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WESTERN AUSTRALIA.

REPORT

OF THE

ROYAL COMMISSIONER

APPOINTED TO INQUIRE INTO

The Administration, Conduct and Control
of the Sport of Trotting in the State
of Western Australia.

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REPORT OF THE COMMISSIONER.

To His Excellency Sir James Mitchell, K.C.M.G., Lieutenant-Governor in and over the State of Western Australia and its Dependencies in the Commonwealth of Australia.

May it please Your Excellency—

On the 6th day of March, 1946, I received Your Excellency's Commission appointing me to be a Commissioner for the following purposes that is to say:—

- (a) to inquire into the administration, conduct and control of the sport of Trotting in the State of Western Australia as such sport has heretofore been and is at present being administered, conducted and controlled in the said State;
- (b) to make such recommendations as I might think warranted by my inquiries regarding such legislation (if any) as I might consider necessary for or in respect of the administration, conduct and control of the sport of Trotting in the State of Western Australia.

The general control of the sport of trotting racing in this State has in the past been assumed by the West Australian Trotting Association (Incorporated) which itself conducts trotting races at Gloucester Park. Throughout my report for the sake of brevity I shall refer to that body as "the Association." The form of that control, being on similar lines to that exercised over racing by some body (usually the principal old-established Club) in most parts of the British Empire, and in each State of the Commonwealth, is sufficiently well known not to require particularising, and includes in addition to the formulation of rules of racing, and such matters as the registration of horses, owners, trainers, reinsmen, etc., the right of the Committee to hear appeals from disqualifications and other penalties imposed by the stewards at race meetings throughout the State.

This control by the Association has been given a measure of recognition by the legislature, which by section 3 (1) of the Racing Restriction Act, 1917, provides that:—

"No trotting race meeting, and no trotting race for any stake or prize shall be held without the licence in writing of the West Australian Trotting Association Incorporated."

This legislative provision supplied an effective means by which the Association could enforce the control which it had previously exercised by other means at its disposal.

The exercise of that State-wide control over trotting racing by the Association is subject to only one legislative provision. The Racing Restriction Act, 1917, as amended by the Racing Restriction Amendment Act, 1925, limits the number of meetings in the metropolitan area to 35 outside the Fremantle district, and 10 within that district, with certain additional meetings (seven in all) for charitable or patriotic purposes. (In passing, I draw attention to the ambiguity created by those Acts in regard to the meetings at Fremantle, which the wording of Clause 18 of the Trotting Control Bill, 1935, was designed to remove.) No restriction is placed by the legislature on the number of meetings outside the metropolitan area, or the places where they may be held.

The actual conduct of trotting racing is by Clubs, and outside the metropolitan area, with the single exception of the Golden Mile Club at Kalgoorlie, these Clubs are formed into districts, of which there are three—South Western District, comprising Harvey, Bridgetown, Donnybrook (being formed) and Manjimup Clubs; Great Southern District, comprising Wagin, Katanning, Narrogin and Williams Clubs; and North Eastern District, comprising Kellerberrin, Quairading, Corrigin and Trayning-Kunnoppin Clubs. For each of these districts there is a District Council, formed by two representatives from each of the constituent Clubs, which deals with matters of common interest to its Clubs, and is the medium of communication with the Association as to the allotment of racing dates and other matters. So far as the administration of these Clubs and District Councils is concerned, as nothing was elicited in my inquiry indicating any desire or necessity for change, it may be assumed that the limited control exercised by them works satisfactorily.

Practically the whole of the matters brought under my notice related to the Association, and my investigation of its affairs falls under two headings, viz.:—

- (1) an inquiry into its administration and conduct of trotting racing as an individual Club in its own locality, and
- (2) a similar inquiry in relation to its administration and control of trotting racing throughout the State.

As it is the Club directly catering in Perth for the requirements of a vast majority of the supporters of the sport in the State, and in that capacity contri-

buting considerable sums to the State revenue, its activities under the former heading become a matter of general public interest. And as its suitability or otherwise as a future controlling body throughout the State depends to such a large extent on its constitution and the conduct of its affairs by its members, it is more convenient, for the purpose of my report, to deal with the two headings in the order in which I have set them out.

THE ADMINISTRATION AND CONDUCT OF TROTTERING RACING BY THE ASSOCIATION AS AN INDIVIDUAL CLUB IN ITS OWN LOCALITY.

Under this heading, I propose to deal first with the form of control which has existed over the Association's affairs during the past years, followed by a report under various headings on aspects of the administration of that control which were brought under my notice, and recommendations based thereon.

The "Guarantor System."

Under its constitution the Association is controlled by a Committee of seven members, which includes a president and two vice-presidents, who are elected by the Committee. The earlier rules make the usual provision for the election of the Committee by the members, but until recent events the personnel of the Committee was determined by a special rule under what has become known as "the guarantor system." A copy of the constitution and rules accompanies this report, and as the rule in question, No. 74, is exceptionally long, I do not quote it here in full. Its effect is that while the rule remains in force only three of the seven members of the Committee are elected by the members, the other four places on the Committee being filled by the three persons who have guaranteed the Association's account with the bank, and a fourth person nominated by them. If a guarantor dies his place on the Committee is to be filled by a personal representative while his estate remains liable. Thus the guarantors had an absolute control in the Association's affairs. The rule contains a provision that it shall cease to be in force when the liability of all guarantors has been completely discharged. This actually took place in August, 1945.

Mr. J. P. Stratton, who has been president of the Association since 1930, became a guarantor, and as such a member of the Committee, in 1929. At that time his two co-guarantors were Mr. J. Brennan and the estate of Quinton Whyte, deceased, and the guarantee was "joint and several" for £50,000. Soon afterwards, Mr. J. D. Willis became the representative of the Whyte estate as guarantor. In 1932, on Mr. Brennan's retirement as guarantor, Mr. L. F. Atkins became a guarantor at Mr. Stratton's request, but to the extent of only £100. Mr. W. A. Smiley completed the guarantors' representation on the Committee as the nominated member.

On 23rd March, 1933, following on some queries at a general meeting as to the amount of Mr. Atkins' guarantee, he signed another guarantee for a further amount of £100. The only explanation of this curious procedure is found in Mr. Stratton's reply "No" at the general meeting in September, 1933, to a question by Mr. Brennan as to whether Mr. Atkins' guarantee was for only £100. I am satisfied it was done in an

endeavour to mislead the members, by non-disclosure, as to the true position. Mr. Atkins' explanation in giving evidence before me was confused, but indicated that his impression was that he signed a second time for the original £100. Mr. Stratton was closely cross-examined before me on this subject, and persisted (pages 125 to 127 of the transcript) that he did not know and had never inquired, what the amount of Mr. Atkins' guarantee was at this period. In view of the fact that at the time he had actually signed a consent, which was later produced, to Mr. Atkins' liability being limited to an amount of £100, and that considerable discussion of this matter had taken place at more than one general meeting at which he presided, I have no doubt that in that respect he was untruthful. The Committee at all times denied to the auditor inspection of the guarantee documents at the bank, a fact which was commented on by the former auditor, Mr. Flint, on more than one occasion. However, the position then was that of the controlling representation on the Committee of the guarantor interest, the president, Mr. Stratton, was the only member who had a direct personal liability of any consequence (though the estate which Mr. Willis represented was responsible for the full amount) and his control over the following years appears to have been a dominating factor in the Association's affairs.

From 1928, and apparently earlier, till the end of 1933, the minutes of general meetings of the Association disclose continuous, strong, and at times stormy, opposition to the guarantor system on the part of a section of the members, including elected members of the Committee, but no specific proposal of an alternative appears on the records until January, 1935, when a special general meeting was held to consider an offer by the National Mutual Life Association Limited, to lend £26,000, with interest at 5 per cent., to be used to pay off the Association's liability to the Bank of New South Wales. The motion that the offer should be accepted was defeated by a majority of 15 votes. On 9th July of the same year, another special general meeting was held to consider an offer by the Colonial Mutual Life Assurance Society Limited, to lend £25,000 at 4½ per cent. The resolution that the offer be accepted was carried, the voting being 91 for and 60 against. The president stated that the motion would be accepted by the Committee as a recommendation only. Subsequent proceedings in the Supreme Court showed that attitude to have been legally justified—at all events, the Committee did not comply with the resolution. Following the meeting there were several moves in the game. The Committee had received a letter from the guarantors protesting against consideration being given to the resolution without their consent; a memorial had been received signed by 132 members (of a total membership of 193) asking that effect be given to the resolution; legal proceedings were initiated by the elected members of the Committee, which were unsuccessful, to compel the Committee to give effect to the resolution; and an approach was made by the same members to the Bank of New South Wales at Perth and to the head office of the bank in Sydney, to have the guarantors released from their obligations to the bank, while continuing the existing arrangements as to the overdraft. The bank file in regard to the last-named negotiations was produced to me, and disclosed that Mr. Stratton's influence was exercised strongly against the release of the guarantors. The head office of the bank in

Sydney favoured the release, while the Perth office opposed it. At this time, the bank interest was reduced from 5½ per cent. to 4½ per cent., reverting to 5 per cent. in 1936, and again to 5½ per cent. in 1937. The bank officer who gave evidence, Mr. Dean, explained this reduction as being, he believed, a result of "outside competition."

Prior to this time the membership of the Association has been closed for some years. On 6th November, while the legal proceedings and the negotiations with the bank were still in progress, the Committee passed a resolution, the purport of which was that the total fees, including entrance fee and balance of subscription for the current year (ending 31st July), be £5 instead of £14 3s. 6d., and that on the admission of 150 members, the previous fees be automatically reverted to. At the following meeting on 13th November, 159 applications for membership were submitted by the secretary, and 150 new members elected. It is very significant that though the applications were all received prior to the meeting on 6th November, it is recorded that with some of them were enclosed cheques for £5 only, notwithstanding the fact that the resolution making the temporary reduction in the fees, of which no formal notice had been given, had not even been brought forward. Some significance must also be attached to the fact that a large majority of them were proposed or seconded (or both) by the guarantor members of the Committee, and not one by any elected member, and that the other proposers or seconders were remarkably few in number. Twenty of the persons nominated were proposed or seconded by one Backshall, who was employed on the course. It is further divulged in the bank correspondence already referred to that on 5th November Mr. Stratton had "confidentially" disclosed that "at the meeting to-morrow he would put through applications for membership from nearly 100 representative people such as the Lord Mayor, Mr. J. J. Poynton, Mr. Ernest Lee Steere, and others of good standing." Incidentally it may be mentioned that none of the three gentlemen named apparently did nominate. Also, on the 9th November the local branch of the bank incorrectly reported to its head office by telegram that "150 new members were elected on 6th instant." Actually as I have recorded, they were not elected till a week later. It was suggested to me that from these circumstances I should draw the inference that these new members had been admitted at a greatly reduced fee on a promise to support the guarantors. As the majority of them are obviously men of standing in the community, any such inference is out of the question, but on the other hand I am unable to resist the inference that the membership was "stuffed" with friends of the guarantors and others whom they thought would be likely to support them. Included in the list were the names of about 20 persons who were employed either permanently or temporarily by the Association.

There was a second "burning question" in the Association at this time, the change of name of the course to "Gloucester Park," to which I shall later refer, but do so here because the increase in membership to gain support was probably not wholly connected with the maintenance of the guarantor system. It seems clear to me that the recent attitude of the guarantor members on the Committee on these two questions had involved them in a further loss of popularity with the existing members, and that it

was considered advisable by them to take steps to ensure continuance of support. That the move was successful is indicated by the fact that at the following election for Committee in 1936, the three elected members Messrs. Brimage, Tyler and Burns, who had been implacable opponents of the guarantor members on these two questions, were defeated, the elected members being the three defeated candidates at the previous election, Messrs. Ferguson, Noonan and Todd. Mr. Noonan, it may be mentioned, had previously acted as Mr. Stratton's nominee on the Committee in the latter's absence.

The next attempt at change in the control of the Association was in 1940, this time at the instance of Mr. Stratton. A special general meeting was called for 20th June of that year to consider amendments to the constitution. The minutes of this meeting contain no record of the details of the proposed amendments, which were not proceeded with, owing, it was stated, to the effect of the National Security Financial Regulations. However, a legal opinion explaining their effect, which was obtained and circulated to members by Mr. T. A. Burns (then again a member of the Committee) prior to the meeting, shows them to have been drastic. Their principal object was that the three guarantors should be appointed "trustees," and would hold office for six years from 1st July, 1940, or until the guarantee should be finally discharged, whichever event should be the latest. The Committee was to be constituted by the three trustees, a nominee appointed by them, and three elected members. Should a trustee die or resign, the remaining trustees were to have the power of appointing his successor. This proposal provides clear evidence of the desire of the guarantors to retain control for a lengthy period, which had no relation to the duration of the war, or the state of the Association's finances. When the proposed amendments were not proceeded with a resolution was passed that "the control of the Association as at present constituted, should remain in force for the duration of the war and 12 months afterwards." As there had been no notice of this resolution, it could only be read subject to the existing constitution and rules. At the same meeting it was decided that "the offer of the guarantors be accepted and that the amount of the guaranteed overdraft be reduced to £20,000." On 24th July, 1940, Messrs. J. P. Stratton, L. F. Atkins and J. D. Willis entered into a guarantee agreement with the bank for £20,000. This was a "joint and several" guarantee, and thereby the liability of Mr. Atkins was increased from £200, and Mr. Willis became a personal guarantor for the first time, his position on the Committee having, up till then, been as a representative of the Whyte estate. The proposition for the joint and several guarantee for £20,000 was submitted to the bank by the Association, and the question of whether or not the bank would have insisted on a continuance of the guarantee was never raised. From a perusal of the bank correspondence of 1935, and the greatly improved financial position of the Association in 1940, I have no doubt that the bank would not then have insisted on any guarantee. At that date the overdraft limit at the bank was £7,000, and the actual overdraft, as shown by the guarantee documents, was £3,293. The overdraft, including accrued interest, is shown on the balance sheet as at 31st July, 1940, as £6,292, while total assets were £145,621, of which £140,340 comprised real estate mortgaged to the bank.

From February, 1942, till May, 1945, the overdraft limit, owing to the operation of the National Security Financial Regulations, was £3,000.

