

CHAPTER 330

AUCTIONEERS

330.01 AUCTIONEERS' LICENSES, TO WHOM GRANTED.

HISTORY. 1854 c. 26 ss. 1, 2; P.S. 1858 c. 132 ss. 1, 2; G.S. 1866 c. 28 s. 1; G.S. 1878 c. 28 s. 1; 1889 c. 97 s. 1; G.S. 1894 s. 2295; 1895 c. 41; 1901 c. 158; R.L. 1905 s. 2813; 1909 c. 249; 1913 c. 11 s. 1; G.S. 1913 s. 6083; 1917 c. 87 s. 1; G.S. 1923 s. 7322; 1927 c. 173; M.S. 1927 s. 7322; 1937 c. 313 s. 1; 1941 c. 170; 1943 c. 311 s. 1.

The \$25.00 license fee for auctioneers, which the village was authorized to impose, was not so large as to be beyond the discretion of the legislature. *Village of Minneota v Martin*, 124 M 498, 145 NW 383.

Receiving from villages ten per cent of the fees paid to them for auctioneers' licenses, was wholly outside the scope of the official authority of the county auditor, and his sureties are not liable for his misappropriation of such funds. The county treasurer is the only person authorized to receive such payments. *County of Mower v American Bonding*, 133 M 274, 158 NW 394.

Land was sold by an auction company at a sale, the clerk being employed by the owner and the auction company. The buyer at the sale paid the purchase price to the clerk, receiving from him an earnest money contract providing for a refund of the money if owner's title was not, or could not be, made good within 60 days. The owner and purchaser accepted the terms, in writing. The owner could not so furnish title, nor was the money received by the clerk paid to him. It was held he could not cancel the contract, as the payment to the clerk was payment to him, and that the purchaser could enforce the contract or recover the earnest money paid. *Bondhus v Swenson*, 163 M 362, 204 NW 26.

An ordinance by which an established retail jeweler was required to obtain an auctioneer's license, at a minimum fee of \$250.00, to sell his merchandise at auction, was held of a prohibitory nature, and so unreasonable as to be invalid. *Orr v City of Rochester*, 193 M 371, 258 NW 569.

The delegation to a municipality of the power to license and regulate auctions and auctioneers, by ordinance, does not include by implication, the power to prohibit; and an ordinance requiring an established retail jeweler to obtain an auctioneer's license, at a minimum fee of \$250.00, is so unreasonable as to be invalid. *Orr v City of Rochester*, 193 M 371, 258 NW 569.

If an auctioneer acts for a disclosed principal, the principles of that relationship apply, and, unless the auctioneer does or says something to make himself responsible to the buyer, he is not liable as principal to buyer, but if he sells for an undisclosed principal, he becomes liable for a defect in title to the property sold or any misrepresentation as to its condition. *Farmers Bank v Folmer*, 217 M 513, 15 NW(2d) 13.

Folmer gave his check to the clerk of the auction; but stopped payment. The bank as owner of the check brought suit, and Folmer pleaded a counter-claim in that the cattle suffered from shipping fever, but was unable to sustain his claim. *Farmer's Bank v Folmer*, 217 M 513, 15 NW(2d) 13.

A resident of Iowa is not entitled to a license in this state. OAG Dec. 31, 1935 (16c).

The license held by an Iowa resident being void in this state, it constitutes a defense to criminal prosecution. OAG Dec. 31, 1935 (16c).

Resident of another state may be licensed in any county to conduct sales of pure-bred and grade live stock, upon paying fee and putting up bonds. OAG March 8, 1937 (16c).

A non-resident auctioneer cannot team up with a Minnesota licensed auctioneer, and conduct sales as agent of such Minnesota licensee, and under his license. OAG March 8, 1937 (16c).

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Following *Wright v May*, 127 M 150, 149 NW 9, the legislature has a right to restrict the granting of auctioneer licenses to citizens of the state. The law has since been modified by Laws 1941, Chapter 170, and Laws 1937, Chapter 213. The law is subject to the reciprocal provision of the statute. 1942 OAG 153, June 10, 1941 (16-B).

Reciprocal and retaliatory legislation. 21 MLR 383.
Auctioneers. 26 MLR 239.

330.02 BOND.

HISTORY. 1854 c. 26 s. 3; P.S. 1858 c. 132 s. 3; G.S. 1866 c. 28 s. 2; G.S. 1878 c. 28 s. 2; G.S. 1894 s. 2296; R.L. 1905 s. 2814; G.S. 1913 s. 6084; G.S. 1923 s. 7323; M.S. 1927 s. 7323.

330.03 ACCOUNT OF SALES.

HISTORY. 1854 c. 26 s. 5; P.S. 1858 c. 132 s. 5; G.S. 1866 c. 28 s. 4; G.S. 1878 c. 28 s. 4; G.S. 1894 s. 2298; R.L. 1905 s. 2815; G.S. 1913 s. 6085; G.S. 1923 s. 7324; M.S. 1927 s. 7324.

330.04 FORFEITURE FOR RECEIVING GOODS FROM MINORS OR SERVANTS.

HISTORY. 1854 c. 26 s. 4; P.S. 1858 c. 132 s. 4; G.S. 1866 c. 28 s. 3; G.S. 1878 c. 28 s. 3; G.S. 1894 s. 2297; R.L. 1905 s. 2816; G.S. 1913 s. 6086; G.S. 1923 s. 7325; M.S. 1927 s. 7325.

330.05 SALES IN UNAUTHORIZED PLACES; PENALTY.

HISTORY. 1854 c. 26 ss. 6, 7; P.S. 1858 c. 132 s. 7; G.S. 1866 c. 28 s. 6; G.S. 1878 c. 28 s. 6; G.S. 1894 s. 2300; R.L. 1905 s. 2817; G.S. 1913 s. 6087; G.S. 1923 s. 7326; M.S. 1927 s. 7326.

330.06 UNLICENSED SALES.

HISTORY. 1854 c. 26 s. 11; P.S. 1858 c. 132 s. 11; G.S. 1866 c. 28 ss. 5, 7; G.S. 1878 c. 28 ss. 5, 7; Ex. 1881 c. 36 s. 1; G.S. 1894 ss. 2299, 2301; R.L. 1905 s. 2818; G.S. 1913 s. 6088; G.S. 1923 s. 7327; M.S. 1927 s. 7327; 1943 c. 297 s. 1.