

Hon. Mr. Dick.

AUCTIONEERS.

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A BILL INTITLED

AN ACT to consolidate and amend the Law relating to Auctioneers and Sales by Title.
Auction.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Auctioneers Act, 1880."

Short Title.

5 It shall not come into force until the first day of *October*, in the year one thousand eight hundred and *eighty*.

2. In this Act, if not inconsistent with the context,—

Interpretation.

10 For the purposes of this Act, and in reference to the districts mentioned in the first column of the *First* Schedule hereto, "local authority" and "District Fund" mean the bodies mentioned in the second column and the fund mentioned in the third column of the said Schedule:

"County" means a county not excepted from the operation of "The Counties Act, 1876:"

15 "Borough" includes every city, town, or borough incorporated under any enactment of the General Assembly or of any Provincial Legislature:

"District" means any district mentioned in the *First* Schedule hereto:

"Council" includes County Council, Borough Council, Municipal Council, and the Board or other governing body of any borough as herein defined:

20 "Treasurer" means the person acting as the Treasurer of the Council of any borough or county as herein defined, and includes the person who may be appointed by the Governor to receive fees and issue licenses in all other parts of the colony:

No. 2—1.

- “Sales by auction” or “to sell by auction” means the selling of property of any kind whatever, or any interest or supposed interest in any such property, by outcry, knocking down of hammer, candle, lot, parcel, instrument, machine, or any other mode whereby the highest or the lowest bidder is the purchaser, or whereby the first person who claims the property submitted for sale at a certain price named by the person acting as auctioneer is the purchaser, or where there is a competition for the purchase of any property or any interest therein in any way commonly known and understood to be by way of auction : 5
- “Auctioneer” means and shall apply to any person who sells or attempts to sell, or offer for sale or resale, property of any kind whatever, or any interest or supposed interest in any such property, by way of auction as herein defined : 10
- “Public notification,” “public notice,” “publicly notify,” respectively mean the insertion of a notice in one or more newspapers having general circulation in the district or place affected by the matter contained in such notification or notice. 15
- 3.** No person whatever, except as hereinafter mentioned, shall exercise the trade or business of an auctioneer or seller by commission at any sale by auction, or act in either such capacity at any sale by auction, unless he shall be duly licensed in manner hereinafter provided. 20
- Penalty.** Every person offending against this provision shall for every such offence be liable to a penalty not exceeding *one hundred* pounds, and shall be incapacitated from holding an auctioneer’s license for the space of three years.
- Licenses to be issued by local bodies.** **4.** Auctioneers’ licenses shall be issued by the Treasurer of any county or borough to any person who shall apply for the same, on payment into his office of the sum of *forty* pounds. 25
- License fee.** Provided that no Treasurer shall issue any such license to any person whose principal or sole place of business is not within the county or borough for which such Treasurer is appointed. 30
- Form and duration of license.** **5.** All licenses as aforesaid shall be signed by the Mayor of the borough or Chairman of the county wherein the same are issued, and countersigned by the Treasurer of such borough or county, in the form in the *Second* Schedule hereto, shall take effect on the day of their issue, and shall be in force for one year. 35
- License to extend over the colony.** In counties wherein the whole of “The Counties Act, 1876,” is not in operation, the Clerk of the County Council shall, for the purposes of this Act, be deemed to be the Treasurer of the county.
- Saving as to existing licenses.** **6.** Every auctioneer’s license, for so long as it is in force, shall authorize the holder thereof to conduct auction sales in any part of the colony. 40
- Partners to take out separate licenses.** **7.** Every auctioneer’s license in force at the commencement of this Act shall be deemed to have been granted under this Act, and shall remain in full force and effect until its expiration by effluxion of time or forfeiture.
- Publicans not to be auctioneers.** **8.** Where two or more persons carrying on business, or purposing to carry on business, in partnership together as auctioneers, apply to be licensed, each of such persons shall be liable to pay the same license fee as he would have been liable to pay if he had applied to be licensed separately. 45
- No uncertificated bankrupt to hold a license.** **9.** No person holding a publican’s license, nor any person in partnership with any such person, shall be competent to hold an auctioneer’s license under this Act. 50
- 10.** No person adjudicated a bankrupt shall, unless such adjudication be annulled, be entitled to receive a license or renewal of a license under this

Act until he receives a certificate of discharge under the provisions of the laws for the time being in force respecting bankruptcy or insolvency.

11. Every Treasurer shall, within ten days after the day fixed for the taking-effect of licenses, publicly notify a list of the persons to whom he shall have granted such license, setting forth their names, places of abode, and callings.

List of licensed auctioneers to be published.

12. No person so licensed shall exercise his business of an auctioneer by any artificial light, or after the hour of five o'clock in the afternoon from April to September inclusive, or after the hour of seven o'clock in the evening during the residue of the year.

Hours of business.

13. Any auctioneer licensed under this Act who shall permit any music to be played in any premises used as a saleroom and during the time any sale may be going on, or at the intervals thereof, excepting such as may be necessary for the trial of any instrument about to be sold or offered for sale, or shall hold a sale in any unsuitable room or building, of which the adjudicating Justices shall be the judges, or shall permit any riotous or disorderly conduct in any such saleroom, shall be liable to any penalty not exceeding *ten* pounds.

No music nor riotous conduct allowed in sale-room.

