

IN THE SENATE OF THE UNITED STATES.

JANUARY 8, 1886.—Ordered to be printed.

Mr. WILSON, of Iowa, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill S. 260.]

The Committee on Post-Offices and Post-Roads, to whom was referred a bill (S. 260) to prohibit the mailing of newspapers and other publications containing lottery advertisements, and prescribing a penalty for the violation of the same, reports the same to the Senate with an amendment, recommending the passage of the bill as amended.

The bill, with the exception of the said amendment, is in terms identical with the one reported to the Senate during the Forty-eighth Congress by the Committee on Post-Offices and Post-Roads, accompanied by a report in writing, as follows, viz:

[Report to accompany bill S. 1017.]

*The Committee on Post-Offices and Post-Roads beg leave to make the following report:*

Your committee, to whom was referred a bill (S. 1017) to prohibit the mailing of newspapers and other publications containing lottery advertisements, and prescribing a penalty for the violation of the same, report the same to the Senate with amendments, recommending the adoption of the amendments and the passage of the bill.

The bill is based on the conceded power of the Government to determine what character of matter may be sent through the mails; and its purpose is to protect the general welfare and the morality of the people against the pernicious effects of lotteries. The purpose here expressed is one of great public concern, and the duty underlying it was very forcibly expressed in the opinion of the Supreme Court of the United States, in the case of *Phalen vs. Virginia*, Howard, page 168 (of opinion), in the following language, viz:

“The suppression of nuisances injurious to public health or morality is among the most important duties of Government. Experience has shown that the common forms of gambling are comparatively innocuous when placed in contrast with the widespread pestilence of lotteries. The former are confined to a few persons and places, but the latter infests every class; it preys upon the hard earnings of the poor; it plunders the ignorant and the simple.”

This case sustains both the power and duty of Government to interfere, by such means as the bill which the committee herewith reports, for the protection of the morals and well-being of the people.

The case of *Ex parte Jackson* (96 U. S. Reports, 727) clearly sustains the power upon which the enactment of such legislation as this bill proposes must rest. And *Moore vs. State* (48 Miss. R., 147), *Mississippi Society U. S. vs. Musgrove* (44 Miss. R., 837), *Freleigh vs. State* (8 Mo. R., 606), and *Ex parte Blanchard* (9 Nevada R., 101), together with the cases above cited, fully sustain the action of the committee in reporting this bill.

The policy of the bill is in perfect harmony with the action of nearly every State in the Union. Lotteries have been and are under the almost universal ban of the States. Of the thirty-eight States, only three have failed to denounce lotteries and endeavor to protect the citizens from their baneful effects. This will fully appear from the following:

## 2 PUBLICATIONS CONTAINING LOTTERY ADVERTISEMENTS.

*Synopsis of the constitutional and legislative enactments of the several States relative to lotteries.*

### ALABAMA.

#### CONSTITUTIONAL PROVISIONS.

"The general assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in any scheme in the nature of a lottery in this State; and all acts or parts of acts heretofore passed by the general assembly of this State, authorizing a lottery or lotteries, and all acts amendatory thereof or supplemental thereto, are hereby avoided." Adopted 1-75. (Art. 4, sec. 26)

#### STATUTORY PROVISIONS.

Any person who sets up or carries on a lottery, liable to a fine of not less than \$100 nor more than \$2,000. (Rev. Stat., 1876, sec. 4445.)

Person who sells or acts as agent for the sale of lottery tickets, liable to a fine of not less than \$1,000 nor more than \$2,000. (Rev. Stat., 1876, sec. 4446.)

### ARKANSAS.

#### CONSTITUTIONAL PROVISION.

"The general assembly shall not authorize any lottery, and shall prohibit the sale of lottery tickets." (Art. 5, sec. 41.)

#### STATUTORY PROVISIONS.

Any person keeping an office for the sale of lottery tickets, liable to a fine not less than \$50 nor more than \$500, with costs of prosecution. (Sec. 1, session laws of Arkansas, 1874-75, p. 159.)

Any person selling lottery tickets guilty of a misdemeanor and liable to a fine of not less than \$50, nor more than \$500, and shall stand committed to jail until costs and fine paid. (Sec. 2, session laws of Arkansas, 1874-75, p. 159.)

### CALIFORNIA.

#### CONSTITUTIONAL PROVISION.

"The legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale in this State of lottery or gift-enterprise tickets, or tickets in any scheme in the nature of a lottery." (Art. 14, sec. 26. Adopted, 1879.)

#### STATUTORY PROVISIONS.

Lottery defined, Rev. Stat., 13, p. 319.

Any person who sets up or draws a lottery, guilty of a misdemeanor. (Rev. Stat., 1876, sec. 13320.)

