



ANNO SEPTIMO

EDWARDI VII REGIS.

A.D. 1907.

No. 943.

An Act to make Further Provision for the Suppression of Gaming, and for other purposes.

[Assented to, December 21st, 1907.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as "The Gaming Further Suppression Act, 1907." Short title.

2. "The Lottery and Gaming Act, 1875," "The Totalizator Repeal Act," "The Gaming Further Suppression Act, 1897," "The Lottery and Gaming Act Amendment Act, 1888," and "The Gaming Law Amendment Act, 1902," are hereby incorporated with this Act, and shall for all purposes be read and construed as though the whole of them and this Act were one Act. If any inconsistency or repugnancy shall exist between any of the Acts hereby incorporated, and any other or others of them, the latest Act shall prevail. Incorporation of Acts.

3. In the construction and interpretation of this Act and of the Acts hereinbefore expressed to be incorporated herewith the words in this section following, and being in inverted commas, shall (unless repugnant to the context) have the respective meanings hereinafter respectively assigned to them, namely :— Definitions.

"Court" shall mean a Special Magistrate or two or more Justices of the Peace sitting as a Court of Summary Jurisdiction :

"Illegal lottery" shall mean and include every lottery drawn, conducted, or managed in South Australia or elsewhere which would,

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would, according to the laws of the said State for the time being in force, be deemed to be illegal if the same were drawn, conducted, or managed in South Australia.

“Loiter” shall mean to idle or linger about:

“Unlawful gaming” shall mean, in addition to the meaning assigned to such words by section 1 of “The Gaming Law Amendment Act, 1902,” the playing at or engaging in any game with cards or other instruments, or with money, in or as the result of which game any person or persons derives or is intended to derive (other than in his capacity as a player) any part or percentage of any money or thing played for, staked, or wagered, such part or percentage not being money received for deposit in any licensed totalizator:

“This Act” shall mean and include this Act and the Acts hereinbefore expressed in section 1 to be incorporated herewith:

“Street” shall mean and include every public street, or thoroughfare, or private street, or road commonly used by or to which the public are permitted to have access:

“Public place” shall mean and include every public place and every place to which the public are permitted to have access, tacitly or otherwise, and whether upon payment of money or not.

More than one offence may be charged in information.

New.

4. In any information laid in respect of any alleged offence or offences against this Act any number of offences to the number of not more than three may be in such information charged against the defendant and evidence given in support thereof; and the Court may convict such defendant of any one of such offences as to the satisfaction of the Court shall have been proved, and may inflict such penalty therefor as is by law provided.

Money paid as result of betting may be recovered back.

New.

5. The fact that any persons under the age of twenty-one years of age making a wager or bet does so on behalf of another person shall not exempt a person making a wager or bet with such first-named person from the punishment imposed by section 4 of “The Gaming Further Suppression Act, 1897.”

Members of Police Force not to be convicted or to be deemed accomplices.

New.

6. No member of the Police Force acting under the order or instructions of any other member of such Force who shall be his superior in rank, shall be deemed to be an accomplice in the commission of any offence against this Act, nor shall the member giving such order or instructions nor the member who shall act in pursuance or attempted pursuance thereof be liable to conviction or punishment for any act or matter done or committed by either of them in relation to or under such order or instructions, although but for this section such members or either of them might have been deemed to be such accomplices or accomplice or have been liable to such conviction and punishment.

7. Any

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7. Any person who shall be in or upon any street or public place for the purpose of betting or wagering shall be guilty of an offence, and liable to a penalty not exceeding Fifty Pounds.

Being in street for purpose of betting an offence.

New.

8. Any club, company, or person for the time being having the use, occupancy, or control of any ground or place upon which is then being carried on any horse-racing, foot-racing, cycle-racing, football match, cricket match, or any other sport of a kind usually attended by the public may require any police officer to, without warrant, arrest and remove, and such police officer shall thereupon arrest and remove from such ground or place any person who by such club, company, or person, or any of their officers or servants, shall be suspected on reasonable grounds of being or having been on that day engaged on such ground or place in doing any act or thing in contravention of the provisions of this Act or any of them. Any person re-entering or being again upon such ground or place after such removal and during the same day on which he shall have been so removed shall be liable to a penalty of Fifty Pounds or to imprisonment for not longer than two months. Any police officer acting in accordance with such instructions shall not be deemed guilty of any offence or be liable to any fine, penalty, imprisonment, or in damages in consequence of so acting.