From all the circumstances, I am unable to conclude that the guarantors, in entering into a joint and several guarantee for £20,000 in 1940, believed there was much, if any, element of risk, in spite of the disturbed conditions arising from the war, though probably no one anticipated the wave of prosperity which the Association actually experienced during the later war years. At the annual general meeting on 26th September, 1940, the Association passed a resolution that "the profits of the Association be donated to patriotic and charitable funds for the duration of the war." In pursuance of this policy a large sum was paid to those funds, to which I shall make reference later. Nevertheless in the balance sheet for the year ending 31st July, 1942, the bank account is shown in credit (£902) for the first time, and has apparently shown a credit ever since, that figure for the year ended 31st July, 1945, being shown as £4,184. On 22nd August, 1945, the guarantors, presumably at their own request, were released by the bank from their obligations, and ceased as such to be members of the Committee. They were immediately appointed by the remaining members to fill the vacancies. By resigning when they did, in spite of the resolution, passed in 1940, which purported to keep them in office until 12 months after the war, the guarantors apparently displayed some re-action to "the writing on the wall," as by this time the Government had intervened, and an enquiry by Mr. Dunphy, Crown Solicitor, was in progress.

On 31st August, when nominations closed for the election of the Committee for the ensuing 12 months, the members of the retiring Committee were unopposed, and are now in office. Under Rule 9 of the constitution, three of these members, to be decided by lot, retire in September next, and the remaining four hold office for a further period of 12 months, election hereafter being for a term of two years.

Thus ended the operation of Rule 74, and with it the undemocratic control of the Association by the guarantors. Mr. Stratton, in evidence before me, said that he had always been opposed in principle to the guarantor system, and from time to time he expressed the wish, as recorded on various minutes of general and other meetings of the Association, that its operation might soon be ended. But, in view of the fact that an overdraft of £50,000, plus other liabilities amounting to about £20,000 in 1929 was steadily reduced each year till it vanished 13 years later, I find that, had he and his fellow-guarantors been willing to surrender their powers, it would have been possible, without risks, to have abandoned the system, at all events from about 1935 onwards.

In dealing next with two incidents in the administration of the Association, those relating to the naming of the course, and the dismissal of a chairman of stewards, I do so because I regard them, though not now as of first importance, as significant "pointers" to the influence of the guarantor system on the working of the Association.

Naming of Course "Gloucester Park."

The change of the name of the course to "Gloucester Park," or, more correctly, the dropping of the name "Brennan Park" from the course, caused a considerable amount of bitter feeling among a section of

the members. At this late date the question of whether the change itself was right or wrong—whether Mr. James Brennan was, or was not, the "father of trotting" in this State—is of little moment, since presumably even the most fervid opponents of the change then would not now desire to have the subject re-opened. It is however relevant to my inquiry into the past control of trotting inasmuch as it provides a striking instance of the guarantors' tendency to over-ride the wishes and the rights of members of the Association.

At a meeting of the Committee of the Association on 20th November, 1929, at which Mr. Stratton was present, it was unanimously resolved that the new course should be named "Brennan Park." The next record on the subject is in the minutes of a Committee meeting on 30th May, 1934, when, on notice of motion, the resolution of 20th November, 1929, was rescinded, the two elected members present, Messrs. Tyler and Ferguson, voting against the motion. It was then decided to leave the choosing of a fresh name in abeyance, though one name mentioned was "Gloucester Park," and it was resolved that in the meantime the course be known as the W.A.T.A.'s course. At the succeeding annual general meeting on 27th September, 1935, the minutes record that several members spoke against the removal of the name from the course. Mr. Stratton refused to accept a motion "requesting the Committee to restore the name 'Brennan Park' to the course" on the ground that "it was a matter that the Committee had absolute power to deal with and decide." Next, the minutes of a Committee meeting on 23rd October, 1935, record the receipt of a requisition from 33 members asking the Committee to call a special meeting of members to discuss the restoration of the name "Brennan Park" to the Perth course. It was resolved that the requisition lie on the table for one week. On 30th October it was decided that it lie on the table for a further week. The following day, 31st October, a letter was addressed to the private secretary to the Lieutenant-Governor embodying a cable signed "J. P. Stratton, President" with the request that it be sent to H.R.H. the Duke of Gloucester. The cable in the customary respectful terms stated that the Committee of the W.A.T.A. had decided on the Duke's wedding day to name the course "Gloucester Park" and asked for permission to do so. The letter to the Lieutenant-Governor enclosed a copy of a petition to the Committee dated 30th October, 1935, signed by "relatives of several pioneers of the sport in Western Australia" protesting against an individual member's name being attached to the course and suggesting that the name "Gloucester Park" be adopted. On 6th November the minutes record the receipt by the Committee of this petition, and after discussion, on the motion of Mr. Stratton, it was decided "that as a Royal tribute on the Duke of Gloucester's wedding day the ground be given the name of 'Gloucester Park.'" The two elected members present Messrs. Tyler and Brimage, voted against the motion "on the ground that it was a matter for the consideration of the members." It was also decided to instal a sign "Gloucester Park" over the entrance to the course. The succeeding entry in the same minutes deals with the requisition by the 33 members and it was resolved "that in view of the fact that the matter has been finally dealt with no good purpose could be gained by holding the meeting." Messrs. Tyler and Brimage voted against this motion also.

At the Committee meeting on 13th November, Mr. Stratton referred to the approval of the Duke of Gloucester to the naming of the course, which the file shows had been conveyed to him in a letter from the private secretary to the Lieutenant-Governor, dated 7th November.

To summarise the foregoing proceedings:—

- (1) Mr. Stratton informed H.R.H. the Duke of Gloucester that the Committee had decided the matter nearly a week before it had, according to the records, even been discussed.
- (2) The majority in the Committee named the course "Gloucester Park" before the sanction of the Duke had been received.
- (3) The Committee by its guarantor majority flouted Rule 32 of constitution, which provides that it shall, on a requisition made in writing by not less than 30 members, convene a special meeting.

I draw attention to the fact that it was at the same meeting of the Committee, on 6th November, 1935, that the resolutions were passed, recorded earlier in my report, which paved the way for the admission on 13th November of 150 new members at reduced fees.

Following a meeting of about 50 members of the Association held on 11th November of the same year, the Duke of Gloucester was communicated with through the Lieutenant-Governor and certain resolutions conveyed to him on behalf of the dissentient members, with a petition that he should withdraw his consent to the bestowal of his name to the course. A reply was received in August, 1936, in which His Royal Highness intimated that under the circumstances he would prefer the withdrawal of his approval to the use of his name unless the members of the Association were unanimous in their desire to retain it.

This ill-judged action on the part of the petitioners, prompted, I have no doubt, by a sense of frustration, led to further recriminations between the two factions, a special general meeting, talk of expulsions, and even litigation, during the ensuing months, with which I do not propose to deal in detail. It was clearly demonstrated that there was a lack of unanimity among the members, and the position must be accepted that the Duke's formal "approval" had been withdrawn, though he did not express any wish that his name should be removed from the ground. This was an unpleasant episode, in which both sides, in turn, were at fault, and the subject has long since, it is hoped, been buried.

Dismissal of J. C. Skull.

For some 15 years prior to his dismissal on the 5th May, 1932, Mr. J. C. Skull had been chairman of stewards of the Association. The method of his dismissal certainly reflects no credit on the then Committee of the Association, but counsel for the B.O.T.A. has gone further and has submitted strongly that Mr. Skull's dismissal was a matter of spite on the part of the president, Mr. Stratton, by reason of the disqualification of his mare Northwood Lady. It is necessary to review the facts to see whether this submission can be substantiated on the evidence.

Mr. Stratton was the owner of Northwood Lady and at the relevant time had the mare under lease

to one Andy Sheehan. As owner, Mr. Stratton had a financial interest in the mare by reason of his share in any stakes won.

The mare won a race at the trotting meeting of the 5th December, 1931, and there was a public demonstration on the course against her inconsistent running. The stewards held an inquiry and disqualified Northwood Lady and her driver, A. Sheehan, for 12 months. There was an appeal to the Committee from this decision, but the appeal was dismissed.

Before me, there was some suggestion that prior to this incident Mr. Skull was at variance with the Committee, but in my view there is no support for this. It is true that in August, 1931, Mr. Skull wrote a letter to the Committee on a minor matter concerning which it appears from the minutes that Mr. T. W. Simpson, a member of the Committee said, "the letter was unbecoming a servant of the Association," but this was in no way any reflection on Mr. Skull's undoubted ability and I do not think it was regarded by the Committee in any way seriously. Also, some appeals from the stewards' disqualifications were upheld by the Committee about this time, but this is not out of the ordinary.

At the Committee meeting of the 13th January, 1932, it was resolved to give certain directions to the stewards as to the positions they should take up just prior to and during the racing and at the following meeting of the 20th January it was mentioned during discussion that these instructions had not been carried out. Mr. Skull was present and gave an explanation and stated that there was apparently a little misunderstanding in the interpretation of the instructions, which would be carried out in future.

Bearing in mind the long service of Mr. Skull and his undoubted qualities as a steward the president, Mr. Stratton, appears to have gone out of his way at this meeting to magnify the whole matter. In view of what happened later, perhaps it is as well to quote the minutes:—

"He (Mr. Stratton) stated that the stewards had flouted the Committee's instructions. . . . The stewards, he continued, had also ignored past suggestions and he was of the opinion that they were due for suspension."

It was moved that a letter be sent to the stewards intimating that the Committee could see no reason why their instructions were not carried out and that in future all instructions must be carried out in full.

To this motion there was an amendment that the chairman of stewards be suspended for one month. This was moved and seconded by two of the guarantor members. It was lost and the motion was then put and carried. It is significant that Mr. Stratton with the two guarantor members who were responsible for the amendment voted against the motion.

It was also at this meeting that Mr. Stratton stressed the need for co-operation between the handicapper and the stewards. Later the handicapper Mr. Downey was asked to confer with the stewards during race meetings. Then at the Committee meeting of the 9th March, 1932, both Mr. Skull as chairman of stewards and Mr. Downey as handicapper attended and Mr. Stratton again stressed the need for co-operation to which both Mr. Skull and Mr. Downey agreed.

There was no evidence offered before me to show that following the meeting of the 9th March, there was lack of co-operation between the stewards and handicapper and it was therefore all the more extraordinary that shortly afterwards, namely, on the 27th April, Mr. Stratton should bring forward the suggestion of amalgamating the positions of handicapper and chairman of the stewards. This suggestion was put forward in the form of a motion moved and seconded by two of the guarantor members and was passed, the only dissentients being two of the elective members present, Messrs. Simpson and Tyler.

Some of Mr. Stratton's statements as set out in the minutes of this meeting are not without interest. He is reported as follows:—"Mr. Stratton said he was actuated by the best motives." "The new arrangement would entice the good type of owner to join the sport which would sure to show decided advancement." These prompt the comment "qui s'excuse, s'accuse."

At the next meeting, of the 4th May, Mr. Stratton suggested Mr. Downey for the dual position and two of the other guarantor members moved and seconded a resolution accordingly. Mr. Downey was called in and accepted the position. It was to take effect as from the next Saturday's trotting meeting. Mr. Skull was said to be absent and it was resolved that he be granted leave of absence for the remainder of his term, expiring on the 31st July, and that the president confer with the association's solicitors in drafting a communication, to acquaint Mr. Skull of the Committee's decision. This was done, and the president signed a letter to Mr. Skull the following day. On May 9th Mr. Skull replied suggesting that the amalgamation of the positions was merely a subterfuge for his dismissal.

Such were the circumstances leading up to the dismissal of so old a servant of the association as Mr. Skull. That Mr. Stratton had decided to get rid of him following the disqualification of Northwood Lady I have little doubt. According to the evidence, that impression was also clear in the minds of the three elected members of the Committee at the time.

Some evidence by Mr. T. W. Simpson, whose knowledge of trotting matters generally and whose demeanour in the witness box impressed me very much, is worth mentioning. I am quoting from page 891 of the transcript:—

Question: You considered he (Mr. Skull) was a very efficient man at his duty?

Answer: I went further than that and said he was no doubt the best stipendiary steward at that date in Australia.

Question: That was your opinion of Mr. Skull at the time when his services were dispensed with?

Answer: It was. He had more experience than had Mr. Downey as a handicapper and a steward.

In 1933, Mr. Skull became chairman of stewards of the South Australian Trotting Club, and, on the formation of the South Australian Trotting League three or four years later, became its chairman of stewards, a position he still holds.

That there was some lack of harmony between Mr. Skull and Mr. Downey is no doubt true, but I do not consider it affected to any extent the good

work which each man was doing for the Association in his respective position. I am of the opinion that following the Northwood Lady disqualification Mr. Stratton magnified the matter of co-operation and played on this possible lack of harmony to create a situation which was favourable to getting rid of Mr. Skull in the way he did.

Though this incident is now well past, I have given it a degree of prominence, as one of the outstanding examples quoted before me of Mr. Stratton's suggested exercise of his power in the Association for his own ends.

Monetary Benefits received by the President and Members of the Committee.

Considerable time was occupied in the course of my enquiry in investigating payments coming under this heading. The principal allegations related to:—

- (a) President's allowance.
- (b) Travelling expenses.
- (c) Benefits received by the President coming under other headings.
- (d) Payments to members of the Committee.

(a) *President's Allowance.*—It had apparently been the practice, long before Mr. Stratton held the office, for the Association to pay a monetary allowance to its president, his predecessor in office, Mr. J. Brennan, having received £5 per week. On Mr. Stratton's accession to the office in November, 1930, during the financial depression, he did not accept the allowance, until on 15th October, 1933, the Committee passed a resolution that he be paid £5 per week. On 15th June, 1938, a further resolution was passed that his allowance be increased to £10 per week retrospective from 1st August, 1937, and this is the amount now being paid. The question was raised before me whether the Association has the power under its constitution, to make such payments, as well as payments to other Committeemen, but it might well be argued that the provisions of the rules, though somewhat vague, are sufficiently wide to permit of them. Assuming that that is so, and that the Committee was within its rights in authorising such a payment, it should have been made openly, and have been clearly shown as such in the published accounts for the members' information. It is in this latter respect that the practice adopted became particularly open to criticism.

Until the year ended 31st July, 1936, the heading "General Expenses" in the Profit and Loss Account accompanying the Balance Sheet shows that it included, among several other items, "President's Allowance." For the years 1937 to 1941 inclusive, the corresponding item showed "Allowances." Since that year the heading has been merely "General Expenses, Meetings, Etc." It was suggested before me that this change was not accidental, but was intended to conceal the existence of a President's Allowance from members. Against this suggestion, it was stated that the payment of an allowance to the president was well known to the members. Also at a general meeting on 20th June, 1940, the question was raised, and Mr. Stratton in reply said, according to the minutes:—

"The amount paid to himself as a presidential allowance was £10 per week. During his early years of office he did not collect any fees, and allowed the amount to be paid out to the late Mr. Brennan."

