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[AS REPORTED FROM THE GAMING AND LOTTERIES ACT AMENDMENT BILL
COMMITTEE.]

*House of Representatives,
15th November, 1907.*

Right Hon. Sir J. G. Ward.

GAMING AND LOTTERIES ACT AMENDMENT.

ANALYSIS.

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A BILL INTITULED

AN ACT to make Better Provision for the Regulation and Sup- Title.
pression of Gaming, Betting, and Wagering.

5 BE IT ENACTED by the General Assembly of New Zealand
in Parliament assembled, and by the authority of the same, as
follows:—

10 1. This Act may be cited as the Gaming and Lotteries Act Short Title.
Amendment Act, 1907, and shall form part of and be read together
with the Gaming and Lotteries Act, 1881 (hereinafter referred to
as the principal Act).

Interpretation.

2. In this Act, if not inconsistent with the context,—

“Bookmaker” means any person who acts or carries on business as a bookmaker or turf commission agent, or who gains or endeavours to gain his livelihood wholly or partly by betting or making wagers : 5

“Gaming Acts” means this Act and the principal Act, and any Act now in force or hereafter to be passed which amends either of these Acts, or is incorporated with or deemed to form part of either of them :

“Owner” of a house, office, room, or other place, or of any land or building, includes a lessee or sublessee from whom a sublessee holds the same, and also includes every person who is entitled to the same for any estate of freehold in possession, whether legal or equitable, or is 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 : 10 15

“Racecourse” means land which is used for race meetings :

“Race meeting” means a meeting for the purpose of horse-racing : 20

“Supreme Court” means the Supreme Court or a Judge thereof in Court or in Chambers.

3. Section two of the principal Act is hereby amended by omitting the words “where any lottery is conducted,” and substituting therefor the words “where any lottery promoted in New Zealand, or any part of the business or operations of or connected with any lottery promoted elsewhere than in New Zealand, is conducted.” 25

4. Section eighteen of the principal Act is hereby amended by omitting the words “and any person who shall manage or conduct, or assist in managing or conducting,” and substituting therefor the words “whether promoted in New Zealand or elsewhere ; and every person who manages or conducts, or assists in managing or conducting, or canvasses for subscribers to, or receives any money or valuable thing for tickets in or for any purpose connected with.” 30 35

5. Section five of the Gaming and Lotteries Act 1881 Amendment Act, 1885, is hereby amended by adding, after the word “lottery,” the words “or scheme” ; and also, after the words “the said Act,” the words “whether promoted in New Zealand or elsewhere.” 40

6. No constable and no person acting under instructions from any Superintendent or Inspector of Police shall be deemed to be an offender or accomplice in the commission of any offence against the Gaming Acts, although such constable or other person might but for this section have been deemed to be such an offender or accomplice. 45

7. Section eight of the principal Act is hereby amended by inserting after the words “public place” the words “or within the view of persons in a public place.”

8. In section eleven of the principal Act, 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.” 50

Section 2 of principal Act amended.

Section 18 of principal Act amended.

Section 5 of amending Act of 1885 amended.

Constable not to be deemed an offender against Gaming Acts.

Section 8 of principal Act amended.

Section 11 of principal Act amended.

9. (1.) Section three of the Gaming Act, 1894, is hereby amended by omitting the words "twenty pounds" wherever these words occur, and substituting therefor the words "one hundred pounds."

Section 3 of Gaming Act, 1894, amended.

5 (2.) Section three of the Gaming Act, 1894, is hereby further amended by adding thereto the following subsection:—

10 "(6.) It shall be no defence in any prosecution for an offence against this section that the infant making any such bet, wager, or purchase, acted as the agent of or otherwise on behalf of some other person and not on his own behalf."

10. (1.) Any person who, being the owner or occupier or having the use of any house, room, office, or place opens, keeps, or uses the same as a common gaming-house; and

Penalty for using premises as gaming-house.

15 Any person who, being the owner or occupier of any house, room, office, or place, knowingly and wilfully permits the same to be opened, kept, or used as a common gaming-house by any other person; and

20 Any person having the care or management of or in any manner assisting in conducting the business of any common gaming-house; and

Any person who advances or furnishes money for the purpose of gaming or betting with persons resorting to any common gaming-house—

25 shall be liable to a fine not exceeding *one* hundred pounds or to imprisonment for a period not exceeding *three* months.

(2.) Every person found in any common gaming-house shall be liable to a fine not exceeding *five* pounds, unless he proves that he was there present for some lawful purpose.