Removal of persons from racecourses, &c., of persons suspected of offence against Act.

Adapted from Vic. Act.

9. No person (other than the defendant) required to be examined as a witness in the hearing of any information laid in relation to any offence alleged to have been committed against the provisions of this Act, or any of them, shall be excused from being so examined or from answering any question or questions put to him as such witness on the ground that his evidence or the answer to any such question or questions might tend to incriminate him or render him liable to a prosecution; and any such person so required to be examined who refuses to make oath accordingly or to answer any question or questions shall be liable to the same penalties and to be dealt with in all respects as any witness may be dealt with for refusing to be sworn or to give evidence: Provided that every person so required to be examined who shall upon such examination make a true and faithful discovery to the best of his knowledge of all matters as to which he is examined shall receive from the Court a certificate in writing to that effect, and he shall upon the receipt of such certificate, but not in other case, be freed from all prosecution, penalties, and punishment to which he might have been or become liable in respect of the matters touching which he has been so examined.

Witnesses not to claim privilege on ground of evidence tending to incriminate.

New.

10. The several allegations hereinafter specified if made in any information laid in respect of any alleged offence or offences against this Act shall be accepted by the Court as evidence of the truth of such allegations unless the contrary shall be proved, namely—

Allegations to be *prima facie* proof.

New.

- (a) The allegation that any person, firm, company, or partnership (as the case may be) in such information named is the owner

owner

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owner, user, or occupier (as the case may be) of any place, room, or premises in such information mentioned.

- (b) The allegations that any horse race, cycle race, or foot race (as the case may be) in such information mentioned was run at a place and on a date therein specified, and that any horse or horses or person or persons named in such information took part in any race therein mentioned.

Occupancy of premises deemed to be with knowledge of owner.

11. Any person, club, firm, company, or partnership using or occupying any place, room, or premises for the purpose of unlawful gaming shall be deemed to be so using or occupying such place for such purpose with the knowledge and consent of the owner and the immediate landlord of such place or premises unless the contrary shall be proved.

Totalizator investments not to be solicited.

12. Any person who shall upon any racecourse or in any other public place or street, directly or indirectly, invite or solicit any other person to give or entrust to him any money or valuable thing for the purpose or intent that such money or thing or any part thereof respectively shall be placed or invested in any totalizator (whether such totalizator shall be lawful or not) shall be guilty of an offence, and be liable to a penalty not exceeding Twenty-five Pounds or to imprisonment for not longer than two months.

Unlawful games.
Vic. Act.

13. The games commonly known as "faro," "banker," "fantan," "two up," "hazard," and all other games played in the same way or of a kindred nature, are hereby declared to be unlawful games.

Publication of information regarding lotteries prohibited.

Vide Vic. Act 2055 of 1906.

14. No person shall—

- (a) Print, publish, or exhibit, or cause to be printed, published, or exhibited in any newspaper or on any placard, handbill, circular, or card, nor shall any person registered as the proprietor, printer, or publisher of any newspaper permit or suffer to be printed or published in such newspaper, any advertisement, sign, notice, or other information of or relating to the establishing, commencing, promoting, carrying on, or drawing, or intended establishing, commencing, promoting, carrying on, or drawing of any illegal lottery, whether wholly or partly established, commenced, carried on, promoted, or managed in South Australia or elsewhere; or
- (b) Print any ticket or other thing entitling or intended to entitle any person or persons to any chance or share in any illegal lottery; or
- (c) Sell, circulate, exhibit, or dispose of any newspaper printed in any part of the Commonwealth of Australia which contains any advertisement, sign, notice, or information relating to any illegal lottery, or the drawing, conducting, or management thereof.