Any person who sells or gives, or in any way transfers, lottery tickets, guilty of a misdemeanor. (Rev. Stat., 1876, sec. 13321.)

Any person aiding or assisting a lottery, either by printing, writing, advertising, publishing, or otherwise, guilty of a misdemeanor. (Rev. Stat., 1876, sec. 13322.)

Any person who sets up or keeps any office or other place for the sale or registry of tickets, or who, by printing, writing, or otherwise, advertises or publishes the setting up or opening or running of any such offices, is guilty of a misdemeanor. (Rev. Stat., sec. 13323.)

Property offered for sale by means of lottery drawing forfeited. (Rev. Stat., sec. 13325.)

Issuing of lottery tickets a misdemeanor. (Rev. Stat., sec. 13324.)

Letting a building for lottery purposes a misdemeanor. (Rev. Stat., sec. 13326.)

### COLORADO.

#### CONSTITUTIONAL PROVISION.

"The general assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift-enterprise tickets in this State." (Art. 18, sec. 2.)

## STATUTORY PROVISIONS.

Any person engaging in or promoting a lottery liable to a fine not less than \$100 or imprisonment in jail not less than thirty days. (Sec. 1, acts of 1881, p. 178.)

Any person who opens, carries on, or promotes lottery or other game of chance liable to a penalty of not less than \$100 or imprisonment not less than sixty days. (Sec. 2, acts of 1881, p. 178.)

Any person advertising a lottery liable to a fine not exceeding \$100 or imprisonment in jail not less than sixty days, or both. (Sec. 3, *Id.*)

Owner of newspaper who publishes any advertisement of a lottery liable to a fine of not less than \$1,000. (Sec., *Id.*)

Selling of tickets prohibited under penalty of fine not exceeding \$100 or imprisonment not exceeding sixty days, or both.

## CONNECTICUT.

## STATUTORY PROVISIONS.

Lotteries prohibited, and any person carrying on same liable to a fine of not less than \$20 nor more than \$100, or imprisonment not more than one year, nor less than sixty days. (Sec. 4, Rev. Stat., 1875, p. 616.)

Sale of lottery tickets prohibited under a penalty of not more than \$300 nor less than \$50, or imprisonment not less than three months nor more than one year. (Sec. 5, *Id.*)

Persons drawing a lottery liable to a fine of not more than \$300, or imprisonment not more than 90 days, or both.

## DELAWARE.

## STATUTORY PROVISION.

All lotteries save those authorized by State authority prohibited. (Rev. Stat., 1874, 254, 255.)

## FLORIDA.

## CONSTITUTIONAL PROVISION.

"Lotteries are hereby prohibited in this State." (Art. 4, sec. 20.)

## STATUTORY PROVISIONS.

"Whoever advertises any lottery ticket or any share in such ticket for sale by himself or another person, &c., shall for each offense be punished by fine not exceeding \$100." (Sec. 4, chap. 80, McLean's Digest, p. 427.)

Persons setting up lottery punishable by fine not exceeding \$2,000. (Sec. 1, McLean's Digest, p. 404.)

Person leasing building for lottery purposes punishable by fine not exceeding \$2,000. (Sec. 2, *Id.*)

Sale of lottery tickets prohibited under a penalty of not exceeding \$2,000. (Sec. 2, *Id.*)

## GEORGIA.

## CONSTITUTIONAL PROVISION.

All lotteries and the sale of lottery tickets are hereby prohibited, and this prohibition shall be enforced by penal laws. (Art. I, sec. 2, par. 14.)

## STATUTORY PROVISIONS.

Sale of lottery tickets prohibited under a penalty of not less than \$100 nor more than \$500; second offense not exceeding \$1,000 or imprisonment in county jail six months, or both. (Rev. Stat., 1882, sec. 4549.)

Carrying on of lottery prohibited. (Rev. Stat., 1882, sec. 4549.)

Turning of lottery wheel prohibited. (Rev. Stat., 4549.)

Violation two preceding sections punished by fine not less than \$500 nor more than \$1,000, or imprisonment not more than one year. (Rev. Stat., 4549, *Id.*)

## ILLINOIS.

## CONSTITUTIONAL PROVISIONS.

"The general assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift-enterprise tickets in this State." (Art. 3, sec. 27.)

## STATUTORY PROVISIONS.

Persons setting up or disposing of property by means of a lottery, liable to a fine not more than \$2,000. (Sec. 180, Rev. Stat., 1880, p. 383.)

Person permitting lottery to be carried on on his premises, liable to fine not exceeding \$2,000. (Sec. 181, *Id.*)

Sale of lottery tickets prohibited, under penalty of not exceeding \$2,000. (Sec. 182, *Id.*)

Lottery advertisement prohibited, under penalty not exceeding \$100. (Sec. 183, *Id.*)

Second offense, fine of \$100 and imprisonment not exceeding one year. (Sec. 184, *Id.*)

All property drawn or offered as prize in lottery forfeited to State. (Sec. 185, *Id.*)

## INDIANA.

## CONSTITUTIONAL PROVISION.

"No lottery shall be authorized nor shall the sale of lottery tickets be allowed." (Art. 15, sec. 8.)

