1948

NEW ZEALAND

Gaming and Racing

REPORT OF THE ROYAL COMMISSION APPOINTED BY HIS EXCELLENCY THE GOVERNOR-GENERAL ON 22nd MARCH 1946

Presented to both Houses of the General Assembly by Command of His Excellency

By Authority: E. V. PAUL, Government Printer, Wellington.—1948.

Royal Commission to Inquire into and Report upon Gaming and Racing Matters in New Zealand

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GEORGE THE SIXTH by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith :

To Our Trusty and Well-beloved the Honourable Mr. Justice George Panton Finlay, of Auckland, a Judge of the Supreme Court ; William Henry Freeman, Esquire, of Hamilton, Stipendiary Magistrate ; and Joseph William Allan Heenan, Esquire, C.B.E., of Wellington, Under-Secretary for Internal Affairs : Greeting.

WHEREAS we have deemed it expedient that a Commission should issue to inquire into the existing law relating to gaming, the present administration and control of practices relating to racing, and generally all other matters connected with gaming and racing, and to examine and report upon proposals that may be made for amending the law, administration, and control of these matters in New Zealand in the public interest :

Now know ye that We, reposing trust and confidence in your knowledge and ability, do hereby nominate, constitute, and appoint you the said

George Panton Finlay,
William Henry Freeman, and
Joseph William Allan Heenan

to be a Commission to inquire into and report upon the existing law relating to gaming, the present administration and control of practices relating to racing, and generally all other matters connected with gaming and racing, and to examine and report upon proposals that may be made for amending the law, administration, and control of these matters in the public interest, and to make such proposals as you may yourselves think fit :

And generally to inquire into and report upon such other matters arising out of the premises as may come to your notice in the course of your inquiries and which you consider should be investigated in connection therewith, and upon any matters affecting the premises which you consider should be brought to the attention of the Government :

And we do hereby appoint you, the said

George Panton Finlay,

to be Chairman of the said Commission :

And for the better enabling you to carry these Presents into effect you are hereby authorized and empowered to make and conduct any inquiry under these Presents at such time and place as you deem expedient, with power to adjourn from time to time and place to place as you think fit, and so that these Presents shall continue in force, and the inquiry may at any time and place be resumed although not regularly adjourned from time to time or from place to place :

And you are hereby strictly charged and directed that you shall not at any time publish or otherwise disclose, save to His Excellency the Governor-General, in pursuance of these Presents, or by His Excellency's direction, the contents of any report so made or to be made by you, or any evidence or information obtained by you in the exercise of the powers hereby conferred upon you, except such evidence or information as is received in the course of a sitting open to the public :

And it is hereby declared that the powers hereby conferred shall be exercisable notwithstanding the absence at any time of any one of the members hereby appointed so long as the Chairman, or a member deputed by the Chairman to act in his stead, and one other member be present and concur in the exercise of such powers :

And we do further ordain that you have liberty to report your proceedings and findings under this Our Commission from time to time if you shall judge it expedient so to do :

And, using all due diligence, you are required to report to His Excellency the Governor-General in writing under your hands and seals not later than the thirty-first day of August, one thousand nine hundred and forty-six, your findings and opinions on the matters aforesaid, together with such recommendations as you think fit to make in respect thereof :

And, lastly, it is hereby declared that these Presents are issued under the authority of the Letters Patent of His late Majesty dated the eleventh day of May, one thousand nine hundred and seventeen, and under the authority of and subject to the provisions of the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council of the Dominion of New Zealand.

In witness whereof We have caused this Our Commission to be issued and the Seal of Our Dominion of New Zealand to be hereunto affixed at Wellington, this twenty-second day of March, in the year of our Lord one thousand nine hundred and forty-six, and in the tenth year of Our Reign.

Witness Our Trusty and Well-beloved Sir Cyril Louis Norton Newall, Marshal of Our Royal Air Force, Knight Grand Cross of Our Most Honourable Order of the Bath, Member

of Our Order of Merit, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Commander of Our Most Excellent Order of the British Empire, on whom has been conferred Our Albert Medal of the First Class, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

[L.S.] C. L. N. NEWALL, Governor-General.

By His Excellency's Command—

W. E. PARRY, Minister of Internal Affairs.

Approved in Council—

W. O. HARVEY, Acting Clerk of the Executive Council.

Extending Period within which the Commission appointed to Inquire into and Report upon Gaming and Racing Matters in New Zealand shall report

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GEORGE THE SIXTH by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith:

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WHEREAS by Our Warrant dated the twenty-second day of March, one thousand nine hundred and forty-six, you, the said

George Panton Finlay,
William Henry Freeman, and
Joseph William Allan Heenan,

were appointed under the authority of the Letters Patent of His late Majesty dated the eleventh day of May, one thousand nine hundred and seventeen, and under the authority of the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council, to be a Commission of Inquiry for the purposes in the said Warrant duly set out:

And whereas by Our said Warrant you were required to report not later than the thirty-first day of August, one thousand nine hundred and forty-six, your findings and opinions on the matters referred to you :

And whereas it is expedient that the time for so reporting should be extended as hereinafter provided :

Now, therefore, We do hereby extend until the thirty-first day of March, one thousand nine hundred and forty-seven, the time within which you are so required to report :

And We do hereby confirm the said Commission and the Warrant hereinbefore referred to except as altered by these presents.

In witness whereof We have caused these presents to be issued and the Seal of Our Dominion of New Zealand to be affixed hereto at Wellington, this twenty-first day of August, in the year of Our Lord one thousand nine hundred and forty-six, and in the tenth year of Our Reign.

Witness Our Trusty and Well-beloved Sir Bernard Cyril Freyberg, on whom has been conferred the Victoria Cross, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Knight Commander of Our Most Honourable Order of the Bath, Knight Commander of Our Most Excellent Order of the British Empire, Companion of Our Distinguished Service Order, Lieutenant-General in Our Army, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

[L.S.] B. C. FREYBERG, Governor-General.

By His Excellency's Command—

W. E. PARRY, Minister of Internal Affairs.

Approved in Council—

W. O. HARVEY, Clerk of the Executive Council.

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And whereas by Our said Warrant you were required to report not later than the thirty-first day of August, one thousand nine hundred and forty-six, your findings and opinions on the matters referred to you :

And whereas by Our further Warrant dated the twenty-first day of August, one thousand nine hundred and forty-six, the time within which you were so required to report was extended until the thirty-first day of March, one thousand nine hundred and forty-seven :

And whereas it is expedient that the time for so reporting should be further extended as hereinafter provided :

Now, therefore, We do hereby extend until the thirty-first day of August, one thousand nine hundred and forty-seven, the time within which you are so required to report :

And We do hereby confirm the said Commission and the two respective Warrants hereinbefore referred to except as altered by these presents.

In witness whereof We have caused these presents to be issued and the Seal of Our Dominion of New Zealand to be affixed hereto at Wellington, this twelfth day of March, in the year of Our Lord one thousand nine hundred and forty-seven, and in the eleventh year of Our Reign.

Witness Our Trusty and Well-beloved Sir Bernard Cyril Freyberg, on whom has been conferred the Victoria Cross, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Knight Commander of Our Most Honourable Order of the Bath, Knight Commander of Our Most Excellent Order of the British Empire, Companion of Our Distinguished Service Order, Lieutenant-General in Our Army, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

[L.S.] B. C. FREYBERG, Governor-General.

By His Excellency's Command—

H. G. R. MASON, for the Minister of Internal Affairs.

Approved in Council—

W. O. HARVEY, Clerk of the Executive Council.

Extending Period within which the Commission appointed to Inquire into and Report upon Gaming and Racing Matters in New Zealand shall report

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WHEREAS by Our Warrant dated the twenty-second day of March, one thousand nine hundred and forty-six, you, the said

George Panton Finlay,
William Henry Freeman, and
Joseph William Allan Heenan

were appointed under the authority of the Letters Patent of His late Majesty dated the eleventh day of May, one thousand nine hundred and seventeen, and under the authority of the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council, to be a Commission of Inquiry for the purposes in the said Warrant duly set out :

And whereas by Our said Warrant you were required to report not later than the thirty-first day of August, one thousand nine hundred and forty-six, your findings and opinions on the matters referred to you :

And whereas by Our further Warrant dated the twenty-first day of August, one thousand nine hundred and forty-six, the time within which you were so required to report was extended until the thirty-first day of March, one thousand nine hundred and forty-seven :

And whereas by Our further Warrant dated the twelfth day of March, one thousand nine hundred and forty-seven, the time within which you were so required to report was further extended until the thirty-first day of August, one thousand nine hundred and forty-seven :

And whereas it is expedient that the time for so reporting should be further extended as hereinafter provided :

Now, therefore, We do hereby extend until the thirtieth day of November, one thousand nine hundred and forty-seven, the time within which you are so required to report :

And We do hereby confirm the said Commission and the three respective Warrants hereinbefore referred to except as altered by these presents.

In witness whereof we have caused these presents to be issued and the Seal of Our Dominion of New Zealand to be affixed hereto at Wellington, this thirteenth day of August, in the year of Our Lord one thousand nine hundred and forty-seven, and in the eleventh year of Our Reign.

Witness Our Trusty and Well-beloved Sir Bernard Cyril Freyberg, on whom has been conferred the Victoria Cross, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Knight Commander of Our Most Honourable Order of the

Bath, Knight Commander of Our Most Excellent Order of the British Empire, Companion of Our Distinguished Service Order, Lieutenant-General in Our Army, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

[L.S.] B. C. FREYBERG, Governor-General.

By his Excellency's Command—

W. E. PARRY, Minister of Internal Affairs.

Approved in Council—

W. O. HARVEY, Clerk of the Executive Council.

Extending Period within which the Commission appointed to Inquire into and Report upon Gaming and Racing Matters in New Zealand shall report

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GEORGE THE SIXTH by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith :

To Our Trusty and Well-beloved the Honourable Mr. Justice George Panton Finlay, of Auckland, a Judge of the Supreme Court ; William Henry Freeman, Esquire, of Hamilton, Stipendiary Magistrate ; and Joseph William Allan Heenan, Esquire, C.B.E., of Wellington, Under-Secretary for Internal Affairs : Greeting.

WHEREAS by Our Warrant dated the twenty-second day of March, one thousand nine hundred and forty-six, you, the said

George Panton Finlay,
William Henry Freeman, and
Joseph William Allan Heenan

were appointed under the authority of the Letters Patent of His late Majesty dated the eleventh day of May, one thousand nine hundred and seventeen, and under the authority of the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council, to be a Commission of Inquiry for the purposes in the said Warrant duly set out :

And whereas by Our said Warrant you were required to report not later than the thirty-first day of August, one thousand nine hundred and forty-six, your findings and opinions on the matters referred to you :

And whereas by Our further Warrant dated the twenty-first day of August, one thousand nine hundred and forty-six, the time within which you were so required to report was extended until the thirty-first day of March, one thousand nine hundred and forty-seven :

And whereas by Our further Warrant dated the twelfth day of March, one thousand nine hundred and forty-seven, the time within which you were so required to report was further extended until the thirty-first day of August, one thousand nine hundred and forty-seven :

And whereas by Our further Warrant dated the thirteenth day of August, one thousand nine hundred and forty-seven, the time within which you were so required to report was further extended until the thirtieth day of November, one thousand nine hundred and forty-seven :

And whereas it is expedient that the time for so reporting should be further extended as hereinafter provided :

Now, therefore, We do hereby extend until the thirty-first day of December, one thousand nine hundred and forty-seven, the time within which you are so required to report :

And We do hereby confirm the said Commission and the four respective Warrants hereinbefore referred to except as altered by these presents.

In witness whereof we have caused these presents to be issued and the Seal of Our Dominion of New Zealand to be affixed hereto at Wellington, this twenty-seventh day of November, in the year of Our Lord one thousand nine hundred and forty-seven, and in the eleventh year of Our Reign.

Witness Our Trusty and Well-beloved Sir Bernard Cyril Freyberg, on whom has been conferred the Victoria Cross, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Knight Commander of Our Most Honourable Order of the Bath, Knight Commander of Our Most Excellent Order of the British Empire, Companion of Our Distinguished Service Order, Lieutenant-General in Our Army, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

[L.S.] B. C. FREYBERG, Governor-General.

By His Excellency's Command—

W. E. PARRY, Minister of Internal Affairs.

Approved in Council—

W. O. HARVEY, Clerk of the Executive Council.

REPORT OF THE ROYAL COMMISSION ON GAMING AND RACING

To His Excellency Sir Bernard Cyril Freyberg, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George; Knight Commander of the Most Honourable Order of the Bath; Knight Commander of the Most Excellent Order of the British Empire; Companion of the Most Distinguished Service Order; Lieutenant-General upon whom has been conferred the decoration of the Victoria Cross; Governor-General and Commander-in-Chief in and over the Dominion of New Zealand and its dependencies.

MAY IT PLEASE YOUR EXCELLENCY,—

In pursuance of the Commission dated the 22nd day of March, 1946, from His Excellency the Governor-General Sir Cyril Louis Norton Newall authorizing us to inquire into and report upon the existing law relating to gaming, the present administration and control of practices relating to racing, and generally all other matters connected with gaming and racing, and likewise to examine and report upon proposals that might be made for amending the law, administration, and control of these matters in the public interest, and to make such proposals in the premises as we might think fit and generally to inquire into and report upon such other matters arising out of the premises as might come to our notice in the course of our inquiries which we might consider should be investigated in connection therewith, and upon any matters affecting the premises which we consider should be brought to the attention of the Government, we have the honour to present our report as follows.

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PART I.—PRELIMINARY

1. For various reasons beyond our control some delay occurred before the Commission was able to begin its work. The first sitting—a private one—was held at Auckland on the 8th November, 1946. At that sitting questions of procedure were discussed and an itinerary settled. The first public sitting was held at Wellington on the 5th February, 1947. The principal parties concerned then asked for an adjournment in order to give them further time to prepare their cases. That they should have such time seemed to the Commission both desirable and advantageous as it was anxious to secure the greatest measure of help that any party could afford it. The Commission therefore adjourned to the 4th March, 1947, and on that day the taking of evidence at Wellington commenced; thereafter many witnesses were called and examined at a number of places throughout New Zealand.

2. The Commission adopted the policy of making itself as readily available and as easy of access as possible to any one desirous of giving evidence before it or of making representations to it. This necessitated the holding of more than one sitting at Wellington and Auckland and the holding of sittings at New Plymouth, Napier, Christchurch, Dunedin, and Invercargill. Notice of the time and place at which each sitting was to be held was previously publicly advertised, and members of the public were invited to attend and give evidence. An endeavour was made, as far as possible, to encourage the tendering of testimony and the making of representations by private individuals as well as by interested organizations. By this means it was hoped to learn the views, opinions, and wishes of " the man in the street." However, with the exception of persons holding emphatic views in favour of or against gambling, few people expressed any desire to be heard or made any representations to the Commission. This was somewhat disappointing, as it was hoped that we might have had the advantage of the views and experience of individuals or organizations who might be regarded as more impartial or at least as less partisan than those presenting formal cases. Nevertheless, some helpful evidence was given by individuals who did appear before us.

3. In addition to taking evidence and entertaining representations, oral and written, we sought to inform our minds upon all relevant topics by all means available to us. We thus read with care all such books, essays, brochures, and other writings as were in point and available to us. In particular, we studied with care the interim and final reports of the English Royal Commission on Lotteries and Betting of 1933, the

report of the South Australian Royal Commission on Betting of 1932–33, the report of the South Australian Royal Commission on Betting Laws and Practice of 1938, and the report of the Royal Commission appointed in Queensland in 1936 to inquire into matters relating to racing and gaming. We also read with care the reports published in South Africa of the proceedings of the Commission in the Transvaal on racing and betting. This Commission was sitting at the same time as our own Commission.

4. Cases were submitted to us by the New Zealand Racing Conference, the New Zealand Trotting Conference, the Dominion Sportsmen's Association, and by an Association of Churches constituted of the Presbyterian Church of New Zealand, the Methodist Church, the Baptist Church, the Congregational Church, the Church of Christ, the Salvation Army, and the Society of Friends. A case was also submitted to us by the Public and Social Affairs Committee of the Church of the Province of New Zealand, commonly known as the Church of England, whilst, with the approbation of the Roman Catholic Archbishop of Wellington, evidence was tendered to us by a priest of the Roman Catholic Church on behalf of a number of organizations representative of the social, educational, and charitable activities of that Church at Napier. Evidence was also given before us by an official representative of the Christian Science Church. In addition, we had the advantage of hearing the evidence of a number of individual clergymen and other gentlemen opposed to gambling.

5. The better to enable us to form an opinion upon the nature and extent of the landed and financial interests involved in racing and to enable us to get a more accurate and comprehensive view of many of the other phases of the questions referred to us, we visited most of the racecourses in New Zealand and there met, informally, the people responsible for the administration of the racing on those courses. For the same reasons, we also visited several of the major studs.

6. As the work of the Commission proceeded it became increasingly obvious that two questions would obtrude themselves as of primary importance—firstly, whether gambling is or is not unethical and whether or not it should, in consequence, be repressed by the State to the maximum limit which the moral standards of the community will from time to time permit; and, secondly, whether bookmakers should be licensed to carry on their businesses not upon the racecourses of the country, but in premises to which members of the public are denied all physical access.

7. In close association with the latter question and in consequence of it, the question was raised as to whether facilities should be authorized by law for off-course betting on the totalizator.

8. Subordinate to these principal questions, one other obtruded itself as the subject of major discussion—namely, whether a greatly increased number of totalizator licences should be granted to trotting clubs in New Zealand and whether a more limited number of additional licences should be made available to the New Zealand Racing Conference, chiefly for use at country race meetings in the Auckland Province.

9. The subjects for inquiry referred to us resolved themselves into two broad classes. The first has relation to lotteries and other proposals of a similar character and to gaming in the form of the playing of games of chance; the second to horse-racing in both its forms and to betting upon horse-racing. Ancillary to the latter question is that as to the form of betting which should be countenanced, if, in fact, betting is to be countenanced at all.

10. Unfortunately, we were given little or no evidence on the subject of lotteries. The nearest approach was testimony given by Messrs. W. Stuart Wilson and Frederick Cassin in favour of an investment-bond scheme. Their scheme is somewhat of the nature of the well-known premium-bond scheme, but it was said to be an improvement upon that scheme and to be novel.

11. On the subject of gaming in the sense of the playing of games of chance, the only evidence was that of the Commissioner of Police.

12. In respect of lotteries and all schemes of a cognate character and of gaming in the limited sense above mentioned, the Commission has therefore been left to form an opinion based almost entirely upon its own consideration of the issues involved. The absence of any demonstrated public interest in these topics justifies the postponement of any consideration of them to a consideration of the questions of racing and betting, which are clearly the predominant subjects of public interest and concern. We turn, therefore, at once to those questions..

PART II.—BETTING

SECTION I.—HISTORY OF BETTING LAWS

13. As it provides a useful background against which consideration by any one of the questions referred to us can proceed, and as it may, in some measure, assist those upon whom the task of considering our recommendations may fall by showing how problems analagous to our own have arisen and been dealt with elsewhere, and how the law as it now exists has evolved, we subtend a brief account of the history of betting in England and in New Zealand.

IN ENGLAND

14. In olden times a bet was a valid contract enforcible by the Courts and, as was commented by Lord Justice Fletcher Moulton in *Moulis* v. *Owen*, (1907) 1 K.B. at page 758, " There is no reason, juridicially speaking, why that should not be so." As he said, the ground for treating gaming contracts (and he must be taken to have included betting in that term) in an exceptional way is to be sought in reasons of public policy. That policy had no application in the ages during which the common law was formed.

15. In the result, therefore, the disabilities under which such contracts labour are entirely derived from statute law.

16. Initially, the main object of the earlier statutory enactments against games was to prevent their interference with the practice of archery on the Sabbath. Apparently the first statute of the kind was an Act of Richard II, c. 6, which was rendered more drastic by 11 Hen. IV, c. 4. By the latter enactment persons of the class of servants or labourers were ordered, " to have bows and arrows and use the same on Sundays and holidays and leave all playing at tennis or football and other games with coits, dice, casting of the stone, kails, and other importune games." This legislation was carried further by Edw. IV, c. 3, which exposed to penalties any occupier who allowed persons to play at the forbidden games on his premises. The most important statute of earlier times, however, was 33 Hen. VIII, c. 9. Its purpose too was to enforce the practice of archery.

17. The earliest statute to deal with gaming properly so called was 16 Car. II, c. 7. Horse-racing was one of the games named in it. The statute was directed not against gaming in general, but only against such gaming as was unfair and excessive. Games of skill and chance were all treated alike. The second section of the Act dealt with the case of persons playing at games other than with and for ready money and losing more

than £100 upon credit. This seems to be the first statutory reference to credit betting which has become such a burning question during the last century. With respect to such cases it was enacted that the losers should not be compelled to pay the sum lost and that the winner was liable to forfeit to any one suing him within the year three times the excess of the winnings over the sum of £100, half to go to the King and the other half to the prosecutor. As Lord Justice Fletcher Moulton comments in *Moulis* v. *Owen* (*supra*), " This state of things continued until the Act of 9 Anne, c. 14." This Act made a very great change in the law as regards gaming and gaming contracts. At the date of its passing it was perfectly legal to play for ready money to any amount, and the winner could keep the winnings. A loser might also lose to the limit of £100 on credit and still be liable to have his debts enforced against him by action at law. If, however, the losses on credit exceeded £100 no portion was recoverable by process of law, and the winner was liable to serious penalties.

18. The statute of Anne made a radical change. Although it purported, as to its incidence, to be limited to the prevention of " excessive and deceitful gaming," it enacted that if a person should lose £10 or upwards at any one time or sitting and should pay his losings he could recover them from the winner by action if the action were brought within three months, and that if he did not do so any other person could thereafter obtain them by action against the winner, and the amount recovered was to go as to one-half to the person suing, and as to the other half to the use of the poor of the parish where the offence was committed. The Act contained other stringent enactments against cheating and professional gamblers. Incidentally, it also declared void " all notes, bills, bonds, judgments, mortgages, or other securities or conveyances for gaming consideration or for the reimbursement of any money knowingly lent or advanced for such gaming or betting as aforesaid."

19. Then followed several statutes passed over an extended period by which additional games were declared unlawful. One of these statutes, 18 Geo. II, c. 34, added " roulet " [*sic*] to the list of forbidden games and strengthened the law against gaming in various ways. It included a provision that any one who won or lost at play or betting at any one time the sum or value of £10 should be liable to prosecution. Then came the Act of 5 and 6 Will. IV, c. 41, which is commonly known as the Gaming Act, 1835. It qualified the effect imposed by 9 Anne, c. 14, on securities given for gaming debts. While such securities were declared void, an innocent holder for value of a note given for a gaming consideration could not recover upon it. This, in practice, was found to be provocative of injustice and, accordingly, the Gaming Act of 1835 provided that notes, bills, and mortgages which by the statute of Anne would be rendered void by reason of their having been given for a gaming consideration

should in future be treated as having been given for an illegal consideration. The rights of an innocent holder for value were thus preserved and sustained.

20. The state of the law established at that stage by the various enactments from time to time in force was achieved by slow stages over a period of nearly three centuries. The British Royal Commission on Lotteries and Betting of 1932–33 commented concerning it that until about the end of the eighteenth century, when the professional bookmaker is said to have made his appearance, betting was a private matter among individuals. It was subject to the various laws relating to gaming and excessive betting was a criminal offence. It did not cease to be a criminal offence until 1875 with the passing of the Gaming Act of that year.

21. It is the law as it thus stood on the 21st May, 1840, when sovereignty was proclaimed over New Zealand, that this country inherited—as it inherited all the existing law of England in so far as that law was reasonably applicable to the circumstances of the then infant State. The fact that New Zealand was first constituted a dependency of New South Wales made no difference. No reference need be made in this relation to any of the subsequent periods of the Dominion's history because, alike from the 16th May, 1840, to January, 1853, while the country was a Crown colony with a Governor and nominated Legislative Council, as well as from the 17th May, 1853, onwards, when the country became a self-governing colony with an elected House of Representatives, broadly speaking, only those Acts of the British Parliament applied to New Zealand which were made expressly applicable to it or which became applicable by reason of their being expressed to be applicable to the whole of the King's dominions.

22. From the 16th November, 1840, no Acts of the British Parliament germaine to the topics now under discussion were made to apply to New Zealand. All that need be considered, therefore, as a background to our present legislation from an historic point of view is the common law and the statute law of England as it existed on the 21st May, 1840. It is, however, of interest to note the efforts which were made in Britain after that date to control betting.

23. By the Gaming Act of 1845, following upon a parliamentary inquiry as to gaming, which was held in the year 1844, all contracts or agreements, whether by parol or in writing, by way of gaming or wagering were declared null and void. Then in 1853 came the English Betting Act of that year. As the English Commission pointed out, it is clear from the evidence given before the Select Committee of the House of Commons of 1844 that bookmakers were common by that time, but that as no mention is made in the evidence or report of

betting-houses for ready-money betting it is unlikely that they existed or were at all numerous. Nevertheless, by 1853 betting-houses had become numerous in the larger towns and had grown to be a nuisance.

24. The rapid growth of ready-money betting-shops between 1845 and 1853 is usually explained, according to the English Royal Commission, by reference to the provision in the Gaming Act, 1845, which rendered gaming transactions unenforceable. This is said to have led to the practice of requiring money to be paid in advance. The English Commission thought another factor might also have operated—namely, the decision of the Courts in 1845 that sweepstakes were illegal. These lotteries had a great vogue in public houses and elsewhere, the stake being paid in cash and in advance. When sweepstakes were declared illegal, bookmakers, and, no doubt, former promoters of sweepstakes, developed betting businesses on a cash basis.

25. In moving leave to bring in a Bill for the suppression of betting-houses (the Betting Act, 1853), the then Attorney-General, Sir Alexander Cockburn, who later became Lord Chief Justice of England, said that the evils which had arisen from the introduction of the ready-money betting-shops were notorious and acknowledged upon all hands. The object of the Bill, he said, was to suppress the opening of houses, shops, or booths for the purpose of betting. He had in mind premises, the owner of which held himself out as ready to bet with all comers. He rejected emphatically the suggestion that the licensing of these houses would be the more effectual course. It is not without significance that Sir Alexander Cockburn expressed himself as believing that it would be discreditable to the Government and likely to tend to increase the mischief instead of preventing it if betting-shops were licensed. Subsequent experience in South Australia, where alone the expedient has been adopted, has confirmed the correctness of his view.

26. The Act of 1853 prohibited betting-houses and declared them to be common nuisances. This is the origin of credit betting in England. That form of legal betting A. P. Herbert has defined as "an historical accident"; and it is so in the sense that it happened through cash-betting shops being the immediate subject of legislation.

27. The enforcement of the provisions of the Betting Act, 1853, made it impossible for a bookmaker to keep a house or shop for ready-money betting, and he went into the streets in search of business. Local authorities first attempted to deal with the difficulty by by-laws. That system of repression was unsatisfactory for a number of reasons, and the House of Lords in 1901 and again in 1902 appointed a Select Committee "to inquire into the increase of public betting amongst all classes and whether any legislative measures are possible and expedient for checking the abuses occasioned thereby."

28. The Committee's main conclusion was that it was impossible altogether to suppress betting, but that the best method of reducing it was to localize it as far as possible on racecourses and other places where sport was carried on. Incidentally, this same policy inspired our Legislature in 1907. The proposal that bookmakers should be licensed was negatived by the Committee on the ground that it was not desirable to legalize betting in this manner and on the further ground that the establishment of such a system would increase rather than lessen the amount of betting. The Committee likewise condemned the establishment of totalizator betting on the ground that the encouragement by that means of the gambling instinct would far outweigh any gain that might accrue.

29. In the result, the Committee recommended that street betting should be prohibited and that heavier penalties should be provided than were provided under local by-laws. It further recommended that any bookmaker who engaged in betting transactions at a sports-ground where his presence was not desired by the management should be liable to arrest and fine. The Committee, however, went even further and recommended that the provisions of the Betting Act, 1853, should be extended to cover offices or credit betting by correspondence and that betting advertisements and circulars and tipsters' advertisements should be prohibited. The Committee, however, did not recommend the prohibition of the practice of publishing starting-price odds.

30. The Street Betting Act of 1906 gave effect to the recommendations of the Select Committee of 1902, but only in respect of the prohibition of street betting and in respect of the liability to arrest and penalty of a bookmaker who engaged in betting transactions at a sports meeting where the management did not desire his presence.

31. The recommendations of the Committee are of interest in many respects, and in none more than this : that their proceedings emphasized the difficulty of suppressing betting and afforded illustration of how ingenuity can find a way for its continued practice by professionals despite restrictive legislation.

32. Another example of ingenuity is afforded by the Ready Money Football Betting Act, 1920. Shortly before the war of 1914 the Football Association became concerned at the growth of organized betting on football matches. They were particularly concerned at the coupon-betting system. Betting, they considered, was having a detrimental effect on the game. After the war the question was taken up again by the Association, and the Ready Money Football Betting Act, 1920, was passed. The Act was directed against the business of ready-money football-combination betting. Despite this legislation, betting upon football is still widespread ; the promoters have found a way of escape by having recourse to a credit system.

33. It was not until 1928 when the Race Course Betting Act of that year was passed that the use of the totalizator at certain racecourses was allowed. It was permitted with a view to extracting from betting some contribution to the sport of horse-racing and horse-breeding.

IN NEW ZEALAND

34. From 1840 onward the law in New Zealand followed a course of development different from the law of England. To begin with, the English Betting Act of 1853 did not apply to New Zealand, and similar provisions were not brought into force here until the Gaming and Lotteries Act of 1881 was passed.

35. At that time portable totalizators had already apparently been in use for a year or two at various race meetings. They were of a crude and elementary character, and their efficiency must have been of a low order. However, the operation of the totalizator, inefficient and inadequate as it was, must have interfered to some substantial extent with the business of the bookmakers operating on the same courses, or the bookmakers must have foreseen in the totalizator a strong future competitor, for various attempts of more or less potency were made to have the totalizator ostracized. The opponents of the totalizator were constituted of two, what might be thought, incompatible factions—bookmakers who were seeking a monopoly of gambling, and the Churches and all those elements in the community which were opposed to gambling in any shape or form. Despite its incongruity, a similar alliance in future is not beyond the limits of possibility, particularly if the lessons of experience are disregarded by those to whom gambling is abhorrent.

36. The high-water mark of the attack upon the totalizator came in 1896 when the second reading of the Bill to abolish the totalizator was carried in the House of Representatives. The Bill was carried by a fair majority, but it never reached a third reading.

37. Over the next ten years the conflict was continued without either side gaining any recognizable advantage. Just how divided popular opinion was is shown by the fact that in 1907 the then Premier, Sir Joseph Ward, laid on the table of the House of Representatives a table showing the number of petitioners for and against the totalizator. The table showed that there were 36,311 signatures in favour of the totalizator and 36,471 against it.

38. Apparently prior to 1907 the interests of the bookmakers had been suffering some retrogression. Although their activities, except in a few particular respects, were nowhere prohibited by statute, they had been gradually expelled from racecourses by the action, probably co-ordinated, of individual racing clubs. Their activities were only

limited in that betting-houses were prohibited by the Act of 1881, whilst the laying of totalizator odds and dealing in totalizator tickets had been prohibited by the Gaming and Lotteries Amendment Act, 1894.

39. In this state of affairs the Gaming and Lotteries Amendment Act, 1907, was introduced into the House of Representatives as a Government measure by Sir Joseph Ward. The whole measure seems to have been contentious to the uttermost degree. The opposition to it disclosed another example, despite the divergent ultimate objects which they sought to achieve, of an alliance between the bookmakers and those opposed to gambling.

40. From the reports of the debate on the Bill it would seem that all the members of the House were of opinion that gambling had become unduly prevalent throughout the country. Even those who approved of betting on races were disposed to concur in some action having a general tendency acceptable to those opposed to gambling in any form. From this limited concurrence of view, and despite the essential conflict of opinion which existed between various factions, a conviction seems to have developed that it was in the public interest that all betting on races should be confined exclusively to the racecourses. This conviction concurs with the views expressed by the House of Lords Committee in 1902, but seems to have been reached independently in New Zealand.

41. The purpose of the Gaming and Lotteries Amendment Act, 1907, was to give effect to this conviction of the legislators. As a means of achieving its objective the Act prohibited all street betting under the sanction of heavy penalties, "street" being very comprehensively defined. The Act also provided that no money or valuable thing received by any bookmaker contrary to the street-betting provisions should be recoverable at the suit of the person from whom they were received. Betting on sports-grounds and in factories was prohibited. "Ground" was also very comprehensively defined as including "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" were defined as almost every form of athletic contest or other game known to the legislators. Racing clubs and their officials were prohibited from accepting telegraphic or telephonic instructions as to investments. Telegrams were not to be delivered to the racecourse. The publication of dividends, except upon the racecourse, was prohibited. The use of a doubles totalizator was prohibited. In every way and by every means the legislation proposed to confine betting to racecourses. Incidentally, and for the first time in the history of the Dominion, "bookmaker" was defined. The definition was later amplified and extended by section 8 of the Gaming Amendment Act, 1920.

42. In order to facilitate the achievement of the purposes of the Act it was prescribed that bookmakers might follow their calling upon racecourses and to that end all racing clubs authorized to use a totalizator were required to license fit persons to operate as bookmakers upon their courses at a licence fee which, to ensure moderation, the Legislature prescribed should not exceed £20 for every day of the currency of the licence.

43. Much of this legislation, despite changed circumstances and despite the obvious accrual of detrimental results, still remains a feature of the statute law of the country. The first, but not by any means the least or only weakness of the Act, viewed in retrospect, was that it failed to take into account the possible consequences of the hostility which then existed between the administrative officials of the racing clubs and the bookmakers. It was contended before us that this hostility was so bitter that the racing clubs, with a view to discrediting bookmakers, did not scruple to grant a licence to any rogue or vagabond who might make application for one and have sufficient money to pay the fee. However that may be, the results of the licensing system were disastrous. The country was invaded by men of criminal tendencies and the whole position became a scandal; in fact, it became so scandalous that, despite all precedent to the contrary, reference was made to it in emphatic terms by Mr. Justice Chapman from the Supreme Court Bench. After referring to the fact that it was unusual for a Judge to criticize the law of the land, he said that he nevertheless felt it was his duty to say that recent legislation passed by the New Zealand Parliament had produced a very degrading effect on a certain section of the population of the country. He felt it incumbent upon him, he said, to openly condemn a law which legalized the operations of a section who came very close to the criminal class. There might be honest bookmakers, he said, but as a class they were treated by civilized communities as persons for the most part without lawful means of support. It was regrettable, he thought, that the New Zealand Parliament had seen fit to call them into a recognized class and to legalize their calling. It was, in his view, one of the gravest mistakes legislators in the Dominion had made. He thought the sooner the whole matter was reconsidered by the legislators the better it would be in the interests of morality and honesty. He believed he was speaking in accord with the view held by every Judge and Magistrate in the country, as well as by police officers and others administering the criminal laws, when he declared the result of the law in question was the direct encouragement of a criminal class. He felt justified in expressing himself as he had done in the interests of public morality.

44. As a result of the conditions which had accrued and the apparently widespread condemnation which they had evoked, the Gaming Amendment Act of 1910 was passed. By it bookmakers were prohibited from betting in any street or in any licensed premises or on any racecourse, subject to the sanction of a fine of not less than £20 and not exceeding £100 for the first offence, and to a like fine or to imprisonment for a period not exceeding three months for a second or subsequent offence. By section 4 of the Act a positive duty was imposed upon racing clubs to use all reasonable and lawful means to prevent bookmakers plying their calling upon racecourses. Any default on the part of a racing club in this respect clothed the Minister with a right to revoke the club's licence to use the totalizator or to hold a race meeting under the Race Meetings Act, 1909, and to refuse to issue a further licence for one year after the revocation.

