

1948.
—
WESTERN AUSTRALIA.

THE BETTING CONTROL BOARD
918 HAY STREET (1ST FLOOR)
PERTH.

REPORT

OF

ROYAL COMMISSION

ON

BETTING.

Presented to both Houses of Parliament by His Excellency's Command.

[SECOND SESSION OF THE NINETEENTH PARLIAMENT.]

PERTH:
By Authority: WILLIAM H. WYATT, Government Printer

1948.

No. 18.

APPROXIMATE COST OF PAPER:
Printing (460 copies) £90.

18669/7/48

TABLE OF CONTENTS.

PRELIMINARY:	Page. 3
1. Scope of Enquiry	3
2. Procedure	4
3. General nature of the evidence	4
EXISTING LAWS AND THEIR HISTORY.	5
1. Developments in English Law	5
2. The Law in Western Australia	6
3. Legislation in other States and New Zealand	9
EXISTING FACILITIES FOR BETTING ON HORSE-RACING.	12
1. On-the-course betting	12
(a) Metropolitan Area	12
(b) Country	14
2. Off-the-course betting—	
(a). Office credit betting;	14
(b) Illegal betting	14
(c) The demand for off-the-course betting facilities	17
SUMMARY OF EVIDENCE ON THE EFFECT OF BETTING.	18
PUBLICATION OF RACING INFORMATION.	20
1. Newspapers	20
2. Broadcasting	21
3. Press Agencies	21
ALTERNATIVE PROPOSALS FOR THE CONTROL OF BETTING	21
1. Restriction of betting to the race-course	21
2. Legalisation of betting shops	22
3. Legalisation of betting in streets and public places	23
4. Cash betting pools	23
5. Establishment of off-the-course totalisators	23
6. Legalisation of office betting	25
LEGISLATIVE POLICY AS TO BETTING	26
RECOMMENDATIONS AND COMMENTS THEREON	27
CONCLUSION	32
APPENDIX	33

M.L.
cel
ing
in
or

at
it
pi
se
w
by

ROYAL COMMISSION ON BETTING.

TO His Excellency, Sir James Mitchell, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Lieutenant-Governor in and over the State of Western Australia and its Dependencies in the Commonwealth of Australia.

MAY IT PLEASE YOUR EXCELLENCY,—

In pursuance of the Commission from Your Excellency dated the 12th day of March, 1948, authorising us in relation to starting-price and other betting in Western Australia on horse-racing, whether on or off-the-course, to enquire into and report upon—

1. The best means of controlling and minimising betting on horse-racing.
2. To what extent, in what form or forms (other than by the licensing of betting-shops), and subject to what controls and safeguards it is expedient that such betting should be permitted or prohibited by law.
3. The use of totalisators.
4. What should be done, by legislation or otherwise—
 - (a) to minimise or restrict those factors which tend to stimulate such betting, and
 - (b) to stimulate those factors which tend to discourage such betting.
5. If any control authority be recommended, what should be its nature, functions, powers and duties, and how should it be financed.
6. What legislation would be necessary in order to give effect to your recommendations, and what other alterations, including alterations to penalties, should be made to the State's betting laws.
7. If effect be given to your recommendations, what advantages and disadvantages are likely to result.
8. Any other matter in relation to such betting into or upon which you, with the concurrence of the Hon. Attorney General for this State, consider it desirable to enquire and report.

We have the honour to report as follows:—

PRELIMINARY.

1.—SCOPE OF ENQUIRY.

Though the terms of reference expressly require us to investigate both on and off-the-course betting, it became apparent early in the enquiry that the principal problems to be considered were those associated with off-the-course betting. Indeed, there was a singular unanimity in the evidence tendered by all witnesses, representing as they did many

different interests and many different shades of opinion, that the present facilities for on-the-course betting, which include the operations of book-makers, strictly not legal, should be retained.

The scope of the enquiry into off-the-course betting, particularly in regard to the recommendations which we are empowered to make, is substantially restricted by the second term of reference which prohibits us from recommending the licensing of "betting shops."

As the expression "betting shop" is by no means a "term of art," but is a colloquial expression not defined in the Oxford Dictionary nor, so far as we have been able to ascertain, in any standard dictionary or book of reference, and as it may be open to differences of opinion regarding its connotation, we think it desirable at the outset to state our interpretation of the expression and the meaning which will be attributed to it throughout the report.

We think that in colloquial usage, "shop" refers to a place where goods or commodities are exposed for sale and to which members of the public resort for the purpose of purchasing, and that the figurative use of the term "shop" in reference to betting gives a compound expression whose connotation is restricted to places where there is an actual physical resort for the purpose of betting. In our view, therefore, the terms of reference only restrict us from recommending the legalisation of places where the public may physically resort for the purpose of betting, and would not prevent us from recommending the licensing of places for betting by telephone or post, or any other method which would not involve actual physical resort.

It will be observed that this interpretation of "betting shops" would, if given its face value, exclude consideration of off-the-course totalisators, which would also involve physical resort to a place for the purpose of betting.

On the other hand, the third term of reference charges us with enquiry into the use of totalisators with, as we consider, the implication of their possible extension to cater for off-the-course betting, and we therefore have not excluded from consideration the possibility of legalising such an extension, nor is any reference to betting shops in this report to be regarded as including off-the-course totalisators. In our view, however, the terms of reference would exclude consideration of a proposal put forward in several of the country centres, that some particular area, removed from the town and from licensed premises, should be provided for off-the-course betting.

The final term of reference empowers us to enquire into and report on any other matter in relation to starting-price or other betting upon which, with the concurrence of the Hon. the Attorney General for this State, we consider it desirable to enquire and report.

During the course of the hearing, requests were made by interested parties and witnesses that the terms of reference should be extended so as to include the licensing of betting shops within the scope of the enquiry. This matter is dealt with in greater detail later in the report and at this stage it is sufficient to say that there has been nothing in the evidence tendered to us during our enquiry which in our opinion would render any such approach necessary or desirable.

2.—PROCEDURE.

The first sitting of the Commission took place on the 31st March, 1948, and the taking of evidence and addresses by Counsel concluded on the 4th June, 1948.

Prior to the sittings of the Commission, advertisements notifying the public of the Commission, and inviting applicants to give evidence, were inserted in two Perth newspapers and in newspapers circulating in four selected districts. In addition, letters were sent to the Commissioner of Police and to various organisations, such as local authorities, religious bodies, social welfare organisations and racing clubs, including the Western Australian Turf Club and the Western Australian Trotting Association.

Though the bulk of the sittings were held in Perth, we visited the country centres of Bunbury, Collie and Kalgoorlie, where local conditions were investigated and evidence taken from witnesses, including police officers and representatives of the Churches, local authorities and race clubs. It was our intention also to visit Northam, but as no response was received to advertisements or to invitations by letter to give evidence, the visit was abandoned.

Altogether, evidence was taken from 84 witnesses, including nine at Bunbury, four at Collie and 12 at Kalgoorlie.

3.—GENERAL NATURE OF THE EVIDENCE.

The principal sources of evidence and its general subject matter were:—

(a) Official.

(i) The Assistant Under Treasurer gave evidence concerning State revenue from the totalisator and from betting tickets.

(ii) The police, including the Commissioner and a number of officers stationed in the metropolitan area and in each of the towns visited, gave evidence concerning the suggested weaknesses of the existing law, its enforcement and the contribution of betting towards general lawlessness.

In addition, a comprehensive questionnaire was directed, through the Commissioner of Police, to the officer in charge of every police station in the State, with a view to ascertaining the prevalence of illegal betting, its effect on the community, the num-

ber of persons suspected of carrying on the business of a bookmaker, with the places where they operated, and other matters, such as betting by children, which were relevant to our enquiry.

(iii) The Deputy Director of Posts and Telegraphs gave evidence concerning the practicability of a system of off-the-course totalisators submitted by a representative of Automatic Totalisators Ltd., and also as to the co-operation of the Department regarding the enforcement of the State laws concerning betting.

(iv) A probation officer of the Child Welfare Department gave evidence concerning the practical experience of his Department regarding the social consequence of betting.

(b) *The Churches and Social Welfare Organisations.*

Evidence was given by representatives of most of the religious denominations with the exception of the Roman Catholic Church (from whom, unfortunately, no reply was received), and also by several women's social organisations. The evidence related principally to the moral and social evils of betting and other forms of gambling.

(c) *Bodies and Persons connected with Racing and Trotting.*

Representatives of the racing and trotting bodies in the metropolitan area and Kalgoorlie and of the racing club at Bunbury gave evidence concerning their activities, amenities and revenue, and facilities for on-the-course betting and also their views regarding off-the-course betting. In addition, views substantially in accordance with those expressed by the representatives of the governing bodies of the turf and trotting clubs were expressed by spokesmen for the Racing Breeders, Owners and Trainers Association and the Registered Turf and Trotting Bookmakers.

(d) *Off-the-Course Bookmakers.*

An off-the-course bookmaker who specialises in telephone betting was subpoenaed and gave evidence to the Commission concerning the conduct of his business.

(e) *Corporations and Individuals engaged in the Dissemination of Information concerning Horseracing.*

(i) *Broadcasting Stations.*—The local manager of the Australian Broadcasting Commission, and a representative of the local committee of the Australian Federation of Commercial Broadcasting Stations, gave evidence concerning the nature of the information regarding horseracing broadcast over national and commercial stations in this State, and the time devoted to racing broadcasts.

(ii) *The Press.*—The nature of Press coverage of horseracing and the percentage of news space allotted thereto was the subject of evidence by the editors of the two Perth dailies and the weekly publications controlled by Western Press Pty. Ltd.

(iii) *Press Agencies.*—Representatives from Tate's Press Agency, Perth, and the Goldfields Press Agency, Kalgoorlie, the only two Press agencies operating in the State, testified concerning the racing information supplied by them to their respective clientele.

(f) A
The
Sydney
and o
clubs
ing a
the co
eviden
tion o
which
metho
the se

(g) O
For
memb
existi
form

In
have
Royal

(

(

(

(

(

(

The
apart
gener
receiv

El

As
sugg
sary
neces
law
repor
with
Laws
trali
neces
delib
ing
how
with

1
Th
to be
land
betti
year
a nu
Aust
mon
the
to th
and
of t

(f) *Automatic Totalisators Ltd.*

The secretary of Automatic Totalisators Ltd., Sydney, a company which manufactures, supplies and operates the automatic totalisators at race clubs throughout Australia, gave evidence concerning a proposed scheme for the introduction of off-the-course totalisators in this State. As part of his evidence, he arranged a demonstration of the operation of the "Visi-tel" two-way telecommunicator which the company advocated as the most suitable method of intercommunication for the purpose of the scheme.

(g) *Other Members of the Public.*

For the most part, the evidence presented by other members of the public advocated the legalisation of existing methods of off-the-course betting in some form or other.

In addition, in the preparation of the report we have made free use of the following reports of Royal Commissions on cognate subjects:—

- (a) The English Royal Commission on Lotteries and Betting, 1932-1933.
- (b) The South Australian Royal Commission on Betting, 1933.
- (c) The Queensland Royal Commission on Racing and Gaming, 1935.
- (d) The South Australian Royal Commission on Betting, 1938.
- (e) The New Zealand Royal Commission on Gaming and Racing, 1946.

These reports will be referred to further but, apart from such reference, we have consulted them generally in the preparation of this report, and have received considerable help from them.

EXISTING LAWS AND THEIR HISTORY.

As the terms of reference require us to make suggestions as to legislation which may be necessary to give effect to our recommendations, it is necessary for us to give a summary of the existing law to provide a background against which this report can be studied. We are accompanying this with a short review of the history of the Betting Laws in England and of the position in other Australian States and New Zealand, which have of necessity been taken into consideration during our deliberations and which are in any event interesting from a comparative point of view as showing how similar problems have arisen and been dealt with elsewhere.

1.—DEVELOPMENTS IN ENGLISH LAW.

The history of the law in Western Australia as to betting is short, in comparison with that in England, where, in common with other older countries, betting and gaming have, for some hundreds of years, presented a social problem which has been a matter of serious concern to the legislature. The Australian States, like New Zealand, have a common heritage in the Law of England as it existed at the time of their respective foundations, and it is to the history of the English law relating to gaming and betting that we must turn in any description of the development of the law.

The reports of the Royal Commissions in the various Australian States, to which reference has been made earlier in this report, have contained more or less detailed studies of the law in the United Kingdom, and reference may be made to these by anyone who wishes to pursue this subject in detail. Prior to 1820, there was no English legislation dealing with betting as such, although there was a considerable amount of legislation dealing with gaming.

The early legislation of the years 1388, 1400, 1477 and 1541 prohibited the playing of certain games, but the motive behind the legislation was not the prohibition of gaming as a moral or social evil, but the desire to promote archery and other military exercises by preventing men from wasting their time on games.

For the century or so following the Act of 1541, no legislation relating to gaming was passed, but following the Restoration, which was accompanied by a great increase in the playing of games of chance, a number of Acts were passed between 1664 and 1744 which penalised excessive gaming or fraud in certain types of gaming, and prohibited altogether classes of games such as pharaoh, hazard, dice and roulette, which were regarded as undesirable because they led to excessive gaming, or were unduly favourable to the promoters, or opened the way to fraud. It is worthy of note that some of these statutes were directed particularly against gaming on credit, and that credit gaming was thus one of the first of the evils associated with gaming which were recognised by the law. In addition, the keeping of a house to which a large number of persons resorted for the purpose of gaming would be a public nuisance and indictable at common law as such.

Such was the state of the penal law as it existed at the time of the foundation of the colony. On the civil side it is to be noted that gaming contracts throughout the period remained enforceable in the courts except where they related to certain forms of excessive gambling.

The law relating to gaming at the date of the foundation of the colony was thus in a completely archaic state and had largely lost any relation to the social conditions of the time. The earlier Acts made sports unlawful, which had come to be regarded as normal healthy exercise, and the provisions against excessive gaming were quite inadequate to deal with the prevalence of gambling in the early 19th century.

In 1844 in England the prevalence of gaming houses led to the appointment of a Select Committee of the House of Commons, whose recommendations were embodied in the Gaming Act, 1845. This Act repealed earlier enactments prohibiting games of skill, and also the Acts subsequent to 1664 directed against excessive gaming, and conferred extra powers on the police for the suppression of common gaming houses. In addition, the Act provided that all contracts by way of gaming and wagering should be null and void and unenforceable in law.

Prior to the passing of the Gaming Act, 1845, the cash betting shop, if it existed at all, was at all events not a serious social problem, but within eight years it became necessary to pass a further Act—

the Betting Act, 1853—for its suppression. The growth of the cash betting shop is explained in the report of the English Royal Commission of 1932-1933 as being due to two factors, viz., the provision in the Gaming Act, 1845, rendering gaming transactions unenforceable, and decisions by the Courts establishing the illegality of sweepstakes, which until then had been a popular form of cash gaming activity in public-houses and elsewhere.

The Act of 1853 made illegal the opening of any house or shop for the purpose of the owner of the premises betting with persons resorting thereto. It prohibited betting houses and declared them common nuisances. It imposed penalties on those who kept them and who advertised them, and gave powers of search and seizure to the police in respect of premises suspected to be used for the purpose. It is worthy of note that in moving leave to bring in the Bill the Attorney General said that it had been suggested that the more effective course would be the licensing of the houses, but for his part he believed that would be discreditable to the Government and would tend to increase the mischief instead of preventing it.

The rigorous suppression of the betting house as the result of the Act of 1853 drove the bookmaker into the street. Street betting became a nuisance, and local authorities attempted to deal with it under their powers relating to obstruction of the highway. The street operators found means of betting in the streets without creating an obstruction and local Acts and by-laws were passed providing that persons assembling for betting should be deemed to be "obstructing the street." Later, by-laws were in many instances passed, penalising the frequenting and use of streets for bookmaking or betting. The penalties were, however, inadequate; uniformity in local by-laws and law enforcement was lacking, and street betting continued to thrive. In 1901 and 1902 a Committee of the House of Lords met to consider the problem and as a result of its recommendations the Street Betting Act, 1906, was passed which made it illegal for a person to frequent or loiter in streets or public places for the purpose of bookmaking or making or settling a bet.

It is to be noted here that, though the provisions of the English Acts of 1845 and 1853 were largely copied by our legislation in the Police Act, 1892, and the Police Act Amendment Act, 1893 (1), the relevant provisions of which are in force to the present time, the legislation relating to street betting has not been followed in this State.

An attempt was made in the English Finance Act of 1926 to impose a turnover tax on bookmakers whether off or on the course, the duty being substantially less when the bet was made on than when it was made off the course. In addition, a duty was imposed on bookmakers' certificates. The yield from this tax was disappointing, and it was repealed in 1929, though the duty on bookmakers' certificates was retained. It is noteworthy that a duty on off-the-course bookmakers' operations based on the number of telephones in their office was then mooted but nothing came of this proposal.

This review of English legislation has been substantially confined to off-the-course betting. So far as racecourse betting is concerned, the Racecourse Betting Act, 1928, authorised the constitution of a

Racecourse Betting Control Board with power to give certificates of approval to courses, giving them the right to set up totalisators, and to carry on betting with bookmakers, legally and without restriction, notwithstanding the provisions of the Betting Act, 1853. At racecourses not so approved a totalisator may not be operated, though bookmakers can operate lawfully provided that they do not appropriate or monopolise any particular part of the course for their betting, in which case their operations would be illegal under the Betting Act.

Apart from totalisators established at racecourses, there is no express provision against the establishment of an off-the-course totalisator, provided that it is used exclusively for credit betting.

The present position in England may, therefore, be summarised as follows:—On approved racecourses, betting with bookmakers or on the totalisator is lawful. Off-the-course, keeping a place for betting is unlawful if the betting is done with persons "resorting thereto" or for cash. It is lawful if done exclusively for credit, whether by telephone, telegraph, or post. Betting in a street or public place is unlawful, as is all betting with infants.

Before leaving this summary of the English law, we wish to draw attention to the recommendations made by the Royal Commission on Betting and Lotteries, 1932-1933, which are to be found at page 163 and the following pages of its report.

Among the principal recommendation, so far as legalised betting is concerned, were—

- (1) That some legal facilities for ready money (i.e., other than credit) betting should be provided which could be an alternative to street betting.
- (2) That cash betting offices to which the public could resort should not be recommended.
- (3) That postal cash betting should be made legal but that this should be linked up with the rigid restriction of bookmakers' advertisements.
- (4) That office (i.e., off-the-course) totalisator betting should be prohibited.

No legislation has been introduced to give effect to these recommendations which are, however, interesting as representing the considered opinion of a very strong Commission which thoroughly investigated the English position and had to consider problems in many respects very similar to those which we have had to consider during the course of our enquiry.

2.—THE LAW IN WESTERN AUSTRALIA.

The laws of this State demand more detailed consideration as we are directly concerned with them in this report. No historical review is, however, necessary as substantially all the statutes concerning gaming which have been passed since the foundation of the colony are still in force.

The first of these is the Police Act, 1892, which in the sections dealing with common gaming houses substantially follows the English Betting Act of 1845.

Section
have on
public
unlawful
... sh
86 prov
house c
ment tl
ner in
penalty
money
mises 1
premise
£10. On
in adm
powers
police, 1
relating
tions un

In the
Act, 18
betting.
house c
kept or
or keep
any per
or on b
person
the care
ing the
sorting
security,
the com
promise
money c
to any l
be deem
to law."

