REPORT
OF THE
ROYAL COMMISSION

Appointed to enquire into some aspects of the administration of the
POLICE FORCE of WESTERN AUSTRALIA
under the
Commissioner of Police

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

[SECOND SESSION OF THE NINETEENTH PARLIAMENT.]
Royal Commissioner:
His Honour JUDGE BOOK, K.C., LL.B.,
Judge of County Courts and Chairman
of General Sessions for the
State of Victoria.

Counsel assisting the Royal Commissioner:
Mr. WALLACE T. UNMACK.

Mr. T. J. HUGHES appeared for Sergeant Kendall and
other members of the Police Force.

Mr. D. F. WALSH appeared for the Commissioner of
Police and Inspector A. J. BLIGHT.

Mr. L. D. SEATON, K.C., appeared for the Police Union.

Mr. C. B. GIBSON appeared for Mr. R. W. Watson.

Mr. J. F. WALSH appeared for Messrs. C. C. and
S. E. O'Brien.

Secretary:
Mr. G. J. CLARKE.
ROYAL COMMISSION appointed to enquire into some aspects of the administration of the POLICE FORCE of WESTERN AUSTRALIA under the
COMMISSIONER OF POLICE

To His Excellency the Honourable Sir James Mitchell, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor in and over the State of Western Australia and its Dependencies in the Commonwealth of Australia:

May it please Your Excellency:

I have the honour to report as follows:—

On the 21st day of November, 1948, I received your Excellency's Commission, dated the 17th day of November, 1948, appointing me to be a Royal Commissioner to enquire into and report upon some aspects of the administration of the Police Force of Western Australia under the Commissioner of Police, Mr. John Doyle, as follows:—

1. The administration of the Police Force of Western Australia under the present Commissioner of Police, having regard only to specific complaints made at the enquiry by any member of the Police Force in relation to the following:—
   (a) Whether there has been any culpable administration on the part of the Commissioner of Police or Detective Inspectors Lewis or Blight in respect of the demotion transfer or failure to promote Sergeant Kendall.
   (b) Any wrongful, improper, or unfair administration in respect of any other demotions, promotions or transfers within the Police Force.
   (c) Any victimisation or unfair treatment of or undue influence affecting any member of the Force.
   (d) Any wrongful or improper suppression or withdrawal of any charge or prosecution against any member of the public.

2. Whether there has been any breach of duty or of good discipline, or any other culpable action on the part of Sergeant Kendall or on the part of any other member of the Force who has made, or, at the enquiry, shall make any allegation against the Commissioner of Police or the administration of the Police Force.

3. Whether any and what disciplinary or other action should be taken to terminate or affect the appointment or status of the Commissioner or any officer or member of the Force by whom or concerning whom any allegation shall have been made at the enquiry.

On the 2nd day of December, 1948, the following term of reference was added:—

2A. Whether any motor spirit ration tickets or Police Department petrol were used in connection with a journey from Perth of a motor car in which the Commissioner of Police was a passenger when proceeding to a Police Conference in 1947 at Brisbane, and if so, whether and to what extent there was, in relation to the use of such tickets or petrol—
   (a) anything wrongful or improper on the part of the Commissioner;
   (b) any falsification of Police Department records; or
   (c) any obstruction by the Commissioner or any member of the Police Force of officers of the Liquid Fuel Control Board in this State in or arising out of investigations by such officers.

I sat from the 25th day of November, 1948, until the 21st day of December, 1948, when the Commission was adjourned for the Christmas vacation, resuming on the 7th day of February, 1949, and concluding on the 2nd day of March, 1949.

During this period 88 witnesses were examined and 152 exhibits were submitted, most of them being Police Department files.

This was not a general enquiry into the administration of the Police Force, but was limited to specific complaints made at the enquiry by members of the Police Force.

I do not intend to enter upon a detailed analysis of the evidence, but in dealing with the complaints I propose shortly to state the facts as I find them and to give my comments thereon. In the body of this report, the words “the Commissioner” refer to the Commissioner of Police, Mr. John Doyle.

I propose to deal first with the complaints concerning the alleged wrongful or improper suppression or withdrawal of charges, then to deal with complaints by the various members of the Police Force, and then with the additional term of reference relating to the use of Police petrol tickets and/or petrol in connection with the journey made by the Commissioner by car from Perth to Brisbane and back.

Mr. T. J. Hughes, who appeared for members of the Police Force who had complaints, gave particulars of the allegations, which were as follows:—

GEORGE REGINALD KENDALL, Third Class Sergeant, No. 1141, hereby alleges:—

Term of Reference 1 (a):—

1. That the administration of the Commissioner of Police, Mr. John Doyle, and Inspector Albert James Blight and Charles Henry Lewis jointly and/or severally, in respect to demotion transfer, and failure to promote Sergeant George Reginald Kendall, No. 1141, has been culpable, because—
   (n) it has been made motivated by malicious, ill-will and differences of view on matters purely personal;
(b) conducted contrary to the principles of natural justice and in contravention of the law.

Term of Reference 1 (b)—
2. The administration of the Police Force has been wrongful and/or improper and/or unfair in respect to the detention and/or promotion and/or transfer of—

(a) Inspector Albert James Blight;
(b) Sergeant R. R. Kendall;
(c) Sergeant S. A. Smith;
(d) Sergeant J. R. Trekkard;
(e) Sergeant W. H. Williams;
(f) Sergeant Walter Leslie Simons;
(g) Detective George Winning.

Term of Reference 1 (e)—
3. There has been victimisation and/or unfair treatment and/or undue influence affecting members of the Police Force, to wit—

(1) Inspector A. J. Blight;
(2) Sergeant R. R. Kendall;
(3) Sergeant S. A. Smith;
(4) Sergeant J. R. Trekkard;
(5) Sergeant W. H. Williams;
(6) Sergeant W. L. Simons;
(7) Sergeant John Chambers;
(8) Sergeant Douglas Laurie Cummings;
(9) Sergeant Albert Victor Penrose;
(10) Detective George Winning;
(11) Detective James H. Graham;
(12) Police Constable Alexander Thomson.

At a later stage, complaints were submitted of unfair treatment in respect of Constable John Wrigley and Constable W. C. West.

Term of Reference 1 (d)—
4. That the Commissioner of Police, Mr. John Doyle, and/or other officers of the Police Force jointly and/or severally wrongfully or improperly suppressed or withdrew, connived at, or permitted the withdrawal, or suppression, of charges or prosecutions against members of the public, to wit—

(1) Clement Bahen, of P. & O. Hotel, High Street, Fremantle, Hotelkeeper.
(2) George Henry Burt, of 33 Irvine Street, Cottesloe, Station Owner.
(3) Charles Cross, of Albany Road, Victoria Park, Starting Price Bookmaker.
(4) James Joseph Farrell, of 57 Florence Road, Nedlands, General Manager.
(5) Edward Joseph Frederick Holman, of Nedlands, Member of Parliament.

[No evidence was led in relation to this complaint, the subject matter of which occurred prior to Mr. Doyle’s appointment as Commissioner. It therefore did not come within the terms of reference.]

(6) Clarence Cornelius O’Brien, Court Hotel, Beaufort Street, Perth, Hotel Proprietor.
(7) Stanley Edwin O’Brien, of Court Hotel, Beaufort Street, Perth, Hotel Proprietor.
(8) Robert W. Watson, of 10 Colin Street, Nedlands, Merchant.
(9) Raymond Tony Williams, of 29 Hardy Street, Nedlands, Insurance Agent.

He later furnished further particulars of these allegations, with which I propose to deal seriatim.

COMPLAINTS RELATING TO WRONGFUL OR IMPROPER SUPPRESSION OR WITHDRAWAL OF CHARGES AGAINST MEMBERS OF THE PUBLIC.

Before dealing with particulars of these allegations, I desire to make the following general remarks. In each case the allegation was of the suppression or withdrawal of a summary offence and not of a crime in the ordinary sense of that word. There was no evidence that anyone had received a bribe. It would, of course, be quite wrong that wealth, position, or influence should operate to allow a man to go free. At the same time, in my opinion, a prosecuting authority has a discretion as to whether in any particular case, the evidence available warrants a prosecution and, if it does, as to what charge or charges should be laid. This is particularly true where alternative charges are available, and the fact that the accused person has intimated that he will plead guilty to a particular charge is one of the circumstances to be considered in the proper exercise of such discretion. If the prosecuting authority exercises his discretion honestly, then there is nothing culpable in his action, but where a strong prima facie case exists, it is right that it should proceed.

It was distinctly stated by counsel for the complainants that in each of these allegations the only person who was accused was the Commissioner himself and my task is confined to deciding in each case whether he was responsible for any wrongful suppression or withdrawal.

During the hearing, the names of the potential defendants were openly stated, but I considered it wise, as none of them had been convicted of the offences in question and as I was not deciding whether they were guilty or not, that their names should not be reported in the Press. My request to the Press was complied with and, so far their names have not been made public.

I shall now proceed to deal with each allegation under this heading, setting out the particulars of the complaint and my findings and comments thereon.

1. Clement Bahen.

Complaint.—On the 1st January, 1947, Clement Bahen drove a motor vehicle whilst under the influence of liquor to such an extent as to be incapable of controlling the motor, and the requisite evidence to sustain a charge under section 31 of the Traffic Act was gathered by Police officers concerned, but no such charge was ever laid.

On the 1st January, 1947, Bahen was concerned in a motor accident. He was not arrested, but was taken to hospital and later allowed to go home. He stated that he was willing to plead guilty to a charge of dangerous driving. Inspector Cameron, who was in charge of the Traffic Branch, mentioned the case to the Commissioner without giving details of the evidence, and the Commissioner told him to do what he considered the correct thing.

On the evidence, Bahen might well have been charged with drunken driving, but, in my opinion, no blame attached to the Commissioner, who rightly left the decision with Inspector Cameron, who knew all the circumstances, and was the inspector in charge of the Traffic Branch.
2.—George Henry Burt.

Complaint.—On the 21st July, 1946, George Henry Burt was arrested and charged with driving a motor vehicle while he was under the influence of liquor to such an extent as to be incapable of controlling the same, and appeared before the Court of Petty Sessions at Perth to answer the said charge. At a special session of the Court of Petty Sessions held subsequently the charge against Burt was withdrawn.

On the 21st July, 1946, Burt was arrested and charged with drunken driving and dangerous driving. Mr. H. S. W. Parker, his solicitor, made representations to the Commissioner, saying that he had evidence that Burt was not drunk at the time.

