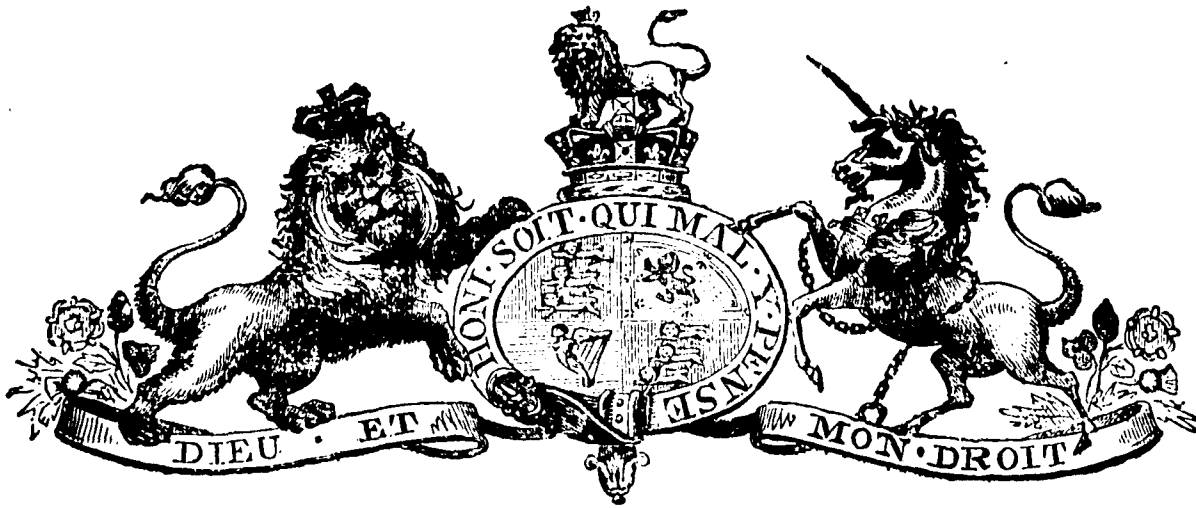


VICTORIA.



ANNO SEXTO

EDWARDI SEPTIMI REGIS.

No. 2055.

An Act to amend the Law relating to Lotteries
Gaming and Betting and for other purposes.

[28th December, 1906.]

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Lotteries Gaming and Betting Act* 1906. Short title.

2. In this Act and the *Police Offences Act* 1890 unless the Definitions.
context otherwise requires—

(a) "Instrument of gaming" shall be deemed to include tote or totalizator sheets double sheets betting lists or books cards and all scoring documents used or apparently used or capable of being used in carrying on a totalizator or betting ;

(b) "Occupier" of a house office room or place or of any land or building or premises includes the lessee or sub-lessee who is not the owner as hereinafter in this section defined;

(c) "Officer
14300,

- (c) "Officer of Police" means the Chief Commissioner of Police or any Superintendent Inspector or Sub-Inspector of Police ;
- (d) "Owner" of a house office room or place or of any land or building or premises includes every person company or corporation who is whether at law or in equity—
 - (a) entitled to the same for any estate of freehold in possession ; or
 - (b) in actual receipt of or entitled to receive or if the house office room place land or building were let to a tenant would be entitled to receive the rents and profits of the same.

In the case of a house office room place land building or premises sub-leased "owner" includes any lessee or sub-lessee from whom a sub-lessee holds ;

- (e) "Race-course" means land used for race-meetings ;
- (f) "Race-meeting" means meeting for the purpose of horse or pony or trotting racing ; and
- (g) "Supreme Court" means the Supreme Court or a Judge thereof in Court or in chambers.

DIVISION 1.—LOTTERIES.

Construction.

3. This Division shall be construed as one with Part II. of the *Police Offences Act 1890*.

Amendment of
section 37 of No.
1126.

4. In section thirty-seven of the *Police Offences Act 1890* after the words "property amongst the owners thereof" there shall be inserted the words "if such property is capable of being fairly apportioned amongst all the owners thereof and is proposed to be apportioned equally so far as practicable amongst all the owners thereof." This section shall have no force or effect until the first day of March One thousand nine hundred and seven.

Unlawful to publish
print for or
advertise illegal
lottery.

See Q. 1895 No. 9
s. 10.

S.A. No. 13 s. 57.

5. (1) It shall be unlawful—

- (a) to print publish or exhibit or to cause to be printed published or exhibited in any newspaper or on any placard handbill circular or card or for any person registered as the proprietor printer or publisher of any newspaper to 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 Victoria or elsewhere ; or

(b) to

(b) to print any ticket or chance or share in any illegal lottery;
or

(c) to 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 of any illegal lottery.

(2) In this Division of this Act "illegal lottery" means any lottery in contravention of section thirty-seven of the *Police Offences Act 1890* or this Division or any lottery intended to be established commenced carried on promoted drawn or managed elsewhere than in Victoria.