Section
be decon
tion 6 tl
betting 1
prisoners
in secti
dealing
part ma
purpose
the secon
ing mon
for cert
tingencie
house or
circumst
with pen

To un
offence, i
two of
"place"
meaning
the locali
them bot
betting i
business
said to re
the place
not of th
measure c
is one w
"occupier

Section 84 provides that "every person who shall have or keep any house, shop or room or place of public resort and who shall knowingly suffer any unlawful games or any gaming whatsoever therein . . . shall be liable to a penalty of £5." Section 86 provides that the owner or keeper of any gaming house or other person having the care and management thereof and any person who acts in any manner in conducting such house shall be liable to a penalty of £100 or six months' imprisonment. Any money or securities for money seized on the premises may be forfeited and any person on the premises without lawful excuse is liable to a fine of £10. Other sections are designed to assist the police in administering the Act by giving them wide powers of search, penalising obstruction of the police, and imposing various statutory presumptions relating to questions of proof arising in prosecutions under the sections.

In the following year the Police Act Amendment Act, 1893 (1), dealt directly with the problem of betting. Section 4 of this Act provides that "no house office room or other place shall be opened, kept or used for the purpose of the owner occupier or keeper thereof or any person using the same or any person procured or employed by or acting for or on behalf of such owner, occupier or keeper or person using the same, or of any person having the care or management or in any manner conducting the business thereof betting with persons resorting thereto or for the purpose of any money, security, etc., being received by the owner as or for the consideration for any assurance undertaking promise or agreement to pay or give thereafter any money on any event or contingency of or relating to any horse-race, etc., and every such house shall be deemed to be a common nuisance and contrary to law."

Section 5 provides that any house so kept shall be deemed to be a common gaming house. By section 6 the maximum penalty for keeping a common betting house is fixed at £100 or six months' imprisonment. It will be noted that the prohibitions in section 4 fall naturally into two parts, each dealing with a different class of offence. The first part makes it an offence to use a house for the purpose of betting with persons resorting thereto, the second to use a house for the purpose of receiving money or any valuable thing as consideration for certain transactions on future sporting contingencies. The net result is that, though using a house or office for cash betting is illegal under all circumstances, it remains legal to bet for credit with persons not "resorting thereto."

To understand the extent of the two classes of offence, it is necessary to consider the meaning of two of the expressions employed, namely, the "place" and the "use" to which it is put. The meaning of these expressions is closely allied, as the localisation of the business of betting underlies them both. If it is established that a business of betting is carried on, and it is found that the business is localised, so that people may fairly be said to resort to the "place" where it is carried on, the place is sufficiently defined. But the "use" is not of the kind prohibited unless it imports some measure of possession or control. A person "using" is one who, though the designations "owner," "occupier" and "keeper" do not apply to him, is

nevertheless performing an analogous function in that he bets or is willing to bet with people who resort to his "place." Persons who merely resort to a place for the purpose of betting thus do not "use" the place. The expressions "keeping" or "using" also imply that there must be some regular or habitual use, and not merely isolated acts of betting.

The Criminal Code, 1902, section 209, re-enacted as section 211 of the Criminal Code, 1913, contains further provisions imposing liabilities on persons opening, keeping or using common betting houses, which are independent of but co-existent with the penal provisions of the Police Act Amendment Act, 1893 (1), though similar to them.

The definition of common betting house is substantially similar to that in the earlier enactment except that under the Code the user is of a "house or room or any place whatsoever." Judicial interpretation of the words "place whatsoever" has been that these words are wider than "other place" as used in the previous legislation.

The penalties are imposed under subsection (1) of section 211 for using a common betting house which is made punishable by three years' imprisonment as a misdemeanour or on summary conviction by £100 fine or six months' imprisonment.

Under subsection (2) it is made an offence for the owner or occupier of a place knowingly and wilfully to permit it to be opened or used as a common betting house or for a person to have the use or management of or to assist in conducting the business of such a house, the maximum penalty being £100 fine or six months' imprisonment on summary conviction.

The provisions of subsection (2) of section 211 were strengthened by the Criminal Code Amendment Act, 1942. This amendment deletes the words "knowingly and wilfully" from the subsection, widens the definitions of "owner" and "occupier," and in addition makes any attorney, agent or manager of an owner or occupier personally liable to the penalties of the section to the same extent as the owner or occupier.

There is no penal legislation in Western Australia directed against betting in the street as such, and the only deterrent existing is Traffic Regulation 327 which makes it unlawful for a person to "behave, act or stand on any road or footpath so as to obstruct the free passage of traffic along, through or upon the same or to loiter or act in any way to the annoyance of other pedestrians." Under Regulation 336, a general maximum penalty is imposed for breach of the regulations which is a fine of £20 or one month's imprisonment.

Betting in hotels is dealt with in the Licensing Act, 1911-1931. Section 164 makes it an offence to post or permit to be posted in, on or about licensed premises any information or notice relating to betting or the result of horse-races, while section 165 prohibits a licensee from betting on horse-racing, or permitting such betting, in licensed premises.

The Totalisator.

Course totalisators were first authorised in 1883 by the Totalisator Act of that year (47 Vic. C26) which provided that it should be lawful for any

bona fide club established to promote horse-racing to use the totalisator on the club racecourse during the day of any race meeting held thereon. By an amendment in the year 1899, the Colonial Treasurer was empowered to authorise any club registered by the Western Australian Turf Club to use a totalisator on the racecourse on the day when a meeting was held there. A further Act, the Totalisator Regulation Act of 1911, authorised the granting of the right to operate on-the-course totalisators to clubs not registered with the W.A.T.C.

In this State at the present time, all racing and trotting is substantially under the control of the Western Australian Turf Club and Western Australian Trotting Association respectively, and the Acts relative to these bodies, namely, the Western Australian Turf Club Act, 1892, and the Western Australian Trotting Association Act, 1946, both deal incidentally with the regulation and control of the operation of totalisators by those bodies.

Racing Restriction.

The number of racing and trotting meetings which may be held in this State is controlled by the Racing Restriction Act, 1917-1925. The Act provides that no race meeting other than trotting shall be held in the State without the license in writing of the W.A.T.C. and that the maximum number of meetings held in the metropolitan area shall be 56 in one year, provided that the Colonial Treasurer may authorise five additional race meetings in any year for public hospitals or other charitable or patriotic purposes. It further provides that no trotting meeting is to be held in the State without the license in writing of the W.A.T.A. and that the maximum number of meetings to be held in the metropolitan area in one year shall be 35 outside the Fremantle district and 10 within the Fremantle district.

As in the case of racing meetings, additional dates for charity may be authorised by the Treasurer.

Revenue Provisions.

The Totalisator Act, 1905-1946, imposes a tax on all totalisators operating in this State, and authorises retention by the race clubs concerned of percentages of takings, particulars of which are as follows:—

	To Race		
	To Govt.	Club.	Total.
	%	%	%
Gross totalisator turnover	7½	6	13½
Fractions up to 6d. ..	7½	92½	
Unclaimed dividends ..	7½	92½	

The Stamp Act 1922-1944 imposes a stamp duty on all betting tickets used by bookmakers at race meetings conducted by race and trotting clubs within the State. The tax payable is 3d. per ticket on all tickets issued in the "enclosure" at metropolitan courses, and 1d. per ticket on all other betting tickets.

We will conclude this review of the law in Western Australia with a summary of the legality of various types of betting practised in this State. Unless expressly stated, the criminal liability is imposed on the person conducting the betting business and not on the person who bets with him.

On-the-Course Betting.

Totalisator betting.—Legal under the Totalisator Acts.

Betting by bookmakers.—Illegal under the provisions of the Criminal Code, Section 211 (1). The question has never been tested in the superior Courts, but there have been several successful prosecutions of course bookmakers in the police courts over the past 20 years, though none recently.

Off-the-Course Betting.

Credit betting on premises.—Legal, when the medium adopted is the telephone, telegraph or post, whether the nature of the transaction is an ordinary bet or a tipping pool competition.

Cash betting on premises.—Illegal under the Police Act Amendment Act, 1893 (1) and the Criminal Code. Any person found in a common gaming house without lawful excuse is also liable to a penalty under the Police Act, 1892, Section 86.

Street betting.—Not illegal of itself, whether for cash or credit, but may be made punishable if coming within the obstruction provisions of Traffic Regulation 327.

Betting with minors.—Not in any way prohibited.

Dissemination of Information regarding Betting.

The advertising of betting shops and advertisements by tipsters are prohibited under the Police Act Amendment Act, 1893 (1), but apart from the provisions of this Act there is no restriction imposed by State law on the dissemination of information relating to racing or betting.

Commonwealth Regulations applying within the State.

Our attention was directed during the hearing to certain Commonwealth enactments which affect the position in this State as well as other States of the Commonwealth. The first is a Telephone Regulation which reads as follows:—

62. (1) If any subscriber is convicted of carrying on any illegal business, and the place where the illegal business is carried on is connected to an exchange, or if any person is convicted of carrying on any illegal business at or in any such place, the Department may, without waiting for the result of any appeal from such conviction, determine the agreement with the subscriber, remove the subscriber's name from the Telephone Directory, and remove all wires, instruments, and other property of the department used in connection with the service.

The regulation further specifies "keeping a common gaming house" as an "illegal business," and makes a further provision that the telephone shall not be restored within six months of the date of discontinuance.

By the second Commonwealth enactment to which we were referred, restrictions in relation to the broadcasting of betting information were imposed by the Postmaster General on all National and Commercial broadcasting stations. The direction in this regard, which was promulgated on 19th December, 1938, and has been in force ever since, prohibits

the
odds
ing.
of in
wise
fore

Tl

B
or b
raci
A
Legi
ties
Aus
by
the
gran
com

Tl
sign
whi

S
"Sh

T
aga
any
boo
a b
tha
six
T
pai
hy

the broadcasting of information relating to betting odds until after the last race at the particular meeting. The direction also prohibits the broadcasting of information in the form of advertisements or otherwise for the purpose of soliciting business concerning forecasts of results of sporting events.

3.—LEGISLATION IN OTHER STATES AND NEW ZEALAND.

New South Wales.

The relevant statutes are:—

- The Gaming and Betting Act, 1912-1938.
- The Bookmakers (Taxation) Act, 1917-1937.
- The Racing Taxation Act, 1937.

Betting on the course with registered bookmakers or by means of the totalisator is permitted on both racing and trotting events.

All forms of off-the-course betting are illegal. Legislation relating to betting shops, and the penalties provided, are substantially similar to Western Australia but the definition of "resorting" is extended by Section 42 of the Act to include "applying by the agency of another person, by letter, or by telegram, or by any other means of correspondence or communication."

There are, however, a number of provisions designed to assist in the suppression of betting houses which are not in force in this State.

- (a) The owner and occupier of land knowingly used as a means of access or escape from a betting shop is liable to a penalty.
- (b) The owner may serve notice to quit on, and evict, any tenant where he has reasonable grounds to suspect the premises are used as a betting shop, the tenant's only redress being to obtain a cancellation of the notice to quit from a Judge of the Supreme or District Court.
- (c) A Judge of the Supreme Court may on affidavit of a Superintendent of Police declare any premises a common gaming house, whereupon stringent penalties can be imposed against the owner and occupier of the premises or any person in, on, or entering the premises.

Street betting is also comprehensively prohibited. "Street" is defined as including—

- (1) Any enclosed or unenclosed land.
- (2) Every description of vessel used in navigation.
- (3) A thoroughfare and a highway, road, lane, footway or passage whether a thoroughfare or not on any public or private land.

The section relating to street betting is directed against "every person who frequents, uses, or is in any street for the purpose, etc.," and against any bookmaker or his agent, clerk, or servant who makes a bet in or on any street. The penalty is not less than £20 or more than £100 for a first offence, and six months' imprisonment for a second offence.

The Act also makes money or securities for money paid to bookmakers betting in the street recoverable by law.

Betting or offering to bet with infants is prohibited and it is provided that on proof of the infancy of the person with whom the bet is made, the accused "shall be deemed to have known that such person was under 21 unless he proves that he had reasonable grounds for believing and did believe such person to be of full age."

A further section provides that where an infant embezzles money and uses it for betting, the amount so used may be recovered, from the person with whom it was wagered, by the person from whom the money was embezzled.

Publication of Racing and Betting Information.

The Act contains prohibitions of the publication of information which may be summarised as follows:—

- (1) Betting houses or invitations to resort thereto cannot be advertised.
- (2) Tipsters cannot advertise.
- (3) No newspaper can publish the odds on any future race.
- (4) No place can be used for the purpose of communicating or conveying by any means whatsoever either directly or indirectly to any person not on the course at any time before the prescribed time (which is defined as meaning the actual starting time of the last race at the particular meeting) any information concerning the betting or betting odds, including totalisator dividends at the race meeting.
- (5) Information or advice concerning the probable result of a race or as to the betting or betting odds on a race cannot be published in a newspaper or given orally at any premises established for the purpose provided that a newspaper published in good faith for the purpose of supplying mainly news and comment may publish a forecast of the probable result of a race.
- (6) The printing or publishing of programmes or lists of horses nominated for any race meeting other than those authorised by the race club concerned is prohibited.

Revenue Provisions.

Totalisator turnover is subject to a deduction of 12½ per cent. which is apportioned between the Consolidated Revenue and the race club concerned.

Bookmakers are required to register and pay an annual registration fee which varies from £10 to £50, according to whether they operate on metropolitan or country courses and to the portion of such courses on which the operate.

Bookmakers are also subject to a turnover tax one per cent. of which half goes to the racing club, and a stamp duty on all betting tickets issued, such duty being 1d. on each saddling paddock ticket and ½d. on tickets issued in other parts of the course.

Victoria.

The law is contained in—

The Police Offences Act 1928, as amended by the Police Offences (Street Betting) Act 1936, and The Police Offences (Betting) Act, 1941, together with The Stamps Act 1946 and

The Betting Tax Regulations (Stamps Act) 1946.

Betting on a racecourse with bookmakers licensed under the Stamps Act 1930 is lawful, while totalisator betting on a racecourse was made lawful in 1931. All forms of off-the-course betting are unlawful.

Betting Houses.—These are defined in a manner similar to the New South Wales Act and include places used for betting by post, telegraph or telephone.

The penalties for keeping, using etc. a common gaming house are, for the first offence, not less than £20 nor more than £100, or to imprisonment for three months; for a second offence, not less than £100 nor more than £200, or to imprisonment for six months; and for any subsequent offence, imprisonment for 12 months (without the option of a fine.) There are also provisions similar to those in New South Wales as to the Supreme Court declaring premises to be common gaming houses, and as to the eviction of occupiers from such premises.

The Victorian Act also contains provisions identical with Sections 103 and 104 of the South Australian Act, quoted hereunder in our outline of the law in that State, which are designed to assist proof in prosecutions for betting offences.

Street Betting.—This is prohibited under even more drastic penalties than betting shops, as is instanced by the fact that for a third offence there is a minimum penalty of six months' imprisonment without the option of a fine. The offence is constituted similarly to that in New South Wales, but the definition of "street" is as follows:—

"Street" includes and applies to every road, street, thoroughfare, highway, lane, footway or footpath on any public or private property, and also extends and applies to any enclosed or unenclosed land or premises (not including racecourses and such houses or parts thereof as are used as private dwellings.)

Betting with Infants.—This is prohibited on lines similar to those in the New South Wales Act.

Publicity, etc.—The publication in a newspaper or through any other medium of the following information relating to any intended race meeting is prohibited:—

- (a) As to betting or betting odds;
- (b) as to any totalisator.

Advertising by bookmakers and tipping is prohibited subject to the right of a newspaper to publish the forecast of the result of a race provided that it is not published by way of advertisement or for valuable consideration. The communication during the currency of any race meeting, to any person outside the course except, under certain conditions to a newspaper of any information as to the betting or betting odds is also made an offence under the Police Offences (Betting) Act 1941.

Revenue Provisions.—Every bookmaker must be licensed annually under the Stamps Act and his license is required to be stamped an amount which varies between £10 and £60 according to the course for which he is registered and the portion of the course in which he is licensed to bet.

Stamp duty is also payable on betting tickets at rates which vary between 1d. and 6d. In addition, a special stamp duty on a graduated scale is imposed on all bets of £5 and over.

Ten per cent. is deducted from totalisator turnover, which is shared by the Consolidated Revenue and the race club.

Queensland.

The relevant legislation is:—

The Criminal Code.

The Vagrants Gaming and Other Offences Act 1931-1938.

The Suppression of Gambling Acts 1895-1936.

The Racing and Coursing Regulations Act 1930-1936.

The Racecourse Acts 1923-1936.

The Totalisator Restriction Act of 1889.

The Totalisator Tax Act 1892.

On-the-course betting both on the totalisator and with bookmakers holding a permit from the Government is lawful.

All forms of off-the-course betting, including both betting shops and street betting, are prohibited and there are no special provisions in connection with such betting which require any individual mention here. Betting with infants is also prohibited.

The Suppression of Gambling Act 1936 prohibits the communication from any racecourse to persons not on the race course of information regarding the races and betting thereon, as to:—

- (a) Any race to take place on the course;
- (b) any particulars as to the horses to take part;
- (c) jockeys to ride in a race;
- (d) barrier positions to be occupied;
- (e) the betting;
- (f) any adjustments of the weights to be carried by horses.

Furthermore, during the time when a meeting is being held, no place may be kept opened or used for the purpose of conveying such information to persons not on the course.

The Government obtains revenue from betting in a manner similar to that described in other States, that is, from bookmakers' permit fees, tax on betting tickets and totalisator turnover tax.

South Australia.

The relevant statute is:—

The Lottery and Gaming Act 1936-1945.

On-the-course betting either by means of a totalisator licensed under the Act or with bookmakers so licensed is lawful.

Legalised off-the-course betting was introduced by Statute No. 2135 of 1933, following the Report of the Betting Commission of 1933.

This Act created a Betting Control Board which now comprises three members appointed by the Governor for three years and charged with the duty of "controlling betting in such a manner as is reasonably consistent with the welfare of the public generally and the interests of the persons and bodies liable to be affected."

The Board has power to license premises at which off-the-course betting may be carried on and has vested in it power to control the conduct of such premises and of bookmakers and other persons carrying on business therein. The general disapproval of the betting shop system led to the passing of the Lotteries and Gaming Amendment Act, 1945, which deprived the Board of power to license betting shops in the metropolitan area of Adelaide and provided that in the country they might be licensed only after a public enquiry by the Board.

Unlicensed Betting Shops.—These are illegal and the provisions for their suppression and for aid in enforcement of the law are similar to those in Victoria and New South Wales.

Street Betting.—It is an offence under the Act to be in or upon any street or public place for the purpose of betting (including negotiating bets, receiving or paying money in connection with bets and settling bets). The penalty is, for a first offence, imprisonment for not less than one month nor more than three months; for a second offence, imprisonment for not less than three months nor more than six months; and for a third or subsequent offence, imprisonment for not less than six months nor more than twelve months. For a second or subsequent offence, power to substitute a fine is expressly negatived. It is also an offence to bet or offer to bet by way of wagering and gaming in any public place. "Public place" has a very wide definition and includes any place commonly used by the public whether as trespassers or otherwise and would certainly include a street. Thus the bettor is penalised as well as the bookmaker.