45. Up to this point the operations of bookmakers were not made illegal by any express statutory or other declaration. Just where or how they could, in the circumstances, carry on their business, however, it is difficult to see. That difficulty found expression in the Judgment of Mr. Justice Salmond in *The King* v. *Whitta* [1921] N.Z.L.R. at page 521, where he said :—

Prior to the Act (*i.e.*, the Act of 1920) the business of a bookmaker was not in itself illegal, although the law imposed severe restrictions on the manner in which such business could be carried on. Thus a bookmaker could not lawfully permit his place of business to be used for the purpose of making bets with persons resorting thereto or communicating therewith by post, telegraph, telephone, or otherwise : Gaming Act, 1908, s. 36. Nor could a bookmaker carry on his business in a street or other public place or on licensed premises or on a racecourse : Gaming Amendment Act, 1910, s. 2.

46. This Act of 1910 marks the origin in this country of that wholesale system of illegal off-course betting which, here as well as throughout Australia, has presented difficulties which are commonly regarded as insurmountable. It has found support in the very measures which were adopted to ensure the concentration of betting upon racecourses. By the abolition of the doubles totalizator the illegal bookmaker was left with a monopoly of doubles betting, a form of betting which is, and apparently always has been, very popular. Thus, too, the prohibition of the use of the telegraph and telephone as a means of putting money on the totalizator promoted his business, for it was only by transacting business with him that persons off the course could bet. In short, the legislators who supported the Act of 1907 failed to take into account the fact that those who could not or did not wish to attend the races would find some means of satisfying their desire to bet, and that, as bookmaking is profitable, there would not be wanting those who would be prepared to satisfy that desire, however illegal their proceedings might be.

47. Apparently the Legislature continued of opinion that bookmaking should be abolished, for, as a means of suppressing that illegal form of it which had come into existence after 1910, the Legislature, by the Gaming Amendment Act, 1920, declared the business of a bookmaker to be unlawful and made it an offence to bet with a bookmaker. Difficulties of proof have made the latter provision almost a dead letter. The declaration of illegality of the business of bookmaking has proved inefficacious to such an extent that it was claimed in evidence before us that, whilst £20,000,000 passed through the totalizator in the last racing year, it was almost certain that £24,000,000, if not more, had been handled by illegal bookmakers.

SECTION 2.—FUNDAMENTAL ISSUES

48. Inasmuch as any law regulating or controlling betting involves as a necessary element the consent of the State to betting to the permitted degree, the issue always arises upon any such inquiry as this as to whether betting is or is not unethical and a moral wrong. The issue finds its importance in the contention that the State should not, by it laws, tolerate, much less authorize or encourage, a wrong by giving it the characteristic of legality, and should not derive income from it, even for State purposes, by taxation.

49. Although the associated Churches were, in the circumstances, prepared to accept a recommendation involving a certain amount of betting, these issues were much debated before us because it was contended that a proper appreciation of the moral error in betting should inspire the present and future attitude of the State both as to betting itself and as to the taxation of betting. Some consideration of the whole topic is therefore inescapable.

50. The associated Churches regard betting as a moral evil and a fourfold sin. Whilst, therefore, they took what their counsel described as " a practical view of the situation " and recognized the impossibility in the existing state of public opinion of peremptorily legislating gambling out of existence, nevertheless they consider that the State should not only discourage any extension of the practice, but should take every means as opportunity serves from time to time of minimizing it in respect of both of its extent and its incidence. To this end they suggest the rigid enforcement of the law as it now stands, the prohibition of everything calculated to encourage betting or to incite people to bet, and the consistent reduction of totalizator licences as the opportunity to effect reductions from time to time presents itself. They suggest, too, that taxation from gambling should be discontinued. It is wrong, they say, for the State to obtain revenue from a source so tainted with moral evil. The view of the associated Churches is therefore that, whilst betting to the extent to which it at present

obtains cannot, under existing circumstances, be reduced, much less eliminated, by immediate legislative action because any such attempt would lack the support of a sufficiently widespread public opinion, yet advantage should be taken of every opportunity to limit and minimize the practice, with its total elimination as an ultimate objective.

51. The view of the Church of England is somewhat different and would, by many people, be defined as more liberal. It does not press either presently or at any time in the future for the total abolition of the totalizator. It recognizes that such an abolition would make it financially difficult for the sport of racing to maintain itself. This attitude appears to be founded upon the fact that the Church of England has not, so far as the evidence before us serves to show, at any time made any pronouncement that gambling is inherently wrong. On the contrary, the witness who gave evidence in support of the Church of England's case expressed the opinion that the view of his Church was that gambling only becomes an evil when it exceeds the bounds of moderation. Gambling has, however, in the view of that Church, already developed to a point which is so seriously excessive that some means to secure a reduction should be adopted. The Church of England does not agree that it is wrong for the State to derive revenue from the taxation of gambling. That topic was apparently the subject of definitive consideration by the Church authorities, for it was stated that the Church was aware that other Churches had advocated the abolition of totalizator taxation, but, upon consideration, did not feel that it could support the proposal.

52. Whilst it differs somewhat from the view of the Church of England, the view of the Roman Catholic Church on the subject, as expounded to us, appears to be in agreement in several major respects with the view of the Church of England. The Roman Catholic Church does not regard gambling in itself as morally wrong, or a sin, but accepts the view that by excess it may become so. It, too, therefore reprobates excess and would, we conclude, deny its approbation to anything which might inspire in individuals, and particularly in youths, a desire for heavy gambling. It is consonant with this view that the Roman Catholic Church, in common with the Church of England, regards it as against the public good that private individuals should be allowed to make a living out of gambling.

53. No good purpose would, we think, be served if we were to attempt to determine the religious and philosophical question as to whether gambling is ethical or unethical or whether, being ethical in some degree, it becomes unethical in a higher degree. We are conscious of a lack of any proper qualification in ourselves to decide any such issue with any pretence to authority. What appear, in any event, to be involved are questions of individual conscience, and such matters

are, we think, outside our province. Nor are they, in our view, within the province of the State. History is redolent with examples of the unwisdom of the State attempting to adopt repressive or coercive measures in respect of matters of private conduct in opposition to the personal convictions of numerous sections of the community. Whether, therefore, betting is unethical and a moral wrong, or a mere innocent pastime, and whether it is an irrepressible primary human instinct, as was contended, or a restrainable complex impulse compounded in different individuals of different degrees of the desire for adventure, excitement, and material gain, it must, we think, be regarded as a propensity to the exercise of which, at least in some degree or to some extent, the majority of the people in the country give their approbation. And it is from that point of view that we conclude that the duty of the State must be considered.

SECTION 3.—DUTY OF THE STATE IN RESPECT OF BETTING

54. The question thus arises as to what the attitude of the State should be in relation to a widespread, deeply-rooted, very old, and widely approbated propensity. Historically, the State has never interfered with the liberty of private individuals to gamble between themselves. On the contrary, it has scrupulously avoided doing so. Of this the language of Sir Alexander Cockburn in introducing the Betting Bill into the English House of Commons in 1853 is illustrative. In the course of his speech he, in effect, referred to the disinclination which was felt against interfering with the right of individuals to gamble between themselves in connection with what he described as " the great national sport of horse racing." The object of the Bill, he said, was to suppress betting-houses without interfering with that legitimate species of betting. As a matter of history, therefore, the right of individuals to gamble between themselves has, in practice, been put outside the ambit of State interference. That form of interference might, in any event, prove insupportable and it would certainly prove unenforceable. In the result, therefore, the State is left solely to interfere with those facilities which provide a basis for organized or professional gambling, and its jurisdiction with respect to that form of gambling is necessarily limited to restriction or prohibition.

55. We apprehend that the State cannot, with propriety, interfere on a basis which is purely ethical. That view finds support in the opinions expressed by the British Royal Commission on Lotteries and Betting of 1932, as well as in the opinions expressed by the South Australian Royal Commission on Betting of 1933. In both the conception is implicit that the field of ethics is not co-extensive with the criminal law and that, just as there are many forms of conduct which are generally considered to be morally wrong or reprehensible which are not within the ambit of the

criminal law, so there are many matters with respect to which the State may find it necessary to make laws independently of any question of ethics. In any event, as was pointed out by the British Royal Commission, public opinion generally would not support legislation based solely on ethical objections to gambling. The British Commission was, of course, speaking with respect to conditions in England, but those conditions do not, we conceive, differ materially from conditions in the same relation in New Zealand.

56. It was, no doubt, the acceptance of the truth of this conception which influenced the associated Churches to refrain from asking for a present lessening of the means of gambling in New Zealand. The wisdom of that is obvious, for it is notoriously unprofitable, if not futile, to attempt to enforce laws which exceed the moral standard of conduct of the community.

57. We conclude, therefore, that the proper function of the State is to impose restraints and restrictions only in respect of gambling which is or is likely to be productive of detrimental social consequences. That does not, of course, mean detrimental consequences in sporadic instances, but consequences on a scale more widespread and more general.

58. One method of imposing such restraints and restrictions is, of course, to restrict or restrain those contests which are habitually made the basis of gambling. That, however, is not presently sought even by the most decisive opponents of gambling. The field over which legislative control is to operate is thus somewhat narrowed. It would, however, be obtuse and productive of detrimental consequences if any consideration of the problem of the duty of the State with respect to gambling proceeded upon any basis other than a clear and definitive appreciation that gambling can be productive of serious social consequences. To that fact the New Zealand Racing Conference and the New Zealand Trotting Conference are both alive, as was amply testified by the condemnation to which counsel for both parties gave voice in their references to what they termed " the big punter." Both bodies seemed to be inspired with what is beyond question the proper conception of the most desirable condition—namely, that horse-racing should be run as a sport for sport's sake and as an amusement, with moderate gambling as a means for the creation of pleasureable excitement and further interest.

59. That conception substantially coincides with the views expressed by the Church of England and by the Roman Catholic Church neither of which, even as an end result, seeks the entire suppression of betting. It certainly, we think, coincides with the opinion of the great majority of the public, which is, we judge, definitely opposed at present to the suppression of betting.

60. In this state of public opinion any attempt at suppression, in contradistinction to reasonable regulation, must be regarded as unwise and impracticable. The only questions which evolve in consequence for consideration are questions as to means and methods and the duty of the State with respect to them. To the establishment and maintenance of the sport as a sport for sport's sake and as an amusement, the influence of the State should, we think, be directed, whilst moderate gambling as a source of pleasure and interest should be countenanced. Such an attitude on the part of the State has the merit that it will least offend against the scruples of those who hold that gambling is a sin, whilst it will conform to the views of those who, upon ethical grounds, hold that gambling is not, in itself, sinful, but that carried to excess it may become so. It will conform also to the views of those who see no moral wrong in gambling, whilst it will lend support to the efforts of those directly concerned with the administration of racing and with its maintenance upon the highest level.

61. The ultimate question that therefore evolves is as to the form of regulation to be adopted, involving, as that does, the forms of betting to be discouraged and the form or forms to be made available. This raises, in an acute form, the problem of off-course betting, for no objection for present purposes has been taken to the totalizator as the means of on-course betting.

SECTION 4.—OFF-COURSE BETTING

SUPPRESSION IMPOSSIBLE—REGULATION FAVOURED

62. Despite the fact that, by the Gaming Amendment Act, 1920, the business or occupation of a bookmaker was made unlawful, the business of bookmaking has thriven in New Zealand. The measure of its success may be judged from the fact that whereas approximately £20,000,000 went through the totalizators of the country during the 1945–46 racing year, a sum of £24,000,000 was, with some show of credibility, estimated by the secretary to the Dominion Sportsmen's Association, as having passed through the hands of the bookmakers engaged in business in the country. Despite its magnitude, the correctness of the estimate is supported by the Police Department, which reports that there is reason to suspect that no less than 763 persons are at present engaged in bookmaking. The Police Department suspects that there are 153 bookmakers and their agents in Auckland, 192 in Wellington, 62 in Christchurch, 55 in Palmerston North, and quite considerable numbers in most of the smaller towns.

63. This being so, then if off-course betting is to be permitted at all, the question, and it is a major one, evolves as to the means which should be adopted to eliminate this wholesale system of illegal book-

making. That the system is now bringing the law into disrepute and is producing other and widespread detrimental consequences was conceded by common consent.

64. Two initial alternatives present themselves for consideration. The first is that proposed by the associated Churches—namely, that all off-course betting should be rigidly suppressed. To achieve that end the associated Churches propose that the present repressive legislation be rigidly enforced, and that enforcement be supplemented by such further procedures as efficient enforcement may require.

65. The efficacy of such a policy is open to the gravest doubt. So long as off-course betting has, as it undoubtedly now has, the support of the public and is regarded not only as innocuous, but, despite its illegality, as justifiable, suppression is well-nigh impossible. Any attempt to achieve that end, if it is to be effective, might well require measures of repression that would be provocative of widespread and deep-seated hostility. Apart from that very grave consideration, experience everywhere that the practice has arisen has demonstrated the impossibility of complete repression. Queensland at one time claimed some considerable, although not an absolute, measure of success, but the evidence given before us suggests that repression, even there, has substantially failed. The difficulties of suppression without the provision of some substituted form of betting are so great that, in the view of all who understand the problem, suppression is commonly regarded as practically impossible. We are persuaded that to attempt to enforce any such policy here would be to disregard experience and the dictates of good sense and would be, in the highest degree, unwise.

66. From this arises the question as to whether the State should assume the responsibility of providing the means for off-course betting. For the State to do anything of the kind would we think, be a grave mistake. It is not any true function of the State to embark upon any such enterprise, and if it did it would imperil its impartiality in respect of its true function, which is to regulate and govern any such practice in the interests of the public good.

67. The second alternative offers two opposed methods. The first is to license the bookmakers, and the second to authorize the establishment of some system of off-course betting under the control of the two Conferences by which the money adventured will pass through the totalizator. We proceed to consider these alternative methods in the order named.

BOOKMAKING NOT FAVOURED

68. The interests of the bookmakers were represented by the Dominion Sportsmen's Association, which is frankly an association consisting of bookmakers and devoted to the promotion of their

interests. It sought the licensing of bookmakers and, with a considerable degree of candour, admitted the volume of betting now being illegally transacted with its members and others following a similar occupation. It was admitted, too, that doubles betting constituted from 15 to 25 per cent. of the business currently being transacted by the bookmakers of the country and, inferentially, the legalization of this form of betting was sought even if it involved competition with the doubles totalizator. That doubles betting is rife we are certain, and we are disposed to think that it consists of a very much greater proportion of the betting done by the bookmakers than the secretary of the Dominion Sportsmen's Association estimated.

69. It was candidly and very properly conceded by counsel for the association that if off-course betting could, by some sufficiently comprehensive and sufficiently efficacious system, be catered for so that the requirements of all who wished to bet off course could be satisfied and the money put through the totalizator, then that system should, beyond all question, be adopted. The concession was made from recognition of the obvious fact that, through the totalizator, the recovery of taxation is made sure and simple, whilst by its employment a maximum income is made available to racing clubs for expenditure upon racing and for the provision of amenities for race-goers.

70. The fundamental claim of the association is that no sufficiently comprehensive or sufficiently efficacious system of off-course betting can be devised which will render a service comparable to the service that the bookmakers can render. It was contended that every alternative scheme for handling off-course betting is at a nebulous stage, whilst the bookmakers, if licensed, can immediately and without delay or expense divert from an illegal to a legal system and provide a complete service competent to deal with the whole off-course betting of the country. Such a system, it was contended, need not involve any loss of the ability of the State to tax moneys adventured in gambling or any loss of the ability of the racing clubs to derive income from betting. These latter contentions were based on a suggestion that a duty should be imposed upon all bets made and that, for the purpose of providing revenue for the racing clubs, a licence fee should be payable by each individual licensee based on the number of telephones employed by him. The proposal of the association is that betting transactions with bookmakers should be arranged in premises to which bettors are denied all physical access. This would involve the transaction of all betting business behind closed doors through the medium of the telegraph, the telephone, and the mails.

71. Implicit in the proposal is the continuance of two existing concomitants of the present illegal system. The first is the continuance of the present credit system of betting which constitutes much the greater

part of the present illegal system. The second is the continuance of the present illegal system of betting, not at stated odds, but at odds determined by the amount of the dividend ultimately paid on the totalizator.

72. To both of these concomitants there are serious objections. It is a purely historical accident that credit betting should be the only legal system of betting with bookmakers in England. It just so happened that the particular evils against which the English Betting Act of 1853 was directed were the evils created by and associated with ready-money betting-shops which had come into existence. For the purpose of suppressing that particular evil the Act made betting for ready money illegal and, to enforce its prohibition, made the physical association of bookmaker and client an offence. In this state of the law recourse was had to credit betting in premises to which bettors had no access. This was done purely as an expedient and to preserve the business of the bookmakers without breaking the law.

73. So far as we have been able to ascertain, the merits and demerits of credit betting as opposed to cash betting have never been conclusively considered by the English Legislature. Doubtless some consideration was given to the topic when the Select Committee of 1902 recommended that the provisions of the Betting Act, 1853, should be extended to cover offices for credit betting by correspondence. In New Zealand, on the contrary, the weight of responsible opinion had been decisively in favour of ready-money betting as against credit betting. This is implicit in the legislative adoption of the totalizator and insistence upon its operating only upon a ready-money basis. The reason is obvious, for gamblers who, as a class, are inspired by a profound spirit of optimism, have a tendency to gamble on the prospect of success and so to gamble more heavily than they would dare or care to do if they were constrained to pay the amount of their bets in cash. It is therefore generally and credibly believed that credit betting results in excessive betting, in undue poverty, and in peculation. Individuals may steal to bet, but the number who do so is small as compared with the number who feel themselves impelled to steal when under heavy pressure for the payment of bets already made and lost. To individuals who have access to funds, threats of disclosure are a powerful factor inducing dishonesty.

74. A somewhat similar philosophic basis lies at the root of the prohibition now and for many years past in force against betting based on dividends to be paid by the totalizator. This prohibition first came into force with the Gaming and Lotteries Amendment Act, 1894, and, despite many opportunities for its repeal, it has been continued in force ever since. The reason for it is that if people are to receive or pay, not according to declared odds, but according to the odds subsequently disclosed by the totalizator, then there is an incentive to do what is necessary to produce a desirable result upon the totalizator. This

promotes further gambling in that bookmakers are induced to back upon the totalizator horses which, in the light of the bets they have made off course, they desire to see pay a minimum dividend. On the other hand those who bet with the bookmakers are induced to back upon the totalizator other horses in order to inflate the amount of the dividend they will become entitled to receive if the horse wins which they have previously backed with the bookmakers.

75. At its best, therefore, a system of betting upon totalizator odds is provocative of increased gambling. An instance of its result so far as manipulation of investments upon the totalizator is concerned is afforded by a recent case in Napier known as "the Malacca case." This case was made the subject of representations to us on behalf of a Mr. Slater. There very large sums were invested on the totalizator upon horses not expected to win, in order to inflate the dividend on the horse Mr. Slater's principal, with a confidence the event justified, expected to win. The principal thus won from bookmakers a much greater sum than the normal odds would have secured for him. Doubtless there are other objections to the system of betting upon totalizator odds, but to these we need not advert.

76. Whatever else, therefore, may be concluded with respect to the licensing of bookmakers it would be a retrograde step and a disregard of the lessons of experience for the State to make possible, much less encourage, either credit betting or the laying of totalizator odds. There are these two initial objections to the licensing of bookmakers as proposed by the association.

77. The third objection arises from the difficulty of recovering taxation from bookmakers. We leave out of consideration for the time being whether it is right or proper for the State to recover taxation from gambling, and meantime assume that the State will desire to continue to recover such taxation. Experience has shown that taxation based on the activities of bookmakers is, if not impracticable, at least extremely difficult of enforcement. In 1926 Mr. Winston Churchill, then Chancellor of the Exchequer, introduced a tax on bets in his Budget. He estimated the tax would yield £6,000,000 in the full year. The tax took the form of an annual tax on bookmakers' certificates and entry certificates, and a percentage tax levied on all bets made with bookmakers, credit betting being taxed at a higher rate than ready-money betting. The tax on bookmakers' certificates and entry certificates was in the nature of a licence fee. The percentage tax on bets was analagous to the tax on bets proposed by the Dominion Sportsmen's Association.

78. At the time of its introduction the opinion was advanced that, despite heavy penalties for infringement, there would be considerable evasion of the tax unless it were at a very low rate. The tax came into

operation on the 1st November, 1926, and in its first full year it yielded £2,669,000. That was less than one-half the revenue the Chancellor of the Exchequer had expected from it. In introducing his budget in April, 1928, Mr. Churchill budgeted for a yield of £3,250,000 and referred to the evil of evasion which he hoped would be checked by the Customs and Excise authorities. However, the yield from the tax continued to shrink, and on the 15th April, 1929, in announcing the repeal of the tax, Mr. Churchill described it as a fiasco. He said:—

In practice the duty has failed. The volatile and elusive character of the betting population, the precarious conditions in which they disport themselves, have proved incapable of bearing the weight even of the repeatedly reduced burdens we have tried to place upon them.

He added that as a monument to the betting tax there existed the healthy machinery of the totalizator on the turnover of which a tax of one-half per cent. was imposed.

79. Accordingly, from the 16th April, 1929, the tax on bets was repealed after rather less than two and one-half years, as one writer comments, "in which to justify its existence on the statute book." The personal licence duty of £10 upon all bookmakers and £40 a year on every telephone installed in a bookmaker's office were, however, still retained. Mr. Snowden, when announcing the repeal of the tax on bookmakers' certificates in his Budget speech on 14th April, 1930, said:—

I propose to abolish the last vestiges of the inglorious betting duty. I propose now to repeal the duty on the bookmaker's certificate so that the statute-book will once more be entirely free from the blemish of a measure that ought never to have appeared on it.

This repeal provoked a heated debate in the House of Commons, it being contended that it was a case of morality or puritanism as opposed to financial expediency. However, the tax was repealed.

80. The experience of the difficulty of collecting the tax on bets in England does not encourage any belief that a similar tax in New Zealand would prove satisfactory. Licence fees would, doubtless, be paid promptly, but the amounts payable would not, in the aggregate, even distantly compare with the total revenue that would be collected if the money expended in off-course betting were to pass through the totalizator. This would certainly be so if the licence fees suggested by the Dominion Sportsmen's Association were charged. Those fees range from £100 for a bookmaker with one telephone to £500 per annum for a bookmaker with nine telephones. The increase is at the rate of £50 per telephone per annum.

81. This being so, it is obvious that it is in the interests of the revenue, both of the State and of the racing clubs, that the money involved in off-course betting should, if possible, go through the totalizator.

82. To sum up to this point on the topics already discussed, the Commission is not prepared to recommend anything which would foster or encourage credit betting. It is not prepared to recommend that betting at totalizator odds be made legal, and is wholly unconvinced that any system of taxation of betting with bookmakers could be devised which would produce any reasonably sufficient, assured, and sustained revenue to either the Crown or the racing clubs. In any event, there is no assurance that the licensing of a certain number of bookmakers would eliminate illegal bookmaking. The Dominion Sportsmen's Association has itself no confidence that it will, and experience has shown that it will not. The lack of confidence of the association is all the more justified as it is opposed to imprisonment for illegal bookmaking even if bookmakers are licensed as it proposes. That licensed bookmakers could or would effectively co-operate with the police in suppressing illegal bookmaking, we seriously doubt. The licensing of bookmakers has not proved effective elsewhere, and the imposition of taxation upon licensed bookmakers seems to have a tendency to provoke illegal bookmaking. Such was the experience in Australia, where it was demonstrated that even the slightest burden of taxation above an almost irreducible minimum imposed upon legitimate bookmakers called into existence illegal bookmakers who could operate free of the burden. The most that can be said, therefore, is that the licensing of bookmakers would in some measure minimize the amount of illegal off-course betting. It would not eliminate it.

83. The concomitants associated with the licensing of bookmakers being thus condemned, there nevertheless remains for consideration the fundamental question as to whether, all other considerations apart, it is desirable that bookmakers should be licensed. It can, we apprehend, never be wise for any State to call into existence or to lend recognition by legislation to a class of persons engaged in an uneconomic occupation which has dangerous potentialities. However innocuous or ethical betting by individuals in small sums within the limit of their means may be, that practice is essentially in the nature of a luxury, and it is undesirable that a class should be created whose interest it is to provoke indulgence in that luxury by ever-widening groups of the community.

84. This conclusion is of primary importance because it would be to display an ignorance of human nature to believe that if bookmakers were licensed they would abandon the system of agency and canvass by which they have thriven in the past. On the contrary, it must be recognized that the tendency of a licence system would be to provoke not reasonable indulgence, but over-indulgence. There is every reason to believe that the present canvassing system, despite its illegality, is both extensive and thorough. It extends to factories and offices and other places where, by reason of the necessities of their occupations,

workers congregate. It is incredible that this system would be abandoned, for increase in business is the end which, licensed or unlicensed, bookmakers will naturally seek.

85. There is confirmation for this view in the ingenuity and persistence with which bookmakers have in the past sought to extend their businesses by introducing new and novel forms of betting. Of this, one so-called chart may be taken as illustrative. Two forms of betting are offered by it. In the first place the names of horses engaged in separate races are grouped in squares, and the client is invited, at odds of 25 to 1, to nominate the square in each of four races in which the placed horses appear. Further, odds are paid as follows: 50 to 1 that the client cannot pick the names of a placed horse in each of the four events; 60 to 1 that he cannot pick the names of two winners and 2 placed horses; 70 to 1 that he cannot pick the names of three winners and one placed horse; and 125 to 1 that he cannot pick the names of all four winners. If it transpires that the client picks any win favourites, then the odds are reduced to 33 to 1. Clearly, the odds offered are distinctly favourable to the bookmaker and unfavourable to the client.

86. The chart contains another apparently quite recent and novel system of betting. Clients are invited to compete for a points prize by picking the placed horses in each of eight races. The entry fee is 2s. Sixteen points are necessary to win a minimum prize of 10s.; twenty-four are necessary to win the maximum prize of £100. To win the minimum the client must pick not less than eight second horses, whilst to win the maximum he must pick eight winners. The odds offered are ludicrously low.

87. Then, too, there is the totalizator number lottery which is of recent introduction. There the client is sold a ticket with a concealed number. He wins the lottery if the concealed number is the same as the last three figures of the total sum invested on the totalizator at the particular race meeting to which the ticket relates.

88. These are merely examples of the ingenuity and of the spirit of progress which inspires the bookmaking fraternity at the present time. It is impossible to believe that the same spirit will not actuate them if licensed. If it did, then their efforts would not only maintain but encourage the practice of gambling throughout the community, and they would be certain to draw within their influence the normal succession of young people as they approach maturity. Such a condition cannot but be regarded with the most profound repugnance.

89. Other undesirable consequences beyond those already mentioned would accrue from any system of licensing. In the first place, a legal right to vested interests in undesirable businesses will be created.

Then, too, a class will be created whose livelihood will be dependent upon the results of sporting events. Persons so situated will have an interest in endeavouring to control those results, and efforts in that direction can reasonably be anticipated. Then, finally, the mere presence of licensed bookmakers operating contemporaneously with the totalizator will afford to unscrupulous individuals opportunities to resort to questionable practices in order to inflate their winnings from bookmakers.

90. It would be a dangerous thing, in any event, to give a legal character to the activities of men or of a body of men who, for years, have persisted in earning their livelihood in defiance of the law and at the risk of often-threatened and sometimes imposed imprisonment. We reprobate the suggestion that the State should surrender to the difficulty of suppressing illegal bookmaking and embark upon a policy of appeasement by licensing it. That course, we consider, would be discreditable. Our views in this respect coincide with those of Sir Alexander Cockburn when the licensing of the betting-shops was suggested in England in 1853 as an alternative to suppression.

91. For the reasons we have given, we are emphatically opposed to the licensing, in any form, of bookmakers. Few of the objections to which we have adverted can be raised against the operation of the totalizator. Its presence on the course no doubt does operate as an inducement to those on the course to bet. It may induce people to go to the course for the purpose of betting; but it never canvasses and it never solicits business. Its operations are carried on in the public view, and it has no personal interest to subserve. In addition, it provides a sure source of revenue to the State and an equally sure source of revenue to the racing clubs, which are thereby enabled to maintain stakes at a reasonable level and to provide and maintain amenities for the enjoyment and comfort of the public.

OFF-COURSE TOTALIZATOR BETTING RECOMMENDED

92. The conclusion is thus unescapable, that if a system of off-course betting can be devised which will insure that the moneys staked go through the totalizator, the interests of honesty will be subserved, active solicitation into the habit of betting will be eliminated, the interests of the sport of racing will be advanced, the greater comfort of the race-going public will be secured, and the payment of taxation made certain. It may be that no system as complete in its coverage and as convenient to the great body of off-course bettors as that at present afforded by the illegal bookmakers can be devised. The provision, however, of as good a system as is possible, reinforced by a resolute suppression of illegal bookmaking, should be productive of some good results, and, as experience is gained, the system can be extended and improved.

93. This invites consideration of the adequacy and efficiency of the off-course systems of betting expounded to us by the two Conferences. Inasmuch as we regard credit betting as entirely undesirable, it follows that any off-course system of betting must be for cash or against a deposit already made. The acceptance of cash contemporaneously with the making of bets at any given premises off the racecourse may easily give rise to the creation of a betting-shop atmosphere. That any such result should accrue is eminently undesirable. Betting-shops have a history too lurid to make their potential creation entertainable. To create anything approximating them would be to disregard the experience of England, which was constrained to secure their suppression by the Betting Act of 1853, and to disregard the experience of South Australia, which, having permitted their establishment on the recommendation of one Commission, found them, in effect, condemned by another and later Commission. It is significant that, since the recommencement of racing in South Australia after the war, the betting-shops have not been reopened.

94. In the result, therefore, any satisfactory scheme must involve only the deposit system, supplemented by some rigidly controlled system by which the public can make bets in convenient premises off the course. It may be that the public will become educated to the adoption of the deposit system. That system has certainly appealed to the English public and has proved itself a great success in Britain, as the progress of a company known as Tote Investors, Ltd., demonstrates. This is a consummation greatly to be desired.

95. At the same time we are only too conscious in respect of all such topics as are now under discussion of the possibility that our conclusions may prove fallacious. The whole history of gaming has demonstrated that the best-considered conclusions either prove erroneous or prove productive of unexpected and detrimental consequences. Discretion dictates, therefore, that anything we propose or recommend in this relation should be regarded as tentative, and that some authority should be created charged with the responsibility of watching results so that not only variations and improvements can be given effect, but radical alterations made where the indications are that a radical change is necessary.

96. With these comments, the various schemes submitted to us can appropriately be considered.

MR. J. H. WINTER'S SCHEME

97. The earliest scheme, in point of time, propounded to us was that proposed by Mr. J. H. Winter. His scheme involves the use of a number of separate totalizators. He proposes that an off-course system of totalizator betting should be established and administered by a public

company in which the shareholding should be spread as widely as possible amongst persons addicted to betting on horse-racing. For the rest, the scheme, in broad outline, is that there should be a separate totalizator for each of the separate districts into which he proposes that New Zealand should be divided. No attempt was made to define the districts, but it was suggested that preliminary study or experience would indicate precisely what localities should be comprehended in each district. He proposes that a totalizator should be established in that centre in each district which will cater most conveniently and efficiently for all the off-course bettors in the district. In the aggregate, Mr. Winter envisages the establishment of approximately twenty totalizators; each should, he suggests, be reinforced and served by offices established in such other centres in the district as the volume of business offering warrants. In the smaller communities he suggests that agents should be appointed. Each totalizator is to compute its own dividend on its own particular pool. Each would therefore operate independently of every other. Mr. Winter suggests that dividends should be paid out after each race. Tickets are to be purchasable for any race at any time that the totalizator house, its subordinate offices, and agencies are open for the sale of tickets on that race. The payment of a commission of $2\frac{1}{2}$ per cent. to agents on all moneys invested through them is proposed. Otherwise, in general outline, the totalizators are to operate in the same way as racecourse totalizators now operate. It is proposed, however, that the State should receive only 5 per cent. of the pool by way of taxation in addition to the 5 per cent. dividend tax now payable. The race club or trotting club which provides the sport in respect of which bets are made is to receive 1 per cent. net on all investments passing through the company's totalizators on races conducted by that club. Fractions are to be retained by the company just as they are retained by racing clubs to-day. Mr. Winter advocates the establishment of a doubles totalizator by the company.

98. It is obvious from the scheme as propounded by Mr. Winter, as well as from the evidence given by him that he has given the subject of off-course betting and his own scheme with respect to it a great deal of thought, and we are indebted to him for his efforts and for the time and trouble he devoted to the explanation of the scheme. His proposals, however, do not commend themselves to us. They may, in some respects, prove impracticable, whilst in at least one fundamental respect they are undesirable. There cannot but be the gravest objection to granting to any individual or corporation a commercial interest in gambling involving any possibility of private gain. That objection is aggravated where, as here, such an interest is to be given the benefit of a monopoly enforced under the sanction of the criminal law. In this crucial respect, therefore, Mr. Winter's scheme appears to us to be undesirable.

99. It is undesirable, too, in that, in operation, it would tend to create competition between the totalizator on the racecourse and the off-course totalizators. This would be disadvantageous to racing in many respects and would certainly be disadvantageous in that the diversion of money to the outside totalizators would seriously limit the potential income of clubs, and so limit their capacity to provide adequate amenities for patrons actually attending race meetings. Another unfortunate characteristic of the scheme is that the existence of numerous independent totalizators would produce divergent dividends as between the various off-course totalizators and different dividends as between those totalizators and the totalizator on the racecourse. This would produce disharmony and, in the ultimate result, dissatisfaction. The scheme might well prove impracticable, for particular districts might not provide a sufficient pool to ensure the payment of a reasonable dividend. Mr. Winter himself perceives the possibility of that position arising, for he expressly stipulates that the totalizator company is to have the right to remit the investments on any local totalizator to any other totalizator if the pool in any local totalizator should, in any instance, prove insufficient. Such a transfer of funds might well give rise to dissatisfaction, for apparently the totalizator company is to have the sole right to determine when a pool is insufficient, and the effect of such a transfer might seriously affect the dividend that an investor might have been justified in expecting from the totalizator on which he made his investment. There is always a danger, too, that patronage in particular areas might be so meagre or so spasmodic or so limited to particular occasions through the year that the cost of administration would be excessive. Apart from every other consideration, therefore, we are inclined to think that the efficacy of Mr. Winter's scheme is not sufficiently certain to justify its adoption, even if the undesirable features it exhibits were eliminated.

MR. J. L. BRADY'S SCHEME

100. The second scheme suggested was that of which Mr. J. L. Brady was the author. His scheme envisages the establishment of a State-controlled national betting-pool. In it betting-booths are proposed. These are to be appointed in towns and boroughs throughout the country, not at once, but progressively and with caution. What is suggested is that a booth be established first in one town, then in another, but, for precautionary reasons, always on an inadequate scale, until the whole country is covered. The conception is that the booths are to accept bets in cash, either win or place, on any race meeting in New Zealand with the exception of certain minor meetings. Horses scheduled to race in New Zealand on any given day are to be arbitrarily numbered

on advertised lists so that each horse, wherever racing on that day, will have its own distinctive number. Thus, as Mr. Brady says, the date of the race, the name of the issuing-office, the horse's number, and the amount of the bet are the only details that need appear on any ticket. Where a horse is entered in two or more races or at two or more meetings it is to bear different numbers for each race for which it is entered. Then, by synchronizing the starting-times of all races, the administration of the scheme is simplified. The proposal is that all first races should commence at the same hour, as should all second and subsequent races. By this system booth clerks will know on what races they can and on what they cannot take bets as the day proceeds. The dividends to be paid on all off-course bets are to be the dividends declared on the totalizator controlled by the club responsible for the running of the race to which the betting relates. Mr. Brady conceives, however, that some limits would have to be imposed, and he suggests that £20 be the maximum dividend for a win and £5 for a place in the case of galloping races, and £8 for a win and £3 for a place in respect of all trotting horses.

101. It will be seen from this recital of the proposal that Mr. Brady's scheme involves the State being required to embark in business as a bookmaker upon a national scale. The character of the scheme in this respect is made still more emphatic by the suggestion that doubles betting should be provided for at odds determined by the responsible governmental authority. This scheme also is open to the gravest objection. The betting-booths which it is proposed to establish will, from their initiation, be nothing more nor less than betting-shops. For not only are bets to be taken in them, but dividends are to be paid there immediately after each race. As compared with any scheme by which moneys are to pass through racecourse totalizators, the scheme involves a substantial loss of revenue to racing clubs and a loss of taxation to the Crown, for both the clubs and the State are required to predetermine the revenue they expect from betting, and it is only in so far as the predetermined amounts are not satisfied by the totalizators on the racecourses that contribution is to be levied on the moneys adventured in the off-course system. The predetermination of revenue which is suggested will inevitably create difficulty, for there is nothing in the scheme suggesting any limitation on or any control of the right of predetermination. Excessive assessments may therefore be expected.

