



ANNO TRICESIMO OCTAVO ET TRICESIMO NONO

VICTORIÆ REGINÆ.

A.D. 1875.

No. 13.

An Act for the Suppression of Lotteries and of Unlawful Gaming.

[Assented to 15th October, 1875.]

WHEREAS various persons have from time to time set up Preamble.
for the purposes of gain, certain mischievous distributions of land, goods, and money, by way of lottery, to the prejudice of the common good and welfare, and it is desirable to prohibit such practices: And whereas it is also desirable to make provision for the suppression of unlawful gaming and the keeping of betting and gaming-houses—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. Section 36 of Act No. 2 of 1859, intituled “An Act for Con- Repeal.
solidating the Statute Law in force in South Australia relating to Indictable Offences of a public nature,” is hereby repealed.

2. In this Act the word “lottery” means any scheme or device Definition of the
word “lottery.”
for the sale or gift, disposal or distribution, of land, houses, plate, jewels, ships, money, securities for money, goods, or chattels, or of any right thereto, or of any share therein, depending upon or to be determined by lot or drawing, whether out of a box or other receptacle, or by cards, token, coin, or dice, or by any machine, ticket, envelope, or device or chance whatsoever.

3. This Act shall be divided into three parts, relating— Division of Act.

I.—To Lotteries:

II.—To Unlawful Gaming:

III.—To General Matters.

PART I.

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PART I.

Lotteries declared
public nuisances.

PART I.—Lotteries :

4. From and after the passing of this Act every lottery, by whatever name it may be called, shall be deemed and is hereby declared to be a common nuisance and unlawful, and every sale or gift, disposal or distribution, made by means or in pursuance thereof utterly void to all intents and purposes.

Penalties on persons
opening lotteries, and
aiding and playing
thereat.

5. Every person who shall, either publicly or privately, exercise, expose, open, or show to be played, thrown, or drawn at, any such lottery, shall forfeit for each offence a sum not exceeding One Hundred Pounds. Every person employing, aiding, or abetting him therein shall forfeit for each offence a sum not exceeding Fifty Pounds; and every person who shall play, throw, or draw at any such lottery, shall forfeit for each offence a sum not exceeding Ten Pounds. In default of payment of the aforesaid penalties, the offenders shall be subject to imprisonment, with or without hard labor, for a period not exceeding six calendar months in the first case, three calendar months in the second case, and one calendar month in the third case.

Penalty on persons
agreeing to pay money
or deliver goods, &c.,
on event of lottery.

6. Any person who shall on or under any pretence, device, form, denomination, or description whatsoever, promise or agree to pay any sum of money, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, whether with or without consideration, on any event or contingency relative or applicable to the drawing of any ticket or tickets, lot or lots, numbers, figures, or names in any such lottery, or to publish any proposal for any of the purposes aforesaid, shall for every such offence forfeit a sum not exceeding Fifty Pounds, and in default of payment shall be subject to imprisonment, with or without hard labor, for a period not exceeding three calendar months.

Penalty for adver-
tising lotteries.

7. Any person printing, exhibiting, or publishing, or causing to be printed, exhibited, or published, any placard, handbill, card, writing, sign, or advertisement of any lottery, or of any proposal for any lottery, shall forfeit for each offence a sum not exceeding Fifty Pounds, and in default of payment shall be subject to imprisonment, with or without hard labor, for a period of not exceeding three calendar months.

Exceptions from Act.

8. Nothing in this part of this Act shall extend to or affect—

- i. Any allotment of real or personal estate or interest which may, at any time hereafter be, according to the laws then in force, legally allotable, or allotted to, or held by, or by means of, any allotment or partition by lots :
- ii. Any voluntary association which is or may be formed, or branch of which is or may be established, in the said Province, for the purchase of paintings, drawings, or other works of art, to be afterwards allotted and distributed by chance or otherwise among the several members, subscribers, or contributors forming part of such association, or for raising sums of money by subscription or contribution, to be allotted and distributed

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distributed by chance or otherwise as prizes amongst the members, subscribers, or contributors forming part of such association: Provided that such sums of money so allotted and distributed be expended solely and entirely in the purchase of paintings, drawings, or other works of art. This exception shall exist only so long as the proceedings of such association are carried on in good faith for the encouragement of the fine arts.