6. No person shall sell or offer for sale, or (unless the Court is satisfied that there was no consideration for so doing) deliver or give or buy or pay for or knowingly receive or accept any ticket or any chance in any illegal lottery.

Unlawful to sell or
buy any illegal
lottery tickets, &c.
Comp. N.S.W. 1901
No. 34 s. 9.

7. (1) 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 or premises any information or notice relating to any illegal lottery.

6 Geo. 2—cap
35 s. 9.
4 George IV. c. 60
s. 945.
Placards and notices
re illegal lotteries
not to be posted
up anywhere.

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

8. No person shall for payment or otherwise forward or receive any packet or parcel or money cheque draft or order for payment of money for the purpose of the same being forwarded either directly or indirectly to the promoters or managers of any illegal lottery.

Unlawful to forward
parcels to
promoters of
illegal lotteries.

9. (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 of 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 other evidence be sufficient in support of the information to show that such ticket or thing was bought or accepted under the belief 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.

Evidence of illegal
lottery.

(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 express or implied to pay a sum of money to the purchaser

Chinese lottery
ticket.

or

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.

Lottery houses
declared to be
common gaming
houses.

Comp. s. 45.

10. Every house office room premises or place opened kept or used for the purposes of any illegal lottery or proposed illegal lottery shall be deemed and taken to be a common gaming house within the meaning of the provisions of Part IV. of the *Police Offences Act* 1890 and this Act.

DIVISION 2.—GAMING.

Construction.

11. This Division shall be construed as one with Part IV. of the *Police Offences Act* 1890.

Meaning of place in
Part IV. of No.
1126 and this
Division.

Comp. S.A. No. 685,
s. 1.

Q. 1895 No. 9 s. 4.

12. In Part IV. of the *Police Offences Act* 1890 and in this Division the word "place" wherever occurring shall mean any place whatsoever whether within a building or not whether upon land or water whether defined as to area or not and whether private property or otherwise.

Power of police to
arrest without
warrant persons
found gaming in
street &c.

No. 1105 s. 35.

13. Any member of the police force may at any time without warrant arrest any person found playing or betting by way of wagering or gaming in any street road or highway or public place or open place in contravention of the provisions of section forty-seven of the *Police Offences Act* 1890.

Two-up hazard
&c. declared
illegal.

Comp. No. 1126
s. 48.

14. The game known as two-up or any similar game and also the game known as hazard or any similar game are hereby declared to be unlawful games and any game with cards or other instruments wherefrom any person or persons derives or derive a percentage of the amount wagered shall also be an unlawful game within the meaning of Part IV. of the *Police Offences Act* 1890 and this Act.

Betting houses or
rooms unlawful.

15. 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 bets 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

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.

16. Notwithstanding anything contained in Part IV. of the *Police Offences Act* 1890 or in this Act, the mere fact of persons betting by way of wagering on any licensed race-course during the holding of a race-meeting thereon on any horse pony or trotting race shall not be a contravention of the said Part or this Act and shall not be a ground for such race-course or any part thereof being deemed or declared a common gaming house.

Betting on
race-courses.

17. Every person who is at any time found in any house office room or place used as a common gaming house without lawful excuse the proof of which shall lie on such person shall be liable on conviction to a penalty of not more than Five pounds.

Persons found in
gaming house.
See N.S.W. 1902
No. 18 s. 6/2.
S.A. No. 812 s. 8.

*similar to
batter part of
s. 58 of previous
act. adopted as
amendment*

18. Any person who appears acts or behaves as master or mistress or as the person having the care or management of any house office room or other place opened kept or used for any of the purposes mentioned in sections forty-nine to fifty-two of the *Police Offences Act* 1890 or in contravention of this Act or for the playing of any unlawful game shall be deemed to be the occupier thereof whether he is or is not the real owner occupier or keeper thereof.

Acting as keeper of
gaming houses &c.
See W.A. Act, No.
14 of 1902 s. 211.

19. In section forty-nine of the *Police Offences Act* 1890 for the words "persons resorting thereto" there shall be substituted the words "any persons whomsoever in person or by messenger agent post telegraph telephone or otherwise."

Amendment of s. 49
of No. 1126.
K. v. Brown 18 Cox.
cc. 81.

20. (1) In section fifty-five of the *Police Offences Act* 1890 for the words "more than Thirty pounds" there shall be substituted the words "more than One hundred pounds;" and for the words "exceeding two calendar months" there shall be substituted the words "more than six months."

Increasing penalties
under s. 55
No. 1126.

(2) Any reference in section fifty-six of the said Act to the said section fifty-five shall be taken to refer to the said section fifty-five as hereby amended.

21. Every person who is registered as the proprietor printer or publisher of any newspaper or 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 Victoria 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 or as to any totalizers or as to any unlawful game (other than as regards a prosecution or conviction for an offence) shall be guilty of an offence. In the absence

Restrictions on
newspapers as
regards information
re betting, &c.
Comp. No. 1126
ss. 32-33.

of

of proof to the contrary the person club or association named in such advertisement or notification shall be deemed to have printed exhibited published sold circulated given away or posted up such advertisement or notification.