The Commissioner referred Mr. Parker to Inspector Cameron, saying that he himself knew nothing about the matter. Inspector Cameron was rather vague as to what happened after that, but he admitted that the decision to withdraw the drunken driving charge and accept a plea of dangerous driving was probably made on his recommendation.

He asserted that the Commissioner at no time had attempted to direct him to do anything which he was not prepared to do himself.

The Commissioner swore that he had never issued instructions for the withdrawal of the drunken driving charge, nor had he interfered in the case in any way. I accepted his evidence on this matter.

The whole of the evidence leaves it somewhat uncertain as to how the decision to withdraw the drunken driving charge was made. It is clear, however, that it was Inspector Cameron who gave Sergeant Mills the necessary instructions.

The case had been remanded for hearing, and on the return day Mr. Mosley, S.M., refused to hear the case as he was well acquainted with Burt. Because of this, Mr. Buteman, P.M., heard the case in the afternoon and allowed the charge of drunken driving to be withdrawn, convicting Burt on the charge of dangerous driving.

In this case, also, I consider that the Commissioner was justified in leaving the decision to the inspector in charge of the Traffic Branch.

3.—Charles Cross.

Complaint.—Police officers, in pursuance of their duty, raided a billiard room in Albany Road, Victoria Park, and caught Charles Cross using the said billiard room as a common gaming house.

No charge was ever preferred against Cross.

On the 29th March, 1946, Police raided the billiard room of Cross and submitted statements which disclosed a strong case that he was using the saloon as a common gaming house.

Cross had previously been charged with a similar offence some years before and acquitted, but had to pay his own costs, amounting to £30. After the raid on the 29th March, 1946, Cross saw the Commissioner and complained that he had been charged and mentioned his previous acquittal. The Commissioner told him that the law must take its course. Cross then saw Mr. F. J. Wise, who was then the Premier of Western Australia. Mr. Wise got in touch with the Commissioner and made a strong request that no charge be laid against Cross. The Commissioner informed Mr. Wise that he did not like the idea but, when Mr. Wise persisted in his persuasive request, he acceded to it and gave instructions to Inspector Andersen that the charge should be dropped. No charge was ever laid.

In my opinion, Cross should have been charged with that offence and, indeed, the Commissioner admitted at the Enquiry that he thought it was wrong that he was not charged. In my opinion, the Commissioner should have allowed the case to proceed, notwithstanding the representations made to him by the then Premier, and must take his share of responsibility for it. At the same time, I feel that as a strong request was made to him by the head of the Government, it is not surprising that he did not refuse such a request. I am satisfied that this action was taken by the Commissioner solely because of the request made to him by Mr. Wise.

4.—James Joseph Farrell.

Complaint.—On the 22nd April, 1946, James Joseph Farrell was arrested by Police officers and two charges laid against him, viz—

(1) Driving a motor vehicle whilst under the influence of drink or drugs to such an extent as to not have the proper control of such vehicle, contrary to section 31 of the Traffic Act.

(2) Driving the said motor vehicle in a manner dangerous to the public, contrary to section 30 of the Traffic Act.

Farrell was admitted to bail at the Fremantle Police Station. The charge against Farrell was never proceeded with nor did Farrell ever comply with the terms of his bail bond.

On the 22nd day of April, 1946, a car driven by Farrell collided with a verandah post. He was arrested and charged with drunken driving and dangerous driving and was released on bail. Mr. Kitson, then Minister for Police, rang the Commissioner at his home and asked for particulars. The Commissioner, who had no knowledge of the matter, advised Mr. Kitson to ring the Cottesloe Police. The Commissioner then rang Sgt. Wass at Cottesloe, who told him that it was not a bad case. Later, Mr. Kitson rang the Commissioner again and instructed him to have the proceedings against Farrell stayed for the time being and not to give particulars to the Press. The Commissioner then gave instructions to his subordinates not to give particulars to the Press and not to enter the charge in the charge book for the time being. This was done. The next morning Mr. Kitson rang the Commissioner again and said that he did not wish the charge to be proceeded with. The Commissioner regarded this as an instruction from his own Minister and felt bound to obey it.

In my opinion, although the evidence did not disclose a strong case against Farrell, he should have been charged at any rate with dangerous driving, but no blame attached to the Commissioner for obeying the instructions of his Minister.
Mr. Ford, the manager of the insurance company employing Williams, made representations to the Commissioner on statements which were made to him by Williams and suggested that Williams was not drunk at the time of the incident. The Commissioner referred Mr. Ford to Inspector Cameron, who considered the case and decided that the proper course on the evidence was to proceed for dangerous driving alone. Williams pleaded guilty to dangerous driving and was fined the sum of £10 and his license was suspended. This again was a case which was decided by Inspector Cameron and, in my opinion, the Commissioner was in no way responsible.

COMMISSIONERS OF THE POLICE FORCE:

All the complaints at the enquiry were made by Sergeant Kendall although, of course, many of them referred to other people. This appeared to me to be somewhat unusual and I enquired from Mr. T. J. Hughes why Sergeant Kendall was making complaints in respect of other police officers. Mr. Hughes stated that, if there were going to be a martyr, then there should only be one and that he had advised his clients accordingly.

Some of the police officers on whose behalf Sergeant Kendall had made complaints were not called to give evidence to support them and some others, giving evidence on the matters complained of, stated that at the time of giving evidence, they had no complaints against the Commissioner.

At present there are over 700 members of the Police Force in Western Australia, and the small number in respect of whom complaints were made before me is worthy of note.

As I shall later indicate, some of these complaints appear to me to be very trivial and hardly worthy of ventilation before a Royal Commission.

I now propose to deal with the complaints in detail.

7.—Albert James Blight.

Complaint.—1. The Commissioner of Police has systematically subordinated the welfare of the Police Force and the officers thereof to bolster up, unfairly advance, and favour the said Albert James Blight.

2. The Commissioner for Police unfairly and without just cause, and by way of preferential treatment exaggerated the services of the said Albert James Blight in respect to the murder of Sami Fairweather to achieve such object, unfairly deprived the services of other detectives in connection with the said crime, particularly the services of Second Class Detective Sergeant Sidner Arthur Smith, whose alert action was responsible for the apprehension of the offender.

3. The Commissioner for Police unfairly and improperly procured the retirement of all inspectors at the age of 60, thereby causing serious financial loss and occasioning a grave breach of faith with such inspectors in order to facilitate unduly the advancement of the said Albert James Blight.
4. The Commissioner of Police, in the course of the administration of his office, so inspired the members of the Police Force with fear of victimisation that a number of sergeants senior to the said Albert James Blight were afraid to exercise their lawful right under the Government Employees (Promotions Appeal) Act, 1945, to appeal against the promotion of the said Albert James Blight to the rank of inspector.

In dealing with this complaint, it may be useful to set out briefly the career of Albert James Blight in the Western Australian Police Force. He joined the Police Force in July, 1923. Joined the C.I.B. in May, 1924. He was promoted to third class detective sergeant in July 1933; to second class detective sergeant in April, 1939; passed his commissioned officers' examination in August, 1939, and was promoted to first class detective sergeant in July, 1940. Throughout that period he served in the C.I.B. and, before each promotion, was the senior man in his own class in the branch. In July, 1946, he was appointed third class inspector brevet rank, and in July, 1948, he was specially promoted to the substantive rank of third class inspector, such promotion to date from the 1st March, 1947.

As early as November, 1943, the Police Union had suggested, inter alia, that a second inspector be appointed to the C.I.B. at Perth. In July, 1946, when Inspector Lewis was officer in charge of the C.I.B. at Perth, the Commissioner recommended to the Minister for Police that First Class Detective Sergeant Blight, as he then was, should be appointed as third class inspector brevet rank. Mr. Kifson, who was then the Minister for Police, supported this recommendation, which was approved by the Executive Council. Sergeant Blight had then had continuous experience in the C.I.B. since 1924, and was the senior first class detective sergeant. That being the position, in my opinion, his selection was the proper and, indeed, obvious one as second inspector in that important branch.

On the 16th December, 1946, the body of a woman named Sadie Farnsworth was found in the Swan River. Attached to the body by wires was a cement slab 56 pounds in weight, and there were severe injuries to the woman's head.

Detective Sergeant Sidney Smith was first detailed to investigate, and I am satisfied, from the evidence given before me, that he came to the conclusion that it was probably a case of suicide, and this theory appeared as the Police theory in the following morning's paper. At 11.30 that morning the Commissioner, whose first knowledge of the case was from what he had read in the newspaper, sent for Inspector Lewis, and was informed by him that he, Inspector Lewis, knew little about the details of the case, as Detective Sergeant Smith had not seen him, but had 'phoned him on the previous evening telling him he was treating it as a case of suicide. The Commissioner considered that the woman had been murdered, an opinion which appears to me to be the obvious one from the circumstances under which the body was found.

Finding that Inspector Lewis was not fully informed, and being greatly concerned that the case was apparently being treated as a suicide, the Commissioner immediately assigned Brevet Inspector Blight and Detective Sergeant Richards to take over the investigation from Detective Sergeant Smith, he considering that they were the two men most capable of investigating such a case.

Blight and Richards proceeded at once with the investigation, and conducted it with skill and vigour and, within a few days, they arrested a man named Jackson and charged him with the wilful murder of Sadie Farnsworth. Jackson was later convicted and sentenced to death, but committed suicide in his cell.

The ease against Jackson was one of circumstantial evidence, there being no direct evidence that he was the offender.

This investigation was very thoroughly canvassed before me at this Enquiry, and I consider that the work done by Blight and Richards and others assisting them was a first class piece of detective work. As senior prosecutor for the King in the State of Victoria for 17 years during which time I had a very wide experience of murder cases and trials, including many dependent on circumstantial evidence, I feel that I am not unqualified to express an opinion. Detective Sergeant Smith's handling of this important case in its early stages was open to the strongest criticism.

After the trial, the Commissioner told the Honourable Ross McDonald, K.C., then Minister for Police, that he intended to recommend Brevet Inspector Blight and Detective Sergeant Richards for special promotion under regulation 113 S, which reads as follows:—

Notwithstanding anything contained in the foregoing regulations, the Governor may specially promote without examination any member of the Police Force recommended by the Commissioner for very exceptional ability and merit.

Mr. McDonald felt it wise to defer consideration of these promotions for some time, as there was then some discontent in the C.I.B. at Perth concerning the appointment of Detective Sergeant Croker.

The Commissioner again mentioned this matter to the Minister, who again deferred its consideration for the same reason.

