

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
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FOURTH EDITION.

WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
THE LEGISLATIVE SESSION OF 1883.

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LOTTERIES.

§ 1. Lotteries prohibited—penalty. Whoever sets up or promotes any lottery for money, or disposes of any property of value, real or personal, by way of lottery, and whoever aids, either by printing or writing, or in any way is concerned in setting up, managing or drawing any such lottery, or who, in any house, shop or building owned or occupied by him, or under his control, knowingly permits the setting up, managing or drawing of any such lottery, or the sale of any lottery ticket, or share of a ticket, or any other writing, certificate, bill, token, or any other device purporting or intended to entitle the holder, bearer, or any other person to any prize or interest, or share of any prize, to be drawn in a lottery, shall, for every such offence, be punished by imprisonment in the county jail not more than six months, nor less than one month.

§ 2. Selling lottery tickets, etc. Whoever sells, either for himself or for any other person, or offers for sale, or has in his possession with intent to sell or to offer for sale, or to exchange or negotiate, or in any wise aids or assists in the selling, negotiating or disposing of a ticket in any such lottery, or a share of a ticket, or any such writing, certificate, bill, token, or other device as is mentioned in the preceding section, shall be punished by fine not exceeding five hundred dollars, nor less than one hundred dollars.

§ 3. Advertising lottery tickets. Whoever advertises any lottery ticket, or any share in such ticket, for sale, either by himself or any other person, or who sets up or exhibits any sign, symbol, or any emblematic or other representation of a lottery, or of the drawing thereof, or any such writing certificate, bill, token, or other device before mentioned, or where the same may be purchased or obtained, or in any way invites or entices, or attempts to invite or entice, any other person to purchase or receive the same, shall be punished by fine not exceeding one hundred dollars.

§ 4. Making or selling fictitious lottery ticket. Whoever makes, sells, or has in his possession with intent to sell, exchange or negotiate, or who, by printing, writing or otherwise, assists in making or selling, or in attempting to sell,

exchange or negotiate, any false or fictitious lottery ticket, or any share thereof, or any writing, certificate, bill, token, or other device before mentioned, or any ticket or share thereof, in any fictitious or pretended lottery, knowing the same to be false or fictitious, or who receives any money or other thing of value for any such ticket or share of a ticket, or for any such writing, certificate, bill, token or other device, purporting that the owner, bearer or holder thereof shall be entitled to receive any prize, or any share of such prize, or any other thing of value that may be drawn in any lottery, knowing the same to be false or fictitious, shall, for every such offence, be punished by imprisonment in the state prison not exceeding two years, nor less than six months.

§ 5. **Trials under last section—evidence.** Upon a trial of an indictment for either of the offences mentioned in the preceding section, any ticket or share of a ticket, or any other writing or thing before mentioned, which the defendant has sold or offered for sale, or for which he has received any valuable consideration, shall be deemed to be false, spurious or fictitious, unless such defendant proves the same to be true and genuine, and to have been duly issued by the authority of some legislature within the United States, and that such lottery was existing and undrawn, and that such ticket or share thereof, or writing or thing before mentioned, was issued by lawful authority, and binding upon the persons who issued the same.

GAMBLING.

§ 6. **Gambling prohibited.** Gambling with cards, dice, gaming-tables, or any other gambling devices whatever, is prohibited.

§ 7. **Same—penalty.** Whoever deals cards at the game called faro, pharo or forty-eight, whether the same is dealt with fifty-two or any other number of cards, and whoever keeps any gambling device whatever, designed to be used in gambling, shall be punished by fine not exceeding one hundred, nor less than fifty dollars.

§ 8. **Betting at gaming table, etc.—penalty.** Whoever bets any money or other property at or upon any gaming-table, game or device, shall be punished by fine not exceeding twenty, nor less than five dollars.

§ 9. **Suffering gaming table, etc., on one's premises.** Whoever suffers any gaming-table, faro-bank, or gambling device to be set up or used for the purpose of gambling, in any house, building, steamboat, raft, keelboat or boom, lot, yard or garden, to him belonging, or by him occupied, or of which he has the control, shall be punished by fine not exceeding one hundred, nor less than seventy-five dollars.