## STATUTORY PROVISIONS.

Persons selling lottery tickets or acting as agent for lottery, subject to fine of not more than \$500 nor less than \$10. (Sec. 2077, Rev. Stat., 1881.)

"Whoever writes, prints, advertises, or publishes in any way an account of any lottery," &c., punished by fine not exceeding \$500, nor less than \$10.

## IOWA.

## CONSTITUTIONAL PROVISION.

"No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed." (Art. 3, sec. 28.)

## STATUTORY PROVISION.

Selling or advertising for sale lottery tickets punishable by imprisonment not exceeding thirty days, or fine not exceeding \$100, or both. (McClain's Stat., sec. 4043.)

## KANSAS.

## CONSTITUTIONAL PROVISION.

"Lotteries and the sale of lottery tickets are forever prohibited." (Art. 15, sec. 3.) This State has no statute.

## KENTUCKY.

## STATUTORY PROVISIONS.

Any person setting up, promoting, or carrying on lottery liable to a fine of from \$500 to \$10,000. (Gen. Stat., chap. 29, sec. 1.)

Artists may dispose of their pictures by chance or lot. (Sec. 2, *Id.*)

Persons printing or vending of lottery tickets subject to fine of from \$100 to \$1,000. (Sec. 3, *Id.*)

Persons permitting house to be used for lottery purposes liable to like penalty. (Sec. 4, *Id.*)

Advertising of lottery tickets prohibited under like penalty. (Sec. 5, *Id.*)

Court of appeals has sustained prohibitory legislation. See *Miller vs. Com.*, 13 Bush, 731; *Com. vs. Bell*, 13 Bush, 345; *Com. vs. City of Frankfort*, 13 Bush, 185.

## LOUISIANA.

## CONSTITUTIONAL PROVISIONS.

*Constitutional recognition of lotteries.*

General assembly authorized to grant lottery charters provided each charter pay \$40,000 per annum to the State:

"*And provided further*, That all charters shall cease and expire on the 1st day of January, 1895, from which time all lotteries are prohibited in this State."

Charter of "Louisiana State Lottery" recognized as binding contract with State, provided company surrenders monopoly clause of its charter. (Const., 1879, art. 167.)

## MAINE.

## STATUTORY PROVISIONS.

Every lottery scheme or device of chance prohibited and declared a nuisance—

"And whoever is concerned therein, directly or indirectly, by making, advertising, purchasing, receiving, selling, offering for sale," &c., "any lottery ticket or share therein, by printing, publishing, or circulating the same, or any handbill, advertisement or notice thereof, or by knowingly suffering the same to be published in any newspaper or periodical under his charge, or any cover of paper attached thereto, shall be punished by fine not less than \$100 nor more than \$1,000." (Rev. Stat., sec. 3, p. 865.)

Attorney-general may, by injunction, restrain lottery. (Sec. 4, *Id.*)

All payments and securities for lotteries void, and may be recovered back. (Sec. 5, *Id.*)

Provision of above statute made applicable to all schemes of chance of every kind at fairs and public gatherings, whether for benefit of churches, benevolent institutions, or otherwise. (Sess. of 1877, chap. 176, p. 131.)

## MARYLAND.

## CONSTITUTIONAL PROVISIONS.

"No lottery shall hereafter be authorized by the general assembly." (Art. 3, sec. 26.)

## STATUTORY PROVISIONS.

Drawing of lottery and sale of lottery tickets prohibited. (Sec. 159, Rev. Code, p. 818.)

Penalty for violating above section, fine not less than \$200 nor more than \$1,000, or imprisonment not less than three nor more than twelve months. (Sec. 161, *Id.*)

In addition to above penalty, person who gives money for ticket may recover from person who sold same \$50 for each ticket sold. (Sec. 162, *Id.*)

Person keeping house for lottery purposes liable to penalty of \$1,000. (Sec. 163, *Id.*)

Owner who permits house to be used for sale of lottery tickets liable to penalty of \$1,000. (Sec. 164, *Id.*)

Persons bringing lottery tickets into State for sale, liable to a penalty of \$1,000. (Sec. 165, *Id.*)

"If any person shall by printing, writing, or in any other way publish an account of any lottery," &c., subject to a fine of \$1,000, or imprisonment for sixty days. (Sec. 166, *Id.*)

Insuring lottery tickets punishable by fine not less than \$100 nor exceeding \$1,000, or imprisonment not less than three months or more than six months, or both. (Sec. 167, *Id.*)

Contracts in aid of lotteries void. (Sec. 168, *Id.*)

Second offense under preceding sections punished by imprisonment in penitentiary not less than two nor more than five years. (Sec. 169, *Id.*)

Preceding sections apply to all lotteries, both in and out of State. (Sec. 170, *Id.*)

Courts to give previous sections of statute liberal construction. (Sec. 170, *Id.*)

## MASSACHUSETTS.

## STATUTORY PROVISIONS.

Any person setting up or promoting a lottery, liable to a fine not exceeding \$2,000. (Sec. 1, Pub. Stat., 1882, ch. 209, p. 1176.)