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PART II.—Unlawful Gaming:

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9. Every person who shall, by any fraud or unlawful device or ill-practice in playing at or with cards, dice, tables, or other game, or in bearing a part in the stakes, wagers, or adventures, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime or exercise, win from any other person to himself, or any other or others, any sum of money or valuable thing, shall be deemed guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the Court or Justices, to be imprisoned for a term not exceeding two years, with or without hard labor, and to pay in addition such fine as the Court may award.

Persons obtaining money, &c., by cheating at cards guilty of a misdemeanor.

10. All contracts or agreements, whether by parol or in writing, by way of gaming or wagering, shall be null and void; and no suit shall be brought or maintained in any Court of Law or Equity for recovering any sum of money or valuable thing alleged to be won upon any wager, or which shall have been deposited in the hands of any person to abide the event on which any wager shall have been made: Provided always, that this section shall not be deemed to apply to any subscription or contribution, or agreement to subscribe or contribute for or towards any plate, prize, or sum of money to be awarded to the winner of any race, or lawful game, sport, pastime, or exercise.

Contracts by way of gaming void.

11. Every person playing at any game, or betting, by way of wagering or gaming in any street, road, highway, or other open and public place, or in any place to which the public have or are permitted to have access, at or with any table or instrument of gaming, or any coin, card, token, or other article used as an instrument or means of such wagering or gaming, at any game or pretended game of chance, shall be deemed a rogue and vagabond within the true intent and meaning of the "Police Act, 1869," and as such may be convicted and punished under the provisions of that Act.

Extending provisions to gaming with coin, &c.

12. Any person who shall in any public place, or in any grounds open to the public, or in any public conveyance, exhibit any implements or articles for unlawful gaming, in order to induce or entice any person to engage in any unlawful gaming, or who, by any fraudulent act or device, shall cozen and cheat, or attempt to cozen and cheat any person in any public place, or in any grounds open to the public, or in any public conveyance, shall be liable to imprisonment, with or without hard labor, for any term not exceeding

Penalty on gambling, &c., in public places.

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ing three calendar months, and shall also at the same time be sentenced to repay any money, or restore any property which he may have obtained by means of any such offence, and failing the immediate payment or restoration may, under the same procedure, be imprisoned, with or without hard labor, for any further term not exceeding sixty days.

No house, &c., to be kept for purpose of gaming, or for owner or occupier betting with other persons.

13. No house, office, room, or other place shall be opened, kept, or used for (the purpose of unlawful gaming,) or for the purpose of the owner, occupier, or keeper thereof, or any person using the same, or any person procured or employed by, or acting for or on behalf of such owner, occupier, or keeper, or person using the same, or of any person having the care or management or in any manner conducting the business thereof, betting with persons resorting thereto, or for the purpose of any money or valuable thing being received by or on behalf of such owner, occupier, keeper, or person as aforesaid, as or for the consideration for any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money, or any valuable thing, or any such event or contingency, of or relating to any race, fight, game, sport, or exercise, or as or for the consideration for securing the paying or giving by some other person of any money or valuable thing, on any such event or contingency as aforesaid, and every house, office, room, or other place, opened, kept, or used for the purposes aforesaid, or any of them, is hereby declared to be a common nuisance, and contrary to law.

Penalty on owner or occupier of betting house.