Betting with Infants.—This is prohibited.

The Act contains three very important sections which are designed to assist proof in prosecutions for betting offences. Section 103 makes the discovery on any premises or on any person in any premises of instruments of gaming or of cards, papers, documents or things relating to racing or betting prima facie evidence that the premises are used for unlawful gaming. Section 104 provides that if on the hearing of a prosecution for unlawful gaming the Court is of opinion that any money proved to have been given to or paid by the accused has been given under reasonable suspicion that it was so given contrary to the provisions of the Act, the fact of the giving or payment of money by the accused shall be prima facie evidence of his guilt on the charge. Section 105 provides that if at the conclusion of the evidence for the prosecution on the hearing of a charge of an offence under the Act, the Court has a reasonable suspicion that the accused is guilty, the evidence shall be deemed to be prima facie evidence that the accused is guilty.

Revenue Provisions.—12½ per cent. is deducted by the Club from gross totalisator turnover, and from this a percentage varying according to the amount invested at the meeting is paid to the Government. A stamp duty of one halfpenny is charged on every betting ticket issued by a bookmaker, and in addition he deducts threepence in the pound when paying a bettor his winnings, which deductions are also payable to the Government.

A further tax of 2 per cent. on gross amount wagered is imposed on all licensed bookmakers.

The apportionment of this tax is as follows:—

- (a) To racing clubs, 60 per cent. of tax on bets made on races in South Australia plus £18,000 or the balance of the tax on such bets whichever is the lesser.
- (b) To trotting clubs, 75 per cent. of tax on bets made on trotting meetings in South Australia.
- (c) The whole of the tax on bets made on races outside South Australia, and the balance of tax on bets on races in South Australia, goes to the Government subject to the right of the Betting Control Board to allocate the proceeds of the tax towards its expenses.

Tasmania.

The relevant legislation is—

- The Bookmakers Act, 1932.
- The Gaming Act, 1935.
- The Totalisator Act, 1935.

On-the-course betting with bookmakers licensed under the Bookmakers Act, 1932, or on totalisators licensed by the Commissioner of Police, is lawful. It is an offence, however, for a bookmaker, whether on or off the course, to bet on races held in the State at totalisator odds or for a place.

Off-the-course betting was legalised by the Bookmakers Act, 1932. The Act created a Betting Control Board comprising six members, of whom the Chairman is a Government nominee and the other five are nominated by racing, trotting and coursing bodies. The Board has power to approve premises for off-the-course betting and to license bookmakers to operate therein.

Unlicensed Betting Shops.—Subject to the provisions as to the licensing of betting shops the opening, keeping, or using of premises for betting is prohibited on similar terms to Western Australia. In addition, it is an offence for an unlicensed person to carry on the business of a bookmaker.

Street Betting.—The prohibition in the Tasmanian Act is against betting in or frequenting, loitering in, using or being in any public place for the purpose of betting and a street is a "public place" within the meaning of the section.

Betting with Infants.—This is prohibited in terms similar to those contained in the Victorian Police Offences Act.

Advertising and Dissemination of Information.—The provisions are similar to those at present existing in Western Australia.

Revenue Provisions.—Bookmakers are charged a turnover tax of 2 per cent. on bets made on Tasmanian races and 2½ per cent. on other bets. In addition there is a stamp duty on betting tickets and a percentage on gross totalisator turnover.

New Zealand.

The law in New Zealand is set out in the Gaming Act, 1908, the Gaming Act Amendment Act, 1910, the Gaming Act Amendment Act, 1920, and the Gaming Act Amendment Act, 1924.

The only lawful form of betting is totalisator betting on the racecourse. The amending Act of 1920 declared the business of a bookmaker to be unlawful, and made it an offence to bet with a bookmaker.

This year, after two years' deliberation, the Royal Commission on Gaming and Racing in New Zealand has reported in favour of the legalisation of off-the-course totalisators. The recommendation is that the scheme should be organised and controlled by the racing and trotting bodies, by whom it was sponsored, and that it should not be conducted for private profit, but principally for the benefit of the racing and trotting bodies concerned. Continuance of the ban on bookmakers has been recommended.

Whether these recommendations will be implemented by legislation is not known at the time of writing this report, but in any event, even if legislation is introduced, it will be some years before any assessment can be made of its social consequences and its efficacy as a solution of the problem of off-the-course betting.

SUMMARY.

This review will serve to show that Western Australia has lagged far behind England and the other States so far as betting legislation is concerned. The present state of the law here can only be regarded as chaotic, and hopelessly inadequate and ineffective in the light of present-day conditions. The enactment of a betting and gaming code is an urgent necessity.

Quite apart from problems connected with off-the-course betting, as to which there may well be differences of opinion, there can, we think, be none as to the desirability of preventing betting by children and as to the farcical position under which bettors in streets and public places can be prosecuted only under traffic regulations.

It has also been shown in this review that the legislatures of most of the other States have given considerable attention to the enactment of legislation whereby gaming laws may be more effectively enforced and evasion made more difficult. In this State, except for one amendment very limited in scope, which was passed in 1942, the penal laws relating to betting have remained substantially the same for nearly 50 years.

Whether our solution is to be accepted or not, therefore, we do strongly recommend that the betting laws be revised to provide for the omissions which we have mentioned, and for means by which the law may be more effectively administered.

EXISTING FACILITIES FOR BETTING ON HORSE-RACING.

1.—ON-THE-COURSE BETTING.

(a) *Metropolitan Area.*—Racing (as distinct from trotting) is conducted by the Western Australian Turf Club in the afternoon on every Saturday and public holiday. Mid-week racing in the metropolitan area is not permitted. This club now owns all three existing metropolitan racecourses, which are known as the Perth (Headquarters), Belmont Park, and Helena Vale racecourses. The majority of its

meetings are held at Headquarters, which is five miles from Perth, the other two being substitute courses, particularly for winter racing, when flooding conditions are apt to make the Perth course unusable. These two courses are distant from Perth about three miles and 15 miles respectively.

Trotting races are at present conducted by the Western Australian Trotting Association every Saturday evening except for a period of about five or six weeks during the winter. There are two metropolitan trotting courses, Gloucester Park, which is owned and controlled by the Association and is about one mile from the Perth Town Hall, and Richmond Park, a similar distance from the centre of Fremantle, which is owned and controlled by the Fremantle Trotting Club. At present the latter course is out of commission as a result of its acquisition for military purposes during the war, and all metropolitan meetings, some of which are conducted by the Fremantle Trotting Club, are held at Gloucester Park. We were informed that it is intended to resume trotting at Fremantle when the course has been put in order, but the date is rather indefinite. When it is resumed, about one meeting in four will be held there.

Totalisator facilities, with a minimum investment of 5s., are available to the public at all these racing and trotting courses, and money may be invested for either a win or a place. At both the Perth racecourse and at Gloucester Park, there are automatic totalisators which are owned and operated by Automatic Totalisators Ltd., Sydney. That at the Perth racecourse serves only the enclosure, and that at Gloucester Park serves both enclosure and lever. In the lever at Perth racecourse, and in both enclosure and lever at Belmont Park and Helena Vale, the totalisators are manually operated by the Race Club, but arrangements are in train for automatic totalisators, operated by Automatic Totalisators Ltd., to be installed shortly. From all investments on the totalisators, 13½ per cent. is deducted of which 7½ per cent., is paid to the Government as totalisator tax. From the remaining 6 per cent., in the case of totalisators owned and operated by the totalisator company, a further percentage varying from 2 per cent. to 2½ per cent. according to the turnover, is paid to that company. The balance remains with the racing body, and in the case of the manually operated totalisator the racing body retains the 6 per cent., but has to pay the expenses of operation. In addition, the racing body retains the "fractions" and unclaimed dividends, less a further 7½ per cent. paid to the Government as tax.

Under the authority of the racing bodies, bookmakers operate on the course at every meeting. The number at present registered with the Turf Club for betting on metropolitan courses is—enclosure 56 (plus six emergencies), and lever 30 (plus six emergencies). The number similarly registered with the Trotting Association is—enclosure 35 (including five for doubles only), and lever 24 (including four for doubles only). Steps are taken by both bodies in the way of inquiries and guarantees to ensure their suitability before granting registration and, as far as we are able to ascertain, the public has in the past been adequately protected against the failure of a bookmaker to meet

his of
the k
is at
tions
impos
In ad
fees t
respe
year
and t

Bet
maker
voore
credit
which
select
from
of cr
creas
follow

7
1
1
1

Mr
booki
infor
assoc

Cr
but
booki
the
ages:

1
1
1
1

Ev
tire
subd
as en
by h
his a

It
the p
total
aver
tially
ably
betti
high

Th
races
at b
dene
time:

Ra
ing l
also
mot
£70.
ligh
this

his obligations. As has been previously indicated, the legality of the operations of these bookmakers is at least open to serious question, but their operations are certainly condoned by the State, which imposes a tax on all betting tickets issued to them. In addition to that tax, they pay substantial license fees to the Turf Club and the Trotting Association respectively. From this source in the last racing year the former body derived as revenue £40,964, and the latter £32,644.

Betting is carried on by on-the-course bookmakers both for cash and for credit. We endeavoured to obtain evidence as to the percentage of credit betting, and were supplied with some figures which may give a reasonable guide. The Turf Club selected three races at an ordinary meeting, and from bookmakers' sheets compiled the percentage of credit bets. This showed that the percentage increased with the progress of the meeting, as follows:—

Third race	39 per cent.
Fifth race	48 per cent.
Last race	57 per cent.
Average	48 per cent.

Mr. Knapp, the representative of the Turf Club bookmakers, gave as his estimate 37 per cent. from information supplied by other members of his association.

Credit betting at trotting race-meetings exists, but on a smaller scale. Figures selected from bookmakers' sheets at an ordinary meeting held by the association indicated the following percentages:—

First race	12 per cent.
Fifth race	15 per cent.
Seventh race	15 per cent.
Average	14 per cent.

Evidence given by Mr. Maloney, the representative of the Trotting Bookmakers' Association, is substantially in agreement with this figure so far as enclosure betting is concerned. The figures given by him, after consultation with other members of his association, were:—

Credit bets, enclosure	15 per cent.
Credit bets, leger	1 per cent.

It is to be noted that these percentages represent the proportion of the number of bets and not of the total turnover. As it is safe to assume that the average amount of credit bets would be substantially greater than that of cash bets, it is reasonably to be inferred that the percentage of credit betting to total turnover would be considerably higher.

The smallest bet accepted in the enclosure at both racecourse and trotting ground is 5s. In the leger at both places the official minimum is 2s., but evidence was given that bets as low as 1s. are sometimes accepted.

Racecourse bookmakers operate mainly on races being held on the course, but they are permitted to bet also on Eastern States races. The sample figures quoted to us, viz., £1,250 out of a total holding of £70,478, indicate, however, that such betting is negligible. Apart from the reasonable assumption that this is caused by the fact that the average racegoer

is primarily interested in the races which he is attending, the difference in time between Western Australia and the Eastern States is an important contributing cause. Bookmakers at Gloucester Park are not permitted to bet on Eastern States events.

As we are considering the facilities available to the public for on-the-course betting, the charges for admission are of some relevance. These are—

Perth Racecourse:

Enclosure—Men 14s., women 5s. 6d. Leger—Men 3s. 3d., women 1s. 6d., children 1s.

Charges at the two subsidiary racecourses are slightly less than at headquarters

Gloucester Park:

Enclosure—Men 8s. 9d., women 3s. 11d. Leger—Men or women 3s. 6d.

Charges for admission at the Richmond Park trotting course when it was in commission were:—

Enclosure—Men 6s., women 2s. 6d. Leger—Men or women 2s. 6d.

For the purpose of ascertaining the demand for on-the-course betting facilities in the metropolitan area, and how it varied over the years, statistics were obtained from the Turf Club and the Trotting Association, of attendances and totalisator investments for each year since 1939. Figures relating to the volume of betting with on-the-course bookmakers over a period were not available, but a comparison of the number of betting tickets sold, furnished by the Assistant Under-Treasurer, are instructive in this regard. These relate to the whole State, separate figures not being obtainable for the metropolitan area.

The Turf Club attendance for the years ended 30th April, 1939, and 30th April, 1947, respectively, were as set out below. In comparing these figures, however, the important factor is to be considered that whereas in 1939 the club conducted only 22 meetings, or one-third of all the meetings held, it has in the meantime acquired the properties of the other clubs racing in the metropolitan area, and in 1947 it conducted 56 meetings. The same consideration arises in respect of the totalisator figures. The attendances are:—

	Paid enclosure.	Paid leger.	No charge.	Mhrs.
1939	24,432	30,675	17,041	9,000
1947	112,259	90,839	41,382	31,415
(Including 6,636 servicemen.)				

Totalisator investments for the same two years amounted to £91,207 and £615,615 respectively.

The Trotting Association figures are similarly affected by a difference in the numbers of meetings held, though not to the same extent as those of the Turf Club. This is due to the Fremantle club's meetings being held at Gloucester Park during 1947. The meetings conducted in the two years were respectively 43 and 53. The attendances were:—

	Paid enclosure.	Paid leger.	No charge.	Mhrs.
1939	55,568	70,620	24,911	27,957
1947	211,196	113,702	56,017	45,021
(Including 9,472 servicemen.)				

Totalisator investments for the same two years amounted to £319,563 and £902,436 respectively.

The totals of betting tickets issued to bookmakers throughout the State were as follows:—

1939, 1,210,500; and 1947, 3,174,000.

The foregoing figures indicate a great increase in patronage of the racecourses by the public, with a growing demand for betting facilities, which is reflected both in the number of bets and the volume of betting on the totalisator. This increase is also reflected in the financial position of both racing bodies.

(b) *Country*.—There are 46 registered race clubs, and 16 trotting clubs, in country centres. Racecourses at which more than three meetings were conducted last year are Kalgoorlie and Boulder, 13 each; Bunbury and Northam, eight each; and Pinjarra and York, six each. The remainder averaged just over two meetings each. The 16 trotting clubs held 50 meetings in all and, with the exception of the Golden Mile Trotting Club at Kalgoorlie, all are in the South-West division of the State. Race meetings are normally held on Wednesday afternoons, and trotting on Wednesday evenings. This is irrespective of whether the weekly half-holiday is on Wednesday or Saturday.

Manual totalisator facilities are usually provided at all country racing and trotting meetings, under similar conditions as to the betting unit and disposal of pool as in the metropolitan area. In addition, the Western Australian Turf Club and the Western Australian Trotting Association register a number of country bookmakers in their respective spheres. A number of metropolitan bookmakers also attend the principal country meetings, both racing and trotting.

OFF-THE-COURSE BETTING.

(a) *Office Credit Betting*:

As has been previously stated, it is lawful for a person to keep an office for betting with persons who do not resort thereto in person, but communicate by post, telegram or telephone, provided that the betting so conducted is on credit.

There are a number of establishments operating in the metropolitan area for this purpose. The owners of 35 of these establishments are formed into an association known as the City and Suburban Commissioners' Association, and were represented by counsel at the enquiry.

As they operate on credit, a member of the public must establish his credit with them before they will do business with him. We were informed by their representative who gave evidence, that, apart from persons of generally known financial stability whom they would be prepared to accept without further enquiry, they are satisfied with the oral recommendation of one of their existing clients.

Settlements are ordinarily made weekly on each Monday, and are made either by post or by cash. It should be noted here that, though off-the-course betting for cash is illegal, there is no legal bar to a resort to a defined place for the settlement of betting debts. The requirement of weekly settlement of betting debts to some extent counteracts their somewhat casual method of enlisting members of the

public among their regular betting clientele. The bookmaker who gave evidence stated that his bad debts were negligible—less than one per cent. of his turnover.

A certain amount of betting at fixed odds is done by these bookmakers on important interstate and local races, and lists are circulated by them showing the odds offering. In addition, many of them circulate to their clients "double charts," on which a number is shown beside the name of each horse entered for every race on the following Saturday. The odds offering on the double are arrived at by multiplying together the number beside the names of the two horses coupled to win. An inspection of the books of the bookmaker who gave evidence reveals that this form of betting on fixed odds is popular, and, incidentally, extremely lucrative for the bookmaker. The majority of business transacted by such bookmaker, is however, at "starting price."

In a bet for a win, the starting price is arrived at on the basis of the average odds offered by the bookmakers on the course immediately before the start of each race. Such prices are published in the reports of racing results in the various newspapers, and those quoted by "The West Australian" newspaper are the accepted prices for races run in this State. In a bet on a horse for a place, the price is based on the dividend paid by the totalisator on that horse. There is a qualification, however, that payments to bettors at starting price are subject to certain defined limits as to odds, varying with the location and importance of the race. About this practice some dissatisfaction was expressed to us by witnesses, and it will be referred to later in our report.

In dealing with legal facilities for off-the-course betting, mention should perhaps be made of credit tipping pools. Two attempts have been made to establish such pools in this State, one about 10 years ago and one within the last year or two. The method used has been the circulation of coupons asking the public, for the sum of 1s. per entry submitted, to forecast the winner of each race at the forthcoming local race meeting. Points are then allotted for first, second and third places in the respective races, and after a proportion of the total amount of the pool has been deducted for the operator's expenses and profit, the balance is divided in fixed proportions between the subscribers gaining most points and the second largest number of points respectively. Such a method is not illegal, provided that it is conducted purely on credit lines, but if cash is accepted prior to the race, it is, of course, illegal. The first attempt to establish a pool was conducted on credit lines, but failed after a few weeks, apparently due to the excessive number of defaulters. The second, after continuing for 12 weeks, was suppressed by the police, and the principal promoters convicted, as they had succumbed to the temptation of accepting cash with coupons. This system of betting will also be referred to later in our report.

(b) *Illegal Betting*.—Ample evidence of the existence of illegal methods of off-the-course betting was received during the Commission's sittings. Such illegal betting assumes two principal forms, betting shops and street betting which, however, are so closely interwoven that it is convenient to deal with them together.

The
some
ness,
ness,
tions.
of tel
premi
who r
Pri
actual
ment
refere
tion
At at
tice e
bettin
had t
cours
In
actual
shop
ally f
playi
day
jocke
bettin
predi
make
the s
hear
Ther
ing i
frate
we v
of a
coun
ated
that
it we
ise t
small
Ti
book
fitti
as, I
cars,
news
M
the
the
devi
two
have
cess
take
sacc
A
pro
take
trus
app
are
bett
cag
ers'
the
mal

The location of the shop bookmaker is normally some premises where is carried on a legitimate business, frequently a hairdresser's or tobacconist's business, which serves as a cloak for the betting operations. No doubt, in many cases a certain amount of telephone and postal betting is conducted on the premises, but the main business is done with persons who resort there, and bet for cash.

Prior to and in the early years of the war, this actual betting on premises was rife, but the amendment to the Criminal Code passed in 1942, to which reference has previously been made, made the position much more difficult for the shop bookmaker. At about the same time, the Courts adopted a practice of imposing heavier penalties for this type of betting, fines of £75 being common. These two factors had the effect of driving most of the illegal off-the-course bettors on to the street.