14. Any person, not being a licensed auctioneer, who shall have any words written, painted, or inscribed, or which may have been written, painted, or inscribed, and not thoroughly obliterated, over or about his house, window, or premises, which shall lead to the belief or supposition that such person is an auctioneer, or who shall place or cause to be placed any placard, board, writing, matter, or thing in the public view, to the intent that it may be believed or supposed that such person is an auctioneer, or that any property of any kind whatever or any interest therein is to be sold by auction by such person, shall be liable to a penalty not less than *twenty* pounds and not exceeding *one hundred* pounds.

Penalty on unlicensed person pretending to be an auctioneer.

15. Every licensed auctioneer who has improperly obtained a license contrary to the true meaning of this Act shall, in the discretion of any two Justices of the Peace, forfeit his license, and thereafter shall be deemed to be unlicensed.

License improperly obtained to be forfeited.

16. If any licensed auctioneer shall exercise his business at any time or in any manner contrary to the provisions of this Act, he shall for every such offence be liable to a penalty not exceeding *fifty* pounds.

Penalty for selling contrary to Act.

17. Every Treasurer who improperly issues a license contrary to the provisions of this Act shall be liable to a penalty not exceeding the amount of any license fee payable in respect of the license so issued by him.

Penalty for Treasurer improperly issuing a license.

18. In all proceedings against any person for having acted as an auctioneer without a license, such person, unless he shall produce his license or bring other satisfactory proof of his having been licensed at the time at which the offence shall have been committed, shall be deemed to have been unlicensed.

Non-production of license.

19. Nothing herein contained shall extend to any sale made by order of the Governor or of any Collector or Sub-Collector of Customs, or to any sale ordered by virtue of or in obedience to any writ or process issued by or out of any Court of law or justice, nor to any sale of any animals sold under the law relating to public pounds, nor to any sales made by or under the authority of the Council of any county, borough, or road district.

Sales excepted from Act.

20. All fees, fines, penalties, and other moneys payable under this Act shall be recoverable in a summary way, and shall be paid, the one moiety thereof, if the convicting Justices shall so order, to the person who shall sue for the same, and the other moiety thereof shall be paid into the District Fund.

Recovery and application of fees, fines, &c.

21. All expenses and costs incident to the administration of this Act shall be defrayed out of the District Fund.

Expenses of administration of Act.

Governor to provide for issue of licenses in certain parts of the colony.

Illegal sales prior to this Act not validated.
Repeals.

22. In all parts of the colony outside of boroughs and counties as herein defined, the Governor may appoint persons to issue licenses, and may prescribe the form of such licenses, and by whom they shall respectively be signed and countersigned.

23. Nothing in this Act contained shall be taken to render legal and valid any sale which before the commencement of this Act was contrary to law.

24. The several enactments enumerated in the *Third* Schedule hereto are hereby repealed.

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Schedules.

SCHEDULES.

FIRST SCHEDULE.

District of Local Authority.	Description of Local Authority.	District Fund.
Boroughs as herein defined. Counties as herein defined. Places in the colony not included in the above description.	Borough Council. County Council. The Governor.	Borough Fund. County Fund. The Consolidated Fund.

SECOND SCHEDULE.

FORM OF LICENSE.

Know all men by these presents that [name], of [borough or county], [trade or business], is hereby licensed to exercise the business or calling of an Auctioneer from the day of next, for the term of one year, the said having this day paid into my office the sum of *forty* pounds.

Given under my hand, at , this day of , 18 .

{ Mayor
[or
Chairman].
Treasurer.

THIRD SCHEDULE.

SCHEDULE OF ACTS AND ORDINANCES REPEALED.

(1.) *Ordinances of the Governor and Legislative Council of New Zealand.*

Sess. II., 1842, No. 13.—An Ordinance for licensing Auctioneers.

Sess. III., 1843, No. 10.—An Ordinance to amend an Ordinance for licensing Auctioneers.

(2.) *Acts of the Province of Auckland.*

Sess. XV., No. 9.—The Auctioneers Licensing Act, 1863.

Sess. XXVI., No. 2.—The Auctioneers Licensing Act 1863 Amending Act, 1871.

Sess. XXIX., No. 13.—The Auctioneers Licensing Act 1863 Amending Act, 1874.

(3.) *Ordinance of the Province of Taranaki.*

Sess. VI., No. 6.—The Auctioneers Licensing Ordinance, 1858.

(4.) *Acts of the Province of Nelson.*

Sess. V., No. 5.—The Auctioneers Licensing Act, 1858.

Sess. IX., No. 4.—The Auctioneers Licensing Amendment Act, 1862.

Sess. XV., No. 1.—The Auctioneers Licensing Amendment Act, 1867.

(5.) *Act of the Province of Marlborough.*

Sess. I., No. 6.—The Auctioneers Licensing Act, 1860.

(6.) *Ordinance of the Province of Canterbury.*

Sess. III., 1854, No. 3.—The Auctioneers Ordinance, Sess. III., No. 3.

(7.) *Ordinances of the Province of Otago.*

Sess. XVI., No. 99.—The Licensed Auctioneers Ordinance, 1862.

Sess. XXV., No. 283.—The Licensed Auctioneers Ordinance 1862 Amendment Ordinance, 1869.

Sess. XXVIII., No. 335.—The Auction Ordinance 1862 (Southland) Repeal Ordinance, 1870.