102. The restriction on the income of racing clubs is imposed in order to provide for the creation of a fund for annual distribution amongst those who have made losing bets. In addition, the scheme involves the stabilization of racecourse amenities at their present standard except upon a few principal courses. This suggestion is frankly based upon the assumption that outside patrons of racecourses get few amenities

and can hope for little at the hands of racing clubs, as inside patrons are always given preference. This is an unacceptable condition, for outside patrons are entitled to their due share of consideration so far as the provision of amenities is concerned. In any event, it is entirely undesirable that the State should embark upon the business of bookmaking in any shape or form.

103. We have not, of course, set out the details of either Mr. Winter's scheme or Mr. Brady's, and have only adverted to them to the extent necessary to make comment upon the proposals intelligible. We adopt a similar policy with respect to other proposals. Mr. Brady, like Mr. Winter, has given much thought to the subject of off-course betting and to the elaboration of his scheme, and we are indebted to him for his efforts. For the reasons we have given, however, we do not consider that his scheme either should be recommended for adoption.

MR. E. G. MITCHELL'S SCHEME

104. The scheme propounded by Mr. Mitchell reflects a wide knowledge of the problems involved and is based upon a clear and justifiably conservative comprehension of possibilities. His proposals are made contingent upon the suppression of all bookmaking, and, undoubtedly, substantial suppression is, beyond question, a condition subject to which the success of any legal off-course scheme of betting is subordinated. Even so, there are types of bettors who will, in Mr. Mitchell's opinion, still seek illegal avenues of betting after a legal system has been established. He groups these types into two classes—big bettors who either back their own horses or horses concerning which they have special and accurate information, and the bettors in whom the habit of betting is so deeply ingrained that they must bet whether they can afford to or not. Credit is, he thinks, essential to this latter class. The first class, for various reasons which Mr. Mitchell details, wish to place their bets throughout the country through the medium of commission agents at the last possible moment. They will not now and will not in the future, Mr. Mitchell thinks, adventure their money upon the totalizator because, were they to do so, their betting would automatically reduce their dividend. Their system of commission betting is adjusted to prevent a similar result accruing through their bets being "laid off" on the totalizator by the bookmakers.

105. From these premises—and there is much to be said for their validity—Mr. Mitchell concludes that any off-course totalizator system will attract business only from what he terms "that middle class of bettors" who bet within their means and can pay their bets in cash. He has in mind chiefly people who desire, in a moderate way, to follow

a horse through its engagements. In the result, Mr. Mitchell does not anticipate that even half the betting now handled by bookmakers will be diverted to legal channels. Nevertheless, he believes that a legal off-course system can be operated with success.

106. He postulates the formation of a company with its head office at Christchurch. He proposes that the operations of the company should depend upon the activities of agents. These latter he would station in all towns where there is a racing or trotting club and where banking facilities are available. These agents are to accept bets in cash to the latest hour possible and are then to telegraph the collated bets and remit the cash to head office. Following a final collation, head office is to transmit the bets by telegraph to the on-course totalizator through the agency of the secretary of the club responsible for the running of the totalizator. Unless the controllers of the totalizator are prepared to pay a commission upon business introduced, the suggestion is that bettors be charged 1s. for every one pound invested, supplemented, if necessary, by a commission of 5 per cent. on the amount of the dividend. The 1s. charge is to be divisible equally between the company and the agent.

107. It thus appears that in this scheme, too, the profit motive to which we are opposed emerges in a fundamental way. It emerges, too, as in Mr. Winter's scheme, in association with a monopoly enforced by the sanctions of the criminal law. For these reasons we cannot recommend the scheme. It, however, contains valuable comments and observations, and we are much indebted to Mr. Mitchell for the case he presented to us and for the thought and care and preparation which it exhibits.

MR. R. T. WATKINSON'S SCHEME

108. Mr. Watkinson has addressed himself primarily to the means by which off-course betting can be transmitted with accuracy and despatch to the on-course totalizator and there recorded. His scheme involves the use of the teleprinter or teletyper over land lines, in association with the use of miniature totalizators at receiving centres. Broadly, the scheme is that, initially, miniature totalizators should be established at each of the four main centres. There would need to be sufficient to provide one totalizator for each race meeting being held on any one day. It is suggested that these machines should consist of ticket-issuing machines and adding units only. Then it is proposed that each machine should have a manually-operated barometer indicator so situated that those interested could stand and see the face of the indicator without interfering with traffic. The dividends shown would

be those shown at the same time on the on-course totalizator. To keep the public on the course advised as to the state of the betting, Mr. Watkinson proposes to install adding units on the racecourse totalizator somewhat similar to the units at present in use. The arrangement he suggests would show the state of the on-course betting, the state of the off-course betting, and the state of the aggregate betting. As investments are made at the city offices, they are to be transmitted to the racecourse totalizator, where adjustments are to be made to the horse units by means of manually-operated escapements.

109. The whole scheme is technical in character and was not supported by any verbal testimony or explanation, so that we are not certain that we follow the details with accuracy. The proposal will be of maximum use to those who, if effect be given to our later recommendations, will be concerned to establish a system of off-course totalizator betting. We would not, however, agree that barometer indicators should be used off course in connection with any system. Their use in that way would be merely to attract crowds and divert public attention, quite unnecessarily, to gambling. We feel that Mr. Watkinson is also entitled to thanks for the care and attention he has given to his scheme.

RACING AND TROTTING CONFERENCES' SCHEME RECOMMENDED

110. Having thus disposed of the proposals emanating from private sources, we now propose to consider the scheme propounded conjointly by the two Conferences. Broadly speaking, it is suggested that totalizator agencies should be established at all places where the volume of business appears to warrant it. The authors of the scheme have two hundred such places in mind. It is proposed that these agencies should be under the control of the two Conferences or of an organization set up by them. Two methods of betting are proposed at such premises. On race days it is proposed that cash should be received, much as a bank receives it. There will thus, it is said, be no encouragement to the public to loiter on the premises; this in order to avoid the possibility of the creation of a betting-shop atmosphere. On other days, as well as on race days, bets will be accepted by telephone, by telegraph, or by post. Investments made at agencies will be collated and the results transmitted to sub-district agencies. The sub-district agencies will, in their turn, collate and transmit the totals to a head office situated at Wellington. The head office is to carry out the final collation and transmit the results to the on-course totalizator concerned, so that the off-course betting on each race can be recorded on the on-course totalizator as soon as the totalizator betting for that race begins.

111. Initially, transmission to and from all points will be by telephone and, where possible, by sealed circuit hired for the whole day. The Post and Telegraph Department is of opinion that sufficient toll facilities are available to meet all requirements in respect of meetings held on Saturdays and on national holidays. The system is designed to minimize the use of trunk lines in order to reduce, as far as possible, the work of Post and Telegraph employees on Saturdays and holidays. It is suggested that in the future teleprinting machines and other modern devices may be brought into service. It is not proposed to disburse dividends until the first day after the race meeting to which the betting relates concludes. This, again, is to avoid anything savouring of a betting-shop atmosphere. The delay in payment will not, it is said, impose any hardship on off-course bettors since bookmakers do not now settle and have never settled their accounts until after the conclusion of race meetings. When the telephone is used, an investor is to be given a code name or number of his own choosing, and he may then use the telephone to lay bets. On receipt of the message, the agency operator is to prepare a numbered betting-slip and to then repeat back the particulars to the investor, who must accept complete responsibility for its correctness.

112. The scheme of the Conferences postulates that persons desirous of betting by telephone must first make a deposit to cover the amount of the betting. A minimum deposit of £2 is suggested. Withdrawal of the deposit at any time is to be permitted.

113. Initially, the scheme necessitates the acceptance of two conditions. Firstly, all bets must be placed at agencies one and a half hours before the advertised starting-time of the race to which the bet relates; and, secondly, bets will not be received until acceptances have been made known. It is not suggested in the scheme that bettors can bet against their winnings. In the result, therefore, a man who has exhausted his deposit in a winning bet will not be able to bet further until he has made a new deposit. This is not a desirable feature and there is no necessity for it. Tote Investors, Ltd., in England have no difficulty in allowing their clients to bet against winnings, and the same system could—to give satisfaction, we think it must—be adopted in New Zealand.

114. Several objections to the system were raised by counsel for the Dominion Sportsmen's Association. One related to the convenience and advantage to the bettor of the system of credit betting. In the light of the view we have expressed as to that type of betting, no further reference to this objection is necessary. Another objection related to deposit bettors who win but, in doing so, exhaust their deposit. That objection, too, we have now dealt with. The third related to betting by miners, waterfront workers, freezing-workers, workers in wool-stores,

workers in hydro-electric works, and in public-works camps, workers in dairy factories, transport drivers, farmers, sawmillers, and all those who are tied by the exigencies of their work to their places of employment during week-ends and holidays. These men, it would appear, are now accommodated by a representative of the bookmakers who calls at their camps or at their places of employment and takes their bets. Alternatively, it is suggested that where no bookmaker's agent calls, some delegate appointed by the men telephones to an agent of the bookmakers.

115. The scheme proposed by the two Conferences seems to be a satisfactory substitute for either form of accommodation. It is obvious that if bets are made through a visiting representative of the bookmakers, then those bets must be made prior to the day of the races or early on that day. There should be no difficulty, therefore, in the men telegraphing their bets or sending them in writing to some convenient agency and sending the cash by money-order or in the form of bank-notes. On the other hand, if the volume of business warranted it, a totalizator agency could be established at such places. It will be the business of the Conferences to see that agencies are provided wherever they are needed. If the bets are telephoned by a delegate, then, instead of telephoning the bookmaker's representative, the delegate could just as easily telephone some agency of the totalizator that is reasonably conveniently situated. As no credit betting will be accepted, the latter alternative will involve the making of some previous financial arrangement, but doing this should neither be difficult nor burdensome.

116. The next objection was that this scheme would not satisfy the demands of those who want the latest information such as the names of the jockeys, the state of the course, scratchings, and the like before lodging their bets, and who consequently want to leave their bets to the last possible moment. To this there appears to be two answers. The first is that the names of the jockeys in all major races and the positions of the horses at the post are published in the press days before each meeting, whilst any other useful information is broadcast. As will later appear, we do not recommend any restriction on the publication of such information.

117. The remaining objections raised will be dealt with in the course of the comments which follow. The type of bettor who must have a system as universal and as flexible as the present bookmaker system and to whom any system less universal and less flexible cannot but fail to be satisfactory is the type of bettor who is known as " the progress bettor "—that is, the man who wants to bet on each race after having heard the result of the preceding race. It is suggested by the Dominion Sportsmen's Association that these bettors constitute 80 per cent. of the off-course bettors.

118. It is unthinkable that bookmakers should be licensed, with all the disadvantages and evil consequences which would accrue from licensing them, merely to convenience this type of bettor. As it is, they will be able to bet on alternate races, and if the off-course totalizator system develops in efficiency, as it doubtless will, then the limitation of betting to one and a half hours before the starting-time of any race will be reduced appreciably. In England, Tote Investors, Ltd., accepts bets up to five minutes before starting-time, and gets them to the course. If a similar degree of efficiency is achieved in New Zealand, then those who wish to bet on each race after hearing the result of the preceding race will be able to reassume the dubious character of progress bettors, and will be able to bet on race after race in succession as they do now. Incidentally, we are not impressed with the assessment of this type of bettor as representing 80 per cent. of all off-course bettors. We are disposed to accept the evidence that a very substantial part of the bookmakers' business to-day consists of doubles betting.

119. There are two other classes of bettors whom a totalizator system, from its inherent character, will not suit. These are owners and trainers who do not want, by betting on the totalizator, to depress the dividends their horses or those with which they are concerned will pay, and those bettors generally who want to back favourites and do not wish to depress the dividend. Both these types of people prefer the bookmakers for obvious reasons ; but here again we are not disposed to support an undesirable system merely for their benefit, and it may well be that the benefit they seek is not realized in as full a measure as they believe, because bookmakers are quite competent to match ingenuity with ingenuity and to have means of limiting their possible losses by getting money upon the totalizator when they have accepted heavy bets on favourites or on horses so obviously expected to win that they are supported by owners and trainers.

120. For the rest, the criticism of the system was chiefly directed, apart from matters of detail, to the question of the possibility of its effective installation. In respect of the details, it was said that, unless dividends are published, bettors will seek the knowledge from the bookmakers and, being thus thrown into contact with them, will feel some obligation to bet with them. We feel that there is validity in this argument, and it is for that, amongst other reasons, that we later recommend that dividends be published.

121. Then it was suggested that the delay in the payment of dividends might induce winners to bet on credit with bookmakers, knowing that they have their winnings from the totalizator to rely upon for the discharge of their obligations. That difficulty, we think, will be overcome by our suggestion that bettors be enabled to bet against their winnings. Generally, it was said that it would be difficult to establish a system and difficult to administer it. For instance, it was contended

that it would be difficult to determine the volume of business at any one place and so the size of the establishment necessary to be put there. Mr. Smythe, who presented the scheme for the Conferences, based his assessment on population and the number of telephones in use. This seems a feasible basis, but experience will soon show its reliability or otherwise and any necessary adjustments can readily be made. Tote Investors, Ltd., appear to handle efficiently an extremely burdensome body of business in England, and there seems no reason why a similar or an analogous system should not be introduced into New Zealand.

122. The question naturally arises as to the cost of administration. This has been estimated by Mr. Smythe at from 5 per cent. to 7 per cent. upon the amount of the turnover. It would be unwise to place any part of this cost upon bettors, for that would encourage illegal bookmaking which could operate free of any such imposition. The question then resolves itself into one as to whether or not the Government should bear any portion of the cost. We do not so recommend. For it to do so would be, in a sense, to clothe itself with a proprietary interest in the conduct of a betting system, and to that we are decisively opposed. To suggest any special reduction in taxation of such betting would bear a similar import. We think, therefore, that the burden of cost should fall upon the Racing and Trotting Conferences. It is the sport which they foster which has given rise to the betting which is to be handled; whilst it is upon betting that the clubs they represent are dependent to a very great extent for their income. The handling of off-course betting is therefore essentially an undertaking for the racing authorities. That the cost will be as high as 7 per cent. we doubt. If the system secures the whole annual turnover of £24,000,000 which is now handled by the bookmakers, the administrators of it will derive from the undertaking an annual income of £1,800,000. The cost could not approximate such a huge sum. There seems an ample margin to assume a profit even if the £24,000,000 is substantially over-estimated or the scheme fails to attract even less than half of the money which now goes to the bookmakers.

123. Upon a consideration of all the issues involved, we have come to the conclusion that we should recommend, as we do now recommend, that authority be given to the two Conferences to establish a totalizator off-course betting scheme substantially in accordance with the proposals they have advanced. The public interest, however, requires that the administration of the scheme should be subject to some restrictions and some obligations.

124. To avoid any incentive on the part of any one to solicit betting it is essential that the payment of any commission to any one concerned in the administration of the scheme should be sternly restrained. All persons employed should be paid a fair wage for the work they do and the responsibility involved, but no more. The wage should not be made

dependent upon turnover, nor should any device be countenanced which would make the material interests of individuals in any way dependent upon their introducing or attracting betting. This phase of the administration should be made the subject of clear, comprehensive, and emphatic regulation for ingenuity would, no doubt, readily suggest means of evasion.

125. Then, too, the distribution of profits should be regulated; for that there will be profits, either immediately or in the future, seems reasonably certain. A monopoly of off-course betting protected by law would be regarded generally as a highly profitable venture. No individual or company (for the incorporation of a company may prove necessary) should make any profit out of the undertaking. We suggest, therefore, that annually all profits, less such reasonable sum as it may be necessary to retain as a contingency fund, should be divided amongst racing and trotting clubs in the proportion that the money from off-course betting which has passed through the totalizator maintained by each during the year bears to the aggregate sum handled in off-course betting during that year. If a company is formed, only racing and trotting clubs authorized to operate a totalizator should be eligible as shareholders. The payment of interest on any capital subscribed should not be countenanced, as the shareholder clubs will benefit otherwise from the operations of the company.

126. On the other hand, we recommend that any sums received by clubs from the operations of the scheme should be free of any obligation to disburse such sums or any part thereof in stakes. Such moneys should, we think, be regarded as moneys available for expenditure for general purposes. Thus, the clubs and the public will benefit.

127. It is impossible at this stage to attempt to prescribe the details of any such scheme. We recommend, therefore, that the scheme as a whole should, before its initiation, be approved by the Minister of Internal Affairs. He might well, in this respect, act upon the recommendation of the Racing Advisory Board, the creation of which we recommend. In the public interest power should be reserved to the Minister to require such modifications or extensions of the scheme as may at any time appear to him necessary or desirable.

128. To ensure that the scheme as proposed, subject to such appropriate modifications as may appear desirable, is put in hand with reasonable expedition, the Minister of Internal Affairs might well, after consultation with the advisory body mentioned above, fix a date for its initiation and make the grant of totalizator licences dependent upon a satisfactory initiation by the Conferences. For this no new legislation is necessary. Some such sanction is essential, for inaction on the part of the Conferences might well tend to the continued maintenance of the present illegal system of betting, and that is, beyond all question, contrary to the public good.

SECTION 5.—RESTRICTION OF ILLEGAL OFF-COURSE BETTING CARRIED ON THROUGH THE TELEPHONE SERVICE

SUPPRESSION OF ILLEGAL OFF-COURSE BETTING

129. Not merely as a corrollary to the establishment of the totalizator system for the transaction of off-course betting business, but also as an independent issue, there arises the question of the suppression of the present illegal off-course betting system. Its total elimination experience shows will be difficult, if not impossible. That it can be reduced to a reasonable minimum, we are encouraged to believe.

130. Primarily, suppression must be effected by intensified and sustained police action, supplemented and reinforced by other appropriate measures. Amongst the foremost of these is the denial of the use of the telephone for illegal purposes. In a very material sense the use of a telephone or telephones is an essential to the maintenance of an illegal system of betting. It is mainly through that medium that business is done. It is through that medium that information necessary or desirable for the efficient conduct of the business as a whole through the country is disseminated. We are not at all impressed by the suggestion that the necessity for the maintenance of secrecy makes it impossible for the Post and Telegraph Department to know when a telephone is being used for illicit bookmaking. There are other means besides listening-in by which the mind of the Department is or could be informed. For instance, the abnormal volume of toll calls made in connection with certain telephones on race days is a fairly certain indication that the calls are made upon a telephone employed in an illicit business. There are other methods.

131. In a country like this where the Post and Telegraph services are under the control of a Department of State, supine inactivity on the part of the Department whilst its amenities are being used for unlawful purposes is unjustifiable and wrong. Whilst, therefore, we cannot but respect the obligation of inviolate secrecy which the maintenance of public confidence in the Department requires, we think that there are ways and means by which, without any breach of obligation, the amenities of the Department could be denied to people who use those amenities for illegal purposes. We suggest that the regulations of the Department be amplified by providing that the Department is, of its own initiative, to take action whenever it has reasonable cause to believe that a telephone is being illicitly employed and that it shall do so when called upon so to do by the police. Action in the form hereafter proposed could be taken through the medium of the Police Department.

132. The action we suggest should take the form of proceedings initiated and prosecuted before a Stipendiary Magistrate seeking a declaration by him as to whether or not there is reasonable cause to believe that any telephone is being illicitly employed. It would not be throwing upon a telephone user an unreasonable burden to require him to prove the *bona fides* of his use. If the Magistrate is satisfied that there is reasonable cause to believe that the telephone is being used for illegal purposes, then the regulations should provide for its immediate and permanent removal. This process might be expected to operate, firstly, as a deterrent, and, secondly, as a means of securing the suppression of illegal betting through the telephone.

133. It appears from the evidence that to-day many private individuals allow their telephones to be used by bookmakers on race days, no doubt for an adequate consideration. Faced with the risk of the permanent loss of their telephones, they probably would not be very willing to allow them to be so used. The proposal, too, would make it difficult for telephones to continue to be used in connection with fictitious businesses. This practice seems to have obtained widely in the past. The number of telephones proved by the police in the course of prosecutions to have been in exclusive use by bookmakers in premises occupied wholly by them, but listed as installed in connection with land and other agency businesses, is striking.

134. The active co-operation of the Post and Telegraph Department with the Police Department should go far to eliminate the improper use of telephones, and if it did not entirely suppress the practice it would go far to minimize it. Certainly a condition would scarcely pertain in which the Dominion Sportsmen's Association's branches throughout the country are enabled, within a few minutes of the result of a race, to advise their clients throughout the country of the result of the race and of the dividends paid on the preceding race.

135. In this connection it may be that some strengthening of the racecourse inspectors' staff of the Racing and Trotting Conferences is required, for it seems obvious that, by some process, information is transmitted from racecourses to some convenient branch of the Dominion Sportsmen's Association promptly and continuously throughout every racing-day. Collaboration between the staffs of the Racing Conferences and of the Police Department might well suppress this practice.

136. Such other means of suppressing bookmaking as may, with advantage, be adopted are mainly in the nature of particular powers to be exercisable by the police in the course of their enforcement of the law, and are dealt with in appropriate places hereafter. If all other means fail, it may be necessary to have recourse to the expedient adopted in analagous circumstances under the Licensing Act, 1908, and other

Acts, whereby the prosecution is relieved of the normal onus of proof of guilt. This has been the position in South Australia since the passing in that State of the Lottery and Gaming Act, 1936. Under it the defendant must be convicted unless he is able to prove his innocence on the balance of probabilities. A full exposition of the effect of the section is given in the case of *Lenthall* v. *Powell*, (1930) S.A.S.R. 191.

PART III.—RACING

SECTION 1.—CONTROL OF RACING AND TROTTING

GROWTH OF DOMINION CONTROL

137. By a process that was gradual and not, at least in respect of racing, direct or summary, the control of racing in New Zealand has wholly fallen into the hands of the New Zealand Racing Conference and the New Zealand Trotting Conference. Under section 50 of the Gaming Act, 1908, the Minister of Internal Affairs is authorized to grant a licence to use a totalizator, subject to certain conditions, to any racing club. In practice, the Minister has made such grants only to clubs affiliated with one or other of the Conferences and upon the recommendation of the appropriate Conference. In the result, therefore, all totalizator clubs have come under the control of one Conference or the other, according to the form of racing provided by the club. Precisely the same condition pertains with respect to non-totalizator meetings. Under the Race Meetings Act, 1909, which does not apply to clubs authorized to use a totalizator, all horse-racing, except under the authority and control of a club holding a licence under the Act, is prohibited. Horse-racing has been compendiously defined and has been held to include even a competition between horses which consists in walking a certain distance, trotting a certain distance, and galloping a certain distance: see *Ellison* v. *O'Halloran*, [1916] N.Z.L.R. 935.

138. The authority to grant licences under the Act is vested in the Minister of Internal Affairs. He may, in his discretion, grant or refuse any such licence. Here, again, the Minister, in practice, has granted licences only on the recommendation or with the concurrence of the Conferences according to the nature of the sport promoted by the particular club. The dominance of the Conferences is thus, in practice, clearly established, and the importance of their competence, integrity, and impartiality emphasized.

139. Both conferences are organized on democratic lines although they vary somewhat, probably for historical reasons, in their constitutions. Racing is much the older sport.

THE RACING CONFERENCE

140. In every province racing was an early activity. In Wellington, Auckland, Nelson, and Canterbury in turn, for instance, a feature of the first anniversary celebrations was a race meeting, and in the 1840's and 1850's the foundations of our bloodstock of to-day were laid by importations of thoroughbreds, both stallions and mares, from Australia

and England. As early as 1843 the Hon. Henry Petre imported to Wellington from England two stallions which exercised a lasting influence on thoroughbred breeding in the colony. To a great degree races in those days were important social events and, on the sporting side, were notable from the fact that owners very often rode their own horses. Amongst others who did so was Sir William Stafford, one of our early Premiers. Racing excited equally great interest among the Maoris.

141. In a surprisingly short time such progress had been made in the breeding of horses in New Zealand that invasions of Australia became profitable ventures. The standing of the men who first popularized racing in New Zealand has had an abiding influence on the control of the sport and on its development from its beginnings over a hundred years ago and down to the present time. The clubs which grew up throughout the colony were, and fortunately still are, composed of responsible men with the interests of racing as a sport at heart. Each club, in earlier years, adopted independently such rules as it wished. These rules varied, but all had a common basis in the principles of the rules of racing in England.

142. The first move towards the national control of racing was made in 1886. In July of that year representatives of the Canterbury and Dunedin Jockey Clubs met to consider the rules of racing. The minutes of that meeting have been lost. In 1887 delegates from Auckland, Canterbury, Dunedin, Hawke's Bay, Taranaki, Wanganui, and Wellington metropolitan clubs met at Napier. The minutes of this meeting are also missing, but a record of it and of its primary purpose is afforded by a letter addressed by the chairman of the committee, Sir George McLean, to the then Colonial Secretary. The letter discloses that the purpose of the meeting was to advance the interests of racing as a whole and to encourage the growth of the breeding industry by means of the totalizator, the merits of which were recommended at some length in the letter.

143. From that stage onwards meetings of the representatives of the metropolitan clubs were held almost every year and sometimes twice a year. At a meeting held on the 30th July, 1891, it was resolved that a body, denominated the New Zealand Jockey Club, should come into existence on the 1st January, 1892. The committee, consisting of Messrs. Bell, Clifford, McLean, Mitchelson, and Captain Russell, were appointed to prepare drafts of the constitution and rules. The resolution did not become completely operative for some two or three years, but it is the body which was constituted pursuant to it which became the New Zealand Racing Conference, although no formal resolution adopting the title appears ever to have been passed. By 1900 the control of racing throughout New Zealand by the New Zealand Racing Conference became firmly established.

144. Consistent with its origin, the New Zealand Racing Conference is an association of the clubs registered under its rules. Of those registered clubs, the Auckland Racing Club, the Hawke's Bay Jockey Club, the Taranaki Jockey Club, the Wanganui Jockey Club, the Wellington Racing Club, the Greymouth Jockey Club, the Canterbury Jockey Club, the Dunedin Jockey Club, and the Southland Racing Club are defined as metropolitan clubs. Every other totalizator club, other than the Manawatu Racing Club, is declared to be a district club. The distinction is of importance, because upon it representation on the Conference is based.

145. The committee of each metropolitan club and the committee of the Manawatu Racing Club appoint a representative or representatives to the Conference on the basis of a schedule which allows two representatives to each of them, except the Southland Racing Club, the Greymouth Jockey Club, and the Manawatu Racing Club, which are each allowed one. These representatives exercise votes upon a differential basis—Auckland, Wellington, and Canterbury exercise four votes each; the Dunedin Jockey Club exercises three votes; the Hawke's Bay, Taranaki, and Wanganui Jockey Clubs each exercise two votes, whilst the others exercise one only. Only a member of the committee of a metropolitan club or of the Manawatu Racing Club is eligible to be elected as a representative to the Conference. For the purpose of adjusting the representation of district clubs, metropolitan districts are created. Some of these—namely, the Auckland, Hawke's Bay, Wellington, Canterbury, and Greymouth metropolitan districts—are subdivided into two divisions.

146. Each undivided metropolitan district and each subdivision of a subdivided metropolitan district each year elects a representative or representatives to the Conference in accordance with a formula which allows two representatives capable of exercising two votes to each of the northern and southern subdivisions of the Auckland, Hawke's Bay, Taranaki, Wanganui, Dunedin, and Southland districts. Two representatives exercising two votes are allotted to the northern subdivision of the Wellington district and to the southern subdivision of the Canterbury district. These representatives each exercise two votes. The southern subdivision of the Wellington district, the northern subdivision of the Canterbury district, and the two subdivisions of the Greymouth district each elect one representative, who has one vote.

147. The basis of representation and the allotment of voting strength is probably democratic in that it is based upon the concentration of population and interest. Whether this be so or not, no objection was voiced during the proceedings of the Commission to the constitution of the Conference.

THE TROTTING CONFERENCE

148. The Trotting Conference is somewhat differently constituted. Each totalizator club engaged in the sport of trotting annually elects a representative to the New Zealand Trotting Conference. There is one exception to this. The Auckland Trotting Club has two representatives and two votes. The Trotting Conference, like the New Zealand Racing Conference, is the legislative assembly of the sport it represents, and, like the New Zealand Racing Conference, is the body to which all appeals are ultimately made. It will be seen that even the smallest trotting club authorized to use a totalizator has equal voting strength with the biggest and strongest clubs.

149. Here, again, no criticism of any kind was at any time directed to the constitution of the New Zealand Trotting Conference. It can only be concluded that the constitutions of the two bodies, although they differ, have been found in practice to be satisfactory in all respects; so that even if the Commission felt disposed to recommend any change it would, in so doing, have no warrant for its action in the evidence and would be interfering with an administrative basis which experience has shown to be satisfactory.

COMMISSION'S VIEWS ON CONFERENCE CONTROL

150. Both Conferences have evolved a set of rules which can only be described as elaborate and comprehensive. These rules probably, as to fundamentals at least, owe their origin to the English rules of racing. For the rest, they have been designed to meet needs demonstrated by experience to be necessary. No criticism of any serious moment was directed to either set of rules. In fact, the only criticism voiced was with respect to the rule of the New Zealand Racing Conference governing the majority necessary to carry a special resolution of the Conference. Attention was also directed to the system of appeals which is in force under the rules of the New Zealand Racing Conference. To this latter subject we will have occasion to advert later.

151. The Commission feels that it would not be justified in making any definitive recommendation concerning the majority necessary to carry what is defined as "a special resolution" under the rules of the New Zealand Racing Conference, but it expresses the view that a majority of 60 to 40 would sufficiently insure that stability which is the objective sought. Having regard to the diverse character of the questions which may form the subject of a special resolution, the present requirement that such a resolution is only to be deemed carried if it earns the support of not less than three-fourths of the number of valid votes recorded seems a little restrictive.

152. Subject to that comment and subject to such particular amendments as may be necessary to conform to the specific recommendations of the Commission hereinafter contained, no change in the rules of either Conference could properly be made the subject of a recommendation. The rules have been founded upon long and wide experience, and it would be adventurous and unwise for any *ad hoc* body to suggest changes.

153. Speaking broadly, therefore, the Commission is conscious that whilst the two Conferences owe their existence and authority to voluntary agreement and not to Acts of the Legislature or of authority, they are satisfactory in operation and will doubtless remain so whilst they are constituted of members of the character and integrity of those who at present, as in the past, are lending their services in an honorary capacity and solely from attachment to the sports with which they are associated. At the same time, it must be recognized that not only the representatives to the Conference, but the administrators of both forms of racing, generally graduate to positions of responsibility from the ranks of the owners of horses and that they may therefore be expected to have a natural bias in favour of owner interests.

154. This bias is not likely to have a tendency to interfere with the integrity of the administration, but it may manifest itself in other directions to which it will be the duty of the Commission later to make reference. It may not, however, at this point be inapposite to say that there is already manifest a tendency on the part of some racing administrators to display in practice an insufficient appreciation of the fact that they are, in a very real sense, trustees for the public, without whose support and financial backing the sport could not survive.

155. Fundamentally, however, the maintenance of the control of racing on a high plane is assured by the fact that there is no such thing as a proprietary racing or trotting club in New Zealand. Club members are not shareholders, all the profits of clubs must, in some form or other, be expended on racing and on racecourse amenities, whilst on the dissolution of any club its surplus assets must be disposed of for such public or charitable purposes as the Minister of Internal Affairs approves.

EXECUTIVE COMMITTEES OF CONFERENCES

156. Except in respect of their appellate jurisdictions, the Conferences are more legislative than administrative. The responsibility for administration under each falls upon an executive committee. This committee in each instance deals with all questions affecting the management, conduct, and good government of the sport with which it is concerned. Under the rules of racing the executive committee consists of the president and the vice president of the Conference

ex officio and one representative of each metropolitan district. The executive of the New Zealand Trotting Conference is an association called the New Zealand Trotting Association. It is composed of ten members, six of whom must be *bona fide* residents of the South Island and four of the North Island. No criticism was addressed to the constitution, powers, nor yet to any proceeding of either executive body, and we ourselves can see nothing affecting or concerning them which calls for comment by us.

JUDICIAL PROCEEDINGS

157. A diversity in practice has developed between the two forms of horse-racing with respect to the control of the actual racing. At meetings conducted by racing clubs the control is vested in stewards appointed by the club. These stewards are all honorary. They are assisted in various respects by stipendiary stewards, but the functions of the latter are circumscribed and are limited, broadly speaking, to the making of representations to the appropriate committee of the club. They never exercise judicial functions. Those functions are vested in a specially constituted committee of the club.

158. On the other hand, the Trotting Conference on the 1st March, 1946, introduced a new system which has the unqualified support of owners, trainers, drivers, breeders, and club officials. It may also be inferred that it has, to the present, commanded the confidence of the racing public, for no complaint has been made concerning it from any quarter since its introduction. The system is based entirely upon stipendiary control. Stipendiary stewards are appointed by the Trotting Association and operate under a stipendiary stewards' committee constituted of the president of the Conference, the executive of the Conference, the president of the Trotting Association, and one member of the association appointed by the association. Stipendiary stewards are appointed by the stipendiary stewards' committee. The stipendiary stewards are aided and reinforced by a steward appointed by each club promoting the meeting; the latter ranks as a stipendiary steward at the meeting. The stipendiaries have complete control of all racing at the meeting and of all matters arising out of the meeting in so far as those matters are initiated or are disposed of on the day of the meeting. Matters arising after the day's meeting remain subject to the exclusive jurisdiction of the association.

159. The fundamental objection to the system is that the stipendiary stewards officiating at any meeting are at one and the same time informants, prosecutors, and judges. In favour of the system it is claimed that the stipendiary stewards are chosen for their experience and knowledge of the sport and that administration by men

of that experience and knowledge must necessarily be of a higher quality than work done by men not so well qualified. It is further claimed that the work is done more expeditiously in that professionals act more quickly than amateurs. It is further claimed that bias caused by friendship is precluded from influencing the stewards and that a continuity of supervision is maintained.

160. It may well be that the system is, in many respects, superior to a system based upon amateur administration, but its efficiency must, in the ultimate result, depend upon the efficiency, integrity, and independence of the men in whom authority is vested. The only possible weakness of the system lies in the absence of impartiality in the exercise of the judicial functions delegated to the stipendiary stewards. It is at that point that the favourable disposition to one another of men engaged in the same vocation and the possible bias that may be caused by constant contact with the persons over whom they are exercising jurisdiction might find most play. Then, too, the universality and autocratic character of the functions delegated to them may result in a dogmatic attitude of mind which would be absent from an administration vested in amateurs.

161. However, these are purely speculative considerations, and the fact remains that the system has won the approbation, up to date, of those most concerned. Its continued future operation will doubtless be regarded with a great deal of interest by all persons associated with the administration of racing in any of its forms so that uniformity in such matters, which is always susceptible of achievement, may ultimately obtain. The functioning of the honorary system maintained by the Racing Conference was the subject of some discussion before us. No adverse criticism of any great weight was directed to it, but particular reference was made to the appellate function of the honorary administrators.

162. Whilst in the main and conceding that the appellate constitution is satisfactory and works fairly, there is a school of thought amongst racing administrators which suggests that the appeal from the judicial committees of clubs should go direct to the Conference. Many, on the other hand, think that an appeal to the district committee has merits. The president of the New Zealand Jockeys' Association said that his organization approved of the present system, subject to a slight modification. That association apparently approves of an appeal from the judicial committee of clubs to the district committee and thence to the Conference, but would like to see the district committee reduced for the purposes of the appeal from ten or thereabouts to five. They also want power to employ counsel as a matter of right at the hearing of all appeals. Such a right has not been uniformly recognized. For

instance, it has not been recognized in Auckland. The practice there has, however, now been drawn into accord with the practice elsewhere, and the appearance of counsel is permitted. We agree that counsel should be allowed as a matter of right.