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§ 10. **Rule of evidence—testimony of player.** No person shall be incapacitated or excused from testifying touching any offence committed by another against any of the provisions of this chapter relating to gambling, by reason of his having bet or played at the prohibited games or gambling devices; but the testimony which may be given by such person shall in no case be used against such witness.

§ 11. **Fines recoverable before justice.** All fines mentioned in this chapter may be recovered before any justice of the peace, in, and in the name of, and for the use of, the county where such offence was committed.

*§ 12. **Gambling a misdemeanor—penalty.** Every violation of any statute of this state prohibiting gambling is hereby declared to be and made a misdemeanor, and shall be punished by fine not exceeding one hundred dollars, and not less than ten dollars, or by imprisonment in the county jail not exceeding three months, and not less than six days, or both, in the discretion of the court. (1874, c. 48, § 1.)

RECOVERY OF MONEY OR GOODS LOST BY GAMBLING.

§ 13. (SEC. 12.) **Recovery of money, etc., lost at play.** Whoever, by playing at cards, dice or other game, or by betting on the hands or sides of such as are gam-

bling, loses to any person so playing or betting any sum of money, or any goods whatever, and pays or delivers the same or any part thereof to the winner, the person so losing, and paying or delivering the same, may sue for and recover such money by a civil action, before any court having competent jurisdiction.

§ 14. (SEC. 13.) Notes, etc., for gambling debt void—exception. All notes, bills, bonds, mortgages, or other securities or conveyances whatever, in which the whole or any part of the consideration shall be for any money or goods won by gambling or playing at cards, dice, or any other game whatever, or by betting on the sides or hands of any person gambling, or for reimbursing or repaying any money knowingly lent or advanced at the time and place of such gambling or betting, or lent and advanced for any gambling or betting to any person so gambling or betting, shall be void, and of no effect, as between the parties to the same, and as to all persons except such as hold or claim under them in good faith, and without notice of the illegality of the consideration of such contract or conveyance.

SWINDLING, WITH CARDS, ETC: ON RAILROAD TRAINS.*

*§ 15. Swindling by cards, etc—penalty—punishment of accessories. That whoever, by the means of three-card monte, so called, or of any other form or device, sleight of hand, or other means whatever, by use of cards or instruments of like character, obtains from another person any money or other property of any description, shall be deemed guilty of the crime of swindling, and shall, on conviction thereof, be punished by a fine not less than two hundred dollars, nor more than two thousand dollars, or by imprisonment in the state prison not less than two years, nor more than five years, or by both such fine and imprisonment, in the discretion of the court. All persons aiding, encouraging, advising or confederating with, or knowingly harboring or concealing, any such person or persons, or in any manner being accessory to the commission of the above-described offence, or confederating together for the purpose of playing such games, shall be deemed principals therein, and punished accordingly. (1877, c. 130, § 1.)

*§ 16. Same—jurisdiction of offence committed on R. R. train. The jurisdiction of all the offences described in section one of this act, which shall be committed on any railroad car, coach, train, boat, or other public conveyance, or in or at any railroad station or depot, shall be in any county through which said car, coach, train, boat or other public conveyance may pass during the trip or voyage, or in which the trip or voyage may begin or terminate; and in all other cases, jurisdiction shall be in the county in which the offence is committed. (*Id.* § 2.)

*§ 17. Same—Conductors, etc., to make arrests—powers—procedure. Every person shall possess the power and authority, and, it shall be the duty of every conductor, or any other employe on any railroad car or train, and of every captain, clerk or other employe on any boat, or station agent at any railway depot, or the officers of any fairs or fair grounds, and the proprietors of any places of public resort, and their employes, with or without warrant, to arrest any person or persons whom they or either of them shall find in the act of committing any of the offences mentioned in the first section of this act, or any person or persons whom he or they may have good reason to believe to have been guilty of the commission of the said offences, and to take such person or persons before a magistrate in any county where jurisdiction to try said offences exists by virtue of this act, and deliver such person or persons so arrested to the magistrate, and make written complaints, under oath, of the facts. And for executing the powers conferred by this section, the person making the arrest