In the majority of cases, however, though the actual betting takes place in the street outside, the shop is still maintained as an adjunct. It is normally fitted up with blackboards round the walls, displaying full particulars of the races being run that day in Perth, Melbourne and Sydney—horses, jockeys, barrier positions, etc. Therein the would-be bettors congregate and have their discussions, as a preliminary to making their bets with the bookmaker who is standing, or sitting in a motor car, in the street outside. They then return to the shop to hear the description of the race on the wireless. Thus, these establishments, though not common gaming houses within the law, have all the undesirable features of the betting shop. In one country town, we visited several of these establishments, in each of which 25 to 30 people, most young men, were congregated. Usually these establishments are situated close to an hotel. It should be said, incidentally, that from our observations, as well as the evidence, it would appear that, though some women do patronise these premises, their percentage is comparatively small.

Though, as we have said, a majority of the street bookmakers operate in conjunction with specially fitted premises, a considerable minority do not do so, but merely stand in the street, or sit in motor cars, usually outside hotels, and conduct their business of betting.

Many ingenious expedients have been adopted by the street bookmaker to escape from the purview of the "obstruction" regulation. Among the expedients devised were betting in the narrow space between two cars parked in a highway, and betting in a laneway in private ownership. In both cases, successful prosecutions were launched, which were taken on appeal to the High Court, but ended unsuccessfully for the street bookmakers.

Apart from the expedients adopted to evade the provisions of the regulation, special precautions are taken to ensure that neither the principal nor any trusted or efficient servant of the bookmaker are apprehended. Scapegoats, also known as "stooges," are employed regularly, who take no part in the betting operations but who are there merely to be caught in the event of a raid occurring. "Nitkeepers" are employed to watch out for the approach of the police and give warning, whereupon the bookmaker or his regular clerk hands over to the "stooge."

The inducement to the "stooge" to act is a weekly payment, a further payment of £5 for being arrested, with an undertaking to pay any fines imposed on him and, in the event of his being imprisoned instead of fined, he is paid the amount of the maximum fine, £20.

As their main source of revenue in the business is derived from going to gaol, they are mainly recruited from the dregs of society, are frequently illiterate, and in many cases are possessed of bad criminal records. Far from shuddering at the thought of prison walls, they have been known on occasions to plead with the Bench to imprison instead of fining them. Their employment is a most unsavoury adjunct to the illegal business of the street bookmaker.

This pernicious system is particularly rife in the metropolitan area where it no doubt reached full development from the time in the year 1945, when the Courts in that area first began to award imprisonment for "obstructing" after a number of convictions. Imprisonment has apparently never been awarded in any country Court for this offence. That the system is not altogether unknown in certain country towns may, however, be reasonably inferred from the fact that in 131 convictions in the past year at Kalgoorlie, there were only 12 against principals and 10 against regular clerks, the remainder being "casual" employees. In 51 convictions at Boulder and Fimiston, there were only four against principals and two against regular clerks.

Some interesting figures were furnished by the officer-in-charge of the criminal records branch of the Police Department. The figures are all in respect of the six months ended 31st March, 1948. These records show that—

In the period named, in city and country, 543 separate persons were convicted of betting offences, the total convictions being 836, representing an average of 1.54 convictions per person.

Of that total of 543 persons, 220—over 40 per cent.—had previous convictions for offences other than betting. Of these, the convictions of 121 were for minor offences only, those of the other 99 being for more serious offences, a number of the latter being men with long criminal records. Practically all the betting convictions against these men were in the metropolitan area, and probably most of them, though not necessarily all, were the mere "stooges" previously referred to.

Of the same total of 543, only 176 were first offenders on a betting charge, there being 183 with more than three convictions, including 92 with seven or more—some up to 20 convictions.

It has been pointed out in considering the existing law—and this has been emphasised by a comparative study of the laws of the other States—that the Western Australian betting and gaming laws are archaic, inadequate, and lacking in up-to-date provision for their efficient enforcement, and this has made the task of the police in administering them no easy one.

During the course of our inquiry, it has been only too apparent that such steps as have been taken by the police over the past 10 years, which is the only period as to which we have evidence, have been

entirely ineffective in stopping or reducing illegal betting, or even preventing its increase. In making this statement, we do not seek to place the blame on the police as a whole or on any individual officer. Indeed, there are many possible causes for it, quite beyond police control. Inadequacy of staff, the inadequacy of the law, particularly as to means of enforcement, and inadequacy of penalties, are among the possible contributing factors. Into some of these causes it is not within the scope of this Commission to inquire, nor, indeed, is it directly within our terms of reference to express an opinion as to whether there has been in the past any laxity in the enforcement of the law. In considering the advisability of alterations to the existing law, however, it is necessary to give some attention to any reasons that may have existed for its past failure to fulfil its purpose.

Inspector Andersen, who is in charge of the Liquor Inspection Branch of the Police Department, which has charge of police activities with regard to the suppression of betting, produced the following table of convictions and penalties for betting offences for the past ten years:—

BETTING OFFENCES.

From 1st February, 1939 to 22nd March, 1948. Listed for the separate years ended 30th June. Committed within the areas bounded roughly by Nedlands, Cottesloe (Forrest Street), Claremont, Scarborough, North Beach, Guildford, Armadale, Victoria Park, Como and South Perth.

Year ended 30th June.	Act Charged Under.	No. of convictions.	Fines.
			£ s. d.
1939 (5 mths.)	Criminal Code, sec. 211, s.s. (1)	178	8,234 0 0
	Criminal Code, sec. 211, s.s. (2)	119	3,156 0 0
	Traffic regulation 327	70	684 10 0
	Total	367	12,074 10 0
1940	Criminal Code, sec. 211, s.s. (1)	265	16,420 10 0
	Criminal Code, sec. 211, s.s. (2)	43	1,227 0 0
	Traffic regulation 327	353	3,268 0 0
	Police Act Amendment Act, 1893 (No. 1), sec. 4	2	105 0 0
	Total	663	21,020 10 0
1941	Criminal Code, sec. 211, s.s. (1)	327	21,973 0 0
	Criminal Code, sec. 211, s.s. (2)	29	462 0 0
	Traffic regulation 327	305	2,973 10 0
	Total	661	25,408 10 0
1942	Criminal Code, sec. 211, s.s. (1)	357	23,609 0 0
	Criminal Code, sec. 211, s.s. (2)	19	390 0 0
	Traffic regulation 327	180	2,280 0 0
	Total	556	26,280 0 0
1943	Criminal Code, sec. 211, s.s. (1)	197	14,085 0 0
	Criminal Code, sec. 211, s.s. (2)	27	370 0 0
	Criminal Code, sec. 211, s.s. (2)	1	10 0 0
	Traffic regulation 327	269	4,087 0 0
	Total	494	19,152 0 0
1944	Criminal Code, sec. 211, s.s. (1)	8	100 0 0
	Criminal Code, sec. 211, s.s. (2)	15	765 0 0
	Traffic regulation 327	218	4,154 10 0
	Total	241	5,019 10 0
1945	Criminal Code, sec. 211, s.s. (2)	2	30 0 0
	Criminal Code, sec. 211, s.s. (1)	6	450 0 0
	Traffic regulation 327	364	6,839 0 0
	Traffic regulation 327 (14 days Imp.)	1	....
	Traffic regulation 327 (Placed under supervision)	1	....
	Total	374	7,310 0 0
1946	Criminal Code, sec. 211, s.s. (1)	68	1,806 0 0
	Criminal Code, sec. 211, s.s. (2)	3	60 0 0
	Traffic regulation 327	822	15,380 0 0
	Traffic regulation 327 (14 days Imp.)	4	....
	Traffic regulation 327 (Cautioned) Imp.)	2	....
	Total	899	17,336 0 0

BETTING OFFENCES—continued.

Year ended 30th June.	Act Charged Under.	No. of convictions.	Fines.
			£ s. d.
1947	Criminal Code, sec. 211, s.s. (1)	1	40 0 0
	Police Act Amendment Act, 1893 (No. 1), sec. 4	22	1,035 0 0
	Traffic regulation 327	609	11,950 0 0
	Traffic regulation 327 (7 days Imp.)	44	....
	Traffic regulation 327 (14 days Imp.)	10	....
	Traffic regulation 327 (21 days Imp.)	2	....
	Traffic regulation 327 (1 month Imp.)	6	....
	Total	694	13,025 0 0
1948 to 22nd March	Police Act Amendment Act, 1893 (No. 1), sec. 4	16	435 0 0
	Traffic regulation 327	489	9,577 0 0
	Traffic regulation 327 (7 days Imp.)	37	....
	Traffic regulation 327 (14 days Imp.)	47	....
	Traffic regulation 327 (21 days Imp.)	8	....
	Traffic regulation 327 (1 month Imp.)	3	....
	Total	600	10,012 0 0
	GRAND TOTAL	5,558	£156,617 0 0

In these figures can be plainly seen the effect of the amending Act of 1942, in the sudden reduction of convictions made under the Criminal Code for keeping betting shops, and the corresponding increase in convictions for obstruction. As has been noted previously, the amounts of fines imposed in the metropolitan area also increased about the same time, fines of £75 (occasionally £100) being not uncommon. A similar trend in regard to the respective numbers of convictions can be noticed in the country figures produced by Inspector Andersen, which are not reproduced here, but are set out on pages 73 to 83 of the transcript of evidence.

It will be noticed that there is a decline in convictions during the later war years, and an increase from 1946 onwards. This is attributed by Inspector Andersen to several causes—reduction by wartime regulations of the number of races held, reduction of broadcasting from the Eastern States, other duties devolving on the police in wartime, and the increased attendance of men in uniform at the race meetings, to which they were admitted free. A slight decrease from 1946 in the years 1947 and 1948 (nine months), is also noticeable, which is attributed to the Courts instituting the practice of imposing imprisonment in a percentage of cases.

Inspector Andersen also prepared a list showing the numbers of "betting shops" and "obstructors" in the Perth Police District between the years 1939 and 1948. As will be seen, the figures are not given for every year, but at intervals. It is to be borne in mind that with the exception of the "suspected" cases in 1948, the figures relate only to "known" betting shops and "obstructors"—that is, those in respect of which there had been convictions. The details are as follows:—

S.P. BOOKMAKERS USING SHOPS AND STREETS BETWEEN COTTESLOE AND GUILDFORD, AND NORTH BEACH AND ARMADALE—1939 TO 1st MARCH, 1948.

On the 30th June, 1939, there were about 87 S.P. betting shops operating and about 28 obstructors.

On the 30th June, 1943, there were about 26 S.P. betting shops operating and about 55 obstructors.

On the 30th June, 1944, there were about 13 shops operating in a small way and about 54 obstructors.

On the 30th June, 1947, there were about nine shops operating in a small way and about 43 obstructors.

On the 1st March, 1948, there were about 10 shops operating in a small way, about 34 suspected premises, including those doing telephone and credit betting, and about 50 obstructors.

Information regarding the number of "suspected" premises is not available for previous years.

During the latter part of 1942 and early in 1943, the biggest majority of betting shops closed down.

About the same time, the number of obstructors increased and has varied very little since.

The figures quoted for obstructors include those operating both inside and outside licensed premises.

From the 30th June, 1944, to the 1st March, 1948, the figures quoted re shops operating in a small way refer to those shops that have been convicted in the years mentioned.

This statistical review is of interest principally in demonstrating that the efforts of the police, and the penalties imposed, have been entirely ineffective as a deterrent to illegal betting, and that in the mind of the principals in this business, those penalties constitute in substance merely a tax which they are willing to pay for the privilege of conducting their business. A comparison of the number of convictions with the number of offenders in each respective year shows that many of the latter must have been fined several times during the 12 months period. At the same time, from the fact that one amendment of the law, coupled with increased penalties, did have some effect, considerable force is given to the belief that further improvement in the law in those respects would be effective as a deterrent to this form of law-breaking.

Any improvement in the law would, however, be of little effect unless a determined effort is made to enforce it. The evidence showed that the number of police regularly engaged on betting duties in the metropolitan area on race days is from four to six, with an additional six who come on duty at 3 p.m. The same men are always employed, and naturally are well known to the betting fraternity. In addition, they are employed in detecting breaches of the Licensing Act and on other duties. The fact that an average of nearly 13 persons were convicted of obstruction in this area every week for the twelve months ended 30th June, 1947, suggests, at first glance, very good work by the number of men engaged. But an explanation of the fact, which is well recognised, that these defendants almost invariably plead guilty, and philosophically take their punishment, must be sought. It can only lie in a degree of co-operation on the part of the street bookmaker, the basis of which is the "stodge," coupled with, as we have said, preparedness to pay a tax on his lucrative operations. It is not suggested, of course, that this co-operation is anything but one-sided, but it must be of great assistance to the police squad in overcoming their existing handicaps. And the betting goes on unabated.

In the country towns which we visited, we found that illegal betting is rife. In Bunbury and Kalgoorlie, the recognised system is the street bookmaker, usually with the adjunct of the shop with blackboards which we have described. No doubt, some betting also takes place inside the shop; indeed, on an unofficial visit to Bunbury we actually saw and heard betting taking place inside. Police evidence showed that at Bunbury there are seven suspected betting shops and 13 street bookmakers. In the past 12 months the keepers of two shops were fined £40 each, and 64 "obstructors" were fined a total of £655. In Kalgoorlie, there are 14 bookmakers, each with a shop as an adjunct, and two others. In the past 12 months, there have been 131 convictions there for "obstruction," with fines of £1,310, and none for shop betting.

In Collie we found bookmakers operating quite openly in the streets, standing beside large boards on which were displayed the usual information in regard to the races in Perth, Melbourne and Sydney. This has been the practice for at least ten years, and there have been no prosecutions. The sergeant of police there gave evidence that there were about 15 bookmakers operating, and that, of a population of about 6,000 adults, he estimated that 1,500, or possibly 2,000 bet regularly. In answer to a question, he said, "When I came here I made enquiries and found that the law against street betting was not enforced, and I did not like to change the prevailing method by taking action. Later I was told by my District Inspector that they did not wish any action to be taken against S.P. bettors here. It was the practice to let them go on."

Laxity in the enforcement of any law, however arising, and inequalities in its enforcement, can only breed contempt for the law in general. The longer it continues, the more dangerous it becomes and the more difficult it must become to inculcate into a people a proper respect for the law. In addition, it breeds corruption. It is said in palliation of the position in the country that amenities are lacking, and that greater latitude should be allowed than in the city, but this is quite the wrong approach. Even the Commissioner of Police appears to adopt this attitude. To quote his words, "The law is not enforced as rigorously as in the metropolitan area, but it is a position that has been in vogue for many years." He quoted the latter portion of that remark on several occasions, and generally appeared to lack enthusiasm for enforcement of the betting laws.

It would be idle for this Commission to make recommendations, and for them to be implemented by legislation, if the same lack of effective law enforcement is to be allowed to continue. However, all that can be done in this regard is to make some attempt by legislation to facilitate the task of the police in enforcing the law, and then it is a matter for the Government, through the police, to see that it is properly enforced.

(c) *The Demand for Off-the-Course Betting Facilities.*

By various means, we endeavoured to form some assessment of the extent of the public desire for some facilities for betting away from the race-course.

Evidence was given by Mr. P. B. Healy, a telephone bookmaker, that his association comprised 35 members, all of whom conducted telephone betting businesses in the metropolitan area.

He also gave evidence that on the 22nd May, 1948, the number of bets laid by 25 members of his association was as follows:—

Bets under 10s.	8,713
Bets 10s. and over	12,279

On these figures, and taking into consideration that the late autumn and winter is a slack time of the year in racing, it is apparent that a considerable volume of business is done by telephone bookmakers in the metropolitan area.

Naturally, no evidence was forthcoming from the much more numerous illegal bookmakers, and as to the extent of their operations we have to rely mainly on police observation and estimates.

Inspector Anderson, Inspector in Charge of the Liquor Inspection Branch of the C.I.B., gave evidence that in the Perth district, which is between Cottesloe and Guildford and between North Beach and Armadale, and thus comprises a large portion of the metropolitan area, there are ten betting shops operating in a small way, 34 suspected premises (including those doing only telephone and credit betting), and about 50 obstructors.

The answers to questionnaires submitted through the Commissioner of Police to all police stations, both metropolitan and country, give a total of 162 bookmakers operating in the metropolitan area, their locations being as follows:—Hairdressers' shops, 17; other shops, 25; private houses, 6; streets, 112; other places, 2.

The percentage of the adult population in the metropolitan area habitually indulging in betting, according to the estimates made in the answer to the police questionnaire, averages 13 per cent. This figure is not, however, a very reliable guide, as is indicated by the wide discrepancy between individual estimates, ranging as they do from 10 per cent. to 60 per cent.

Answers to the police questionnaire in country districts also show a very substantial demand for betting facilities. The number of bookmakers is estimated at 245 and these are distributed widely throughout the centres of country population. Locality of bookmakers' headquarters is given as:—Hotels, 4; billiard saloons, 4; hairdressers' shops, 31; other shops, 25; telephone and telegram operators, 6; private houses, 4; streets and vacant land, 171. The percentage of adult country population which habitually bets is given at 14.5 per cent.

A considerable number of witnesses were called in Perth by counsel for the City and Suburban Commissioners' Association, principally to prove the demand for telephone betting facilities. Most of these really expressed an individual viewpoint, though they included several trade union officials who testified directly as to the demand for betting among the majority of members of their unions.

Direct evidence showing an equal demand in the country was called by counsel representing off-the-course interests in Bumbury, Collie and Kalgoorlie. This evidence also was called to support advocacy

by the bodies concerned for specific forms of off-the-course betting to be legalised, and as such must be scrutinised carefully, but it was supported by other evidence from many different sources during the hearing of the enquiry and, indeed, there was no evidence to the contrary brought before the Commission.

We are satisfied as the result of this evidence, and also as the result of our own observations, that there is a substantial demand for off-the-course facilities in this State, and that such demand is increasing.

Evidence was freely submitted that this demand was not confined to local racing, whether metropolitan or country, but that there was also a very wide demand for facilities to bet on Eastern States racing, and no evidence was received refuting this suggestion. The report of the Commissioner of Police for the year ended 30th June, 1940, contains the following:—"I am credibly informed that 60 per cent. of such transactions (off-the-course betting transactions) are on Eastern States events." Though the present Commissioner of Police was not prepared to concede that the majority of off-the-course transactions were on Eastern States racing, he and other police witnesses all supported the view that there was a substantial interest in such events. During the course of the enquiry we had the opportunity of inspecting records of the current and recent betting transactions of a telephone bookmaker, and this revealed that a substantial number of his bets were on Eastern States events. Figures he himself submitted showed over 40 per cent. This is particularly significant, as the records covered a period when there were no outstanding races in the Eastern States which should occasion any special local interest, and indicates that the interest of local investors is not confined to widely publicised races. We are satisfied, therefore, that there is in this State a wide demand at all times of the year for facilities to bet on Eastern States racing.

SUMMARY OF EVIDENCE ON THE EFFECT OF BETTING IN THIS STATE.

To some extent, the weight to be attached to the evidence of the witnesses who favoured various forms of off-the-course betting was affected by the fact that few of them attempted to deal with the problem as a whole. As was natural, most of the evidence became so much special pleading for a solution which supported their own interests, without consideration of the practical consequences of their recommendations. As a consequence, many witnesses showed scant regard for the express object of the terms of reference, that means should be sought to minimise betting on horse-racing. Such witnesses were, in many cases, compelled to admit that the courses they advocated could not but have the effect of stimulating and increasing betting.