163. That an appeal should, in the interests of expedition and economy, be retained as far as possible in the local area in which the circumstances occur giving rise to the proceedings seems desirable. We have no evidence before us as to what proportion of appeals terminate with the district committees and what proportion goes on to the Conference judges, but probably a great number of appeals end with the district committees. It would seem, therefore, desirable that the district committee should retain its appellate function. Constituted as it is, it is well qualified to deal with such appeals. It consists of ten members, of whom five are elected or appointed by the metropolitan club of the district, whilst five are elected by the district clubs in that district. It thus represents an amalgam of municipal and country racing interest and experience. The number does not seem excessive, as the same reasons which justify a jury of twelve are reasonably applicable to the number of members of the committee which should hear an appeal to the district committee. On the other hand, it does seem certain that the quality of the judicial work of the honorary stewards throughout any given district is likely to vary considerably. Their work is done in a racecourse atmosphere and immediately after the occurrences to which it relates. Then, too, one would expect the judicial work in rural areas where inquiries are infrequent and members of the judicial tribunal have little opportunity of acquiring experience to be somewhat unequal in its result.

164. To overcome all these difficulties and to maintain a uniform standard, we recommend that the New Zealand Racing Conference should appoint a rota of judges for each metropolitan district and that one of the judges so appointed should sit as chairman of the judicial committee at every meeting held in that metropolitan district. We concur with Mr. W. J. Broughton, the president of the Jockeys' Association, that it is preferable that legal practitioners with a knowledge of racing should be appointed as the chairmen. By their training they are accustomed to weighing evidence and estimating its value. They would, in addition, be immediately sensible of any physical incapacity which might at the moment be prejudicially affecting any one against whom a complaint had been made. We mention this as it was suggested by a witness in Auckland that he had seen jockeys charged with offences and required to give explanations when in a state of physical exhaustion. The statement was uncorroborated, but it suggests a possible source of injustice against which it is wise to provide protection.

165. Whilst on the subject of the work of the judicial committees of the clubs, it may not be inapposite if we express an opinion as to the principle upon which such committees should proceed. The maintenance of the highest standard of integrity is so essential to the welfare of racing, and the maintained confidence of the public in the essential honesty of the contests is of such importance, that it is essential that all judicial authorities, whilst acting impartially and judicially, should also act courageously, and if necessary, with sternness. Judicial inquiries of this kind are not necessarily akin to criminal trials, for members of judicial committees have experience of racing—they have seen the race run and have first-hand knowledge of what transpired during it, and they are therefore in a position before they embark upon an inquiry to know whether a race has been run upon its merits or not, and if not, whose actions have contributed to the absence of merit.

166. To prove an absence of *bona fides* positively, having regard to the circumstances and to the *esprit de corps* which necessarily exists between men of the same occupation, it is, except on rare occasions, impossible to prove a malpractice by positive evidence. In such circumstances judicial committees would be justified in inferring guilt in the absence of any satisfactory explanation of proven conduct inconsistent with honesty. An analogy in somewhat similar circumstances can be found in the criminal law. The essential feature is that wrongdoing must be suppressed in the interests of the safety of the jockeys as well as for the maintenance of public confidence. This will be much aided if as we recommend the practice be generally adopted of taking moving films of races at various points as is done at Auckland, and if the practice of appointing patrol stewards with a knowledge of and experience in riding becomes more general.

SECTION 2.—CONDUCT OF RACING

167. To say that racing in New Zealand is as clean, if not cleaner, than in any other country is probably no exaggeration. The enforcement of regulations made by each individual totalizator club under section 33 of the Gaming Act, 1908, has resulted in New Zealand racecourses being freer of undesirables than courses in any other part of the world. That, however, is not to say it is devoid of objectionable features, and it would be doing a disservice to racing to blind oneself to the fact that things are done which in no way redound to the credit of those concerned, and, incidentally, things which, if not unflaggingly sought out and curbed, must inevitably react to the great detriment of racing.

168. A rather disturbing feature of our sittings was the apparent complacency of the administrators of racing and their tendency to doubt the existence of one major and to minimize the gravity of some

minor evils. There was, we feel, some lack of frankness in respect of such causes of complaint. A similar lack does not seem to have obtained in the proceedings before the Transvaal Commission which was sitting whilst we were. However that may be, we were invited to believe that all was well with racing in New Zealand. On the other hand, it was alleged by the Dominion Sportsmen's Association, and the allegation was supported by a number of their witnesses, that a large number of owners, trainers, and racing officials habitually bet with bookmakers. No names were mentioned, nor could we in fairness ask for them. In general, the answer of the racing authorities was that it was their practice to carefully investigate all cases brought to their notice, but that the difficulty of securing sufficient evidence to justify the initiation of proceedings, much less to conflict offenders, was almost insuperable.

169. We are inclined to the view that an appreciable number of people bound by the rules of racing do habitually bet with bookmakers—both at totalizator odds and by way of doubles—and that a continuance of this state of affairs is far from conductive to the welfare of the sport. The incentive to bet with bookmakers arises from the desire, in the case of heavy bettors, to keep from the public (in a way that would not be possible if the money were invested on the totalizator) the knowledge that a horse is being heavily backed, and also to prevent the dividend being lowered by the weight of totalizator investments on the horse. If the betting is sufficiently heavy the object is to some extent defeated, we think, by bookmakers, through channels that are available to them, succeeding in investing at least a proportion of the money bet with them on the totalizator. A twofold purpose is thus achieved—the bookmakers' money lowers the dividend (to that extent defeating the objective of the bettor), whilst, if the horse wins, the bookmaker reduces his loss.

170. It is questionable whether, apart altogether from the ethical aspects of such cases, connections of horses really achieve as much as they think in betting with bookmakers. As a body they certainly lose in the long run, because if they put on the totalizator what in the aggregate over a year's racing must amount to a very substantial sum, larger stakes would be available for distribution amongst them in the next year; then the dividends from heavy plunges with bookmakers are rarely big. The news that a horse is being heavily backed seems to gain circulation, with obvious results, on the racecourse. There is much to be said for the generalization that if every owner would do all his betting on the totalizator he could well leave the odds to take care of themselves.

171. The owner, trainer, or other person subject to the rules of racing or trotting who bets with bookmakers commits a double offence—against the statute law of the country and against the rules of the two sports. It cannot be said in condonation of his action what is inaccur-

ately claimed for a member of the public, that he is merely breaking a law which exceeds the moral standards of conduct of the community. In his case there is a definite and deliberate breach of a solemn personal undertaking which, in the case of owners in particular, is set forth in Rule 243 (1) of the Rules of Racing as follows :—

By the entering of a horse for any race every person having, or subsequently acquiring, an interest in such horse, shall be deemed thereby to undertake, neither directly nor indirectly, to make any wager with a bookmaker in connection with such horse or any other horse in the race for which such horse is entered. Every entry shall contain, or if it does not contain, shall be conclusively assumed to contain, such an undertaking, breach whereof shall be deemed to be a corrupt practice within the meaning of Rule 338 hereof.

Complacency in respect of the disregard of such an undertaking must obviously tend to encourage disregard of other obligations which vitally affect fair practice. The interests of the public are thereby prejudiced and a lowering of ethical standards results.

172. Mr. Heenan desires to advert to another practice, which was discussed during our public sittings, a practice which he considers is productive of ill consequences. This practice does not seem to him to be treated with sufficient seriousness by clubs. We refer to the racing of horses into form. In his opinion, it is no answer to say that in most cases the public are aware of a particular horse not being fit enough to win. Over the years many thousands of pounds have been lost by the public through their being reluctant to allow a known good horse to go out paying a big dividend. Trainers to whom the question was put, while, in general, agreeing that the training track was the place to get a horse fit, always made a reservation of the exceptional horse which they claimed needs a race in public. While it cannot be doubted that a horse can and does progressively improve its quality or class by racing against its equals or superiors, that is another matter. What is at issue is the propriety of racing a horse into form. Mr. Heenan finds himself unable to accept the contention that such a practice is necessary. The fact that so many trainers claimed that in some instances it is necessary indicates, he thinks, that racing horses into form is a fairly common practice. In his view, therefore, it is due to the racing public that much more unfavourable notice should be taken of it by clubs than is now done. Complementary to this practice is that of racing a fit horse out of his distance with no thought or hope of winning, but merely to sharpen him up for a race in prospect at his own distance.

173. There are also a number of related topics to which Mr. Heenan is desirous of adverting. He says that much is said and much is heard of jockeys combining together to secure a previously determined result of a race. In general, he thinks it can safely be said that for the most part this is no more than lost money talking, and in this relation he

points out that, despite the temptation inseparable from the calling into which gambling intrudes to such a degree, no evidence has been given, nor have we any information, that suggests that jockeys as a class are corrupt. Mr. Heenan points out that their incentive to excel is at least as great as that of men in other competitive callings and that their rewards for success are greater to-day than the rewards of gambling and corrupt practice. In making these comments Mr. Heenan is desirous of putting upon record that he is aware that cases have come to light even during the past year where jockeys, as well as owners, have been proved guilty of serious offences and have been punished severely. He comments upon the significance of the fact that most of these offences have been committed at minor meetings where small stakes are the rule and the incentive to heavy betting is greater. The representative of the Dominion Sportsmen's Association, in cross-examination, made it clear that this was one of the reasons for smaller comparative limits at country meetings. Mr. Heenan is desirous, too, of suggesting that increasing vigilance on the part of racing authorities, and moral courage on the part of jockeys, who should report attempts to dissuade them from doing their best, would do much to eliminate the creation of a conflict between the instructions received by jockeys and their duty. Enforcement will be aided, in Mr. Heenan's views, by the comparatively recent introduction of the system of patrol stewards. That system should, he thinks, be more widely extended. Finally, Mr. Heenan suggests that it would help jockeys themselves if the public, disappointed owners and trainers, and generally all connected with racing did no more than even occasionally give jockeys the benefit of the doubt. He points out that it is difficult for any human being to feel a pride either in himself or his calling if his actions and his motives are eternally viewed with suspicion and doubt. There is, too, he comments, perhaps not sufficient realization that lack of riding skill is often as much due to lack of skill on the part of trainers in the early instruction of their apprentices as to the jockey himself. This being so, Mr. Heenan notes with satisfaction that at least one of the metropolitan clubs is conducting schools for apprentices, with lectures by experienced riders, and the showing of films of actual races in which some of the apprentices have themselves ridden, with appropriate commentary and constructive criticism. Mr. Heenan further comments that such corrupt practices as do occur are not by any means all due to bookmakers, owners, trainers, and jockeys; the "Malacca case," to which reference has already been made, is, he points out, an example of the great evil that may result from the activities of unscrupulous professional punters. He makes the comment that it is perhaps not too much to say that in a dishonours list they head the rest by far. As an example of "rigging the tote" the

"Malacca case" has not, in Mr. Heenan's view, ever been parallelled. He is of opinion that, though prompt action was taken after the race, there is no doubt but that a little more imagination on the part of the officials of the club concerned would have prevented this notorious effort being brought to fruition.

174. Evidence was given before the Commission by at least one witness who testified to what he believed to be a well-founded belief that there existed in New Zealand to-day a coterie of people who, perhaps not habitually, but at least on occasion, attempt, with some success, to influence the results of races. Such as belief is not singular to the witness referred to, but is believed by a great number of people interested in racing. The belief that owners do not always desire to win and do on occasion take steps to ensure failure, finds some confirmation in the evidence of Mr. W. J. Broughton, the well-known jockey, who made some point of the dilemma in which jockeys are placed when their instructions conflict with their duty to do their best to win.

175. Under the rules of racing as they stand, counsel for the New Zealand Racing Conference was justified in his comment that in respect of such matters suspicion is not enough, and that before any action can be taken the officials of the Conference must be able to adduce convincing evidence of guilt. There is much to be said for the legal validity of such an attitude, but, on the other hand, it seems, to say the least of it, undesirable that persons under a reasonable and persistent suspicion of robbing the public by arranging the results of races or by arranging for their own horses to lose should be permitted to continue their nefarious practices until they can be proved guilty. It would not perhaps be just to subject any individual to the stigma of disqualification, with its attendant publicity, unless his guilt were proven, but, having regard to the fact that racing is, after all, only a sport, that its purity must be maintained and the interests of the public safeguarded, there would seem to be justification for the enactment of a rule conferring jurisdiction on the executive committee of the Conference, upon being satisfied after hearing the individual concerned, that a well-grounded suspicion exists that any individual has been guilty of a corrupt practice by private notification to exclude such individual from the racecourses of the country. A right of appeal to Conference judges could be made available. Such exclusion would not, of course, prevent unscrupulous individuals from continuing to attempt to interfere with the results of races, but, by making their presence on the course impossible, it would deny them, at least in their own proper person, any late opportunity of interference, and this might go far towards defeating their ends. Then, too, the mere existence of the rule would act as a deterrent.

176. An analogy can be found in the power which it was found necessary to take in 1944 enabling the president to deregister any horse if he has reasonable cause to believe that such horse belongs, in whole or in part, to a person not permitted to go upon a racecourse, or otherwise ineligible to race. A right of audience, but not of appeal, is given in such a case.

177. In concluding this phase of our report it is but fair to say that no evidence was given as to betting with bookmakers by those interested in trotting. Having regard to the meagre limits allowed by bookmakers on trotting events, there is not much inducement to any one to bet with bookmakers on this form of sport. Nor did the trotting authorities at any stage or in any relation give any evidence of complacency. Their attitude throughout was quite to the contrary.

SECTION 3.—STABILIZATION OF STAKES

178. We think that conditions have arisen which make it desirable that provision should be made for the stabilization of stakes. Under the rules of racing it is prescribed that no totalizator club shall give a less sum in stakes in any year than a sum equal to 90 per cent. of the average yearly net amount derived by such club from the use of the totalizator during the immediately preceding three years. An analogous but somewhat different rule applies to trotting clubs. Having regard to the highly inflated totalizator returns which have been obtained over several years past and continue except in rare instances to be obtained, this obligatory minimum of distribution in stakes has resulted in the stakes of almost every meeting being greatly in excess, and in some cases very greatly in excess, of what has for long been regarded as reasonable. From this condition several undesirable consequences follow.

179. In the first place it may well happen that when totalizator receipts fall, and particularly if they fall considerably, stakes will be stringently reduced. This will not only have the effect of causing considerable financial loss to owners who have paid excessive prices for horses—many of them may even be tempted by high stakes to acquire more horses than they would be normally justified in owning, which would again accentuate their losses—but it will also materially affect the income of persons such as trainers and jockeys who are normally constrained to look to their success in races for a substantial part of their income. It is customary for trainers to contract with owners for a reward (apart from fixed weekly payments which do little more than cover the expenses of feeding and training) based on a percentage of

stakes won by the owners, whilst the rules of racing provide for jockeys' fees (other than those for losing or unplaced mounts) to be certain prescribed percentages of stakes.

180. These evils can all be avoided if the rules of racing are amended to make it compulsory for clubs to establish a stabilization fund which will secure the maintenance of stakes at a not too excessive level for a number of years. Then, too, a policy of stabilization would prevent clubs ill advisedly raising stakes to an excessive figure primarily in the interests of owners or for club prestige and in complete disregard of the fact that they are hopelessly retrograde in the provision of amenities for the general public. This latter is a topic which will be dealt with later by us in more detail. For the moment it is only necessary to deal with stabilization in principle. We recommend that the rules of racing be amplified by constraining racing clubs to disburse in stakes in any one year not more than the aggregate sum disbursed by them during the 1946–47 racing year, and restraining them from paying in stakes in respect of any particular race any sum in excess of the stake disbursed in respect of that race in the racing year last mentioned. Any difference between the aggregate amount actually disbursed by it in any year and a sum equal to 90 per cent. of the average yearly net amount derived by such club from the use of the totalizator during the immediately preceding three years should be required to be set aside as a stakes stabilization fund, such fund to be used when necessary and to the full extent of its resources to maintain stakes at the 1946–47 level. An analogous rule should be adopted by the New Zealand Trotting Conference.

181. It may be that the totalizator turnover in particular instances or generally may fall to such an extent that the creation of a fund or of a sufficient fund may not be possible. That is a contingency against which it is impossible to provide. On the other hand, totalizator turnovers may continue at the present inflated level or may even increase. In that contingency some limitation on the fund in clearly necessary. What we suggest is that the fund should not exceed the sum which it is necessary for each club to hold in order to enable it to maintain stakes at the stabilized level for three years if the annual totalizator turnover decreases by one half.

182. It is realized that hardship will accrue to racing clubs if they were required to pay income-tax on the amounts set aside to constitute the stabilization fund. That fund would not be, and could never be, beneficially owned by the club. It would always be clothed with the obligation of ultimate disbursement in stakes. We therefore recommend that no income or social security tax should be imposed upon money so set aside. Taxation should, however, attach to any income earned by the stabilization fund, for that income should be available to each club for its general purposes.

SECTION 4.—PROTECTION OF INTERESTS OF PUBLIC

183. Apart from the legislative authority of the two Conferences and the subjects in respect of which control is exercised under the rules by the Conferences respectively and by their respective executive committees, a very large degree of the actual control of racing falls upon the officials of the individual racing clubs. Their control extends to the allotment of stake-money within the framework of the minimum limits fixed by the rules, the provision of amenities for the public, the upkeep of the course, and the control of the actual racing. If, as has been suggested, stakes are stabilized in the manner proposed, the discretion of the committees of the various individual clubs, both racing and trotting, will be much limited. Such a limitation is necessary because, as has been pointed out, racing administrators commonly graduate from the ranks of owners and are not infrequently themselves owners. This, as has been mentioned, has a natural tendency to bias them in favour of owner interests.

184. In the result a tendency has become manifest to prefer those interests to those of other interests involved so that, at least in one instance, the stake of a particular race has been raised to an extravagant sum by a club whose provision for the convenience of its public is distinctly below present-day requirements, and that at a time when that particular club, in common with all others, is asking for a reduction in taxation. The action of this club, in association with other features and circumstances to which our attention has been attracted, dictates that it is unsafe and unwise to allow a condition to continue indefinitely in which the whole of the moneys provided by the public are left at the hazard of a particular interest.

185. It is thought that expenditure by clubs generally could well be made the subject of supervision by an independent authority on which all interests could be fairly represented. This would not involve any interference by the State in the control of the sport of racing. With the constitution and functions of the proposed authority we deal at further length hereafter. Suffice it at this point to say that it might well operate in diverse directions. It might act as an insurance against unwise expenditure and expenditure calculated unfairly to prefer particular interests. It might also ensure that undue accumulations of funds should not be effected or maintained whilst amenities for the public are maintained at a meagre or insufficient level. Such an authority could also ensure, when funds were available and circumstances warranted it, that adequate totalizator facilities would be provided on a scale and in positions sufficient to enable the public to use the facilities with comfort and expedition. It could also secure the provision of sanitary conveniences in sufficiency and in a desirable form, and could provide a means of exercising control over admission charges. Some

inequity in the latter connection has arisen from the fact that some clubs have brought their leger and main stands within the confines of one enclosure, but still maintain their charges for admission to the combined premises at the level previously charged for entry to the grandstand enclosure alone, with all its superior advantages and amenities.

186. This proposal does not in any way detract from any authority now exercisable by either Conference. All it does is to make provision for control in respect of matters concerning which neither Conference, under its present constitution, is in any way concerned.

SECTION 5.—THE RACING ADVISORY BOARD

187. Outside the control exercised by the two Conferences over that extremely important but nevertheless limited range of affairs to which their functions extend, the only source of control over racing in either of its forms is the authority vested in the Minister of Internal Affairs at his discretion to grant, refuse, or determine licences to use the totalizator. It thus results that each club has almost entire and independent control of its own administrative policy, and almost unlimited control of its own financial policy. How much it spends of its available funds, upon what it spends them, and when, are, within very wide limits, the sole concern of the club itself.

188. No criticism could be directed to such a condition of affairs if all clubs at all times recognized their essential character as trustees for the public, and gave full effect to their obligations in that respect. Some will doubtless do so, but what is needed is some assurance that all will. Several of the plans for future development put before us by individual clubs during the course of our sittings indicated that a number of even the major clubs have no real appreciation of the conception of trusteeship. In many of those plans members were singled out for excessively preferential treatment. For the attitude of mind which prompts such proposals there is some historical justification. Originally racing and public participation in it were made possible by the financial support and sustained interest of individuals. The organization which evolved from their activities took the form in New Zealand of clubs consisting of elected members.

189. Whatever may have been the position in the past, such members in this country are now subject to but slight obligations, and are substantially free of financial responsibility. They fulfill an important function in that they constitute a selected body of persons interested in racing from and by whom those responsible for its administration are chosen. Whilst, therefore, they may be entitled to some preference, their right to it is much less than were the rights of those who, at personal cost and by personal effort, maintained the sport. Nor can their rights

to preference very greatly exceed the rights of the public which now provides nearly all the money and most of the interest which over several decades has kept and is keeping the sport on a high level of prosperity. The conflicting claims to consideration of members and public requires the exercise of a balanced judgment. An assurance of an equitable adjustment over the years of these conflicting claims is necessary.

190. What is indicated as necessary in this respect is some at least partially independent authority with power to consider the administrative proposals and expenditure by clubs. Such an authority could also do much to offset the effects of the bias in favour of owners to which we have previously referred. Only those functions of clubs which they exercise free of any control by Conference need be affected. Any interference with the powers and authorities of either Conference would be wholly unjustified. Both have functioned with an efficiency, an impartiality, and a dignity which demands the highest commendation, and any interference with either would be not only unwise, but detrimental.

191. No such interference would be involved if, as we recommend, a Racing Advisory Board were constituted to advise the Minister on all topics pertaining to racing in both its forms. Such a body could maintain contact with clubs and become seized of a knowledge of the affairs and circumstances of each. It could thus keep the Minister in touch with developments in a way that is not now possible. Its operation would, in particular, ensure expenditure when expenditure is required and for the purposes for which it is required. Generally, such a Board would tend to secure uniformity of administration throughout the country. Incidentally, it would also operate as a spur to progress and a restraint against unwise development. Its introduction would, we are convinced, be wholly beneficial.

192. We therefore recommend that such a Board be established. We suggest that it consist of a representative of the Racing Conference, a representative of the Trotting Conference, and of one member of the public, and an independent chairman appointed by the Minister. It should, we think, be made the function of the Board to make representations to the Minister as to--

(*a*) What provision, having regard to its circumstances and the demands upon it, should be made by each club from time to time in the way of stand and other accommodation to enable the public to view the races in comfort and with reasonable protection against adverse weather conditions.

(*b*) What amenities and conveniences, other than stand and seating accommodation, each club should from time to time provide for the public.

(*c*) Whether proper and adequate refreshment facilities, including a supply of hot water for picnic parties where such attend race meetings, are being supplied, and if not, in what directions and to what extent improvement is necessary.

(*d*) Whether the admission and other charges made to the public in respect of various parts of the course and enclosures are reasonable and proper, or whether some alteration in charges should be made.

(*e*) Whether any capital expenditure proposed by any club is warranted and justifiable having regard to the interests of the public, or whether capital expenditure for some different purpose is desirable.

(*f*) Whether the stakes proposed to be offered by any club in any year are reasonable and proper, or whether they should be increased or reduced.

(*g*) Whether adequate and sufficiently modern totalizator facilities are being provided by any club, and if not, then in what respects improvement is necessary and should be insisted upon.

(*h*) Whether each club is providing sufficient and satisfactory amenities and conveniences for all persons employed by it on race-days.

(*i*) What relief, if any, should be extended during race-days to persons employed by each racing club.

(*j*) Whether adequate accommodation and sufficient and proper conveniences and amenities are being provided for stable-hands, jockeys, and trainers, and if not, what improvement is necessary.

(*k*) Whether the levy on clubs to provide stakes for picnic meetings is operating equitably, and if not, then in what respects amendment is required.

(*l*) Whether the facilities provided for off-course betting are satisfactory, and if not, then in what respects additions, changes, or variations are called for.

(*m*) What aids, mechanical and otherwise, each club should provide from time to time to ensure the *bona fide* running of races and accuracy of judgment as to the results.

(*n*) Generally in what respects and by what means the administration of clubs could be improved in the public interest.

193. The recommendations of the Board could be given effect by the Minister under the sanction of his ability to grant, refuse, or revoke licences to use the totalizator. The recommendations of the Board, when approved by the Minister, would thus become authoritative and enforceable.

SECTION 6.—MID-WEEK RACING

194. This question involves a problem which, like so many of the problems with which the Commission is concerned, must be determined upon consideration of questions of degree and in relation to factors the effects of which are not ascertainable with anything approximating certainty. The difficulty is increased by the possible ultimate influence of particular factors operating in different directions. It must be regarded as axiomatic and as permitting of no exception that no form of sport should be allowed to interfere with production at the level which the welfare of this country demands or the proper discharge of its obligations to the other countries of the British Commonwealth requires. If at any time, as at present, maximum production is required, then the question arises as to the means by which interference can be reduced to a minimum. Up to the present, by common consent, the restriction of all forms of racing to Saturdays and public holidays has been regarded as the best method. Now doubts are thrown upon its efficacy, and the detriments which accrue from its application are becoming manifest.

195. The question can best be considered in relation to a specific example, and we select the trotting and racing meetings held at Christchurch in August and November in each year as presenting the best example for consideration. The problem there takes a more acute form than elsewhere and the consequences are more extensive. In each August the Canterbury Jockey Club holds races on three days, and the New Zealand Metropolitan Trotting Club on three days. In November the Canterbury Jockey Club holds meetings on three days and the New Zealand Metropolitan Trotting Club on four days. In the result, by the elimination of mid-week racing, six consecutive Saturdays commencing in August are devoted to racing conducted by one or other of these two clubs, whilst a seventh Saturday is devoted to the racing conducted by the Christchurch Hunt Club. Again, commencing in November, six consecutive Saturdays are devoted to racing conducted by the Canterbury Jockey Club and the New Zealand Metropolitan Trotting Club. Although those clubs hold races on seven days, one of these days is People's Day at the show and a public holiday.

196. The effect of the absorption of so many Saturdays by racing has detrimental effects in several directions. In the first place, it interferes to a marked degree with football and cricket—the extent of the interference is shown by the fact that last season not only did numerous teams go out short, but there were thirty team defaults. All of this was attributed by Mr. W. E. Maxwell, the immediate past president of the Canterbury Rugby Union, in his evidence, to the effect of racing.

197. Mr. Kilpatrick, the secretary to the Canterbury Freezing Workers' Union, pointed out another detrimental consequence in that protraction of racing over such an extended period has the effect of making the available balance of the wages of seven consecutive weeks susceptible of employment by workers in betting. Mr. Kilpatrick's view obviously was that a very large proportion of this available balance was so used. A reversion to mid-week racing would therefore, in his view, conduce to a reduction in gambling—a result which is as desirable as it is undesirable that racing should interfere unduly with football and other athletic games and exercises which improve the health and develop stamina and character. That there would be no loss in production if mid-week racing were resumed was the considered opinion of Mr. Kilpatrick because of the extent to which, during working-hours, over such a protracted period, the workers are distracted by thoughts and talk of racing.

198. Another responsible witness, Mr. D. E. Wanklyn, gave evidence to the same effect. He said: "I have heard opinions expressed by people—not necessarily people connected with racing. I think manufacturers and employers generally would welcome it, the reason being that you have the week of racing and it was, until the intervention of the war, regarded as a sort of local holiday week. Now, when you have big special races like the Grand National Hurdles and Steeplechase and the Lincoln spread over three weeks, there is a disturbance among certain sections of the community which employers have told me has produced inefficiency. One employer put it to me that for the Grand National Steeplechase they talk about it for two days beforehand, for two days after it is over, and then talk for another two days about the Hurdles on the following Saturday."

199. On the other hand, the concentration of racing into the normal mid-week periods would involve the dedication of a complete week in August and another complete week in November to racing, and the effect of that upon production could not be other than substantial. The measure of loss is difficult to estimate. It might prove to be less than is generally assumed. To act upon such an assumption would, however, under existing circumstances be unduly hazardous. Whilst, therefore, it is desirable in many ways that racing should be confined to the shortest possible period, nevertheless we feel that, at the moment, those desirable consequences must be sacrificed to the interests of production.

200. A point of time must come, however, when production will cease to be a dominating factor or a factor sufficiently dominating to justify a continuance of the extension of racing over lengthy periods. The difficulty will be to determine at what point the undoubted benefits

of a concentration of racing outweigh any detriment accruing from a probable reduction in production. We are satisfied that the earliest possible opportunity should be seized of restoring the racing in August and November in Christchurch to its traditional periods, but we have no material before us to enable us to say when this can safely be done. All we can do at the moment is to recite the benefits on the one hand and the detriments on the other of the elimination of mid-week racing, leaving it to the appropriate authorities to take advantage of the preponderant good when opportunity serves. In the meantime we suggest that, as soon as lessened demand for production warrants it, meetings extending over three or more days be allowed to include one mid-week day. This would result in their absorbing only two or three, instead of three or more, successive Saturdays. Leaving Christchurch out of consideration, practically the only meetings affected would be the Dunedin Jockey Club's Cup meeting in February and the Wellington Racing Club's winter meeting in July, since all the other three-day meetings include a public holiday between two Saturdays. Viewed nationally, our suggestion, if given effect, would involve very little week-day time and a measure of good would accrue.

SECTION 7.—TROTTING EVENTS ON RACING CLUB PROGRAMMES

201. In the South Island thirty racing clubs include trotting events on each racing-day in their programmes. Of these, twenty-three unconditionally desire to continue to follow the practice; four are desirous of discontinuing it; one wishes to do so, provided sufficient support is forthcoming from race-horse owners, whilst two wish to do so only until the local trotting club is granted a totalizator permit for an extra day. There are thus seven clubs who would really prefer to abandon trotting events. These include the North Canterbury Racing Club, the Gore Racing Club, the Southland Racing Club, and the Riverton Racing Club, which are all of them clubs of standing which are assured of success as racing clubs without recourse to trotting events.

202. Through the war period the Minister would not consent to the elimination of trotting events from the programmes of racing clubs. To have permitted such a proceeding would, he thought, be unfair to trotting under wartime conditions by reason of the reduction of competitive opportunities involved, whilst in specific instances to have eliminated trotting contests would have savoured of ingratitude, as some clubs had in the past, during periods of stress, derived advantages in turnover and attendances from such contests. Now the future can be viewed free of any such considerations.

203. Basically, the question must be resolved in the light of the general rule that, within the permitted limits of contests involving the use of horses, the public is entitled to that form of racing which a preponderant majority desires. If, therefore, certain clubs feel confident that the great majority of their patrons prefer events involving galloping alone, there seems no reason why they should not eliminate trotting events from their programmes. On the other hand, many of the clubs concerned may be of opinion that the majority of their patrons desire mixed programmes. If so, there is no reason why they should not provide programmes of that type.

204. Most of the clubs affected by the question appear to come in this latter category, for a careful analysis of the totalizator turnover for several years past of all the clubs involved does not suggest that galloping is being anywhere wholly or almost exclusively supported by trotting. The danger of such a contingency arising lies in the possible existence of a coterie of galloping enthusiasts which has control of a particular club continuing to maintain galloping events contrary to a widespread public desire, and with the aid of a totalizator turnover and attendances due to the provision of a few trotting events.

205. We were invited to believe that some such position pertained in several places. We cannot, however, find that it does. When and wherever such a position accrues, we feel some assurance that lack of patronage and the weight of public opinion will force a change from one form of racing to the other. The Racing Advisory Board, the establishment of which we recommend, could scarcely fail to be conscious of the need of change in such circumstances and can be expected to make an appropriate recommendation to the Minister.

206. There is already statutory authority in section 3 of the Gaming Amendment Act, 1924, for such a change, without any loss of totalizator rights being involved. The section should, however, make it clear that the licence is to take effect as an addition to the total of licences issuable in respect of the form of sport adopted and as a reduction from the total of licences issuable in respect of the form of sport abandoned. Otherwise, the total number of licences issuable would be increased.

SECTION 8.—AUCKLAND TROTTING CLUB'S CLAIM TO HOLIDAY DATES ENJOYED BY THE AUCKLAND RACING CLUB

207. The complaints of the Auckland Trotting Club are now of some years standing, and similar complaints may be expected to arise in other centres in the future if the popularity of trotting increases in the same ratio as in the past. It is desirable, therefore, that some principle should be ascertained and defined by which the rights of the two clubs mentioned

and of all other similarly contending claimants in the future may be determined. No absolute test can, it is thought, be evolved, for the circumstances of particular cases must always play an important part. In the main, however, the principle must, in all fairness, be that where a club has enjoyed a particular date or particular dates over a great many years, then it has a *prima facie* right to such date or dates. That right can scarcely be displaced by a claimant in respect of a sport of more recent origin which has been allowed into the category of sporting fixtures in respect of which totalizator licences are granted merely on the ground of a percentage of greater popularity. On the other hand, if the club enjoying the date has, in respect of that date, substantially lost its claim upon the public interest, whilst the contending sport would, in respect of it, command a very preponderating measure of public support, then, on the same basis of fairness, the club which no longer commands a reasonable measure of public support should give way to the sport which is in public demand, provided that demand can fairly be regarded as permanent and not merely temporary or transient.

208. Judged by these tests, there is at this stage no warrant for the transfer of a holiday date during the Christmas or Easter period from the Auckland Racing Club to the Auckland Trotting Club. At the same time, there is one date, the 29th January—Anniversary Day, which the Auckland Racing Club acquired from the Takapuna Jockey Club—upon which its tenure is insecure. That date is therefore susceptible of allocation upon a basis different from the other holiday dates enjoyed by the Auckland Racing Club, and it may well be that circumstances might arise which would make it just and equitable that that date should be transferred, if not permanently, then at least from time to time, to the Auckland Trotting Club, so that the latter might have one special holiday date, apart from Labour Day, upon which it could hold contests of particular significance or importance.

209. This latter comment is not made as a specific recommendation by the Commission which, in principle, approbates the allotment of dates being left, as in the past, to the mutual agreement of the respective Conferences. It is intended merely as an indication from an independent tribunal of a point of view that seems equitable. On any such question, however, due recognition must always be paid to the relative capacity of the clubs to provide for holiday crowds, and above all, to provide reasonable and satisfactory amenities for those crowds. In the present circumstances, to give the Auckland Trotting Club a Christmas or New Year holiday date would, from the public point of view, be to substitute the deficiencies of Alexandra Park for the inadequacies of Ellerslie.

210. We are encouraged to think that the Anniversary Day date can be settled by both clubs approaching it in a reasonable spirit of give and take, as has been done in particular instances previously. For

instance, in 1936, when King Edward VIII ascended the throne, the Sovereign's birthday shifted from the 3rd to the 23rd of June. The Auckland Racing Club then did not transfer its Great Northern Meeting from the beginning to the end of June, but left the new birthday to the Auckland Trotting Club. However, when King George VI succeeded to the throne, and the observance of the Sovereign's birthday was transferred from December to the first Monday in June, the Trotting Club then claimed the right to follow the holiday date back. This caused some considerable ill feeling at the time, but the good sense of both clubs ultimately prevailed, and the racing club has since raced on that day.

211. As a matter of principle, it is desirable that the control of racing and trotting should remain with the Conferences and not be made, any more than is absolutely necessary, the subject of governmental interference.

SECTION 9.—JOCKEYS

ACCOMMODATION FOR JOCKEYS

212. Speaking generally, the accommodation provided for jockeys on most racecourses is insufficient and, even where reasonably adequate, is spartan in character. It is impossible to generalize, for on particular courses a standard approaching the reasonable is attained. On the other hand, not one errs on the side of indulgence.

213. It is unfair to jockeys who are necessarily tied by engagements on race-days to require them to seek refreshment in competition with members of the public. Their circumstances are special and require that adequate and proper refreshments should be continuously and conveniently available to them at some source exclusively reserved for them. This is a standard which is not attained in many of even the major country clubs. Then there is need in a great many cases for the provision of better washing facilities and facilities for the drying of wet clothes. The more up-to-date clubs provide hot water and hot showers. In many places cold showers are made available, but in those places in New Zealand where, under winter conditions, the need for frequent washing is most accentuated, the provision of cold showers is, at best, a poor concession to necessity. Every racing club should, in winter, without exception provide hot showers sufficient for the number of jockeys engaged in the racing on each day. We think it should be made a condition that every racing club should provide such showers as a matter of course.