*An act to define the crime of swindling and to punish the same. Approved March 2, 1877. (Laws 1877, c. 130.)

shall possess the same powers in all respects as are possessed by officers with warrants, including the power to summon assistance; and it shall be the duty of the person making such arrest to also arrest the person injured or defrauded by reason of the commission of any of the offences mentioned in section one of this act, and take such person before the examining magistrate, who shall require such person to give security to appear and testify on the trial of the cause; and such person or persons shall not be deemed to be guilty of the offence mentioned in section one of this act, nor of the offence of gambling, unless such person or persons shall have failed to appear and give evidence on the trial. And the persons performing the services required by this act shall recover [receive] the same compensation as sheriffs receive for like services. (1877, c. 130, § 3.)

*§ 18. Same—swindlers to be ejected from cars, etc.—law to be posted. It shall be the duty of any conductor, captain, hotel or saloon-keeper, proprietor or manager of any public conveyance or place of public resort, and the officer of any fair or fair grounds, to eject from his car, train, boat, hotel, saloon, public conveyance, fair grounds or place of public resort, any person known to him, or whom he has good reason to believe, to be a three-card-monte man, or who offers to wager or bet money or other valuable things upon what is commonly known as three-card monte, or bet on any trick or game with cards or other gaming device; and for such ejection no action for damage shall be maintained. And all parties operating any public conveyance by which passengers are carried, shall keep posted up a copy of this law in such conveyance. (*Id.* § 4.)

*§ 19. Conductor, etc., neglecting to arrest, etc.—penalty. Any conductor of a railroad train, station agent, captain of any steamboat, proprietor or manager of any public conveyance, officer of any fair or fair grounds, or place of public resort, any hotel or saloon-keeper, or their agent or employe, who shall fail, neglect or refuse to perform the duties herein mentioned, or who shall knowingly suffer or permit a violation of this act, shall be deemed guilty of a misdemeanor, and the jurisdiction of such offence shall be the same as provided in section two of this act. (*Id.* § 5.)

*§ 20. Rule of evidence. Any person may be convicted for violation of section one of this act, on his own confession out of court, or upon the testimony of any accomplice. (*Id.* § 6.)

CRUELTY TO ANIMALS.*

*§ 21. Cruelty to animals—penalty. That whoever shall overdrive, overload, overwork, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate, or cause or procure to be so overdriven, overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, or mutilated, any horse, ox or other animal, and whoever, having the charge or custody of any such animal, either as owner or otherwise, shall unnecessarily fail to provide such animal with proper food, drink and shelter, or protection from the weather, shall, for each and every such offence, be punished by imprisonment in jail not exceeding three months, or by fine not less than ten dollars, and not exceeding one hundred dollars, or by both such fine and imprisonment. (1871, c. 34, § 1.)

*§ 22. Permitting animals to be ill-treated—penalty. Every owner of, or person having the charge or custody of, any horse, ox or other animal, who shall knowingly and wilfully authorize or permit the same to be subjected to or suffer any unnecessary torture or cruelty, shall be punished, for every such offence, in the manner provided in section one. (*Id.* § 2.)

*§ 23. Using disabled animals—penalty. Every owner, driver or possessor, or person having charge or custody of, an old, maimed, or disabled, or diseased horse,

*An act for the prevention of cruelty to animals. Approved March 6, 1871. (Laws 1871, c. 34.)

mule, ox or any other animal, who shall cruelly work the same when unfit to work, or cruelly abandon the same, shall be punished for every such offence in the same manner provided in section one. (1871, c. 34, § 3.)

*§ 24. **Limit to confinement of animals in cars.** No railroad company in this state, in the carrying and transportation of sheep, swine or other animals, shall confine the same in cars for a longer period than twenty-eight consecutive hours, unless delayed by storm or other accidental causes, without unloading for rest, water and feeding, for a period of at least five consecutive hours. In estimating such confinement, the time the animals have been confined without such rest on connecting roads from which they are received except upon contingencies hereinbefore stated. (*Id.* § 5.)