15. No

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15. No person shall sell, or offer for sale, or deliver, or give, or buy, or pay for, or knowingly receive or accept any ticket, chance, or share in any illegal lottery. Unlawful to buy, or sell, or accept any ticket in illegal lottery.

16. (a) Every person shall be guilty of an offence who placards, posts up, or exhibits, or permits or suffers to be placarded, posted up, or exhibited, or who assists in placarding, posting up, or exhibiting in or on or about any land, building, hoarding, or premises any information or notice relating to any illegal lottery. Posting up of placards relating to illegal lotteries forbidden.

(b) Where any such information or notice is placarded, posted up, or exhibited on any land, building, or premises it shall, unless the contrary be proved, be presumed to have been so placarded, posted up, or exhibited by or with the permission of the occupier of such land, building, hoarding, or premises.

17. No person shall for gain or otherwise in any manner whatever, directly or indirectly, forward or partly forward, or give or receive for the purpose or intent that the same shall be so forwarded, any packet or parcel or money, cheque, draft, order for the payment of money, or valuable thing whatsoever to the promoters, managers, or conductors of any illegal lottery or sweepstakes conducted or drawn or intended to be conducted or drawn in any State, country, or place out of South Australia or not, and whether such lottery or sweepstakes shall be illegal according to the law of such State, country, or place, or otherwise. Money parcels not to be forwarded to promoters of illegal lotteries.

18. The allegations in any information laid in relation to any alleged offence against the provisions of the next preceding section.— Allegations *prima facie* proof.

(a) That any packet, parcel, money, cheque, draft, order for the payment of money or valuable thing in such information specified has been forwarded or partly forwarded, or has been given or received for the purpose or intent that the same should be forwarded, as the case may be:

(b) That any person or persons, club, association, or company in such information named is the promoter, manager, or conductor (as the case may be) of any illegal lottery:

(c) That any lottery in such information named or described is an illegal lottery:

shall be received by the Court as proof of the truth of such allegations unless the contrary shall be proved.

19. In every information laid in respect of any offence relating to any illegal lottery alleged to have been or be intended or about to be drawn or conducted elsewhere than in South Australia the Court may in their discretion receive and act upon such secondary or other evidence as may be adduced for the purpose of proving the existence, drawing, conducting, or intention to draw or conduct such lottery, any rule of law heretofore to the contrary notwithstanding. Secondary evidence may be received relating to lotteries. New.

20. (1) In

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Evidence of illegal lottery.

Adapted from Vic. Act.

20. (1) In any proceedings against any person for establishing, commencing, or being a partner in any illegal lottery, or managing, conducting, or assisting to manage or conduct any illegal lottery, or selling or disposing or buying or accepting any ticket or thing purporting to be or usually known as a lottery ticket and relating to an illegal lottery, it shall, in default of or in addition to other evidence, be sufficient in support of the information to show that such ticket or thing was bought or accepted by the purchaser or acceptor under the belief by him that the possession and production of such ticket purporting to be a lottery ticket or other thing conveyed a right to the purchaser or any holder thereof to draw for, compete, or have an interest in an illegal lottery.

Chinese lottery ticket

(2) The sale of a ticket or thing commonly known as a Chinese lottery ticket, whether marked or otherwise, shall be *prima facie* evidence of the existence of a lottery and of an undertaking, agreement, or promise expressed or implied to pay a sum of money to the purchaser or holder of such ticket on the happening of a certain event or contingency.

(3) In any proceedings it shall not be necessary to prove that any ticket purporting to be or usually known as a Chinese lottery ticket relates to any particular lottery, or that any lottery has been or will be drawn.

Betting houses or rooms deemed to be common gaming-houses.

Vic. Act, sec. 15.

21. Any house, office, room, or place which is used for the playing therein of any unlawful game, or which is used principally for the purpose of enabling any person or persons to bet with others or with one another, or to pay or receive money or valuable consideration in respect of any bet on events which have not happened, whether made in or at such house, office, room, or place, or elsewhere, or which is occupied by any company or club having for its principal object or one of its principal objects the enabling of shareholders or members thereof to make wagers or bets or pay or receive money in respect of wagers or bets on events which have not happened, whether so made either amongst themselves or with other persons not necessarily being shareholders or members, shall be deemed to be a common gaming-house.