No evidence was produced to the Commission which seriously supported unrestricted betting, or suggested that if carried to excess it did not produce social and economic evils. Such evidence as was produced in favour of betting was principally directed to opposition to restriction of existing facilities by reason of the amusement or, as it was put, "recreational" value of betting.

It was said that betting or gambling in general was an ineradicable instinct amongst Australians, and, in particular, in Kalgoorlie it was said that the speculative character of gold-mining, which forms the economic basis for the existence of the goldfields, made goldfields residents more prone to bet than elsewhere in the State. We do not consider that there is any justification for the view that Australians in general, or gold miners in particular, have any greater propensity to bet than anyone else. As has been said, the cumulative effect of the evidence, from this angle, was to demonstrate clearly to us that there is a very strong demand for facilities for betting on horse-racing.

Much evidence was given during the hearing as to the adverse social and economic consequences of betting, principally by representatives of the Churches in Perth and Kalgoorlie, and by other social welfare organisations. On behalf of the Diocese of Perth, the views of the Church of England were expressed by the Rev. C. W. Norwood, and those of the other Protestant Churches, as well as several kindred bodies, by the Rev. G. R. Limb, the secretary of the Inter-church Council for Social Reform. Their views were similar, and may perhaps be thus summarised in the words of Mr. Limb: "The Joint Council is opposed on principle to all forms of gambling and betting. It believes that gambling practices do not contribute to the sum of personal or communal happiness but, on the contrary, contribute to much human unhappiness and misery, want and insecurity. It believes also that there is no sense in which it is necessary to bet in order to live a full and contented life." It was further argued by the Churches that, in addition to its harmful social and economic effects, betting exercises a corrupting influence on individual character, owing to its encouragement of the baser and more selfish instincts of mankind, and its association with other social evils, such as drink.

It is noteworthy, however, that none of the Churches supported the total outlawing of all betting facilities and all of them advocated their restriction to the racecourse. Their attitude on this point, as expressed by Mr. Limb, is that the elimination of betting on the racecourse is an unattainable reform for the following reasons:—

- (1) There is a psychological necessity existing for those who have conditioned themselves to gambling practices, which is a factor to be taken into consideration.
- (2) Betting by many generations of custom has become indissolubly associated with horse-racing, and it is doubtful whether any legislation would be successful in dividing the two.

The view of the Churches is therefore based on practical considerations. We again quote Mr. Limb: "Some social diseases cannot immediately be cured or removed from the community. Until such time as public opinion or ethical enthusiasm makes this possible, to localise the disease, to restrict its operation to certain defined and limited areas, might be the only attainable ideal."

It must be agreed that much of the evidence, particularly that concerning the economic and social consequences of betting on horse-racing,

was on a very abstract plane. Where it was sought to give specific examples of such consequences in this State, it was perhaps inevitable that in most cases hearsay evidence was relied on. This evidence must necessarily be accepted with caution, particularly as in many cases we feel that other social evils may have contributed in a major degree to the adverse social consequences to which the witnesses testified. Actually, though many witnesses, including police officers, trade union officials and others, were specifically questioned on the subject, little actual evidence was given on which we could base a conclusion that the degree of betting at present existing was such as to do widespread harm. Mr. Hitchin, a probation officer of the Child Welfare Department, with wide experience in both the metropolitan area and the country, gave evidence, which he stated represented the opinion and experience of all the metropolitan probation officers, that though betting was a contributing cause to some men's failure to maintain their families, it was not as great a factor as one might imagine. On the other hand, it is fully recognised that any social evil is not to be judged merely by its effect in isolated and individual instances, and that detrimental social consequences could be caused by excessive betting less obvious in its effect, and too widespread and too general to be covered by evidence of specific cases.

The opinions of representative and responsible bodies, such as the Municipal Council of Kalgoorlie, are of value in this connection. The Mayor of that town gave evidence on behalf of his Council, and stated that in its opinion and, he thought, in the opinion of the community in general, the volume of off-the-course betting in Kalgoorlie is excessive, and not in the best interests of the community. A similar view was expressed by Mr. Vincent, the president of the Kalgoorlie Chamber of Commerce, speaking on behalf of that body. Replying to a question in his personal capacity as a solicitor, that gentleman also expressed the view that "there are far too many people in Kalgoorlie who bet beyond their means." It must be added that in saying this he stipulated that he made no suggestion that the position in that respect was worse there than elsewhere.

In coming to a conclusion on the evidence, which of necessity can give only an inadequate picture, we think that we are entitled to rely on our own experience and also the unanimous findings of Royal Commissions in other parts of the Commonwealth, as well as in England and New Zealand, that betting to excess does contribute in a substantial degree to crime and has a seriously adverse effect on the economy of the individual, the family, and the community.

The limited number of cases where excessive betting has led to individual or domestic tragedy should not blind us to the large number of cases which must undoubtedly exist, where excessive betting has been a continual drain on the income of the family unit, and has exercised a continuously deleterious effect on its communal and individual standard of living, and on its economic welfare generally. It should also not blind us to the fact that annually in this State vast sums are thrown away on betting which otherwise might have been diverted to more worthy objects.

The evidence of trade union officials, while in every case it was tendered in support of off-the-course betting facilities, disclosed what cannot but be regarded as disquieting evidence of the hold which the habit has on the working community. Their estimates as to the number of their members who bet regularly ranged from "nearly all" and "90 per cent." down to "between 30 per cent. and 40 per cent." Even though their normal bet ranges, as was said, from only 2s. to 5s. "each way," it is obvious that the average result of their day's speculations would constitute an appreciable drain on the income of a working man's family.

On the economic side, it is perhaps of interest to record that we made a check of the books of one off-the-course bookmaker, covering about 3,000 bets on four successive racing days, amounting to £5,425, of which we found the bettors had lost 25 per cent. Truly, if colloquially, is it described as a "mug's game."

Apart from the social and economic evils of betting generally, we think it advisable to draw attention to special evils which attach to the business of the betting shop, the street operator, and all whose business is dependent on public resort for the purpose of betting.

The evils inherent in any business which fosters regularly a congregation of persons lounging in streets and public places with no useful object are too patent to require elaboration, but, in addition to the nuisance aspect, such businesses undoubtedly tend to divert members of the public from participation in other and more healthy forms of activity, encourage drinking through the inevitable association of the betting place with the hotel, and set an example which is particularly injurious to the youth of the community.

We cannot escape the conclusion that the evils of betting, as previously enumerated, exist in a large degree in this State, that betting has increased over the past few years, and that, with shorter working hours and additional leisure, those evils must inevitably increase further under the conditions now existing.

PUBLICATION OF RACING INFORMATION.

Some reference was made in evidence by the Churches and other social organisations to what they regarded as undue publicity given to racing by the newspapers and broadcasting stations, which, it was claimed, stimulated betting, and they advocated legislative restriction. In the course of the enquiry evidence was obtained from those sources, with a view to ascertaining the nature, extent, and justification of that publicity.

1. *Newspapers.*—Evidence was given by the editors of the two Perth daily newspapers "The West Australian" and "The Daily News," which are published in the morning and the afternoon respectively, and from the editor-in-chief, Western Press Pty. Ltd., which owns "The Sunday Times," published on Sunday morning, "The Mirror," published on Saturday afternoon, and "The Call," published at mid-day on Thursday.

The publicity given to racing consists of pre-race information and results, and the relative emphasis given to these two sections by the different newspapers naturally varies according to the time and periodicity of publication. The two dailies devote considerable space to both, "The Daily News" making a special effort to supply "last minute" information by publishing a special edition at 11.30 a.m. on Saturdays. Both newspapers give a regular daily coverage to local and Eastern States racing and to trotting, which naturally increases at week-ends. Their pre-race information covers programmes, acceptances, riders, topical items, form guides, anticipations, ante-post betting prices, and changes in the betting. It is worthy of note that the two items last named can only be based on the illegal operations of off-the-course bookmakers. Barrier positions in Eastern States races and local trotting races are also given, those of the local racing not being available, as they are not drawn until shortly before the start of each race. In the publication of results, "The Daily News" has an advantage in time, but "The West Australian" also publishes in its next issue a complete record of results of all racing, local and Eastern States, with the betting, commentaries on the running, etc., and, as noted earlier, "The West Australian" quotations of prices are the basis on which starting-price bookmakers settle their bets.

Of the week-end newspapers, "The Sunday Times" and "The Mirror" confine their attention principally to results, commentaries, and betting particulars, and "The Call" on Thursday, which has a limited circulation of about 8,000, is devoted to pre-race information, under its various headings.

The amount of space devoted by the newspapers to horse-racing has been affected by the drastic cuts in newsprint (approximately 50 per cent.), which became effective about the beginning of this year. The proportion of racing news to total news space, however, has remained substantially unaffected, though, to some extent, the same "coverage" has been maintained by reducing racing information to tabulated form. "The West Australian" figures for the fortnight ended 24th April, 1948, show that racing (including trotting) occupies about 12 per cent. of total news space, and 58 per cent. of the space devoted to sporting. The corresponding figures for "The Sunday Times" are almost identical, and those for "The Daily News" are 13 per cent. and 67.3 per cent. respectively. The other two newspapers are of a more predominantly sporting character, "The Call" devoting 80 per cent. of its space to racing and trotting.

All the witnesses emphasised that in providing this extensive coverage of racing news, they were merely catering for an existing public demand. It is, of course, their business to assess this, and no doubt they do so in a multitude of ways. For example, the evidence of the editor of "The Daily News," which has an average daily circulation of 75,000, showed that Friday sales were about 6,000 above the week-day average, and the highest of the week. This he attributed solely to the publication of "form guides" on that day. Other convincing examples were given, but, while it is no doubt true that the present quantity of publicity would not have been given without a considerable demand, there is little

doubt that it is in fact substantially and continuously stimulating the demand which invoked it. The witnesses would no doubt have agreed that it is possible by judicious advertising to foster the demand for commodities other than racing.

2. *Broadcasting.*—Racing publicity is given by both the national and commercial broadcasting stations. A return furnished by the manager of the A.B.C. in Western Australia gives the times occupied by racing broadcasts on its stations during each of the last three years. The figures are for the years ending 30th April, and are as follows:—

1946 ..	241 hrs. 35 mins. = 4 hrs. 39' mins. weekly
1947 ..	290 hrs. 45 mins. = 5 hrs. 35 mins. weekly
1948 ..	327 hrs. 47 mins. = 6 hrs. 18 mins. weekly

The particulars supplied by the representative of the combined commercial broadcasting stations concerning the time occupied by them in racing broadcasts shows an average total of about five hours 51 minutes per week from all stations.

The considerable increases over the past three years in the amount of time allotted by the national stations to racing broadcasts is of interest. The broadcasting stations, both national and commercial, have a means of forming an estimate, through a research organisation, of the trend of listeners' tastes and habits, and to some extent base their programmes on the information gained therefrom. Our comments in regard to Press publicity apply equally to the radio, but with possibly more force in relation to the stimulus afforded to betting. Providing, as it does, descriptive accounts of the actual racing from the course, it must necessarily add to the entertainment appeal of betting, and it cannot be doubted that to its development over recent years must be attributed some share of the responsibility for the increase in betting. At the same time, it cannot be overlooked that the running description of horse-races has an entertainment value to many people who do not bet.

It should perhaps be mentioned that the broadcasting stations are bound by their contract with the turf club not to broadcast scratchings, barrier positions, or riders before a race.

3. *Press Agencies.*—Coming under this heading, though in a different category to the Press and broadcasting, we inquired into the operations of "Press agencies." There are two in Western Australia, "Tate's Press Agency" at Perth, and the "Goldfields Press Agency" at Kalgoorlie. The latter operates exclusively in the Eastern Goldfields district, and "Tate's Press Agency" over the rest of the State. Though "Tate's Press Agency" in a limited way supplies some information to newspapers and one broadcasting station, it is clear that its principal function is to supply private clients with information during the course of race meetings here and in the Eastern States. The information concerning Eastern States racing which is supplied to clients is "late scratchings," the result of each race, the "straight-out" price of the winner, the three place dividends, and the starting price of the favourite. With the exception of the "late scratchings" and the starting price of the favourite, similar information is furnished in regard to local races, and, in addition, barrier positions for the next race are sometimes given.

As immediate information of results, but not the betting or totalisator dividends, is available over the air following the description of the running of the race, and the betting and dividends are also available in a summary over the air immediately after the last race on the programme, and as the clients of these agencies pay substantial fees for receiving this information, it is obvious that those clients must principally be persons interested in betting as a business.

"Tate's Press Agency" has 91 metropolitan and 84 country subscribers. The country subscribers are spread over the whole of the State apart from the Eastern Goldfields, and include three in the North-West. It has a branch at Fremantle, and has a staff of six men and 12 telephonists at the two offices. In addition to 27 exchange telephone lines, it has 24 direct lines to clients from the Perth office, and 16 from the Fremantle office. Information is received from the Eastern States by urgent telegram and from the local course by telephone. It is distributed by telephone to subscribers in the metropolitan area or adjacent thereto, and by trunk line to agencies at Bunbury, Collic, Katanning, Northam, Mt. Magnet and Geraldton, which are responsible for dissemination of the information to subscribers in their respective districts. Except in outlying places, the information normally reaches the subscriber before the start of the next race.

The "Goldfields Press Agency" operates similarly. It has 25 subscribers, of whom 12 are at Kalgoorlie, six at Boulder, and the rest at Coolgardie, Norseman, Esperance and Leonora. It has four exchange telephones and 11 direct lines. It receives information from Melbourne direct, but otherwise relies on "Tate's Press Agency" for its supply.

There is no doubt that these Press agencies provide a very efficient service to their subscribers, and that the present system of off-the-course betting is largely dependent upon their services for its successful operation.

ALTERNATIVE PROPOSALS FOR CONTROL OF BETTING.

It having been established that there is a considerable desire for betting facilities, and that control by the legislature is called for, we proceed to consider the various suggestions made to us during our enquiry as to the form that control should take.

1.—RESTRICTION OF BETTING TO THE RACECOURSE.

The view that betting should be confined to the racecourse, and that all forms of off-the-course betting should be suppressed, was expressed by the Churches and social bodies, the metropolitan racing and trotting clubs, the course bookmakers and the Breeders, Owners and Trainers' Associations.

By none of its supporters was it suggested that course betting was in itself less harmful ethically, morally, socially or economically than off-the-course betting. The view of the Churches and social bodies was, in effect:—"We would like to see betting totally suppressed by law. We regard this as impossible. The next best thing is to reduce it as much as possible, and this can be done by confining it to the racecourse, where it can be better controlled, and the numbers who can participate will be limited."

The racing clubs and bodies associated with the horse-racing industry supported the restriction, substantially on the ground that off-the-course betting limited attendances at race meetings, and consequently militated against the success of the meetings and the welfare of racing. They argued with some force that they provided the betting medium and should have financial support from those who made use of it.

Though this is the attitude of the committees of the race clubs, it is doubtful whether the individual members and owners adhere strictly to the committees' policy and whether there is not a considerable amount of off-the-course betting done by those directly associated with horse-racing.

If betting were confined by law to the racecourse, legal betting would be very considerably restricted. It is obvious that the racecourses, even in the metropolitan area, can cater for only a very small percentage of the population who desire to bet, and that if off-the-course betting were entirely prohibited legal betting would be the prerogative of the privileged few.

The arguments in opposition to this limitation on betting stressed the claims of those persons who for various reasons cannot attend the racecourse. These may come within a number of categories:—

- (a) Those who for physical reasons, age, infirmity, or illness—are unable to attend a race meeting.
- (b) Those who for economic reasons cannot attend.
- (c) Those who are unable on account of geographical reasons to attend.
- (d) Those engaged in some occupation, or following some sport, which prevents their attendance.

Of the four classes the third is perhaps the most important, in that it includes most residents of the country, within whose district race meetings are held at most on only a few days of the year, and who would be substantially debarred from lawful betting if facilities were confined to the course.

It was argued that by the nature of things the country dweller's amenities and amusements are more restricted than in the city, and that it would be unfair unnecessarily to deprive him of a facility which may be widely availed of in the city. It was said that, with changed labour conditions, the worker now has more leisure than heretofore, and particularly in the country and goldfields districts variety in entertainment is to a large extent denied him.

It is clear, of course, that the classes of persons referred to have the same disabilities in regard to many matters other than betting. Such disabilities are regarded as inevitable, but if there is a way in which any can be removed, always consistent with the welfare of the community as a whole, no doubt this should be done. Having regard to the impracticability of enforcing a total prohibition of all off-the-course betting facilities in this State, and while we feel that there might be many more profitable ways in which most of those affected might spend their time and money, we have come to the conclusion that legal betting facilities should not be entirely denied to them.

2.—LEGALISATION OF BETTING SHOPS.

As has been previously pointed out, the legislation of betting shops has been expressly excluded by the terms of reference. For this reason, in the early stages of the inquiry any reference to them was held irrelevant, and was excluded from the evidence.

However, as the enquiry progressed it became apparent that there was a strong body of opinion supporting them, particularly in the country districts. In Bunbury it was urged that application should be made to the Attorney-General to extend the scope of the terms of reference to enable us to consider the expediency of legalised betting shops. As we were of opinion that clause 8 of the terms of reference might possibly be construed as giving us the power to apply for such an extension, a considerable amount of evidence favouring shops was heard in Bunbury and Kalgoorlie with a view to a consideration of the possibility of making an approach to the Attorney-General.

While owing to the early restriction imposed on evidence relating to starting price betting, the scope and volume of the evidence on this topic was not as extensive as it otherwise might have been, the case in favour of their legalisation was fully canvassed in Bunbury and Kalgoorlie. After full consideration of this evidence, with our knowledge of the result of the South Australian experiment as attested by the South Australian Report of 1938, and the South Australian Government's action in abolishing betting shops in the metropolitan area, as well as a perusal of findings by other Royal Commissions on the subject, we decided that no approach for an extension of the terms of the enquiry was justified.

Our principal reasons for declining such an approach were as follows:—

(1) The obvious desire of the Government of this State that the possibility of some form or forms of controlled betting, other than the licensing of betting shops, should be explored.

(2) The licensing of betting shops would encourage and increase betting. This was conceded by most of the witnesses who gave evidence supporting the proposal and is also strongly supported by the South Australian experiment. We feel that no proposal which would have such an effect could, under the terms of reference, be recommended.

(3) The personal contact with the bookmaker and with others intent on betting undoubtedly also stimulates betting and increases the likelihood of betting to excess. It may be said that attendance at a racecourse has a similar effect, but in our view there is a considerable difference between conditions at a well-appointed racecourse, where there are attractive surroundings and where a person may observe the horses and see the race on which his investment depends, and the resort to a betting shop where no attraction or interests exist other than to bet and to listen to racing results.

(4) It would tend to create public nuisances, by the congregation of and loitering of people in public places in the vicinity of shops.

(5) Betting shops would have a tendency to keep people away from healthy sport and recreation.

In this connection, we quote from the report of the South Australian Royal Commission of 1938, at paragraph 130, as follows:—

"We conclude that—(a) Betting is more widespread; (b) many more people are betting; (c) the predominant cause is the existence of betting premises, which furnish complete facilities for supplying the bettors with betting information, and enable bets to be made during the progress of the race meeting."

