twenty-five pounds; for a country license fifteen pounds; for a district license five pounds. Such licenses shall respectively be in the forms given in the Schedules A, B and C to this Act, or to the like effect.

By whom licenses to be granted

5. Any licenses in the previous section mentioned shall be granted by the Colonial Treasurer or by any Sub-Collector of Revenue on payment by or on behalf of the applicant of the sum by the preceding section made payable in respect of the same; and any such license shall run and hold good for one year from the day on which it shall be granted; and after the expiration of such one year shall be utterly null and void to all intents and purposes whatsoever.

Penalty for acting as an auctioneer without license

6. Any person acting as an auctioneer within the meaning of this Act without having a license or having a country or district license so acting beyond the limits within which such license authorises him so to act shall be guilty of an offence; and such offence shall be cognisable in a summary manner before two Justices of the Peace and shall subject the offender for every such offence to a fine or penalty not exceeding one hundred pounds. Provided always that any person holding an auctioneer's license granted before the passing of this Act shall be deemed to be duly licensed to act as an auctioneer during the currency of such license to all intents and purposes.

No person to act as an auctioneer after sunset or before sunrise

7. No person shall act as an auctioneer after sunset or before sunrise on any day throughout the year; any person acting contrary to this prohibition shall be guilty of an offence, and such offence shall be summarily punishable before two Justices of the Peace in Petty Sessions, and shall render the offender liable to a fine or penalty not exceeding fifty pounds, and in the case of any such conviction the said Justices may if they think right cancel and withdraw the license of such offender.

Repeated as to Land by 44 Vic., No. 19, s. 2

Penalty

Temporary licenses

8. It shall be lawful for any Collector or Sub-Collector of Revenue or for any Police Magistrate or Resident Magistrate on payment to him of a fee of one guinea for each day to grant in writing a temporary license to any person licensed to act as an auctioneer, to sell by auction by his clerk or deputy in any place in which such licensed person is by his license authorised to act as an auctioneer; and such temporary license shall be in the form given in Schedule D to this Act or to the like effect; and such clerk or deputy shall thereupon be authorised to act as an auctioneer on behalf of the person to whom such license has been granted on the day or days for which the license has been granted.

Auctioneers

9. It shall not be necessary for any person to be licensed under the provisions of this Act to sell lands, tenements, or hereditaments, goods or chattels by auction in any of the cases hereinafter mentioned, that is to say: under a distress for rent or by order of a Justice or Justices of the Peace, or under process of execution issuing from or by order of the Supreme Court, or the Court for Divorce and Matrimonial Causes, or the Vice-Admiralty Court, or any Local Court, or any ships, vessels, or boats, their tackle, apparel, and furniture, or the cargoes thereof, which may be taken and condemned as prizes, and which shall be sold by or for the benefit of the captors thereof, or any ships, vessels, boats, or goods, which may be wrecked or stranded on any of the coasts of the Colony or found derelict at sea and sold by auction for the benefit of the insurers or proprietors thereof, or to defray charges of salvage.

Certain persons may in certain cases act as auctioneers without license

10. The short title of this Act shall be 'The Auctioneers Act, 1873.'

Short title

FRED. A. WELD,
GOVERNOR.

SCHEDULES

SCHEDULE A

FORM OF GENERAL LICENSE

In pursuance of 'The Auctioneers Act, 1873,'
, of
auctioneer, is hereby licensed, until the expiration of twelve calendar months from the date hereof, to act as an auctioneer in and throughout Western Australia.

SCHEDULE B

FORM OF COUNTRY LICENSE

In pursuance of 'The Auctioneers Act, 1873,'
, of
auctioneer, is hereby licensed, until the expiration of twelve calendar months from the date hereof, to act as an auctioneer in and throughout Western Australia, save and except within the limits of the city of Perth and town of Fremantle.

SCHEDULE C

FORM OF DISTRICT LICENSE

In pursuance of 'The Auctioneers Act, 1873,'
, of
auctioneer, is hereby licensed, until the expiration of twelve calendar months from the date hereof, to act as an auctioneer in and throughout the district of the Residen Magistrate at

Auctioneers

SCHEDULE D

FORM OF TEMPORARY LICENSE

Whereas A. B. of
is licensed to act as an auctioneer [*in and throughout Western Australia; or, in
and throughout Western Australia, save and except within the limits of the city
of Perth and town of Fremantle; or, in and throughout the district of the Resident
Magistrate at*], and is desirous of selling by auction by his clerk or deputy
on the day of next, at , being a place in which the
said A. B. is by his said license authorised to act as an auctioneer: These are to
certify that the said A. B. having paid to me the sum of one guinea, is authorised
to act as an auctioneer by his clerk or deputy on the said day of
next, at aforesaid.

(Signed)

Collector of Revenue.
or, Sub-Collector of Revenue.
or, Police Magistrate.
or, Resident Magistrate.