30 (3.) Section four, section thirteen, and section twenty-eight of the principal Act are hereby repealed.

Repeal.

11. (1.) Every game of chance is hereby declared to be an unlawful game within the meaning of the Gaming Acts.

Games of chance unlawful.

(2.) Section ten of the principal Act is hereby repealed.

Repeal.

35 12. For the purposes of the Gaming Acts any house, office, room, or place which would otherwise be a common gaming-house shall be deemed to be a common gaming-house notwithstanding the fact that it is open only for the use of subscribers or of members or shareholders of any particular club, company, or corporation, and is not open to all persons desirous of using the same:

Common gaming-house to include club in certain cases.

40 Provided that this section shall not apply to any club holding a charter issued under the authority of the Licensing Act, 1881.

45 13. Every house, office, room, or place occupied, kept, or used for the purposes of an illegal lottery or a proposed illegal lottery (whether the said lottery is promoted in New Zealand or elsewhere) shall be deemed and taken to be a common gaming-house within the provisions of the Gaming Acts.

Common gaming-house to include premises kept for purposes of lottery.

50 14. For all the purposes of the Gaming Acts any person who acts as or as if he were the occupier or person having the care or management of any house, office, room, or place shall be deemed, though not to the exclusion of the liability of any other person, to be the occupier thereof, whether he is the real occupier thereof or not.

Occupier of premises.

Gaming-houses declared by the Supreme Court.

Supreme Court
may declare
premises to be a
common gaming-
house.

15. (1.) On the affidavit of a Superintendent or Inspector 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 (hereinafter referred to as the premises) to be a common gaming-house. 5

(2.) Every such declaration shall be in force until rescinded. 10

Service of notice
of application for
such declaration.

(3.) 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, or upon one or more of the owners or occupiers, of the premises which are the subject of the application, or be advertised in some newspaper generally circulated in the locality wherein such premises are 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 premises as in the opinion of the Court would insure the delivery of such letter at such premises. 15 20

Notice of
declaration to
be published.

16. (1.) A Superintendent or Inspector of Police, on such declaration being made with respect to any premises,—

(a.) Shall cause to be published in the *Gazette*, and on two days in a newspaper circulating in the neighbourhood of the premises, a notice of the making of such declaration; and 25

(b.) Shall cause a notice of the making of such declaration to be served on the owner or occupier of the premises, or on the agent of such owner or occupier. Such service may be effected either personally or by causing a copy of the notice to be affixed at or near to the entrance of the premises, or by posting a copy of the notice in a prepaid letter addressed to "The Owner" or "The Occupier" without name or further description, and bearing such an address or description of the premises as in the opinion of the Court would insure the delivery of such letter at such premises; and 30 35

(c.) Shall cause a notice of the making of such declaration to be posted up on the premises so as to be visible and legible to any persons entering the same. 40

(2.) Any person covering, removing, defacing, or destroying any notice of such declaration so posted up on any premises shall be liable on conviction to a fine not exceeding *one* hundred pounds, or to imprisonment for any time not exceeding *three* months; but the fact that such notice 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 Act. 45 50

(3.) In any proceedings under this Act the production of a copy of the *Gazette* containing a notice of the making of such declaration shall be evidence that the said declaration was duly made and that it is still in force.

5 17. (1.) If any premises are in pursuance of this Act declared by the Supreme Court to be a common gaming-house, any owner thereof, or his agent, whether such owner is the immediate lessor of the occupier thereof or not, may forthwith determine the tenancy of the occupier, and may eject the occupier, whether by way of legal
10 proceedings or otherwise, in like manner as if the said owner were the immediate lessor of the occupier.

Owner may determine tenancy of occupier if premises declared to be a common gaming-house.

(2.) Any such determination may be effected either by re-entry on the premises or by delivering to the occupier a notice to quit, or by leaving such a notice on the premises addressed to "The
15 Occupier."

(3.) No such determination of the occupier's tenancy by or on behalf of an owner who is not the immediate lessor of the occupier shall determine or affect any intermediate tenancy.

(4.) On the application of the occupier made within fourteen days
20 after the date of such determination of his tenancy, and on proof that the premises have not at any time within one year before the date of such determination been used by any person as a common gaming-house, or permitted by any person to be used as a means of access to or exit or escape from a common gaming-house, the Supreme Court
25 may, on such terms as it thinks fit, grant relief to the occupier against such determination of his tenancy.

(5.) Notice of intention to make such application shall, not less than seventy-two hours before the hearing of the application, be served on the owner who has so determined the tenancy or on his
30 agent.