The Queensland Royal Commission of 1936, after visiting South Australia to investigate the conditions existing under the system of licensed betting shops, and taking evidence there, concluded its summing-up with the words (page 60 of its report):—

"We are of the opinion that the betting shop is a corrupting and destroying influence, and that it has nothing to commend it ethically, socially, or economically."

As a modification of the betting shop proposal, it was suggested that an area outside the main shopping centre of a town, such as the racecourse or sports ground, might be licensed for off-the-course betting. This proposal certainly might overcome to a large extent the nuisance aspect of the betting shops, and the association of betting with drink, which is another of the objectionable features of the shop. We consider, however, that this solution would come within the limitation imposed by the terms of reference and, further, that it would be open to many of the graver objections to the shop.

3.—LEGALISATION OF BETTING IN STREETS AND PUBLIC PLACES.

The legalisation of this form of betting was advocated in Collie, where it has been the accepted practice for a great number of years. It was also indirectly advocated in Perth by a body called the Metropolitan Sports Association which made a somewhat belated application for representation at the Commission. This body apparently comprises bookmakers who endeavour to operate in streets and public places in such a way as to avoid creating an obstruction, and thus to keep themselves outside the scope of the criminal law.

On their behalf it was urged that, because of the popularity of this form of betting, the present laws be maintained, but that the law as to street obstruction should be administered more leniently towards the street bookmaker.

There is little that can be said in favour of the street bookmaker. His business has all the evils of the betting shops and in his case, the obstruction and the public nuisance aspect which have a tendency to arise in the case of the betting shop, become almost inevitable, as his business is actually being carried on in public places. The abuses to which the legalisation of this calling would tend to give rise are too obvious to require enumeration. In our opinion he is a pest to society and there is no good reason for his existence. This is the only State in the Commonwealth where his operations are not specifically prohibited and rigorously suppressed.

4. CASH BETTING POOLS.

Evidence advocating the legalisation of cash tipping pools on the lines of the English Football Tipping Pools was advocated by one witness who

had endeavoured to establish credit tipping pools in this State in the past. Their method of working has been described earlier in this report.

The justification argued for this proposal was that it involved but a small financial outlay, and was not fraught with the serious economic consequences to the individual in the lower income group which was likely to result from excessive indulgence in ordinary forms of off-the-course betting. Though, superficially, this argument appears to have force, it disregards the fact that such schemes readily lend themselves to a multiplicity of entries. The scheme contains, however, other objectionable features, of which the principal one is that by its wide circulation of invitations to bet, in the form of coupons, into the home, it would have an undoubted tendency to stimulate betting and interest in horse racing throughout the family group. The scheme has little to commend it and in our view should be decisively rejected.

5. ESTABLISHMENT OF OFF-THE-COURSE TOTALISATORS.

The solution of the problem of off-the-course betting by the legalisation of branch totalisators was the subject of a scheme propounded by Automatic Totalisators Ltd. of Sydney, through the company's secretary, Mr. Hunt. The scheme envisages the introduction of a system of totalisator branches at about fifteen of the larger towns throughout the country districts of the State, the locations named being Albany, Boulder, Bunbury, Busselton, Carnarvon, Collie, Geraldton, Kalgoorlie, Narrogin, Northam, Wagin, York, Three Springs, Katanning, and possibly Wyndham. A miniature totalisator would be installed at each of these branches, at which bets, on races being run in Perth, could be lodged for transmission to a head office in the city, and thence to the central totalisator at the racecourse or trotting ground. These central totalisators are, as has been seen, operated on a percentage basis by the totalisator company, and the scheme suggested that the branches could be controlled and operated either by it, or, if thought fit, by a separate organisation set up for the purpose. Mr. Hunt said in evidence that he considered the company could operate the branches on the same percentage of turnover as is now received.

The branches, in turn, would control agencies at outlying points in the branch district, from which the branch would receive bets for transmission in bulk to the central totalisator. These agencies would be privately conducted, would be remunerated by the operating company at a pre-determined percentage, and would necessarily require to furnish adequate financial guarantees.

The methods of inter-communication would be by two way tele-communicator and by telephone, and in this way it was suggested that bets could be lodged at a branch up to five minutes before the commencement of a race.

The scheme was supported by the "S.P. Licence Applicants' Association," a body of persons which was represented at the Commission. One of them gave evidence that they were prepared to arrange the flotation of a company to operate off-the-course totalisators, assuming they could obtain a license to do so.

Though we are aware that a system such as that proposed exists in France, and possibly elsewhere, operations on the totalisators in Australia so far are in all States confined to the racecourse.

The South Australian Betting Commission of 1933 recommended the introduction of an off-the-course totalisator as the most suitable medium for that form of betting. It further recommended that the totalisator should be controlled by a State Totalisator Board to comprise certain members appointed by the Government and the racing clubs. It was contemplated that the State totalisator pool should be entirely separate from the course totalisator and should provide facilities for conducting pools on races in other States as well as on South Australian racing.

It is now a matter of history that the Commission's recommendation was not followed, but instead the South Australian Government introduced the licensing of betting shops which proved so disastrous an experiment.

Early this year the New Zealand Commission on Gaming and Racing presented its report, favouring the introduction of off-the-course totalisators as a solution of the illegal betting. Their recommendation is couched in the following words (paragraph 92 of the report).

"The conclusion is thus inescapable, that if a system of off-the-course betting can be devised that will ensure that the moneys staked go through the totalisator, 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-the-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."

We have no indication as to whether the Parliament of New Zealand will implement this recommendation by the introduction of legislation to establish the off-the-course branch totalisator, but there are certain factors with regard to New Zealand which merit mention before we turn to the consideration of the proposed Western Australian scheme.

In the first place, the operations of the bookmaker whether on or off the course, were made illegal in New Zealand in 1910, and they have not been operating on racecourses there since that date. Thus, New Zealand bettors and racegoers have been accustomed for over a generation to the totalisator as the only legal mode of betting.

In the second place, the geographical situation in New Zealand is vastly different from Western Australia. New Zealand is far more compact, distances are short, communications are good, and decentralisation is marked, so that there are many towns whose population would economically justify the establishment of a branch of the totalisator. Western Australia is a State with vast distances and poor communications, and intensely over-

centralised. We are satisfied that no State would present greater difficulties in the establishment and operation of such a scheme than Western Australia.

The scheme presented to us by Automatic Totalisators Limited has received our very careful consideration. Mr. Hunt expressed the opinion that it was quite practicable, and much weight must be given to such an opinion, in view of the long experience the company has had in the operation of totalisators throughout Australia and New Zealand. On the other hand, though obviously investigations have been made, the evidence of Mr. Hunt indicated that the information so far gained by the company concerning the potentialities of the various country towns and the districts surrounding them, was very incomplete, and we are by no means satisfied that the scheme is technically and economically practicable.

To deal first with the economic side, evidence was given by Mr. Kilpatrick, the Deputy Director of Posts and Telegraphs for Western Australia, as to the cost of providing the necessary telegraph and telephone services (assuming that the equipment was available) to the 15 centres proposed by Mr. Hunt as the location of branches. These figures are on page 1121 of the transcript of evidence, and show that the annual cost to the operating company of those services would be £46,850, necessitating an annual turnover, on the basis of the proposed 2½ per cent. commission, of £1,874,000 from the 15 branches to cover that item alone. It may be mentioned here that the total turnover on the W.A. Turf Club's totalisators for the last complete year was slightly less than a third of this amount. When to that item of expenditure are added other costs, such as wages of employees at the branches, at the central receiving and transmitting office, and at the central totalisator, plus considerable interest on capital, profit, etc., it will be seen that the required turnover must greatly exceed that amount. The capital cost would include £2,000 at each branch and £300 at each agency, and, quoting Mr. Hunt, "a battery of telephones, tele-communicators, and adding units similar to those at each branch would be installed at the city head office." Much additional recording equipment would also have to be installed at the central totalisator. While admittedly we are not nearly so qualified to express an opinion as to prospective profits as the company, we feel that the colossal turnover which is obviously anticipated by it from the country districts of this State may conceivably be over-estimated. We have no reliable means of estimating it, and we merely set out the figures as they appear to us. Presumably the company's estimates are based on the scheme having a monopoly wherever it is installed, but, in the event of some of the country branches proving unprofitable, the facilities would no doubt promptly cease to exist.

Mr. Kilpatrick gave further evidence as to technical difficulties, which are by no means inconsiderable. The scheme would be based on the availability of telephone and telegraphic channels, and he expressed the view that the necessary channels could not be made available, for the present at all events. Furthermore, he pointed out that, the lines being open, an interruption-free service could not be guaranteed. External influences, such as thunderstorms and wind could play havoc with this form of intercommunication.

Apart from these considerations, the scheme has other drawbacks, viz.:-

(1) The fact that the branches and agencies operate for cash would entail the necessity for resorting thereto, and thus produce most of the objectionable features of the betting-shop. It may here be mentioned that under the New Zealand scheme payments by branches and agencies to successful investors would not be made until the following day. That could, of course, be stipulated here, which would reduce the "resorting," but would also affect the popularity of the system with those bettors who wish to re-invest their winnings. No doubt it would also increase the cost.

(2) The introduction of off-the-course totalisators would probably cater for a class of bettor which does not patronise existing off-the-course facilities, whether lawful or unlawful, and would thus tend to increase betting.

(3) It would not cater for the popular "doubles" betting, or for the demand for facilities for betting on Eastern States racing, to which reference has been made earlier.

(4) As the company imposes the absolute condition that no branch or agency shall operate within 40 miles of the racecourse, the scheme offers no facilities for off-the-course betting in the metropolitan area.

(5) It is further limited in its application, as the company does not consider it practicable to operate agencies more than 10 to 15 miles from a branch. Thus, very large areas of the State would remain unprovided for, unless some other system of off-the-course betting was also legalised.

Though, on its original somewhat sketchy presentation, the scheme appeared to offer some possibility of an acceptable solution of the problem of off-the-course betting, its limitations are such that after careful consideration, we have decided that the establishment of this system of off-the-course totalisators, cannot be recommended.

It is with some regret that we make this finding, since the scheme has certain obvious advantages, particularly relating to taxation and the elimination of private profit. We feel that any satisfactory solution which "liquidated" the off-the-course bookmaker would be welcomed by the community in general.

A proposal for a totally different system of off-the-course totalisators was brought forward by the Rockingham Road Board through two of its members who gave evidence. They advocated the establishment of completely independent totalisators, to be operated by local authorities, "the proceeds to be utilised for educational, recreational, and social purposes in the district of the local authority." Except as to the disposal of the profits, the proposal was entirely nebulous in character. We have no evidence that local authorities in general would consent to operate such a scheme—indeed, shortly afterwards, two newly-elected members of the same road board appeared before us and expressed their disapproval of the proposal. While we appreciated any thoughtful suggestion, this proposal did not commend itself to us.

6. LEGALISATION OF OFFICE BETTING.

Credit Betting by Telephone, Telegraph and Post.

The system of off-the-course betting known as office credit betting, under which a place is used for betting solely on credit with persons who do not resort thereto, but who employ the telephone, telegraph, or post, was advocated by the City and Suburban Commissioners' Association, the members of which carry on betting in that way. We have already referred to its legality under existing law.

If we postulate that there is a strong demand for facilities for off-the-course betting, and that there are reasonable grounds on which we should recommend that some legalised facilities should exist for the satisfaction of that demand, there are reasons for giving serious consideration to the continued legalisation of this form of off-the-course betting.

Principal among these is its freedom from the evils accompanying "resorting," which constitute the most objectionable features of off-the-course betting in the forms already discussed. These have been dealt with earlier, but may now perhaps be summarised in negative form. With office credit betting:—

- (a) The tendency to bet to excess is not stimulated by contact with the bookmaker and other bettors. In other words, the "betting atmosphere" is absent.
- (b) There is no public nuisance, caused by a congregation of people.
- (c) Bettors are not thereby induced to desert recreations and occupations which are more healthful, physically and mentally.

The objections to this system of betting most of which were stressed at the hearing, are as follows:—

- (a) In betting on credit there is a temptation to bet above one's means because the amount of bets is not limited by the bettors's available cash resources.

This is undoubtedly true, but in the absence of the psychological encouragement to bet resulting from personal contact with the bookmaker, it is doubtful whether this is as potent a factor as might be imagined.

- (b) It confers a special privilege on one section of the community, in that credit betting is necessarily confined to persons who are in a position to establish a credit with a bookmaker. In addition, it may be suggested that this form of betting confers special privileges on those who have telephones.

There is a considerable amount of force in this, and it does suggest that if there is a reasonable justification for legalised off-the-course facilities, some other form of legalised off-the-course betting which would cater for the cash bettor, should be provided.

- (c) It has further been suggested that the credit betting office, and in particular telephone betting, is inadequate in that it does not offer the same facilities in the country as in the metropolitan area where telephone facilities are more freely available.

We see no substantial difficulty in this regard in the country towns where adequate telephone facilities exist, and we think that this should apply to most towns where the population is sufficient to support an illegal shop or street operator. So far as the outlying districts are concerned, the would-be bettor would, we assume, have no greater difficulty in having a bet by telephone than in attending in person, at a legalised place for betting. Furthermore, it must, we consider, be accepted that residence in outlying portions of the State of necessity entails some limitation of pastimes and amenities which are possible in the metropolis.

- (d) Another possible objection is that, with the telephone as the principal legal off-the-course medium, the difficulties of individual communication would lead to the creation of a greatly enlarged class—agents, canvassers and the like—who would act as intermediaries between the members of the public and the credit bookmaker, and thus tend to encourage betting.

We are not unmindful of this possibility, and consider it quite essential, if the legality of this form of betting is to be tolerated, for legislation to be enacted to avoid this danger.

It is our conclusion that office credit betting is less undesirable than any other form of off-the-course betting which has come under our review, and that the continued immunity of this form of betting from the penal provisions of the criminal law might be maintained. This will be included in our subsequent recommendations. Though we take this view, we express a definite opinion that the operations of the office credit bookmaker should not be allowed to continue without strict and efficient control, and we consider that adequate contribution should be made by him to the revenue from his operations.

We are also of opinion that, for the protection of the race-clubs, there should be some restriction of his hours of business within a fixed radius of a racecourse while races are in progress there.

Postal Cash Betting.

We have referred to the desirability, if office credit betting is legalised, of providing some complementary form of off-the-course betting, which would cater for the cash bettor. We are of the opinion that the least objectionable form of this would be cash betting by post, and we propose to also include in our recommendations the legalisation of this as an adjunct to telephone betting.

The arguments in favour of this form of betting are the same as we have used in recommending office credit betting. There are possible objections to it, on the ground of its inadequacy, and we set them out:—

- (a) That postal cash betting would be regarded by the present illegal bettor as too much trouble.
- (b) That it is not suitable for small bets, or that the cost would be too great.
- (c) That bets would have to be posted too early, and that the system would not cater for the progressive bettor, who wishes to base his later bets on the result of his earlier ones.

As to (a), though the objection has weight, we cannot agree that it is the function of the legislature to smooth away all difficulties in the way of organised gambling, nor is it in the interest of the community that the path of the bettor to the bookmaker should be made as easy as possible.

As to (b), payments could be made by stamps, which would be exchanged, at slight trouble to the bookmaker, for cash to the full amount, by the Post Office. He could, if he wished, also arrange for payment of postage on delivery. This would certainly cost the present street bookmaker less than his present organisation of "nit-keepers" and "stooges," not to mention his fines.

As to (c), the time factor does involve a restriction of facilities, compared with the present illegal system, since the bookmaker would no doubt insist that letters containing bets should be received by him, or at all events post-marked, before the race. As we have indicated, however, we do not expect our recommended facilities to represent perfection in the eyes of the confirmed bettor. It is our belief that they will, if adopted, while providing what the average bettor should regard as entirely reasonable opportunities for betting, tend to reduce its volume. Our view is that the only valid criticism that could possibly be levelled at them is that, in the light of experience, it may be found that they do not sufficiently minimise the evil.

The reduction can only be attained by rigid suppression of illegal off-the-course betting and a "tightening up" of laws and penalties with a view to assisting the police in law enforcement, which must of necessity form a substantial portion of our recommendations.

It is, we think, needless to state that the legalisation of postal cash betting would require the same safeguards as those to which we have referred in dealing with telephone betting.

LEGISLATIVE POLICY AS TO BETTING.

We have referred to the fact that betting and gaming have presented a social problem which has been a matter of serious concern to the legislatures of many countries over some hundreds of years. Historically, the legislatures of British communities have seldom interfered with private gambling between individuals, nor do we consider that any such interference with personal liberty would be justified, such matters as private betting being a matter for individual conscience. So that, although the ethical approach has been urged on us, we think it will be agreed that pure ethics are not a proper basis for legislative interference. As has been pointed out in the reports of other Royal Commissions on this subject, the field of ethics is not co-extensive with the criminal law, in that there are many forms of conduct generally considered to be morally wrong which are not interdicted by the law, just as there are many matters on which the State legislates independently of any question of ethics.

There is, however, a sharp distinction between action which involves interference with individual liberty, and action directed against a practice, such as organised exploitation of the gambling propensity for gain, which has produced, or is liable to produce, social effects which are detrimental to the com-

munity. The Report of the English Commission of 1932 gives an intimation of the social consequences which should properly be taken into consideration by the State, which we adopt for the purposes of this report. They are: Impoverishment of homes, deterioration of character, inducement to crime, the prevalence of fraudulent practices, the loss of industrial efficiency, and public disorder.

It has been seen that the history of English law on the subject has been largely a process of "trial and error," and the legislation in the other States of the Commonwealth shows a similar development to a greater or lesser degree. In legislating regarding betting it is impossible to achieve logical consistency. The evils which may follow repression have to be set off against those which it is sought to remove, and frequently a middle course has to be adopted. In this, the experiences of the past which have ensued from allowing or prohibiting particular facilities for betting, and the success or failure of particular legislative measures, must be a primary guide. Also as social conditions change, so must the law be rectified.

In considering the problem of betting in this State, the existing state of affairs which it is sought to improve must be closely studied. The extent to which betting in this State has become excessive is due primarily to the failure of the law to keep pace with social development, together with some lack of enforcement. In the result, the community has over a period of years become conditioned to a state of affairs under which not only the legal facilities, but others also, have been freely indulged in. Admittedly, to argue that the fact that a law is constantly broken is any reason for its repeal would be manifestly absurd—the traffic laws are broken every day, and by reputable citizens, without any such suggestion. On the other hand, practical commonsense must be applied to the making of laws. To attempt too drastic a reform in the matter of betting would, we feel, be to act in the face of a large body of public opinion, would be doomed to failure, and would tend to bring the law into disrespect.

We do not, therefore, recommend that the laws in force almost throughout Australia, whereby legal betting is restricted to the racecourse (the exceptions being Tasmania and a few country towns in South Australia) should be applied in this State. As we have indicated earlier, our recommendation will be that a form of off-the-course betting should be legalised.

RECOMMENDATIONS AND COMMENTS THEREON.

We now set out our recommendations under the various headings of the terms of reference of our Commission, with our comments thereon:—

"The best means of controlling and minimising betting on horse-racing."