Advertising by
tipsters &c. an
offence.

22. Every person who prints writes 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 Victoria 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 totalizators or 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 but not by way of advertisement or for valuable consideration.

Betting placards and
notices not to be
posted up
anywhere.

23. 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 totalizators or any unlawful game shall be guilty of an offence.

Amendments of
section 57 of No.
1126.

24. In section fifty-seven of the *Police Offences Act 1890*—

- (a) the word "such" occurring before the words "persons found therein" shall be repealed;
- (b) after the words "concealed and" there shall be inserted the words "arrest search and bring before the Court"; and
- (c) after the words "money found therein" there shall be inserted the words "or upon such persons."

Increase of
punishment under
s. 58 of No. 1126.

25. In section fifty-eight of the *Police Offences Act 1890* for the words from "to a penalty" to the words "six months" inclusive there shall be substituted the words "for a first offence to a penalty of not more than One hundred pounds or to imprisonment for any term not more than three months and for a second offence to a penalty of not more than Two hundred pounds or imprisonment for any term not more than six months and for any subsequent offence to imprisonment for any term not exceeding twelve months."

No. 1436 s. 7.

26. In

26. In section sixty-four of the *Police Offences Act* 1890 after the words "at any unlawful game" the word "or" shall be substituted for the word "and;" and for the words "by one or more of the players exclusively of the others" there shall be substituted the words "apparently for the purposes of any unlawful game."

Amendment of
s. 64 No. 1126 re
evidence of being
a common gaming
house.

Totalizators.

27. Any house office room or place in or upon which the instrument or contrivance usually known as the totalizator is used or conducted or in or upon which any scheme for the subscription or distribution of moneys in a manner similar to that in which moneys are subscribed or distributed by means of a totalizator as aforesaid is attempted to be or is carried out shall be and be deemed to be a common gaming house within the meaning of Part IV. of the *Police Offences Act* 1890 and this Act and the using or conducting of any such instrument or contrivance shall be an unlawful game and any person who uses or conducts any such instrument or contrivance shall be guilty of an offence.

House where
totalizator used to
be a common
gaming house.

28. No person shall for fee commission reward payment share or interest of any kind whatever receive directly or indirectly from any other person whether personally or by messenger agent post telegraph telephone or otherwise any money or authority to collect or receive money for the purpose of placing investing or depositing such money or any part thereof in any totalizator.

Totalizator agents
prohibited.
See S.A. No. 685
s. 6.

29. Every person who sends or causes to be sent or knowingly delivers to any person any circular notice list advertisement or document directly or indirectly requesting or inviting any such person to employ him or any other person as an agent or offering his services as an agent in purchasing any ticket or making any bet in connexion with the working of any totalizator or investing any money in connexion with the working of any totalizator and any person employing or allowing any other person to act for him as agent as aforesaid shall be guilty of an offence.

Offering to act as
agent for
totalizator betting
unlawful.
See Q. 1895 No. 9
s. 13.

30. Every person who makes or enters into a bet upon the result of any event whereby he on his own or any other person's behalf agrees to pay to the other party to the said bet, if the latter should win the same, a sum of money the amount of which shall be dependent upon the result of the working of a totalizator on the said event; and every person who sells or offers for sale or buys or accepts any ticket card or thing entitling or purporting to entitle the purchaser or holder thereof to any interest in the result of the working of a totalizator on any event, or who makes any contract or bargain or agreement of any kind whether expressed or implied to pay or receive money upon an event determined or to be determined by the result of the working of a totalizator thereon, shall be guilty of an offence.

Laying totalizator
odds or dealing in
totalizator tickets
unlawful.
See ib. s. 12.

31. Every

Hiring or lending
contrivance
or premises for
gaming.

31. Every person who constructs makes or uses or who gives or lends with or without consideration to another person any machine device or contrivance for gaming or betting or any totalizator or device or contrivance of a like kind or having a like object and every person who makes or attempts to make any charge for the use thereof or any profit therewith or any commission thereupon, and the owner or occupier of every house room office or place where any such machine device contrivance or totalizator is kept or used or is in operation shall be guilty of an offence.

Wearing of disguises
in or about gaming
houses.

32. Every person who employs or uses any means to disguise himself in or about any house room office or place which is used or reputed to be used as a common gaming house shall be guilty of an offence.

Common Gaming Houses.

Common gaming
house.

See N.S.W. 1902
No. 18 s. 8/2.

33. A house office room or place where any 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.

Use of house &c.
as common
gaming house.
See N.S.W. Bill
1906 cl. 4.

34. Every owner and 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 such use.

Land used for
access to house
used as a common
gaming house.
See ib. cl. 5.

35. Every owner and 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 of exit or escape from any house office room or place 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 such use.

Power of owner
to evict occupier
of house used as a
common gaming
house.
See ib. cl. 6.

36. (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 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

he may either inform an officer of police of his suspicions or he may serve on the occupier a notice to quit or he may take both proceedings.