214. Again, on many of the courses, if not the greater number of them—and this applies to some even of the metropolitan clubs—no provision is made for the seating of jockeys in the jockeys' room. Such seating is essential. It is an unedifying spectacle on a metropolitan

course to see jockeys constrained to sit on the floor in order to pull on their riding boots. The provision of seating accommodation is a minimum measure of comfort which should be provided. There is some need, too, to make provision whereby jockeys, weary or unwell, might lie down between races. This is a facility not beyond the means, practical or financial, of any racing club, and we recommend that it be adopted.

APPRENTICESHIP SYSTEM

215. No tenable criticism was addressed to the fairness, efficiency, and adequacy of the apprenticeship system, or to its administration. At Dunedin one witness, Crosby, in the course of evidence that was denunciatory of racing in New Zealand and its control generally, voiced the opinion that apprentices were ill trained, ill used, ill fed, and ill instructed. The testimony, however, was unrelated to specific instances and merely formed part of a general condemnation that might well have been provoked by hostility due to the witness himself having been disqualified for life, a disqualification which has been consistently maintained despite reiterated applications for reinstatement.

216. On the other hand, the quarters of the apprentices, their treatment, and training, are the subject of regular inspection by racecourse inspectors in the employ of the Conference, and the ex senior inspector testified that no criticism could be addressed to the system in any of these particulars. In addition, it seems obvious that if the conditions were in any respect open to condemnatory criticism, and certainly if they were open to the measure of criticism warranted by the allegations of Crosby, something would have been heard of them from Mr. Broughton, the president of the Jockeys' Association, or from other sources.

217. Our conclusion is that the accommodation of the apprentices, both as to housing, training, and treatment, must be reasonably adequate and proper; certainly as to training, the criticism must be unfounded, for the system has produced all the leading jockeys of the past and present, and no justifiable criticism could be addressed to their competence as riders. One commendable feature in the existing apprenticeship system is the provision made for the protection of the financial interests of apprentices. Under this system one-half of the riding fees earned by each apprentice goes irrevocably to the apprentice's employer. The other half is held in trust for the apprentice. At the end of the apprenticeship, the accumulated fund, together with the interest earned by it, is paid to the apprentice. The arrangement has proved very beneficial to all apprentices, and some of more than normal ability have been paid considerable sums at the termination of their apprenticeship period. It is understood that as much as £2,000 was so paid in one instance.

SECTION 10.—TAXATION OF RACING AND TROTTING CLUBS

218. Any discussion of this subject must be prefaced by a statement that it does not in any way relate to—

(*a*) Totalizator duty and dividend duty which are paid by the public and in respect of which the clubs are, in effect, no more than collecting agents for the Government; or to

(*b*) Amusement-tax, which is paid either directly or indirectly by the public; or to

(*c*) Stakes-tax, which is paid by winning owners.

We are dealing only with the income-tax payable by clubs and with the social security charges collected from them under the Social Security Act, 1938. Some account of the incidence of the income-tax liability is necessary. In the interests of brevity we abstain from giving particulars of the social security contributions paid.

219. For the 1945–46 racing year, which is the latest year for which we have any figures, three racing clubs paid over £1,500 in income-tax; six paid between £900 and £1,500; one paid between £500 and £900; eight paid between £300 and £500; nine paid between £150 and £300; four paid between £100 and £150; ten paid between £50 and £100; nine paid from nothing to £50, whilst thirty-four paid no income-tax at all.

220. Of the sum of £192,121 paid by all the racing clubs, £104,000 was paid by seven clubs. The principal contributors were the Auckland Racing Club, £48,477; Avondale Racing Club, £12,258; Canterbury Jockey Club, £11,324; Wellington Racing Club, £8,354. The next highest contributor was the Hawke's Bay Jockey Club, which paid £1,413. The marked difference between the sum paid by the lowest contributor of the high-tax-paying group and the sum paid in tax by the highest contributor of the lower-tax-paying group is a striking feature. It indicates the class of racing club which will benefit most from any remission in taxation.

221. The trotting clubs show similar divergences. For the 1946–47 season of an aggregate sum of £36,666 paid by all trotting clubs, five clubs paid £32,292. The Auckland Trotting Club paid £11,418 in income-tax, the New Zealand Metropolitan Trotting Club paid £10,004, and the New Brighton Trotting Club paid £5,173. The next highest contributor was the Canterbury Park Trotting Club, which paid £3,135. It was followed by the Wellington Trotting Club, which paid £2,562. Two clubs paid between £1,000 and £1,150; two clubs paid between £300 and £350; three clubs paid between £200 and £300; three paid between £100 and £200, whilst six paid less than £100. Eight paid no

income-tax at all. The significant drop, in this instance, is not from the £10,004 paid by the Metropolitan Trotting Club to the £5,173 paid by the New Brighton Trotting Club and the £3,135 paid by the Canterbury Park Trotting Club, for all three clubs raced on the same course at Addington. Rather it is to the £2,562 paid by the Wellington Trotting Club or to the £1,128 paid by the Forbury Park Trotting Club. Both, incidentally, are city clubs. At that point there is a noticeable drop to the £331 paid in income-tax by the Oamaru Trotting Club, which was the next highest contributor. It is curious that this should be so when the Timaru Trotting Club paid no tax at all.

222. The policy of the Legislature has been variable in respect of income-tax and, as represented to us by Mr. C. R. Richardson on behalf of the racing clubs, can be summarized as follows :—

(1) Taxation on profits of the racing activities of clubs was first imposed by section 11 (*d*) of the Finance Act, 1915. It was suggested that the raising of revenue for war purposes was the motive of its imposition.

(2) The profits from racing activities of clubs was exempted from taxation by section 78 (1) of the Land and Income Tax Act, 1923.

(3) Sporting bodies other than racing clubs were granted a specific exemption from all income-tax by section 4 of the Land and Income Tax Amendment Act, 1933. At that point of time, however, the profits earned by clubs from their racing activities were already in fact not taxable in respect of income-tax. They, however, remained liable to that tax in respect of income from investments, rentals, and other similar sources.

(4) Profits from racing were again made liable to income-tax and, consequentially of course, to social security contributions, by section 14 of the Land and Income Tax Amendment Act, 1939.

223. From this summary it would appear that profits from racing activities were free of income-tax prior to 1915; subject to it from 1915 to 1923; free of it from 1923 to 1939, but, in the latter year and since, have been subject to it and, incidentally, also to social security contributions.

224. The racing and trotting clubs do not seek exemption from income-tax and social security taxation in respect of income from such sources as rentals and interest. Income so derived, they concede, is a proper subject for taxation. They do contend, however, that other profits from racing should be free from all land and income tax and from all liability to pay social security contributions. Their contention is, firstly, that, in principle, they should be as free of liability in that

respect as other sporting bodies; and, secondly, that the moneys which they are required to disburse in taxation disable them from providing not only for the further public amenities which they recognize should be provided by them, but even for adequate maintenance. They contend that their circumstances satisfy the terms of section 78 of the Land and Income Tax Act, 1923, as amended by section 4 of the Land and Income Tax Amendment Act, 1933, just as completely as do the circumstances of any other sporting body. In particular, they contend that the sport of racing and trotting is conducted for the recreation or entertainment of the general public, and that no part of the income derived from their activities is used or available to be used for the private pecuniary profit of any person whomsoever. In this relation they rely upon the fact that no property rights accrue to members of racing or trotting clubs by reason of their membership owing to the provisions of section 6 of the Gaming Amendment Act, 1924, which expressly denies to any member of any racing club, trotting club, or hunt club any personal pecuniary interest in his character as member in the property of the club, and requires that on the dissolution of any such club all assets remaining after all legal claims on the club have been satisfied shall be disposed of for public charitable purposes.

225. Whilst it is true that money and gain are inextricably woven into the operations and activities of racing clubs to an extent that does not even remotely pertain in respect of any other form of sport; and whilst, too, most other forms of sport have a particular appeal in that they are concerned with the building of character and the physical welfare of youths and adolescents and persons in a stage of early maturity, yet it is difficult to distinguish in principle, for present purposes, between them and racing and trotting clubs. If there is any distinction, and we think this is the true line of demarcation, it is that racing and trotting clubs are in a position, by virtue of the intimate part which money plays in their activities, to make profits more readily and on a higher scale than sporting bodies of any other type. It is conceivable, granted a sufficient period of prosperity, that certain clubs might well become possessed of excessive and unnecessary wealth; for, apart from the provision of stakes at a reasonable standard, the provision of adequate amenities for the public and maintenance charges of every kind, there is no very heavy demand upon the income of any club. Apart from the provision of amenities and the cost of course improvements, the income of almost every club has in the past been sufficient for its purposes, despite the imposition of taxation.

226. A careful study of the balance-sheets of most of the racing clubs discloses that the outstanding need with all of them is the necessity to provide amenities for the public in the shape of grandstands, adequate

totalizator facilities, and the like as soon as building conditions will permit. It would appear, therefore, that although there is, in principle, no particular distinction to be drawn between racing and trotting clubs on the one hand and other forms of sport on the other in so far as taxation is concerned, yet there is, in virtue of the part which money plays in their activities and in the facility with which they can make profits by reason of the totalizator monopoly which the State secures to them, much justification for the imposition of taxation. The obligation of the clubs to the public should, however, we think, be the first claim upon their resources. It is that public which provides the money which maintains racing in all its forms, and the public which provides the funds which produce a very substantial income in taxation to the Crown.

227. We conclude, therefore, that relief from taxation in the form of income-tax and social security contributions should be extended, but that it should be based as to period and degree upon the circumstances of individual clubs, so that the primary obligation of each club to its patrons will be capable of reasonably early discharge.

228. On such a basis the reserves held by individual clubs should properly be taken into account. For instance, one major club projects an expenditure on maintenance, improvements, and additions which it is expected will aggregate £280,000. As against this, however, it has investments and cash at the bank totalling £218,329. In this amount no account is taken of the value of the club's property or assets other than investments and cash at the bank. It is obvious, of course, that a proper development programme has for long been postponed in the interests of the accumulation of this huge reserve, and that, too, over a protracted period, when the need for amenities was pressing and the means of satisfying the need reasonably easy and cheap.

229. Whilst the maintenance of a reasonable reserve is at all times proper and justifiable, the postponement of the provision of proper amenities in the interests of the mere accumulation of a reserve fund can never be justified ; and certainly not through periods when proper amenities are urgently needed and can be provided at a reasonable cost. This case is exceptional in degree, but a great many of the clubs have reserves sufficient or approximately sufficient to provide the necessary amenities if, in the future, building-costs return to a level not greatly in excess of the pre-war level. The existence of these reserves is not indicative of the ability of clubs to pay taxation as in the past and still provide adequate amenities had costs remained more normal. In some instances the reserves might, in such circumstances, have been sufficient. As it is, they are now insufficient and there seems no prospect of such a fall in costs as would restore them to sufficiency.

230. In some sense, the income-tax paid by it is an indication of the needs of each club by way of amenities, in that those which enjoy a limited income do not need as extensive or as expensive amenities as those which enjoy a larger income. As at this point of time it is impossible to forecast what the future cost of building will be, the whole topic can only be dealt with subjectively by us. What we suggest is that relief from taxation be extended to each club until it has accumulated a fund which may reasonably be regarded as sufficient to enable it to provide or finance with reasonable comfort the amenities which it should provide. The stabilization of stakes which we recommend will go some distance in relieving the clubs of the necessity to accumulate reserves for at least one purpose which has influenced their financial policy in the past.

231. It may be that relief may, in particular instances, be needed to assist in the discharge of obligations already incurred in the provision of amenities, for it would be unfair to refuse relief to clubs which have been progressive and have shown a proper sense of responsibility to the public.

232. We feel some confidence in making the recommendation we do from the fact that the expenditure of clubs, if our recommendations are given effect, is to be made the subject of control by the Racing Advisory Board which we recommend should be established. The operations of that Board will preclude the possibility of unwarranted expenditure and the preservation of only such funds as may be necessary to meet proper potential obligations. The Board can therefore hold the scales evenly between the clubs and the tax authorities.

233. We do not recommend any remission of land-tax. On principle that tax should be paid, and no reason for exemption was advanced.

PART IV.—THE TOTALIZATOR

SECTION 1.—THE HISTORY OF THE TOTALIZATOR IN NEW ZEALAND

234. Before 1881 the use of the totalizator was not subject to any specific restriction. The Gaming and Lotteries Act of that year first made it the subject of statutory regulation and of legislative policy. It has remained so subject ever since. Under the Act of 1881 power was conferred on the Colonial Secretary, on the application of any racing club, to grant such club a licence to use the totalizator at horse-race meetings held under the control or management of the club. The grant of a licence was made subject to several restrictions. For instance, before any grant could be made, the application had to be referred for his report and recommendation to the senior Resident Magistrate of the principal town of the provincial district in which the racing club was established. A right of revocation was reserved to the Colonial Secretary.

235. Then the use of not more than three totalizators at the one time within the race-grounds was authorized. None could be used outside these grounds. Every totalizator was required to be under the care and management of some competent person appointed by the club and under the direct supervision of the stewards. The use of a totalizator otherwise than pursuant to a licence from the Colonial Secretary was made illegal by declaring the totalizator and "every machine or instrument of a like kind or conducted upon a like principle" to be an instrument for gaming or wagering within the Act and so subject to the prohibition, and penal consequences prescribed with respect to the use of instruments for gaming or wagering in any public place.

236. At that stage there was no limitation on the number of licences which the Colonial Secretary might grant, the number being a matter entirely within his discretion. Apparently, in the view of the Legislature, too many licences were granted, for, by section 6 of the Gaming Amendment Act, 1894, a reduction was enforced. It was declared unlawful by the latter section for the Colonial Secretary to grant in any one year more than two-thirds of the number of licences authorizing the use of the totalizator that were granted in the twelve months commencing on the 1st August, 1892. The section also conferred power upon the Governor in Council to issue regulations for the issue of licences and to fix the conditions upon which licences should issue.

237. The section was prescribed to come into force on the 31st July, 1895. Up to this stage the licences issued were in respect of "meetings," not in respect of days, so that the grant of a licence extended over whatever number of days were occupied by the particular

meeting covered by the licence. The effect of this is illustrated by the fact that for the 1909–10 racing year racing took place on 304 days, of which 62 days were devoted to trotting. The Gaming Amendment Act, 1910, introduced a new principle into the grant of licences and a new restriction. It specified a limit to the aggregate number of days on which the totalizator might be used. The effect of this was to reduce the total number of days from 304 to 250, racing being reduced by 43 days (that is, from 242 to 199), and trotting being reduced by 11 days (that is, from 62 to 51 days).

238. By the Gaming Amendment Act, 1914, the number of days in respect of which a totalizator licence could be granted was increased by an aggregate of 31, bringing the total number of days upon which the use of the totalizator could be licensed to 281. These days were distributed as to 214 to racing clubs, and as to 8 to hunt clubs, and as to 59 to trotting clubs. The Gaming Amendment Act, 1924, increased the number of days by 12 in respect of racing clubs and by 19 in respect of trotting clubs. The total number of days in respect of which a licence could be granted was therefore brought to 320. Two hundred and forty are allotted to the racing and hunt clubs and 80 to trotting clubs. Under section 3 of the Gaming Amendment Act, 1924, two racing clubs, Cheviot and Methven, have changed over to trotting. No statutory alteration either by way of reduction or increase has been made since 1924. We have disregarded in this history the temporary wartime reductions made during World Wars I and II.

SECTION 2.—INFLUENCE OF TOTALIZATOR ON RACING IN NEW ZEALAND

239. In the absence of the totalizator, horse-racing in New Zealand in both its forms would be unrecognizably different from what it is. From no other source would it have been possible for clubs to have derived the revenue which, in the words of Brian Vesey-Fitzgerald in his recent work, "The Book of the Horse," has enabled them "to endow their races so well and to equip their racecourses and buildings in a manner which is the envy of every visitor from Britain who knows the appalling inadequacies of all but a few of our racecourses and racecourse buildings at home." The benefits which have accrued in New Zealand to horse-owners and to racing and racegoers from the use of the totalizator made such a deep impression upon Mr. Fitzgerald that he devoted some little time and space to the presentation of a picture in words of what the racing authorities in England might have accomplished had they enjoyed an income from betting on the scale which the racing authorities in New Zealand have enjoyed.

240. It is beyond question that the income derived from the use of the totalizator has enabled clubs to provide adequate stakes without requiring any material contribution from owners; this is in marked

contrast to the condition pertaining in England, where, in many instances, much the greater part of stakes is contributed by the contesting owners. The income derived from the totalizator has also enabled clubs to provide their patrons with more and better amenities and more comfortable accommodation at lower charges than has proved possible on most other courses elsewhere.

241. The enjoyment by clubs in New Zealand of this advantage involves upon their part, however, a greater obligation to have regard to the comfort and interests of their patrons, for it is those patrons who, in effect, provide the income which makes possible in New Zealand all the advantages which racing and those associated with it enjoy in this country. A different position may well pertain where owners provide substantially the whole of the stakes for which they contend and where clubs are constrained to rely upon membership and entrance fees and the hiring of accommodation to patrons for the greater part of their income.

242. The advantageous position which racing enjoys in New Zealand is, no doubt, also largely contributed to by the complete absence of any proprietary interest in the sport. From the absence of any financial interest of a private character in racing many benefits have accrued, and perhaps none has proved of greater value in operation than the conception now generally accepted without question by all racing authorities that the clubs of both types are trustees for the public. Another contributing factor has been the imposition of an obligation upon clubs, both racing and trotting, to disburse in stakes a high percentage of the income derived from the totalizator. This obligation requires, as we think, some modification when, as now, money is circulating freely and turnovers are consequently high, but in the main its imposition has proved beneficial, and the founders of both Conferences are entitled to gratitude for their foresight and wisdom.

SECTION 3.—GOVERNMENT INSPECTION

243. Totalizator inspection is one of the forms of control exercised by the Government. This was first instituted in 1918, and since that year a Government Inspector has been present at all race meetings at which the totalizator is in operation. Statutory provision for such inspection was made by section 7 of the Gaming Amendment Act, 1924. The broad principle covering this inspection is to insure—

(1) That totalizators are operated in accordance with the law; and

(2) That the public is dealt with justly.

244. The presence of a Government Inspector is an assurance to the public that correct figures are displayed and that correct dividends are declared. This inspection has resulted in obviating numerous complaints and inquiries, and has generally inspired confidence. It

has also been the means in numerous instances of preventing the payment of incorrect dividends. Improvements in totalizators and new methods in their administration have been continually introduced, so that it has become necessary for every Inspector, in order to carry out his duties efficiently, to obtain a general knowledge of the machines used and to make a full study of their efficient administration. Even a knowledge of the sources of mechanical faults is required. With the introduction of new and more improved totalizators, Inspectors will be required, more than ever, to specialize in this work.

245. This form of control is essential, and we recommend its continuance. We incidentally also recommend that the Department of Internal Affairs be given every facility to obtain the services of and to train officers competent to carry out efficiently the multifarious duties now falling, under the heavy strains of race-day working-conditions, to the lot of its Totalizator Inspectors. Such men must act promptly in making decisions in emergencies arising from mishaps to the intricate and delicate electrical installations which are increasingly coming into use, and a high standard of training and experience is consequently necessary.

SECTION 4.—TOTALIZATOR TAXATION, COMMISSIONS, AND FRACTIONS

246. It was ten years after the first statutory regulation of the totalizator that the State began to exploit the machine as a source of revenue. Prior to 1881 the only deduction from the pool was the commission deducted by the clubs operating the machine. The history of State taxation is shown in the following table :—

Year.	Act.	Nature and Extent of Taxation.	Total Totalizator Deduction for State Taxation.
			Per Cent.
Prior to 1891	.. ..	Tax free	..
1891	Stamp Amendment Act	1½ per cent. on gross totalizator turnover	1½
1909	Stamp Duties Amendment Act	Increase to 2½ per cent.	2½
1915	Finance Act ..	In addition to above, dividend duty 6d. in the pound	4¾
1921	Finance Act (No. 2)	Dividend duty increased to 1s. in the pound	7
1930	Finance Act ..	Totalizator duty increased to 5 per cent.	9⅜
1932	,, ..	Totalizator duty decreased to 4 per cent.	8 & 7/20th
1934	Finance Act, 1933 ..	Totalizator duty increased to 4½ per cent.	8 & 17/20th
1935	Finance Act (No. 3), 1934	Totalizator duty decreased to 4 per cent.	8 & 7/20th
1936	Finance Act (No. 2)	Totalizator duty decreased to 4 per cent.	8 & 7/20th
1937	Finance Act (No. 2)	Totalizator duty continued at 4 per cent.	8 & 7/20th
1938	Finance Act (No. 2)	Totalizator duty continued at 4 per cent.	8 & 7/20th
1939	..	Totalizator duty reverted to 5 per cent.	9⅜

247. It will be seen that the taxation on totalizator investments has been varied by legislation from time to time. Briefly, the position at present is that there is a first deduction of $12\frac{1}{2}$ per cent. from totalizator investments, of which the club receives $7\frac{1}{2}$ per cent. and the Government 5 per cent. There is then a further deduction of a dividend tax of 5 per cent. which goes to the Government. In other words, of a total deduction of £16 17s. from every £100 invested on the totalizator, the club receives £7 10s. (and fractions) and the Government £9 7s. Each club, however, is granted a rebate of $2\frac{1}{2}$ per cent. on the first £20,000 invested on its totalizator each year or, if the totalizator turnover is less than £20,000 for the year, then $2\frac{1}{2}$ per cent. on the full amount invested.

248. In the Third Schedule hereto is set out a table showing over a period of twenty-nine racing years beginning on 1st August, 1918, and ending on 31st July, 1947, the amount of revenue derived by the State in each of those years by way of totalizator and dividend duties. The schedule also shows the aggregate for each year and the aggregate sum received by racing and trotting clubs from commissions and fractions.

249. Reference was made to "fractions" only once during our sittings—during the cross-examination of the president of the Racing Conference. Fractions are strictly part of the sum divisible as dividends, but the proviso to section 35 (1) of the Gaming Act specifically declares that it shall not be necessary to pay out fractions of a shilling unless such fraction amounts to or exceeds sixpence, in which case sixpence shall be paid. There can be no doubt that fractions are thus legally the property of the clubs concerned. In the course of a year they amount (as the table shows) to a considerable total throughout New Zealand, and over the period covered by the table the total is very large. Some arrangements with respect to fractions is necessary, as the delay involved in counting and paying out threepenny pieces and copper coins in considerable numbers would produce dissatisfaction and possibly disorder.

250. We cannot see that the State can equitably claim to be entitled to the fractions. Nor can we regard them as essentially a profit item to clubs. In the hands of the latter, however, they ultimately go back into racing either in the form of improved or increased amenities or in the form of increased stakes. They serve a useful purpose, too, in providing an insurance fund against mistakes made by dividend calculators or pay-out clerks or caused through electrical faults in the totalizator. Some of these causes have proved costly to clubs. When, however, from unforeseen circumstances, dividends have been underpaid so that any club has stood to benefit by the underpayment, the amount involved has, by direction of the Minister, always been paid to local charities.

SECTION 5.—BRACKETING

251. The term "bracketing" means the coupling of two or more horses under one number to the end that, for the purpose of betting on the totalizator, they are deemed to be one horse. In effect, this means that where a ticket is purchased on a bracket the investor has at least two, and sometimes three or more, horses running for him. At the present time the racing (that is, galloping) clubs bracket—

(*a*) All horses owned by the same owner.

(*b*) Every horse in which a joint interest exists, including the joint interest attributed to the husband and wife relationship, except that a horse leased for the whole of its racing career which is nominated in the name of the lessee during the term of the lease need not be bracketed with any other horse leased from the same breeder if the president so directs.

252. The trotting authorities bracket not only those horses which are owned wholly or partly by the same owner, but also a number of others. They bracket—

(*a*) Those horses which are trained by the same trainer.

(*b*) Horses trained by different trainers in the same stable unless the stewards otherwise order: Provided, however, that a bracket is not required in the case of a visiting trainer temporarily using for a period not exceeding three weeks the stable of another trainer.

(*c*) Horses which are owned separately by husband and wife.

(*d*) Horses in which members of the same family have any interest, except in the case of members of the same family having separate households.

(*e*) Any other horses which the stewards shall order to be bracketed.

253. As the primary essential in racing is the maintenance of public confidence, it is recommended that the rules of the Trotting Conference with respect to bracketing should be adopted by the Racing Conference. There is an ineradicable conviction current amongst members of the public that trainers with two horses in a race, if they do not actually know, must have a very fair idea which of the two is the better, and so which of the two is likely to win. It is, in part, this exclusive knowledge which lies at the root of the system of bracketing except in so far as the adoption of that system is rendered necessary by the number of starters exceeding the numbers available on the face of the totalizator. The system finds its justification, too, in that it precludes an owner from securing a personal advantage by arranging which of his horses is to win. That kind of arrangement can equally well be made when horses are trained by the same trainer or are owned by members of the same family all living together, and that contingency should be guarded against by bracketing.

SECTION 6.—PAYMENT OF DIVIDENDS ON INQUIRIES OR APPEALS

254. It may be inconvenient, if not impracticable, to suspend the disbursement of dividends for any protracted period. It is not therefore recommended that disbursement should be postponed until all appeals have been exhausted. It is, however, recommended that no dividend should be disbursed until the conclusion of any inquiry held by the judicial committee of the club responsible for the conduct of the meeting if the result of that inquiry might affect the placing of any horse.

255. Even so, some further limitation in point of time is necessary, for inquiries are, upon occasion, adjourned over somewhat lengthy periods. The conclusion of the particular race meeting in the course of which the incidents happened or the questions arose which gave rise to the inquiry seems to provide a satisfactory termination date to the suspension of payment, and we recommend that disbursement should not be delayed beyond the conclusion of any meeting. It will be well known to investors that the disbursement of the moneys invested on the totalizator are dependent upon the result of a reasonably prompt conclusion to the first inquiry instituted on the day of the race, and they will be left with no ground of complaint if, as may in some instances happen, the initial result is subsequently varied on appeal. Legal recognition of an analogous conception is afforded by the judgment of the Supreme Court in *Brickman* v. *Chalmers*, [1945] G.L.R. 19, where it is said :—

All persons who take advantage of the opportunities provided for racing horses and winning prizes thereat know what are the terms and conditions laid down in the rules of racing, and by entering and taking advantage of those opportunities they elect to be bound by all such rules.

To those who invest upon the totalizator must be attributed a measure of knowledge similar to that held in the same relation by the owners of horses.

SECTION 7.—THE DOUBLES TOTALIZATOR

256. Involved with and inseparable from the question of illegal betting is the question of the reintroduction of the doubles totalizator. We are satisfied from the evidence that doubles betting represents a very considerable part, if not the major part, of the business of most bookmakers. We recommend, therefore, that licences should be issued for the establishment of a doubles totalizator at all meetings at which the totalizator is operated and that doubles betting through the medium of the totalizator off-course system should be made available to all who desire to bet in that way.

257. The doubles totalizator was instituted by some racing clubs prior to 1907, and that system of betting was steadily growing in popularity when the Gaming and Lotteries Act of 1907 was passed. Just why section 32 of that Act prohibited the use of the doubles totalizator it is difficult to conceive, for there was nothing in the Act prohibiting bookmakers from betting on doubles when operating under licence on racecourses. The result has been that for the past forty years bookmakers have enjoyed a monopoly of this form of betting.

258. In order to secure the diversion to the totalizator of as large a proportion as possible of the moneys now wagered in doubles betting with bookmakers, we recommend that section 31 of the Gaming Act, 1908, which re-enacted section 32 of the Amendment Act of 1907, be repealed and that the establishment of doubles totalizators be allowed.

259. The form of doubles betting in operation illegally to-day is the same as it has always been in the past. Bookmakers issue charts quoting odds against the various combinations of each horse in one race (the first leg) with each horse in another race (the second leg). The odds against the various combinations differ according to the bookmaker's estimate of the chances of success of the horses concerned. A comparatively recent development of this system has been the institution of what are known as concession doubles. When a bettor stipulates that his bet is to be a "concession" bet it means that if the horses he selects win, he gets only 70 per cent. of the quoted odds. As compensation for this reduction in the odds, however, he gets the advantage of winning 20 per cent. of the quoted odds if the first of his selected horses wins and the other runs second, or 10 per cent. of those odds if he, having picked the winner of the first race, the horse selected by him for the second race runs third. One form of doubles betting is by way of fixed odds in small amounts, say, £5 to one shilling, or £20 to five shillings. These small doubles are not frequently laid by full-time bookmakers; they are chiefly laid by part-time practitioners. The practice is, however, widespread, and it is unlikely that the reintroduction of the doubles totalizator on racecourses will lead to their complete abolition. They are, however, a very minor evil, and active suppression may minimize the practice considerably.

260. Outside New Zealand where the doubles totalizator is operated legally on racecourses a different system has come into existence alongside the system outlined above. In this other system the totalizator is opened on the first of the two races forming the double and investors place their bets as if for that race alone. When the race is run, however, no dividend is declared, but those who have purchased tickets on the winning horse, and no others, become entitled, on presentation of their tickets when the totalizator is opened on the second race, to obtain tickets on the starter they select. If an investor purchases, say, three

tickets on the winner of the first race, he may exercise up to three choices in the second race or obtain three tickets on one horse. No money is involved on the second opening of the totalizator, the pool consisting of the amount invested in the purchase of tickets on the first race. The dividend is found by dividing the net amount of the pool, after the statutory deductions, by the number of tickets taken on the winner of the second leg. The principal advantage claimed for this particular method is that investors always have a starter.

261. Among those who gave evidence in favour of the reintroduction of the doubles totalizator, opinion was fairly evenly divided between the two systems. It is impossible to say which would be the more popular with the public; and clubs should, we suggest, be allowed to exercise their own choice, and change from one to the other as experience dictates. We strongly recommend, however, that the unit of investment should be 5s. Any higher unit would leave a large field to be exploited by illegal bookmakers.

SECTION 8.—PRE-INVESTMENT ON TOTALIZATOR

262. The suggestion was made by the New Zealand Metropolitan Trotting Club that, to relieve the pressure on its totalizator immediately prior to the running of the New Zealand Trotting Cup, provision should be made enabling it to accept bets on the cup for some hours prior to the running of that race. No similar application was made by any other club, but several are doubtless similarly circumstanced. To give effect to this suggestion would involve a material alteration in the present statutory regulations governing the totalizator. The latter is allowed to be opened eight times only on each racing-day. The opening of the totalizator on the cup race prior to the normal time would involve opening the totalizator nine times on the day on which the cup is run. If a doubles totalizator is also open on the same day, the totalizator would be open ten times. This factor would not in itself be an insuperable difficulty, for, no doubt, statutory provision could be made for it. To do so, however, seems undesirable, more particularly as the need to open the betting on the cup race does not, taken by itself, afford an adequate justification for a material alteration in the salutary rule which has been in operation for a great many years.

263. In addition to this, there are practical difficulties which cannot be overlooked. There is the danger of error in the transference of figures from the pre-investment totalizator to the electric totalizator. There is also the necessity for the installation of an indicator informing the public of the progress of the betting on the pre-investment machine, and the uncertainty and difficulty which must accrue from the fact that horses may be bracketed, scratched, or withdrawn during the course of the time that the pre-investment machine is in operation.

264. More important, perhaps, than any one of these factors taken alone, is the fact that scratching during the day might ultimately involve the payment of a dividend on the first and second horses only, whereas during the course of the betting on the pre-investment machine, investors might have been induced to believe, by reason of the state of the card as it then stood, that three dividends would be paid. This would result in an infringement of the firmly established general practice which requires the payment of the number of dividends on each race which the investing public is entitled to believe during the course of the betting will be paid. Compliance with this practice might thus require the payment of three dividends in respect of pre-investment betting, whilst only two dividends would be payable on the betting which took place during the normal period. Three dividends could not, of course, be paid on the pre-investment betting, but investors on that particular machine might well be left with a cause of complaint. It is better, therefore, not to encourage the adoption of an expedient which might be productive of uncertainty, difficulty, and, possibly, dissatisfaction. No doubt the Metropolitan Trotting Club and other clubs similarly situated will find an alternative remedy, either by extending the time for betting or by establishing additional receiving depots at appropriate points on the course.

SECTION 9.—AGENCY BETTING

265. Having regard to the frequency with which friends on the racecourse purchase tickets on the totalizator for one another, and the obvious innocence of such proceedings, the Racing Conference suggested that section 53 of the Gaming Act, 1908, should be amended to make legal innocent actions of the kind.

266. To that suggestion, if effect could be given to it with certainty and clarity, there could be no objection. Consideration, however, has suggested to us that any endeavour to distinguish between innocent actions of the kind adverted to by the Racing Conference and actions of a sinister import would only be productive of uncertainty, difficulty, and detriment. At the root of section 53 lies an emphatic resolution by the Legislature that all forms of solicitation to bet must be repressed. If the section were amended to permit of the sending out of circulars, notices, advertisements, or other writings requesting employment as an agent not only would the tendency be to inflate betting, but the further and perhaps more detrimental consequence would accrue that individuals would contrive to develop agency businesses and thereby acquire a private vested interest in the business of betting, an interest which is undesirable from every point of view, and not the least from the point of view that the creation of such interests has a tendency to restrain legislative interference, even when such interference is manifestly necessary.

267. Nothing, therefore, but a compelling necessity would justify any interference with the introductory phase of the section. The phase with which the Racing Conference is concerned is supplementary to the primary and initial phase and is necessary for the proper enforcement of that phase; this by reason of the fact that in given instances it might be possible to prove actual agency, but impossible to prove solicitation by letter or otherwise. Incidentally, the secondary phase also operates, as was emphasized by the Commissioner of Police, to preclude persons found taking money on the racecourse, doubtless as bookmakers, from raising the defence that they were in fact acting as agents for the investment of the money on the totalizator.

268. For these reasons it appears to us unwise to attempt to qualify or restrict the provisions of the section. It may be that no such qualification is necessary, for the crucial word in that phase of the section which the Racing Conference has in mind is the word "employs," and it may be that one friend, acting for another gratuitously in sporadic instances, could not be held to be "employed." Such a construction conforms to the practice of the Police Department, which has never considered prosecuting any one in respect of such circumstances as the Racing Conference has in mind. The section has never, therefore, operated oppressively, and it would, we think, be wise to leave it as it is.

SECTION 10.—UNIT OF INVESTMENT AND A FIVE-SHILLING TOTALIZATOR

269. Some evidence was given in favour of an investment unit of 5s. In the early days of the totalizator the unit varied with different clubs, most operating on a £1 unit. Some few employed a £2 unit. Then the £1 unit became universal, and remained so for some years. Provision was, of course, made for £5 tickets at special windows. Then a number of clubs lowered the unit to 10s., with provision for £1 and £5 tickets, but for a long time they were in a minority. To-day the 10s. unit is universal. About 1932, during the depression, a number of clubs, racing and trotting, operated on a 5s. unit, but the experiment was short-lived, despite the scarcity of ready money. The handling of so much silver and the extra work in calculating dividends made the system unpopular with totalizator staffs, and, rightly or wrongly, the clubs concerned felt that it tended to reduce the total volume of betting. The same arguments which had been used by the clubs resisting the 10s. unit were used against the 5s. unit.

270. In England, when the totalizator was first operated on racecourses, the unit was fixed at 2s., and it remained at that figure until recently, when it was raised to 4s. At dog-races in England the unit is 2s. 6d. In all Australian States the unit is 5s. No difficulty has ever

been experienced in either England or Australia in expeditiously operating the totalizator on the smaller unit. Even at dog-races, where the turnovers run into huge sums, no difficulty seems to be experienced. No doubt this is due in some measure to the fact that electric totalizators in those countries are all wired for the small unit.

271. To insist on all clubs in New Zealand changing over to the 5s. unit would be utterly impracticable under present conditions; nor do we consider such a course either necessary or desirable. At the same time, racing clubs, as holders of a statutory monopoly of the only lawful means of betting, must always have in mind their obligation to meet a reasonable public demand for further totalizator facilities. There are many people, and by no means women alone, who would welcome the provision of 5s. betting, particularly since the spread of the win and place system. It would enable them to back their own fancies instead of making up a 10s. or £1 ticket with others on, as often as not, a compromise choice. There can be no doubt, too, that the absence of a lower unit than 10s. is the cause of a considerable amount of silver betting with bookmakers, even the biggest of whom is not averse to handling small sums.