Our recommendations under this general heading can, we think, more suitably be dealt with under the subsequent headings.

"To what extent, in what form or forms (other than by the licensing of betting-shops) and subject to what controls and safeguards it is expedient that such betting should be permitted or prohibited by law?"

1. It is recommended that existing forms of on-the-course betting, namely, with registered course bookmakers and on the totalisator, be permitted, and that the operations of those bookmakers be legalised.

Comment.—Opinion of witnesses giving evidence was unanimously in favour of the retention of existing facilities for organised betting on the racecourse. We agree that the racecourse is the most appropriate place for betting on race-horses. In our opinion, the practical toleration which has been extended to the registered course bookmaker's apparently illegal activities should be rendered unnecessary by this legal recognition.

2. It is further recommended that the control of betting on racecourses and trotting courses, including the registration of course bookmakers, should be left in the hands of the Western Australian Turf Club and the Western Australian Trotting Association respectively.

Comment.—We consider on the evidence that existing control over course betting facilities by racing and trotting authorities is adequate, and sufficiently protects the public and all parties concerned.

3. We further recommend the creation of a Betting Control Board, with the object of controlling and minimising off-the-course betting.

Comment.—In view of our subsequent recommendations that certain forms of off-the-course betting should be sanctioned by the law in a restricted way, the creation of a control authority is necessary. Its nature, functions, powers and duties form the subject matter of a further term of reference and will be dealt with by later recommendations.

4. We further recommend that office betting, whether on credit or for cash, with persons who do not resort thereto, be permitted on premises registered, and by bookmakers licensed, for the purpose by a Betting Control Board, and subject to the restrictions embodied in our later recommendations.

Comment.—This proposal will, if adopted, permit cash betting by post, which is now illegal. On the other hand, by the licensing of bookmakers, and in the restrictions detailed hereunder, it effects a curtailment of existing facilities for office credit betting. Our reasons for recommending some form of off-the-course betting and for regarding this as the least objectionable are fully explained earlier in our report.

5.—It is further recommended that no registered betting premises shall be permitted to remain open after one o'clock p.m. on any day when a race-meeting is being held on a race-course situated within 25 miles of such premises.

Comment.—We regard this provision as important, both from the point of view of minimising off-the-course betting in the metropolitan area, and for the protection of the sport of racing and the race clubs.

The representative of the controlling bodies of racing and trotting, and of the Breeders, Owners and Trainers' Association in Perth who gave evidence were unanimous as to the serious effect on racing of off-the-course betting.

Evidence of the extent to which racing is affected by an increase in off-the-course betting is provided in the report of the South Australian Royal Commission of 1938, of which the following is an extract:—

"The new Act (for the licensing of betting shops) was passed in December, 1933. Since then attendances at the courses have become smaller while off-the-course betting has increased continuously. The revenue of racing clubs (apart from the Government grant) has diminished. Totalisator investments have dropped heavily, and the slight increase in stake money has been possible only because of the Government grant.

This is due to the fact that the great majority of people who take an interest in racing only do so as a medium of betting. Approximately 90 per cent. of the bets are now made in betting premises, and 53.6 per cent. of all bets, including those made on the local race-courses, are on events run outside South Australia."

After quoting figures for the principal race-courses relating to membership and stake money over a period of ten years ending 1937-38, the report proceeds:—

"It will be noted from these figures that:—

(a) Attendances have fallen by more than 50 per cent. since 1927-28 and today are substantially the same as in the depth of the depression.

(b) In each club the number of members is less than in the depression years.

(c) The aggregate sum wagered on the totalisator is now less than 20 per cent. of the 1927-28 total, is less than 40 per cent. of the depression level, and is getting smaller.

(d) Stakes have decreased by more than half since 1927-28."

The Commission's conclusion is expressed thus:—

"We find that the chief reason for the present condition of horse racing is off-the-course betting. Some witnesses were of the opinion that the legalisation in 1933 of betting in licensed premises was wholly to blame. Actually the drift from the courses commenced in 1927, but it has been greatly accentuated by the licensing of premises, with all their facilities.

We further conclude that so long as these facilities for off-the-course betting exist not only will there be no prospect of an improvement in the condition of racing in the metropolitan area, but it will further decline. The only permanent and proper remedy is to bring about the return of the people to the racecourse."

The Chairman of the Western Australian Turf Club in giving evidence before us, said that, with the suppression of the betting shops in Adelaide, "attendances and totalisator profits have reached a very high level, and good stakes are paid."

Farther evidence on this point was furnished by the representative of the Kalgoorlie racing club, who said that his club had to abandon racing on Saturdays in 1939 because the meetings were ill-attended and unprofitable, owing to the betting shops being open on that day. There seems to be an understanding in most country towns that when a race-meeting is being held on a Wednesday, the illegal bookmakers do not operate locally.

In support of a suggestion that these premises should be allowed to remain open till 3 p.m., the argument was advanced that this would enable betting to be carried on till the finish of the Eastern States racing, on which a fairly large proportion of off-the-course betting is conducted. If this were allowed it would be manifestly impracticable to prevent business being done on local meetings while they are actually in progress and this in our opinion should be definitely avoided. Eastern States meetings start as early as 11 a.m. local time and one o'clock closing would enable operations to be carried on during part at least of their currency. In any case, it cannot be conceded that there is in this State any inherent right to bet on Eastern States racing.

6. It is further recommended:—

(a) That settlement of bets be made only by post, unless made at the registered premises on the working day next following that on which the race-meeting was held.

(b) That registered premises may not, on any day on which the license is in force, be used in connection with any business or occupation in the course of which any member of the public would ordinarily resort thereto.

(c) That on days for which the license is applicable, other than the prescribed settling days, any person other than the licensed bookmaker or his licensed clerk who is found on or entering or leaving registered premises shall be guilty of an offence unless he proves that he was there for a lawful purpose.

Comment.—Effective supervision of registered premises necessitates strict limitation of the opportunity which the public has for lawful entry to the premises, and this aspect presents some difficulty in certain cases. We considered the extent to which we could recommend that registered premises should not be used for any other purpose. It is realised that, if the proposed facilities for off-the-course betting are to have wide application, the position in many country towns, where the licensed bookmaker would operate only on one, or at the most two days per week, must be considered. These recommendations contemplate that the Betting Control Board, in issuing the license in such cases, would fix the days and hours when the betting business could be conducted thereunder. The question of supervision is one which the Board will no doubt take into account in registering premises, and we feel that the limitation we have recommended will be sufficient, in view of the Board's arbitrary powers in relation to cancellation of licenses.

7. It is further recommended that registered premises shall be open to the police and officers of the Betting Control Board during the prescribed hours of business, and that penalties be provided for delaying admission etc.

Comment.—This is necessary for effective supervision.

8. It is further recommended that comprehensive restrictions be imposed on advertising, canvassing, and the employment of agents by bookmakers.

Comment.—These restrictions will be set out in detail in later recommendations. Here it is sufficient to point out that the recognition of a form of betting such as we have recommended makes it of

these premises till 3 p.m., the would enable of the Eastern proportion of

If this were impracticable to meetings while in our opinion n States meet-time and one is to be carried rency. In any is in this State States racing.

ets be made the registered following that held.

may not, on a in force, be siness or occuany member of thereto.

ch the license scribed settling licensed book-is found on or mises shall be proves that he

of registered of the oppor-al entry to the ne difficulty in itent to which remises should

It is realised off-the-course the position in sed bookmaker most two days e recommenda-trol Board, in d fix the days could be con-supervision is e into account hat the limita-icient, in view a relation to

hat registered and officers of he prescribed e provided for

ffective super-

comprehensive s, canvassing, kmakers.

be set out in re it is suffi-of a form of i makes it of

the utmost importance to impose safeguards to prevent an increase of betting resulting from it. The danger of advertising is particularly apparent in the case of postal cash betting. It is obvious that advertising, particularly by way of circularising, or canvassing, of this type of betting would tend to bring betting into the home and place of employment, thus encouraging betting by those not now addicted to it, and in particular would lend itself to the institution of organised tipping pools, on the lines of the English football pools. The danger of telephone bookmakers employing agents to collect bets in factories and elsewhere is also very real, and this will come within the scope of the street-betting provisions which we propose to recommend.

9. It is further recommended that all forms of organised off-the-course betting, other than office credit betting or cash postal betting which is carried on at premises registered and by persons licensed by the Board, be illegal.

Comment.—This recommendation involves the passing of legislation directed against betting in streets and public places, in regard to which the existing law is silent. It also involves the extension of the present definition of "common gaming house" to include a place used for office credit betting other than premises registered by the Betting Control Board.

10. It is further recommended that it be an offence for any person to carry on business as a bookmaker on any race-course unless registered by one or other of the bodies controlling racing and under the authority of the race-club concerned.

Comment.—This is a necessary corollary to the legalisation of betting on the race-course by registered bookmakers.

"The Use of Totalisators."

We have already recommended that the present facilities for totalisator betting on the racecourse be retained.

Earlier in our report we have also discussed fully the scheme of branch totalisators proposed by Automatic Totalisators Ltd., with the reasons why we feel unable to recommend it.

The operation of totalisators, other than on an approved race-course, is rendered illegal by Section 211 of the Criminal Code, and we recommend that no change be made in this respect.

"What should be done by legislation or otherwise—

(a) to minimum or restrict those factors which tend to stimulate such betting;

(b) to stimulate those factors which tend to discourage such betting."

Under sub-heading (a) we recommend as follows:—

11. It is recommended that publication of information relating to betting or betting odds prior to a race-meeting be prohibited.

Comment.—It cannot be doubted that publication of betting odds prior to a race-meeting stimulates off-the-course betting. We have already mentioned that a regulation of the Postmaster General's Department prohibits the broadcasting of such information, and a similar prohibition on newspapers is in force in every other State except Tasmania.

12. It is recommended that communication to any person not on a race-course at any time during a race meeting of any information concerning the betting be prohibited.

Comment.—This provision is in force in New South Wales, Victoria, and Queensland. It is directed mainly against the activities of "press agencies," which, as we have indicated earlier, exist almost solely for the benefit of the off-the-course bookmaker. As it is our recommendation that payment of bets by licensed bookmakers on the same day be prohibited, information as to the betting could then be of service only to enable illegal cash bookmakers to pay their clients' winnings. If enforced, this provision would most effectively stultify those operations.

13. It is further recommended that forecasting the probable result of a race, except by a bona fide newspaper, and not for money or gain, be prohibited.

Comment.—A similar prohibition is also in force in most of the other States. The present law in this State, as contained in the Police Act Amendment Act, 893 (1), prohibits only advertising by "tipsters" of their willingness to give such advice.

14. It is further recommended that betting with or by persons under the age of 21 years, whether on or off the racecourse, should be absolutely prohibited, and that persons under the age of 18 years should not be permitted on any racecourse.

Comment.—We think there will be a consensus of opinion as to the undesirability of allowing young persons to be drawn into gambling, and Western Australia is the only State in the Commonwealth which has not prohibited betting with minors by express legislation. We consider that every impediment should be placed in the way of youth forming the betting habit, and that attainment of majority is quite early enough to permit a young person to indulge his betting proclivities. So far as attendance at race meetings is concerned, there is no doubt that presence on a racecourse stimulates interest in betting and has not a good educative influence on the young. The Turf Club admits children of 15 years and over to the enclosure, but we consider this is far too young.

15. We further recommend that it be made an offence to bet with a bookmaker except in accordance with the Act.

Comment.—There seems no reason why this should not be so.

16. It is further recommended that the penalties appropriate for the punishment of breaches of the betting laws be substantially increased and that special penalties, including minimum penalties, should be imposed for second and subsequent offences committed by illegal bookmakers.

Comment.—Penalties will be dealt with in detail in subsequent recommendations. The provision of controlled legal facilities for off-the-course betting cannot but result in failure to achieve its object unless illegal betting methods are rigorously suppressed, and the deterrent effect of penalties is a most important factor in law enforcement. If legal facilities are extended, the justification of increased severity towards the law-breaker is apparent.

17. It is further recommended that, to facilitate the task of the police in enforcing the laws against illegal betting evidentiary provisions assisting the prosecution to make out a "prima facie" case of a betting offence should be introduced.

Comment.—The difficulty in obtaining convictions for betting offences, particularly where the illegal bookmaker has been driven underground by rigid law enforcement, is notorious. Most of the other States have passed provisions of this nature for the purpose of facilitating the enforcement of the law and it is considered that the adoption of similar provisions here is a necessity if the police are to be given powers adequate for that purpose.

18. It is further recommended that, for the purpose of assisting in the suppression of unlawful gaming and betting, the legislation in force in most of the other States relating to:—

- (a) the imposition of penalties on persons keeping or using premises as a means of escape from illegal gaming houses.
- (b) owners of premises suspected of being used for gaming being entitled summarily to determine any tenancy of such premises.
- (c) the Supreme Court being given power, on application by the police, to declare premises common gaming houses, with the legal effect of any such declaration, namely the "quarantining" of such premises, and the conferring upon the police of wide powers of enforcing such "quarantine" provisions be enacted in this State.

During the preparation of this report, and in reply to an inquiry we addressed some weeks earlier to the Commissioner of Police at Brisbane as to certain legislation in Queensland, we received a communication from him, in which he says, *inter alia*—"The power to apprehend persons for being in possession of instruments of gaming without a lawful excuse has simplified the work of the Police in this State, and has been instrumental in reducing illegal betting to a minimum."

In the short time at our disposal, we have been unable to obtain a copy of the enactment to which he apparently refers, or otherwise trace it, and therefore do not include it in our legislative recommendations. We suggest, however, that the insertion of some such provision in any legislation being drafted is worthy of consideration.

Under sub-heading (b)—what should be done to stimulate those factors which tend to discourage such betting—we make no specific legislative recommendations, though some we have already made, such as the prohibition of betting with minors, their exclusion from the racecourse under 18 years of age, and the rigid suppression of the cash betting shop and other opportunities for association in betting, would have a tendency to divert people into other and more healthy sports, occupations and pastimes, and thereby indirectly stimulate such factors.

We are of the opinion that such factors would undoubtedly be stimulated greatly, especially in country towns, if the football matches and other organised sports were held on Saturday instead of on Sunday, as seems to be the practice in many

places. With the present-day increased leisure on Saturdays, which itself contributes to excessive betting, there appears to be little reason for the continuance of this practice, and the interest taken in these competitions in country towns would be a powerful counter-attraction to the betting shop. As, under the Police Act Amendment Act 1902, a licence from the Chief Secretary is necessary before admission charges to these matches can be made on Sunday, the question of a curtailment of these licences might well be considered. In furtherance of this end, some steps might also be taken, by legislation or otherwise, in the direction of instituting a universal Saturday half-holiday. This is a matter, as the law stands at present, in which public-spirited citizens in country towns might possibly assist greatly.

Evidence was given in Kalgoorlie that there was a serious shortage of sports grounds and that their absence tended to encourage patronage of the street bookmaker. It is suggested that a grant from the revenue which is derived from the taxation of the licensed off-the-course bookmaker might well be made available to local authorities or other bodies in country districts where such conditions exist, with a view to the provision of further desirable facilities for healthy recreation.

It is also possible that something might be done by way of education in the schools, though it is doubtful whether the effect of this would be such as to compete successfully with the publicity given to racing by broadcasting stations and the press alike.

"If any control authority is recommended, what should be its nature, functions, powers, and duties, and how should it be financed?"

19. It is recommended that the Betting Control Board be constituted by three members, including a Chairman, to be appointed by the Governor.

Comment.—This constitution is similar to that of the Board in South Australia. In Tasmania, the Betting Control Board is constituted by a Chairman appointed by the Governor, and five other members, nominated by five specified racing, trotting, and coursing clubs. We prefer the South Australian constitution, and suggest that possibly the Chairman might be a full-time appointment, and one or both of the other members might be selected for their knowledge of and interest in racing.

In this connection, we draw attention to the comments of the South Australian Royal Commission of 1938, summarised in paragraph 168 of its report, on the undesirability of the Commissioner of Police being a member of the Board. We concur in their opinion, and with their reasons as set out.

20. It is further recommended that the functions, powers, and duties of the Board be as follows:—

- (a) The duty of controlling off-the-course betting in such a manner as is reasonably consistent with the welfare of the public generally, and the interests of persons and bodies liable to be affected thereby.
- (b) The power, subject to the Act, to
 - (i) license off-the-course bookmakers and their clerks;
 - (ii) register premises on which off-the-course bookmakers may operate; and

(iii) generally administer the Act, and for that purpose to make rules as prescribed therein.

Comment.—It will be necessary to give the Board wide powers to make rules for the purpose of administration and control, and the provisions of the South Australian Act will be adapted for the purpose in our recommended legislation, which appears later.

21. It is further recommended that the Betting Control Board be financed from the proceeds of taxation to be paid by licensed bookmakers.

Comment.—It is not unreasonable to expect that the cost of the operation of the Betting Control Board should be borne by the highly lucrative industry which it purports to control. However, in our view, the revenue to be obtained by taxation should be such as would be sufficient not only to pay the costs of the Board but also to make substantial contribution to the revenue of the State, betting having always been regarded as a legitimate field for taxation.

In considering the assessment of taxation, it will be noted that the license fee payable by enclosure bookmakers to the Turf Club is £10 per meeting, which with 54 meetings held last year, and making allowances for extra fees charged for Christmas and Easter meetings, would make the bookmakers' annual fees an amount somewhat in excess of £550. The fee for ledger bookmakers would approximate half this amount.

The fee imposed by the Trotting Association on its enclosure bookmakers is £12 12s. per meeting, but with only 41 meetings per year the total annual charge amounts to approximately £532 or just below the Turf Club figure, while the annual fees for ledger bookmakers would again be half of the enclosure figure.

In addition, these registered bookmakers pay threepence in the enclosure, and one penny in the ledger, stamp tax on each betting ticket issued. It is perhaps not inappropriate to refer to the anomalous fact that while for many years the Government has levied this tax on the illegal bets of on-the-course bookmakers, the telephone bookmakers, operating legally, have hitherto escaped the tax.

Illegal bookmakers in the Perth district contributed £13,025 to revenue in fines during the year ended 30th June, 1947, apart from undisclosed sums contributed to "nitkeepers," "stooges," and the like, with apparently little or no restriction in their activities. It is apparent, therefore, that very substantial taxation would be justified.

As previously set out, in South Australia a licensed bookmaker pays one half-penny stamp duty on each betting ticket issued, and a further 2 per cent. on his gross turnover. In addition, he deducts threepence in the pound from his payment to each person, which amount is paid by him weekly to the Government. In the case of credit bets, the amount of the bet is to be added to that paid out, for the purpose of this calculation.

In Tasmania, which also licenses off-the-course bookmakers, the stamp duty on betting tickets is one penny on bets up to and including ten shillings, and threepence over that amount. The turnover tax is 2 per cent. on bets on races held in the State, and 2¼ per cent. on other bets.

It is suggested that some basis similar to either of these might be adopted in this State. The extent to which licensed bookmakers should be taxed for revenue purposes is of course, a matter of Government policy.

What legislation would be necessary in order to give effect to your recommendations, and what other alterations, including alterations to penalties, should be made to the State's betting laws?"