Incidentally, his misleading references to amounts paid to Mr. Brennan, then deceased, was unfortunate. Although he himself did not receive the allowance for his first three years of office, no payments during that time were made to Mr. Brennan. However, at the time of his retirement, Mr. Brennan's allowance had been overdrawn to the extent of £20, which was "written off" by the Committee. This fact probably gave rise to a genuine mistake on Mr. Stratton's part.

However, to revert to the suggestion of concealment—it was further elicited that although the president's allowance was, until 31st July, 1937, debited in the Association's books to "General Expenses," from that date (at which it was increased from £5 to £10 per week) half the amount has been debited to "General Expenses" and half to "Ground Maintenance." An attempt was made to justify this on the ground that Mr. Stratton did actually assist in supervising track preparation, etc. But I prefer to accept Mr. Stratton's own view at the time in regard to his allowance, expressed when thanking the Committee for the increase. He is recorded in the minutes as having said—"Now, with the increased allowance he could be more liberal in advancing the popularity of the Association from the viewpoint of a president."

I cannot but feel that the omission of this specific item from the expenditure shown in the "Profit and Loss Account" and the division of the increased amount into two parts, was due to a desire for concealment, though, in 1940, the enquiry I have referred to at a general meeting rather frustrated this. I would add, however, that the minutes of that general meeting then record that "it was resolved that the amounts paid were not excessive and were fully justified."

(b) *Travelling Expenses*.—During his term as president, the following large amounts, aggregating £3,000, were voted by the Committee to Mr. Stratton for travelling expenses. They are in addition to various smaller amounts, on which I offer no criticism, all of which are set out in a schedule of payments to members of the Committee (Exhibit A 64) accompanying the transcript:—

9th August, 1934—£200—Eastern States and New Zealand.

4th March, 1936—£250—Sydney, New Zealand and America.

17th March, 1937—£300—2 trips to New Zealand.

23rd March, 1938—£250—Eastern States.

1st June, 1938—£300—New Zealand.

7th September, 1938—£200—Eastern States.

1st February, 1939—£200—Launceston, Tasmania.

25th May, 1939—£400—Eastern States and New Zealand.

20th August, 1941—£150—Eastern States.

30th September, 1942—£150—Eastern States.

10th January, 1945—£600—Several trips to Eastern States.

These amounts were all approved by the Committee on the dates shown. Apart from the method of their appropriation and non-disclosure in the accounts circulated to members, these payments are open to general criticism. As there is no indication in the records of the duration of Mr. Stratton's visits elsewhere, it is impossible to say whether they

approximate to his real travelling expenses, but they certainly seem unduly generous, for what were probably short trips.

No vouchers were ever asked for, the Committee apparently fixing an arbitrary amount in each case, and on one occasion when £400 was paid as expenses for a trip to the Eastern States and New Zealand, payment of the amount was made, or at all events approved, in advance. The only evidence of any effort made by the Committee to ascertain a basis for payment was supplied by Mr. L. F. Atkins, a guarantor member of the Committee, who on being questioned in regard to the sums of £300 each paid to himself and Mr. Stratton for a trip to New Zealand to attend a championship and as delegates to a trotting conference, said that Mr. Willis, another member of the Committee had asked him for his *cheque books*. Mr. Atkins said the money was largely spent in entertaining "to popularise the sport." What benefit the Association was expected to obtain from popularising the sport in New Zealand was not explained.

Mr. Stratton agreed that certain trips were not undertaken wholly on Association business. In regard to his trip to America, on which Mr. Stratton stated in evidence he "gleaned a lot of useful information" and purchased a machine, still in use, for preparing the track at Gloucester Park, he explained "When I returned from America there was no real obligation on the Committee at all, but they decided, at a meeting, that they would like to take some share in my expenses, and they voted £250, which would not be one third of the cost of the trip, but which was adequate for the part I played for them." On his way to America Mr. Stratton also attended an Australian trotting conference in Sydney.

In regard to the last payment (£600) to Mr. Stratton, the minutes of 10th January, 1945, show that it was for "several visits to the Eastern States and New Zealand last season and the current season, with the object of securing a new agreement with the totalisator company." Mention was made of the fact that increased commission to the Association from the totalisator company should average over £3,000 per annum, and, as the agreement had been made retrospective, a sum of £2,000 would now be paid to the Association by the totalisator company. I am satisfied that Mr. Stratton did interview the totalisator company in Sydney and possibly on more than one occasion, but it is difficult to believe that there were "several visits" for that purpose alone. As Mr. Stratton agreed, in cross-examination, the trip to New Zealand was not made in connection with the totalisator agreement. Mr. Stratton's reply to a question in regard to this payment is somewhat illuminating, as follows:—"I never put in for anything for expenses for those trips, and when the cheque came over for that amount" (he refers to the £2,000) "they insisted that I had to take a *certain proportion* of the money." The amount is debited in the Association's books to the totalisator account "Royalty." As the agreement, which was produced, was dated 27th February, 1945, Mr. Stratton's recollection is probably at fault when he says "When the cheque came over," but that is immaterial.

It was of interest to discover, later in my inquiry, from the evidence of Mr. Mulder, secretary of the W.A.T.C. that the turf club, at about this time, had obtained a similar agreement with the totalisator com-

pany, the negotiations on which were conducted with the chairman and secretary of that company in Perth on 16th January. That does not affect my belief that Mr. Stratton did conduct negotiations in Sydney, but it does throw some doubt on the necessity for them. On the other hand, the benefit to the turf club may possibly have been an indirect result of Mr. Stratton's efforts on behalf of the Association.

Some confirmation of the Committee's "open-handedness" towards Mr. Stratton is found in the record of a Committee meeting on 21st July, 1943: A cable to Mr. Stratton from New Zealand Trotting Conference was read, "Complimentary dinner to Mr. Nicholl being held Christchurch August sixth on occasion his completion of 21 years' service as president and would appreciate your attendance." The minute proceeds "The Committee were of the opinion that if Mr. Stratton could spare the time to attend the dinner they would be pleased if he could do so. On the motion of Mr. Todd, seconded by Mr. Brimage, it was decided that if Mr. Stratton could attend, his expenses would be taken by the Association." Later in the meeting it is recorded that Mr. Stratton said he would endeavour to make the trip if transport were available. Apparently war-time transport difficulties proved an insuperable obstacle, since he did not go, but presumably the Association's interests would not suffer greatly thereby.

The allocation in the books of the Association of these amounts of "travelling expenses" is interesting. Of the total of £3,000 set out in the foregoing list, £1,000 (5 payments) was debited to "General Expenses—Meetings Etc." £1,150 (4 payments) to "Publicity," and £850 (2 payments) to "Royalty." The item "Travelling Expenses" has never appeared in the annual statement of "Profit and Loss Account" which is circulated to members.

My findings on the question of these payments for travelling expenses are:—

1. That Mr. Stratton did obtain considerable monetary advantage from them.
2. That no commensurate advantage was obtained by the Association, or looked for by the Committee, for this expenditure.
3. That the method of accounting effectively concealed the payments from the members.

The foregoing applies also to the payment of £300 to Mr. Atkins, another Committeeman, to which I have referred, this being the only payment of any consequence on record for travelling expenses to a member of the Committee, other than the president.

(c) *Benefits received by the President Coming Under Other Headings.*—I will first deal with the position of the Primary Producers Trustee Company of W.A. Limited. This company was formed in the year 1931 with a nominal capital of £25,000 divided into 25,000 shares of £1 each, but only some 6,200 shares were allotted of which Mr. Stratton held 3,200. It was a registered trustee under the Bankruptcy Act particularising in administering farming properties and also acted as attorney and agent for farmers and graziers. Mr. J. J. Shepherd has, at all relevant times been secretary of the company and Mr. Stratton its managing director.

It appears from the evidence that towards the end of 1938 there had been some defalcations by one or two members of the staff of the Association in connec-

tion with wages stamps and Mr. Shepherd assisted in the investigation of this matter. Following on this a sub-committee of the Committee of the Association consisting of Messrs. Stratton, Willis and Atkins was appointed to investigate and report. Its report appears at page 586 of the transcript and is set out in the minutes of the Committee of the Association under date the 28th November, 1938. Shortly, the sub-committee recommended that the Primary Producers Trustee Company of W.A. Limited (for the sake of brevity hereinafter referred to as "the Trustee Company") should take over the accountancy, clerical work and important correspondence of the Association at a fee of £10 10s. a week. At the same meeting this recommendation was adopted and a resolution passed accordingly. Later this fee proved inadequate and was increased to £15 15s. a week and made retrospective.

The actual work which the Trustee Company became responsible for is set out in considerable detail at pages 346-8 of the transcript in the evidence given by Mr. Shepherd. I should like to say at the outset that so far as I can judge the fee charged is not unreasonable for the services rendered, and that the work is very efficiently performed.

Some time after this transfer of the books had taken place, there was a change in the shareholding in the Trustee Company, and the 6,200 allotted shares were held as under:—

Mr. J. P. Stratton	..	2,200 shares
Mr. M. T. Padbury	..	1,000 shares
Mr. Hector Reid	..	1,000 shares
Miss Anderson	..	1,000 shares
Mr. J. J. Shepherd	..	1,000 shares

Mr. Stratton had bought 1,000 shares from the estate of a deceased member at approximately 2s. a share and then made gifts of 1,000 shares each to Mr. Shepherd and Miss Anderson who was on the staff of the Trustee Company and was a member of his household. These gifts were said to be made as some return for the private work done by these employees in their own time for the donor.

Mr. Stratton was very definite, in the evidence which he gave early in the enquiry, that apart from £25 a year for attendances at directors' meetings he received nothing at all from the Trustee Company either as managing director or otherwise (page 261 transcript). This was in fact literally correct, but when the matter was probed further as the evidence before me proceeded, it appeared that J. P. Stratton Limited received various large sums (in the last four years they amounted to £400 a year) from the Trustee Company.

In the first Profit and Loss Account of the Trustee Company for the year ended 30th June, 1931, there appeared an item of £200 for "Managing Directors' Fees," but in the Profit and Loss Accounts for the following years this special item was shown as "J. P. Stratton Limited—Fees" or "Managing Directors' Fees—J. P. Stratton Limited." A note was appended to the State—"Amount paid to J. P. Stratton Limited is for services rendered by them to the company for the use of their offices, staff and cars to do field work during the year."

As J. P. Stratton Limited is what is commonly called a one-man company, with no employees, I cannot regard Mr. Stratton as being as frank in his evidence in this regard as he should have been.

Although Mr. Stratton received no direct benefit as a result of the transfer of the Association's books, etc., to the Trustee Company, he did benefit to some extent indirectly. The amount paid by the Association represented on an average over the years 1939 to 1945 something not far short of half of the total income of the Trustee Company and enabled that company to maintain the payments of the large sums for "Managing Directors' Fees," to J. P. Stratton Limited for which I am satisfied there was no commensurate services rendered.

The Trustee Company also received from September 1943 onwards and still receives, £300 a year from the "Sportsmen's Council," of which Mr. Stratton was president. By a minute of the Trotting Association of the 7th September, 1943, a resolution was passed as follows:—

"It was unanimously decided that a letter be sent to the 'Sportsmen's Council' requesting that J. J. Shepherd who had been keeping the books of the council be paid an honorarium of £100 and that in future in view of the increased activities of the council that he be paid £300 per annum for help he will have to employ to keep the council's books written up."

The council complied with this request and appointed Mr. Shepherd, and he paid over the £300 a year to the Trustee Company in whose time and with the help of whose staff the necessary work was done. For some of the time Mr. Shepherd was on war service and during this period the Trustee Company continued the work with some help from him.

In fairness, it must be mentioned that Mr. Shepherd did this work for some 18 months in an honorary capacity and no doubt it was an onerous job. It was pointed out that at this time, owing to war conditions, it was very difficult to get anyone to undertake this work and I am inclined to the view that the job was not particularly sought after.

Another addition of £60 a year to the Trustee Company's income from 1938 onwards was brought about by the appointment of Mr. Shepherd to the position of auditor of the Fremantle Trotting Club.

As I mentioned elsewhere, under the heading of "The Fremantle Trotting Club," the Association acquired the right in September, 1938, to appoint the auditor of that club, at a rate of remuneration to be fixed and paid by the club. The minutes of the Association Committee meeting of the 12th October, 1938, record that Mr. Shepherd was appointed auditor of the Fremantle club. On the 13th October, the Fremantle Committee resolved that the auditor's fee should be left in the hands of the president to discuss with the president of the Association. At their next meeting on the 27th October, it was agreed to pay him £100 per annum. It has been revealed that of this fee, Mr. Shepherd paid £60 per annum to the Trustee Company. On being questioned as to whether this amount of £100 was an increase over that paid to the previous auditor, Mr. Shepherd said "I think it was previously about half that," and on being pressed as to his predecessor's fee being only about £25, he said—"It might have been." I have been unable to ascertain what was the fee previously paid.

From early in 1942, when the Military Authorities took over the Fremantle course, the Association conducted the race meetings on behalf of the Fremantle

Trotting Club, paying the expenses, handling the proceeds, and taking the profits or losses. Mr. Shepherd said he kept the books of the club, but not as an employee of the Trustee Company, as well as auditing them, in itself a somewhat unusual combination of duties. At that stage of my enquiry he had not disclosed that portion of his auditor's fee was paid to the Trustee Company. Indeed, in reply to my own question "This is one of the jobs you referred to as being done in your private capacity?" He replied, "Yes." Mr. Shepherd agreed that though from 1942 until he resigned in December, 1945, he continued to be paid £100 per annum, the amount of work involved was "really trivial" compared with previously. It is of interest to record that his successor receives a fee of 50 guineas per annum.

A lack of candour on the part of Mr. Shepherd, similar to that I have just referred to was displayed at the same stage of my enquiry in regard to the appropriation of his "Sportsmen's Council" payment to the Trustee Company. In reply to a question—"Has the Primary Producers Trustee Company kept the books of the Sportsmen's Council?" he replied, "No, but individual members of the staff have helped me to do it." From these two instances can only be inferred a desire on his part to shield someone from a disclosure of the true facts.

Although the sums referred to above were paid out of Mr. Shepherd's fees to the Trustee Company it cannot be suggested that he was unfavourably treated by the Association. From November, 1938, he has been employed by the Association on race nights at the following remuneration:—

From Nov. 1938 to May 1939	..	£2 2s. a night
From May 1939 to Feb. 1946	..	£3 3s. a night
From Feb. 1946 to date	..	£4 4s. a night

Though these payments were received by him personally, it appears to me that a reference to them is not entirely irrelevant to the subject under discussion.