272. We feel that the 5s. unit might well be given a fresh trial on an experimental scale by some of the major clubs, both racing and trotting, through the medium of a separate manual totalizator. This would leave their existing installations available to cope with the betting on the 10s. unit, which will probably constitute the main volume. We do not recommend that for the present there should be any element of compulsion, but if, as we have elsewhere recommended in this report, a Race-course Advisory Board is set up, this is a question on which it might, in the light of experimental experience or in the light of further knowledge, report to the Minister. The governing factor must always be not the expense to the club, but the right of the public to have their reasonable requirements met.

273. If and when provision for 5s. betting is made, it will be necessary to amend the proviso to section 35 (1) of the Gaming Act, 1908, to provide that dividends shall be paid to 3d. instead of 6d.

SECTION 11.—LIMIT OF THREE ON NUMBER OF TOTALIZATORS

274. By section 50 (*c*) of the Gaming Act, 1908, no more than three totalizators can be used by a club at one time, and none can be used outside the race-grounds within the control or management of the club. This provision originally appeared in the Act of 1881, and the reason for it can only be conjectured. Possibly it may have been a desire to bring under more adequate control the small and crude machines of that day. We cannot see any sufficient reason for the continuance of the limitation as to number, in view of present-day conditions.

275. If effect is given to our recommendations with regard to the doubles totalizator and a separate 5s. totalizator, then modification will become necessary. There can be no doubt, we think, that the operation of the win-and-place system involves the use of two separate totalizators, since, though operating through one set of machinery (in the case of the electric totalizator), two separate and distinct pools are created. If, then, separate pools are created for doubles betting and for the 5s. betting, the number of totalizators that may be used will have to be increased to four.

SECTION 12.—TELEGRAPHING AND POSTING OF INVESTMENTS

276. Prior to the enactment of section 29 of the Gaming and Lotteries Amendment Act, 1907, it was lawful for racing clubs to accept and act on telegraphic or telephonic requests, instructions, or directions relating to investments on the totalizator. Section 30 prohibited the delivery at racecourses of telegrams relating to betting or investments on the totalizator, and section 33 (3) prohibited any investment on the totalizator elsewhere than at the totalizator itself. These prohibitions were imposed in aid of the policy of the Act which was to confine all betting to racecourses. They have effectively operated to prevent outside investments being received by club officials. They have resulted, however, in the diversion to bookmakers of moneys that otherwise would be invested on the totalizator.

277. In our opinion these provisions, having signally failed to achieve the object sought to be achieved by them, they should be repealed. That repeal is necessarily incidental to any legalized scheme of off-course investments on the totalizator, but, irrespective of the adoption of any such scheme, we recommend that racing clubs be once more authorized to receive totalizator investments by telegram or letter.

PART V.—APPLICATIONS FOR INCREASE OF TOTALIZATOR PERMITS

SECTION 1.—APPLICATION FOR TWENTY EXTRA DAYS BY RACING CONFERENCE ON BEHALF OF CLUBS

278. It will be convenient to deal with the application by the New Zealand Racing Conference first. That Conference asked for an extra twenty totalizator days, and bases its case on what it considers anomalies and injustices arising by reason of war restrictions, changes in population, and the trend to centralize training establishments. No specific allocation of the licences in respect of the extra twenty days was suggested by the Conference. What it proposed was that authority be given to the Minister to increase the allocation to racing clubs by a maximum of twenty days, licences in respect of those days to be granted only on the application of the Conference on behalf of particular clubs. The reason advanced for this procedure was that, by that process, the Conference would be afforded an opportunity of considering the position from the point of view of the country as a whole, and would thus be enabled to remedy injustices with which, as the controlling authority over the whole country, it would be particularly, and perhaps exclusively, conversant.

279. In effect, the Conference asked that a reservoir of licences to the number of twenty should be made available to be drawn on from time to time on the recommendation of the Conference. That existing anomalies and injustices should be met by re-allocation, the Conference opposed, suggesting that this would remedy only one injustice by creating another. In its view, re-allocation would inevitably lead to the interference with existing and long-enjoyed rights of certain clubs and might well bring disastrous consequences on racing in districts from which licences were transferred.

280. Whilst we recognize that changes in population involving the decline in some districts and the increase in others of interest in racing have brought about certain anomalies, if not injustices, and that some remedial measures are required, we do not think that an increase in the number of days for galloping races in New Zealand is either necessary or justifiable. On the contrary, we think that for a country with the population of New Zealand and circumstanced as New Zealand is, there is to-day quite enough racing.

281. Existing economic and other circumstances have promoted interest in racing and in betting to a degree which may well prove impermanent, and it is undesirable that racing should be authorized to

an extent which, whilst it might do no more than satisfy the present exorbitant demand, would certainly prove excessive if that demand were ever moderated, as it may be in the near future. As it is, the Chairman is of opinion that betting has advanced to a stage that can only be defined as excessive. Mr. Freeman and Mr. Heenan do not, however, agree with this view.

282. That betting to the present extent is not excessive was sought to be established by counsel for the New Zealand Racing Conference, who produced schedules showing the aggregate amount of betting through the totalizator during various years in relation to population, and the total of the readily available money owned by the community. The computation showed that 6·89 per cent. of the total available money in the country passed through the totalizator in 1927, and that the percentage consistently decreased (with the exception of the year 1930, when the percentage was 6·17) until 1935, when the percentage fell to 2·94. During the years from 1936 to 1945 the percentage never exceeded 5·11, nor was it less than 3·38. It rose from 3·82 per cent. in 1945 to 5·48 per cent. in 1946. Similarly, it was shown that of the aggregate private income of £185,000,000 in 1938–39, some 4·3 per cent. went through the totalizator, whilst in 1945–46, of a total private income of £310,000,000, 6·45 per cent. went through the totalizator. Of the income, 1·1 per cent. was absorbed in deductions. The total private income for 1945–46 is stated to be correct within £10,000,000. The total sum which passed through the totalizator is taken as aggregating £20,000,000. It did not quite reach that total in fact. The calculations are based on totalizator betting only and take no account of the sum of £24,000,000 per annum which it was estimated is handled by illegal bookmakers.

283. Whilst the figures are perhaps not assailable so far as they go, it can be argued that they contain, for present purposes, elements of fallacy. In the calculation of the moneys immediately available the value of notes in circulation and the total of bank and savings-bank deposits have been taken. It might be reasonably claimed, therefore, that a very considerable proportion of these notes is held, and an equally great proportion of the moneys on deposit is owned, by corporations and persons who do not bet. Equally, it might be said that the aggregate private income enjoyed by the nationals of the country must be very largely enjoyed by corporations and persons who are not concerned with gambling. The calculations therefore do not give any indication as to what percentage of the income of the people who gamble is adventured in gambling, nor yet what proportion of the immediately available money is owned by the people who do not bet. Yet the numbers who constitute the class which gambles are doubtless so great that their welfare is a matter of public concern.

284. It could also be claimed, no doubt, that the calculations necessarily failed to distinguish between the classes of income-earners who embark upon gambling; the heaviest contributors to betting may well be and probably are members of that most numerous class of small-income earners who may be adventuring in gambling more of their income than they should; it may be, too, that great numbers of people who have neither the monetary assets nor the income justifying heavy totalizator investments are addicted to the practice of betting heavily. Whatever validity may be inherent in these contentions, it must be admitted that a substantial percentage of the increased turnovers of to-day represents the investment on the totalizator of moneys for which other avenues of expenditure are not available, through shortages of consumer and other goods. This crucial factor cannot be said to have existed in past times of prosperity. It may be claimed that the fact that money is being put through the totalizator which normally would be expended on consumer goods is itself evidence that an excessive sum is being devoted to gambling and that such moneys should be saved. That is the view adopted by the Chairman, though not by Mr. Freeman and Mr. Heenan. Against it, however, must be set the fact that national savings are higher to-day than ever before, and that any attempt to persuade people to make further savings out of moneys they regard as legitimately available for whatever form of expenditure appeals to them might prove fruitless.

285. Whichever view may be correct, one fact, divorced from opinion, emerges from any consideration of the volume of betting over the years: it is that the people of New Zealand are very sensitive to economic changes. When times are prosperous they bet freely; when times are hard the volume of betting falls. This in itself is some tribute to their essential sanity. The members of the Commission, apart from the Chairman, are desirous of saying that it is doubtful if there has ever been a time when the prophets of woe have not been vociferous. They refer to the parliamentary debates on Gaming Bills in the "eighties" and "nineties" and the first two decades of this century, which are full of prognostications of evil and disaster from the then apparent increase in betting. One speaker, for instance, in the debates on the Gaming and Lotteries Amendment Bill of 1907, was appalled by the fact that during four days of Christmas and New Year racing at Ellerslie the hugh total of £80,000 passed through the totalizator—a sum that is less than one-third of that recorded on the same course on Boxing Day, 1946. The passing of the years has, the majority of the members of the Commission think, confounded these prophets, and they comment that it would be a rash man indeed who sought to make an unassailable case for an all-round deterioration of public morals of to-day as compared with any other period of our history.

286. Apart from these divergent convictions, there seems little doubt but that the presence of so much free money has operated to create a tidal wave of prosperity for racing in all its forms. We are consequently agreed that it would be unwise to countenance the provision of racing-days sufficient to satisfy the present excessive temporary demand when, as history shows, even the slightest retrogression will make many of those days superfluous. The only effect would be to encourage racing clubs to raise stakes to still higher levels, to embark upon capital expenditure out of all proportion to their reasonably ultimate and more permanent needs, to further unduly inflate the price of the bloodstock and to attract more labour into a business that is essentially uneconomic. This being so, whilst we do not suggest any reduction in the present number of days of galloping, we can only conclude that more should not be granted. Less will be needed when conditions become more stable and, as the effects of stabilized conditions become manifest, reduction could properly be effected. Meantime there are districts in which racing is by no means as popular as it has been in the past. In others, racing enjoys more popularity than it did in days gone by.

287. It is impossible to effect a wholesale redistribution on the basis of the popularity of the sport to-day. To do that would produce undue concentrations of racing in some districts, whilst others would be deprived of the enjoyment of the days of racing they have had over many years, with a concomitant loss attributable to the inutility, for the purposes of realization, of amenities which have cost large sums of money. We think, therefore, that some moderate scheme of readjustment would tend to remove existing anomalies. We deal with our specific recommendations in that respect at a later stage.

288. The grants of licences envisaged by us in this report and the scheme of redistribution we propose are based upon the assumption that each club will race upon its own course. We think, therefore, that, except in very exceptional and compelling circumstances, a licence should not be granted to any club to race off its own course. If any such licence is ever for sufficient reason granted, then we think that by it no club should be enabled to race on a course in a locality where there is greater concentration of population or interest than is associated with the club's own course. In the past some minor clubs have been enabled to race on major courses. They have thereby no doubt derived marked financial advantages. There have been, and there will always, however, be, concomitant disadvantages from the point of view of the clubs concerned, whilst from the public point of view the consequences are undesirable. From the point of view of racing viewed on a national scale, it produces imbalance and unsettlement.

SECTION 2.—APPLICATION BY TROTTING CONFERENCE FOR EIGHTY EXTRA DAYS

289. Clarity demands that at this point we should deal with the application of the New Zealand Trotting Conference for licences in respect of eighty additional days. At the moment licences for eighty days are granted to clubs whose programmes are exclusively made up of trotting events. There are, however, as we have mentioned, racing clubs in the South Island which consistently include trotting races on their programmes. On the basis of eight races to a day, these races, so interposed in racing programmes, aggregate 15½ days, so that there can be said to be 95½ days of trotting races in New Zealand.

290. Beyond question, the sport of trotting has achieved a high degree of popularity. One witness in an excellent, if not the best, position to express an opinion, said that in the early days of the century the standard of the trotting sport was low, but that in 1912 there was a change, and from that date to the present time there has been a continuing improvement in the sport. This is undeniable. There are localities where there is no trotting and no apparent desire for the establishment of the trotting sport, but there are no localities in which there are trotting meetings to-day where the popularity of those meetings has not increased; while there are localities so favourably disposed towards trotting that the racing clubs have found it advantageous to put trotting races on their programmes. In two localities to which reference has previously been made the racing clubs became moribund, but on conversion into trotting clubs, one (Methven) became highly prosperous. There are thus indications of a possibility that trotting may in some localities supplant racing in popular favour. This tendency has been, and is being, assisted and fostered by the alertness shown in the administration of the trotting sport and by the settled determination of its administrators to do everything possible in the interests of the sport and for the comfort and welfare of its patrons. Nowhere was complacency and self-satisfaction manifested by any of the administrators of the trotting sport, as it was on occasion by racing administrators.

291. The increased and increasing interest in the sport of trotting, taken in conjunction with the characteristics which have been given to it by the Trotting Conference, has produced difficulties by reason of the limited number of days in respect of which totalizator licences can be granted. These difficulties are of two characters. The first, and the more readily understandable, is the dissatisfaction provoked by the restricted opportunities for competition caused by the very limited number of totalizator licences granted in particular localities, such as Southland, where enthusiasm for trotting is both widespread and keen, and where, in consequence, many trotting-horses are bred and maintained

Denied the opportunity of testing the horses he has bred at local meetings, the Southland breeder sells them and they are trained and raced elsewhere. To train them involves, in the early and formative period of a horse's career, long and arduous work, and there is but little return to the trainer until the horse reaches the stage when it can and does win good-class races. With a limited number of meetings in a trainer's home territory, there is a tendency with owners to leave the local trainer to do the arduous and important work of development, and when it has been converted into a good race-horse, to send the horse farther afield where racing and more remunerative stakes are available.

292. The second difficulty is due to the system by which horses are graded on a time basis so that only horses which have winning performances at certain times or better are eligible for entry in most worth-while races. Naturally, the high rewards are attached to those races which are graded on the basis of fast times, and the rewards fall as the quality of demonstrated performance required lessens. This operates to create categories of horses of various classes. These may be roughly defined as maidens, improvers, looser-class horses, and tight-class horses.

293. With the increase in popularity of the sport, the increased totalizator turnover at trotting meetings generally, and the existence of abundant funds in the hands of the public, the breeding of trotting stock has been improved and extended, and there are to-day a very great number of horses bred, trained, and prepared for competition. The limited number of totalizator licences granted for trotting, taken in conjunction with the fact that the metropolitan clubs, which are in a position to offer and do offer large prizes, naturally wish to restrict their contests as far as possible to those between the better class of horse, has produced what was defined to us as " a bottleneck " in the maiden and improver classes. There are so few races available to horses of that class that a horse requires both good fortune as well as ability to win and thus qualify for a higher class.

294. In this respect the sport of trotting may be said to have outgrown the framework within which it is constrained. The effects are various. In the first place, metropolitan clubs which, having regard to the prize-money they offer, should provide only for competition amongst the best horses, are compelled to provide races for slower classes and, under the compulsion of distributing 80 per cent. of their income from the totalizator in stakes, they are compelled to do so in stakes which are excessive having regard to the quality of horses engaged. Country clubs cannot offer the same rich reward for competitors of a similar calibre, and so dissatisfaction arises. Then, many horses of ability are denied the opportunity of qualifying for a better class, despite the fact that at country meetings many races are run in

numerous divisions from regard to the safety factor. This reduces the stake to the winners of the several divisions and very largely dissipates public interest. From the point of view of the sport, what is desirable is that there should be sufficient meetings to provide a reasonable measure of competition between the maiden and improver classes so that every horse will have a reasonable chance of qualifying for a better class. To achieve such a standard the allotment of eighty days asked for by the Trotting Conference would appear not to be exorbitant. On the other hand, weighty considerations present themselves to the contrary.

295. In the first place, the number of days available for organized gambling upon any sport should be fixed not in relation to the demands created by the participants or would-be participants in that sport, but by what is reasonable and proper in the public interest. Any standard based upon demand would be impermanent and variable, and it would be possible for any given sport, by an excess of popularity, to require that the State should make available to it for organized gambling a number of days which, by its very excess, would be contrary to the public good. In the next place, just as in the case of racing, trotting has attracted, by reason of existing conditions, a degree of betting which is not likely to be exceeded within any reasonable number of years ahead and is likely enough to decrease. Inasmuch as it is this high degree of betting which has attracted the entry into the sport of so many horses by reason of the high rewards that it makes possible, it would be unwise to recommend a number of days based on the present excessive but temporary demand. At the same time it must be recognized that there is a widespread public demand for trotting, and that that demand will be stultified if reasonable conditions for the satisfaction of that demand are not created.

296. Although, therefore we are in principle, far from being disposed to provide further occasions for organized gambling and are satisfied that there are already enough galloping races in the country, yet we think that some moderate increase in the number of days allotted to trotting is necessary to the proper maintenance of that form of sport and is not inconsistent with the public welfare. Such an increase will certainly spread competition, and it may spread and not inflate the present volume of betting. It is impossible to be certain of the latter feature having regard to the way in which all past anticipations, however well founded, have been stultified in result. We do not, however, think that the increase in the number of days we have in mind will materially increase the volume of betting upon trotting. Its effect will, we anticipate, be to distribute it more amongst local centres.

297. After very careful and anxious consideration, and after paying the greatest regard to the forceful and judicious submissions made to us by the counsel for the Trotting Conference, we have come to the

conclusion that we should recommend the issue of licences for nineteen more days and the transfer of two existing licences, all to be allotted as we later recommend. The allotment of this increased number of days will help to maintain the breeding industry which is a developing asset to the country, and will help to maintain the foreign market for yearlings which is dependent upon the existence of a sufficient opportunity to demonstrate within New Zealand the quality of New-Zealand-bred horses. At the last yearling sale thirty-one horses were sold to Australia. It will also permit competition on a more economic and convenient footing at centres which to-day conduct a meeting on one day a year only.

SECTION 3.—RECOMMENDATIONS FOR REDISTRIBUTION OF TOTALIZATOR PERMITS FOR RACING (GALLOPING) CLUBS AND AMALGAMATION OF CERTAIN CLUBS

REDISTRIBUTIONS

298. We recommend that the totalizator permits heretofore granted to the Otautau Racing Club, Hororata Racing Club, Kurow Jockey Club, Kumara Racing Club, Waiapu Racing Club, and Tolaga Bay Jockey Club should be no longer granted. Our reasons for this recommendation are set out in the First Schedule attached. Of the six days affected by this recommendation, that at present allotted to the Kumara Racing Club should be allotted to the Westland Racing Club which races at Hokitika. This will enable that club to conduct two two-day meetings per annum.

299. We recommend that one of these days be allotted to the Matamata Racing Club which, despite the fact that it is the centre of a very populous and closely settled country district, keenly interested in racing and now a popular training centre, at present enjoys only one day. This club is one of the most progressive in New Zealand and, despite its limited means, has provided a greater number of training tracks than any other club in the Auckland Province, except the Auckland Racing Club. The extra day will enable the club to finance desirable amenities.

300. Of the remaining four days, we recommend that one be granted the Stratford Racing Club and one to the Taranaki Jockey Club. These extra days are not only warranted on the ground of the public interest which the meetings of these clubs attract, but also by reason of the fact that weather conditions in the province in which these clubs function are so uncertain that financial embarrassment can readily result from bad weather on any of the days upon which racing is appointed to take place.

301. The two remaining days we recommend should constitute a pool available for allotment from time to time by the Minister of Internal Affairs, after consultation with the New Zealand Racing Conference. We

do not recommend their allotment to any particular club, but suggest that they should be used by the Minister from time to time on the recommendation of the Racing Conference to help clubs which, through weather, natural disaster, or unforeseen circumstances suffer severe financial loss in any year. Recourse might also be had to the extra pool for use upon exceptional occasions when the grant of an extra day might be indicated as desirable for any good and sufficient reason.

AMALGAMATION OF RACING (GALLOPING) CLUBS

302. In addition to the redistribution outlined above, we recommend, for the reasons set out in the Second Schedule hereto, that the following adjoining clubs be amalgamated, the amalgamated club to enjoy the full number of totalizator days heretofore allotted to the individual clubs involved in the amalgamation.

North Canterbury and Amberley to race at Rangiora.
Masterton and Carterton to race at Masterton.
Marton and Rangitikei to race at Marton.

We also recommend that the Levin and Foxton Racing Clubs be amalgamated to race at Levin, but that only one of the Foxton days be allotted to the amalgamated club, the other day to constitute a floating day as mentioned in our reference to the Foxton Club in the Second Schedule hereto. We further recommend that the Woodville and Pahiatua Clubs be amalgamated to race at Woodville or, alternatively, that the Pahiatua Club, while retaining its individual identity, should in future (as it has done through the war years) race on the Woodville course. The name of the amalgamated club should in every case be either the name of the club on whose course future racing is to be conducted or such other name as may be mutually agreed on by the two clubs and approved by the Racing Conference.

SECTION 4.—SPECIAL POSITION OF NELSON JOCKEY CLUB AND NELSON TROTTING CLUB

303. Special reference should be made to these two clubs, each of which applied for extra days. The Nelson Jockey Club is one of the oldest established clubs in New Zealand, the first race meeting having been held there in 1843. In earlier days it had an importance in racing which, due to its isolation from other racing centres, it has now lost. The club is almost entirely dependent for competitors on horses brought from other districts. The clubs nearest to it are Blenheim, Wesptort, and Wellington. That there is a considerable amount of local interest in racing is shown by the fact that at its two-day meeting in the 1946–47 racing year, the totalizator turnover averaged £33,000 per diem. The trotting club races on the same course on two days each year. The

track itself is a good one with a long straight, the appointments are as good as can be expected having regard to the fact that the club's tenure is very unsatisfactory.

304. The Commission of 1911 urged that some permanently-assured tenure of the course should be acquired from the agricultural and pastoral association. This has never been done. The club, in common with the trotting club, is renting the course for the very limited period of two years only. It was apparently found advisable to rent the whole property so that, by controlling the grazing, the track which, in past years, has suffered depreciation through sheep-tracks being cut in it in all directions, might be preserved from damage. It appears that there is some possibility that when the present lease expires an agreement will be made by which the two racing clubs and the agricultural and pastoral association will become joint owners of the property. In default of some such arrangement, attention to the very unsatisfactory position of both the racing and trotting clubs will need to be given at the end of the present lease. It would be uneconomic for the two clubs separately or in conjunction to acquire a new course and embark upon the expenditure which the capital improvements necessary would require. It is to be hoped that some satisfatory assurance of possession more or less permanent can be obtained. In the meantime, neither club can be considered for an increase in totalizator days.

SECTION 5. — RECOMMENDATIONS FOR ALLOTMENT OF NINETEEN NEW, AND REDISTRIBUTION OF TWO EXISTING TROTTING TOTALIZATOR DAYS

305. In making these specific recommendations we have taken what we believe to be all relevant factors into account. We have not recommended the issue of any additional permits to any metropolitan club. Each of those clubs has, in our view, a sufficient number of days racing already, and the extra provision for the qualifying of horses which our recommendations, if given effect, will make, should enable them to concentrate more on races for which only horses in the tighter classes are eligible. For the rest, if they continue desirous, as they have been in the past, of providing an opportunity for maiden and looser-class horses to qualify for tighter-class races, they will doubtless continue to hold matinee meeting as heretofore. Those meetings, involving as they do the absence of betting and the entry of the public free of charge, are a symbol of the spirit of good sportsmanship and of the desire to advance the sport in which they are interested which have actuated trotting administrators in the past. In connection with metropolitan centres it must always be taken into account that there is already in each such centre an abundance of days in the aggregate devoted to galloping and trotting, on which the public have the opportunity of betting.

306. Our specific recommendations, district by district, are as follows :—

Southland.—We recommend the grant of—

(*a*) Two additional totalizator days to Invercargill Trotting Club.

(*b*) An additional totalizator day to each of the following existing totalizator clubs : Gore, Winton, and Wyndham.

(*c*) One totalizator day to the new club at Wairio.

Otago.—We recommend the grant of a totalizator day to the existing non-totalizator club at Roxburgh. The grant is recommended to Roxburgh in preference to Alexandra by reason of the fact that the non-totalizator meetings at Roxburgh to date have been confined strictly to trotting events, whereas at Alexandra the events have been mixed, with a preponderance in favour of galloping. The club at Roxburgh should accept as original members all the members of the Alexandra Club, and the combined club, with its augmented membership, should be regarded as conducting an essentially Central Otago meeting. We also recommend the grant of an additional day to the Oamaru Trotting Club.

Canterbury.—(1) We recommend the grant of—

(*a*) An additional day to each of the following existing totalizator clubs : Timaru, Ashburton, and Methven.

(*b*) One totalizator day to each of the present non-totalizator clubs at Waimate and Geraldine.

(*c*) One totalizator day to the club at Rangiora.

(2) We also recommend that the licence now enjoyed by the Cheviot Trotting Club be no longer issued to that club, but that a licence for a further day additional to the day mentioned above be allotted to the trotting club at Rangiora to enable it to hold one two-day meeting or two one-day meetings in each year.

Marlborough.—We recommend that the day at present held by the Kaikoura Trotting Club be transferred to the Marlborough Trotting Club to enable the latter to hold one two-day meeting.

Wellington.—We recommend the grant of a totalizator licence for one day to the trotting club at Otaki.

Taranaki.—We recommend the grant of a licence for an additional day to the Taranaki Trotting Club.

Auckland.—We recommend the grant of—

(*a*) A licence for an additional day to the Waikato Trotting Club to enable it to hold two two-day meetings.

(*b*) A licence for an additional day to the Cambridge Trotting Club.

(*c*) A licence for one day to the newly formed trotting club at Te Awamutu.

307. In the foregoing recommendations we have recommended the allotment of licences for nineteen additional days and the transfer of two existing one-day licences. In recommending the transfer of the Cheviot day to Rangiora, we have been actuated by the fact that the Cheviot Club lacks the essentials of establishment. It has no available course and no proper amenities. In addition, it is too isolated to have any assurance of a sufficiently numerous attendance of competitors to make a meeting worth while from a racing point of view, or sufficiently attractive as a social occasion. The club has, of late years, raced at Rangiora, where its meetings have drawn large attendances, fields that have necessitated numerous divisions, and substantial totalizator turnovers. We think, however, that the Rangiora Club should admit to membership such members of the Cheviot Club as are desirous of joining.

308. In recommending the transfer of the licences from Kaikoura to the Marlborough Club we were influenced by several considerations. Members of the Commission visited the Kaikoura course and found that it is not now and is not susceptible of being converted into a satisfactory course. It is wholly unequipped with the necessary buildings. In addition, the general locality is too isolated to assure the club of the attendance of a reasonable number of competitors, all of whom would have to travel over long distances. The lack of competition would be accentuated by the smallness of the stakes which the club would be able to offer. The isolation of the district would be some reason for maintaining the identity of the club, provided it could race economically on its own local course. We are satisfied, however, that Kaikoura can never be other than an unsatisfactory racing centre, and there is no use in leaving a licence with a club which cannot use it to good effect, particularly when, as here, the use of it by this club will not contribute to the relief of the difficulties which the increased popularity of trotting has created.

309. We make in relation to our recommendations the final comment that every club to which the issue of a new licence is proposed will have the use of an established course, equipped with sufficient amenities and totalizator facilities to enable a meeting to be conducted efficiently and with due regard to the comfort of the public. In no case is any capital expenditure involved.

SECTION 6.—APPLICATIONS BY HUNT CLUBS

310. We had five applications for totalizator permits from five hunt clubs—namely, the Eastern Southland Hunt Club, the Mahia Hunt Club, the Maramarua Hunt Club, the Opotiki Hunt Club, and the Wairarapa Hunt Club. Before discussing these applications in detail it is desirable to recite briefly the history of the special totalizator licences granted to hunt clubs.

311. The Gaming Amendment Act of 1914 first made provision in that behalf. By section 2 of that Act the Minister of Internal Affairs was authorized to grant not more than eight totalizator licences to hunt clubs. By the Gaming Amendment Act, 1920, he was authorized to grant an additional eight to such clubs, and such additional licences were duly granted in accordance with the recommendation of the Commission mentioned in section 3 of that Act. This total of sixteen licences made provision for the grant of a licence to all then existing hunt clubs.

312. The reason actuating the Legislature in making special provision for hunt clubs no longer exists. At the time of the outbreak of World War I, and again at the close of it, the horse was still a factor in warfare, and the characteristics of hunting led to the development of a weight-carrying type of horse eminently suited to military purposes. To-day the horse has ceased to be an essential of war. On the other hand, the desirability of providing some form of healthy outdoor recreation in the country districts as a means of checking the drift of population to urban localities has given an importance from a new angle to the fostering of the sport of hunting.

313. Reasoned submissions and equally reasoned evidence in support of the several applications were given not only by the New Zealand Hunts Association, but also by the various new hunt clubs seeking the same privileges as those enjoyed by the clubs existing in 1920. We were much impressed by the enthusiasm and sincerity of those putting forward their cases. We were impressed, too, with the desirability of encouraging the sport. It is playing no mean part in providing healthy outdoor recreation for people in the country and is providing desirable occasions for social intercourse. At the same time we could not but feel that any increase in the number of totalizator permits for hunt clubs could not be justified.

314. We have approached the solution of this problem from a standpoint different from that suggested to us. There can be no doubt but that the intention of the Legislature in granting the original authority to issue totalizator permits to hunt clubs in 1914 and in granting an extension of that authority in 1920 was not to give an additional day's racing with betting facilities to the people in the localities where hunt clubs were functioning. The intention must, we think, have been to provide a means of financing the sport of hunting generally. The provision made for every then existing club lends weight to that conclusion. We feel justified, in consequence, in coming to the conclusion that those hunt clubs which are holders of totalizator permits are, in effect, trustees for the sport of hunting. To some extent this has been recognized by them in practice.

315. It was put on record before us that some of the more financially fortunate of them have recognized their obligations to new hunt clubs by making frequent and substantial grants in aid from time to time. Despite this, however, the hunt clubs enjoying totalizator licences have, some of them, built up financial reserves far beyond their own needs. Their accumulated funds, with one exception, are in no case less than £1,000. No fewer than five of the sixteen have reserves ranging between £5,000 and £9,500. These reserves are likely to increase whilst interest in racing is maintained at the present level. They might even increase if interest in racing waned considerably.

316. Before proceeding to any detailed consideration of the position it may be helpful to state the present position of the licences. Fifteen licences are granted annually, so that, if all these applications were granted, an amendment of the statute would be required. There is, as has been said, statutory authority to grant sixteen licences, and that number was at one time granted. The Brackenfield Hunt Club, however, sold its licence to the Banks Peninsula Racing Club for an annual payment of £75 subject to reduction to £40 per annum in a certain contingency which has not arisen and is not likely to arise.

317. No applications were made to us for licences for any additional days by any of the clubs which at present enjoy a licence. It can only be assumed, therefore, that they are, by virtue of the licences they enjoy, in a satisfactory financial position. That assumption is confirmed by the amounts which are put through the totalizator by each of them. These returns are indicative, in each case, of a satisfactory and, in some cases, of a substantial income. The creation of reserves is indicative in any event, that each enjoys at least a satisfactory income. This serves to emphasize one of the objections to the suggestion that new and additional licences should be granted, for each applicant wishes to use its licence in some popular racing centre. One day's racing in any such centre would produce an annual income far in excess of the needs of any hunt club.

318. Briefly stated, the needs of the applicants are as follows:—

Eastern Southland Hunt Club.—From the case submitted it would appear that this club needs only some assurance that it will be able to pay the salary of a huntsman when the present honorary huntsman retires. No details of the extent of its establishment were supplied in the statement submitted to us, so it may or may not be that it has need of some capital to cover establishment charges. There was no indication as to what remuneration would be required for a huntsman, but probably £400 a year would be ample, that being the sum which the Egmont-Wanganui-Taranaki combined clubs say is a reasonable cost for a huntsman who himself maintains two hunters.

319. *Mahia Hunt Club.*—This club also seems to need the services of a paid huntsman. The case submitted to us merely suggests to us for the rest, that it needs some further finance.

320. *Opotiki Hunt Club.*—This club has been subsisting on a contribution of £100 a year granted to it by the Bay of Plenty Racing Club in 1936. It appears from the case submitted that it wants some assurance that it will continue to enjoy an income of this amount. Doubtless, however, it wants something by way of further income. Meantime, it also wants an additional pack of hounds. The last pack and the kennels for them cost them £300. It has £666 in hand.

321. *Maramarua Hunt Club.*—Since 1942 this club has had an income of £250 a year from the Auckland Racing Club, but that contribution has now ceased. Incidentally, the Auckland Racing Club contributed £100 to the Poverty Bay Hunt Club in 1943 and £250 in 1944 and again in 1945. These contributions were made presumably by arrangement with the Pakuranga Hunt Club, to which club the Maramarua Club attributes the benefaction enjoyed by it. The Maramarua Club is in debt to an extent of from £1,400 to £1,500 in respect of the property bought by it. It appears, therefore, to be in need of an income sufficient to insure the discharge within a reasonable time of its capital liabilities, together with enough to assure it of an income of from £500 to £600 a year.

322. *Wairarapa Hunt Club.*—No details of the financial position or needs of this club were submitted, but the general indication was that it needs some augmented income beyond subscriptions and contributions to maintain its undertaking and to expand. The annual sum required would not be, it is thought, greater than that required by Maramarua, leaving out of account the income which the latter club needs as a means of discharging its capital indebtedness.

323. Upon the whole, therefore, the five applicant clubs do not, in the aggregate, need an income in excess of £3,000 to £4,000 a year; this income, it is thought, could easily be provided from the excess income of those clubs which already enjoy totalizator permits. The Pakuranga Hunt Club alone is able to bear a substantial part of this burden, as the history of its relationship with the Auckland Racing Club shows.

324. When a totalizator permit was first granted the club was allowed to race at Ellerslie free of charge. This was in the 1919–20 season. In 1925 a new arrangement was made whereby the hunt club took up to £1,500 of the profits from the meeting: the Auckland Racing Club took any balance. No charge was made for the use of the course. This arrangement enured from 1925 to 1945. It did not

prove unduly remunerative to the Auckland Racing Club until recent years. In 1937, however, it derived £329 from the arrangement. In the following year it derived £12 only, but in the next five years it derived £479, £688, £1,280, £2,507, and £5,585 respectively. In 1944 its share was £2,625, and in 1945, £2,253. Last year its share fell to £1,154. Out of this very considerable profit over the last six years the Auckland Racing Club has set aside a trust fund of £4,000 for the hunt club. For the rest, over the years, it has profited in the aggregate to the extent of £14,304 from the licence granted to the hunt club.

325. No doubt the Pakuranga Hunt Club and the Waikato Hunt Club, by reason of the concentration of population in the centres in which they race, are assured of greater incomes than any other hunt club, but, in the aggregate, the clubs holding licences should easily be able to provide out of their surplus income an annual sum sufficient to provide for the needs of the five clubs which have now applied for licences. The needs of any club which may be formed hereafter also call for consideration. Care will have to be exercised to see that merely visionary clubs are not brought into existence by the lure of an assured income.

326. The idea under discussion was, in the course of our sittings, suggested to some of the representatives of the clubs applying for licences, and, in general, it met with a favourable reception from them. The New Zealand Hunts Association, when it appeared before us, also received the idea with some degree of favour. Subsequent to the conclusion of our public sittings, the President wrote to us agreeing that, in the event of no further permits being granted, those clubs holding permits should help the affiliated clubs not so privileged. The association considered that hunts now holding permits should be allowed to retain sufficient income to enable them to carry on as at present, but that a percentage levy should be made upon surplus income to provide the money needed by the non-totalizator clubs. That being done, it was suggested that each totalizator club, after contributing the amount levied upon it, should retain the remainder of its profits as a reserve fund. It was proposed that distribution of funds should be made through the Hunts Association.

327. The weakness of the association's proposal lies in the suggestion that each club should retain sufficient income to carry on as at present. Such a proposal would be advantageous to any club, if any such exists, which is carrying on upon a lavish scale. That any club should be unduly affluent merely in virtue of its situation is inequitable, and the inequity is emphasized by the fact that the more affluent clubs are those near populous centres where restraint from pilgrimage to the towns is less necessary than it is in districts more intensively rural in

character and where the need for the provision of occasions for social gatherings is far less acute. We prefer, therefore, that full effect be given to the conception that those clubs which now hold licences should be regarded as trustees for the sport generally.