On the 16th June, 1948, the Commissioner made a written recommendation to the Minister for Police, then the Honourable H. S. W. Parker, that Brevet Inspector Blight should be specially promoted to third class inspector, and that Third Class Detective Sergeant Richards should be specially promoted to second class detective sergeant, and that the appointments should be dated back to the 1st March, 1947.

After setting out in his recommendation the particular work done by these men in connection with the Farnsworth case, the Commissioner added these words, "These two officers at all times show outstanding ability in the performance of their duties, and I consider they were exceptionally outstanding on this case in their Police work of the handling of this case, and should be rewarded for it by special promotion. These officers are the ones on whom I will have to rely when serious crimes are committed in the future, and I therefore would be pleased if my
recommendation is approved. There are other officers who are entitled to recommendations, and these I will attend to myself. After the trial, I mentioned to the Hon. Mr. McDonald, when he was Minister for Police, that I intended to make these recommendations to him, but he asked me to hold them over for some time, which I did, and again mentioned the matter to him at a later date, when he again asked me to hold the matter until later on.

"I am now of the opinion that this matter should not be postponed any longer, and that these two officers should be given the recognition which is due to them.

"If you approve of my recommendation, I intend to put a notice in the Police Gazette in accordance with the provisions of the Promotions Appeal Board Act, in appeal."

This recommendation was approved and the promotions were made by the Executive Council and the Minister for Police, respectively.

In my opinion, Inspector Blight's record as an experienced and able investigator, particularly his work as the officer in charge of the Farnsworth case, justified his promotion, which was in the best interests of the Police Force.

Three sergeants—Hickson, Cooper and Shaddick—lodged appeals against Inspector Blight's promotion, but these were withdrawn by them before they were heard. There was no evidence before me that any sergeant junior to Blight failed to exercise his right of appeal through fear of victimisation.

Mr. Hughes called as witnesses before me 12 men who at the time of Blight's promotion were sergeants senior to him. Eleven of these told me that they considered there was nothing unfair in his appointment. The 12th stated he thought that there was, but he admitted that he himself was not eligible to be an inspector in the C.I.B., as he had very little experience in that branch. He was one of those who had entered an appeal, but later withdrew it. He gave as his reason for the withdrawal that he was not prepared to waste money and time in making an appeal which he did not think could possibly succeed.

The above remarks deal with the whole of these complaints, with the exception of paragraph 3, with which I shall now deal.

In July, 1946, a deputation from the Western Australian Police Union waited on the Commissioner and presented a number of resolutions which had been carried at a recent Union conference. Among these was one to this effect:

That compulsory retiring age of 60 years be enforced irrespective of rank, subject to satisfactory arrangements being made for men who have fixed their pension for 65.

The Commissioner told the deputation that this was a matter for discussion with the Minister for Police and he asked the Minister for Police to receive a deputation from the Union to discuss this and other matters.

Mr. Kitson, then Minister for Police, received the deputation on the 18th November, 1946, the Commissioner being present, and on the same day the Minister made a memorandum, inter alia, to this effect:

A deputation from the Police Officers' Union waited upon me to-day and discussed the question of compulsory retirement of Police officers at 60 years of age.

I explained that the Government was in agreement with the desire of the Union for compulsory retirement at 60 years of age, but that in view of the fact that many Police officers had elected to contribute to the Superannuation Fund on a basis of retirement at 65 years of age, it was considered that some of these officers would be unfairly treated if retirement at 60 was insisted upon immediately.

After lengthy discussion it was considered that, if the 1st day of January, 1949, was agreed upon as the date after which all Police officers should retire at the age of 60 years, very few officers would be seriously inconvenience, it being understood that the amount of arrears and interest payable might be spread over the remaining period of service of the officers concerned.

I promised to make this recommendation to the Government.

The Minister for Police then recommended to the Premier along these lines and five days later, on the 20th November, 1946, the Minister for Police addressed this minute to the Commissioner:

The Government takes the view that this question must now be considered in conjunction with the representations made by the Police Union to the Minister for Labour that the 44-hour week should apply to members of the Police Force. In view of the fact that the 44-hour week would involve an increase in the strength of the Force and that this cannot be accomplished for some time, will you please advise what additional effect compulsory retirement at 60 years of age will have in this respect?

The Commissioner replied as follows on the 28th November, 1946:

I suggest retirement of members of the Police Force at the age of 60 years as discussed by you with the Police Union would not have any detrimental effect in respect to the suggested 44-hour week as vacancies caused by retirements would be filled and the authorised strength would be maintained from time to time.

On the 18th December, 1946, the Secretary of the Police Union wrote to the Minister for Police referring to what had taken place at the deputation, and asking that the Government's decision might be announced without delay.

The matter was then considered by Cabinet in all its aspects, and on the 13th January, 1947, the Minister for Police advised the Union as follows:

This matter, with all its implications, has been fully examined, and Cabinet agrees that retirement of Police officers at age 60 shall be compulsory as from the 1st January, 1949; with the exception that officers 60 years of age at present and those reaching the age of 60 years prior to the 1st January, 1950, may be retained in the service until that date or until 65 years of age, whichever date be the earlier. Where additional responsibilities for superannuation are involved, the matter is to be taken up with the Superannuation Board by the officers concerned.
On the 25th February, 1917, the Secretary for Labour advised the Commissioner of Cabinet's decision, and the Commissioner put the necessary machinery in motion to amend the regulations accordingly. It therefore appears that this decision was that of the Government, made at the urgent request of the Union after considering the matter in all its implications.

In my opinion, the allegation that the Commissioner unfairly and improperly procured the retirement of all inspectors at the age of 60 in order to facilitate Inspector Blight's advancement, is quite contrary to the facts.

8.—John Chambers.

Complaint.—1. The Commissioner of Police improperly and unfairly threatened to transfer the said John Chambers from his position of Sergeant in Charge of the Midland Junction Police Station.

2. The Commissioner of Police unfairly and improperly made accusations against the said John Chambers in respect of operations of starting price bookmakers at Midland Junction.

3. The Commissioner of Police improperly and unfairly whilst the said John Chambers was Officer in Charge at Midland Junction Police Station, engaged a Police recruit or Police agent to gather as part statements prejudicial to the said Chambers, and without giving the aforesaid Chambers an opportunity of knowing what had been alleged against him or answering the same, acted upon such information to the detriment, embarrassment and humiliation of the said Chambers.

4. The Commissioner of Police, by unfair treatment of the said John Chambers, caused him to resign from the Western Australian Police Force, whereby the Police Force lost the services of a loyal, experienced and efficient officer.

5. The Commissioner of Police, after the resignation of the aforesaid John Chambers from the Western Australian Police Force, unfairly and without just cause caused or permitted the said John Chambers, when proprietor of the Sawyer's Valley Hotel, to be prosecuted on a groundless charge, of which said charge the said John Chambers was acquitted, but was obliged to incur the costs of his defence.

As to the allegations in paragraphs 3 and 5, Chambers admitted before me that no complaint lay against the Commissioner in respect of those matters. The allegations in the remaining paragraphs may be taken together.

The Commissioner decided to transfer Chambers who was then a Sergeant of Police, from Midland Junction because he had failed in his duty to keep down starting price betting.

During the Commissioner's absence from Western Australia, Inspector Andersen had sent plain clothes constables from Perth to Midland Junction on a betting raid and on their return he reported to Inspector Cameron who was then acting Chief Inspector, that betting in the streets and in hotels was being done quite openly and with the knowledge and sometimes in the presence of the local Police. Inspector Cameron reported this to Inspector Tetterington who was then acting Commissioner of Police complaining that the reports depicted a very bad state of affairs at Midland Junction and that it was apparent that little attention was given by the local Police to betting in hotels and elsewhere in the district. Inspector Tetterington investigated these complaints and obtained reports from Sergeant Chambers and other Police at Midland Junction and on the Commissioner's return to the State, submitted the whole matter with this minute:—

I think a change of staff would be beneficial at this station.

The Commissioner decided on these reports and on Inspector Tetterington's recommendation to transfer Sergeant Chambers and Plain Clothes Constable Apling from Midland Junction and asked Inspector Tetterington who was to pass through that place to notify them personally so that, as a matter of courtesy they would know the decision before it appeared in the Police Gazette. On being told of the intended transfer Sergeant Chambers resigned from the Police Force sooner than he was transferred.

In my opinion the Commissioner's action was thoroughly justified on the evidence and there was nothing improper or unfair in deciding to make the transfer.

9.—Douglas Laurie Cummings.

Complaint.—1. The Commissioner of Police has unfairly treated Douglas Laurie Cummings by an unsympathetic and unappreciative attitude towards the specialised services of an officer who has given long, faithful and efficient service to the Department of Police.

2. The Commissioner of Police noted out unfair treatment to the aforesaid Cummings by unwarranted attacks upon him and unjustified threats in respect to the exercise of the said Cummings of his lawful rights as a citizen of Western Australia to criticise the use of motor cars and petrol unjustifiably by high Government officials.

3. The Commissioner of Police noted out unfair treatment to the said Cummings in making, without any justification or cause whatsoever, defamatory statements of and concerning the aforesaid Cummings in respect to and incidental to the enforcement of the law against one Thomas Davies, Secretary of the State Executive of the Australian Labour Party of Western Australia, in respect to a hit and run accident which was investigated by Plain Clothes Constable Love, and all necessary action taken to bring prosecution of the said Davies, including the preparation of complaints and summons, and by stifling such prosecution.

4. The Commissioner of Police unfairly treated the aforesaid Cummings by making groundless allegations against the said Cummings and other members of the Traffic Department that too many frivolous prosecutions had been instituted, including the proposed prosecution of the alleged hit and run driver Davies, and making a general offensive and defamatory statement 'that he understood that lawyers, insurance adjusters and others had obtained information, statements and plans which went to the highest bidder and this practice would have to stop.'

5. The Commissioner of Police submitted the aforesaid Cummings to unfair treatment in the manner in which and the circumstances under which he endeavoured to force the aforesaid Cummings to train one Forkin for the purpose of taking over the duties of the aforesaid Cummings, and his dismissal from the service as and when it suited the purpose of the aforesaid Commissioner.
Sergeant Cummings has for many years been a draftsman attached to the Traffic Branch and has done a good job in drawing plans in relation to accidents and performed other similar duties.

In my opinion the allegations made in respect of this sergeant are a good example of the trivial if not trifling nature of a good many of the complaints brought before this Commission.

1. Sergeant Cummings alleged that the Commissioner ridiculed suggestions that he Cummings had made for improving the work of the Plan Drawing Department. When pressed at the enquiry as to what his real complaints were against the Commissioner, Cummings did not mention this complaint and I am satisfied that the Commissioner properly exercised his discretion in sometimes refusing to adopt his suggestions, although his manner may have appeared to Cummings to have been unsympathetic.