Information as to betting not to be printed or published.

Vic. Act, altered.

22. Every person who is registered as the proprietor, printer, or publisher of any newspaper, or any other person who prints, exhibits, publishes, sells, circulates or distributes, or gives away or posts up, causes to be printed, exhibited, published, sold, circulated, distributed, given away, or posted up any newspaper or printed or written document, list, or card (whether published, printed, or written in South Australia or elsewhere) which contains or purports to contain any advertisement or notification by or on behalf of any person, club, or association as to betting on any intended horse races or pony races or trotting races in any part of the Commonwealth of Australia, or as to the betting odds on any such race, shall be guilty of an offence.

23. Every

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23. Every person who prints, writes or exhibits, publishes, sells, circulates, distributes, gives away, or posts up or causes to be printed, written, exhibited, published, sold, circulated, distributed, given away or posted up any placard, handbill, card, writing sign, advertisement, or notification (whether published, printed, or written in South Australia or elsewhere), or who is registered as the proprietor, printer, or publisher of any newspaper whereby it is made to appear that such person or any other person will, if required, bet or give information or advice, directly or indirectly, as to the probable result of any intended horse race or pony race or trotting race in any part of the Commonwealth of Australia, or as to the betting odds on any such race, or whereby any information or advice is given or purported to be given relating to the probable result of any such race or as to the betting thereon, or as to any unlawful game, shall be guilty of an offence: Provided always that nothing herein contained shall prohibit the publication in a newspaper by the printer or publisher thereof of a forecast of the probable result of any race, being not for money or gain.

Advertising by
tipsters prohibited
Vic. Act, altered.

24. Every person who placards, posts up, or exhibits, or permits or suffers to be placarded, posted up, or exhibited, or who assists in placarding, posting up, or exhibiting in or on or about any land, building, or premises any information or notice or list directly or indirectly relating to betting or any unlawful game, shall be guilty of an offence.

Betting notices and
placards not to be
exhibited.
Vic. Act.

25. A house, office, room, or place where an unlawful game is carried on shall be deemed to be a common gaming-house, notwithstanding that the same is open only for the use of subscribers or of members or shareholders of any particular club or company, and is not open to all persons desirous of using the same.

Houses, &c., where
unlawful gaming
carried on to be com-
mon gaming-house.

26. Every owner or agent acting on behalf of the owner and every occupier of any house, office, room, or other place who allows or permits the same to be used as a common gaming-house shall be guilty of an offence unless, in the case of an owner or agent who is not an occupier, the Court is satisfied that such owner or agent was in ignorance of and had no reasonable grounds to suspect such use or had taken all reasonable steps to prevent the same.

Owners, agents, and
occupiers guilty of
offence in allowing
house to be used as
gaming-house.

27. Every owner or agent acting on behalf of the owner and every occupier of any house, office, room, or place who allows or permits or suffers the same to be used as a means of access to or exit or escape from any house, office, room, or place used as a gaming house, shall be guilty of an offence unless the Court is satisfied that such owner, agent, or occupier was in ignorance of and had no reasonable grounds to suspect such use or had taken all reasonable steps to prevent the same.

Owner, &c., liable for
permitting premises
to be used as access to
a gaming-house.

Vic. Act.

28. (1) If

- (a) Any owner of any house, office, room, or place has reasonable grounds to suspect that the same is used as a common gaming-house; or
- (b) Any

Power to evict
occupier of house
used as gaming-
house, &c.

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(b) Any owner of any house, office, room, or place has reasonable grounds to suspect that the same is used as a means of access to or of exit or escape from any house, office, room, or place used as a common gaming-house,

he may serve on the tenant or occupier a notice to quit.

(2) The serving of such notice shall, subject to this Act, determine as from the seventh day after the date of such service any tenancy under which the occupier may hold as if the same had expired by effluxion of time. The owner may thereupon, without any authority other than this Act, take legal proceedings to evict, and may evict, such occupier.