18. (1.) Any declaration made by the Supreme Court under this Act may be rescinded by the Supreme Court, subject to such restrictions, terms, and conditions (including the giving of security to insure that the premises will not again be used as a common
35 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—

Declaration may be rescinded by Court.

(a.) By a Superintendent or Inspector of Police, on proof that
40 the premises are not 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 or on behalf of the owner or occupier of the premises, on proof that the premises have not at any time within
45 one year before the date of such application been used as a common gaming-house, or as a means of access to or of exit or escape from any common gaming-house; or

(c.) By or on behalf of an owner of the premises, on proof that
50 the person who was in occupation of the premises at the time of the making of the declaration is no longer in occupation of the same, and also that the premises are no longer used as a common gaming-house or as a means of access to or exit or escape from a common gaming-house.

(2.) Where the application is made by or on behalf of the owner 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 district in which the premises are situate.

Offence to be on premises declared to be a common gaming-house, except under special circumstances.

19. (1.) If after the making of such declaration with respect to any premises, and during the time that such declaration is in force, any person is found in or on or entering or leaving such premises, any constable may without warrant arrest such person and take him before a Magistrate or two Justices.

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

(3.) Every person convicted of an offence under this section shall be liable to a fine not less than *five* pounds and not more than *one* hundred pounds, or to imprisonment for a term not less than *seven* days and not more than *three* months.

(4.) The form of information for such offence may be in the form numbered (1) in the Schedule hereto or to a like effect.

No business to be carried on in such premises.

20. (1.) No business, trade, profession, or calling whatsoever (whether or not the same is carried on or exercised pursuant to any license, registration, or authority under any Act) shall be carried on, exercised, or conducted by any person, whether on his own account or as the agent or servant of any other person, in any premises with respect to which any such declaration is in force.

(2.) Every person who commits a breach of the provisions of this section is liable on conviction to a fine not exceeding *five* pounds for every day on which he so acts.

Continued use of premises as common gaming-house after declaration by Court.

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

(2.) If after service on an occupier in pursuance of this Act of notice of the making of such a declaration with respect to any premises, and during the time that such declaration is in force, such premises are used by any person as a common gaming-house, or as a means of access to or escape or exit from a common gaming-house, the said occupier shall, unless he proves that he has taken all reasonable steps to prevent such use, be guilty of an offence.

(3.) Every person who commits an offence against this section is liable to a fine not exceeding *one* hundred pounds or to imprisonment for any term not exceeding *three* months.

Powers of constable with respect to common gaming-houses.

22. While any such declaration is in force with respect to any premises any constable may at any time do all or any of the following things :—

(a.) Enter the said premises ;

- (b.) Enter any land or building which he reasonably suspects to be used as a means of access to or of exit or escape from the same ;
- 5 (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;~~
- 10 (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 premises or upon any persons found therein ; and
- 15 (f.) Arrest, search, and bring before a Magistrate or two Justices all persons found in the said premises.

23. (1.) Any person who obstructs or aids in obstructing, or solicits any other person to obstruct or aid in obstructing, a constable in the exercise of any power conferred on him by this Act or any other Gaming Act shall be guilty of an offence.

Obstructing constable in performance of duty.

- 20 (2.) Any person who in order to enable any other person to avoid detection or arrest gives to any person in any common gaming-house, or upon any premises declared by the Supreme Court to be a common gaming-house, any warning or notice of the approach of a constable, or of the intention of a constable to exercise any power
- 25 conferred on him by this Act or any other Gaming Act, shall be guilty of an offence.

Giving warning of approach of constable.

(3.) Every person who commits an offence against this section is liable to a fine not exceeding *one* hundred pounds or to imprisonment for any term not exceeding *three* months.

- 30 24. The power to make rules conferred by the Supreme Court Act, 1882, on the Supreme Court or any Judge thereof shall include power to make rules to enforce and carry out the provisions of this Act. In default of any such rules, or so far as they do not extend,
- 35 such manner and form as the said Court deems sufficient in the particular case.

Supreme Court may make rules for carrying out Act.

Betting.

25. (1.) Every person who frequents, uses, or is in any street for the purpose of any money or valuable thing being received by or
- 40 promised to such person or on his behalf—

Street betting.

- 45 (a.) As the consideration for any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency relating to any horse-race or to any sports as defined in section *twenty-seven* hereof, whether the said horse-race or sports are held or to be held in New Zealand or elsewhere ; or
- (b.) As the consideration for securing the paying or giving by
- 50 some other person of any money or valuable thing on any such event or contingency as aforesaid—

shall be liable for a first offence to a fine not less than *twenty* pounds and not exceeding *one* hundred pounds, and for a second or any subsequent offence to imprisonment for a period not exceeding *three* months.