The next matter for comment under this heading is the payment of £5 a meeting for a car provided for the stewards.

The payment is authorised by a resolution of the Committee of the Association of the 15th December, 1937, in the following terms:—

"After the stewards had retired Mr. Willis drew attention to the fact that since the car had been used five or six meetings back no payment had been made for it. It belonged to Mr. Stratton who had supplied petrol and driver, his son, Ron, who was just the right type for the position. On the motion of Mr. Todd seconded Mr. Smiley, it was decided unanimously to pass £5 per meeting for the use of the car, petrol and driver. The payment to be made retrospective from the first time the car was requisitioned."

This minute is set out at page 1307 of the transcript but for purposes of convenience I quote it here.

Mr. Stratton, in giving evidence early in my inquiry, stated that the payment was made to his son, Mr. R. Stratton (page 206 transcript) and later on when being recalled and faced with the above minute and the extract of registration of the car showing

that it still stood in the traffic office in his own name, affirmed that he had made a gift of the car to his son following the Committee's resolution above. Possibly this is a truthful explanation.

The car is a 501 model Fiat tourer some 17 years old and is used by one of the stewards at meetings to follow the race on the inside of the track.

It was suggested by Mr. Stratton that the driver's job is a fairly important one of a confidential nature. Even if this is so, and I rather doubt it, it seems to me that the payment is more than liberal. I may mention that the car used for a similar purpose at turf club race meetings is provided and driven by one of the members in an honorary capacity.

There were also some small payments totalling £27 odd, paid by the Association, to Mr. T. G. Stratton, another son of the president, from May to November, 1938, in connection with newspaper publicity. However, the amount is such a trivial one that it hardly requires comment.

(d) *Payments to Members of the Committee.*—Allowances to members of the Committee of the Association have gradually increased over the years. As early as 1934 by resolution of a meeting held on the 24th January, £52 a year was paid to Mr. Willis, who then represented the Quinton Whyte Estate as one of the guarantors, to cover car expenses. Later in that year, namely on the 28th November, Mr. Stratton at a meeting of the Committee referred to the work being done by Messrs. Willis and Atkins on the ground committee and it was decided to grant them £2 per week each for expenses. Some three years later this payment to these guarantor members was increased to £4 per week each. It was authorised at a Committee meeting of the 15th September, 1937. Mr. Stratton pointed out (as appears from the minutes) that since Mr. W. Armstrong had tendered his resignation from the ground maintenance staff it was not desired to employ a man in his place and as Mr. Willis and Mr. Atkins had been doing quite a volume of work for a small allowance it should be increased. In the evidence, however, justification for the payments to these gentlemen was attempted on the ground that Mr. Backshall, who as ground supervisor was receiving £10 a week, relinquished this position and his work was undertaken by them and a saving of £2 a week thus effected.

When considering whether these items of expenditure were justified or not the president's allowance must be borne in mind. As pointed out earlier in my report the payment to Mr. Stratton was increased from £5 to £10 a week from 31st July, 1937, and then debited half to "General Expenses" and half to "Ground Maintenance," it being given in evidence that Mr. Stratton spent a considerable amount of his time in supervising the track.

The vacancy on the ground committee caused by the death of Mr. Willis in May, 1945, was never filled, but Mr. Atkins continued to act and to draw the allowance of £4 per week. From this I draw the inference that the work performed by Mr. Willis could not have been of any great importance.

Mr. Atkins in evidence (page 1372 transcript) specified the services he was rendering to the Association as follows:—

"I am supervising the ground and the employees there. The foreman is Mr. Horne. When we are doing a big work, something con-

structional, painting or repairing the track, I have to spend a great deal of time supervising it. I may have to arrange to get shell from the river, cart it to the ground and supervise where it is put on the track and to see that the foundations of the track are suitable to give proper results. Otherwise the ground would be sloppy and it would take years to consolidate. A certain amount of extra supervision was required there. The work had to be done properly and you have to see that suitable materials, etc., are purchased."

In cross-examination it was admitted that no shell had been purchased since before the war and that no painting had been done for two or three years and it seems to me that the time allegedly spent by both Mr. Stratton and Mr. Atkins in connection with the track was greatly exaggerated.

I am fortified in this view from what appears in the minutes of the 6th January, 1937, which unfortunately were never brought to my notice during the hearing. Under the heading "Control of Race Track" the following appears:—

"Mr. Stratton stated that special attention was necessary in regard to the supervision of the race track and on his suggestion it was agreed to make Mr. R. Degruchy and Mr. R. Liddicoat entirely responsible for the track; the former to be raised to the same status as the latter and his salary therefore brought to the same level, viz., £6 per week. It was decided that the secretary notify Mr. Backshall that he was now relieved of the track responsibility, which was the concern of the persons mentioned."

It will be seen that this conflicts with the reasons quoted earlier for the increased payment of £4 a week to Messrs. Willis and Atkins.

I am of the opinion that the payments to Messrs. Willis and Atkins, although duly authorised by the Committee of the Association, were not a reasonable sum paid in exchange for actual services rendered, but were by way of an allowance to Mr. Stratton's co-guarantors to ensure their continued support.

As a comparison it is perhaps interesting to note, in the evidence of Mr. Mulder, that there is a track sub-committee of the Committee of the W.A. Turf Club which acts in an honorary capacity.

Another allowance which must be referred to is the payment of 30s. entertainment allowance per race meeting to Messrs. Brimage, Todd and Ferguson. At a meeting of the Committee held on the 7th October, 1942 (page 1103 transcript) certain reductions in salaries and allowances were voluntarily agreed to in view of the reduced number of race days owing to the war. At the same time, it was decided to close the committee-room on race days for entertainment, as it "was costing an amount that would be better placed in increased stakes." The closing down of the committee-room for entertaining was to be for the duration of the war and the only gentlemen to have access to the room was to be the president in order that he might be able to look after any special guests such as the Premier and the Ministers of the Crown.

Although it does not appear in the official minutes it was stated that included in this resolution was a decision that as a "quid pro quo" for the loss of the use of the committee-room for entertaining, the then elective members of the committee, Messrs. Brimage, Todd and Ferguson, should be paid 30s. a race meeting as an entertainment allowance. The rough minutes of this meeting taken by the secretary were before me (page 1103 transcript) and I have no doubt that the resolution was duly passed and that portion omitted from the official minutes in error. This allowance to Messrs. Brimage and Todd has continued to the present, but Mr. J. V. Ferguson drew it for only a short period and then declined to accept the allowance. Mr. Stratton stated in evidence that the room is now available for entertaining members of the committee and their friends from after the fifth race.

Possibly no grave exception can be taken to this allowance, although it is surprising that the auditor did not draw attention to the fact that no authority appeared for it in the minutes. It is certainly not a usual one, there being no payment of a like character made to members of the W.A. Turf Club Committee or to members of other racing bodies of which I have knowledge. The allowance provides yet another example of a perquisite to committeemen.

Finally under this heading there is the further payment of £3 a week to Mr. Todd. Mr. Todd was also one of the members of the Committee of the Fremantle Trotting Club nominated by the Association. After the Military Authorities took over the Fremantle ground the Association at a Committee meeting held on the 19th May, 1942, decided to recommend to the Fremantle Trotting Club that the Association run their meetings at Gloucester Park. It was also recommended that Mr. Todd be appointed liaison officer at £3 per week. Messrs. Brimage and Todd were deputed to carry these recommendations to the Fremantle Trotting Club. From the minutes of the next Committee meeting of the Association held on the 3rd June, it appears that the Association agreed to conduct the meetings of the Fremantle Trotting Club and further "that in the event of the Military not taking the cost of the liaison officer, Mr. Todd, at £150 per annum, this is to be paid by the W.A.T.A." The Army would not accept the liability.

From the evidence it appears that Mr. Todd was responsible for the maintenance of the track (which was open for the training of horses) in a supervisory capacity and was there to watch the Fremantle Trotting Club's interests in the ground and buildings. It is difficult on the evidence to form an accurate opinion as to the work done by Mr. Todd, but I am inclined to the view that this, like other allowances, was a fairly liberal one.

Entertainment.

The following amounts were expended in recent years by the Association for "entertainment." In each case the amount is in respect of the year ending 31st July:—

1940	1941	1942	1943	1944	1945
£	£	£	£	£	£
1184	1189	1395	1428	1646	1524

These amounts do not include the special payments of £1 10s. per week to members of the Committee, to which I have previously referred, and which commenced in October, 1942.

In partial explanation of these amounts, Mr. Stratton said in evidence, "The Association had a mutual arrangement with the 'Sportsmen's Council' under which we would undertake the whole of the entertainment. . . . There was a huge number of functions for which we took the responsibility for the expenses right through." As the "Sportsmen's Council" was not then in existence, this explanation is not, however, applicable to the year ended 31st July, 1940, when, as shown, £1,184 was expended. Mr. Stratton agreed that, with the exception of £300, this amount would be for liquor supplied at the course, for use by members of the Committee in their rooms.

This, no doubt, is a form of publicity, but I think it would appear to the average person to be on a somewhat lavish scale. The figures for previous years were not submitted to me, but I think it is probably not unfair to regard the year 1939/40 as close to normal in this respect.

A comparison with the amounts expended on entertainment by the Committee of the Western Australian Turf Club is interesting, particularly as the latter body has a committee of 12 members, compared with the Association's seven. They refer to the years ending 30th April, and the available figures are:—1943, £215; 1944, £171; and 1945, £372. The increase in 1945 is explained by the fact that in that year the Turf Club conducted 35 race meetings, as against 16 or 17 for the preceding years. The race meetings conducted by the Trotting Association in those years were respectively 19, 22 and 18.

A form of hospitality which may be dealt with under this heading relates to the admission of honorary members, and the distribution of free tickets of admission to race meetings. The Association has 197 honorary members, not including members of Parliament, all of whom are also appointed honorary members. Honorary membership includes the ordinary right to ladies' tickets. Each member of the Committee has in addition an unlimited right to issue free tickets to every race meeting.

I make another comparison with the Turf Club, of which the only honorary members are the Lieutenant-Governor and members of the State Cabinet, though the courtesy of admission to the course is, I understand, extended to all members of Parliament. The only free tickets for race meetings are on the authority of the chairman and are never more than from six to ten, principally to interstate visitors.

It seems to me that these forms of publicity are designed to strengthen the popularity more of the existing administration than of the sport itself. It was said in evidence that many of the honorary members rarely attend, which is probably correct, but a curtailment of this excessive "free list" would pave the way to increased membership, increased entrance money, and more comfort for those who pay.

Progress of the Association.

A general impression was conveyed to me by several witnesses that under the present administration the popularity of trotting has increased enormously. In view of the facts, one is inclined to think that this impression may to some extent be attributable to the "publicity" in various forms indulged in by the administration. A further effort in this direction was seen in a newspaper advertisement which appeared from week to week, in somewhat bad taste,

during my inquiry, with the words in block type, "Good management has made trotting the King of Sports."

One witness, the Hon. W. D. Johnson, M.L.A., expressed amazement when the following figures were quoted to him. They set out the gate receipts for the years 1929 to 1945, and were supplied by the Association. For the first two complete years, the Association was under the presidency of Mr. James Brennan:—

				£
1929	..	..	..	23,659
1930	..	..	..	29,064
1931	..	..	..	25,116
1932	..	..	..	22,136
1933	..	..	..	19,871
1934	..	..	..	21,859
1935	..	..	..	28,460
1936	..	..	..	29,110
1937	..	..	..	25,098
1938	..	..	..	25,669
1939	..	..	..	25,591
1940	..	..	..	28,685
1941	..	..	..	23,166
1942	..	..	..	19,788
1943	..	..	..	26,054
1944	..	..	..	34,433
1945	..	..	..	24,808

The later war years were, of course, abnormal, and the figure for 1945 was also affected by the suspension of racing owing to the dispute, but the gate receipts from 1929 to 1941 seem to show that, allowing for the effect of the financial depression, public patronage did not vary to a marked extent. The totalisator figures, quoted by Mr. Byfield, Assistant State Under Treasurer, show approximately the same relationship of the various years.

I append hereto details extracted from the accounts of the Association by Mr. C. H. T. Evans (accountant) which are also of interest.

Year.	Stakes Paid.	Nomination and Acceptance Fees.	Percentage of Fees to Stakes.
	£	£	
1929	31,815	6,647	20.88
1930	33,465	7,677	22.94
1931	28,595	7,235	25.30
1932	25,679	6,630	25.82
1933	25,727	6,671	25.54
1934	26,570	5,955	22.41
1935	30,870	7,066	22.89
1936	37,955	8,344	21.98
1937	30,004	6,581	21.93
1938	33,209	6,938	20.89
1939	34,179	7,249	21.21
1940	39,203	8,317	21.21
1941	29,004	7,115	24.53
1942	24,428	5,955	24.36
1943	25,624	6,944	27.09
1944	54,275	10,567	19.47
1945	39,388	7,344	18.64

Patriotic Funds and Charities.

During the war years, partly in pursuance of a resolution, which I have already referred to, that its profits for the duration of the war should be paid to patriotic and charitable funds, the Association made a notable contribution to those funds.

Though the resolution was not passed till September, 1940, I give the totals for the six years ended 31st July, 1945. They are as follows:—

	£
To Sportsmen's Council ..	70,237
To other charitable objects ..	6,111

The Association submitted to me a statement differing to an extent from the above, but a careful dissection of details later supplied shows the above figures to be correct. The amount paid through the Sportsmen's Council, which was representative of most of the sporting bodies in the metropolitan area, and of which Mr. Stratton was also president, was apparently devoted principally by that body to the establishment and maintenance of servicemen's hostels in the city.

Cross-examination of the accountant of the Association was directed at considerable length to the system of accounting in regard to these sums. This cross-examination was apparently misinterpreted in some quarters, but there was never any suggestion that the money had been misapplied in any way. The Association, as by far the greatest contributor, did apparently reserve the right, which I feel cannot be criticised, to direct to some extent the avenues of expenditure of the amounts contributed by it. At times it actually expended the money, and submitted a statement thereon to the Sportsmen's Council. The payments to charities were made to a wide range of worthy institutions and were made direct by the Association.

In addition to the foregoing amounts, the sum of £24,058 was raised from gymkhanas, etc., held at Gloucester Park during the war years. These were in aid of special objects, and the money raised thereby naturally belonged to those special funds, but no doubt the organisation of the Association was largely responsible for their success.

Minutes and Records.