14. Any person who, being the owner or occupier of any house, office, room, or other place, or a person using the same shall open, keep, or use the same for the purposes hereinbefore mentioned or any of them; and any person who being the owner or occupier of any house, room, office, or other place, shall knowingly and wilfully permit the same to be opened, kept, or used by any other person for the purposes aforesaid or any of them; and any person having the care or management of, or in any manner assisting in conducting the business of any house, office, room, or place opened, kept, or used for the purposes aforesaid, or any of them, shall be liable on conviction to a penalty of not more than One Hundred Pounds, or in the discretion of the Justices before whom he shall be convicted of the offence, to be imprisoned, with or without hard labor, for any term not exceeding six calendar months.

Penalty on persons receiving money on condition of paying money on event of any bet.

15. Any person being the owner or occupier of any house, office, room, or place opened, kept, or used for the purposes aforesaid or any of them, or any person acting for, or on behalf of, any such owner or occupier, or any person having the care or management, or in any manner assisting in conducting the business thereof, who shall receive directly or indirectly any money or valuable thing as a deposit on any bet on condition of paying any sum of money or other valuable thing on the happening of any event, contingency of, or relating to any race, or any fight, game, sport,

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or exercise, or as, or for the consideration for any assurance, undertaking, promise, or agreement, express, or implied to pay or give thereafter any money or valuable thing on any such event or contingency, and any person giving any acknowledgment, note, security, or draft on the receipt of any money or valuable thing so paid or given as aforesaid, purporting or intending to entitle the bearer or any other person to receive any money or valuable thing on the happening of any such event or contingency as aforesaid, shall be liable on conviction to a penalty of not more than Fifty Pounds, or in the discretion of the Justices by whom he shall be convicted of the offence, to be imprisoned with or without hard labor, for any term not exceeding three calendar months.

16. Any money or valuable thing received by any such person aforesaid as a deposit on any bet, or as or for the consideration for any such assurance, undertaking, promise, or agreement, as aforesaid, shall be deemed to have been received to or for the use of the person from whom the same was received, and such money or valuable thing, or the value thereof, may be recovered accordingly, with full costs of suit in any Court of competent jurisdiction.

Money so received may be recovered from persons receiving the same.

17. Nothing in this Act contained shall extend to any person receiving or holding any money or valuable thing by way of stake or deposit to be paid to the winner of any race, or lawful sport, game, or exercise, or to the owner of any horse engaged in any race.

This Act not to extend to stakes due to owner of horse winning a race.

18. Any person printing, exhibiting, or publishing, or causing to be printed, exhibited, or published, any placard, handbill, card, writing, sign, or advertisement, whereby it shall be made to appear that any house, office, room, or place is opened, kept, or used for the purpose of making bets or wagers in manner aforesaid, or for the purpose of exhibiting lists for betting, or with the intent to induce any person to resort to such house, office, room or place for the purpose of making bets or wagers in manner aforesaid; or any person who, on behalf of the owner or occupier of any such house, office, room, or place, or persons using the same shall invite other persons to resort thereto, for the purpose of making bets or wagers in manner aforesaid, shall be liable, on conviction, to a penalty of not more than Thirty Pounds, or, in the discretion of the Justices before whom he shall be convicted of the offence, to be imprisoned, with or without hard labor, for any term not exceeding two calendar months.

Penalty on persons exhibiting placards, or advertising betting houses.

19. Where any letter, circular, telegram, placard, handbill, card, advertisement, is printed, sent, exhibited, or published, or—

Penalty on persons advertising or betting.

- i. Whereby it is made to appear that any person, either in the said Province or elsewhere, will, on application, give information or advice for the purpose of or in respect to any such bet or wager, or any such event or contingency as is mentioned in the 13th, 14th, and 15th sections of this Act, or will make on behalf of any other person any such bet or wager as is mentioned in such sections; or

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- II. With intent to induce any person to apply to any house, office, room, or place, or to any person, with the view of obtaining information or advice for the purpose of any such bet or wager, or with respect to any such event or contingency as is mentioned in the said sections; or
- III. Inviting any person to make or take any share in or in connexion with any such bet or wager:

every person printing sending, exhibiting, or publishing, or causing the same to be printed, sent, exhibited, or published, shall be subject to the penalties provided in the next preceding section with respect to offences thereunder.