2. Sergeant Cummings wrote a letter to the Press criticising the use of petrol by Government departments and in particular the heads of such departments. He was told by the Commissioner that in making such criticism he had been guilty of a breach of regulation 111 of the Police Regulations and he was advised to leave heads of departments alone.

Sergeant Cummings admitted before me that he took this as friendly advice and that he did not resent it nor did he mind what the Commissioner had said about it.

I consider that the Commissioner’s action was quite justified and that the charges against the Commissioner in this paragraph (which were not really made by Sergeant Cummings) of unwarranted attacks and unjustified threats, are without foundation.

3. This allegation, which was not persisted in by Sergeant Cummings, refers to something said by the Commissioner when he addressed the members of the Traffic Branch of whom Cummings was one. The Commissioner referred to the fact that where Davies had been involved in a collision, statements were taken by the Police from the passengers in only one of the cars concerned and that a number of passengers in Davies’ car should have been interviewed as well. He stated that, if this were a general practice, in his opinion it was wrong and it should be discontinued and that all persons who could throw light on an accident should be interviewed by the Police.

It appeared that, when the other witnesses in the Davies case were interviewed, it was found that no action lay against Davies and no proceedings were in fact taken.

In my opinion, there was no ground for criticising the Commissioner in respect of this incident and the charges in this paragraph are without foundation.

4. At the same meeting the Commissioner (not referring here to the Davies case but speaking in general terms) said that he had received complaints that there were too many prosecutions for petty traffic offences. These only antagonised the public and that one or even two warnings should be given without prosecution in such cases.

I consider that this was good advice given by the Commissioner to his subordinates in the course of his duties. He also said that complaints had been made by some legal men that departmental plans were made available to legal firms and insurance adjusters, the plans in some cases going to the highest bidder and that in future no plans should be supplied without his own consent. Sergeant Cummings admitted before me that he had been selling plans prepared by him in his spare time and I consider that in some of these cases they were either copies of departmental plans or plans made by him from data obtained by him officially. Under the circumstances what the Commissioner said to the members of the branch about this matter was not, in my opinion, unfair to Cummings.

5. Forkin was a Police cadet for whom some position in the Department had to be found on his return from active service. He had not been through the Police School and the Commissioner sent him to the Traffic Branch to assist in plan drawing and to learn how to draw them properly under Cummings’ tuition. Some time later on the 30th May, 1945, applications were called in the Police Gazette for a draftsman. This was inserted by the Commissioner to ascertain what members of the Force had experience in such matters in case an assistant was required for Cummings whose work was somewhat in arrears. Cummings mistakenly thought that this was a device to replace him by Forkin and thereafter he refused to train him. Inspector Cameron told Cummings that if he refused to do so, he would have no alternative but to suspend him from duty without pay and to charge him with a breach of the regulations. On this Sergeant Cummings tendered his resignation but subsequently withdrew it and since then he and Forkin have worked quite amiably together and Forkin is now, as Cummings admits, of great assistance to him in his work.

No appointment was made as a result of the applications called for on the 30th May, 1945, as Inspector Cameron advised the Commissioner that no assistant to Cummings was then necessary.

It is clear that Forkin, a cadet who had not been through the Police School, could not have been appointed to the position which was advertised and in fact he was not an applicant for it.

I can see nothing unfair on the part of the Commissioner towards Sergeant Cummings in respect of this matter.

10.—James Henry Graham.

Complaint.—That Inspector Charles Henry Lewis wrongfully accused the said James Henry Graham of having assaulted a youth and alleged that the youth concerned had informed the said Lewis to that effect, whereas in fact the said youth had made no such allegation and in consequence thereof the said James Henry Graham was improperly and wrongfully punished.

Inspector Lewis, when in charge of the C.I. Branch, told Graham, who was then a probationary detective, that a boy named Watson, who with another boy had been interviewed by Detectives Graham and Eaton, had complained of having been given a “clip on the ear,” and had stated that it was Graham who had done this.
Graham asked Inspector Lewis how he knew the boy had accused him, and the inspector replied that the boy had stated that it was done by the "shorter" one (in fact, Graham is a little shorter than Eaton).

Graham indignantly denied the allegation, and said he resented it, and eventually the two boys were confronted with the two detectives and then identified Eaton as the one who had committed the assault. This Eaton denied.

Inspector Lewis then apologised to Graham, saying that he had made an honest mistake. Graham asserted that he did not think that it was an honest mistake, but was the culmination of a course of conduct of pin-pricking against him by the inspector.

Later, Graham's period of probation was extended for three months on the recommendation of Inspectors Lewis and Blight.

I am satisfied that the boy had said he thought it was the shorter detective who had done it and that, because of this, Inspector Lewis honestly believed that the allegation was directed against Detective Graham, who was shorter than Detective Eaton.

I accept Inspector Lewis's evidence that, having apologised to Graham, he regarded the incident as closed, and did not take it into account in recommending an extension of Graham's probation. The real cause of such recommendation was that both Inspectors Lewis and Blight considered that Graham's general demeanour and lack of initiative made him unsuitable at that time to be designated a detective.

No charge was ever laid against Graham in respect of this allegation, but he feared that the extension of his probation would affect his seniority. However, this has not been the case.

While I feel that Inspector Lewis might have made more certain of his facts before accusing Graham, I am satisfied that he acted in good faith and that this allegation against him as framed has not been sustained.

11.—George Reginald Kendall.

Complaint.—The Commissioner of Police unfairly treated the said George Reginald Kendall—

(a) by appointing a constable named Croker who was President of the West Australian Police Union to the position of Brevet First Class Sergeant over the aforesaid Kendall for the purpose of undermining the efficiency of the said Union to protect the interests of the said Kendall and other members against the arbitrary actions of the said Commissioner;

(b) by concealing against the said Kendall a violent hatred and completely unharnessed attitude because the said Kendall exercised his lawful right to question and appeal against the appointment of the said Croker;

(c) by adopting towards the said Kendall an offensive and unofficious manner and arbitrarily and without just cause transferring him from the Criminal Investigation Branch;

(d) by means of four Inspires in the members of the Police Promotional Board depriving the said Kendall of his just and due promotion;

(e) by allowing arranging for unauthorised persons to attend the Police Promotional Board and surreptitiously attack and defame the said Kendall and prevent his advancement in the service;

(f) by enunciating at or procuring unfair methods to be used against the said Kendall at the hearing of appeals before the Government Employees' Promotional Appeal Board, even to the extent of the presentation of evidence well known to be perjury;

(g) Inspector John McLellan unfairly treated the said Kendall and Sergeant Sydney Arthur Smith at the hearing of the Police Promotional Board by tendering statements of evidence that were perjury;

(h) the Commissioner of Police and the officer acting under his instructions wrongfully and unfairly discriminated against the said Kendall in submitting to the Police Promotional Board evidence of departmental files and misrepresentation and distorting the facts in relation thereto whilst withholding from the Board similar files respecting other parties.

In this case, I think it more convenient to make my own summary of the allegations contained in Sergeant Kendall's complaints in relation to himself and shall deal with the matter under four main headings, the first two of which may be conveniently treated together:—(1) the wrongful appointment of Detective Sergeant Croker, and (2) the wrongful transfer of Sergeant Kendall from the C.I.B. to the Uniform Branch.

In introducing this matter, a short history of Sergeant Kendall's career may be of interest. He joined the Police Force in June, 1932, and until 1932 he was mainly engaged in clerical work. In November, 1932, he worked with the C.I.B. and continued in that branch until transferred to the Uniform Branch on the 9th April, 1947. In July, 1946, he was appointed to third class sergeant and still holds that rank.

When at the C.I.B. at Victoria Park, his superior officer received some complaint that he was not on the best of terms with some of his comrades.

When Inspector Lewis became the officer in charge of the C.I.B. Branch, he transferred Sergeant Kendall to the Perth C.I.B. In June, 1946, Inspector Lewis appointed Sergeant Kendall temporarily to be in charge of the clerical staff at the C.I.B.

On the 30th October, 1946, applications were invited by the Commissioner from all members of the Force for the position of sergeant in charge of the clerical staff of the C.I.B., Perth. It was stated that the position carried the rank of first class sergeant and, if the successful applicant were below that rank, he would receive the brevet rank and pay of a first class detective sergeant. Applications were received from five detective sergeants, including Sergeant Kendall, two sergeants and three constables, including Constable A. J. Croker.

Constable Croker's appointment was approved by the Commissioner and the Minister for Police.
Constable Croker had been 19 years in the Police Force, the last 11 of which were as district office clerk at various places. His application was supported by Inspector Nicholson, who stated that Croker was quite capable of carrying out the duties of the position advertised.

The position of officer in charge of the clerical staff had originally been held by a public servant, but in later years by a series of detective sergeants who had previously been engaged in outside duties. The Commissioner, who had had very long experience in the C.I.B. and had been the officer in charge of it for many years before becoming Chief Inspector, and later, Commissioner, considered that an outside detective sergeant was not the most suitable man to be placed in charge of the clerical staff.

I am satisfied that the Commissioner honestly believed that Constable Croker was the most suitable applicant for the position and that he exercised his discretion in recommending his appointment, fairly and honestly.

The subsequent work of Detective Sergeant Croker on the clerical staff and the fact that the work of that staff was successfully reorganised and made more effective as a result of a report submitted by Detective Sergeant Croker soon after his appointment, justifies this opinion. It was, however, an unfortunate coincidence that Croker was at the time of his appointment President of the Police Union. This fact, coupled with the fact that Croker was not promoted from the rank of constable to that of brevet first class detective sergeant, caused some dissatisfaction among members of the C.I.B., and particularly, to Detective Sergeant Kendall.

Detective Sergeant Croker commenced his duties on the clerical staff on the 25th November, 1946, and Detective Sergeant Kendall, after assisting him there for a week or two, resumed his work as an outside detective sergeant.

Early in December, 1946, three detective sergeants, Kendall, Woodley and Johnston who, of course, were senior to Croker prior to his appointment, appealed to the Promotions Appeal Board.

Mr. Bateman, P.M., appointed by the Minister for Labour, was the chairman, and the members were Inspector Cooney, appointed by the Governor to represent the recommending authority, namely, the Commissioner, and Sergeant Wann appointed by the Police Union, to act as the employees' representative.

These three appeals were heard together on the 14th February, 1947, the appellants being represented by counsel. All the appeals were dismissed.

It was suggested by Sergeant Kendall's counsel before me that Mr. Bateman had dissented. However, he was called and swore that that was not correct, stating that the decision was unanimous.