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Persons permitting a building to be used for lottery, punished by fine not exceeding \$2,000. (Sec. 2, *Id.*)

Any person selling lottery tickets, subject to a fine not exceeding \$2,000. (Sec. 3, *Id.*)

Second offense, violating above statute, in addition to fine, shall be imprisoned not exceeding one year. (Sec. 4, *Id.*)

Advertisement of tickets prohibited, under a penalty not exceeding \$100. (Sec. 5, *Id.*)

Making or vending of fictitious lottery tickets, punished by imprisonment not exceeding three years. (Sec. 6, *Id.*)

Prizes in lotteries forfeited to State. (Sec. 8, *Id.*)

Aiding foreign lotteries, punished by fine not exceeding \$2,000. (Sec. 9, *Id.*)

Selling foreign lottery tickets punished by fine not exceeding \$2,000.

### MICHIGAN.

#### CONSTITUTIONAL PROVISIONS.

The legislature shall not authorize any lottery nor permit the sale of lottery tickets. (Art. 4, sec. 27.)

#### STATUTORY PROVISIONS.

Person setting up or promoting liable to a fine not exceeding \$2,000 or imprisonment not exceeding one year. (Sec. 9331, Howell's Ann. Stats., 1882, p. 2257.)

Selling of tickets punished by fine not more than \$2,000 or imprisonment not more than one year. (Sec. 9332, *Id.*)

Second offense punished by imprisonment in penitentiary not more than three years or county jail not more than one year. (Sec. 9333, *Id.*)

Advertising of lottery tickets prohibited under penalty not exceeding \$100.

### MINNESOTA.

#### CONSTITUTIONAL PROVISIONS.

"The legislature shall never authorize any lottery or the sale of lottery tickets." (Art. 4, sec. 31.)

#### STATUTORY PROVISIONS.

Persons who set up or promote a lottery liable to imprisonment in county jail not more than six nor less than one month. (Sec. 1; ch. 93, Rev. Stats. 1878, p. 914.)

Selling of lottery tickets punished by fine not exceeding \$500 nor less than \$100. (Sec. 2, *Id.*)

Advertisement of tickets punished by fine not exceeding \$100.

### MISSOURI.

#### STATUTORY PROVISION.

Lotteries prohibited, and persons carrying on same guilty of misdemeanor. (Sec. 1561, Rev. Stat. 1879, p. 272.)

Persons selling tickets or advertising lotteries liable to a fine not exceeding \$1,000. (Sec. 1567, *Id.*)

### MISSISSIPPI.

#### CONSTITUTIONAL PROVISION.

"The legislature shall never authorize any lottery, nor shall the sale of any lottery tickets be allowed, nor shall any lottery heretofore authorized be permitted to be drawn or tickets therein to be sold." (Art. 2, sec. 15.)

#### STATUTORY PROVISION.

Any person who sells or acts as agent for lottery tickets, or keeps a place for sale of tickets, liable to a fine not exceeding \$500 and imprisonment not exceeding one year. (Rev. Stat. 1880, sec. 2879, p. 774.)

## NEBRASKA.

## CONSTITUTIONAL PROVISION.

"The legislature shall not authorize any games of chance, lottery, or gift enterprise, under any pretense, or for any purpose whatever." (Art. 4, sec. 21.)

## STATUTORY PROVISIONS.

Person who sets or promotes a lottery liable to a fine of not exceeding \$500. (Sec. 140 Annotated Stats., 1881, p. 3-6.)

Sale of tickets, or acting as agent for lottery, punished by fine not exceeding \$500, or imprisonment not exceeding six months. (Sec. 141, *Id.*)

Advertising of lottery tickets prohibited under a penalty of not exceeding \$100. (Sec. 142, *Id.*)

## NEVADA.

## CONSTITUTIONAL PROVISION.

"No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed." (Art. 4, sec. 24.)

Lotteries, and the sale of lottery tickets, prohibited under a penalty not exceeding \$500, or imprisonment not exceeding six months. (Com. L. 1873, secs. 2495 to 2502, inclusive.)

## NEW HAMPSHIRE.

## STATUTORY PROVISIONS.

Person setting up or offering to dispose of property by means of lottery liable to a fine not exceeding \$500. (Sec. 1, Gen'l Laws, 1876, p. 614.)