*§ 25. **Lien for care during transportation, etc.** If the owner or person in charge of the said animals refuses or neglects to pay for the care or feed of animals so rested, the railroad company may charge such expense to the owner or consignee, and retain a lien upon the animals until the same is paid; and no claim or damages for detention shall be recovered by the owner or shipper of any animals for the time they are detained under the provisions of this act. (*Id.* § 6.)

*§ 26. **Penalty for violating last two sections.** Any railroad company, owner, consignee, or person in charge of said cattle, sheep, swine, or other animals, who shall violate any provision of the fifth or sixth section of this act, shall, for each and every violation, be liable for, and forfeit and pay, a penalty of one hundred dollars, to be recovered in the name of the people of the state of Minnesota, before any justice of the peace of the proper county. (*Id.* § 7.)

*§ 27. **"Animal," "owner," etc., defined.** In this act the word "animal" or "animals" shall be held to include all brute creatures, and the words "owner," "person" and "whoever," shall be held to include corporations as well as individuals; and the knowledge and acts of agents of and persons employed by corporations in regard to animals transported, owned or employed by, or in custody of such corporations, shall be held to be the acts and knowledge of such corporations. (*Id.* § 8.)

*§ 28. **Abandoning disabled animals—penalty.** If any maimed, sick, infirm or disabled animal shall be abandoned to die by any owner, or person having charge of the same, such person shall, for every such offence, be punished in the same manner provided in section one. (*Id.* § 9.)

*§ 29. **Bull-fights, etc.—penalty.** Any person who shall keep, or use, or in any way be connected with, or interested in the management of, or shall receive money for the admission of any person to, any place kept or used for the purposes of fighting or baiting any bull, bear, dog, cock, or other creature, and every person who shall encourage, aid or assist therein, or who shall permit or suffer any place to be so kept or used, and every person who shall visit such place so kept or used, or who shall be found therein, shall, upon conviction thereof, be punished, for every such offence, in the same manner provided in section one. (*Id.* § 10.)

*§ 30. **Arrests, how made—care of animals, etc.** Any person found violating the laws in relation to cruelty to animals may be arrested and held without warrant, in the same manner as in case of persons found breaking the peace; and the person making an arrest, with or without a warrant, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for such animals until the owner thereof shall take charge of the same: *provided*, the owner shall take charge of the same within sixty days from the date of said notice. And the person making such arrest shall have a lien on said animals for the expense of such care and provision. (*Id.* § 11.)

*§ 31. **Duty of officers to prosecute—disposition of fines.** It shall be the duty of all sheriffs, deputy-sheriffs, constables and police-officers to prosecute all violations of the provisions of this act which shall come to their notice or knowledge, and

any policeman, sheriff or constable of any city or county, or any agent of the Minnesota society for the prevention of cruelty to animals, shall, upon his own view of any such violation, or upon the complaint of any other person who may declare his or her name or abode to such policeman, constable, sheriff or agent, make arrests, and bring before any court or magistrate thereof offenders found violating the provisions of this act. And all fines and forfeitures imposed or collected under the provisions of this act, in any such city or county, shall inure and be paid over to the Minnesota society for the prevention of cruelty to animals, in aid of the benevolent objects for which it was incorporated. (1871, c. 34, § 12.)

*§ 32. **What courts to have jurisdiction.** The several municipal and police courts and justices in this state shall have full concurrent jurisdiction with the district court of all offences under this act, and to the full extent of the penalties therein specified. (*Id.* § 13.)

*§ 33. **Section 24, ante, not applicable, when.** The provisions of section five of this act, requiring animals to be unloaded, shall not apply when they are properly fed and watered on the cars in which they are transported. (*Id.* § 14.)

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OFFENCES AGAINST CHASTITY, MORALITY AND DECENCY.

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§ 1. **Adultery, how punished—limitation of prosecution.** Whoever commits the crime of adultery shall be punished by imprisonment in the state prison not more than two years, or by fine not exceeding three hundred dollars, nor less than seventy dollars; and when the crime is committed between a married woman and a man who is unmarried, the man shall be deemed guilty of adultery, and be liable to the same punishment. But no prosecution for adultery shall be commenced, except on the complaint of the husband or the wife, and no such prosecution shall be commenced after one year from the time of committing the offence.