The decision of the Board was in writing, and is as follows:—

Promotions Appeal Board.

Officer in Charge, Clerical Branch, C.I.B., Police Department, Perth.

Decision of Board.

Appeals by Detective Sergeants Kendall, Woodley and Johnston against the appointment of Constable Croker to the position of Officer in Charge, Clerical Branch, C.I.B., Police Department, Perth, on the grounds of equal efficiency and seniority:

The seniority of the appellants is admitted.

From 1916 to 1934 this position was filled by clerical officers without outside detective experience. On the position becoming vacant in 1934 an outside detective sergeant was appointed and from that date the practice has been adopted of filling the position from the outside staff. According to evidence of the Commissioner of Police and Inspector Blight since the practice of appointing outside staff to the position of Officer in Charge originated, the efficiency of the Clerical Branch has deteriorated.

The three appellants are all outside men. Detective Sergeants Kendall and Woodley have clerical experience in the branch. Detective Sergeant Johnston has some clerical experience by virtue of the position he at present holds.

The appointee was District Office Clerk, Fremantle, and has had 12 years' service on clerical duties.

The appellants base their appeals on the grounds of equal efficiency and seniority. Exception has been taken by the appellants to the appointment of a junior officer to this position and to the fact that the practice of appointing a senior member of the outside staff was not followed in this instance.

The Promotions Appeal Board Act, however, stresses that in determining appointments, efficiency, having regard to the nature of the duties attached to the vacancy, is the paramount consideration. This Board is therefore concerned firstly with determining the most efficient officer to fill this vacancy. It is only when the efficiency of officers is equal that seniority becomes the important factor.

The Board finds that any of the officers concerned could discharge the duties of the vacancy, but with varying degrees of efficiency. The position is mainly a clerical one and of the parties to this appeal the recommended applicant has easily the best training and experience in this direction.

In the opinion of the Board, his training fits him better for this vacancy than any of the appellants.

All the appeals are accordingly dismissed.

P. E. A. Bateman, Chairman.

Apparently Croker's appointment ranked in Kendall's mind, which became oppressed with a sense of injustice, which still persists, and has indeed increased to the extent of clouding his judgment, and, I believe, thus impairing his efficiency as a Police N.C.O.

What happened subsequently is, I believe, traceable to this obsession which, so far appears to be almost ineradicable. One example of his inability to see anything but injustice in the Commissioner's treatment of him may be given. At an early stage of his evidence before me, Sergeant Kendall stated that, having recently perused his personal file, he failed to see in it the favourable report of his work made by Inspector Purcell in November, 1933. It was plain from his evidence later that he suspected that it had been deliberately removed from his file. I examined the file and found the report in its correct place. Kendall then stated that he was satisfied that it had never been removed from the file. This was one of several instances which occurred during his examination and indicated to me that, even when proved to be mistaken, Kendall was unwilling to admit his mistake, with any gracelessness, and nothing seemed to weaken his obsession of injustice at the hands of the Commissioner.

According to Inspector Lewis, Kendall's work had deteriorated before he was appointed temporarily in charge of the clerical staff, and whilst he was engaged in those duties. It is not surprising, therefore, after Croker superseded him as officer in charge
of the clerical branch, that Kendall's work as a detective further deteriorated. This deterioration was made the subject of adverse comment by the two inspectors in the C.I.B., Inspector Lewis and Brevet Inspector Blight, at a meeting of the Police Promotional Board on the 10th December, 1946, as a result of which the Board deferred to its next meeting Kendall's promotion from third class detective sergeant to second class detective sergeant, and asked Inspector Lewis and Brevet Inspector Blight to give him a warning about his work.

On the 27th February, 1947, Lewis and Blight reported to the Commissioner that Kendall had been warned that if his work did not improve, he would have to be transferred to another branch of the service; that after the warning, his work had not improved and that his general demeanour in regard to his investigations was most unsatisfactory, and they recommended his transfer from the C.I. Branch.

On the 18th March, 1947, and again the next day, Inspector Lewis reported to the Commissioner his dissatisfaction with specific instances of Sergeant Kendall's work and, on the 21st March, 1947, Inspector Blight reported unfavourably on Kendall's work on another case to which he had been detailed by him whilst Inspector Lewis was away.

On the 8th April, 1947, the Commissioner advised Inspector Lewis that he had proceeded with the files referred to and agreed with Lewis's recommendation and approved Kendall's transfer to the Uniform Branch, where he started duty on the 9th April, 1947.

In December, 1947, the Minister for Police, no doubt in response to requests made to him, requested Mr. H. Moseley, S.M., to hold a special enquiry and to report whether, in his opinion, reasonable grounds existed for Kendall's transfer to the Uniform Branch.

Mr. Moseley's report, which I understand has been made public, was made on the 22nd December, 1947, and was to the effect that reasonable grounds did exist for the transfer.

I agree with Mr. Moseley's opinion and for substantially the same reasons which he gave.

3. That the Commissioner wrongly used the Promotional Board against Sergeant Kendall—
   (a) by inspiring members of the Board with fear to affect their decisions against Kendall;
   (b) by allowing brevet inspectors to sit and vote on the Promotional Board;
   (c) by wrongly using files against Kendall and withholding similar files concerning other persons.

Until the 4th May, 1945, the Commissioner of Police had made the original selections for promotion but, soon after Mr. Doyle was appointed to that position, he effected an alteration and on the 4th May, 1945, the Selection Board was inaugurated consisting of the Chief Inspector (as Chairman) and three inspectors nominated by the Commissioner.

Their duty was to extract from the register the names of members of the Force who were considered eligible for promotion and to forward a list of such names to the Commissioner for publication in the Police Gazette. Any member of the Force who considered his name should have been included in the list of names so published might appeal to the Promotional Board stating his reasons.

The Promotional Board consists of the Commissioner of Police and all available commissioned officers (including the members of the Selection Board) stationed between Perth, Geraldton, Kalgoorlie, Narrogin and Fremantle.

The Promotional Board considers the names of the members of the Force submitted by the Selection Board and any appeals by other members of the Force and then settles the promotional list. I understand that recently selections for promotion are only made when an actual vacancy occurs.

In September, 1947, before this new practice came into operation, the Selection Committee (whose members were Chief Inspector Tetterington and Inspectors Cameron, Nicholson and Maloney) placed Sergeant Kendall's name on the list of sergeants for promotion to second and first-class sergeants when vacancies occurred.

On the 3rd December, 1947, the Promotional Board sat and Sergeant Kendall's selection was considered by the Board and was not confirmed, the vote being 9 to 7 in favour of the non-confirmation. The Commissioner was not present at that meeting, Chief Inspector Tetterington presiding, and at his request the C.I.B. Files which were adverse to Sergeant Kendall were brought to the notice of the Promotional Board.

In dealing with the complaint that the Commissioner inspired members of the Promotional Board with fear and so affected their decision against Kendall, there was not the slightest evidence of this and I am satisfied that no such undue influence was exerted by the Commissioner.

The second complaint that the Commissioner wrongfully allowed Brevet Inspectors Blight and McIernon to sit and vote on the Promotional Board is not in my view well founded.

An officer with brevet or acting rank has, I think, the same powers and duties as one holding substantive rank, the only difference being (and this may be an important difference) that his appointment and seniority are not permanent. I was informed, however, that recently, in response to a request made by the Police Union, the Commissioner has given instructions that brevet inspectors may attend meetings of the Promotional Board but must not vote thereon.

The other complaint that files were wrongfully used or withheld has a little more substance in it. I can see no objection generally to files tending to show inefficiency being placed before the Board but, if that is done, the man concerned should have an opportunity of being present and answering the allegations.

The right to be present is accorded to a man who appeals to the Promotional Appeal Board against his non-selection by the Board and it appears to me to be anomalous that one who has been so selected should be in any worse position.

It is not impossible that, had Sergeant Kendall been given the opportunity of stating his ease at the Promotional Board when these adverse reports were received, the decision would have been different.

I am not prepared to say that the practice in force at present is unfair but I think the change I have suggested is desirable.
In Kendall's case there is a further matter to be considered in relation to the files submitted to the Promotions Appeal Board and that is that he had been told by the Commissioner that, if his conduct were satisfactory whilst in the Uniform Branch, those files which related to his conduct whilst in the C.I.B. would not be held against him. I feel, therefore, that it was somewhat harsh that these files should so have been used, particularly as they were used in his absence and without his knowledge.

The explanation appears to be that, when they selected Sergeant Kendall for promotion, the Selection Board had not had the files before them. Being no member of the C.I.B. upon that Board, and Chief Inspector Tetterington, who, as Acting Commissioner, presided at this Promotions Board meeting evidently thought that the contents of those files should be brought to the attention of the Board.

I am not satisfied that the Commissioner, who at the time was on leave, had any knowledge that these files were so to be used and, therefore, the complaint against him in this regard is not sustained.

Inspectors Blight and Lewis who were present at the meeting produced these files at the request of the Chairman and, under these circumstances, I do not think that they can be blamed for the possible injustice which may have occurred.

This particular allegation was only made against the Commissioner and Inspectors Blight and Lewis. There is no evidence that any other files were improperly withheld.

1. This part of Sergeant Kendall's complaint may be summarised as follows:—

That the Commissioner wrongly used the Promotions Appeal Board against Sergeant Kendall—

(a) by preteriting Brevet Inspector McLernon to commit perjury against Kendall;

(b) by wrongly using files against Kendall and withholding similar files relating to other persons.

In April and May, 1948, Sergeant Kendall appealed to the Promotions Appeal Board against the promotions of Sergeants Johnston, Anderson and Woodley, Mr. Dougall, S.M., presiding at this occasion, Inspector Maloney and Sergeant Harvey being the other members, the Board thus being entirely differently constituted to that which heard Kendall's appeal against Croker's appointment.

The first complaint is that the Commissioner procured Brevet Inspector McLernon to commit perjury against Kendall.

There was not the slightest evidence to support this very serious allegation against the Commissioner, and I am satisfied that there is no substance in it.

Although in the written complaints this appears as an allegation against Inspector McLernon, Mr. Hughes, as counsel for Sergeant Kendall, informed me that the complaint was only made against the Commissioner.

The files which had previously been used against Kendall and some other files suggesting his inefficiency were brought to the attention of the Board, and I can see no objection to this course being adopted before the Promotions Appeal Board as Sergeant Kendall was there appealing against the promotions of other men. In doing this, he was asserting that his efficiency was equal to or superior to that of the respondents, and I can see nothing unfair in the Commissioner supporting their cases by adducing evidence of Kendall's previous lack of efficiency, particularly when it is borne in mind that Kendall was present and his case was fully presented to the Promotions Appeal Board by his counsel.