(2.) Every bookmaker who either by himself or by means of any agent, clerk, or servant makes or offers to make any bet or wager in any street, and every such agent, clerk, or servant who so makes or offers to make any bet or wager, shall be liable for a first offence to a fine not less than *twenty* pounds and not exceeding *one* hundred pounds, and for a second or any subsequent offence to imprisonment for a period not exceeding *three* months. 5

(3.) Any information for an offence against this section may be in the form numbered (2) or (3) in the Schedule hereto or to the like effect. 10

(4.) In this and the *next succeeding* section the term "street" means— 15

(a.) Any public road, street, or thoroughfare, and any road, street, lane, footway, or passage, whether a thoroughfare or not, and whether public or not; and

(b.) Any enclosed or unenclosed land (not being a building or a racecourse on which a race meeting is being held) in any city or borough. 20

Struck out.

(5.) Any constable may at any time arrest without warrant any person found committing any offence against this section. 25

26. Any money or valuable thing received by any bookmaker, or any such agent, clerk, or servant, or any person as aforesaid—

(a.) As the consideration for any such assurance, undertaking, promise, or agreement made in any street; or

(b.) As a deposit on any bet or wager made in any street,— 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 in any Court of competent jurisdiction. 30

Recovery of moneys paid to bookmaker, &c.

Betting on sports-grounds.

27. (1.) Every person commits an offence, and is liable to a fine not exceeding *twenty* pounds, who makes or offers to make any bet or wager on any ground on which any sports are being held. 35

Person offending against this section may be removed from sports-ground.

(2.) Any person who acts in breach of the provisions of this section, and who after being warned by any agent or servant of the persons who have the use or control of the ground, whether they are the occupiers thereof or not, or by any constable, to desist from so acting does not so desist, may be forthwith removed from such ground by any such agent or servant, or by any constable. 40

(3.) Any person so removed shall not on the day of such removal re-enter such ground, and if he does so re-enter he may, without warrant, be arrested by any such agent or servant, or by any constable, and taken before a Magistrate or any two Justices, and shall be liable to a fine not exceeding *fifty* pounds, or to imprisonment for a period not exceeding *one* month. 45

Interpretation.

(4.) In this section— 50

"Ground" means any land, building, room, or place, whether public or private, to which any persons are admitted either at all times or only at certain times, whether on

payment of an entrance fee or charge, or otherwise, for the purpose of taking part in or of witnessing any sports :
 "Sports" means bicycle-races, foot-races, swimming-races, cricket matches, football matches, boxing matches, billiard matches, and any athletic game or exercise.

5 28. Every person commits an offence and is liable to a fine not exceeding *twenty* pounds who upon any premises registered as a factory under the Factories Act, 1901, makes or offers to make any bet or wager relating to any horse-race, or to any sports as defined in
 10 the *last preceding* section of this Act. Betting in factory.

Race Meetings.

29. (1.) It shall be illegal for any officer, agent, or servant of a racing club to accept or act on any telegraphic or *telephonic* request, instructions, or directions relating to investments on the totalisator,
 15 whether such request, instructions, or directions are received on a racecourse or elsewhere. Officer of racing club not to accept telegraphic instructions as to investments on totalisator.

(2.) Any person who commits an offence against this section is liable to a fine not less than *twenty* pounds and not exceeding *fifty* pounds.

20 30. No telegram relating to betting or to investments on the totalisator shall be delivered at any racecourse. Betting telegrams not to be delivered at racecourse. 15

31. (1.) Every person commits an offence and is liable to a fine not exceeding *twenty* pounds who prints, publishes, sells, or publicly exhibits any newspaper or other document which contains
 25 any advertisement or notification by or on behalf of any person, club, or association as to betting on any horse-race to be run, whether in or out of New Zealand, or as to investments on the totalisator in respect of any such race, or *which contains any information, advice, or suggestion as to the probable result of any such race.* Advertisement as to betting on horse-races. 15

30 (2.) Every person commits an offence and is liable to a fine not exceeding *twenty* pounds who prints, publishes, sells, or publicly exhibits any newspaper or other document which contains any advertisement or notification by or on behalf of any person whereby it
 35 is made to appear that such person or any other person is willing to give any information or advice as to the probable result of any horse-race, whether in or out of New Zealand, or to make any bet or wager on the result of any such race.

