

Chapter 117.

Published May 27th, 1858.

AN ACT to amend Chapter 138 of the Revised Statutes, entitled "Of Offences against Public Policy."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

What deemed a misdemeanor or under this section—punishment.

SECTION 1. Every person who shall set up or keep any table or gambling device, commonly called A B C, Faro Bank, E. O. Roulette, Equality; or any kind of gambling table or device adapted, devised or designed for the purpose of playing any game of chance for money, property, and shall induce, entice or permit any person to bet or play at, or upon, any such gambling table or gambling device, or at or upon any game played at or by means of, such table or device, or on the side of or against the keeper thereof, shall, on conviction, be adjudged guilty of a misdemeanor, and punished by imprisonment in a county jail not less than three months nor more than one year, and by fine not less than two hundred dollars nor more than one thousand dollars.

Misdemeanor and punishment.

SEC. 2. Every person who shall bet any money or property, or play at or upon any gaming table, bank or device prohibited by the preceding section, or who shall bet upon or play at any game played at or by means of any such gaming table, bank or other device, or on the side of or against the keeper thereof, shall, on conviction, be adjudged guilty of a misdemeanor and punished by fine not less than twenty nor more than fifty dollars, and in default of payment shall be imprisoned in a county jail not less than one month nor more than three months.

Same.

SEC. 3. Every person who shall suffer or permit any gaming table, bank, or device, prohibited by the preceding provisions, to be set up or used for the purpose of gaming in any house, building, shed, booth, shelter, lot or other premises, to him belonging, or by him occupied, or of which he hath at the time possession or control, shall, on conviction, be adjudged guilty of a misdemeanor, and punished by fine not less than two hundred nor more than five hundred dollars, or by im-

prisonment in a county jail not less than two months nor more than six months, or by both such fine and imprisonment.

SEC. 4. That if any person or persons shall suffer any game or games whatsoever to be played for gain upon or by means of any gaming device or machine of any denomination or name whatever, in his, her, or their house, or in any out-house, booth, arbor, or erection of which he, she or they have the care or possession, the person or persons so offending shall each, on conviction thereof, be deemed guilty of a misdemeanor, and punished by fine not less than fifty, nor more than two hundred dollars, and in default of payment shall be imprisoned in a county jail not less than two months nor more than five months. Misdemeanor and punishment.

SEC. 5. That if any person shall at any time or in any place whatever, play at any game whatsoever for gain, with cards, dice or any other device which may be adapted to, or which may be used in playing any game of chance, or shall bet or wager on the hands or sides of such as do play, as aforesaid, every such person, upon conviction thereof, shall forfeit and pay any sum not less than twenty nor more than fifty dollars; and in default of payment shall be imprisoned in a county jail not less than one month nor more than three months. Same.

SEC. 6. That all promises, agreements, notes, bills, bonds, or other contracts, mortgages or other securities, when the whole or any part of the consideration of such promise, agreement, note, conveyance or security shall be for money or other valuable thing whatsoever, won or lost, laid or staked, or betted at or upon any game or games of any kind, or under any denomination or name whatsoever, or upon any horse race, cock fight, sport or pastime, or any wager, or for the repayment of money or other thing of value lent or advanced at the time of any game, play, bet, or wager for the purpose of being laid, betted, staked or wagered, shall be absolutely void and of no effect. To be void and of no effect.

SEC. 7. That if any person or persons, by playing at any game or games, or by means of any bet or wager, shall lose to any other person or persons any sum of money or other thing of value, and shall pay or deliver the same or any part thereof to the winner or winners, the person or persons so losing and paying or deliver- Losers may recover property within six months by action of debt.

ing may at any time within six months next after said loss and payment or delivery sue for and recover the money or thing of value so lost and paid or delivered, or any part thereof, with costs of suit, by action of debt founded on this act, to be prosecuted before any court or before any justice of the peace having competent jurisdiction of the same.

Any person may sue for and recover in the name of loser.

SEC. 8. That if any person or persons loosing such money or thing of value, as hereinbefore described, shall not within the time specified, without collusion or deceit, sue and with effect prosecute for the money or thing of value so lost and paid or delivered, it shall be lawful for any person by such action or suit to sue for and recover the same with costs of suit, against any winner or winners as aforesaid, for the use and benefit of the family or heirs of the person having so lost the said money or thing of value.

Plaintiff—
what to allege.

SEC. 9. That in the prosecution of said action it shall be sufficient in law for the plaintiff to allege that the defendant is indebted to the plaintiff, or received to the plaintiff's use, the money so lost and paid, or converted the goods won of the plaintiff to the defendant's use, whereby the plaintiff's action accrued to him according to the form of this act without setting forth the special matter.

Defendant
compelled to
answer.

SEC. 10. That every person who by this act shall or may be liable to be sued for money or other thing of value by him won as aforesaid, shall, if summoned by or on the part of the plaintiff, be compelled to answer upon oath all questions relating to, and for the discovery of the money, or thing, or things of value specified in the complaint or petition; *Provided, however,* That upon discovery by such testimony and repayment of the money or other thing or things of value, the person or persons discovering and repaying the same with costs, shall be acquitted and discharged from any further or other forfeiture, punishment or penalty, he or they may have incurred for so winning such money or thing discovered and paid.

Proviso.

Misdemeanor
and punish-
ment.

SEC. 11. Every person who shall set up or keep a common gaming house or a bawdy house, or brothel, shall, on conviction, be adjudged guilty of a misdemeanor, and be punished by imprisonment in a county jail not less than six months nor more than one year, or by fine not less than three hundred nor more than six

hundred dollars, or by both such fine and imprisonment.