(2) The serving of such notice shall subject to this Act determine as from the third 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.

37. (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—

Cancellation of
notice to quit.
See N.S.W. Bill
1906 cl. 7.

(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.

38. (1) On the affidavit of an officer of police showing reasonable grounds for suspecting that any house office room or place whether licensed or registered under any Act whatsoever or not is used as a common gaming house or as a means of access to or of exit or escape from any common gaming house 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. Notice of any application for a declaration under this section shall be served in writing at least seventy-two hours before the hearing of the application upon the owner or occupier of the house office room or place which is the subject of the application or be advertised in some newspaper generally circulated in the locality wherein such house office room or place is situate. Service of such notice may be effected by posting a prepaid letter addressed to "The owner" or "The occupier" without name or further description, and bearing such an address or description of the house office room or place as in the opinion of the Court would insure the delivery of such letter at such house office room or place.

Declaration that
house a common
gaming house.
See ib. cl. 8.

(2) Any

Rescission of
declaration.
See N.S.W. Bill
1906 cl. 9.

(2) Any such declaration may be rescinded by the Supreme Court subject to such restrictions terms and conditions (including the giving of security to insure that the house office room or place will not again be used as a common gaming house or as a means of access to or of exit or escape from any common gaming house) as the Court thinks fit on application being made to the Court—

- (a) by the owner agent mortgagee or occupier of a house office room or place the subject of the declaration on proof that he has not at any time used or permitted the house office room or place to be used as a common gaming house or as a means of access to or of exit or escape from any common gaming house; or
- (b) by an officer of police on proof that the house office room or place is not used as a common gaming house or in contravention of this Act.

Notice.

(3) Where the application is made by the owner agent mortgagee or occupier as aforesaid, notice in writing of intention to make the same shall at least seventy-two hours before the hearing of such application be served on a superintendent or inspector of police stationed within the police district in which such house office room or place is situate.

Publication of
notice of
declaration and
rescission.

See ib. cl. 10.

39. (1) Notice of any such declaration and of any rescission of the same and the restrictions terms and conditions thereof shall be published in the *Government Gazette*.

(2) 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.

Notice given of
declaration.
See ib. cl. 11.

40. (1) An officer of police on such declaration being made with respect to any house office room or place—

- (a) shall cause to be published on two days in a newspaper circulating in the neighbourhood of the house office room or place a notice of the making of such declaration; and
- (b) shall cause such notice to be served on the owner agent mortgagee or occupier of the house office room or place. Such service shall be personal, except when in the opinion of such officer it cannot be promptly effected, in which case the notice may be served by causing a copy thereof to be affixed at or near to the entrance to the house office room or place. Service of such notice may be effected by posting a prepaid letter addressed to "The owner" or "The occupier" without name or further description and bearing such an address or description of the house office room or place as in the opinion of the Court would insure the delivery of such letter at such house office room or place; and

(c) shall

(c) shall cause a copy of such declaration to be posted up on such premises so as to be visible and legible to any persons entering the same.

(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.

Evidence.

See N.S.W. Bill
1906 cl. 11 (2).

(3) Any person covering removing defacing or destroying any copy of such declaration so posted up on any premises shall be liable on conviction to a penalty not exceeding Two hundred pounds or to imprisonment for any time not exceeding six months, but the fact that such copy has been covered removed defaced or destroyed or that any of the requirements of this section have not been duly complied with shall afford no answer to any proceedings under this Division.

Penalty for
interfering with
posted up
declaration.

41. (1) 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—

Person found in
entering or leaving
house declared a
common gaming
house.

See ib. cl. 12.

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

(b) in or on or entering or leaving any house office room or place 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 of Petty Sessions.

(2) Such person, unless he proves that he was in or on or entering or leaving as aforesaid in ignorance of the making of such declaration or for some lawful purpose, shall be guilty of an offence.

(3) The form of information for such offence may be in either of the following Forms or to a like effect, namely :—

(1)

THAT on the day of , at , A.B. was found in (or on or entering or leaving) a house (or office or room or place) which had been declared by the Supreme Court to be a common gaming house.

(2)

THAT on the day of , at , A.B. was found in (or on or entering or leaving) any house (or office room or place) used as a means of access to (or of exit or escape from) a house (or office or room or place) which had been declared by the Supreme Court to be a common gaming house.

42. In the case of a person who has been convicted of a felony or indictable misdemeanour and who is at any time found in any house office room or place during the time that a declaration as aforesaid is in force with respect to such house office room or place, such person shall for every such offence be liable to a penalty of not less than Five pounds nor more than Twenty-five pounds or to imprisonment for any term not less than fourteen days or more than twelve months.

Convicted persons
frequenting
declared gaming
houses.

43. No

No business to be carried on in premises whilst declaration in force.

43. No business trade profession or calling whatsoever whether carried on or exercised pursuant to any licence registration or authority under any Act of Parliament or otherwise shall be carried on exercised or conducted by or on behalf of any person in any house office room or place with respect to which any such declaration is in force.