Person who sells or offers for sale lottery tickets, or prints or publishes any account of lottery, punishable by fine not exceeding \$100. (Sec. 2, *Id.*)

Person mailing letters or circulars concerning lottery for delivery in this State liable to a fine of \$100. (Sec. 3, *Id.*)

In indictment under preceding section not necessary to prove who is the owner of property to be drawn or who draws lottery. (Sec. 4.)

## NEW JERSEY.

## STATUTORY PROVISIONS.

All lotteries declared common and public nuisance. (Sec. 51, Rev. Stat. 77, p. 236.) Persons opening or drawing a lottery liable to penalty of \$2,000, one half to informer. (Sec. 8, *Id.*, p. 459.)

Sales and transfers of property in pursuance of lottery, void. (Sec. 9, *Id.*)

Persons selling lottery tickets liable to a penalty of not exceeding \$100 or imprisonment at hard labor not exceeding one year, or both. (Sec. 52, *Id.*, p. 236.)

Insuring for or against lottery tickets punished by fine not exceeding \$100, or imprisonment not exceeding one year or both. (Sec. 53., *Id.*, p. 236.)

## CONSTITUTIONAL PROVISION.

"No lottery shall be authorized by this State, and no ticket in any lottery not authorized by a law of this State shall be bought or sold within this State." (Art. 4, sec. 2.)

## NEW YORK.

## CONSTITUTIONAL PROVISION.

"Nor shall any lottery hereafter be authorized or any sale of lottery tickets allowed within this State." (Const. 1846, Art. 1, sec. 10.)

## STATUTORY PROVISIONS.

All lotteries common and public nuisance. (Sec. 26, Rev. Stat. (7th Add.), vol. 3, p. 1967.)

Persons setting up lottery liable to a fine equal to whole amount involved in such lottery, and if that cannot be ascertained, \$2,500 or imprisonment not exceeding two years, or both. (Sec. 27, *Id.*)

Advertisement of lotteries prohibited under a penalty not exceeding \$150, or imprisonment not exceeding three months. (Sec. 28, *Id.*, 1968.)

Persons selling tickets liable to a fine of not exceeding \$500, or imprisonment not exceeding one year, or both. (Sec. 29, *Id.*)

Selling or offering to sell property by means of lottery, punishable by fine not exceeding \$500, or imprisonment not exceeding one year. (Sec. 30, *Id.*)

Property offered for sale by means of lottery forfeited. (Sec. 31, *Id.*)

Persons purchasing tickets may recover double amount paid for same. (Sec. 32, *Id.*)

Issuing tickets prohibited by section 27, punished by fine not exceeding \$0,000, or imprisonment not exceeding one year. (Sec. 36, *Id.*)

The above provisions of the Revised Statutes are taken from the act of 1827, page 327, and except from the operation of the statute lotteries authorized by the law of the State. The clause in the Constitution of 1840, above quoted, eliminates all the exceptions from the statute. (See Fay's Dig. Laws of N. Y., vol. 3, p. 192.)

#### NORTH CAROLINA.

##### STATUTORY PROVISION.

Persons who set up or promote or offer property for sale by means of lottery liable to a fine not exceeding \$2,000, or imprisonment not exceeding six months, or both. (Sec. 1047, Code of 1881.)

Person selling tickets or acting as agent of lottery to be drawn in or out of State liable to penalty provided in preceding section. (Sec. 1048, *Id.*)

#### OHIO.

##### CONSTITUTIONAL PROVISION.

"Lotteries and the sale of lottery tickets for any purpose whatever shall forever be prohibited in this State." (Const. 1851, Art. 15, sec. 6.)

##### STATUTORY PROVISIONS.

"Whoever writes, prints, or publishes in any way an account of any lottery, &c., punished by fine not more than \$100." (Sec. 6929, Rev. Stat., 1880.)

Selling of lottery tickets punished by fine not more than \$500 or imprisonment not more than six months, or both. (Sec. 6930, *Id.*)

Opening, carrying on, or acting as agent for lottery punished by fine not more than \$500 nor less than \$50 or by imprisonment not more than ninety nor less than ten days. (Sec. 6931, *Id.*)

#### OREGON.

##### CONSTITUTIONAL PROVISIONS.

"Lotteries and the sale of lottery tickets for any purpose whatever are prohibited, and the legislative assembly shall prevent the same by penal laws." (Art. 15, sec. 4.)

##### STATUTORY PROVISIONS.

Persons setting up or promoting a lottery liable to imprisonment in penitentiary not less than six months nor more than one year, or in any county jail not less than three months nor more than one year, or by fine not more than \$1,000 nor less than \$100. (Sec. 659, Rev. Laws, 1872, p. 435.)