(3) Such notice shall be served personally on the occupier, but if he cannot be found service may be effected by posting a copy of the notice on some conspicuous part of the said house, office, room, or place.

(4) Upon proof, to the satisfaction of the Registrar General, that such notice has been served on such tenant or occupier in manner aforesaid, he shall, at the expiry of seven days from the date of such service, cause a memorial of such service and of the date thereof to be entered in respect of land under the provisions of "The Real Property Act, 1886," and the Register Book of Titles kept pursuant to such last-mentioned Act, and in respect of land not under the provisions of that Act in the General Registry Office of Deeds for the said State.

Cancellation of notice to quit.

29. (1) Any such notice to quit may at any time be cancelled as from the date of such notice and relief be granted by the Supreme Court subject to such terms as the Court thinks fit on application being made to the Court by the occupier and on proof that he has not at any time—

(a) Used or allowed or permitted or suffered the house, office, room, or place to be used as a common gaming-house; or

(b) Used or allowed or permitted or suffered the house, office, room, or place to be used as a means of access to or of exit or escape from any house, office, room, or place used as a common gaming-house.

(2) Notice of intention to make such application shall be served on the owner at least seventy-two hours before the hearing of the application, and on being so served shall operate until the determination of the application as a stay of any proceedings under the last preceding section to evict the occupier.

Persons loitering in street.

30. Any person standing in any street who shall refuse or neglect to move on when requested by a police constable so to do, or who shall loiter (whether such loitering shall cause or tend to cause any obstruction to traffic or not) in any street or public place after a request having been made to him by any police constable not to so loiter, shall be guilty of an offence and liable to a penalty not exceeding Twenty Pounds or to imprisonment for a period not longer than two months.

31. Informations

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31. Informations for offences against this Act shall be heard and determined in a summary way by a Court, and all penalties enforced under the provisions of the Ordinance of the Governor and Legislative Council No. 6 of 1850, or of any other Act or Acts for the time being in force relating to the duties of Justices or to their summary jurisdiction.

Summary of procedure.

New.

32. On the affidavit of a Commissioner, inspector, or sub-inspector of police, showing reasonable grounds for suspecting that any house, office, room, or other place is used in contravention of this Act, any Judge of the Supreme Court may declare such house, office, room, or place to be a common gaming-house. Such declaration shall be in force until rescinded.

Declaration that house a common gaming-house.

N.S.W. Act, 13 of 1906.

33. Any such declaration may be rescinded by a Judge of the Supreme Court, subject to such terms as he thinks fit, on application being made to him—

Rescission of declaration.

(a) By the owner, tenant, or occupier of the house, office, room, or place the subject of the declaration, on proof that he has not at any time allowed the house, office, room, or place to be used in contravention of this Act; or

N.S.W. Act.

(b) By a Commissioner, inspector, or sub-inspector of police on proof that the house, office, room, or place is not used in contravention of this Act.

Where the application is made by the owner, tenant, or occupier as aforesaid, notice in writing of intention to make the same shall be served on a Commissioner, inspector, or sub-inspector of police two days at least before the hearing of such application.

34. Notice of any such declaration and of any rescission of the same shall be published in the *Government Gazette*.

Publication of notice of declaration and rescission.

In any proceedings under this Act the production of a copy of the *Government Gazette* containing such notice shall be evidence that the declaration or rescission therein notified was duly made.

N.S.W. Act.

35. (1) The Commissioner, or a superintendent, inspector, or sub-inspector of police, on such declaration being made with respect to any house, office, room, or place—

Notice given of declaration.

N.S.W. Act.

(a) Shall cause to be published on two days in a newspaper circulating in the neighborhood of the house, office, room, or place a notice of the making of such declaration;

(b) Shall cause such notice to be served on the owner and occupier of the house, office, room, or place. Such service shall be personal, except when it cannot be promptly effected, in which case the notice may be served on the owner, tenant, and occupier aforesaid by causing a copy thereof to be affixed at or near to the entrance to the house, office, room, or place.

(2) In

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(2) In any proceedings under this Act the production of a copy of a newspaper containing any such notice shall be evidence that such notice was duly published in such newspaper on the date appearing thereon.