The method of keeping the minutes of meetings, which were so important to my inquiry, was not such as to inspire me with any confidence in their accuracy though I have perforce quoted some of them in my report. A fact not disclosed during my inquiry, which I have since discovered on a perusal of the minutes of general meetings, is that though at the ensuing general meeting they were usually "confirmed" by resolution, on only two occasions since 1932 have they been read, a motion being passed that they be "taken as read." The minutes are invariably signed only by the chairman of the former meeting, which is in accordance with Rule 44 of the Constitution, but, under all the circumstances, the value of those minutes as evidence is subject to some depreciation in my mind. At all events, the "confirmation" of the minutes is valueless.

One of the two exceptions I have mentioned relates to the minutes of the annual general meeting of the year 1934. At the ensuing annual general meeting at the instance of an elected member of the Committee the minutes were read, and considerable discussion ensued as to their accuracy. A resolution was passed "that the minutes be adopted, with the exception of that portion which relates to the erection of the tea-rooms and Mr. Flint's explanation. The wording of this resolution is not specific, but the fact remains that the minutes regarding both these matters remain, apparently, in their original form.

The minutes of the annual general meeting held in September, 1945, were not, at the time of my inquiry, yet recorded in the minute book.

Minutes of Committee meetings are recorded as "confirmed," but I have been able to find no occasion when there is any record of their being first read. There were, in addition, several instances of unsigned minutes of Committee meetings, and it was made clear to me that others were not accurately recorded. Additional evidence that they were not read is found in the incident relating to the payment of 30s. per week to certain members of the Committee, to which I referred earlier in my report.

It seems improbable that, if the minutes were read at the following week's meeting, such an important omission from a resolution could have passed unnoticed. The minutes of Committee meetings are kept in loose-leaf form, and are not subsequently bound. In at least one instance a leaf is missing, and in another an important list of nominations has disappeared. Rule 46 of the Constitution provides that "Minutes of all resolutions and proceedings of the Committee shall be entered in a book provided for the purpose."

No permanent register of members is kept, as is provided by Rule 18 of the Constitution. The only record kept is on sheets of paper which are apparently written up each year in the order in which subscriptions are paid. This is a serious omission, both from an audit point of view and for general purposes, such as elections and posting of notices to members.

It is my general impression that the method of keeping these important records of the Association could be greatly improved upon.

Capital Expenditure.

On several occasions capital expenditure exceeding £500 was incurred by the Committee without first obtaining the consent of the members, as provided in Rule 75 of the Constitution. Though this matter was raised at least at one annual meeting, the practice was continued.

Audit Reports.

Since the year 1937, the annual auditor's report has not been sent to members, nor has it been read at the annual general meeting. The former auditor had commented in his reports on matters such as unauthorised capital expenditure, certain payments to guarantor members of the Committee, which he regarded as "ultra vires," and the fact that inspection of the guarantee documents at the bank had been denied to him, failing the consent of the guarantors. The audit report should be made available to all members. Rule 66 of the Constitution, referring to the examination of the accounts by the auditor, prescribes that he "shall report thereon to such (annual) meeting."

Catering.

No tenders have been called for catering and liquor rights on the course since 1935, when the present caterers, Thomas Gorman Limited, were the successful tenderers, the Committee having since renewed the agreement every two years. The amount payable by them for the rights has been varied from time to time, though no investigation of their value has been made. At present they pay the Association £100 per

meeting. Though I do not suggest that tenders should necessarily be called every year, in my opinion they should be called at reasonable intervals.

Membership of the Association.

The membership list of the Association was "closed" for some years prior to 1935, when 150 new members were admitted, in circumstances with which I have already fully dealt. About 20 new members were admitted in the ensuing two years, after which the list was again "closed" till October, 1945. It was then decided to admit 100 new members, of whom 50 should be men discharged from the forces. On 24th October, 50 non-servicemen and four servicemen were admitted. Incidentally, of the 50 referred to, 41 were proposed or seconded by members of the Committee, and two seconded by the secretary. This brought the total membership to 317, including 40 life members, who, of course, pay no subscription.

During the "closed" periods no record is kept of applications for membership.

The existing accommodation at Gloucester Park is somewhat limited, but in my opinion there is scope for the admittance of at least 100 additional members, particularly if the honorary membership list is curtailed. Though I have no desire to recommend that control of admission to membership by a democratically elected committee should be interfered with, I express the opinion that there should be some fixed policy as to a total membership, based on the accommodation available or to be provided. Further, a proper "waiting list" of applicants for membership should be kept.

The Turf Club has a membership of 550, and has a "waiting list."

Dispute with the Breeders, Owners and Trainers' Association.

The dispute between the Association and the Breeders, Owners and Trainers' Association which arose in the year 1944 and eventually brought about a cessation of trotting for a time was the beginning of a series of events in which the general public became involved.

The Breeders, Owners and Trainers' Association (Incorporated) is an association incorporated under the provisions of the Associations Incorporation Act, 1895. Between the years 1933 and 1943 it had become practically moribund as regards its active membership, there being no financial members, although kept alive by a committee which met from time to time and which was in touch with the Association over various matters of mutual interest concerning the sport. A membership book (Exhibit "N") has been produced. This shows that it had a membership of 42 in the year 1933-34. Then there is a gap and the next membership list is given for the year 1944-45 with 329 members. In the current year 1945-46 there is a slight increase.

At the general meeting of the B.O.T.A. on the 14th December, 1943, the question of high nomination fees charged was raised and it was resolved that the full committee form a deputation to wait on the Association.

In pursuance of this a letter was written to the Association on the 20th January, 1944 (page 492 transcript) asking for a special meeting of the Asso-

ciation to be called for the purpose of discussing the matter of high nominations and other items of interest to owners.

One matter to which the owners took objection was the practice of charging one inclusive fee for nominations and acceptances in Cups. Normally a small fee was payable on nomination and a larger fee on acceptance, which enabled an owner to withdraw his horse after nomination without being involved financially very much. The combining of these fees was felt by the owners to be an unfair financial burden and contrary to the usual racing practice. It was certainly a proper matter for discussion between the Association and the B.O.T.A. as representing the owners.

Despite this however, and without even inquiring what the "other matters of interest to owners" were, the Association replied by letter dated the 10th February (page 493 transcript) stating that "the subject matter referred to in your letter does not justify any discussion during the war." Then after setting out the Association's war effort the letter concludes—"regretting that such a request should have come from your Association at this juncture."

I have no doubt that the peremptory tone of this communication contributed largely to the cleavage between the two bodies.

Prior to this the B.O.T.A. had worked in harmony with the Association and in the words of one witness (page 699 transcript) "We (the B.O.T.A.) always got a good hearing until the last two or three years, when we could not get any satisfaction. Before that we got a reasonable hearing and had a lot of things done." As a matter of fact, the Association supported the "Spider Fund" controlled by the B.O.T.A., and as late as 25th August, 1943, had donated £100 to it.

It was also about this time that the Association had, by a resolution of its Committee on the 12th January, 1944, with a view to checking starting price betting, decided to withhold the publication of handicaps and divisions from the Monday until the Friday afternoon preceding the Saturday programme. The object of this change was a laudable one, and probably achieved its purpose to a great extent, and, incidentally, the evidence showed that the attendances at trotting meetings improved as a result over the period for which it was in operation. On the other hand, the withholding of divisions was a distinct handicap to owners and trainers, as they would not know in which heat their horses would be drawn and what other horses they would be racing against, until the afternoon before the meeting. It is generally agreed that this is so.

On the 16th March the B.O.T.A. asked the Association to review the position which had necessitated the withholding of handicaps until late in the week, but no reply whatever to this letter was given by the Association until the 9th June and then it could hardly be regarded by the B.O.T.A. as satisfactory.

In the meantime the B.O.T.A. was strengthening itself for the struggle with the Association which apparently its executive realised was imminent. At a committee meeting on the 27th April, 1944, it was resolved that the association be re-organised; a membership fee of £1 1s. be charged; and a meeting of members be called to put the same on a proper

basis. This general meeting was called on the 1st June (64 members being present) and after directing the secretary to write to the Association for replies to letters sent and to treat the same as urgent, the meeting was adjourned to the 11th June, 1944. At the adjourned meeting 112 members were present and it was resolved that a deputation should wait on the Association to discuss, (a) withholding of handicaps, and (b) nominations and acceptances. At the same time a resolution was passed that all members present were prepared to stand fast to their committee and become financial members, and 63 members then did in fact become financial.

By letter the following day (incorrectly dated 10th June—see page 509 transcript) the wishes of the meeting were conveyed to the Association and the Association under date the 19th June, suggested that the president of the B.O.T.A., Mr. Clark, should get in touch with Mr. Stratton and arrange a suitable date for the deputation.

A committee meeting of the B.O.T.A. was next held on the 22nd June and it was resolved "that the committee insist that a deputation be held so as to report to the general meeting and that a telegram be sent to all members notifying them of the meeting of Friday night." "Friday night" was the following evening, the 23rd June, and on that date the general meeting was duly held, 144 members being present, and it was at this meeting that what has been referred to as the boycott of the trotting meeting of the 24th June was resolved upon.

It is clear that Mr. Stratton the same day and prior to the meeting had agreed with Mr. Clark to meet the deputation of the B.O.T.A. on the following Wednesday the 28th June, at 4.30 p.m. There is some doubt as to whether the Association's letter of the 19th June and Mr. Stratton's agreement to meet the deputation on the 28th June were ever before this general meeting, and counsel for the Association has suggested that Mr. Clark deliberately misled the meeting. There is some support of this contention in the fact that there is nothing in the minutes of this meeting as to the reception of the Association's letter of the 19th; also in the fact that an amendment was moved to the boycott motion in these terms:—

"That we race on tomorrow the 24th and in the final and insist on a conference with the W.A.T.A. at an early date or we do not race in any future date until same is finalised."

I may add that only nine voted in favour of this amendment and the boycott motion was then put and carried almost unanimously.

However, I am inclined to accept the evidence of Mr. Clark that the meeting knew of these matters and in spite of them was not prepared to wait until the Wednesday for the deputation and was not prepared to race again until the conference between the representatives of the B.O.T.A. and the Association took place. Mr. Clark appeared to me to be a truthful witness on this aspect of the matter and I think his evidence is borne out by the relevant newspaper clippings that have been put in (Exhibit A 34).

My view is that the action of the B.O.T.A. in boycotting the meeting of the 24th June was unfortunate and in the circumstances hasty and unreasonable.

The conference between representatives of the two bodies was held as arranged on Wednesday, the 28th June. Three requests were put forward by the B.O.T.A.:—

1. Publication of handicaps and divisions as previously.
2. Restoration of the practice in all races, including the big races, of the system of acceptances and a conference to be called to discuss the present high cost of nomination and acceptance.
3. Return of all nominations in regard to the Winter Cup or as an alternative the abandonment and re-running of last Saturday's meeting.

The requests made by the B.O.T.A. at this time are important to bear in mind in view of the further demands which were made by that body later.

As a result of the conference between the representative of the two associations racing was to have been resumed on the 8th July but then there was another dispute over the handicapping of horses for that trotting meeting, and the meeting was not held. It arose in this way. It was provided in the "Guide to Handicapping," an official publication of the Association's Assessment Board that a 12-yard penalty would be given to horses winning stakes of a specified amount. The horses which had won races at the boycotted meeting of the 24th June (only 15 horses had competed and in some races there were walk-overs) were not so penalised.

This dispute was referred to the then Crown Solicitor, Mr. Dunphy, K.C., who decided that the Committee of the Association had complete jurisdiction to deal with the question of re-handicapping of these horses, though it could and in his opinion should have imposed the penalty. The matter is arguable. There is something to be said for both points of view, and it is not surprising that the respective attitudes of the two bodies towards the owners of horses who took part in the boycotted meeting should be somewhat divergent. However, the B.O.T.A. submitted to Mr. Dunphy's ruling. At the same time the requests put forward by the B.O.T.A. at the conference were satisfied in that the previous practice of publication of handicaps and divisions was reverted to and a refund of nominations for the Winter Cup was made by the Association; also I have no doubt that the Association was prepared to meet the B.O.T.A. and discuss the matter of high nominations. Racing was then resumed with a trotting meeting held on the 12th August, but it is clear that both bodies were in fact dissatisfied.

The Association was concerned with a resolution of the B.O.T.A. passed on the 2nd July, 1944, prohibiting its members from driving, training or handling horses belonging to any person who was not a member of that association, regarding this resolution as an intolerable attempt on the B.O.T.A. to control the sport. It also sought the alteration of Rule 4, of the Rules of the B.O.T.A., by deleting the words which I have underlined in the rule and now set out—

"That any bona fide breeder or any owner or trainer recognised by the W.A. Trotting Association or any person the Committee may think fit, shall be eligible for membership of the Association."

It was not disputed that there were members of the B.O.T.A. who did not come within the category of bona fide breeders, owners and trainers, though they were few in number.

On the other hand the B.O.T.A. regarded Mr. Stratton and his co-guarantors as exercising a dictatorial power in the affairs of the Association which precluded the B.O.T.A. from exercising any influence on it through its members.

The B.O.T.A. held a general meeting on the 21st December, 1944, and recommended that a draft letter prepared by its committee be sent to the Association. This was the letter of the 22nd December which presented "as a log of claims, the following demands" upon the Association:—

"(1) The immediate abolition of the guarantor system, thereby allowing for free discussions in committee and allowing for a truly democratic system of control.

(2) The re-opening of the W.A.T.A. membership list so that our members if they so desire may become members of the Association formed to control the sport in which they have invested so much. The fee charged to be similar to that charged other members when members were last admitted. The rule making it compulsory for a new member to be proposed and seconded by committeemen to be so altered as to allow a prospective member to be proposed and seconded by any ordinary financial member.

(3) The W.A.T.A. constitution to be so altered that two members of the Committee of seven be representatives of the B.O.T.A. elected by that body and to have the full powers of any other elected committeeman."

The B.O.T.A. advised that if these claims were not met to its satisfaction by the 31st January, 1945, racing would cease.

These demands went far beyond anything that had been brought forward previously and were in my view a quite unwarranted attempt on the part of the B.O.T.A. to interfere in and dictate the domestic affairs of the Association.

The B.O.T.A. had members who were also members of the Association and any approach to the Association on the matters of abolishing the guarantor system and re-opening the membership should have been made through them. In passing I may mention that there was no rule of the Association requiring an application for membership to be proposed and seconded by committeemen. The third demand was, of course, an impossible one and it is difficult to understand how anyone could have imagined that an incorporated association could have persons on its committee of management who were not members of the Association and who were appointed by another body.

The gauntlet was now down and there was no prospect of a compromise on demands such as these. In fact the Association immediately replied that it could no longer recognise the B.O.T.A. as being representative of the Breeders, Owners, Trainers' and Reinsmen. As a result, not sufficient nominations were received for the trotting meeting to be held on 10th February, 1945, and from then on there was a complete cessation of racing until the 26th May following.