Selling lottery tickets punished by fine not less than \$50 nor more than \$500, or by imprisonment in county jail not less than three months nor more than one year. (Sec. 660, *Id.*)

Advertising of lottery tickets punished by imprisonment in county jail not less than one month nor more than six months, or by fine not less than \$20 nor more than \$200. (Sec. 661, *Id.*)

Selling of false and fictitious lottery tickets punished by imprisonment in penitentiary not less than one year nor more than three years. (Sec. 662, *Id.*)

Second conviction for violating sections 659 and 660; penalty, imprisonment in penitentiary not more than three nor less than one year. (Sec. 664, *Id.*)



## PENNSYLVANIA.

## STATUTORY PROVISIONS.

All lotteries declared to be a public nuisance and all transfers of property in pursuance of any lottery void. (Sec. 81, Brightly and P.'s Dig., vol. 1, p. 331.)

Setting up a lottery punished by fine not exceeding \$1,000 and imprisonment in solitary confinement at hard labor not exceeding one year. (Sec. 82, *Id.*)

Any person who sells or exposes to sale or advertises for sale lottery tickets shall be sentenced to imprisonment at hard labor not exceeding two years, and to pay a fine not exceeding \$1,000.

## RHODE ISLAND.

## CONSTITUTIONAL PROVISIONS.

"All lotteries shall hereafter be prohibited in this State except those already authorized by the general assembly." (Art. 4, sec. 12.)

## STATUTORY PROVISIONS.

Persons setting up, promoting, or carrying on a lottery guilty of a misdemeanor, and liable to imprisonment not exceeding two years, or fine not exceeding \$2,000. (Sec. 1, ch. 246, Public Stat. 1882, p. 690.)

The sale of tickets in lottery punished by fine not exceeding \$50. (Sec. 2, *Id.*, p. 691.)

Notes given for lottery tickets void. (Sec. 3, *Id.*)

## SOUTH CAROLINA.

## CONSTITUTIONAL PROVISIONS.

"Lotteries and the sale of lottery tickets for any purpose whatever are prohibited, and the general assembly shall prevent the same by penal statutes." (Art. 14, sec. 2.)

## STATUTORY PROVISIONS.

Setting up and promoting lottery punished by fine of \$1,000; one-third to State, one-third to informer, and one-third to poor, and court shall also commit party to jail for twelve months. (Sec. 1, chap. 135, Rev. Stat., p. 737.)

Persons advertising or contributing to a lottery subject to a fine of \$100. (Sec. 2, *Id.*)

Selling lottery tickets punished by fine of not exceeding \$10,000. (Sec. 3, *Id.*)

## TENNESSEE.

## CONSTITUTIONAL PROVISIONS.

"The legislature shall have no power to authorize lotteries for any purpose, and shall pass laws to prohibit the sale of lottery tickets in this State." (Art. 2, sec. 5.)

## STATUTORY PROVISIONS.

Any person who makes or aids in making, draws or aids in drawing, or in any way interested in drawing a lottery, guilty of misdemeanor, and liable to a fine of \$1,000 and imprisonment in county jail three months. (Sec. 4889, Rev. Stat. 1871, vol. 3. This sec. taken from act 1835, ch. 44, sec. 2.)

Selling of tickets in lottery punished by fine of \$500 and one month in county jail. (Sec. 4890, *Id.*)

Persons buying lottery tickets liable to a fine not exceeding \$100 or imprisonment in county jail not more than twenty days. (Sec. 4891, *Id.*)

## TEXAS.

## CONSTITUTIONAL PROVISIONS.

The legislature shall pass laws prohibiting the establishment of lotteries and gift enterprises in this State as well as the sale of tickets in lotteries, gift enterprises, or

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other evasions involving the lottery principle established or existing in other States. (Const. 1875, art. 3, sec. 47.)

### STATUTORY PROVISIONS.

If any person shall establish a lottery, or dispose of any estate, real or personal, by lottery, he shall be fined not less than \$100 nor more than \$1,000. (Crim. Code, 1879, art. 351, p. 47.)

If any person shall sell or offer for sale or keep for sale any ticket or part of ticket in any lottery, he shall be fined not less than \$10 nor more than \$50. (Crim. Code, 1879, art. 352, p. 47.)

### VERMONT.

#### STATUTORY PROVISIONS.

Setting up or promoting a lottery not authorized by law of State punished by fine not more than \$200. (Sec. 4302, Rev. Laws 1880, p. 285.)

Disposing of property by game of chance punished by fine not more than \$200. (Sec. 4303, *Id.*)

Selling of tickets in lotteries except those authorized by the law of the State or of the United States punished by fine not exceeding \$300. (Sec. 4304, *Id.*)

### VIRGINIA.

#### CONSTITUTIONAL PROVISIONS.

"No lottery shall hereafter be authorized by law, and the buying, selling, or transferring of ticket or chances in any lottery shall be prohibited." (Art. 5, sec. 18.)