Persons found in house declared a common gaming-house.

N.S.W. Act.

36. If after publication, in pursuance of paragraph (a) of the last preceding section, of notice of the making of such declaration with respect to a house, office, room, or place, and during the time that such declaration is in force, any person is found—

(a) In, or on, or entering, or leaving such house, office, room, or place ; or

(b) In, or on, or entering, or leaving any land or building used as a means of access to, or of exit or escape from the same,

any member of the Police Force may, without warrant, arrest such person and take him before a Court.

Such person, unless he proves that he was in, or on, or entering, or leaving, as aforesaid, for a lawful purpose, shall be guilty of an offence under this Act, and shall, on conviction, be liable to a penalty not exceeding Fifty Pounds or to imprisonment for a term not exceeding three months.

Penalty on owner if house used in contravention of Act.

37. If after service on an owner, in pursuance of paragraph (b) of section 35, of notice of the making of such declaration with respect to a house, office, room, or place, and during the time that such declaration is in force, such house, office, room, or place is used in contravention of this Act, such owner shall, unless he proves that he has taken all reasonable steps to evict the occupier from the same, be liable to a penalty not less than Thirty and not exceeding One Hundred Pounds.

Penalty on occupier.

N.S.W. Act.

38. If after service on an occupier, in pursuance of paragraph (b) of section 35, of notice of the making of a declaration with respect to a house, office, room, or place, and during the time that such declaration is in force, such house, office, room, or place is used in contravention of this Act, the said occupier shall be liable to a penalty not less than Thirty and not exceeding Three Hundred Pounds, unless he proves that he has taken reasonable steps to prevent such use.

Entry by police.

N.S.W. Act.

39. While any such declaration is in force with respect to any house, office, room, or place any member of the Police Force may, without warrant—

(a) Enter the said house, office, room or place ;

(b) Enter any land or building which he has reasonable grounds to suspect is used as a means of access to or of exit or escape from the same ;

(c) Pass through, from, over, and along any other land or building for the purpose of entering in pursuance of paragraph (a) or paragraph (b) aforesaid ;

(d) For

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- (d) For any of the purposes aforesaid, break open doors, windows, and partitions, and do such other acts as may be necessary ;
- (e) Seize any instruments of gaming and any instruments of betting and documents relating to betting, and any money and securities for money in any such house, office, room, or place.

40. Any person who wilfully obstructs, or aids in obstructing, or solicits any other person to obstruct or aid in obstructing a member of the Police Force in the exercise of any power conferred on him by this Act shall be liable to a penalty not exceeding Twenty-five Pounds. Obstructing the police.

41. Where any member of the Police Force authorised under this Act to enter any house, office, room, or place is wilfully prevented from or is obstructed or delayed in entering the same or any part thereof ; or Evidence of house being a gaming-house.
N.S.W. Act.

Where any external or internal door of or means of access to any such house, office, room, or place so authorised to be entered is found to be fitted or provided with any bolt, bar, chain, or any means or contrivance for the purpose of preventing, delaying, or obstructing the entry into the same or any part of any member of the Police Force authorised as aforesaid, for giving an alarm in case of such entry ; or

If such house, office, room, or place is found fitted or provided with any means or contrivance for unlawful gaming, or with any means or contrivance for concealing, removing, or destroying any instruments of gaming,

it shall be evidence, until the contrary is made to appear, that such house, office, room, or place is used as a common gaming-house, and that the persons found therein were playing an unlawful game therein.

42. There shall be an appeal from any conviction by a Court for any offence against this Act, and from any order or adjudication dismissing any information, and such appeal shall be to the Local Court of Full Jurisdiction of Adelaide. Appeal.

43. Unless otherwise specified in this Act, every person who shall commit any offence against the provisions of this Act, or any of them, shall be liable to a penalty of not exceeding Fifty Pounds or to imprisonment for not longer than three months. Penalty for offences.

44. The "Police Act Amendment Act, 1904," is hereby repealed. Repeal

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

GEORGE R. LE HUNTE, Governor.