328. We therefore recommend that all net profits of all clubs holding a totalizator licence be paid to the Hunts Association for distribution amongst all existing clubs and such clubs as may come into existence in the future and be allowed into membership of the association, in such proportions as may be just and equitable having regard to their needs and circumstances. To ensure an equitable distribution and to avoid disharmony, we recommend that distribution should be made the function of a committee constituted of one member appointed by the clubs holding a totalizator licence and one by the non-totalizator clubs with an independent chairman with legal experience appointed by the Minister of Internal Affairs. The members of such a committee would doubtless be happy to act in an honorary capacity from a desire to serve the sport.

329. A recognition of the trustee principle would prevent such undesirable and unwarranted incidents as the sale by the Brackenfield Hunt Club of its licence to the Banks Peninsula Racing Club and the making of any such undesirable arrangement as has subsisted over many years between the Auckland Racing Club and the Pakuranga Hunt Club. Under that arrangement the Auckland Racing Club has profited unduly at the expense of hunting, for no racing club was ever intended to benefit from hunt-club licences. Incidentally, the creation of a trust fund of £4,000 by the Auckland Racing Club for the benefit of the hunt club in case that club ever becomes financially embarrassed lacks substance, for the hunt club itself has cash reserves totalling over £6,400. However that may be, all such sales and arrangements defeat the purpose for which hunt-club licences were granted and should be emphatically discouraged.

PART VI.—NON-TOTALIZATOR RACE MEETINGS AND SWEEPSTAKES

SECTION 1.—NON-TOTALIZATOR MEETINGS

330. The non-totalizator race meetings and the practice of running sweepstakes have become so completely identified that they call for consideration conjointly. Prior to 1909 there was no statutory regulation of race meetings, the law being directed solely to imposing conditions subject to which the totalizator might be used. For over seventy years race meetings have been held at which the totalizator has never been used. These meetings came to be known as non-registered meetings. This was because they were not recognized by and were outside the control of any general authority organized for the governance of racing. The only detriment which could accrue from participation in unregistered meetings was that, by such participation, the horses concerned, their owners and trainers, became automatically disqualified under the rules of the Racing Conference or of the Trotting Conference after those Conferences came into existence.

331. Initially, too, no notice was taken by racing and trotting authorities of incidental events on mixed sports programmes or incidental galloping or trotting events held at agricultural shows under the control of agricultural and pastoral societies. These meetings and incidental racing and trotting events became, however, the subject of a considerable amount of betting in which bookmakers were sometimes patently and sometimes surreptitiously participants according to whether at any given time bookmaking was lawful or unlawful at the places where the contests were held. Ultimately, scandals arising out of pony racing at Miramar led to the passing of the Race Meetings Act, 1909. It is not improbable that this latter Act has been interpreted more widely than was originally intended.

332. Its principal object was to prevent non-totalizator race meetings being conducted by clubs other than clubs holding a licence under the Act. However, the breadth of the definition given to what, under the Act, was to be regarded as a racing club and the inclusion of trotting races within the meaning of the term " horse race " provided a basis upon which it was held in *Ellison* v. *O'Halloran*, [1916] N.Z.L.R. 935, that the Act extended to a competition between horses which were required to walk a certain distance, trot a certain distance, and gallop a certain distance. The effect of this decision was to include within the term " horse race " any competition between horses in which pace was a deciding factor. From this the result accrued that every competition between horses in which pace was involved required as a condition of legality the obtaining of a licence under the Race Meetings Act, 1909.

333. Arising out of the circumstances attending the passing of this Act, both the Racing and the Trotting Conferences extended their control over such meetings and were enabled to do so by an arrangement between them and the Minister of Internal Affairs by which the latter adopted the practice of not granting any licence under the Act except to a club registered with the appropriate Conference. This registration involved the approval of the programme by a district committee in the case of the Racing Conference, or by the Trotting Association in the case of the Trotting Conference. The effect has been the assumption and intensification of control by the respective Conferences which have drawn under their jurisdiction clubs of various classes which have registered, even though their operations are not strictly those of a racing or trotting club. For instance, the holding of a galloping or trotting event as part of a mixed programme at an agricultural and pastoral show or at a sports meeting has required registration by the authority holding the show or meeting. Both Conferences have dealt with the whole matter in a generous and broad-minded spirit, and the necessity for registration and for the approval of programmes has never been a source of embarrassment to any organization whose competitions might bring its operations within the scope of the Act.

334. Apart, however, from such organizations as have been brought within the scope of the Act by the breadth of the definition adopted by the Courts, there are a number of clubs whose gatherings are true race meetings in every sense of the word. Their activities, through the absence of revenue from betting facilities, are necessarily on a minor scale. During the 1930's there was a fairly widespread growth in public interest in country districts in this type of non-totalizator race meeting. This was due in no small measure to the Remounts Encouragement Act, 1914, being brought into active operation after having been allowed to remain dormant for many years after its passing. Under this Act the Departments of Agriculture and of Internal Affairs and the Racing and Trotting Conferences evolved a scheme for the payment of subsidies to owners of thoroughbred stallions, thus enabling dwellers in country districts to obtain the services of desirable sires at a small fee. Full advantage was taken of this scheme by farmers and horse-lovers in country districts, and within five years a type of horse suitable for hunting and other recreational and competitive purposes became common in many districts. The presence of horses suitable for competition in considerable numbers naturally engendered a desire for competitive racing, and non-totalizator racing clubs increased in number and proportions considerably, particularly in such areas as North Auckland and the Waikato.

335. So great was the development in both those territories that major associations of these clubs have come into existence. Of clubs which are exclusively racing clubs, there are ten at which registered horses are

permitted to be competitors. There are fifty-three clubs at which only unregistered horses are allowed to compete; twenty-seven agricultural and pastoral associations or polo or hunt clubs are registered, while there are two clubs which it is impossible to classify because the nature of their proposed activities is as yet uncertain. The first of these is the Cambridge Racing Club, of which registration was granted only on the 28th February, 1947, and the other, the Clifden Racing Club, which has not held a meeting of any kind since it became a non-totalizator club. Of all the clubs registered, twenty-seven appear to provide programmes in which racing is the exclusive constituent, fourteen provide for racing and novelty events, whilst ten provide for novelty events alone.

336. Some of the clubs have not held any meetings for some years, or at least none in respect of which it has been necessary to submit a programme to either Conference. With the exception of those clubs which cater for registered horses, the operations of these clubs are in the nature of picnic meetings—that is, they are gatherings of farmers and other country people and horse-lovers who meet in a social way in connection with events in which a purely sporting spirit predominates. The prize for an individual race rarely exceeds the sum of £20 and the amateur spirit is rigorously preserved. The general nature of the meetings can best be gathered from the following extract from a case submitted to us in this relation. The extract reads :—

The real motive behind the inception of picnic racing clubs is to promote interest amongst the younger members of the rural communities in the care and attention of animals and to provide an amenity in the form of racing of farmers' hacks. This has led to a tremendous improvement in the general standard of hacks throughout districts in which these clubs operate, and a growing active interest amongst farmers and their employees in the affairs and competitions of the clubs. As all events carded by the clubs are restricted to amateurs, it can readily be seen that if there was not very keen support from the farming community there would be too few competitors for a successful fixture to be held. Frequently there are divisions required in certain events because of the numbers desiring to compete, and these divisions are usually in events for purely local competitors. Necessarily the entrance fees must be kept low, which means the prizes usually are small, and some interest has to be provided to attract public support, through the gate charges and other attractions, to pay for sideshows.

SECTION 2.—SWEEPSTAKES

337. At most of these meetings no horse can compete which is or has for some stated time been in the hands of a professional trainer, and none can be ridden by any person employed in or about the management, training, riding, or care of registered horses. As a means of engendering further interest in the racing, any form of betting being illegal, recourse has been had to a system of sweepstakes, and the practice

of organizing such sweep stakes by clubs registered as non-totalizator clubs has become not only general, but universal. The organization of such sweeps is, in most instances, regarded as a means of securing the revenue necessary to provide prizes and meet expenses. This system involves a breach of sections 44 and 45 of the Gaming Act, 1908, which absolutely prohibits all sweepstakes except sweepstakes got up on a racecourse which comply with the following conditions :—

(*a*) The total amount subscribed must not exceed £5 ;

(*b*) Individual contributions must not exceed 5s. each ;

(*c*) The whole sum must go to the winner without any deduction.

The illegality at present commonly involved does not normally relate to the amount of the sweepstake, which is invariably limited to £5, it arises from the fact that a great many clubs make a deduction of some percentage, many of them up to 25 per cent. of the amount of the sweepstake.

338. The term " equalizator " has been applied to the system. It received a considerable impetus at this type of meeting when funds were being sought for patriotic purposes. When held for such purposes the whole of the amounts deducted went to war funds, but since the war many clubs have continued to make, but retain, the deductions. Another common phase which is illegal is that some clubs apportion a part of the sum contributed to the second horse. The system is easily worked ; the clubs have tickets printed bearing the numbers of the starters in the race as appearing on the race-card ; persons desiring to participate purchase a ticket and are given the one next available for sale. Commonly, no blanks are included, so that in each sweepstake every ticket sold represents a horse starting in the race. As soon as one £5 sweep is filled, another is opened, and at the more largely attended meetings a considerable number are filled on each race.

339. This practice invites some account of the history of sweepstakes. They were first made the subject of legislative enactment in New Zealand by the Gaming and Lotteries Act, 1881. At that time no illegality attached to bookmaking, and bookmakers and the totalizator had their respective supporters and detractors. Both factions were naturally opposed to sweepstakes, and, indeed, there appears to have been a general consensus of opinion that one of the evils of that time was the promotion of large sweepstakes by unscrupulous people. The practice seems to have been considered a much greater evil than gambling either with bookmakers or on the totalizator, and Parliament appears to have acted upon that view, for, by section 19 of the Act of 1881, it absolutely prohibited the promotion or holding of sweepstakes. It was not long, however, before it was felt that this section had gone too far. As early as 1882 there were numerous prosecutions of reputable

persons who, on racecourses, had held amongst themselves, without the intervention of any professional promoter, small sweepstakes on particular events. Fines of £10 appear to have been imposed on people of standing and responsibility who had indulged in what they considered a harmless pastime. From then on until 1885 efforts were made to ameliorate the harshness of the absolute prohibition of sweepstakes contained in the 1881 Act. Concurrently, attempts were made to have the advertising of sweepstakes made illegal. A provision prohibiting such advertising had been dropped out of the Bill, which, when passed, became the Gaming and Lotteries Act of 1881. In the event, two separate Gaming Amendment Bills were introduced into the House of Representatives in 1884. One Bill proposed to introduce a proviso to section 19 authorizing the promotion of small sweepstakes on racecourses, the other proposed the imposition of a penalty on persons exhibiting placards or advertising betting houses, sweepstakes or lotteries. The protagonists of each Bill opposed the other.

340. In 1885 the Bill proposing to legalize the promotion of small sweepstakes was defeated in the House of Representatives. The other Bill was passed. On the latter Bill being sent to the Legislative Council it was passed, with amendments, one of which gave effect to the provisions of the Bill already defeated in the House of Representatives making small private sweepstakes legal. The House of Representatives, on a division, agreed to all the amendments made by the Legislative Council, and thus section 7 of the Gaming and Lotteries Act 1881 Amendment Act, 1885, which is the origin of section 45 of the Gaming Act, 1908, became law.

341. The promotion of sweepstakes authorized by the Amending Act of 1885 has ceased to be a general practice for many years now at race meetings at which the totalizator is in operation. In fact, some clubs have attempted to prevent them. On the other hand, at non-totalizator meetings, they have grown in popularity. It is a method by which the participant is denied the opportunity of backing the horse he selects, as he is constrained to adventure his money upon the success of the horse that chance may allot to him when he purchases his ticket in the sweepstakes. Mr. Heenan is desirous of commenting that, despite the popularity of the sweepstakes, the absence of any element of choice has led to a concurrent measure of illicit bookmaking.

342. We have given this matter of sweepstakes at non-totalizator meetings very careful consideration from every point of view. We cannot regard their promotion, as allowed by law, to be anything in the nature of a social evil. Wherever there is a contest between horses, human nature is such that people will, by some means, contrive to create for themselves a financial interest in the result. If these sweepstakes were abolished, people would still wager among themselves and,

what is worse, there would be an additional inducement for amateur and not too reputable professional bookmakers to operate on the courses.

343. Nevertheless, Mr. Heenan and Mr. Freeman regard the system now current as a flagrant evasion of the law regarding sweepstakes, an evasion which can neither be condoned nor looked on with complacency. They point out that it is a clear breach of the Race Meetings Act, 1909, so far as the clubs are concerned. The remedy, they think, is a strict enforcement of the law as set out in section 45 of the Gaming Act, 1908, so that deductions by clubs or other promoters will be effectively prevented. Enforcement will also prevent any division of the pool between the first and second horses.

344. The Chairman regards the practice as, in itself, innocuous and necessary to promote the greater enjoyment of the sport by those attending the meeting. In the absence of other provision it is also necessary, he thinks, as a means of providing the humble prizes for which the contests are held. Having regard, however, to their necessity as a means of enjoyment alone, he would amend section 45 to make the present practice legal.

SECTION 3.—FINANCIAL HELP FOR NON-TOTALIZATOR CLUBS

345. If that course is not adopted, then we are agreed that some other means of providing prizes must be found, for the elimination of the picnic meetings which would result if the clubs were deprived of necessary income would deprive many people of pleasure, the circumstances of whose occupations preclude them from much in the way of communal pleasure. The difficulty can be met, and, whatever is done concerning sweepstakes, we recommend that it be met by each Conference being authorized to make an annual levy upon the totalizator clubs under its jurisdiction of such an aggregate amount as is equal to the aggregate prize-money paid out by the non-totalizator clubs under its control during the year 1946.

346. The aggregate amount thus annually made available could then be distributed to the picnic clubs so that each would receive a sum equal to the sum which it paid in prizes during 1946. The levy should be made in the proportions which the fractions retained by each totalizator club in each year bears to the total sum retained by all clubs during the year as fractions. These fractions amounted during the 1946–47 season to a total sum of £91,500. They have never since the 1918–19 season been less than £22,316, and that was in 1931–32, when totalizator turnovers were abnormally low. Normally they seem to vary between £35,000 and £45,000.

347. These are moneys to which, as we have said, the clubs have a legal title, but they are in the nature of "windfalls" to the clubs, and out of them a reasonable contribution to the enjoyment of the sport from which they arise by those whose opportunities of enjoying it would otherwise be very restricted seems equitable. The amount of the levy payable by any club would not be considerable, for, although there are many picnic meetings, the prizes offered are everywhere inconsiderable.

348. We do not think any picnic clubs organized in the future should take any benefit from the proposal, except the clubs mentioned in the First Schedule hereto should they decide to continue in existence as non-totalizator or picnic racing clubs. There are enough such clubs now, and one has already sprung up anywhere that the necessity for it exists or is likely to exist for many years.

PART VII.—MISCELLANEOUS MATTERS CONNECTED WITH RACING AND BETTING

SECTION 1.—TIPPING

349. Probably no penal provision of the Gaming Act, 1908, is more consistently flaunted or more successfully evaded than that part of section 30 which purports to prohibit tipping—*i.e.*, the giving of "advice as to the probable result of any horse-race." In its application to the professional tipster who advertises his calling, the section has had a salutary effect, and, as a class, these men have long since disappeared. As a means, however, of preventing newspaper tipping, it has increasingly become a dead letter. All newspapers regularly give for each race on every programme a summary comprising two or three "horses in form" or horses "likely to be favoured in the betting." Some of them go so far in their final issues before big meetings as to print a comparative table setting out their own selections alongside those of other papers.

350. In recent years, too, a number of publications registered as newspapers have come into being and are openly sold which consist almost entirely of lists of acceptors for races with figures indicating their recent performances, and the names of those considered likely to win or run into places. We have not heard of any daily or weekly newspaper or any of the pseudo-newspapers ever being prosecuted. We do not think that the practice induces a desire to bet that would otherwise be absent; on the other hand, if it does anything at all it, in our opinion, causes racegoers to give more thought to form probabilities than to mere fancies. To the extent that it makes available to the public at large the conclusions and opinions of trained and professional observers whose reputations are to some extent involved it serves a useful purpose. In any event, the form and performances of racehorses is news in a very real sense, and we can see nothing to be gained and much to be lost by suppressing its publication. Only ill consequences accrue from the uncertainty and mystery which suppression engenders. We think, therefore, that the public should be told in an open and public way all that is to be told concerning horses and their form.

351. We therefore recommend that section 30 be amended to permit of newspaper tipping. Care should, however, be taken to avoid the possibility of the individual advertising tipster ever again emerging. He and all who offer tips for direct personal gains should be rigorously excluded.

352. Anything in the nature of tipping over the broadcast system is not recommended. On the contrary, we think it should be specifically prohibited.

SECTION 2.—PUBLICATION OF DIVIDENDS

353. The question of publication of dividends can scarcely be divorced either from the problem of illegal off-course betting or from the welfare of racing generally. The first of these topics is more fully dealt with under the heading of "Broadcasting." In some sense the publication of dividends might be regarded as an inducement to gambling. It was not, however, for this reason that the publication of dividends was first prohibited. That prohibition was but one step in the direction of confining all betting to racecourses, an aim which has never been achieved.

354. Upon the whole, we are inclined to think that the publication of dividends will operate in some measure to divorce bettors from the illegal bookmakers. The opportunity thus made possible to the public of comparing dividends actually paid with payments received subject to bookmakers' limits should be productive of good results. If the information is concealed from bettors, they will continue to seek it from the bookmakers, and this will establish or maintain contact with the latter. It seems wiser, therefore, to regard the dividends paid at race meetings as constituting a reasonable item of news fit for publication. We feel that more good will result from publication than from suppression, and therefore recommend that the publication of dividends be permitted. In any case the prohibition, it is not generally realized, was solely against publication in newspapers or other documents. In a limited sense the giving of dividends over the telephone is ironically enough one of the few legal activities of bookmakers. It would be perfectly within the law as it now stands for dividends to be broadcast over the air. It is not without significance that the Commissioner of Police is unhesitatingly in favour of repeal of the present prohibition imposed by section 30 (4).

SECTION 3.—BROADCASTING

355. The past and still current practice of the Broadcasting Service in respect of racing news and information was the subject, if not of attack, at least of pointed adverse comment by the associated Churches. Objection was taken to the broadcast of running descriptions of races from racecourses and to the broadcasting from time to time during the day race meetings are held anywhere in New Zealand of the results of races at such meetings. The dissemination over the air of the supplementary information which usually accompanies the running description of events was also the subject of objection.

356. The attitude of the associated Churches is primarily based upon the view firmly held by their members that the broadcasting of topical racing news and information concerning races at meetings currently being conducted is a powerful stimulus to betting and a valuable

contributing factor to the successful conduct of illegal off-course betting businesses. In a minor degree the objection is based upon the contention that the broadcasting of racing information is an unwarrantable disturbance of the enjoyment of those who are disinterested in racing, but interested in other types of programmes or in the description of events of a different character.

357. There is no test by which it can be ascertained, even approximately, to what extent the broadcasting of running descriptions of races with supplementary comments acts as a stimulus to betting. That it facilitates the operations of those off-course bettors known as " progress bettors " who desire to hear the result of each preceding race before betting upon the next, is beyond question. But it is more problematical whether a broadcast of running descriptions with some supplementary information as to runners, jockeys, and other information of the kind provokes betting by persons not already interested in horse racing and not already addicted to the habit of betting. In the absence of addiction to betting or a proclivity to bet, people of this type would be unaware of the telephone numbers through the medium of which they could make contact with a bookmaker. On the other hand, it might be that young people, having the excitement of the racecourse brought to their notice, might be subjected to influence in favour of racing. Such an influence would have a tendency to induce them to attend races rather than to become off-course bettors. Ultimately, of course, they might graduate from racecourse bettors into off-course bettors, for such a process of graduation is probably the normal development of the off-course bettor.

358. Whilst, therefore, it is difficult to estimate the degree of inducement to bet which is inspired by broadcasting, there can be little doubt but that it does provide some stimulus in that direction, particularly if certain types of information such as starting-price odds are transmitted over the air. On this subject the late Mr. Warburton was an emphatic witness, and he spoke with peculiar authority having regard to the nature of his occupation and the length of his experience. All Commissions elsewhere which have been constrained to consider the subject have also expressed the view that broadcasting is a stimulus. Mr. Warburton and these Commissions to which we refer were all of them, however, concerned with a racing set-up and with circumstances somewhat different from those which pertain in this country, and the difference may be material.

359. That to any considerable degree it acts as such to any other section of the community than the " progress bettor " is open to some question. It may well be that its stimulating effect is almost completely exhausted after its influence on progress bettors, and those already interested in horse-racing and addicted to betting has been taken into

account. With respect to both the latter classes, recognition must be given to the fact that all the essential information they require for their purposes is readily ascertainable by them from the bookmakers. Were broadcasting suppressed, this might induce those who only bet off-course intermittently to bet more frequently with bookmakers from a sense of obligation for favours received and from contact with them.

360. In view of the nature of our recommendation with respect to the provision of off-course betting facilities it is of particular importance that those desirous of betting should be relieved as much as possible of any necessity to communicate with a bookmaker. This necessity, as has been pointed out, involves the free dissemination of information as to dividends paid on races already run. It also involves the dissemination of information as to the scratching of horses in races immediately about to be run. Information on the first topic is essential to an off-course bettor so that he may know his financial position in respect of his betting transactions from time to time through the day and so determine the extent of his future transactions during the day ; whilst information as to the second is necessary to enable him to determine upon the nature of his future transactions.

361. In any event, the dividends paid and the names of the actual starters in immediately impending races is probably, as was contended by the witnesses for the two Conferences, more in the nature of mere news than otherwise. Whether that be so or not, we are of opinion that the dissemination of information as to dividends and starters, and particularly as to dividends, will tend materially to reduce the inducement to members of the betting public to communicate with the bookmakers, and so, by removing the elements of obligation and contact, will tend to minimize illegal off-course betting.

362. The broadcasting of racing information, and of the running descriptions of races in particular, provides interest and pleasure to a wide public which is not necessarily interested in betting, and it would be an unwarranted interference with their rights to deprive them of their interest and pleasure unless there is some substantial reason to believe that broadcasting is productive of such ill consequences that the public good is prejudicially affected. We cannot find that the present policy of the Broadcasting Service has been or is productive of any or any serious evil consequences. The names of the contestants in races, the names of the jockeys engaged to ride particular horses, the position of the horses at the starting-post, the weights to be carried by each horse, and other information of the kind is widely published in the newspapers before any race meeting starts.

363. The only items of additional information now given over the air are the names of the horses scratched and any changes in the weights carried and the order of favouritism of the contestants in previous races.

These items are, of course, supplemented by a running description of each race. It is difficult to imagine that any of the items of information given could act as stimuli to betting by any one not already addicted to betting or prone to bet, and they will almost certainly bet without any stimulation. All that remains is the stimulating effect of the running description of the races. That that may provoke interest in people who would not otherwise give any thought to racing is undeniable, but we could find no evidence that it does so to any material extent, nor yet any evidence that any one, through an interest stimulated in this way, was induced to go to the races or to gamble.

364. Our conclusion is that, except in respect of that class defined as " progress bettors," broadcasting, whilst it can stimulate an interest in racing and betting, has not done so and is not doing so to any substantial extent. In this relation, as in every other, it is better, we think, to let the public know what is going on and not to shroud the occurrences at race meetings in silence and in mystery.

365. Notwithstanding this, we agree with the late Mr. Warburton that the publication of starting odds before a race does operate as a stimulus to betting. That it does so, Australian experience has apparently proved. The same objection does not apply to dividends paid on races already decided, and that information must, we think, be given if a legal off-course system of betting is to succeed. Some limitation of the information broadcast is, however, necessary.

366. We recommend that broadcasting be limited to the running description of races, to the order of favouritism, and to the dividends paid by the placed horses in races already decided and to the names of the horses starting, and the riders in the next succeeding race, and to the weights to be carried by each horse. By so limiting the operations of the broadcasting service we think that any effective stimulus to betting will be minimized, illegal off-course betting will be—at least in some measure —reduced and the great numbers of people who derive pleasure from the running descriptions of races will not be deprived of their enjoyment.

367. This statement of the position, however, provokes comment upon two topics that were made the subject of evidence. The first is that the public is entitled to as true and correct an account of the race as is possible. The evidence given before us suggests that sports announcers, for dramatic effect or from excitement, misrepresent the true running and make the finish of every race close and exciting. Whatever the cause, the result amounts to no more than the publication of false information and is otherwise undesirable. We deem it the duty of the Broadcasting Service to see that only accurate descriptions are broadcast from racecourses and that accuracy be made a cardinal obligation of all sports announcers.

368. The second comment has relation to the fact that up to the present, as deposed to by Mr. Clegg, the secretary of the Dominion Sportsmen's Association, the Broadcasting Service has obtained its racing information as to winners and placed horses at race meetings held at points distant from the broadcasting centre from that association—that is, from an association of men engaged in an illegal occupation. Without embarking upon any condemnatory comment, we can only say that in our view the propriety of such a proceeding is open to grave question.

SECTION 4.—NEWSPAPER SPACE DEVOTED TO RACING

369. The amount of newspaper space devoted to racing news and the striking form in which it is now generally presented was made the subject of adverse comment by counsel for the associated Churches. It is probable that no more space is devoted to racing news now than was devoted to it in the years which preceded the last war. One well-known metropolitan newspaper, for instance, was shown to have devoted 8,057 in. to the topic during the first three months of 1939 and only 5,872 in. during the same period in 1947. This newspaper, in common with others, was however, larger in 1939 than in 1947, and the discrepancy in terms of space may not be as great comparatively as the figures suggest.

370. However that may be, it seems certain that, in the aggregate the newspapers are not devoting more space to racing affairs now than they did before the war. The difference lies in the method of presentation. The format now generally adopted is more striking and, in particular instances, more flamboyant. The difference is most emphasized in those newspapers which print banner headlines and widely spaced schedules giving the names of horses selected by the sporting writers of various prominent newspapers as likely to win or gain places in specific races. The present form of presentation has some tendency to operate as a stimulus to betting. Some analysis of the effects of that tendency is involved in consequence. It is not likely to influence habitual bettors, for they are normally too firmly assured of the soundness of their own opinions to be affected as to either the nature or extent of their betting by newspaper view. Nor is it likely to affect those who are disinterested in racing. The former class will bet and will bet to the same extent, almost irrespective of what the papers say ; the latter will not bet under any circumstances.

371. Any influence the newspapers may have in the encouragement of betting is probably, therefore, confined to those who are already interested in racing and bet occasionally. That any great number of this class are encouraged to bet or to bet more heavily by any concurrence of opinion amongst sporting writers or by the opinions of any

particular writer is improbable. On the contrary, the true effect of newspaper publicity of this kind is probably to induce those who intend to bet anyhow to make their bets on horses whose chances are commended by the papers. If this is so, or to the extent to which it is so, such publicity does not encourage betting ; it merely influences the direction the betting takes. On the other hand, there may be some few people who have a predeliction for a particular horse and, finding its chances of success favoured by some sporting writer or writers, infer that it is in winning form and so are induced to bet upon it. Such people must, however, we think, be few, and they must be persons already accustomed to betting. As an encouragement to those to bet who are not already accustomed or prone to bet, we think the present degree and even the present form of newspaper publicity is meagre.

372. Upon the whole, therefore, and having regard to the danger always inherent in any interference with the liberty of the press and the inadvisability of denying to the public any information which it wants, we think it would be unwise to attempt to interfere by any legislative process with the present practice of the newspapers.

SECTION 5.—TRAMWAYS AND RACE MEETINGS

373. We were asked by one union of tramway workers to recommend that certain metropolitan clubs should be required to end their programmes at an earlier hour than they now do.

374. The topic seems to us to lie wholly in the industrial field and to be outside the scope of our Commission. We have not, therefore, embarked upon any consideration of the merits of the suggestion made to us.

PART VIII.—DOG RACING

375. The application for the grant of totalizator licences in respect of this sport was enthusiastically and sincerely supported by the evidence of a number of witnesses taken at various points in New Zealand. These witnesses were of one or other of two classes. Either they were men who, before or during their residence in New Zealand, had had some contact with dog-racing in England or in Australia, or they were returned servicemen who had some contact with the sport during their period of service. Of their sincerity and enthusiasm there could be no doubt.

376. The claims were based upon the existing and potential degree of public interest in the sport, an interest which, it was suggested, would become overwhelming in its proportions if the sport were, by medium of the totalizator, put into a position to provide suitable and attractive amenities for the public. It was also stressed that this is a form of sport which particularly caters for working-men in that totalizator tickets are normally on the 2s. basis; whilst production would not, it was claimed, be in any way interfered with, because it was proposed that the meetings should be held at night. Additionally, it was claimed that greyhound-racing would not interfere with or jeopardize any other form of outdoor sport, but would merely provide further pleasurable and healthy recreation for many as well as a means of livelihood for a numerous personnel.

377. The tremendous appeal of dog-racing as a gambling medium is demonstrated by the references made to it by counsel for the Greyhound Association and by the facts recited in the stated case filed with the Commission. It is there said, as was emphasized by counsel, that dog-racing totalizator takings in England, which were £29,352,000 in 1938, had grown to £120,000,000 in 1943. Those figures are based on a 2s. totalizator ticket. In 1946 totalizators on British tracks took the record sum of £200,000,000, of which £182,000,000 went back to investors. These figures are for England only. Scotland and Ireland have proportionately high figures. In 1939 the tracks at Florida, Massachussets, Oregon, and Arkansas attracted 1,335,378 spectators, and the totalizator handled 19,145,979 dollars.

378. In New South Wales on the 23rd October, 1939, on a course completed at a cost of £33,000, a meeting conducted by the National Coursing Association was attended by 24,000 people, and the balance-sheet for twelve months' racing on the track showed a total revenue of £74,622. Prize-money distributed in New South Wales amounts to £150,000 annually, 3,000 people are fully employed, and approximately 20,000 people derive some measure of their livelihood from the sport.

These figures are impressive, and they demonstrate the tremendous appeal that dog-racing would have as a gambling medium if it were established on that basis in New Zealand.

379. The racing is at present on a strictly sporting basis. People who are interested in dog-racing maintain and race their dogs for the love of the sport and from it derive intense pleasure, as the Commission was privileged to witness at a demonstration in Napier which was generously organized for its benefit. The provision of amenities upon any adequate scale if attendances approximate what is expected would cost so much money that the profits of a totalizator are necessary for their establishment. The effect of this would very largely be to convert what is now a sport into what counsel for the association defined dog-racing as being in England—namely, a business. Whether this is in itself desirable or undesirable (and the Commission is not disposed to regard it as other than undesirable), the fact remains that if totalizator permits were granted for dog-racing, the volume of gambling in the Dominion would immeasurably increase, and it is impossible to estimate the direct and indirect detriments which might accrue from the attendance of large crowds on dog-racing tracks during evening hours.

380. The most potent argument in favour of the establishment of tracks with totalizator privileges is that it has presently the support of numerous people and would in a very short time have the support of an infinitely greater number of people. That it has and would have that support is undoubtedly true, but gambling upon dog-races is the introduction of gambling in a new form and in a form which it would be difficult to control. The members of the Commission are unanimous in the view that horse-racing in one or other of its two forms provides a sufficiently extensive gambling medium for all the purposes of the Dominion and that the establishment of a further gambling medium is unnecessary and undesirable. In this respect it is perhaps unfortunate from the point of view of those interested in dog-racing that they have arrived upon the scene late. The mere fact that they are late, however, must be decisive, for there are already sufficient gambling media in the country and it is not in the public interest that they should be augmented by the introduction of a new and excessively attractive form. The Commission cannot, therefore, feel its way clear to recommend the grant of totalizator permits for this form of competition.

PART IX.—LOTTERIES, ART UNIONS, AND INVESTMENT BONDS WITH BONUSES

SECTION 1.—LOTTERIES: HISTORICAL SURVEY

381. Whatever may be thought of the merits or demerits of lotteries, they have an ancient origin. The earliest written reference to them, by their assumption of the lack of any necessity to explain the practice and by the implication of general knowledge which such an assumption implies, suggests that division by lot ante-dated historical times. In its history the practice has not been wanting in honourable associations. Evidence of its employment is obtainable from Biblical sources. " And Aaron shall cast lots upon the two goats ; one lot for the Lord, and the other lot for the scapegoat " (Lev. xvi, 8). As the Book of Numbers shows (Num. xxvi, 55), the allocation of land was determined by chance. It is recorded that Moses, having taken a census of the Israelites, apportioned the land west of the Jordan " for an inheritance according to the number of names to each tribe " ; to avoid jealousy the territories were divided by lot. The Roman Emperors had recourse to the practice. The Emperor Augustus (63 B.C. to A.D. 14), according to Suetonius, sold to his guests concealed articles of unequal value. Such sales, as one authority pointed out, involved the principle of equal payment, unequal prizes with chance of loss or gain, and were thereby the analogue of lotteries as they afterwards developed.

382. We are indebted to C. L'Estrange Ewen's work on " Lotteries and Sweepstakes " for these references. In that work Ewen stresses the spread of lotteries as we know them through the Low Countries—where the records of the years 1443 to 1449 show that lotteries were then being conducted in Ghent, Utrecht, Oudenarde, Bruges, and L'Ecluse—to England. He expresses the view that they must have been tried in England in the fifteenth and early sixteenth centuries, although no record of them remains. In 1568 a lottery was organized in England to provide finance for the improvement of the harbours. This lottery was not, apparently, a great success, and the practice of holding lotteries was not extensively adopted until the seventeenth century, when numerous private schemes were launched for the benefit of both corporations and individuals. Some of these, as Ewen comments, were of great importance and far-reaching in their beneficient influence. During this period, and by means of these lotteries, Virginia was colonized, Westminster Bridge was built, the British Empire was founded, churches, hospitals, and schools were established, and numerous

charitable causes were initiated or aided. The subsequent history of lotteries in England is briefly summarized by Ewen as follows: "Towards the close of the century the personal enterprises sprang up like mushrooms, and, becoming a public nuisance, were suppressed in 1699, clearing the way for a series of State lotteries of varying types, which continued in force for about 130 years, until their abolishment in 1826. In Ireland, similar revenue-producing schemes continued in force from 1780 to 1800, when a union of the Parliaments took place. Excellent public works were carried out with funds derived from lotteries, but largely due to the introduction of abuses in the form of gambling on chances, and so-called insurances, the lottery fell into disgrace."

383. "It is of interest to note how, in one State after another, it aroused antagonism, leading to great modifications, or absolute abolition. It has to be admitted, however, that the main reasons for prohibitive ordinances were at first to clear the way for State monopoly, the Exchequers very soon realizing the possibilities of the lottery as a revenue-producing machine. A second and later cause of hostility was due to undoubted evils arising from abuses of the system by persons neither adventurers nor promoters of the lottery proper; these outside vices providing a basis on which the moralists founded their damning indictment. That the States gave way to the objectors, and sacrificed a fruitful source of income was, perhaps, to a good extent, due to the people becoming more and more used to direct taxation, and other and easier means of replenishing the coffers opening up." The policy in Ireland was altered with the change in the constitution and the sitting of a local Parliament. It became legal in 1930 to set up charitable lotteries, and some very large schemes have been successfully promoted.

384. Taking a general view of the history of lotteries, it is noticeable how, in one State after another, they aroused antagonism and were made the subject of radical modifications or absolute prohibition. No doubt in other European countries, as well as in England, prohibition was resorted to in order to clear the way for State monopoly, but there is little doubt that antagonism was, in a large measure, due to abuses attendant upon the system. It may be, as claimed, that these abuses arose not out of lotteries themselves, but out of practices collateral to them. However that may be, lotteries were prohibited in Belgium in 1830, in France in 1832 and 1836, in Sweden in 1841, and in various German States about the same time. Most of these countries, however, permit modified schemes in the interests of art or to facilitate the raising of municipal loans, and the encouragement of thrift. In the United States of America, the majority of the States have prohibited lotteries, but there are apparently a few provinces with early constitutions which are silent on the matter.

SECTION 2.—ART UNIONS AND INTERNAL LOTTERIES

385. Surprisingly little in the way of submissions or evidence was given before us during our sittings on the question of art unions or lotteries. Apart from a few isolated references, there was no general demand for the establishment of a State lottery as that term is generally understood. Messrs. W. Stuart Wilson and F. Cassin, however, submitted a proposal, to which reference will be made later, for the establishment of a scheme of investment bonds with bonuses which, in its essence, is a lottery.