Old constitution contains same provisions.

#### STATUTORY PROVISIONS.

Persons buying or selling lottery tickets or setting up or promoting a lottery liable to imprisonment in jail not more than one year or fined not more than \$500.

### WEST VIRGINIA.

#### CONSTITUTIONAL PROVISIONS.

No lottery shall be allowed by law, and the buying, selling, or transferring of tickets or chances in any lottery shall be prohibited. (Art. II, sec. 1.)

#### STATUTORY PROVISIONS.

Setting up or promoting lottery, and the selling of lottery tickets, punished by imprisonment in county jail not more than one year and fine not exceeding \$500. (Sec. 11, Code of 1870, p. 698. See also acts of 1875, p. 150.)

All property proposed to be drawn by lottery forfeited to State. (Sec. 12, Code of 1870, p. 698.)

### WISCONSIN.

#### CONSTITUTIONAL PROVISION.

"The legislature shall never authorize any lottery." (Art. III, sec. 24.)

#### STATUTORY PROVISION.

Setting up or promoting a lottery punished by fine or punished by imprisonment in county jail not more than six months, or fine not more than \$100. (Sec. 4523, Rev. Stat., 1878, p. 1068.)

Selling of lottery tickets punished by fine not exceeding \$500. (Sec. 4524, *Id.*)

Persons advertising lottery tickets or aiding in sale of same liable to a fine not exceeding \$100. (Sec. 4525, *Id.*)

Selling fictitious lottery tickets punished by imprisonment not more than one year nor less than six months, or fine not exceeding \$500. (Sec. 4526, *Id.*)

Property in lottery forfeited to State. (Sec. 4527, *Id.*)

From the foregoing it appears that lotteries are prohibited by constitutional provisions in Alabama, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Jersey, New York, Ohio, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin—total, 27; by statutory provisions in Connecticut, Kentucky, Maryland, Massachusetts, Missouri, New Hampshire, North Carolina, and Pennsylvania—total, 8; by constitution or statute, or both, 35.

Delaware and Vermont prohibit all lotteries except those authorized by the laws of the State.

Louisiana by constitutional provision authorizes lotteries until 1895, after which they are prohibited.

Lottery advertisements prohibited in California, Colorado, Florida, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New York, Ohio, Oregon, Pennsylvania, and Wisconsin—total, 20.

From the foregoing it clearly appears that the bill reported by the committee is not only within the power and duty of Congress, but is also in harmony with and in support of the policy of nearly every State in the Union.

It will be observed that the States have acted resolutely and with marked unanimity in their endeavors to suppress the malign presence of the lottery. Louisiana stands almost alone in her toleration of the evil, and she, by constitutional provision, pronounces against it after the year 1895. Vermont and Delaware qualify their prohibition by allowing such lotteries as may be authorized by their own laws, while denouncing those recognized by the laws of other States. And it seems to your committee that this almost unanimous movement of the States to defend themselves against the demoralizing effects of lotteries ought to be recognized and promoted by the nation. At all events, the postal system ought not to be degraded to the condition of an instrument for the promotion of crime.

The purpose of the bill herewith reported is to aid the States in their efforts to suppress the crime which they have denounced with almost entire unanimity. It is intended to close the United States mails and the entire postal system and all of its agencies against the transmission of lottery advertisements of every kind and character. Without some such law as this bill proposes the invidious temptations contained in the cunningly-devised lottery advertisements will continue to invade every State, family, shop, office, or other place of business, or of pleasure, or public and private resort, in spite of the efforts which the States have made to prevent it.

As has already been stated in this report, the bill was reported from this committee to the Senate during the Forty-eighth Congress. The committee was not unanimous in the action then taken. Three members of the committee presented their views in writing in opposition to the bill at that time, and remarked that—

The real object and purpose of the bill is perfectly manifest. It is the suppression of that species of gambling which is carried on through the agency or instrumentality of lotteries. This result is sought to be accomplished by excluding from the mails, under penalties, all newspapers, pamphlets, or other publications "containing or having printed therein an advertisement or other notice of a lottery or any agency thereof, or any notice, report, or statement of any drawing of a lottery." Newspapers and all other publications containing such matter are to be restricted in their free circulation by being denied the usual and ordinary mail facilities that have been extended to them since the establishment of the postal system and service of the Government. This it is assumed will force them to cease the publication of lottery advertisements and notices, and that with such cessation lotteries will be practically exterminated, even in States where they are at present legalized, and be practically prohibited in all others.