(3.) Every person commits an offence and is liable to a fine not exceeding *twenty* pounds who causes or attempts to cause any such
 40 advertisement or notification as is hereinbefore in this section mentioned to be inserted or published in a newspaper.

New subclause.

(3A.) Every person commits an offence and is liable to a fine not exceeding *twenty* pounds who prints, publishes, or sells any
 45 newspaper or other printed document which contains any statement as to the dividend paid on investments on the totalisator in respect of any horse-race, whether run in New Zealand or elsewhere.

(4.) Nothing in this section contained shall apply to any advertisement, notification, or document with respect to investments on
 50 the totalisator published or exhibited solely on a racecourse by the authority and on behalf of any racing club lawfully authorised to use

~~the totalisator, nor shall anything in this section apply to the publication after a race has been already run of any information with respect to such race or with respect to any betting on the result thereof.~~

Restriction on use of totalisator.

32. (1.) It shall not be lawful for any member, officer, agent, or servant of any racing club to permit or authorise the use on any race-course of any totalisator by any person for the purpose of making any bet, wager, or investment which depends on the result of more than one horse-race, ~~or on the place in any one race of more than one horse.~~ 5

(2.) Any person committing an offence against this section is liable to a fine not less than *twenty* pounds and not exceeding *fifty* pounds. 10

No investment on totalisator after notified time for starting race.

33. (1.) It shall not be lawful for any member, officer, agent, or servant of any racing club to receive or permit to be received any investment on the totalisator in respect of any race after ~~or within five minutes before~~ the time notified by such club for the starting of such race. 15

(2.) It shall not be lawful for any member, officer, agent, or servant of any racing club to register on the totalisator after the time notified by such club for the starting of any race any moneys received for investment in respect of that race, or to take account in the calculation or payment of any dividend any investment which has not been publicly registered on the totalisator in accordance with this section. 20

(3.) It shall not be lawful for any member, officer, agent, or servant of any racing club to receive or permit to be received any investment on the totalisator elsewhere than at the totalisator itself. 25

(4.) Any person committing an offence against this section is liable to a fine not exceeding *one hundred* pounds.

Racing clubs may regulate admission to racecourses.

34. (1.) Any racing club may from time to time, with the approval of the Governor, make regulations controlling the admission of persons to any racecourse used or occupied by such club for race meetings. Such regulations may exclude from such racecourse any specified class of persons, either absolutely or subject to such conditions as are prescribed in the regulations. 30

(2.) This section shall be applicable to any racecourse notwithstanding the fact that it is or forms part of a reserve or other place in respect of which there exists a right of public use or entry. 35

(3.) Nothing in this section shall be so construed as to limit the power of any racing club to exclude or remove any person from any racecourse of which such club is the occupier and which is free from any right of public use or entry. 40

(4.) Every person who commits a breach of any regulation made under the authority of this section may be removed from the racecourse by any member, officer, agent, or servant of the racing club by which such regulation was made, or by any constable, and shall be liable to a fine not exceeding *twenty* pounds. 45

(5.) All regulations made under the authority of this section shall be gazetted, and a copy of the *Gazette* containing the same shall be received as sufficient evidence of the same in any legal proceedings. 50

Racing club to issue licenses to bookmakers.

35. (1.) Every racing club which is authorised to use the totalisator shall from time to time, on the application of any person who is

in the opinion of the Committee or other managing body of such club a fit and proper person to be so licensed, grant a license to such person to enter on any racecourse used or occupied by such club, and there to carry on business as a bookmaker.

- 5 (2.) Every such license shall be for such period as the club thinks fit, and the club may charge for the issue thereof any fee not exceeding *twenty* pounds for every day of the currency of such license.

New subclauses.

- 10 (3.) No bookmaker, whether so licensed or not, shall, on any racecourse on which any totalisator is used, make or offer to make, either by himself or by means of any agent, clerk, or servant, any bet or wager on the result of any horse-race after the time notified for the starting of such race by the racing club having the use or control of the said racecourse.

- 15 (4.) Any bookmaker and any person who, as the agent, clerk, or servant of a bookmaker, makes or offers to make any bet or wager in breach of the provisions of this section shall be liable to a fine not exceeding *one hundred* pounds.

SCHEDULE.

Schedule.

FORMS OF INFORMATION.

FORM 1.

Section 19.

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.

FORM 2.

Section 25.

That on the day of , at , A. B. frequented, used, or was in a street for the purpose of betting.

FORM 3.

Section 25.

That on the day of , at , A. B., being a bookmaker [*or the agent, clerk, or servant of a bookmaker*], made [*or offered to make*] a bet in a street.