Penalties on persons keeping gaming houses.

20. Any person being the owner or occupier, or having the use of any house, room, or place, who shall open, keep, or use the same for the purpose of unlawful gaming being carried on in the same; and any person who, being the owner or occupier of any house, room, or place, shall knowingly and wilfully, permit the same to be opened, kept, or used by any other person for the purpose aforesaid; and any person having the care or management of, or in any manner assisting in conducting the business of any house, room, or place opened, kept, or used for the purpose aforesaid; and any person who shall advance or furnish money for the purpose of gaming with persons frequenting such house, room, or place, shall be liable, on conviction, to a penalty of not more than Five Hundred Pounds, or, in the discretion of the Justices before whom he shall be convicted of the offence, to be imprisoned, with or without hard labor, for any term not exceeding twelve calendar months.

PART III.

PART III.—General Matters:

Justice of the Peace on information may authorize persons to break open doors of places where offences are committed, and apprehend offenders.

21. It shall be lawful for any Special Magistrate or two Justices of the Peace; upon complaint or information made upon oath before him or them that there is reason to suspect that an offence is being committed against this Act, in any house, room, or place, to give authority, by special warrant under his or their hand, when in his or their discretion he or they shall think fit, to any constable, with such assistance as may be found necessary, to enter into such house, room, or place, and, if necessary, to use force for such entry, whether by breaking doors or otherwise, and to seize all materials connected with any lottery or unlawful game found therein, and to arrest and search, and bring before a Special Magistrate, or two Justices of the Peace, all offenders against this Act who may be found in such house, room, or place, to be dealt with according to law; and such special warrant may be in the form given in the Schedule to this Act, or to the like effect.

Penalty on persons obstructing constables in the execution of their duty.

22. Any person who shall wilfully prevent any constable or other person acting in his assistance, under the aforesaid warrant, to enter any house, room, or place, from entering the same or any part thereof, or also shall obstruct or delay any such constable or person in so entering, and any person who by any bolt, bar, chain, or other contrivance,

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contrivance, shall secure any external or internal door of or means of access to any house, room, or place, so authorized to be entered, or shall use any means or contrivance whatsoever, for the purpose of preventing, obstructing, or delaying the entry of any constable or person acting as aforesaid, into any such house, room, or place, or any part thereof, shall be liable on conviction, to a penalty of not more than One Hundred Pounds, or in the discretion of the Justices before whom he shall be convicted of the offence, to be imprisoned, with or without hard labor, for any term not exceeding six calendar months.

23. When any constable or other person acting in his assistance under the aforesaid warrant, entering any house, room, or place, is wilfully prevented from, or obstructed, or delayed, in entering the same or any part thereof, or where any external or internal door of, or means of access to any such house, room, or place, so authorized to be entered, shall be found to be fitted or provided with any bolt, bar, chain, or other means or contrivance for the purpose of preventing, delaying, or obstructing the entry into the same or any part thereof, of any constable or person acting as aforesaid, or for giving an alarm in case of such entry, or if any house, room, or place is found fitted or provided with any means or contrivance for any lottery or unlawful game, or with any means or contrivance for concealing, removing, or destroying any instruments used for such lottery or game, it shall be evidence, until the contrary is made to appear, that such house, room, or place, is used for the purposes of unlawful gaming within the meaning of sections 13 and 20 of this Act, and that the persons found therein were unlawfully playing therein.

Obstructing entry of constables to be evidence of house being a common gaming-house.

24. If any person found in any house, room, or place entered by any constable or person assisting him as aforesaid to enter the same, upon being arrested by such constable or person assisting, or upon being brought before any Justices, on being required by such constable or person or by such Justices to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he shall be liable, on conviction before the same or any other Justices, to a penalty of not more than Fifty Pounds, or in the discretion of Justices before whom he shall be convicted of the offence, to be imprisoned for any term not exceeding one month.