This was a fair statement of the purpose and anticipated effect of the bill. The first is entirely proper, and undoubtedly constitutional, and

the second is an end greatly to be desired. Both are embraced in a duty of the highest order, the discharge of which, as in this bill proposed, is in absolute harmony with the construction which the Supreme Court of the United States gave to the powers of Congress under the Constitution in this regard. In *Ex parte Jackson*, 96 Supreme Court Reports, p. 736, that tribunal held as follows, viz:

In excluding various articles from the mail the object of Congress has not been to interfere with the freedom of the press, or with any other rights of the people, but to refuse its facilities for the distribution of matter deemed injurious to the public morals. Thus, by the act of March 3, 1873, Congress declared that no obscene, lewd, or lascivious book, pamphlet, picture, paper, print, or other publication of an indecent character, or any article or thing designed or intended for the prevention of conception or procuring of abortion, nor any article or thing intended or adapted for any indecent or immoral use or nature, nor any written or printed card, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where or how, or of whom, or by what means either of the things before mentioned may be obtained or made, nor any letter, upon the envelope of which, or postal-card upon which indecent or scurrilous epithets may be written or printed, shall be carried in the mail; and any person who shall knowingly deposit or cause to be deposited, for mailing or delivery, any of the hereinbefore-mentioned articles or things \* \* \* shall be deemed guilty of a misdemeanor, and on conviction thereof, shall, for every offense, be fined not less than \$100 nor more than \$5,000 or imprisonment at hard labor not less than one year nor more than ten years, or both, in the discretion of the judge.

All that Congress meant by this act was, that the mail should not be used to transport such corrupting publications and articles, and that any one who attempted to use it for that purpose should be punished. The same inhibition has been extended to circulars concerning lotteries—institutions which are supposed to have a demoralizing influence upon the people. There is no question before us as to the evidence upon which the connection of the petitioner was had, nor does it appear whether the envelopes in which the prohibited circular was deposited in the mail was sealed or left open for examination. The only question for our determination relates to the constitutionality of the act, and of that we have no doubt.

That the doctrine of this case fully affirms the constitutional power of Congress to pass the bill herewith reported does not seem a subject of doubt. Indeed it is not understood that the power of Congress to pass this bill is denied. The objection lodged against it by the minority of the committee in the Forty-eighth Congress was not so much one of power as of policy. It was not so definitely affirmed that Congress had not the constitutional power to pass the bill, as it was suggested that its enactments might tend to induce a line of action which in time would lead to attempts to abridge the freedom of the press, or even to the establishment of a censorship over the press. It is quite enough to say in response to this suggestion that this bill does no such thing as is here presented, and that it is, in its entire length and breadth, sustained by the doctrine of the case above quoted, and it is not a valid objection to the doing of a proper thing that it may in some way suggest to uninformed, thoughtless, or evil-disposed persons to do some other thing quite different.

It is well to consider in this connection that nothing is allowed to enter the mail except in pursuance of law. Letters, newspapers, public documents, packages of merchandise; in short, everything in the list of mailable matter are transported in the mail because the law so provides. "Congress shall have power to" \* \* \* "establish post-offices and post-roads," is all that the Constitution says on the subject. How and to what extent this power is to be exercised is left to the sound discretion of Congress, subject to but one limitation, which is that the means selected shall be "necessary and proper."

If it be here objected that the power cannot be so exercised in such manner as to abridge the freedom of the press, it is sufficient to reply that the objection has no application to the subject.



The Constitution does not even by implication suggest, not to say command, that Congress shall provide for the transportation of the publications of a free press by means of the mail, or in any other way. If Congress had provided that written and sealed letters only should be conveyed by mail it would not thereby have violated the Constitution. A free press was assured for public purposes, not for private gain. The term "freedom of the press" includes more than newspapers. It includes books, pamphlets, circulars, and whatsoever form may be given to printed matter. When the Constitution was adopted the pamphlet was one of the most forceful forms in use for conducting discussions and circulating expressed thought.

Does any one doubt that an obscene pamphlet may be excluded from the mail, and suppressed by law? Freedom of the press was not guaranteed for the purpose of entrenching in our system an enemy to its better conditions. On the contrary, it was established for the purpose of promoting such conditions. If it be prostituted to the bare purposes of crime, to the demoralization of the people, to the swindling devices of the manipulators of lottery schemes, surely Congress may say that it shall not be entitled to use the instrumentality of the mail to effect its ends.

Evil agencies in society are sufficiently active and effective of harmful results, in spite of all that is done to restrain them, without being re-enforced by a doctrine and practice which would entrench them in the constitutional guarantee of freedom of the press and assure them immunity in the use of the mail. The States, in their constitutions and statutes, entreat that this may not be done. The bill herewith reported is in some degree a response to those entreaties of the States. It is clearly within the constitutional power of Congress to pass it, and as a law it would tend to protect the people against the frauds now practiced on them through conscienceless lottery schemes, and tend to promote the general welfare.

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