In my opinion, Kendall's counsel should have been allowed to peruse before the hearing any files concerning any of the respondents which he thought might show some lack of efficiency on their part. In fact, no such request was made and it was admitted that, when Kendall's counsel asked for the production of Kendall's files for his perusal prior to the hearing, this request was granted.

I suggest that in future appeals before the Promotions Appeal Board, any particular files relating to the respondents or appellants should be made available to any of the parties before the hearing, if their production is requested.

Each of Sergeant Kendall's three appeals was dismissed, and here again the suggestion was made and disproved that the chairman had dissented, Mr. Dougall stating to me that in each case, and also in a fourth appeal by Sergeant Kendall heard by the same Board in August, 1948, the decision represented the independent opinions of the three members.

As one of Sergeant Kendall's complaints is that the Commissioner "conceived against him a violent hatred and completely unbalanced attitude," I think it is fair to say that, whilst I am satisfied that this is not the case, I think these words describe fairly the attitude of Sergeant Kendall towards the Commissioner.

The extreme bitterness which he displayed when giving evidence before me indicated the depth to which these feelings have descended. This attitude of mind, coupled with Sergeant Kendall's actions in stirring up feeling against the Commissioner among other members of the Force, cannot fail to have a detrimental effect upon that harmony and sense of good discipline without which no Police Force can function satisfactorily and, whilst recognising that Sergeant Kendall is sincere in believing that he has been unjustly treated, I feel that his action, supported by that of some of his colleagues, has wrongly stirred up discontent in the Police Force, for which he must accept some responsibility.

Sergeant Kendall made the following allegations against Inspector Blight:—

Inspector Albert James Blight unfairly treated the said Kendall by—

(1) wrongfully attending the meetings of the Police Promotional Board and maliciously defaming the said Kendall in such a manner that the said Kendall had no opportunity of defending himself against the said defamation and falsehood, nor even knowing of its existence;

(2) withholding from members of the said Police Promotional Board that the said Blight had a personal dispute with the said Kendall and had ever threatened the said Kendall with legal proceedings whereby the members of the said Board might judge fairly the probative value of any derogatory statements made by the said Blight against the said Kendall.

I have dealt with the first allegation in considering the complaints made against the Commissioner.
The facts with regard to the second allegation are these: Blight had been informed that Kendall had stated that he, Blight, had changed his religion from Protestant to Roman Catholic to curry favour with the Commissioner. In fact, Blight has always been and still is a Protestant. He threatened to institute defamation proceedings against Kendall if this allegation was not withdrawn. Kendall, through his solicitor, denied that he had ever made such a statement, and there the matter rested.

It was suggested on behalf of Sergeant Kendall that Blight unfairly treated Kendall in not disclosing to the Promotional Board that he had this private dispute with Kendall.

In my opinion, Inspector Blight acted wisely and fairly in making no reference to this personal matter at the Board.

12.—Albert Victor Penrose.

Complaint.—The Commissioner of Police unfairly treated Sergeant Victor Penrose by discriminating and unsympathetic treatment of a highly specialized officer who had rendered the Police Department long, faithful and efficient service, and by placing a very much junior officer over the said Penrose, and thus unnecessarily humiliating and embarrassing the said Penrose, leaving him no alternative but to preserve his self-respect by resigning from the service.

No evidence was led before me in support of this allegation, this apparently being a complaint by Sergeant Kendall but not one by Mr. Penrose.

13.—Walter Leslie Simons.

Complaint.—1. The Commissioner of Police wrongfully withheld the promotion of the said Walter Leslie Simons for a period of two years whereby the said Simons has suffered loss of status in the seniority list.

2. That the Commissioner of Police unfairly treated the aforementioned Walter Leslie Simons by wrongfully and without just cause, accusing him of being in possession of subversive and seditious literature and by direct and threats of unlawful action against the said Simons removed the said documents from the said Simons.

3. The said Commissioner of Police behaved in an offensive and threatening manner towards the aforementioned Simons inconsistent with the dignity of the position held by the said Commissioner, and in abuse of his position as a senior officer.

4. That the Commissioner of Police treated the said Simons and other officers at Guildford to differential treatment in respect to the matter of interest outside the Police Force.

5. Arthur L. Reed, Inspector of Police, unfairly and improperly treated the aforementioned Simons by after making a good report, both as to conduct and efficiency whilst at Beauce, subsequently from Bunbury, without any further investigation or inspection of the work of the aforementioned Simons, made an adverse report.

1. Sergeant Simons’ complaint was that, although due for promotion from third to second class sergeant in July, 1946, he did not receive this promotion until January, 1948.

In June, 1946, he was stationed at Wyndham and when he noticed in the Police Gazette that sergeants who were junior to him had been nominated by the Selection Board for promotion to the rank of second class sergeant, he found that it was too late for him to appeal. In September, 1947, having been transferred to Perth, he appealed against the promotions to second class sergeant of Sergeants Keen, Hickson and Bannon, all of whom were junior to him. He appeared before the Police Promotional Board on the 4th December, 1947, when Mr. Tetterington was Acting Commissioner in the absence of Mr. Doyle. Tetterington referred to some aspects of Sergeant Simons’ private life relative to women, and the Promotional Board decided that Simons was not suitable for promotion at that time.

Simons then appealed to the Promotions Appeal Board against the same promotions. Before the appeal was heard, however, he applied for and was promoted to the Guildford station as sergeant in charge. This station had had a second class sergeant in charge for some years. After the Commissioner had made this appointment, Chief Inspector Tetterington, who was the Chairperson of the Selection Board, mentioned to the Commissioner that Guildford was a second class sergeant’s station, and asked him if he thought that Simons’ promotion to that rank was desirable. The Commissioner replied that if the Selection Board selected Simons, he would support the recommendation. Chief Inspector Tetterington discussed the matter with Simons, who withdrew his appeal and was promoted to second class sergeant.

It appears from this that the Commissioner was in no way responsible for the delay in Simons’ promotion.

2 and 3. In 1941 Mr. Hunter, who was then Commissioner, showed to Mr. Doyle, who was then Chief Inspector, a printed document headed “Catholic Action” containing what purported to be a report on a meeting of Catholic guilds held in St. Mary's Cathedral, on the 9th September, 1937, at which the Apostolic Delegate and Archbishop Gibney addressed the gathering, urging them to see that the interests of Catholics were fostered in the various public services. Among other things, it was reported that the Archbishop, referring to the Police Guild, stated that each Catholic policeman knew what he should do when the State laws conflicted with the laws of the church. At the foot of the last page of the document there was a note that copies had been sent to all Catholics of any standing in Western Australia.

It was obviously a document well calculated to inflame the minds of Protestants against Roman Catholics.

Mr. Hunter told Mr. Doyle that he had been told that this document was used in a recent election campaign, and he asked him if he knew anything about it. Doyle replied that it had been proved to be a fake and a fraud, and had been exposed some time previously in the Record, the local Roman Catholic paper. Hunter then asked Doyle to make some enquiries as to where it had come from. Doyle did so without result and placed the document in the drawer of his desk. Soon afterwards he went away on sick leave and on his return, nothing more was done about it.
Twelve to 18 months later, Doyle, who was still Chief Inspector, was told that Sergeant Simons was distributing a circular of a sectarian character to other men on beat duty and that the circular was alleged to have been taken out of Doyle's desk when he was away on sick leave. Doyle then found that the circular was missing from his desk. Doyle was also told that Simons was telling the men that Doyle should never have allowed to become Commissioner because, if he were, he would put into practice the dictates outlined in the circular.

Doyle then asked Inspector Rowbotham and Sergeant Blight to see Simons about the matter. They did so and, after some demur, Simons handed over the document called "Catholic Action," which he then had in his possession, but refused to disclose whence he had obtained it.

Simons was then interviewed by Doyle, who told him that he had heard what Simons was saying about him in connection with the matter. Doyle said that this would be defamatory (I am satisfied that he did not say "subversive or seditious"), and in making such a statement Simons would be liable under the Criminal Code, that he was trying to create dissatisfaction in the Police Force by circulating it and that he was committing a breach of the Police Regulations. Doyle added that if Simons were doing this to anyone but himself, he would prefer a charge against him, but that he, Doyle, had no desire to start a sectarian argument in the Force, but that he would inform Commissioner Hunter about the matter when he returned to Perth.

On Hunter's return, Doyle did this and Simons was rebuked by Hunter for his actions in the matter.

In my opinion, not only did Doyle not treat Simons unfairly, but I am satisfied that he acted with great forbearance in his desire to avoid sectarian bitterness in the Police Force. I may add that I agree with Simons' superior officers that what he did in connection with this document was reprehensible and well calculated to create bitterness and dissension among members of the Force.

4. When Sergeant Simons was at Geraldton, he bought a part interest, with Constable Ashelford, in a fishing boat. He told me that Ashelford had informed him that Inspector Comoney had advised him to get rid of the boat, as all members of the Force with outside interests would be transferred from Geraldton to Perth. Simons then bought Ashelford's interest in the boat and some time later was advised that he would be transferred to Perth.

This transfer was held up while Simons was ill and, before actually going to Perth, he applied for the station at Wyndham, which was approved by the Commissioner.

It was alleged that the Commissioner had singled Simons out for unfavourable treatment on this account, but I accepted the Commissioner's evidence that he knew nothing about the boat incident and did not even know that Simons had a boat.

I am satisfied that there is no substance in this complaint.

5. There is a report by Inspector A. L. Read on Simons' personal file, dated 10th September, 1947, addressed to Chief Inspector Telford and stating that Simons' work whilst at Wyndham had deteriorated to some extent, that he Read was satisfied that Simons could do better if he put his heart into his work and more than likely his dislike for the Wyndham station had some bearing on the shortcomings mentioned.

Mr. Hughes informed me that the only complaint made about this matter was made against the Commissioner, but there is no evidence that he had anything at all to do with the report.

No action appears to have been taken after it was submitted, and it does not appear from the file that it was ever forwarded to the Commissioner.

14.—Sydney Arthur Smith.

Complaint.—1. The Commissioner of Police, either alone or in collaboration with Inspector Blight and Brevet Inspector McLernon, unfairly deprived the said Sydney Arthur Smith of his just promotion and acted contrary to creating such promotion that are inconsistent with natural justice and employed unscrupulous methods in tendering evidence at hearings of the Government Employees' Promotional Appeal Board and took different action in submitting such evidence in respect of files concerning enquiries made by the said Smith to that followed in respect to other officers, and procured, permitted or countenanced at the tendering of evidence by Inspector John McLernon that was perjury.