Penalty on persons apprehended for giving false names or addresses.

25. It shall be lawful for the Justices before whom any persons shall be brought who have been found in any house, room, or place entered in pursuance of any authority granted under this Act, to require of any such persons to be examined on oath, and give evidence touching any unlawful gaming in such house, room, or place, or touching any act done for the purpose of preventing, obstructing, or delaying the entry into such house, room, or place, or any part thereof of any constable or person assisting him as aforesaid; and no person so required to be examined as a witness shall be excused from being so examined when brought before such

Justices may require any of the persons apprehended to be sworn and give evidence.

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Justices as aforesaid, or from being so examined at any subsequent time by or before the same or any other Justices, or by or before any Court or any proceeding, or the trial of any information, action, or suit in anywise relating to any such lottery, unlawful gaming, or any such acts as aforesaid, or from answering any questions put to him touching the matter aforesaid, on the ground that his evidence will tend to criminate himself; and every such person so required to be examined as a witness, who refuses to make oath accordingly, or to answer any such questions as aforesaid, shall be subject to be dealt with in all respects as any person appearing as a witness before any Justices or Court in obedience to a summons or subpoena, and refusing without lawful cause or excuse to be sworn or to give evidence may by law be dealt with.

Persons required to be examined as a witness and making a full discovery to be freed from all penalties, &c.

26. Every person so required to be examined as a witness as aforesaid, who upon such examinations shall make true and faithful discovery, to the best of his knowledge, of all things as to which he is so examined, shall receive from the Justices or Judge of the Court by whom he is examined, a certificate in writing to that effect, and shall be freed from all criminal prosecutions and penal actions, and from all penalties, forfeitures, and punishments to which he may have become liable, for anything done before that time, in respect of the matters touching which he has been so examined, but such witness shall not be indemnified under this Act, unless he receives from such Justices or Judge, a certificate under their or his hand, stating that such witness has in his examination made true disclosure touching all things as to which he has been examined; and if any action or information be at any time pending in any Court, against any person so examined, in respect of any lottery or act of gaming, touching which he was so examined as a witness in manner before-mentioned, for any such matter or thing, such Court shall, on the production and proof of such certificate, stay the proceedings in any such action or information, and may, in its discretion, award to such person such costs as he may have been put to by such action or information.

Who may lay informations.

27. Informations may be laid for any offence against this Act at the instance of any person, and all fines and penalties for any such offence payable under the provisions hereof, may be recovered in a summary way, before any Special Magistrate, or two Justices of the Peace, under the provisions of an Ordinance, No. 6 of 1850, "To facilitate the performance of the duties of Justices of the Peace out of Sessions, with respect to summary convictions and orders," or of any Act hereafter to be in force for facilitating the duties of Justices of the Peace with respect to summary convictions and orders; and all convictions and orders may be enforced as in the said Ordinance or Act is mentioned.

Summary procedure.

Appeal.

28. There shall be an appeal from any order or conviction of any Special Magistrate or Justices under this Act, or from any order dismissing any information, or for the payment of costs, or otherwise, which

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which appeal shall be to the Local Court of Adelaide of Full Jurisdiction only, and the proceedings on such appeal shall be conducted in the manner appointed by the said Ordinance, No. 6 of 1850, for appeals to Local Courts, or by any Act amending the same; but such Local Court of Adelaide, aforesaid, may make such order as to the payment of the costs of appeal as it shall think fit, although such costs may exceed Ten Pounds.

29. One half part of every sum which shall be imposed as a penalty under this Act shall be paid to the person on whose information the conviction shall have been obtained, and the other half of every such penalty, shall be paid to the Treasurer for the public uses of the said Province; but where such information shall be laid by or on behalf of a public officer, the whole of the penalty shall be paid to the Treasurer for the uses aforesaid.

Appropriation of penalties.

30. This Act may be cited for all purposes as "The Lottery and Gaming Act, 1875."

Short title.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

A. MUSGRAVE, Governor.