Penalty on owner if house used in contravention of Act.

N.S.W. Bill 1906
cl. 13.

44. If after service on an owner in pursuance of this Act of notice of the making of a declaration with respect to a house office room or place that the same is a common gaming house and during the time that such declaration is in force such house office room or place is used as a common gaming house or as a means of access to or escape from a common gaming house such owner shall, unless he proves that he has taken all reasonable steps to evict the occupier from the same, be guilty of an offence.

Penalty on occupier.
Ib. cl. 14.

45. If after service on an occupier in pursuance of this Act of notice of the making of a declaration with respect to a house office room or place that the same is a common gaming house and during the time that such declaration is in force such house office room or place is used as a common gaming house or in contravention of this Act, the said occupier shall, unless he proves that he has taken reasonable steps to prevent such use, be guilty of an offence.

Entry by police.
Ib. cl. 15.

46. While any such declaration is in force with respect to any house office room or place any member of the police force may at any time do all or any of the undermentioned things—

- (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) of this section ;
- (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 or upon any persons found therein; and
- (f) arrest search and bring before a Court of Petty Sessions all persons found in the said house office room or place without lawful excuse.

47. Any

47. Any person who 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 any preceding section of this Division shall on conviction be liable to a penalty of not less than Five pounds or more than Fifty pounds or to imprisonment for any term not less than seven days or more than three months.

Obstructing the
police.
N.S.W. Bill 1906
cl. 16.

48. The power to make Rules conferred by the *Supreme Court Act* 1890 and any amendment thereof on the Supreme Court or any Judge thereof shall include power to make Rules to enforce and carry out the provisions of this Division.

Rules.

Premises Adjoining Gaming Houses.

49. Every owner and every occupier and every agent for an owner or occupier of any house office room or place who permits suffers or allows the same to be or be used as a means of access to or escape from any house office room premises or place wherein or whereon playing or betting by way of wagering or gaming is allowed or carried on contrary to law or is commonly reputed to be allowed or carried on contrary to law shall be guilty of an offence, unless in the case of an owner who is not an occupier or of an agent 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 such use.

Penalty for
permitting
premises to be used
as access to or
exit from any
common gaming
house.
(1905 Vict. Bill.)

50. (1) Subject to sub-section (3) of this section any justice upon information made before him on oath that there is reason to suspect or believe and that the informant believes that any person being the owner or occupier of any house office room or place permits suffers or allows the same to be or be used as a means of access to or exit or escape from any house office room or place wherein or whereon playing or betting by way of wagering or gaming is allowed or carried on contrary to law, or is commonly reputed and is believed by the informant to be allowed or carried on contrary to law, may by special warrant under his hand authorize any constable or peace officer to whom such special warrant is addressed and his assistants—

Special warrant to
enter &c. premises.
Ib.

(a) to enter (whether by breaking open doors or otherwise) the house office room or place which there is reason to suspect or believe is or are used as a means of access to or exit or escape from any house office room premises or place wherein or whereon playing or betting by way of wagering or gaming is allowed or carried on contrary to law or is commonly reputed to be allowed or carried on contrary to law as aforesaid; and

(b) to pass through from over and along such house office room or place suspected or believed to be so used as a means of access exit or escape; and

(c) to

(c) to seize all tables and instruments of gaming and also all money and securities for money found on or in such house office room or place suspected or believed to be so used as a means of access exit or escape or upon any persons found therein or thereon ; and

(d) to arrest search and bring before a Court of Petty Sessions all persons found in or on or entering or leaving such house office room or place suspected or believed to be so used as a means of access exit or escape.

(2) Every person found therein or thereon or entering or leaving as aforesaid without lawful excuse the proof of which shall lie on such person shall be liable to a penalty of not less than One pound or more than Five pounds.

(3) Every special warrant under the authority of this section may be in the form or to the effect of the Schedule to this Act, and shall not be granted except upon information made as aforesaid by some person expressly authorized in writing by the Chief Secretary to apply for such warrant in any particular case.

Schedule.

DIVISION 3.—STREET BETTING.

Minimum terms of imprisonment under No. 1436.

51. In section two of the *Street Betting Suppression Act 1896*—

(a) before the words “exceeding three months” there shall be inserted the words “less than fourteen days or” and

(b) before the words “six months” there shall be inserted the words “any term not less than three months or more than” and

(c) before the words “twelve months” there shall be inserted the words “any term not less than six months or more than.”

Interpretation of exception of “race-courses” No. 1436.

52. (1) In section five of the *Street Betting Suppression Act 1896* the word “race-courses” shall mean such race-courses as are licensed under this Act and only during the holding of race-meetings thereon or during the holding of a coursing meeting thereon if any coursing meeting was held thereon during the twelve months preceding the thirty-first day of July One thousand nine hundred and six.

Meaning of thoroughfare in section 5 of No. 1436.

Sheahan v. Jackman 19 A.L.T. 184.