2. That the Commissioner of Police, John Doyle, unfairly treated the said Sydney Arthur Smith by —

(a) bearing an unjustified ill-will towards the said Smith in consequence of matters arising in the ordinary course of administration of the Criminal Investigation Branch prior to the said John Doyle becoming Commissioner of Police, for which ill-will there was no just cause or excuse;

(b) by to the detriment and prejudice of the said Sydney Arthur Smith wrongfully promoted one Constable Cross to the rank of brevet first class sergeant of the Detective Office and thereby destroying the efficiency of the Police Officers' Union in performing its statutory functions of protecting the interests of the said Smith and others;

(c) by false and wrongfully exaggerating the value of the work done by the said Inspector Blight in re the matter of the murder of Sadie Farnsworth and wrongfully derogating from the work of the said Sydney Arthur Smith therein;

(d) by his social relations with Miss Constance Murfitt, a typist in the Criminal Investigation Department, placing himself, the said John Doyle, in such a position as to be unable to control the discipline of the said Constance Murfitt, thereby allowing her to become in a privileged position to the detriment of the said Smith and others, and by using the said Constance Murfitt as a secret Informer against fellow employees.

This complaint refers to an appeal made by Second Class Detective Sergeant S. A. Smith against the promotion to First Class Detective Sergeant of Second Class Detective Sergeant Johnston and heard on the 15th April, 1948.
This appeal was heard together with the appeal by Sergeant Kendall already referred to by me. In Smith's case also files suggesting inefficient investigations on his part were produced by the Commissioner's representative in support of the case of Sergeant Johnston.

It was at this appeal that Brevet Inspector McLennan gave evidence in favour of Johnston and against Smith and Kendall.

The comments I have made in respect to these two matters in Kendall's case apply to this complaint.

Smith's appeal was unanimously dismissed by the Promotions Appeal Board.

2. (a) This refers to an incident which occurred in November, 1943, when Mr. Doyle was Chief Inspector. Sergeant Smith had just successfully appealed to the Promotions Board against the proposed promotion of Detective Sergeants Johnston and Pilmer to the rank of second class Detective Sergeant and he gave evidence before me that in the passage afterwards Mr. Doyle told him that he, Smith, "would never be any good in the Police Force and that he always had a perpetual grin and was not amenable to discipline."

Smith said he took exception to this and told Doyle that he, Doyle, was known by the name of "Happy Jack" because he always had a perpetual scowl, Smith adding that Doyle then "stamped down the passage literally white with rage."

Doyle gave a somewhat different account of this conversation to the effect that he suggested that Smith take his work more seriously and not grin at people when they spoke to him and that he should behave in a manner more befitting to the dignity of a Detective Sergeant. Doyle also swore that Smith did not make any reference to the name that he, Doyle, was called.

It appears that Smith got the impression from his interview that Doyle had opposed his promotion. Doyle, however, swore that he had supported Smith's appeal, and the minutes of the Promotions Board meeting indicate that this was so. It appears that Commissioner Hunter and Inspector Reid who was then the Officer in Charge of the C.I.B. strongly criticised Sergeant Smith in his presence but, after Smith had retired, Chief Inspector Doyle who had not spoken until then, said that he had known Smith as well as anybody and so far as his efficiency was concerned he could buy and sell Pilmer and Johnston but at the same time Smith an officer of the first class. Doyle would do weird things and was not the type for a First Class Sergeant or an Inspector. (This appeal of Smith was for the rank of Second Class Sergeant.) Doyle also stated to the Board that Smith was a peculiar type of man but had plenty of ability.

The opinion I heard expressed about Smith by most of his colleagues was to the same effect that he had a peculiar manner and did not always appear to take his duties seriously.

I am satisfied that Sergeant Smith was mistaken in believing that Mr. Doyle bore an unjustified ill-will towards him.

2. (b) I have already dealt with this complaint in considering the case of Sergeant Kendall, and need only add that from the evidence called before me I am satisfied that Croker's appointment did nothing to destroy or impair the efficiency of the Police Union.

2. (c) I have already dealt with this complaint in considering the question of the promotion of Inspector Blight.

2. (d) Miss Constance Murfitt has been a stenographer attached to the C.I. Branch at Perth for many years. In that capacity she was closely associated with the present Commissioner when he was the Officer in Charge of the C.I. Branch; and later when he became Chief Inspector and Commissioner he continued to avoid himself of her services for special work usually of a confidential nature.

The C.I. Branch Office is at one end of a long passage and the Commissioner's Offices are at the other end.

In addition to this association in the office, Miss Murfitt was a friend of the Commissioner's daughter and there is little doubt that their relationship had a social as well as an official side. I am satisfied, however, that there was nothing improper in that relationship.

Some members of the C.I. Branch appear to have thought that Miss Murfitt held some privileged position by reason of her social relationship with the Commissioner and that she acted as a tale bearer on occasions.

She was not called as a witness before me. The only real evidence suggesting privilege was that of Inspector Lewis who stated that she sometimes came late to work and made false entries in the time book as to the time of her arrival. He said that he complained to the Commissioner about this and that thereafter the practice ceased. There was no real evidence she was a "secret informer," this allegation, in conjunction with many others, resting purely on surmise.

It is sufficient for me to say that I am not satisfied that this allegation against the Commissioner has been sustained.

15.—Alexander Thomson.

Complaint.—The Commissioner of Police unfailingly treated Constable Alexander Thomson by—

(a) referring to the said Thomson as "that thing";

(b) falsely accusing the said Thomson of stealing the case of another detective and showing great animosity towards the said Thomson when proved in the wrong;

(c) improperly transferring the said Thomson from the Traffic Office to the Central Station;

(d) denying to the said Thomson privileges given to Constable Gallagher in respect to the non-performance of beat duty.

P.C. Constable Thomson was called by Mr. Hughes in support of these complaints, which were made by Sergeant Kendall. He stated that he now had no complaint against the Commissioner. As he was not a client of Mr. Hughes, I gave that counsel leave to cross-examine him, it appearing that he had made a statement to Detective Sergeant Smith.
Thomson told me that he had been approached on two or three occasions and was told by Smith that the statement would not be acted upon or used in any way, and was in strict confidence, and that it was only on those grounds that he gave Smith the statement.

Thomson requested me to stand over his examination so that he might seek legal advice about the matter. This was done with Mr. Hughes’ concurrence.

Later, Mr. Hughes announced to me that he did not intend to call Thomson as a witness.

No other evidence was given in support of this complaint.

16.—John Reedy Trekardo.

Complaint.—The Commissioner of Police unfairly treated the said John Reedy Trekardo—

(1) by recommending or reducing him in rank from the position of senior second class sergeant after being named for promotion to the rank of first class sergeant to the bottom of the list of third class sergeants and reduced in status by being recessed in seniority to 74 sergeants, thereby losing the result of ten years’ efficient and loyal service;

(2) by singling him out for action in consequence of an incident arising out of unlawful activities in Kalgoorlie for the purpose of raising money for charitable purposes with which was associated every other member of the Police Force in Kalgoorlie, up to and including the rank of inspector;

(3) at an appeal by the aforesaid John Reedy Trekardo against promotion of other officers giving false testimony against the aforesaid John Reedy Trekardo, by stating, “He is a good man and visits two-up schools,” whereas, as was well known to the aforesaid Commissioner of Police, the said Trekardo has never been a punter, nor visited two-up schools;

(4) at the aforesaid appeal by his intimidatory attitude and aggression when questioned by counsel for the said Trekardo;

(5) by causing and/or permitting the said Trekardo to be charged with a breach of the regulations which had no substance of foundation, whereby the said Trekardo suffered detriment, embarrassment, indignity and financial loss;

(6) the Commissioner of Police wrongfully failed to accord to his officers the requisite support in respect to the claim of junior constables and constables in the payment to the said Dillon of an exorbitant and totally unwarranted amount by way of damages, thereby holding members of the Police Force in Fremantle up to the ridicule and jibes of the aforesaid Dillon, who is an habitual drunkard.

1. On the night of the 30th March, 1916, Sergeant Trekardo was the sergeant in charge of the night relief at the Kalgoorlie Police Station. During his term of duty, and in his presence, and with his assistance, a number of members of the Police Force and some civilians, including women, had a party in the sergeants’ rooms at the station, at which party beer from a keg was consumed and songs were sung. This party, which lasted into the small hours of the morning, followed on a function given at the G.M. Dining Rooms that evening in support of an appeal for funds in support of the Police candidate in a popular girl competition, and the members of the party had assisted in that function. The beer consumed was the remains of a keg of beer which had been at the dining room and which had been taken to the Police station when the function concluded.

On hearing of this incident, the Commissioner asked Inspector Maloney, who was in charge at Kalgoorlie, to investigate. Inspector Maloney did so, and a further investigation was made by Inspector Blight at the Commissioner’s request. The result was that the Commissioner told Inspector Maloney to take such action as he thought fit against Sergeant Trekardo and Inspector Maloney charged Sergeant Trekardo “That he, in the sergeants’ room at the Police station, whilst on duty, consumed and permitted intoxicating liquor to be consumed by certain people, including four constables, two male civilians and three female civilians, such conduct being to the prejudice of the good order and discipline of the Western Australian Police Force, contrary to the Police Regulations.”

Sergeant Trekardo made several written statements setting out his case and pleaded extenuating circumstances. At first, when handed the defaulter’s sheet, he pleaded not guilty and requested that the charge be dealt with by a board of enquiry. However, the following day he notified Inspector Maloney in writing that, on further consideration, he desired to plead guilty to the charge and asked that the matter be dealt with by the Commissioner.

The Commissioner made a report to the Minister for Police, of which the following is part:

Personally, I would have preferred him to have adhered to his original plea and have the matter dealt with by a Board.

The circumstances in this case are as follows:—

On the evening of the 30th, an appeal for the St. John Ambulance in aid of the Police queen was held at a place known as the G.M. Dining Rooms, not far from the Police station. After this appeal concluded, a keg containing some beer was removed from there to the Police station in the relief sergeants’ room and three women, two men and four Police constables, without Sergeant Trekardo there, had a party, consumed some beer, and had a singsong until the early hours of the morning.

Statements are attached to the file giving details of the occurrence at the Police station, and other matters which occurred elsewhere, but I am confirming the facts of this charge solely to the happenings at the Police station, and the bad example that the sergeant was to his subordinates, some of whom were junior constables, and to the fact that the party was continued on for some hours whilst the sergeant should have been attending to his duty. Sergeant Trekardo was actually in charge of the night relief and the night sergeant on duty that night, but this seems to have been a very secondary consideration so far as he was concerned and I could have charged him with neglect of duty.