386. The term " art union " is to-day used in a much wider or looser sense than the sense in which it is employed in the Gaming Act itself. The art union proper as defined in section 46 of the Gaming Act exists only to a very limited extent in New Zealand, being confined to a few academies or societies of fine arts. What has generally become known as the art union is the disposal by lottery or chance, pursuant to a licence from the Minister of Internal Affairs, of the articles mentioned in section 42 of the Act. The principal submission and evidence before us relating to this section came from Father C. H. Seymour, of the Roman Catholic Church, during our sittings at Napier. He urged that the section be extended to enable the Minister of Internal Affairs to grant raffle or art-union licences to cover practically any articles at all where the objects to benefit from the profits of the raffle are educational or recreational in character.

387. During the first World War and again in World War II special authority was granted to the Minister of Internal Affairs to enable any real or personal property to be disposed of by raffle or chance in aid of patriotic purposes. Whether or not this special authority should be widened in its scope and given a permanent peacetime application by an amendment of section 42 is a question to which we have given some consideration. Such an amendment would make legal a fairly widespread existing practice by which all kinds of small raffles are held for all kinds of articles. The objects are nearly always charitable. The holding of such raffles are no doubt due to a projection of wartime conceptions of legality. The term " or other work of art " in the context " any painting, drawing, sculpture, or other work of art " has been given, in practice, over the years, a fairly generous interpretation, but it would seem that even so there are many articles not coming even within the extended scope of the term which those promoting raffles or art unions frequently desire to include as prizes.

388. The discussion of art unions was provoked by a challenge addressed by Dr. Mazengarb on behalf of the associated Churches to the so-called alluvial gold £5,000 art unions which are conducted at approximately five-weekly intervals under licence from the Minister of Internal Affairs. The associated Churches take the view that these

art unions are illegal and should not be made the subject of a licence granted by the Minister. It appears, however, that the Minister of Internal Affairs authorizes these raffles upon the footing that they are a means of disposing by raffle or chance of mineral specimens. The associated Churches strongly urged that raffles or lotteries of any kind, no matter how small the prizes might be, were ethically wrong in themselves and, moreover, that they encouraged the gambling spirit to an extent that was harmful to the social life of the community. The Roman Catholic Church, on the other hand, repudiated the contention that gambling was ethically wrong in itself. It, however, admitted the possibilities of social evil arising from excess.

389. No evidence was brought before us to convince us that gambling through the medium of raffles or art unions to the extent now authorized by law in New Zealand has produced social evils. The lotteries are all small. Whilst the fact that they are all for deserving causes may add nothing to their ethical character, yet it does exclude much of the criticism which could be addressed to them if they were initiated for private gain.

SECTION 3.—OVERSEAS LOTTERIES

390. During the cross-examination of the Commissioner of Police by Dr. Mazengarb some attention was given to the sale in New Zealand of tickets in overseas lotteries. It is well known that the promoters of certain of these lotteries have agents in the Dominion. However, it was decided by a Full Court in *Jacobs* v. *Doyle*, [1935] N.Z.L.R. 534, that agents of this type were in the circumstances of that case agents for the purchasers and not agents for the promoters of the lotteries and that therefore no offence had been committed either by them or by the persons purchasing tickets. It is difficult to secure evidence that would justify an inference in any particular case that circumstances exist different from those which pertained in *Jacobs* v. *Doyle* (*supra*). As a result tickets in a certain well-known overseas lottery are freely sold here. In the absence of any comparable lottery in New Zealand making some appeal to the public it would be difficult to prevent New Zealand nationals making investments in these overseas lotteries.

391. Should it at any time, however, be decided to do so the most efficient way would seem to be—

(*a*) Make it illegal to sell or purchase and, whether as principal or agent or to otherwise, deal in or with any ticket in any overseas lottery.

(*b*) To make it illegal to hold upon any account or to otherwise in any way or in any character deal with moneys associated with an overseas lottery.

The effect of (*a*) would be to nullify the effect of *Jacobs* v. *Doyle*, whilst the effect of (*b*) would make the inter-position of any bank or any person or organization fulfilling the function of a bank illegal. Having regard to the restrictions upon the transfer of funds abroad the intervention of some banker is necessary to the successful administration of the business of the lottery in this country.

SECTION 4.—INVESTMENT BONDS WITH BONUSES

392. A detailed scheme for the institution of a scheme of investment bonds with bonuses to provide funds for hospitals or any other local or national objectives was submitted by Messrs. W. Stuart Wilson and F. Cassin during our sittings at Wellington. As submitted, the scheme is as follows :—

The Government is to issue the number of bearer bonds annually that are deemed necessary to provide sufficient funds for the objects in view.

The bonds are to be of the value of from £1 each, so as to give every one an opportunity to subscribe. The bonds are to bear interest at the rate of 1½ per cent. per annum, payable in cash.

In addition, a further sum equal to 1½ per cent. interest is to be paid by the Government into a fund from which bonuses are to be allotted each half-year by way of ballot, or in any other similar manner the Government thinks fit. On the amount of the issue postulated by Messrs. Wilson and Cassin, the half-yearly bonuses would amount to £75,000, and in order to give as many bondholders as possible a chance to draw a bonus, they suggest that 8,000 bonuses be allotted each half-year, the largest single bonus to be £10,000 and the lowest £5. The allotment of a bonus would automatically retire the bond in virtue of which the bonus was required. At the expiry of twenty years period, all bonds are to be automatically cancelled.

Interest on the bonds should, it is suggested, be free of taxation. These bonds could—if the holder wished—be substituted for National Savings Certificates. Every facility should, it is said, be given to holders of National Savings Certificates to convert the whole or part of their holdings to the proposed bond scheme.

393. To introduce and popularize this scheme it is suggested that the first-bond issue of £10,000,000 per annum be devoted entirely to hospital and allied causes. This sum would be sufficient to extinguish all hospital taxation as it exists to-day. It would also make any Government subsidy unnecessary and repay the moneys borrowed by Hospital Boards. A substantial balance would, it is thought, be kept for research, and the improvement and enlargement of our hospitals. On an annual issue of

£10,000,000, the bondholders during the term would receive in cash £3,000,000. They would receive by way of bonuses £3,000,000. The aggregate of these sums is the same as the sum that the Government at present pays the holders of National Savings Certificates by way of interest. The virtue in the proposed scheme, it is claimed, is that the bondholders, after having approximately forty chances each per annum of drawing a bonus and being meantime entitled to interest, the Government would not in the end owe the lenders £10,000,000 as is the case with all other forms of borrowing now in vogue, but at the end of twenty years would be free of the debt. There would probably be an additional saving, the proposers think, by reason of there being no interest payable on the 16,000 bonds which would be cancelled annually when the bondholders have been allotted a bonus. There would be a saving, too, through loss or destruction by fire or other means, of a large number of bonds. The promoters then comment: "If further schemes are instituted in addition to the benefits to the hospitals advocated, as no doubt they would be, the very great financial advantages accruing to the State can be envisaged." In its essence it is the premium-bond scheme with the lottery angle sharply accentuated. It differs from the usual premium bond-scheme in this, that whereas in the former, at the end of the period of investment a capital sum is returned to investors, in the latter it becomes the property of the State. There is no question, we think, but that this scheme would have a great public appeal and in itself might well solve any problem of money going out of New Zealand for participation in overseas lotteries.

394. The objections to the scheme are numerous. It would involve the Government as an active participant in a lottery scheme, which is not in itself desirable. Then the social consequences of Government participation might be widespread and detrimental. It would certainly give a sanction to gambling which it does not now enjoy. The introduction of such a system would therefore prove detrimental in divers directions. Be this as it may, it would not be wise, we think, to establish any system of public finance which offends the conscience of large sections of the community. To do so would provoke disharmony.

395. We do not therefore recommend the adoption of any premium bond scheme nor yet the establishment of any State lottery.

PART X.—AMENDMENTS OF GAMING ACT, 1908

GENERAL

396. The only evidence given before us in relation to gaming (as distinct from betting), apart from that mentioned in Part IX, was that of the Commissioner of Police. But for his appearance, no question of gaming in the foregoing sense would have been raised before us. In general, therefore, the matters dealt with in this part of our report were brought before us by the Commissioner. Some, however, arose incidentally in the course of the discussions of other topics. Although on further consideration we have not found ourselves able to recommend the adoption of every suggestion made by the Commissioner of Police, we feel constrained to say that every suggestion he made had merit and was worthy of consideration, and we are much indebted to him for his assistance.

SUBMISSIONS BY THE COMMISSIONER OF POLICE

397. It is pertinent to this topic to say that, in the opinion of the Commissioner of Police, gaming-houses are as great an evil to-day as they have ever been. He thinks, however, that such large sums are not wagered as formerly. Entry and search are material needs to their suppression. Under section 3 of the Gaming Act, 1908, entry and search can only be effected pursuant to a warrant defined as " a special warrant " granted by a Justice of the Peace. The Commissioner of Police complains that before a search-warrant can be issued the applicant for the warrant has to declare that the premises are commonly reported and are believed by him to be a common gaming-house. He says that it frequently happens that police on night duty have the best of reasons for suspecting that premises are being used as gambling dens frequented by undesirables, but because an applicant, before he can get a warrant to enter and search under section 3, had to testify on oath that the premises are commonly reported to be kept or used as a common gaming-house, there is such delay and difficulty in getting a warrant that the proper administration of the law is defeated.

398. He proposes that the section be amended by excluding the words " and that such premises are commonly reported." The paramount purpose of the section is the discovery and disbandment of common gaming-houses. There seems no reason, therefore, why the amendment suggested should not be made. Indeed, there seems no reason why a

warrant under the section should not be granted by any commissioned officer of police. The delay involved in finding a Justice of the Peace during very late hours of the night and the very early hours of the morning may well defeat the purposes of the section. Gaming-houses are a nuisance and a menace, and the law should make their suppression as easily effective as possible. If effect is given to our recommendation, a consequential amendment to section 7 will be necessary.

399. *Section 2 : Definition of " public place."*—The Commissioner of Police suggests that the definition of a public place is not sufficiently wide to cover enclosed but vacant sections where numbers of men on occasion gather. Apparently complaints are received about the playing of unlawful games at these places. Implicit in the suggestion is the incorporation within the definition of places which are essentially private and to which any access to the public is denied. Such a suggestion is very radical for it conflicts with the conception of the word " public " in the phrase " public place " and is inconsistent with those particular kinds of places to which specific reference is made in the definition. There is a natural reluctance to include private property in such a category, and, in any event, its inclusion might produce undesirable consequences. If premises are being used for the playing of unlawful games, they are amenable to police action now. We do not feel justified in making the recommendation asked for by the Commissioner.

400. *Section 11.*—The Commissioner suggests that the proviso to this section should be repealed. This again is somewhat radical, and any suggestion of the kind would be certain to meet with resistance from every type of chartered club. We have no evidence that justification for their inclusion exists, but, in any event, before they are brought within the ambit of the section they should be notified of the proposal and given an opportunity of being heard.

401. *Section 26 (2).*—The Police Department suggests that, in addition to a power of removal of persons found betting on sports-grounds, the police should be given power of arrest. Betting on sports-grounds is so undesirable that any expedient that will make it difficult or dangerous for offenders cannot but meet with approbation. It is therefore suggested that a right of arrest be given to the police when any person is found making or offering to make any bet or wager on any sports-ground. This may necessitate an amendment to the whole section, as subsection (2), in so far as it postulates the necessity for a warning, would lose point and applicability. There seems no reason why the suggestion of the Police Department that wrestling matches and dog racing should be included within the definition of " sports " in the section should not be given effect.

402. *Section 33.*—It is suggested by the Commissioner that undischarged bankrupts should be included amongst the persons prohibited from attending race meetings. As the section is directed to the exclusion only of persons guilty of undesirable practices or moral delinquency it does not seem proper that persons who may merely be the victims of financial misfortune should be incorporated in the same category and excluded. The Commission has therefore no recommendation to make in this regard.

403. The Department also suggests that the maximum penalty of £20 should be increased and provision made for imprisonment. Its object is to enable pick-pockets and undesirables who visit this country from overseas to be dealt with effectively. It is not good legislative policy to fix a penalty for an offence of this kind, having in mind only the most undesirable elements who might become subject to it and that particularly where the only offending act proved is mere attendance at a race meeting. If pick-pockets and undesirables, in addition, are guilty of particular offences, they can be convicted in respect of the offences they have committed and suffer appropriate consequences accordingly.

404. *Lotteries: Section 39.*—The Police Department is very anxious that appropriate authority should be conferred upon it to deal with what is inaccurately called "sale of tote tickets." The purchaser of one of these tickets, the price of which varies from 1s. to 2s. 6d., is entitled to participate in the lottery. The prize is won by the holder of the ticket, the number of which corresponds with the last three figures of the totalizator turnover at a specified race meeting. It is analogous to what is known as "the numbers racket" in the United States of America. This form of gaming, the Commissioner says, has become widespread in New Zealand, and many individuals are making its promotion and administration a full-time and doubtless highly profitable occupation. On one occasion the Police seized 101,000 of these tickets which had been printed by a registered printer, but the prosecution failed because it was held that the printing of the tickets was a mere aiding and abetting of an attempt to conduct a lottery where an attempt to do so is not made an offence. There has been a recent similar decision where a printer was charged with printing charts for bookmakers. To meet the difficulty it is suggested that a section be introduced into the Gaming Act reading substantially as follows:—

No person shall print write or by any means or device prepare or have in his possession any tickets, vouchers, or documents of any kind whatsoever designed or which there is reasonable cause to believe are designed to be used in connection with bookmaking or the laying of odds or with any game of chance or any lottery.

405. *Section 50.*—This section requires that every totalizator must be under the care and management of some competent person appointed by the club. Experience has shown that, in the absence of proper discrimination and the exercise of sound judgment on the part of the official appointed by a racing club to have the care and management of any totalizator run by it, undesirable consequences can accrue. This emphasizes the need for the appointment of only competent and efficient officials. It is suggested, therefore, that paragraph (*d*) of section 50 be amended by adding after the word "club" where it appears in that subsection the words "and approved by the Minister."

406. *Section 72.*—This section imposes a fine not exceeding £20 for offences in respect of which no penalty is specifically prescribed. It is suggested that the penalty should be increased to a fine of £100 or three months' imprisonment. There does not at present seem to be any real justification for an increase in the penalty, nor is it thought that any good purpose would be served by increasing it.

407. *Section 2 of the Gaming Amendment Act, 1910.*—The Commissioner of Police sought the reintroduction of subsection (2) of section 2 of the Gaming Amendment Act, 1910. This was repealed by section 7 of the Act of 1920. It seems very doubtful if the original repeal of subsection (2) was not well considered. The subsection postulates that a man must be proved to be a bookmaker before the subsection applies to him, and if he can be proved to be a bookmaker, then, bookmaking being illegal, he could be successfully prosecuted under section 2 of the Gaming Amendment Act, 1920. There seems no need, therefore, for subsection (2) of section 2 of the Act of 1910, and its reintroduction would merely declare that to be illegal in certain specified circumstances which is illegal at all times and in all circumstances. The only effect of its reintroduction would be to provide a charge under which bookmakers under certain circumstances could not elect to be tried by a jury. It seems fairer and better to leave the position on the basis of complete and simple illegality as at present.

408. *Section 2 of the Gaming Amendment Act of 1920.*—It is suggested the penalty be increased to £1,000 with no minimum penalty, and that provision be made for an alternative sentence of imprisonment for a term not exceeding three months. It does not seem possible at this stage to recommend that the maximum sentence be reduced from two years to not more than three months, solely for the purpose of denying to offenders the right of trial by jury. To do so would be to disregard what has been regarded as and is the true significance and importance of the offence and to do it for the achievement of an ulterior object. Such a course would lack proper justification. It is thought, therefore,

that the penalties should be allowed to stand as at present. The same comment applies to the suggested alteration in the penalty prescribed by section 3 of the Amending Act of 1920.

409. We sympathize with the dissatisfaction felt by the police when juries acquit persons charged with bookmaking and guilty beyond all possibility of question. If in the future juries continue to disregard their oaths and duties, some such expedient as that suggested may have to be adopted. We are hopeful, however, that the introduction of a legal off-course betting scheme will produce a change in the opinion of the public as to the justification for the existence of bookmakers and that no further cause for complaint will arise.

PART XI.—SUMMARY OF PRINCIPAL RECOMMENDATIONS AND CONCLUSION

SUMMARY

410. In this summary we deal only with our principal recommendations which, if accepted, will involve action, either administrative or legislative. We do not refer to those of our recommendations which do not involve any interference with existing systems, controls, or practices.

411. Our recommendations with regard to the following matters—

Judicial proceedings (racing tribunals), (Part III, Section 1),
Stabilization of stakes (Part III, Section 3),
Mid-week racing (Part III, Section 6),
Government inspection of the totalizator (Part IV, Section 3),
Bracketing (Part IV, Section 5),
Payment of dividends on inquiry or appeals (Part IV, Section 6),
Redistribution of existing racing totalizator days (Part V, Section 3),
Amalgamation of racing clubs (Part V, Section 3),
Redistribution of existing trotting totalizator days (Part V, Section 5),
Hunt clubs, pooling of profits of totalizator meetings to finance all hunt clubs (Part V, Section 6),
Non-totalizator meetings, financial help from totalizator clubs out of fractions (Part VI),
Broadcasting, certain restrictions on with respect to racing (Part VII, Section 3),—

can all be given effect by Ministerial action either initially or after arrangement with either or both the Conferences as may be appropriate in any particular case. To give full effect to some of them alterations in the rules of racing or trotting will be required, and stabilization of stakes will be dependent on certain exemptions from income-tax.

412. Our recommendations with regard to the following matters :—

Legalization of off-course betting through the totalizator (Part I, Section 4),
Exemptions from income-tax of moneys paid to stakes stabilization funds (Part III, Section 3),
Certain other exemptions from income-tax (Part III, Section 10),
Legalization of doubles totalizator (Part IV, Section 7),
Removal of limit of three on number of totalizators (Part IV, Section 11),
Telegraphing and posting of totalizator investments (Part IV, Section 12),
Additional nineteen trotting totalizator days (Part V, Section 5),

Legalization of newspaper tipping (Part VII, Section 1),
Publication of dividends (Part VII, Section 2),
Overseas lotteries (Part IX Section 3)
Amendments of Gaming Act, 1908, dealt with in Part X,
cannot be given effect without legislation.

413. Restriction or suppression of illegal off-course betting carried on through the telephone service (Part II, Section 3): It is possible that there may be sufficient authority in the Post and Telegraph Act, 1928, to deal with this matter in the manner recommended by us. If not, the Act should be amended to take such power.

414. The Racing Advisory Board (Part III, Section 5) can initially be constituted by Ministerial action, and we recommend that this be done, as its functions are those of an adviser to the Minister, who will have power to withhold or cancel totalizator licences.

In due course, however, statutory recognition should be given.

415. The 5s. totalizator (Part IV, Section 10) can be established without legislation, but when an amendment of the Gaming Act is brought down provision should be made, as we have recommended, for the fraction to be reduced from 6d. to 3d.

CONCLUSION

416. We cannot conclude our report without expressing our thanks to the counsel who appeared before us, and particularly to those who represented major cases—namely, Messrs. Donnelly and Blundell, who appeared for the Racing Conference; Messrs. Thomas and Lee, who appeared for the Trotting Conference; Mr. Leicester, who appeared for the Dominion Sportsmen's Association; Dr. Mazengarb and Mr. Marshall, who appeared for the associated Churches. To Messrs. Donnelly and Thomas we are signally indebted for their ready response to every request made by us for information or help.

417. We are also desirous of expressing our thanks to Miss Will and Messrs. Conway and Edwards for the accuracy and celerity with which they took and reproduced the record of our proceedings and for the spirit of ready co-operation which they at all times exhibited. To our secretary, Mr. W. M. Bolt, our thanks and gratitude are particularly due. His wide knowledge and experience of racing and his great organizing and administrative ability were always at our service. Indeed, our task without him would have been unenviable indeed.

We have the honour to be,

Your Excellency's most obedient servants,

G. P. FINLAY (Chairman).
W. H. FREEMAN.
J. W. HEENAN.

SCHEDULES

FIRST SCHEDULE.—RACING (GALLOPING) CLUBS WHOSE TOTALIZATOR LICENCES IT IS RECOMMENDED SHOULD BE CANCELLED. (Paragraph 298.)

Otautau Racing Club.—A more or less complete history of this club is given at page 41 of the report of the Racing Commission of 1915. Taken as a whole, the career of the club in respect of the periods during which it has enjoyed a totalizator permit has been more impressed with failure than with success. It had a licence for several years after its establishment in 1883, but its permit was allowed to lapse in 1888 owing to the then depressed conditions in the country generally. Thereafter, under the management of a few local breeders and enthusiasts, the club held race meetings. Apparently it continued to do so with some success up to 1920, when a totalizator licence was again granted to it. The grant was made upon the recommendation of the Commission above mentioned, and seems to have been prompted by representations that the club was the premier hack racing club in the South Island, that there was a considerable sporting population in the town and its vicinity, that there were numerous well-known and successful sires in the district, that the town was prosperous and developing rapidly, and that a course could readily be acquired.

The optimistic anticipations engendered by these representations have not been realized, for, despite the many years the club has now enjoyed the benefit of a licence, its position is unsatisfactory. Its history since 1938 is explanatory of the reason. That history, in brief, is as follows :—

1938. Raced at Otautau. Totalizator investments, £5,873.

1939. Proposed meeting at Otautau on 4th November, 1939, abandoned on account of insufficient nominations. Meeting held later at Otautau ; totalizator turnover, £4,801 10s.

1940. Raced at Invercargill ; totalizator turnover, £10,780.

1941. Application to race at Invercargill refused by Racing Conference, and meeting held at Otautau ; totalizator turnover, £4,133.

1942. Meeting abandoned.

1943 to 1945. No meetings held on account of war.

1946. Meeting held at Otautau ; totalizator turnover, £8,058. Club sustained a loss of £200 on the meeting.

1947. Application made to race at Invercargill on the ground that it was necessary to make essential repairs to appointments and to effect improvements to the racing track declined, and meeting held at Otautau. Totalizator turnover, £9,761.

The totalizator figures compare most unfavourably with an average of over £31,000 per diem at Winton and of nearly £42,000 in one day at Wyndham. Even compared with such an isolated place as Wairio, which, at its last meeting, had a turnover of £9,800, the Otautau figures are significant. They indicate what seems to be the fact—namely, that there is a lack of public interest in racing in Otautau and district, despite its population.

The result is that the club's premises as a whole compare most unfavourably with the premises of other racing clubs in the district, such as Winton, Wyndham, and Gore. These latter clubs appear to be in direct competition with the Otautau Club, and the latter is suffering in consequence. The Riverton course is only 16 miles from Otautau, whilst the Winton course is only 21 miles from it. Invercargill is 32 miles distant by good roads. All these courses are described by the president of the Otautau Club as being within easy reach of both racing enthusiasts and competing horses. They appear to have attracted the whole of the interest away from the Otautau Club, which seems to lack the support of any substantial local racing interest, as is evidenced by the fact that no horses are trained upon the club's course and few are trained in the district. Upon the whole, therefore, it appears that other and more prosperous clubs which are better equipped provide sufficient for the needs of the public in the territory as a whole.

The racing-track itself is in good order. There is, however, no grandstand, and the other buildings are exiguous. The property as a whole is let, and has been let for some considerable period, for farming purposes. Indeed, on the day that the course was visited by the members of the Commission the track had been cut off by the tenant for grazing purposes. The track is valued on the club's 1946 balance-sheet at £3,300. It is, however, subject to an outstanding mortgage of £2,100. This mortgage debt seems to have arisen from the creation of debentures to the amount of £2,500 for the purchase of the course, and it is apparently only during the last two years that the debenture debt has been reduced at all. For the rest, apart from the value of the somewhat meagre buildings upon the course, the clubs assets seem to consist of a sum of £200 in war loan and £500 in Government stock. The club claims that it has created a substantial equity in its property and is in a position to carry on financially until conditions "revert to normal." The latter is a strange statement, coming at a time when racing is at its zenith and any reversion to what might be called normal would, with every other club in New Zealand, mean reversion to a lesser totalizator turnover and lesser attendances, for, despite all the restrictions on transport, all other clubs in a comparatively relative position have prospered. The inference seems inevitable that this club is not required.

Waiapu Racing Club.—This club held its last meeting on its own course on the 24th February, 1940. Since then, on the 11th May, 1946, and on the 10th May, 1947, it held its meetings at Gisborne, racing on its own home course being impossible. The track on the course itself is well laid out and has a good surface. It is, however, very poorly equipped. The tenure of the course is most unsatisfactory. It is situated on Native land which has been leased by the Native owners to a Maori farmer, subject to the right of the racing club to hold a race meeting annually. It is a term of the club's contract that if the club does not race for two years, then the tenancy is to be at an end. When the club recently made some effort to put the course into a fit condition again for racing, legal proceedings were threatened against it on the footing that, not having raced for two years on the course, its right had terminated. It appears that litigation will ensue if the club makes any effort to race upon the course again, and it may ensue in any event, for it is understood to be the intention of one of the owners to apply to have the club's tenancy or rights forfeited. Even if these proceedings terminated in favour of the club, a considerable expenditure would be required in making the course and its appointments fit for the holding of a race meeting. Local opinion appears to be divided as to whether the club should race on its own course in future or race at Gisborne, a considerable number apparently desiring that the meeting should be held at Gisborne. In all the circumstances, it is useless allowing the club to retain its licence. If there is a sufficient demand for the sport of racing in the district, it could be sufficiently satisfied by a picnic meeting.

Tolaga Bay Jockey Club.—This club last raced on its own course on the 15th February, 1941. On that occasion a sum of £5,295 only passed through the totalizator. The history of the club shows a steadily declining record so far as totalizator investments are concerned. During the 1920's the largest turnover was £9,899 on the 20th February, 1921. Between then and 1930 the figures varied between £6,500 and £7,030, with the exception of 1926, when the turnover was £9,405. Upon no occasion since 1930 has a turnover of £6,000 been reached. These figures indicate a steady decline in public interest in racing in the district. The course itself is a fair one, although extremely boggy in wet weather. The appointments are very poor indeed. This, in our opinion, is another district in which any public demand for racing could be adequately satisfied by a picnic meeting.

Kurow Jockey Club.—This is another club which is in an unsatisfactory position. Its claim to a licence was founded upon the fact that it provides an opportunity for the people in a widely scattered area to meet. Its function in this respect, however, is discounted by the fact that since 1938 its meetings have been held at Oamaru. As a

social factor from the point of view of the people in the district, the club has therefore been completely negative for nine years. Its premises and its financial position are all indicative of failure. The track itself is in fair condition, but the railings around it are in disrepair and the grandstands are in a bad state of repair. The totalizator house was burnt down some years ago and has never been replaced. The last meeting on the club's own course was held in 1938. The meetings in 1939 and 1940 were held at Oamaru. In July, 1941, the club decided to go into recess. It did so and remained in recess until January, 1946, when it again became active and again held a meeting at Oamaru. The club apparently has liquid assets totalling £1,785, of which £400 is represented by the profits made at the last meeting at Oamaru. The best turnover on the club's own course was £5,160 in 1937. The average attendance was put down at 1,000. The president of the club, when asked specifically what justification there was for the retention by his club of a totalizator permit, the exercise of which over the years had resulted in the club being involved in an embarrassing financial position from which it was recovering only by racing away from its own course, was constrained to reply that he had no answer to that.

Picnic meetings have been held on the course, but in these there has been a preponderance of trotting races. The retention of this licence is not warranted. The racing interests of the district will be subserved and the main purpose of the club satisfied if it is given the status of a picnic racing club.

Kumara Racing Club.—This club's course is in a very bad state and the grandstand appears to be unsound. The club suffers from competition with both Hokitika and Westport, the former being only 17 miles away. The totalizator turnover is meagre. In the 1945–46 racing season it was £5,397 10s. on galloping and £1,706 on trotting, and the smallness of the turnover appears to be indicative of a lack of public interest in the meetings. The racing public in the district would derive more interest from racing at Hokitika and would be otherwise better served there. We therefore recommend that the licence to the Kumara Racing Club should be revoked and an extra day granted the Westland Racing Club at Hokitika.

Hororata Racing Club.—This course is easily accessible from Christchurch, upon which it depends for its main supply of competitors. There are no horses trained in the district, and consequently all competitors must come from outside. In the result, therefore, the racing held at Hororata merely provides another opportunity for racing to Christchurch horses or horses trained in the Christchurch district and to racing enthusiasts in Christchurch and its vicinity. For this there seems no justifiable necessity as there is sufficient concentration there already.

SECOND SCHEDULE.—RACING (GALLOPING) CLUBS WHICH IT IS RECOMMENDED SHOULD BE AMALGAMATED.

(Paragraph 302)

North Canterbury Racing Club and Amberley Racing Club.—At present each of these clubs has a one-day meeting. The records of the North Canterbury Club, which races at Rangiora, show that it has been consistently prosperous and popular. The Amberley Racing Club, on the other hand, is in reality a very minor club and has had difficulty on occasion in the past in securing an adequate number of contestants for its various races. Some indication of the disparity between the two clubs is afforded by the fact that at its last one-day meeting the totalizator turnover at Rangiora was over £39,000, whilst at Amberley, only a few miles away, the turnover was only £14,238. If the two clubs amalgamated for either a two-day meeting or two one-day meetings, and the meetings were held at Rangiora, it would benefit both racing and the district. Incidentally, there is much material on the Amberley racecourse that could be used for restoring the grandstand at Rangiora and improving the amenities of that course.

Masterton and Carterton.—At present Masterton has two days' racing per annum and Carterton one. The two courses are within a ten-mile radius of each other. The presence of two courses in such close proximity is undesirable and uneconomic, more particularly as the provision of greater amenities upon the course at Carterton is essential if race meetings are to be conducted there. Amalgamation will thus save considerable capital expenditure. We therefore recommend that the one-day's licence now held by Carterton be transferred to the Masterton Racing Club, but subject to the condition that the Masterton Club accept the members of the Carterton Club as members on identical terms with the present members of the Masterton Club.

Woodville and Pahiatua.—The position of the Pahiatua Club is difficult, and there is every reason to expect that it will remain so. For war purposes, buildings of considerable extent were erected upon the course, and there seems no present likelihood that these buildings will be abandoned or removed. The rehabilitation of the course as a racecourse and the provision of proper amenities will, as in the case of Carterton, involve considerable capital expenditure. This does not seem justified as the club has raced for some years now very advantageously at Woodville. We therefore suggest either that the Pahiatua Club's licence be transferred to the Woodville Racing Club on condition that the members of the Pahiatua Club are accepted as members of the Woodville Club on the same terms as ordinary members of that club or, alternatively, that the Pahiatua Club race permanently as an independent body on the Woodville course.

The conclusion of a satisfactory arrangement in the event of the second alternative being adopted might present some difficulty, but agreement is not improbable and, failing agreement, the Minister has a reserve of authority to which recourse might well be had. It is not inapposite to add that Woodville has a very fine course which is well appointed.

Levin and Foxton.—At Foxton much capital construction is needed, and as the course is handy to Palmerston North and within 12 miles of Levin any substantial capital expenditure would be uneconomic. We recommend that these two clubs be amalgamated and race at Levin, the amalgamated club to have the two days at present enjoyed by Levin and one of the two days at present enjoyed by Foxton. The remaining day heretofore allotted to Foxton we recommend should constitute one of the pool days to which we have already referred.

Rangitikei Racing Club.—This club's course is within 9 miles of the well-equipped Marton course. There is a definite economic waste involved in allowing considerable sums to be spent in maintaining and improving an unnecessary course at Bulls, more particularly as access to Marton is easy and comfortable. We therefore reiterate the recommendation of the Commission appointed under section 6 of the Gaming Amendment Act, 1910, that the Rangitikei Racing Club be amalgamated with the Marton Racing Club. The whole district is very well served with more up-to-date and infinitely better-equipped courses than that of the Rangitikei Racing Club, and the amalgamation will be of advantage, particularly as the combined club will enjoy an aggregate number of licences equal to the number now enjoyed by the two clubs.

THIRD SCHEDULE.—RACING STATISTICS, 1918–1947. (Paragraph 248)

Racing Year.	Totalizator Investments.	Totalizator-tax.	Dividend-tax.	Total Taxation.	Fractions.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1918–19	5,732,479 10 0	143,311 19 9	129,001 4 6	272,313 4 3	27,457 14 6
1919–20	8,792,570 0 0	219,814 5 0	197,840 5 6	417,654 10 6	42,068 9 6
1920–21	10,121,212 10 0	253,030 6 3	227,687 13 0	480,717 19 3	47,200 5 0
1921–22	8,141,457 0 0	203,552 2 3	303,301 2 6	506,853 4 9	37,709 5 6
1922–23	7,848,392 0 0	196,209 16 0	353,300 11 0	549,510 7 0	35,244 19 9
1923–24	7,724,393 0 0	193,109 16 6	347,650 13 0	540,760 9 6	34,916 9 3
1924–25	8,445,859 10 0	211,146 9 9	380,123 16 0	591,270 5 9	38,014 6 6
1925–26	8,605,582 0 0	215,139 11 0	387,312 8 0	602,451 19 0	39,959 1 6
1926–27	7,552,894 0 0	188,822 7 0	339,942 0 0	528,764 7 0	35,392 9 9
1927–28	7,634,077 10 0	190,851 18 9	343,591 4 0	534,443 2 9	38,031 8 9
1928–29	7,203,032 10 0	180,075 16 3	324,196 9 0	504,272 5 3	35,455 0 6
1929–30	7,461,192 0 0	186,529 16 0	335,746 12 0	522,276 8 0	36,825 12 6
1930–31	5,279,403 15 0	257,637 7 0	231,226 17 0	488,864 4 0	28,501 5 4
1931–32	3,680,008 0 0	176,447 5 3	160,943 8 0	337,390 13 3	22,316 14 9
1932–33	3,678,251 0 0	147,130 0 7	160,838 19 0	307,968 19 7	24,120 16 6
1933–34	3,904,948 5 0	161,383 1 9	170,752 12 0	332,135 13 9	24,264 17 10
1934–35	4,017,150 5 0	174,808 17 1	175,667 13 0	350,476 10 1	24,377 18 10
1935–36	4,645,967 10 0	185,838 7 9	203,173 0 0	389,011 7 9	26,975 17 6
1936–37	6,220,520 10 0	248,820 11 10	272,057 0 0	520,877 11 10	34,650 0 3
1937–38	7,201,819 10 0	288,072 14 1	314,991 9 0	603,064 3 1	41,235 3 9
1938–39	7,981,441 10 0	319,257 13 0	349,097 4 0	668,354 17 0	45,035 9 9
1939–40	8,139,914 0 0	406,995 14 0	356,023 0 0	763,018 14 0	44,738 15 6
1940–41 (*a*) ..	8,769,917 10 0	438,495 17 6	384,404 1 0	822,899 18 6	47,366 1 3
1941–42 (*b*) ..	7,224,203 0 0	361,210 3 0	316,632 7 0	677,842 10 0	37,290 16 6
1942–43 (*c*) ..	8,664,665 0 0	433,233 5 0	379,021 14 0	812,254 19 0	41,831 8 0
1943–44 (*d*) ..	10,279,036 0 0	513,951 16 0	449,647 17 0	963,599 13 0	52,814 1 6
1944–45 (*e*) ..	12,030,432 0 0	601,521 12 0	526,267 10 0	1,127,789 2 0	52,248 1 6
1945–46 (*f*) ..	19,956,750 10 0	997,837 10 6	873,001 7 0	1,870,838 17 6	88,933 11 9
1946–47 (*g*) ..	21,999,374 0 0	1,099,968 14 0	962,355 15 0	2,062,324 9 0	91,500 5 0
Totals ..	238,938,943 10 0	9,194,204 14 10	9,955,795 11 6	19,150,000 6 4	2,179,476 11 6

(*a*) 308 days. (*b*) 214 days. (*c*) 163 days. (*d*) 163 days. (*e*) 182 days. (*f*) 316 days. (*g*) 320 days.

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(NOTE.—Numbers refer to paragraphs)

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