Towards the end of March Mr. Dunphy as Parliamentary draftsman was instructed to draft a Bill for the control of trotting and at the same time was instructed to hold consultations to assist him in this work.

During the period of cessation mentioned above several attempts were made to bring the two Associations together with a view to settling their differences. Representatives of each body met, but conferences proved abortive. Then the Solicitor-General, Mr. J. L. Walker, K.C. (now Mr. Justice Walker) was asked to intervene, and largely through his good offices a settlement was arrived at, which enabled racing to be resumed, both parties no doubt feeling that the sport should continue pending the submission of the Bill to Parliament and a decision on the future control of trotting.

In fairness it must be recorded that the B.O.T.A. in order that a settlement could be reached did put forward proposals whereby it agreed to waive its claim for two seats on the Committee of the Association and not to insist on the immediate abolition of the guarantor system and also to limit its membership to bona fide breeders, owners and trainers, provided the Association gave official recognition to the B.O.T.A. and agreed to the immediate admission to membership of a reasonable number of members of the B.O.T.A. It does not appear, however, that any definite settlement was actually reached along these lines.

I find that, although there was a general laxity and some intolerance on the part of the Association in dealing with the B.O.T.A. in the earlier stages, the hasty and ill-advised attitude of the B.O.T.A. in boycotting the trotting meeting of the 24th June, 1944, followed by the unreasonable demands made by its letter of the 22nd December were the real cause of the two cessations of trotting racing.

There can also be little doubt that the dissatisfaction over the guarantor system expressed from time to time by members of the Association itself had spread to members of the B.O.T.A. as well, and was largely responsible for the dispute reaching the magnitude it did.

When the Association's membership is opened (although not to licensed trainers and reinsmen) and a more freely elected and representative committee is possible as a result of this, and of the abolition of the guarantor system, and when the B.O.T.A. restricts its membership to owners, breeders, and licensed trainers only, I am inclined to the view that the two associations will act in harmony again in their respective spheres for the good of the sport.

Handicapping.

This is a subject which actually comes within the sphere of the Association's State-wide control of trotting, but as the particular matters to which attention was drawn relate solely to the racing at Gloucester Park, I deal with it here.

The Association's system of handicapping is largely "automatic." Under this system, speaking generally, and subject to certain fixed exceptions, a horse on winning a race is given a 12 yard penalty. Associated with this is a system of what are called "let-ups" under which all handicaps are revised at intervals, and various horses are "let-up" i.e., given a more favourable mark. This occurs when, by virtue of the

automatic handicapping system, a horse has reached a mark where it does not seem possible for it to win a race. This general revision usually takes place every few months.

The principal complaints seem to have arisen from this part of the system, which is discretionary, and from handicaps allotted to horses imported from other States and New Zealand. It is also a sore point with some owners that horses in the high-value cup races for which there are various heats are subject to re-handicapping for the final. This latter is a matter of policy and I cannot make any comment in this connection. It is the ideal of the handicappers to make all horses finish together and no doubt they consider re-handicapping only with this object in view.

The handicapping of two horses owned by the president, Mr. Stratton—"Cavan Chief" and "Kolector" were among others singled out as instances of faulty handicapping. Mr. Stratton was cross-examined in regard to "Cavan Chief," a world's record holder which was imported by him from New Zealand in 1941, and won 11 races here in 15 months. It was shown, however, that the horse had "taken" every penalty to which he was entitled, and the only suggestion remaining was that he had possibly been allotted too favourable an original handicap. "Kolector" certainly received what appeared illogically favourable treatment, compared with other horses in the race, in the re-handicapping for the final of the last Christmas Cup after the heats had been run, but handicappers may well have good reasons for their decisions which are not obvious to the general public. Incidentally "Kolector" did not win the race, though he finished second. Any allegation that the president of the Association had influenced the handicappers to his personal advantage is a particularly serious one, and I am unable to find on the evidence before me, that there is any foundation for this suggestion.

For some time up till October, 1944, there was an Assessment Board, which dealt with "let-ups." This board was constituted by the whole Committee of the Association, with one member of the B.O.T.A. who was, however, not nominated by that body. This board was abolished in October, 1944, when the present Handicapping Board was appointed, the reason given by Mr. Stratton being that it was "too cumbersome." It was, however, open to the further objection that at least three members of the Assessment Board as then constituted were owners of horses and would be dealing with "let-ups" of their own and other horses.

The present Handicapping Board consists of Mr. J. V. Ferguson, a vice-president of the Association (chairman) and the three stipendiary stewards. Mr. Ferguson, who gave evidence before me, impressed me as a truthful witness and an honest man, and I also place reliance in the integrity of other past and present handicappers of the Association, Messrs. Downey, Hummerston and Creagh, who also gave evidence. Mr. C. J. Clark, a well known trainer and driver who was called by the B.O.T.A., although pointing out that there was some handicapping which was difficult to understand, was quite satisfied that the handicappers were men of integrity and stated—"I am not suggesting there is anything wrong or that they are doing it for monetary gain or anything like that."

In fact the handicapping of a horse named "Lila's Walla" owned by a Mr. Nevard was the instance brought perhaps most prominently before me in the evidence in regard to faulty handicapping, but it was not suggested that Mr. Stratton, or anyone else in authority, was either directly or indirectly interested in the horse.

It is inevitable that under any racing authority, complaints of unfair handicapping must arise from time to time, and the Association appears to have had its full share in this regard. I am of the opinion, however, that the handicapping, speaking generally, is well done, and that it is not affected by any outside influence. At the same time, I do not consider it desirable that a member of the Committee should be a handicapper. Both handicappers and stewards should, in my opinion, be as completely removed from outside influence as possible, and their complete independence might well be undermined when a member of the Committee, which employs them, is taking part in their deliberations. So far as the present Handicapping Board is concerned, there is this further objection, that Mr. J. V. Ferguson, the member of the Committee on the board, is himself the owner of two horses, though they are now on lease. Handicappers and stewards, in addition to being above reproach, should be above suspicion.

In the "Rules of Trotting" of both South Australia (R. 286) and New Zealand (R. 316) the following appears:—

"No handicapper shall

- (a) Engage directly or indirectly in any business connected with the sale, lease, breeding, or management of horses.
- (b) Directly or indirectly be interested in the ownership of any horse.
- (c) Bet, or be interested in any wager or bet, on any race."

The New Zealand rules embody an identical rule relating to stipendiary stewards (R.99). This rule should be included in the "Rules of Trotting" in this State, and should apply to both handicappers and stewards.

Totalisator Receipts.

Some figures were supplied by Mr. H. W. Byfield, Assistant State Under Treasurer (Exhibit A 71), of the totalisator receipts, and of revenue which the Government and the Association, in common with other clubs, derive therefrom. It is provided in the Totalisator Acts, that from the total investments, 13½% is deducted, from which 7½% is paid to the Government in tax and 6% retained by the club. In the case of the Association, from that 6% there is paid to the Totalisator Company a percentage on the investments, which varies on a sliding scale, ranging from 2⅞% down to 2%—the average probably being about 2½%, leaving 3½% to the Association. The Totalisator Company pays its own employees on the machine.

In the year ended 30th June, 1939, the last year which may, perhaps, be regarded as having been "normal," the 7½% Government tax totalled £26,041, and the actual revenue to the Association would be slightly less than half of that amount.

A considerable additional source of revenue to the Association lies in what are known as "fractions" and "unclaimed dividends." The latter is a com-

paratively small amount, but the "fractions" are substantial. On both these items the Government levies a further 7½%, and the balance is retained by the Association. The "fractions" arise through dividends on the totalisator being paid only in multiples of one shilling, calculated to the next lower shilling. It is obvious that an amount, sometimes considerable, remains with the Association as a result of each race. In the year I am quoting, 1938-39, "fractions" totalled £9,710, from which, after deducting the Government's 7½%, there remained to the Association a profit of £8,982. This amounted to a little in excess of a further 2½% on investments. Though the amounts involved have varied with the war years, the percentage remains about the same. If, as in at least some of the other States, dividends were, by an amendment of the Totalisator Act, to be calculated to the next lower sixpence, the betting public would benefit considerably, but naturally the Association finances would suffer correspondingly. In view of its large profits, disclosed by the phenomenal improvement in its financial position since 1929, which I have earlier set out, and the fact that its profits, devoted to patriotic and charitable purposes during the war years, are now in its hands, it could, without doubt, well afford the change.

Though I have throughout referred to the Association in this regard, and have quoted its figures, it will be obvious that, by such an amendment to the Totalisator Act, the finances of all trotting (as well as racing) clubs in the State would be affected. The schedule furnished by Mr. Byfield, to which I have referred, contains full details of the amounts received by all clubs from both fractions and unclaimed dividends for the years 1939 to 1945.

It is interesting to note, for purposes of comparison, that by the Totalisator Act, 1930 (as amended), of the State of Victoria, dividends are paid to the next lower sixpence, and only 10% of the totalisator investments are deducted. Of this amount, within the metropolitan area, the club retains 50%, but outside the metropolitan area, the club retains 75%. In each case the remaining percentage goes to the revenue, to which is payable also the whole of the "fractions" and "unclaimed dividends."

Any recommendation on this subject is somewhat outside the scope of my Commission, and I did not investigate the conditions existing in the other States in regard to these matters.

Summary of Past Administration.

As was inevitable in an inquiry having the scope of this, many comparatively minor matters in connection with the affairs of the Association were investigated, but I have dealt with all of any importance on which a conclusive finding could be reached. I have felt called upon to direct attention, in various aspects, to the method in which the president of the Association, Mr. Stratton, has over many years exercised the control which fell into his hands under the guarantor system. I have referred to "his" control, because the evidence I have heard and my perusal of the minutes over many years leads me to the irresistible conclusion that the other guarantor members of the Committee, whether by the force of his personality or perhaps their belief in his judgment, were at all times content to follow his lead. But the entries are far from being all on the debit side, so far as he is concerned. I can see no reason, other than a sense

of public spirit, and interest in the sport, why he originally became a guarantor for the Association in 1929. Most men of a business instinct, such as no doubt he was, avoid anything of that nature. For his own protection he was at the time entitled to take every legitimate step to ensure that while he was risking his financial position, he had the maximum of control. Whether he believed that risk to be great, or little, as it soon turned out to be I feel sure that the members of the Association were at that time glad to have his resources behind them. The evidence showed that, owing to the expenditure and commitments entered into in establishing the new course, the Association's financial affairs were in a somewhat precarious position. However, in spite of the financial depression which shortly afterwards ensued, the Association soon emerged from its troubles into a strong financial position. For that, and for its continued material progress over the years, I feel impelled to give credit to his leadership. From my perusal of the minutes of the Association extending

over many years, which I have referred to, it is clear to me that his control of the sport itself has been capable and efficient, and that he did not spare himself in the interests of the Association. The control of trotting, as he himself suggested, became his hobby, although he eventually made it a not unprofitable one. In addition, no doubt, he appreciated the power and prestige his privileged position had given him, and he did, as my findings disclose, all in his power, sometimes by devious methods, to entrench himself in that position. He exercised that power, in many instances, in arbitrary fashion, and sometimes for his own ends. That he was conscious of the weakness of his position in regard to some of the matters ventilated before me was shown by his vagueness in evidence on subjects which must have been quite clear in his very active mind. In his earlier evidence he, as records produced later clearly showed, painted an entirely misleading picture in regard to many subjects, and to his own attitude on some matters.

RECOMMENDATIONS.

Quite apart from the question of whether the control of the sport throughout the State is to remain in the hands of the Association, with which I deal later in my report, the evidence has, in my opinion, clearly shown that in its conduct of the sport at Gloucester Park, handling large contributions from the public, paying large sums in taxation, and catering for the requirements of such a large percentage of the population and of those engaged in the sport, under the protection of the monopoly conferred on it by the Racing Restriction Act, 1917, some measure of Governmental control is necessary.

The control I propose bears some relation to that already exercised in the case of the Western Australian Turf Club, which control, it must be remembered, existed many years before there was any legislative recognition of that body as a State-wide authority.

I have next to consider the best method of exercising this Governmental control, and what form of legislation is necessary to bring it about, in the case of an incorporated association. This is a matter in which I do not presume to the specialised knowledge of a Parliamentary Draftsman, but having considered the matter, I recommend as follows:—

That an Act be passed cited the "Western Australian Trotting Association Act" establishing the Association under the name of the "Western Australian Trotting Association" as a body corporate with perpetual succession and a common seal, with power of suing and being sued and of acquiring, holding, disposing of, or otherwise dealing with real and personal property and of enjoying the privi-

leges and being subject to the obligations of limited companies with the exceptions referred to in section 29 (4) of the Companies Act, 1943 (which Act I understand is not yet proclaimed). I take it that such an Act would come into operation on a date to be fixed by proclamation and would provide that the West Australian Trotting Association Incorporated shall cease to exist and its certificate of incorporation under the Associations Incorporation Act, 1895, be revoked and its incorporation be dissolved upon such proclamation and simultaneously therewith all its assets shall vest in the Western Australian Trotting Association subject to all trusts, covenants, contracts and liabilities affecting the same; also that all existing contracts and engagements entered into by the West Australian Trotting Association Incorporated shall continue as though made with the Western Australian Trotting Association as established by the Act.

At the same time it seems necessary to provide that the then members of the incorporated Association shall be deemed to be members of the new Association and that the Committee of the incorporated Association shall constitute the Committee of the Western Australian Trotting Association and shall hold office until the first meeting of members.