As an Appendix to this report, we suggest legislation by which our recommendations might be implemented. Where it appears desirable, and where our recommendations are not specifically embodied in the legislation of other States, we have suggested the actual legislative form in which our recommendations may be enacted. Where they are fully covered by such legislation, we have not considered it necessary to set out those provisions in full, but have specified, by reference to the Acts and Sections, the provisions which we recommend should be enacted in this State.

Certain of the existing enactments relating to betting, now contained in the Criminal Code and the Police Acts of this State, appear also in the portions of the Acts of other States which we have recommended for adoption, but it is desirable that they be re-enacted in their new context. Indeed, the occasion might be opportune to consolidate the whole of the legislation in relation to lotteries, totalisator, betting and gaming, etc., into one Statute. Instead of being distributed over various volumes of statute law covering 56 years, they would then be available in a compact and easily accessible form.

The matter of penalties has been referred to briefly in our recommendation numbered 16 and our comment thereon, and, in our recommendations as to legislation, we have in most instances included penalties. If an effective deterrent to the illegal bookmaker is sought, rather than a penalty which may be regarded by offenders as merely an unwelcome periodical levy on their operations, it is essential that, in this lucrative occupation, a considerable degree of severity is called for. Taxation of licensed bookmakers will no doubt be fairly substantial, and a stronger deterrent than a mere occasional fine will be necessary to stop evasion. We are strongly of the opinion that a person who is engaged in illegal betting, whether in a house or in a "street," should on a third, if not on a second, conviction, be sentenced to a term of imprisonment. It is our recommendation that for unlicensed bookmakers, the scale of punishments provided by Section 104 of the Victorian Act be adopted, viz:—for a first offence, minimum fine £20, maximum £100, or imprisonment for not less than 14 days or more than three months; for a second offence, minimum fine £100, maximum £200, or imprisonment for not less than three or more than six months; and for any subsequent offence, imprisonment for not less than six or more than 12 months. In South Australia, by Section 62 of the Act, a like imprisonment to the above is provided for second and subsequent offences respectively, and the substitution of a fine is expressly negatived. In New South Wales, the penalty for a second offence is also imprisonment. In our legislative recommendations as to penalties on licensed bookmakers, we have provided no penalties for a second offence, for obvious reasons.

There are many matters of importance in connection with the form of control we have recommended, which we feel can be more satisfactorily dealt with, according to the varying circumstances, by administrative rule, rather than by legislation. Many may call for adjustment from time to time, in the light of experience gained. We think it desirable that the powers of the Betting Control Board should be made as wide as possible, and on its members will be the duty, subject to the Act, of its due administration.

Before leaving the question of legislation, we refer to some suggestions made to us in the course of the enquiry, on which we recommend no action. The first relates to the practice by off-the-course bookmakers of fixing defined limits to the "starting-price" on which they base payments to successful bettors. Several witnesses, while giving evidence in favour of the off-the-course bookmaker, criticised this practice. No doubt, ostensibly at any rate, the bookmakers adopt it as a precaution against being "caught" by heavy off-the-course betting on a horse which may remain practically unbacked on the course. Logically, there is little justification for the practice, and certainly none so far as small bets are concerned. However, we do not see why the legislature should interfere in the matter, if only for the reason that such action would be a positive encouragement to betting.

The second question is whether any form of financial guarantee should be imposed on bookmakers as a condition of obtaining licences. We have given consideration to this matter, and have decided not to make such a recommendation. We do not consider it desirable to offer this further encouragement to the bettor, nor to add to the respectability of the bookmaker's calling.

Finally, it was suggested that betting debts should be made recoverable by law. We consider this would be a most retrograde step, and should not be contemplated under any circumstances.

"If effect be given to the recommendations, what advantages and disadvantages are likely to result?"

Many comments coming under this heading have been implicit in discussions throughout our report, but we may perhaps summarise the principal advantages and disadvantages which we see in our recommendations.

Advantages.

1. The individual who wishes to have what he regards, with some justification, as a perfectly harmless bet on a race-horse has all the necessary facilities to do so.

2. By providing reasonable and practicable facilities for the making of a bet, the danger of public disapprobation of the law, with its consequent flouting, is lessened. Any real justification for making use of illegal facilities having been removed, a strong argument is provided for the enforcement of the rule of law, which must be paramount.

3. The provisions as to increased penalties, as well as the legislation to strengthen the hands of the police, and facilitate proof, will, we hope, assist greatly in the enforcement of the law, and provide an effective deterrent to law-breakers.

4. Certain of our proposals, such as those relating to publication of racing information, and what is tantamount to complete prohibition of

betting in the metropolitan area after 1 p.m. on racing days, will, if adopted, reduce the volume of betting.

5. The last-mentioned proposal will, in addition, afford some protection to the sport of racing, and those who provide the money for it.

6. Other proposals, such as those relating to betting with minors, have, we believe, obvious advantages.

7. Our recommendations include a justifiable, and what will no doubt be a substantial, contribution to the revenue by off-the-course bookmakers, though we do not place this unduly high in the category of advantages.

Disadvantages.

We regard as a possible disadvantage in our proposals the danger that recognition by the legislature of off-the-course bookmakers and their operations may tend to give people an exaggerated idea of their status, and their real place in the community. It may also be argued that there is a risk that once betting facilities are made available through more or less accredited channels, some will be induced to bet who would not otherwise do so. This, however, appears to be unavoidable in any system of effective control, and, in view of the obvious lack of a public conscience (and in this we do not specially refer to this State) in matters relating to the betting laws, perhaps this danger is not so very great.

We have also felt some hesitation in recommending any form of cash off-the-course betting, on the generally-accepted ground that any liberalisation of these laws will have a tendency to increase betting. But we feel that this particular method, devoid as it is of the evils of "resorting" or the incentive to progressive betting, and proposed as it is as an alternative to street and shop betting, should not involve any increase.

CONCLUSION.

In presenting our report, we conclude by saying that we have brought our best judgment to bear on all aspects of the problem which were presented to us, and have endeavoured to study it from all possible angles. Conditions of time and distance made it impracticable for us to visit the other States, where possibly the opportunity to make observation and take evidence at first hand on the effect of the more recent legislation there, in the light of the present changed conditions, would have been helpful to us. The reports of the Royal Commissions in some of those States, though they were of assistance to us, are subject to the disadvantage that the most recent was made ten years ago.

Our recommendations are made with the knowledge that repressive legislation in regard to betting can never be wholly effective. We feel that the implementation of certain of our recommendations is long overdue in this State, while others we necessarily make with some diffidence. The history of betting legislation has shown how difficult it is to make any reliable forecast of what the fate of remedial measures will be, and the forms of betting which it is proposed to legalise have never been tested in any State of the Commonwealth.

The only real test of the efficiency of a reform of the gaming law is actual experience in its administration. In the light of that experience, if our proposals are accepted, some defects and shortcomings may well be found in them. Nevertheless, we feel assured that, if adopted and enforced, they will effectuate a very considerable improvement in matters relating to betting in this State.

This report has the complete approval of all the members of the Commission, with the exception that Mr. J. D. Teahan is desirous of making the following qualification:—

"In my opinion item 2 of the terms of reference of this Commission, in its express exclusion of the consideration of betting shops, without doubt prevented much evidence being produced that may possibly have been made available in their favour.

Taking this into consideration, therefore, I do not subscribe to observations made in condemnation of betting shops in-so-far as they apply to country districts."

Finally, we express our appreciation of the assistance we have received from the various interested parties, both in Perth and the other centres which we visited. We particularly mention the representatives of the churches and social welfare organisations, the Western Australian Turf Club, and Automatic Totalisators Limited, Sydney. We also acknowledge the valuable assistance given to us by the secretary to the Commission, Mr. P. V. Smith; by counsel assisting the Commission, and by the members of the "Hansard" staff.

We have the honour to be,

Your Excellency's most obedient servants,

C. McLEAN (Chairman).

J. D. TEAHAN.

I. J. JOHNSTON.

Perth, 8th July, 1948.

APPENDIX.

SUMMARY OF SUGGESTED LEGISLATION.

Definitions:

"Bookmaker"—as in New South Wales Gaming and Betting Act, 1912-1938, Section 3, and Victorian Police Offences Act, 1928, Section 106.

"Instruments of Gaming," "Newspaper," "Race Meeting" and "Racecourse"—as in the Victorian Act, Section 86.

"Occupier" and "Owner"—as in the Western Australian Criminal Code Amendment Act, 1942, Section 2.

Licensing of Bookmakers:

Here will be inserted provisions as to the constitution of the Betting Control Board, with the usual provisions as to its incorporation, term of office, quorum, remuneration, power to appoint officers, power to examine witnesses, method of disposal of moneys, and other matters which may be necessary or desirable.

Also the following provisions:—

The Board is charged in the performance of its duties and exercises of its powers with the duty of controlling betting off a racecourse in such a manner as is reasonably consistent with the welfare of the public generally and the interests of all persons and bodies liable to be affected thereby. (Compare South Australian Lottery and Gaming Act, 1936-1938, Section 34.)

The Board shall have the power, subject to the Act, to—

- (a) license bookmakers to operate off the racecourse, and their clerks;
- (b) register premises in which such bookmakers may operate;
- (c) cancel or suspend licenses and registrations; and
- (d) generally administer the Act.

The Board may, subject to the Act, make rules as to all or any of the following matters:—

- (a) The licensing of such bookmakers and bookmakers' clerks.
- (b) The terms and conditions upon which licenses may be obtained, and which are to be observed by the holders of licenses.
- (c) The conduct of such bookmakers and their clerks.
- (d) The regulation and control of betting by and with such bookmakers.
- (e) The registration of premises upon which such licensed bookmakers may bet and the terms and conditions of registration and the duration, suspension and cancellation thereof.
- (f) The suspension and cancellation of licenses;
- (g) Requiring such bookmakers to keep accounts and records and to make the same available for the Board's inspection from time to time and furnish to the Board weekly, annual or other returns of their transactions, and prescribing the form of and all matters relevant to such accounts, records and returns.

- (h) The general administration of this Part.
- (i) Imposing fines recoverable summarily for breach of any rule.
- (j) The issue, renewal and transfer of such bookmakers' licences, and the fees to be paid on application therefor.

(Compare with South Australian Act, Section 37.)

(1) Every application for a licence shall be made to and determined by the Board. The Board shall have an unfettered discretion to grant or refuse any application without assigning any reason.

(2) A bookmaker's licence shall entitle the holder thereof for the period between the day whereon it was granted and the next succeeding thirty-first day of December to use premises registered under this part for the purpose of betting with persons applying to him by letter, telegraph or telephone, without physical resort but not otherwise.

(3) The Board may, in granting a licence, prescribe the days and hours during which betting may be carried on thereunder.

(4) No licence shall be granted to any person who holds any licence for the sale of liquor under the Licensing Acts, or who is employed in any capacity by any such licensee, nor to any person whose usual place of abode throughout the whole of the period of 12 months immediately before his application for a license is made was not within the State.

(Compare South Australian Act, Section 38.)

(1) The Board may in accordance with the rules register any premises as premises in which betting may be carried on by any licensed bookmaker in accordance with this part and his licence.

(2) No registration shall be effective until the Board has published a notice thereof in the *Government Gazette*.

(3) Upon and after the publication of the notice it shall be lawful for any licensed bookmaker to carry on the business of bookmaking in such premises in accordance with this part and the terms of his licence so long as the registration remains in force.

(4) If the Board is satisfied that any provision of this part as to registered premises or any term or condition of registration has not been observed, the Board may, as an administrative act, cancel the registration of the premises by notice in the *Government Gazette*, and thereupon the registration shall cease to have effect. (Compare South Australian Act, Section 42.)

No person shall carry on business as a bookmaker on premises registered under this part after one o'clock on the afternoon of the day on which any race meeting is being held on a racecourse situated within 25 miles of such registered premises.

Penalty: Minimum fine £20, maximum £100, or imprisonment for three months.

(1) Notwithstanding any law to the contrary it shall be lawful—

(a) for a bookmaker registered by the controlling authority to bet on any racecourse on the result of any horse-race by permission of the person or body conducting a race meeting thereon, and in such portion of the racecourse as is set apart by that person or body for the purpose. In this subsection the expression "controlling authority" shall mean the Western Australian Turf Club or the Western Australian Trotting Association, as the case may be;

(b) for a bookmaker licensed under this part to open, keep or use, in accordance with the terms and conditions of his licence, premises registered under this part for the purpose of betting on the result of any horse race with persons applying thereto by letter, telegraph or telephone without physical resort for the purpose of such betting.

(2) Such betting shall not be a ground on which such racecourse or premises shall be deemed or be declared to be a common gaming house.

(3) It shall be a defence to any charge for an offence under this Act for the defendant to prove that he was at all relevant times acting in accordance with this part and, in any case coming under the provisions of subsection (1) (b) of this section, the terms and conditions of his licence and the terms of registration of the premises in which he was operating.

(Compare Lottery and Gaming Act, 1936-1938 (South Australia), Section 33.)

No licensed bookmaker, or any person on his behalf, shall pay any bet, or receive payment of any bet, except by post, unless such payment is made at his registered premises on the day, not being a Sunday or public holiday, next following that on which the race meeting was held.

Penalty: Minimum fine £20, maximum £100, or imprisonment for three months.

No licensed bookmaker shall use for betting any premises which are, on any day appointed by his licence for betting, used in connection with any other business or occupation in the course of which any member of the public would ordinarily resort thereto.

Penalty: Fine not exceeding £100, or imprisonment for three months.

Any person, other than the licensed bookmaker or his licensed clerk or clerks, who is found on or entering or leaving any registered premises at any time during which the licence to bet in respect of such premises is applicable, except on such day as is appointed under this Act for paying bets, may be arrested without warrant, and shall be guilty of an offence unless he proves he was there for a lawful purpose.

Penalty: Minimum fine £2, maximum £20, or imprisonment for one month.

Any member of the police force, and any officer of the Board may, at any time during which the license to bet in respect of any registered premises is applicable, enter such premises without a warrant. (Followed by a subsection providing a penalty for refusing, delaying or obstructing admittance.)

No bookmaker, with intent to defraud, shall—

- (a) furnish to the Board any return which is false in any material particular;
- (b) fail to include in any such return any bet or other transaction or particular required to be included;
- (c) fail to record in accordance with the rules every bet made by him.

(Compare South Australian Act, Section 46.)

Penalty: Minimum fine £20, maximum £100, or imprisonment for three months.

If the holder of any license is convicted of any offence against this part, or if the Board is satisfied that the holder of any license has failed to observe any provision of this part or of the rules or any condition of his license, it may, as an administrative act, cancel the license.

(See South Australian Act, Section 47.)

Included in this part will also be the provisions as to taxation. To the extent to which such taxation is to be by means of a tax on betting tickets, however, this would be effected by amendments to the Stamp Act and the Second Schedule thereto. There are provisions in Section 43 of the South Australian Act which might appropriately be adapted as follows:—

(1) Every licensed bookmaker upon making a bet with any person shall forthwith make out a betting ticket in respect of each bet with that person and shall post such betting ticket to such person within 24 hours after he first communicated with the bookmaker requesting such bet.

(2) If any licensed bookmaker—

- (a) fails to make out and post any ticket as required by this section, or
- (b) posts to any person in respect of any bet a betting ticket previously used in respect of any other bet,

he shall be guilty of an offence.

Betting With Infants:

The provisions of Section 107 to 110 of the Victorian Act and Sections 10 to 13 of the New South Wales Act are almost identical in this connection, and are recommended as suitable. Also involved in our recommendation numbered 15 are sections prohibiting betting by infants, and prohibiting the admission of persons under 18 years of age to a race-course.

Unlawful Betting:

Any person who bets with a bookmaker on the result of any horse-race at any time or any place except in accordance with this Act shall be guilty of an offence.

Minimum penalty £2, maximum £20, or imprisonment for one month.

Street Betting:

We recommend that Section 104 of the Victorian Act, including the penalty, be adopted as a prohibition of street betting. Section 5 of the New South Wales Act is similar in effect. Section 105 of the Victorian Act, as to the recovery of money paid to a street bookmaker, is also recommended. A similar provision appears in the New South Wales Act.

We recommend the following definition:—

"Street" includes:—

(1) Every road, street, thoroughfare, highway, lane or footpath, on any public or private property.

(2) Every description of vessel used in navigation.

(3) Every description of vehicle whether stationary or in motion.

(4) Any enclosed or unenclosed land or premises provided that street does not include any house or portion of a house used exclusively as a dwelling house or any racecourse during the period when a race meeting is being held thereon.

(Compare definition in New South Wales Act, Section 3, and Victorian Act, Section 106.)

Paragraphs (1) and (4) of the definition are taken from Section 106 of the Victorian Act, as amended by Section 3 of Act No. 4817. In the other States there is a similarly artificial meaning given by definition to the word "street." The intention, no doubt, is to overcome the great difficulty of proving "user" in its legal sense in betting prosecutions.

Gaming and Betting Houses:

To give effect to recommendation 18, we recommend the enactment of legislation following the provisions of Sections 17 to 30, inclusive, of the New South Wales Act. The corresponding sections of the Victorian Act are numbered 130 to 143, inclusive.

Betting House Suppression:

To give effect, inter alia, to recommendations 8, 11, 12 and 13, we recommend the enactment of legislation based on Part III of the New South Wales Act, which corresponds with the Victorian Act, Sections 97 to 103, inclusive, and Sections 120 to 122, inclusive, and Victorian Police Offences (Betting) Act, 1911, Section 4. It will be noted that Part III includes a prohibition of advertising by bookmakers. We consider that this prohibition should be qualified by a proviso that the Betting Control Board may authorise a licensed bookmaker:—

(a) To have inserted his occupation of licensed bookmaker, in ordinary type, in the entry relating to his telephone number or registered premises in the telephone or post office directory respectively.

(b) On the occasion of the issue or renewal of his license to advertise in not more than one issue of three newspapers, and in a form to be approved by the Board, particulars of his name, the address of the registered premises at which he carries on business, his telephone number and his occupation of licensed bookmaker.

Evidence:

To give effect to recommendation 17, we recommend that the following provisions be enacted. They are taken from the Victorian Act, Sections 158 and 159, and similar provisions exist in the South Australian Act, Sections 103 and 104:—

1. Where on the hearing of any information against any person for any offence against any of the provisions of this part the court is of opinion that any money or thing proved to have been paid by given to or received by the accused person or any person or persons on his behalf was paid given or received in circumstances which in the mind of the court raise a reasonable suspicion that such money or thing was paid given or received in contravention of such provision such paying giving or receiving shall be deemed *prima facie* evidence of the commission by the accused person of the offence charged against him in such information.

2. Whenever any house or place is entered under any of the provisions of this part the discovery therein or thereon or about the person of any of those found therein or thereon or entering or, leaving the same (in circumstances which combined with such discovery raise in the mind of the court a reasonable suspicion that the purposes and provisions of this part have been contravened) of any instruments of gaming or of lists books cards papers documents or things relating to racing or betting or gaming shall be *prima facie* evidence that such house or place is and is used as a common gaming house or place.

Also the following, which appears as Section 108a of the South Australian Act:—

3. If it is proved on the hearing of any complaint for unlawful gaming that on the premises where it is charged that such unlawful gaming has taken place there is installed a telephone instrument the number of which does not appear in the current telephone directory, such proof shall be *prima facie* evidence of the truth of such charge.