SEC. 12. Every person who shall knowingly lease or let to another, any house or other building for the purpose of setting up or keeping therein any of the gaming tables, banks or other gambling device prohibited by the preceding provisions of this act, or for the purpose of being used or kept as a gaming house, brothel or bawdy house, shall, on conviction, be adjudged guilty of a misdemeanor, and punished by imprisonment in a county jail not less than three nor more than six months, or by fine not less than two hundred nor more than five hundred dollars, or by both such fine and imprisonment.

Misdemeanor and punishment.

SEC. 13. Every person appearing or acting as master or mistress, or having the care, use or management for the time of any prohibited gaming table, bank or device, shall be deemed a keeper thereof; and every person who shall appear or act as master or mistress, or having the care, use or management of any house or building in which any gaming table, bank or device is set up or kept, or of any gaming house, brothel or bawday house, shall be deemed to be the keeper thereof.

When deemed a keeper of gaming table; bank or device

SEC. 14. Whenever any lessee of any house or building shall be convicted of suffering or permitting any prohibited gaming table, bank or device to be set up, kept or used therein, for the purpose of gaming, or keeping in the same a bawdy house, brothel or common gaming house, the lease or agreement for letting such house or building shall become void, and the lessor may enter upon the premises so let, and shall have the same remedies for the recovery thereof as in the case of a tenant holding over his term.

When lease of a house and premises void —recovery of same.

SEC. 15. No person shall be incapacitated or excused from testifying on behalf of the State, touching any offence committed by another, against any of the foregoing provisions relating to gaming, by reason of his having betted or played at any of the prohibited games or devices, but the testimony which may be given by such person, shall in no case be used against him.

No person incompetent as a witness.

SEC. 16. Whenever any judge, justice of the peace or police justice, shall have knowledge or shall receive satisfactory information that there is any prohibited

Duties of judges, justices of the

peace and police justices under this act.

gaming table or gambling device kept or used within his county, it shall be his duty forthwith to issue his warrant, directed to the sheriff or any constable, to seize and bring before said judge or justice such gaming table or gambling device.

Same.

SEC. 17. If any judge or justice have knowledge or shall be satisfactorily informed of the name or description of the keeper of any such prohibited gaming table or device, bawdy house, brothel or common gaming house, he shall also issue his warrant to apprehend such keeper, and bring him before such judge or justice, to be dealt with according to law.

Power of officer charged with warrant.

SEC. 18. The officer who shall be charged with the execution of any warrant specified in either of the two last sections, shall have power, if necessary, to break open doors for the purpose of executing the same, and for that purpose may summon to his aid the power of the county.

Duty to destroy tables or device.

SEC. 19. It shall be the duty of every judge, justice of the peace or police justice before whom such prohibited gaming table or device shall be brought to cause the same to be publicly destroyed by burning or otherwise.

Duties of district attorneys, sheriffs, constables or police officers under this act.

SEC. 20. Whenever any district attorney, sheriff, constable or police officer shall have knowledge or shall receive satisfactory information of a breach of any of the provisions of this act by any person, it shall be the duty of such district attorney, sheriff, constable or police officer to arrest or cause to be arrested the person so offending, and to bring him before some judge or justice of the peace, or police justice of the proper county, or before some court of competent jurisdiction, to be prosecuted and punished as provided in this act.

Same.

SEC. 21. It shall be the duty of all district attorneys, sheriffs, deputy sheriffs, constables and police officers in their proper county, to complain and give information of any breach of any of the provisions of this act or of the act to which this act is amendatory; and if any of the above-named officers shall fail to complain and give information of any breach of any of the provisions of this act which shall come or be brought to his knowledge, or if any of the above-named officers shall neglect or refuse to perform any of the duties enjoined upon them by any of the provisions of this act, he shall forfeit his office, and may be removed from the

Neglect of duty; penalty.

same by the Governor giving to such officer a copy of the charge against him, and an opportunity of being heard in his defence.

SEC. 22. Every person who shall have been guilty of violating any of the provisions of this act, or the chapter to which this is amendatory, shall be ineligible to any judicial office in this State for three years thereafter; and every person holding any judicial office who shall have so offended, or who shall offend during his term of office, shall be immediately removed from his office, and his office shall be and is hereby declared vacant.

Violating provisions of this act—punishment.

SEC. 23. The judge of each circuit court, shall, at each term thereof, give this act in special charge to the grand jury.

Judges to give this act in charge of grand juries.

SEC. 24. Nothing in this act shall be construed to prohibit the right of appeal, as in other cases of like nature, before justices of the peace.

Appeals.

SEC. 25. So much of chapter 138 of the Revised Statutes entitled "Of offences against public policy," as conflicts with the provisions of this act, is hereby repealed."

Repealed.

SEC. 26. This act shall take effect and be in force from and after its passage and publication.

Approved May 17, 1858.

Chapter 118.

Published May 19th, 1858.

AN ACT to amend Chapter one hundred and forty-three, of the Revised Statutes of this State, entitled "Of demanding Fugitives from Justice and proceedings thereon."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows :

SECTION 1. Section one of the act to which this act is amendatory, is hereby amended, by adding the following: *Provided*, That no account of any such agent appointed under and pursuant to the provisions of this section shall hereafter be so audited by the Governor, and paid from the State Treasury, except in cases

Sect. 1, chap. 143, amended by adding a proviso.