(2) In the same section the word “thoroughfare” shall include and apply to any passage through in or upon any land house building or premises along which the public pass from one street as defined in the said section to another street as so defined whether by the permission or sufferance of the owner or occupier thereof or otherwise and whether such passage is or is not at all times open or available to the public.

Bet with infant.

53. The fact that an infant making a wager or bet does so on behalf of another person shall not exempt a person making a wager or bet with such infant from the punishment imposed by section eight of the *Street Betting Suppression Act 1896*.

54. In

54. In section one hundred of the *Police Offences Act* 1890 after the words "Part IV. of this Act" there shall be inserted the words "or under the *Street Betting Suppression Act* 1896."

Informer's costs
under No. 1436.

DIVISION 4.—RESTRICTIONS ON RACE MEETINGS.

55. (1) No race-meeting shall be held except on a race-course which is licensed under this Act for horse races or for pony races or for trotting races and except between the hours of Ten o'clock before noon and Seven o'clock in the evening.

Race-courses to be
licensed.

(2) No race-meeting for horse races shall be held—

(a) on any race-course within twenty miles of the General Post Office Melbourne on more days than the number allowed in the licence for such race-course but not on more than sixteen days in any one year ; or

Limitation of
number of horse
race-meetings
on race-course.

(b) on any other race-course on more days than the number allowed in the licence for such race-course but not on more than twelve days in any one year.

(3) No race-meeting for pony races shall be held—

(a) on any race-course for pony races not more than twenty miles from the General Post Office Melbourne on more days than the number allowed in the licence for such race-course but not on more than sixteen days in any one year, or if there are more than three such race-courses the number of days for race-meetings for each race-course shall not exceed the quotient, omitting fractional parts obtained by dividing the number forty-eight by the number of race-courses situate as aforesaid and licensed for pony race-meetings in that year.

Limitation of
number of
pony race-meetings
on race-course.

(b) Where any race-course for pony races is situate beyond the said twenty miles the number of days in any one year for pony race-meetings thereon shall not exceed four.

(4) Not more than a total number of twenty meetings for trotting races shall be held in any year on all race-courses within twenty miles of the General Post Office Melbourne. Subject to this paragraph a licence for trotting race meetings may be granted to any race-course whether a licence for horse race-meetings or for pony race-meetings has or has not been issued therefor, and without regard to the number of days allowed for horse racing or pony racing thereon.

Limitation of
trotting race-
meetings.

(5) At any race meeting for horses lawfully held there may also be held on each day not more than two pony races or two trotting races or than one pony race and one trotting race.

Provision for horse
pony or trotting
races on same day.

(6) At any race meeting for ponies lawfully held there may also be held on each day not more than two horse races or two trotting races or than one horse race and one trotting race.

(7) For

Meaning of "pony
races" &c.

(7) For the purposes of this Division "pony races" or "pony racing" means races under conditions limiting the height of any horse eligible to compete therein to any height not exceeding fourteen hands two inches, and "trotting race" means a race in which each horse or pony competing moves at a gait generally known as pacing or trotting.

Horse racing days
not to exceed
number in last
racing year.

(8) The number of days so allowed in any licence for horse racing on any race-course shall not exceed the number of days on which races were held on such race-course or on any land used for such race-course by or on behalf of the owners or trustees of such race-course during the year ended on the thirty-first day of July One thousand nine hundred and six or if no races were run on any race-course during such year the number of days so allowed in any licence shall not exceed two except in the case of the Geelong race-course for which the number of days to be allowed for horse-racing shall not exceed four and in the case of the Shepparton race-course for which the number of days to be allowed shall not exceed three, provided always that a match between two horses only shall not be deemed a race-meeting.

Plan of race-course.

(9) With each application for a first licence for a race-course the applicant shall furnish the Chief Secretary with a map or plan thereof showing the running-course and the length thereof and with any such information regarding the accommodation afforded to the public as may be required by the regulations.

Penalty.

(10) If any race meeting is held in contravention of this Division the owner or trustees of the race-course and the club association or person by or on behalf of which or whom such meeting was so held and each member of the managing body or committee of such trustees club or association and any person acting at such race-meeting as steward starter or judge shall be liable to a penalty not more than Five hundred pounds. But no person shall be liable if it is shown that he did not act wilfully in contravention of this Division.

Certain race-
meetings with
approval of Chief
Secretary.

(11) Notwithstanding anything contained in this Act any club or association or body of persons may with the previous consent in writing of the Chief Secretary hold a race-meeting for horse races or pony races or trotting races on any land whatsoever not being within thirty miles of the General Post Office Melbourne approved by the Chief Secretary for the holding of such meeting on any specified day.

(12) Notwithstanding anything contained in this Act any Hunt Club may with the previous consent in writing of the Chief Secretary hold a point to point steeplechase race for horses on any land whatsoever approved by the Chief Secretary for the holding of such race on any specified day.

