

SALES BY AUCTION.

1° AND 2° GEO. VI., No. XLIII.

No. 43 of 1937.

AN ACT to make certain provisions regarding the Sale of Cattle and Farm Produce by Auction.

[Assented to 18th January, 1938.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Sales by Auction Act*, Short title 1937.

2. In this Act, subject to the context—

“Auctioneer” means any person acting as an auctioneer within the meaning of section three of the Auctioneers Act, 1921, and its amendments. Interpretation.

“Cattle” means horses, mares, fillies, foals, geldings, colts, bulls, bullocks, cows, heifers, steers, calves, ewes, wethers, rams, lambs and swine.

“Farm produce” means wool, skins, hides, tallow, cereals, grain, vegetables, potatoes, onions, other edible roots and tubers, tobacco leaf, fruit, hay, chaff, dairy produce, honey, live or dead poultry and game, and eggs.

“Sales by auction” or “to sell by auction” implies the sale of any cattle or farm produce by outcry, knocking down of hammer, machine, or any other mode whereby the highest or the lowest bidder is the purchaser; or whereby the first person who claims the cattle or farm produce submitted for sale at a certain price named by the person acting as auctioneer is the purchaser; or whereby there is a competition for the purchase of any cattle or farm produce in any way commonly known and understood to be by way of auction.

Splitting of lots of cattle or farm produce purchased at auction an offence.

3. (1) Any person who induces or attempts to induce any other person to abstain from bidding at a sale by auction of cattle or farm produce, either generally or for any particular lot, by means of a promise, express or implied, that he will if he is the successful bidder for the cattle or farm produce—

- (a) give such other person the right to elect to take over as purchaser through the auctioneer all or any of the said cattle or farm produce at the auction price; or
- (b) agree to decide by tossing or the drawing of lots or any other method who is to become the owner of all or any of the said cattle or farm produce,

shall be liable for a first offence to a penalty of not more than ten pounds, and for a second or any subsequent offence to a penalty of not more than twenty-five pounds, or to imprisonment for a term of not more than one month.

(2) Any person who abstains or agrees to abstain from bidding at a sale by auction of cattle or farm produce as the result of a promise, express or implied, given to him—

- (a) that he shall have the right to elect to take over as purchaser through the auctioneer all or any of the said cattle or farm produce at the auction price; or
- (b) that the ownership of all or any of the said cattle or farm produce shall be determined by tossing or the drawing of lots or any other method,

shall be liable for a first offence to a penalty of not more than ten pounds, and for a second or any subsequent

offence to a penalty of not more than twenty-five pounds, or to imprisonment for a term of not more than one month.

4. (1) Any auctioneer or any clerk of an auctioneer who knowingly enters in any register or book kept or required to be kept by such auctioneer as the purchaser of any cattle or farm produce sold by auction any name other than the name of the actual successful bidder for such cattle or farm produce shall be liable for a first offence to a penalty of not more than ten pounds, and for a second or any subsequent offence to a penalty of not more than twenty-five pounds, or to imprisonment for a term of not more than one month.

Entry by auctioneer or clerk in register or book kept by auctioneer as purchaser of cattle or farm produce sold by auction any name other than the name of the actual successful bidder, an offence.

(2) If the clerk of any auctioneer enters in any register or book kept or required to be kept by such auctioneer as the purchaser of any cattle or farm produce sold by auction any name other than the name of the actual successful bidder for such cattle or farm produce the auctioneer shall, unless he proves to the satisfaction of the court that he did not know that a name other than the name of the actual successful bidder was entered as aforesaid, be guilty of an offence, and shall be liable for a first offence to a penalty of not more than ten pounds and for a second or any subsequent offence to a penalty of not more than twenty-five pounds, or to imprisonment for a term of not more than one month.

Auctioneer liable for incorrect entries by clerk.

(3) Notwithstanding anything in the foregoing provisions of this section, where the actual successful bidder at a sale by auction of any cattle or farm produce immediately after the auctioneer conducting such sale has indicated such actual successful bidder informs such auctioneer—

Provision for entry in register or book of name other than name of actual successful bidder in certain cases.

(a) that he bid for such cattle or farm produce on behalf of another person; and

(b) of the name of such other person, the said auctioneer or clerk shall not be guilty of an offence against the foregoing provisions of this section by reason of the fact that he enters in the register or book aforesaid as purchaser of such cattle or farm produce the name of such other person.

5. (1) Every auctioneer shall, before beginning any sale by auction of any cattle or farm produce, read or recite aloud a statement of the material parts of sections three and four of this Act: provided that, where on any

Copy of Act to be exhibited or read aloud at sales by auction of cattle or farm produce.

day successive sales by auction of cattle and farm produce are held at the same selling place and the foregoing provisions of this subsection are complied with by the auctioneer conducting the first of such sales, no auctioneer thereafter conducting any of such successive sales shall be required before commencing any of such sales to comply with such provisions: provided further, that when conditions of sale are not read or recited aloud before a sale by auction but are exhibited by means of notices in the yard or place where the sale is held, it shall be sufficient compliance with the provisions of this subsection if the material parts of sections three and four of this Act are incorporated in all of such notices in larger print or lettering than the conditions of sale and the notices are prominently displayed in such yard or place before and during the whole time occupied by the sale.

(2) Any auctioneer who fails to comply with the provisions of the last-preceding subsection shall be liable to a penalty of not more than ten pounds.

**Minimum
penalty.**

6. Wherever a pecuniary penalty is prescribed for an offence under this Act, the minimum penalty shall be one-quarter of the maximum penalty.

**Commence-
ment and
saving as to
wool.**

7. This Act shall come into force on the thirty-first day of December, one thousand nine hundred and thirty-seven: provided, however, that in so far as it relates to wool it shall not come into force until a day to be fixed by proclamation.