I have been referred to the Sydney Turf Club Act, 1943, No. 22 of 1943 of the Parliament of New South Wales, which constituted the Sydney Turf Club as a statutory body, and in which the Regulations governing the affairs of the Club are set out in detail as a Schedule to the Act, but are subject to amendment by the Governor. On the other hand in the case of the Western Australian Turf Club the Committee of the Club has power to make its

own by-laws subject to their disallowance and repeal by the Governor-in-Council. As some uniformity in such matters is desirable, that is the extent of the control over the by-laws of the Association which I recommend, and the method of initiating that control is again a matter of draftsmanship. No doubt the reason for the method employed in the Sydney Turf Club Act, 1943, was to bridge the hiatus in the Club's management between the time of its establishment and the time it passed its own rules in general meeting. If this form of draftsmanship is followed, I suggest that the "Western Australian Trotting Club Act" should provide that the by-laws contained in the Schedule shall be the first by-laws of the Association, and that thereafter they shall be subject to amendment, repeal, or addition, by the Committee (or, if preferred, by means of a special resolution of the Association), but such amendment, etc., shall be subject to disallowance by the Governor, in similar manner to the by-laws of the Western Australian Turf Club. The procedure for this would be established by re-enacting in the Act the provisions of sections 13 to 19 and the first part of section 20 of the Western Australian Turf Club Act (with minor alterations as to the Minister, etc.), either in the same form, or in the one adopted in clauses 32 to 35 of the Trotting Control Bill, which are indetical in substance, and have their own counterpart in the Sydney Turf Club Act. Though the regulations contained in the First Schedule to the Sydney Turf Club Act would provide an excellent model in the case of the Association, the present Rules of the Association are quite suitable as a basis, and I recommend that they be adopted, subject to the following alterations and additions:—

(1) Rule 4.—The meaning of the proviso to this Rule, under which it was argued that the payments to the President and members of the Committee were legally justified, is very difficult to interpret. If, as was submitted to me, it authorises those payments, but prohibits payments to other members of the Association for services actually rendered, it is rather absurd, and requires amendment. I consider that the words "or other person not being a member of the Association" should be made to read "or any member of the Association," and that a further proviso should be added, "Provided further that no remuneration or other benefit in money shall be given by the Association to any member of the Committee except repayment of out-of-pocket expenses." I refer to the fact that the wording of both these amendments is taken from section 5 of the Sydney Turf Club Act, 1943, to which I have already referred.

(2) Rule 5.—Membership of Committee to be increased from seven to ten. With an increased membership in lieu of honorary membership as I have recommended, this will provide a wider representation. (The Turf Club, with a membership of 550, has a committee of twelve.) In addition a larger committee would tend towards a greater degree of independence in handicappers and stewards. Election to be for two years, and half to retire annually.

(3) Rule 14.—No ballot for new members shall be taken unless at least two day' notice

thereof shall have been previously sent to each member of the Committee containing particulars of names and occupations of the candidates and the names of their respective proposers and seconders.

(4) Rules 17.—Life membership to be the subject of a special resolution at a general meeting. In my opinion, the present number, forty, is excessive.

(5) Rule 19.—Honorary membership shall be restricted to the Governor, the Premier, and Cabinet Ministers, as is the case with the Turf Club.

(6) Rule 44.—Minutes of a general meeting shall be confirmed at the next annual general meeting, and, if not previously circulated to members, shall be first read at such meeting.

(7) Rule 46.—Five members of committee (enlarged as above) to constitute a quorum. Minutes to be confirmed as in the case of a general meeting.

(8) Rules 47 and 48.—These are superseded by the power to make-by-laws embodied in the Act.

(9) Rule 49.—The first paragraph of this Rule has the effect of obviating the necessity for passing by-laws under Rule 47. It has no place in the scheme of regulation which I have recommended, and has no counterpart in the by-laws of the Western Australian Turf Club. The powers of the committee should be clearly defined in the by-laws, and most of the necessary powers are set out in detail in Rule 49.

(10) No employee shall be eligible to become a member of the Association, and any member, on becoming an employee, shall cease ipso facto to be a member.

(11) A similar provision to the preceding, in regard to bookmakers. I think this almost universal in racing clubs.

(12) Rule 70.—In my opinion, this Rule should be repealed, as an undue restriction of the rights of members.

(13) Elimination, as a matter of course, of all provisions relating to the guarantor system.

(14) The committee may appoint one of their number to be honorary treasurer, who shall be charged with the duties of supervising the accounts of the club, subject to the committee.

(15) No member of the committee of any other trotting club shall be or remain a member of the committee of the association. This is based on Rule 56 of the constitution of the South Australian Trotting League, which prohibits membership of a committee of more than one trotting club, and is particularly applicable to the Association's relations with the Fremantle Trotting Club.

(16) All payments to members of the committee shall be clearly shown in the annual profit and loss account.

(17) A copy of the auditor's report shall be sent to members.

If my proposed form of legislation is acceptable, the two concluding recommendations, as well as certain other provisions in the existing Rules, will

be provided for by the Companies Act, 1943. In re-casting the Rules, that Act will have to be carefully considered.

The foregoing recommended alterations relate principally to matters, the necessity for regulating which arose in the course of my inquiry. Certain minor alterations in other Rules, consequent on these, will be apparent to the draftsman. There are other matters which a perusal of the by-laws of the Western Australian Turf Club indicate should be the subject of by-laws. In particular, by-laws relating to charges for admission, to book-makers and betting, and to the totalisator, should be included, and for these I suggest by-laws 83 to 112 of the Turf Club as a pattern. These matters have in the past apparently been regulated by the Committee of the Association under the general power conferred by the first paragraph of Rule 49, which, as I have indicated, should be deleted.

The Act should, in my opinion, provide also that a copy of the annual accounts of the Association shall be transmitted to the Minister administering the Act who may also from time to time appoint an auditor for the purpose of auditing the accounts of the Association. A similar provision exists in the West Australian Turf Club Act, 1892, but in the case of the Turf Club the copy of the annual account is to be transmitted to the Registrar-General.

The Administration, Conduct and Control of Trotting Racing throughout the State.

PAST AND PRESENT CONTROL.

I now deal with the past and present administration by the Association of its State-wide control of the sport, held by it under legislative authority. With the exception of the Fremantle Trotting Club, all of the Clubs in the State are outside the metropolitan area, and I have already referred to the formation of these country Clubs into districts. The District Councils allot racing dates to their respective Clubs, and these are submitted, with the proposed programmes, to the Association for approval. The Golden Mile Trotting Club, like the Fremantle Club, is treated as a separate unit, and both deal direct with the Association. I shall later deal with special features of the relationship of these two Clubs with the Association, but in racing matters the control over them is the same as that over the other Clubs and all racing is, of course, governed by the Association's Racing Rules.

The handicapping for all meetings in the State is done by the Association, whose stewards also attend all meetings, where they act with, or sometimes without, local stewards. No payment is made to the Association for this, and the arrangement seems to be quite satisfactory to all concerned.

Appeals from the decisions of the stewards at all meetings are, by Racing Rule 139, to the Committee of the Association but the Committee may, under certain circumstances, by Racing Rule 47, delegate its power to hear and determine appeals to the Committee of an affiliated Club. This power has on occasions, been delegated to the Golden Mile Trotting Club. In such a case there is a right of further appeal, by special leave, to the Committee of the Association.

In this State, as elsewhere throughout the Commonwealth, country Racing Clubs find themselves unable to establish themselves or to function effectively without monetary assistance, which invariably comes from the more prosperous metropolitan Clubs. The Association has over the past years granted this assistance to country Trotting Clubs freely, and for the six years ended 31st July, 1941, this payment averaged £522 per annum. During the subsequent war years, the country Clubs with the exception of the Golden Mile Club, ceased to function, and the amounts of subsidies dropped considerably, there being nothing paid in 1943. However, in 1944-45 the subsidies to country Clubs totalled £1,950, and for the current year, ending 31st July, they have been paid, or promised, £2,100. Portion of these later subsidies are in relation to what is known as the Country Derby. All subsidies are paid to the District Councils, which allocate the amounts to their Clubs.

The practice of subsidising country Clubs in this way is, of course, not pure benevolence on the part of the major racing bodies. It is well recognised that country Clubs are of considerable importance in the general scheme of racing, for reasons such as the encouragement of the breeding industry, as well as the fostering of general interest in racing, and the continuity of a supply of horses to compete in the city. For these reasons, presumably, it has also been the practice of the Association to provide at agricultural shows, under the heading of subsidies, the stakes paid for trotting races. For the five years ending 31st July, 1940, after which date the shows were not held, the amounts paid to agricultural societies at Perth and in the country under this heading averaged £287 per annum.

Commencing in July, 1945, the Association has adopted a system of quarterly conferences, at which a representative from each of the three District Councils attends, to discuss with the Committee of the Association matters relating to the sport.

I shall deal with the attitude of the Clubs concerned towards this control under the ensuing heading:—

FUTURE CONTROL.

Having recommended that the Association should be established by an Act of Parliament enjoying the privileges and being subject to the obligations of limited companies and the sanctions of its Private Act, it remains for me to consider whether the best interests of the sport will be served by leaving the control of trotting in the Association, as so re-organised, or by placing that control in the hands of an independently constituted body or league. Under the Racing Restriction Act, 1917, which I have quoted as recognising the control exercised by the Association and conferring additional control, an exactly similar provision is made in the case of the Western Australian Turf Club. This type of control—control by the principal old-established Club—is very firmly established throughout the British Empire and over a great many years has proved itself satisfactory and has formed the basis for the government of the sport. There are examples of different forms of control of trotting in both South Australia and New Zealand, and I propose to deal shortly with them.

Section 22A of the Lottery and Gaming Act, 1936-1938, of the Parliament of South Australia provides that the South Australian Trotting League Incorporated shall consist of one delegate nominated from each Club affiliated with the League, and except for enacting that the League shall not delegate its powers to any sub-committee or other body does not attempt to define its objects or powers in any way. These matters are found in the League's constitution as an incorporated association. Sub-section (8) of section 22A does, however, enable any Club which is aggrieved by any decision of the League to appeal to the Betting Control Board established by that Act. Shortly, the League prescribes the Rules of Racing; approves programmes for race meetings; recommends the allotment of totalisator licenses; registers all Clubs, owners, horses, trainers, reinsmen and colours; and appoints the handicappers and stewards and hears appeals from the latter. In addition the League has power to levy contributions from Clubs as follows:—

(1) Half per cent. (until otherwise provided by the League) of the total amount invested in totalisators used by the Club.

(2) A contribution not exceeding 2½ per cent. upon the stakes paid away annually by the Club.

Only one witness was called before me who could give evidence from personal knowledge of whether this experiment in trotting control had proved a success. He was Mr. J. O. Skull, whose name has received prominence in another portion of this report, and who is now Chairman of Stewards employed by the League there. He expressed the opinion that the League had improved trotting racing, although he does not regard it as a satisfactory Board of Appeal against the decisions of stewards, and preferred an independent tribunal. He seemed to agree, however, that opinion in South Australia is by no means unanimous in favour of the League, and I am afraid that under all the circumstances I am unable to regard his evidence as in any way conclusive. Without further evidence, which could probably only be obtained in South Australia, I am unable to determine whether the League system there is an improvement on the old, and whether it operates with fairness to all concerned.

It has been pointed out to me that nearly all the Clubs in South Australia are within a reasonable distance of Adelaide, and as a result delegates are more or less within easy call of the League's headquarters in the capital city. This would hardly be the case in Western Australia, when, in the event of a League being constituted, country delegates would have to travel long distances. The position in New Zealand is also hardly analagous, when one considers the distribution of population there. In the four largest towns there are probably four Clubs of approximately equal importance.

Although no evidence was offered before me as to the position governing the sport in New Zealand I was supplied with a copy of the "New Zealand Rules of Trotting, 1938," adopted by the conference of New Zealand Trotting Clubs. By these Rules two bodies are constituted, known as the "New Zealand Trotting Conference" and the "New Zealand Trotting Association." The conference consists of a representative from each

Totalisator Club (as they are referred to) and shortly, approves racing dates; recommends the allotment of totalisator licenses; hears appeals from the Association; and has power to inquire into the affairs of the Association and any Club. Its expenditure is met by levies on Clubs, based on their totalisator receipts. The Association has power to approve programmes, to deal with and decide all disputes in any way relating to trotting and all appeals under the Rules, and to vary or remove disqualifications or suspensions, etc. Its funds are provided by a levy not exceeding 2½ per cent. of the amount of stakes paid by a Club in any year. There is also constituted a Stipendary Stewards Committee consisting of the executive of the conference and the president and one other member of the Association. This Committee appoints the stewards and also the handicappers.

It will be noted that neither on the League in South Australia nor on the Conference or Association in New Zealand does the Breeders, Owners, and Trainers' Association or any similar body find representation. In my opinion, the departure made in the "Trotting Control Bill, 1945," whereby the proposed League is to include two representatives of the B.O.T.A. as well as representatives of Clubs is not desirable. In my view, after hearing the evidence, that body is not sufficiently stable in the conduct of its own affairs, possibly through having been so recently resuscitated, to justify its representation on the controlling body, nor is it sufficiently restrictive in its membership, though no doubt that could be remedied. But there is, to my mind, a paramount objection to such a representation. It is no reflection on the members of the B.O.T.A. when I say that, speaking generally, the control of the sport should not be in the hands of those engaged in it for profit or as a livelihood. I am aware that many of its members do not fall within that category, and some, I have no doubt, could worthily assume a share in the control. The way is open, however, for them to do so through membership of the Association. I may mention here that of the 50 "non-service" members admitted to the Association in October, 1945, seven or eight were members of the B.O.T.A.

The "Trotting Control Bill" by clause 28 provides for the establishment of a Country Clubs Benefit Fund for the providing or subsidising of prize money and granting assistance to Clubs outside the metropolitan area, and the proposed League is empowered, inter alia, to impose a levy on any Club which in the opinion of the League is able to afford a contribution to the Fund. This power is undoubtedly aimed at the Association, for it is not likely that any other Club could afford to contribute. In fact the Association is the only Club which has ever assisted Country Clubs and is the only Club to which the Country Clubs have looked for assistance. This power in the League finds no counter-part in either South Australia or New Zealand. It is true that in South Australia the League by Rule 6 (VI) has power to establish and control "Funds for providing or subsidising of prize money and granting assistance to and for the assistance of Registered Clubs in the country," but the League is not empowered to impose a levy on any Club other than the authorised levies common to every Club, to which I have referred. In New Zealand

the Conference and the Association have power to levy only for the purpose of meeting expenditure and for providing funds for carrying on their operations. In my opinion, an unlimited and arbitrary power of levy, exercised by a body on which the Club to be levied on has a minority representation, for the benefit of the sections represented by the majority, would be likely to lead to dissension, and would not be in the best interest of the sport. Later in my report I deal with the question of a fund for subsidising Country Clubs.

The remaining arguments addressed to me in support of the establishment of a League were:—

(1) It gave representation to the Country Clubs.

(2) It secured the appointment of stewards and handicappers by an independent body.

These arguments need some elaboration and I propose to deal with them in order.