(13) Notwithstanding anything contained in this Act the Chief Secretary may permit the owners or trustees of any race-course to hold any race-meetings on such race-course in excess of the statutory number for any charitable benevolent or special purpose not exceeding three in the whole for all race-courses in any one year.

(14) This

(14) This Division shall take effect from the thirty-first day of March One thousand nine hundred and seven and in its construction a year shall be deemed to commence on the thirty-first day of March.

Commencement of
Division 4.

56. (1) Licences under the last preceding section shall be issued by the Chief Secretary in such form and on such terms and conditions as may be prescribed by regulations which the Governor in Council is hereby authorized to make.

Issue of licences.
Cl. 31.

(2) Any such licence shall unless cancelled be in force for twelve months from the date of its issue. A licence may at any time be cancelled by the Governor in Council for any good cause.

Period of licence.

(3) For each such licence there shall before the issue thereof be paid into the Consolidated Revenue a fee of One pound and also an annual sum equal to three per centum of the gross revenue from all sources received or derived from such race-course by the owner or trustees of the race-course or the club association or person by or on behalf of which or whom any race-meetings took place on such race-course during the year ended on the last day of July immediately preceding the year for which a licence is required. Provided however that where the said gross revenue is less than One thousand five hundred pounds but more than Six hundred pounds such annual sum shall be equal to two per centum of such gross revenue, and where the said gross revenue is Six hundred pounds or less no such annual sum shall be charged.

Fees and annual
sum.

(4) If for any reason the gross revenue as aforesaid cannot be ascertained, or does not in the opinion of the Chief Secretary appear to be correctly stated by the applicant for a licence the annual sum to be paid for the licence shall be assessed and determined by the Chief Secretary on such evidence as may be produced by the applicant for the licence.

Person to assess for
annual sum.

(5) Where on any of the number of days for which race-meetings are allowed in the licence for a race-course it is found impossible or impracticable to hold any appointed or particular race-meeting on such course or where a racing club or polo club or hunt club in existence on the first day of August One thousand nine hundred and six or any club which held race-meetings for horses during the twelve months preceding such date has no race-course in its own control the Governor in Council may if satisfied of such impossibility or impracticability or of such fact with the consent of the owners or trustees of the race-course hereinafter referred to authorize on such conditions as he thinks fit the holding of race-meetings on such days as he may fix on any specified race-course whatsoever irrespective of the number of days on which in the licence for such race-course race-meetings are allowed to be held thereon.

Provision when
races not held.

(6) The number of licences for race-courses situate within forty miles of the General Post Office Melbourne shall not exceed the number of race-courses so situate and in use for race-meetings within the twelve months next preceding the first day of August One thousand nine hundred and six.

Limitation of
number of
metropolitan
race-courses
licensed.

(7) The

Ballarat and
Bendigo
race-courses.

(7) The number of licences for race-courses situate within twenty miles of the principal post-office at Ballarat or Bendigo shall not exceed the number of race-courses so situate and in use for race-meetings within the twelve months aforesaid.

Publication of
regulations.

(8) All regulations under this Division when made by the Governor in Council shall be published in the *Government Gazette* and when so published shall have the force of law and shall be judicially noticed and shall be laid before both Houses of Parliament within fourteen days after the same shall have been made if Parliament be then sitting and if not then within ten days after the next meeting of Parliament and a copy of any proposed regulations shall be posted to each Member of Parliament at least twenty-one days before such regulations are approved by the Governor in Council.

DIVISION 5.—MISCELLANEOUS.

Power to make rules
re carrying on
business on race-
courses.

57. The committee or other managing body of any club or association conducting race-meetings on any race-course licensed under this Act may with the approval of the Governor in Council make alter or rescind rules and regulations for—

(a) the permitting of persons (approved by such committee or body) to carry on any business or vocation on any part of such race-course and prescribing the terms and conditions under which they may so carry on any such business or vocation upon payment of the fees or charges fixed by such rules or regulations. Provided that such approved person shall not carry on or be licensed or permitted to carry on the business or vocation of a book-maker except on such parts of such race-course as are specially set apart for that purpose and provided that if such approved person shall bet with youths apparently under the age of twenty-one or females he shall be guilty of an offence;

(b) the preventing of persons not so approved and permitted or of persons offending against such rules or regulations from carrying on any business or vocation upon any part of such race-course and the removing of such persons therefrom.

Payment of
penalty &c.
under No. 1436.

58. In section eighty-nine of the *Police Offences Act* 1890 after the words "or Part IV. of this Act" there shall be inserted the words "or under the *Street Betting Suppression Act* 1896."

Adjustment of
Second Schedule
to No. 1126.

59. In the Second Schedule to the *Police Offences Act* 1890 for the words "there diligently to search for all instruments of unlawful gaming which may be therein and to arrest search and bring before me or some other of the justices of the peace as well the keepers of the same as also the persons there haunting resorting and playing" there shall be substituted the words "to arrest search and bring before any Court of Petty Sessions all persons found therein and to seize all tables and

and instruments of gaming found in such house room premises or place and also to seize all moneys and securities found therein or upon such persons and to search all parts of the house room premises or place where you suspect that tables or instruments of gaming are concealed."

60. No member of the police force or person if such member or person is acting under instructions from any officer of police shall be deemed to be an offender or accomplice in the commission of any offence against this Act or the *Police Offences Act* 1890 although such member or person might but for this section have been deemed to be such an offender or accomplice.

Accomplice.
See S.A. No. 685
s. 14.

61. If on the hearing of any information against any person for an offence against any of the provisions of this Act or Part IV. of the *Police Offences Act* 1890, the Court is of opinion that any money or thing proved to have been given to or received or paid by the accused person or given to or received or paid by any person or persons on his behalf was given in circumstances which in the mind of the Court raise a reasonable suspicion that such money or thing was given received or paid in contravention of any of the said provisions, such giving receiving or paying shall be deemed *prima facie* evidence of the commission by the accused person of the offence charged against him in such information.

Evidence as to
offences.
See S.A. No. 812
s. 4.

62. Whenever any house office room or place is entered under any of the provisions of this Act or Part IV. of the *Police Offences Act* 1890 the discovery therein or thereon or about the person of any of those found therein or thereon or entering or leaving the same (under circumstances which combined with such discovery raise in the mind of the Court a reasonable suspicion that the purposes and provisions of this Act have been contravened) of cards dice tables or other instruments of gaming or of lists books cards papers documents or things relating to racing or betting or gaming shall be *prima facie* evidence that such place is used for unlawful gaming.

Prima facie
evidence of
unlawful gaming.
See ib. s. 7.

63. A married woman guilty of a contravention of any of the provisions of this Act or Part IV. of the *Police Offences Act* 1890 shall be liable to punishment in all respects as if she were a *feme sole*.

Coercion, married
woman.
1 Russ. p. 146 &c.

64. Notwithstanding anything contained in any Act no special warrant of any justice issued under the *Police Offences Act* 1890 or under this Act shall be invalid or ineffectual by reason only that the same is not and does not purport to be under the seal of such justice.

Warrants need not
be under seal.
Macmanamny v.
Ross, 18 A.L.T.,
258.

65. In case any person who has laid any information or complaint in respect of any offence against the *Police Offences Act* 1890 or this Act does not appear at the hearing or declines or neglects to proceed upon or prosecute such information or complaint the Court or justices may authorize some other person to proceed upon or prosecute such information or complaint or may authorize any other person to take fresh proceedings in respect of the offence.

Neglect to
prosecute.
Q. 1895, No. 5
s. 32.

66. Notwithstanding

Constitution of
Court of Petty
Sessions.

66. Notwithstanding anything contained in the *Police Offences Act* 1890 all prosecutions for any offence against any of the provisions of this Act or of Part IV. of the *Police Offences Act* 1890 shall be heard and determined before a Court of Petty Sessions consisting of one or more justices, one of whom shall be a police magistrate.

Forfeiture of
instruments of
gaming.

67. All tables and instruments of gaming and all money and securities for money lawfully seized under the provisions of any Act may in the discretion of the Court be forfeited to His Majesty the King by order of any Court of Petty Sessions.

Punishment of
offences.

68. Every person who contravenes any of the provisions of this Act whether on his own or any other person's behalf shall whether so enacted in any such provision or not be guilty of an offence against this Act ; and if no punishment is in this Act expressly provided for any such offence, such person shall be liable for a first offence to a penalty of not less than Five pounds or more than One hundred pounds, or to imprisonment for any term not less than seven days or more than three months, and for a second offence to a penalty of not less than Twenty-five pounds or more than Two hundred pounds or imprisonment for any term not less than one month or more than six months, and for any subsequent offence to imprisonment for any term not less than three months or more than twelve months.

Section 50.

SCHEDULE.

FORM OF SPECIAL WARRANT.

Bailiwick.)
To wit)
To

Constable or Peace Officer.

WHEREAS it appears to me, a Justice of the Peace in and for the Bailiwick, by the information on oath of of, that the owner or occupier (*as the case may be*) of a certain house office room or place situate at in the said bailiwick permits or allows the same to be or be used as a means of access to or exit or escape from any house office room premises or other place wherein or whereon playing or betting by way of wagering or gaming is allowed or carried on contrary to law or is commonly reputed and is suspected or believed by the informant to be allowed or carried on contrary to law (*shortly describe house office room premises or other place*) this is therefore to authorize you with such assistants as you may find necessary to at any time enter and re-enter upon the house office room or place situate as aforesaid and so used as a means of access exit or escape and if necessary to use force for making such entry whether by breaking open doors or otherwise and to pass through from over and along the same and to seize all tables and instruments of gaming and also all money and securities for money found thereon or therein or upon any persons found therein or thereon and to arrest and bring before a Court of Petty Sessions every person found therein or thereon or entering or leaving the same.

Given under my hand at

this

day of

19

J.P.

MELBOURNE:

By Authority: J. KEMP, Acting Government Printer.