Firstly, it has been suggested that it is desirable that the Country Clubs should have representation on the controlling body. At the outset I must say that the evidence offered before me by members of Country Clubs (and it was very representative) was almost wholly in support of the present administration by the Association and against any change. This in itself is very significant. The assistance given by the Association in the past to Country Clubs has not been niggardly, and complete harmony appears to have existed between the Clubs and the Association. I have no doubt that any matters of mutual interest can be freely discussed and dealt with at the quarterly meetings at which representatives of the District Councils meet the Committee of the Association. It must also be borne in mind that quite a number of Country Clubs are in the embryo stage, and that most Country Clubs, excepting the Golden Mile Club, hold only three or four meetings a years. Many of the Country Clubs appear to have owed their existence originally to the support and assistance given to them by the parent body, and it is, therefore, perhaps not surprising that almost complete unanimity exists in this section of the sport. I am of the opinion that no case has been made out by the Country Clubs for a change of control. In fact the evidence is nearly all the other way.

Secondly, I refer to the argument in favour of a League, as ensuring the independence of stewards and handicappers. Under another heading I have dealt with handicapping and have expressed the view that it is, on the whole, well done and is not affected by any outside influence. The same could, as well, be said of the duties of the stewards. The calibre of the men appointed to the position of stewards and handicappers appears high, and no one has questioned their integrity. Bearing in mind the "J. C. Skull incident," however, this is an argument to which I felt I should give the greatest possible weight. But, in considering this, I must do so in the light of changed conditions in the control of the Association. The unhealthy guarantor system has gone. I am of the opinion that a freely elected, fairly large committee, drawn from the large membership of the Association, and composed of men who are prepared to undertake without remuneration the administration of the sport,

would as a body compare in all respect with one comprised partly of representatives of other Clubs, and would be no more prone to influence the independence of the officials. I am unable to see, therefore, that the proposed League finds justification on this score.

Lastly, I have to consider whether an Appeal Board other than the Committee of the Association (or the League, if such body were formed) is necessary. The "Trotting Control Bill" by clause 31 provides that appeals from disqualifications shall be to a tribunal consisting of a chairman having the qualifications of a Supreme Court Judge or being a Stipendiary Magistrate, a representative of the Club concerned, and a representative of the League. The clause makes the hearing open to the Press and the public and the parties may be represented by counsel. Mr. Mulder, the Secretary of the Western Australian Turf Club gave very good reasons for exclusion of the Press (page 1055 transcript) with which I entirely agree. The only precedent, so far as I have become aware, for such a tribunal in racing was in South Australia. There, according to the evidence of Mr. Skull, the Trotting League formerly adopted the practice of delegating its authority to hear appeals, to an independent tribunal of which the present Mr. Justice Mayo was chairman. However, again according to Mr. Skull, Parliament, a few years ago, passed a short Act prohibiting the League from delegating any of its powers, thus abolishing the tribunal. In South Australia now, and in New Zealand, appeals are respectively to the League and the New Zealand Trotting Association with a further right of appeal to the New Zealand Trotting Conference, and appeals in all cases where racing is controlled by the principal Club, are to be the Committee of that Club.

It was generally conceded that any Appeal Board, to be satisfactory, must be one which was well accustomed to the atmosphere of the sport and I do not think that a judge or a magistrate would necessarily be very well equipped in this regard. Quite apart from that, it is desirable that even-handed justice should be swiftly administered under racing law, and I do not consider that anything savouring of ordinary court procedure would be of benefit to the sport. There was no evidence before me expressing dissatisfaction or alleging bias so far as the Committee of the Association in its capacity as an appeal tribunal was concerned. It was suggested that the Committee as the employer of the stewards might possibly be prone to stand by their decisions, but the figures supplied negated this, there being seven appeals to the Committee in the years 1941-45, of which five were upheld.

Bearing in mind the whole of the evidence I have come to the conclusion that the control of trotting racing is best left in the hands of the Association as the principal Club, provided that its affairs are put in order, and it is made subject to the domestic and Governmental control and the legislative sanctions, which I have previously recommended. The arguments advanced to me for the formation of a League have not convinced me that a League is a "cure all" for the betterment of trotting racing. On the contrary I am of the opinion that the amendment of the constitution of the Association and its

establishment by Act of Parliament offer the best solution for the proper control and management of the sport.

ASSISTANCE TO COUNTRY CLUBS.

I have referred at some length to the monetary assistance given by the Association to Country Clubs. The only criticism, if it can be so termed, of the past administration of the Association made by a country witness was in relation to this matter. He said, "Country Clubs do not know what money they are going to get from year to year, and cannot make any plans. They have to wait to see what the Association gives them. If they are not satisfied they simply have to take it." Though no dis-satisfaction was expressed by any of the Clubs as to their past treatment in this respect, it would be in the interest of the sport in the country if they were afforded some degree of certainty as to their future. I therefore recommend, somewhat in the terms of clause 28 of the Trotting Control Bill, that the legislature should provide that the Minister may:—

- (a) Establish a Country Clubs Benefit Fund, which shall be held by the President of the Association.
- (b) Direct a Club in the metropolitan area to devote the whole or any portion of the profits of a specified trotting race meeting to such fund.
- (c) Authorise one meeting in any year additional to those provided for in section three of the Racing Restriction Act, 1917, to be conducted by a Club in the metropolitan area the profits of which shall be devoted to such fund.

I suggest that the Act should further provide for the constitution of a Committee, consisting of the President of the Association and one representative of each of the three District Councils to distribute the fund to the District Councils or to the Clubs in such proportions as the Committee, having regard to the best interests of trotting racing in country districts, from time to time determines. A similar Committee is constituted in Victoria by section 5 (3) of the Police Offences (Race Meetings) Act, 1929, to administer a like fund for the benefit of country racing, which fund is, however, raised by a levy of half per cent. on the gross revenue from all sources of the Metropolitan Clubs.

I have preferred the method recommended of providing moneys for this fund to some such basis as that adopted in Victoria owing to the difficulty in forecasting at the present time what amounts would normally be made available by such means. For example, taking, from the figures furnished by Mr. Byfield (Exhibit A71), the totalisator receipts as a basis, half per cent. on the 1928-1929 figures would amount to £1,736; on the 1943-1944 figures, £3,360; and on those for 1944-1945, £2,409. For the current year, Mr. Byfield's evidence shows that the receipts will be greater than for 1943-1944, but none of these three later years can, I think, be regarded as close to normal.

In making this recommendation, I have also in mind that it may not be necessary that this statutory fund should supersede the voluntary assistance

to Country Clubs now given by the Association. I suggest that prior to the date when the District Council submit to the Association for approval details of their Clubs' lists of fixtures for the ensuing racing year, it should make known to each Council the amount which it proposes to allocate to it that year. The powers of the Minister need then be invoked only if and when required.

The Golden Mile Trotting Club at Kalgoorlie, not being included in a Trotting District, would not find representation on the distribution Committee I have proposed. Though I have not its balance sheets before me, it would appear from its totalisator figures, included in Mr. Byfield's schedule, that it probably needs little assistance. It has apparently in recent years been receiving none from the Association.

FREMANTLE AND GOLDEN MILE TROTTING CLUBS.

One special aspect of the control exercised by the Association over trotting racing in the State relates to the Fremantle and Golden Mile Trotting Clubs, the relation of each of which with the Association is based primarily on the fact that each holds its ground as a tenant of that body. A history of those relations up to the present is of interest.

FREMANTLE TROTTING CLUB.

The Association had acquired a ground at Fremantle suitable for the conduct of trotting meetings and in 1928 the Fremantle Trotting Club was formed to take this over. It was arranged that the Association would construct the racing track, erect the essential buildings and improvements and instal the electric lighting system and that the Club would pay a rental based on 8 per cent. of the total cost. These works were carried out and a lease dated the 15th May, 1929, for a term of ten years from the 1st September, 1928, was entered into between the parties reserving a rental of £770 8s. a year plus a further rental equal to 8 per cent. of any moneys expended in accordance with the requisitions of any local authority. There was no evidence given before me of any Club conducting trotting meetings at Fremantle prior to the formation of the Fremantle Trotting Club, but no doubt it had a predecessor because the Racing Restriction Act Amendment Act, 1925, provided for ten meetings (with two additional charitable meetings) to be held in the Fremantle District.

It is interesting to note from the minutes of the Club, that early in the Club's history, in 1930, when the Association was finding difficulty in financing Gloucester Park, proposals were put forward by the Association whereby the Club would have been enabled to have held the ground in perpetuity, subject to a license fee of £50 a year, upon its paying in addition to the rent the total cost of the improvements, viz.: £9,600 by annual instalments, plus interest, over the period of the then current lease. However, it appears that these proposals never came to fruition.

For some years prior to 1938, when the term of the lease expired, the Club had been showing losses and the evidence of a then member of the Committee, Mr. G. A. Booth, is that at this time the Club was practically bankrupt. However, as against

this, it appears from the balance sheet for the year ended the 31st July, 1938, that the Club had effected improvements to the ground amounting to £5,403. As a condition to extending the Club's lease the Association required that the constitution and rules of the Club be amended by giving the Association the right of nominating three members of the Club's committee of management of seven and by providing that such Committee hold office for six years, i.e., until the annual meeting to be held in September, 1944. The amended rules also provided for the appointment of the Club's Auditor by the Association. The Club agreed to these amendments—possibly the members realised that in the circumstances there was very little alternative, and as a result the lease was extended to 31st July, 1944, upon the same terms. About the same time the Association made an advance to the Club of £2,300 to enable it to carry out certain improvements to the ground with a view to reducing their overhead expenses. From then onwards the Club's financial position improved.

In March, 1942, the Military authorities took over the ground at an annual compensation payment of £1,509 and racing was discontinued, the Club continuing to pay its rent to the Association in accordance with the terms of its lease. The Army authorities were to have vacated the premises on the 5th March, 1945, but a "rear party" remained on for some time after this date. Shortly after the Military entered into possession the Association agreed for the duration of the war to conduct trotting meetings on behalf of the Club at Gloucester Park upon the terms that if there was a loss the Association took it and if there was a profit it went into the funds to be distributed for patriotic purposes. This arrangement was acceptable to the Club upon the Association meeting the expenses of Mr. Todd as liaison officer in connection with the ground and paying certain office expenses and the auditor's fee and allowing Club members the same privileges as members of the Association at Gloucester Park at an annual subscription of £3 13s. 6d.

In November, 1945, the Association agreed to give the Club a further extension of its lease for six years. In January and February this year the Association conducted at Gloucester Park three trotting meetings for the Club and allotted it the net proceeds, some £6,000, with a view to assisting the Club to commence racing again on its own ground. It appears that the Army paid to the Club by way of compensation on marching out, £950 for physical damage done to improvements on the ground and a further £503 for periodical compensation from the date when possession was to have been given up until the date when the rear party finally vacated. In addition to these payments I notice from the Club's profit and loss accounts for the year ending the 31st July, 1945, and for the period ending the 9th March, 1946, the Association paid the Club subsidies of £657 and £636 respectively.

The balance sheet at the 9th March, 1946, shows the Club's financial position to be a very healthy one with a credit of some £8,000 at the bank, against which the balance owing of £1,864 on the Association's original advance of £2,300 must be taken into account. Since this Commission started I understand that the Club with the consent of the

Association has held two further meetings at Gloucester Park to its monetary advantage. Before the Club can cater for the public again at Fremantle, considerable improvements to the ground are necessary and the evidence of the Club's President, Mr. Booth, was that tenders for this work were being called almost immediately. It is proposed that the Club will finance these improvements out of the proceeds of the meetings held and to be held this year at Gloucester Park.

It cannot be denied that the Association has been generous in its dealings with the Club, nor can it be denied that a strong Fremantle Trotting Club is to the advantage of the Association in more ways than merely to protect its asset in the ground and to ensure payment of its rent. It is also obvious that the Club, in expending its profits on improvements to the ground, is at the same time improving the assets of the Association. If after the Club again commences racing on the Fremantle ground it can firmly establish itself financially it seems to me that the Association would be wise to put nothing in the way of the Club returning to the election of its own committee and to give the Club the opportunity of purchasing the Fremantle ground upon reasonable terms.

I might possibly go further and suggest that the Association, in view of its own strong financial position, might well consider transferring the freehold of the Fremantle ground to the Club as a gift or for a nominal sum. It would be a fine gesture from a wealthy parent body to a struggling offspring. I make these suggestions because in my opinion it is desirable for the good of the sport generally that the Fremantle Trotting Club should be an independent Club, owning its own ground and being subject to the management of its own members.

GOLDEN MILE TROTTING CLUB.

This Club was established in 1934 and conducted trotting meetings on the Association's ground at Kalgoorlie, which the Association held under lease from the Crown at a rental of £50 per annum. When the Club applied for a five years' lease from the Association in 1936 the Association required as a stipulation to the granting of such lease, that the Club should adopt a constitution providing that the then committee of seven should hold office for five years. This was agreed to and a sub-lease granted to the Club at the same rental as the Association paid to the Crown. When an extension of the lease was granted in 1941 a similar stipulation was required by the Association. At present negotiations are in progress for a further extension for ten years.

It appears that the Association first acquired the ground in 1914 or 1915 and made improvements thereto at a cost of some £10,000. Several trotting Clubs leased the ground from the Association but it does not seem that trotting was firmly established until the present Club came into being, largely due to the initiative of Mr. T. W. Simpson, a member of the Committee of the Association from 1917 to 1933, when he went to live in Kalgoorlie. No doubt the Association in 1936 was largely actuated in requiring that the Committee of the Club should hold office for the duration of the lease by the fact that Mr. Simpson was President. He impressed me in evidence as having an extensive knowledge of the

sport and being a man of honest and forceable character. He is still President of the Club and takes a fairly active interest in it, although he has now retired to live in Mandurah.

This Club, unlike nearly all the Country Clubs, raced continuously once a fortnight during the war and although its balance sheets were not before me, it appears to be in a healthy position. The Club has gradually improved the ground at its own expense.

The original asset of the Association in the ground capitalised at £10,000 has been progressively written down in the Association's books and is shown in its last balance sheet for the year ending the 31st July, 1945, at £283 under the heading "Kalgoorlie Race Course, Improvements and Plant."

As in the case of the Fremantle Trotting Club, and for the same reasons, I am of the opinion that the Golden Mile Trotting Club should be given the opportunity of becoming independent of the Association.

In conclusion, I desire to place on record my appreciation of the willing and capable assistance I received from the Secretary to the Commission, Mr. G. J. Clarke. His attention to detail, and his systematic tabulation and indexing of the large volume of evidence for my use, facilitated my task considerably. I was also extremely fortunate in having throughout the inquiry and in the preparation of my report the invaluable assistance of Mr. Brian Simpson, Counsel assisting the Commission. I also express thanks to those members of the legal profession who appeared before me, and to Mr. H. Carew Reid, Chief of the Hansard staff, and members of that staff.

Dated at Melbourne this 19th day of June, 1946.

By Your Excellency's Command.

C. McLEAN
Royal Commissioner.