Sergeant Trekardo’s conduct was most reprehensible for a non-commissioned officer of Police and a very bad example to his subordinates, and I have no hesitation in saying that he is unfit to hold the rank of a senior second class sergeant any longer. I would therefore recommend for your approval that he be reduced to the rank of constable and transferred to Perth.
Mr. Kitson, who was Minister for Police, spoke to the Commissioner about his recommendation and asked him if he did not consider it a little bit severe, and suggested a compromise that Sergeant Trekardo should be reduced from second class sergeant to third class sergeant and placed at the bottom of that list. The Commissioner stated he was quite willing to accept this amendment to his recommendation.

In my opinion, the Commissioner exercised his discretion fairly. The punishment was justified, having regard to all of the circumstances, and there was no unfair treatment of Trekardo in the imposing of it.

2. This allegation refers to the fact that the beer party incident arose in the course of a popular girl carnival, where the Police supported a candidate of their own by holding unlawful games and other doubtful activities.

It is true that no one except Sergeant Trekardo was charged with an offence in respect of any of these matters but, in my opinion, the beer party incident at the Police station was of a different character to the other activities and Trekardo, as sergeant in charge at the time, was the man principally culpable. However, in respect of the carnival affair, the Commissioner did subsequently oppose the promotion of a sergeant and a constable concerned in these activities, and also transferred the inspector to another district.

I do not consider that Sergeant Trekardo was unfairly singled out under all the circumstances.

3. On the evidence before me, the Commissioner's statement at Sergeant Trekardo's appeal made in cross-examination to the effect that Trekardo was a gambler and a punter and would visit two-up schools was not a false statement and was quite justified by the evidence as being a correct description of the sergeant.

4. There was some suggestion by Sergeant Trekardo that the Commissioner had attempted to intimidate Mr. Seaton, K.C., who was appearing for Trekardo on his appeal. The Commissioner was not questioned about this allegation and, in my opinion, it warrants no further attention.

5. On the 30th April, 1948, a man named Dillon, whilst locked up in a cell for the night, suffered an injury to his finger by the slamming of the shutter of the cell door. He claimed £200 damages from the Police Department. The Commissioner referred this claim to the Under Secretary for Law for his opinion and attention by the law officers, and attached reports relating to the incident. The Crown Solicitor advised the Commissioner that he had no doubt that Dillon had received his injury whilst confined in the cell and through the closing of the shutter of the cell door that he, the Crown Solicitor, had succeeded in getting Dillon's solicitor to accept £100 in settlement, and asked the Commissioner to send him a cheque immediately. This was done.

In this matter, it appears to me that the Commissioner adopted the correct procedure in referring the claim to the law officers, and that in doing so he was not unfair to any of his officers.

Sergeant Foley was the Sergeant in charge of the relief when Dillon was placed in the cell and Trekardo was in charge later during the night. Chief Inspector Tetterington in perusing the reports relative to the incident directed that Sergeants Foley and Trekardo should be charged with neglect of duty and, after consultation with the Crown Solicitor, who appears to have concurred in this decision, the charges as settled by the Crown Solicitor were preferred in the following form: That against Sergeant Trekardo being that he being the Sergeant in charge of the night relief, failed to visit prisoners in the lock-up to ascertain whether everything was correct.

These charges were heard by a Board of Enquiry and dismissed with costs.

The Commissioner's only connection with the laying of these charges was that he had discussed the matter with the Chief Inspector and agreed with his decision that the charges should be laid.

In my opinion this incident was of a serious nature involving injury to a prisoner whilst under detention and a substantial monetary claim against the Department and I can see nothing unfair in the matter being investigated in the way it was.

17.—Sergeant W. H. Williams.

Complaint. — The Commissioner of Police treated Sergeant W. H. Williams unfairly by—

(a) improperly transferring the said Williams out of police and by way of punishment in consequence of the said Williams refusing to pay moneys unlawfully demanded from him by the said Commissioner, for which demand there was no foundation or substance whatever;

(b) by withholding promotion of the said Williams and/or preventing same, whereby the said Williams suffered considerable pecuniary loss.

Sergeant Williams when first called before me stated that he had no complaint against the Commissioner and he was stood down. At a later stage he was recalled by Mr. Hughes and again stated that at that time he had no complaint against the Commissioner but that he had previously had one but was now satisfied that the matter had been cleared up.

(a) Williams was ordered by the Commissioner to make good the sum of £30 14s. 10d. which had been taken from a prisoner and later was missing. It was William's duty to place the money in a locked steel box kept for that purpose. Because he could not obtain the key, he left it in an unlocked drawer.

Williams resented the demand made upon him by the Commissioner and in the end the money was subscribed by Williams and some of his comrades. Some time later the Commissioner asked Inspector Cooney by way of minute to recommend a Sergeant for transfer to Kalgoorlie and Cooney in writing recommended Williams. The Commissioner then approved the transfer on the 24th August, 1940.

The Commissioner swore that he had not discussed Williams' transfer with Inspector Cooney prior to the recommendation being made and that in making the transfer he was in no way influenced by the incident relating to the money and I am satisfied that that is so.
(b) In July, 1946, Williams appeared before the Promotional Board to support his appeal against his non-selection for promotion from Third Class Sergeant to Second Class Sergeant. This appeal was dismissed on the ground that owing to inattention to duty on various occasions, he was not considered suitable for further promotion at that time.

In October, 1946, he again appealed to the Promotional Board and this appeal was dismissed on the ground that the Sergeants against whose promotion Sergeant Williams appealed, possessed superior efficiency and aptitude in the discharge of the duties of the office to be filled.

In September, 1947, the Selection Board selected Sergeant Williams for promotion to the rank of Second Class Sergeant and on the 3rd December, 1947, the Promotional Board approved his promotion, a favourable report having been received concerning his work at Kalgoorlie.

It was suggested by Mr. Hughes that this promotion was really due to his case having been brought up in Parliament by Sir Charles Latham. However, Sir Charles Latham gave notice of his intention to do this several days after the Promotional Board had approved the promotion and almost three months after he had been selected by the Selection Board. It would, therefore, appear that his promotion was not due to the action taken by Sir Charles Latham.

September, 1947, was the first date on which the Selection Board had selected Williams for promotion to the rank of Second Class Sergeant. It is to be remembered that the Commissioner was not a member of the Selection Board and I fail to see how he was responsible for withholding Williams’ promotion as is alleged in this complaint.

In my opinion, there is no substance in either of these complaints by Sergeant Williams against the Commissioner.

18.—George Hall Kidd Winning.

Complaint.—1. The Commissioner of Police improperly and unfairly transferred the said Winning from Northam to Victoria Park, causing the said Winning inconvenience without any just or reasonable cause.

2. The said Commissioner of Police unfairly treated the said Winning by distorting the meaning of a sentence in a report made by the said Winning concerning a convicted person named Nelson and alleged that the said Winning had stated something as a fact that was not “a fact,” whereas what the said Winning had stated to be a fact was a fact, to wit, that the said Nelson had bitterly complained about the treatment meted out to the said Nelson by one Brother Keamey.

3. The said Commissioner of Police wrongfully threatened to place before the Promotional Board, to the detention of the said Winning, the distorted and wholly unfounded interpretation he had placed upon the aforesaid sentence in the report.

4. The aforesaid Commissioner of Police questioned the fact that the said Winning had made his report upon information supplied to him by the convicted person Nelson, made disparaging remarks and displayed marked hostility to the said Winning on that account, whereas the second report made on the aforesaid convicted person, Nelson, by Inspector Albert James Blight was made in the same way.

5. The said Commissioner of Police unfairly and without any just cause accused the aforesaid Winning of assaulting and ill-treating an Italian who had been questioned in the course of duty, and used insulting and threatening language towards the said Winning.

6. The Commissioner of Police unfairly treated and made unfair accusations against Detective Winning in respect of suggestions made by Robert McMillan, Esquire, Chairman of the Royal Agricultural Society of Northam.

1. Detective Winning was stationed at Northam and Detective Sergeant Smith was stationed at Victoria Park. On the 16th June, 1948, Inspector Findlay, the Inspector in charge of the C.I. Branch, after conferring with Inspector Blight, made the following recommendation to the Commissioner:

I would like to bring under notice the fact that Det. Winning, who has now been promoted to the rank of third class detective sergeant, has been stationed at Northam C.I.B. for over four years, and I would respectfully suggest that he now be transferred to the metropolitan area.

I submit for your consideration and approval that Detective Sergeant S. A. Smith be transferred from the Victoria Park to the Northam C.I. Sub-branch to fill this vacancy.

Detective Sergeant Smith has never been stationed in the country districts, and in a recent finding of the Government Appeal Board it was stated that he was not suitable for promotion to the rank of first class detective sergeant. Therefore, the transfer to Northam would give him an opportunity of proving his ability.

This recommendation was approved by the Commissioner and the mutual transfers were made.

I can see nothing improper or unfair in what the Commissioner did.

2, 3 and 4. On the 22nd March, 1947, Detective Winning submitted a character report for the information of the trial judge concerning a man named Nelson who had been committed for trial for stealing with violence. In this report, under the heading of “The Following Facts” Winning stated that Nelson had spoken very bitterly of his treatment by Brother Keamey when in his boyhood he had been in Clontarf and other Roman Catholic Boys’ Homes.

Winning made no attempt to check the truth of Nelson’s statements. The Commissioner complained that the report submitted as “facts” was mostly hearsay and that Winning had been careless in submitting the report in that form without making further inquiry to check it. Winning made a written report in reply saying he presented the Commissioner’s criticism and stating, and I think, quite correctly that the fact stated in the report was merely the fact that Nelson had made this statement to him.

The Commissioner referred this matter to Chief Inspector Titterington for his opinion as to whether he, the Commissioner, was placing any undue importance on the manner in which the report had been submitted by Winning, and Inspector Titterington agreed with the Commissioner’s criticism.

In my opinion, there was some confusion of thought in the Commissioner’s mind as to what the “statement of facts” meant, and this part of his criticism was not justified, but his criticism that such a disparaging statement should be checked before being put before the judge was, in my opinion, well founded.
One of Winning's main complaints before me about this matter was that it had been referred to Inspector Tetterington, but I consider that the Commissioner's action in seeking a second opinion was quite fair.

No further action was taken in respect of this incident, but the Commissioner told Winning that it was a matter that might be placed before the Promotional Board in the future. In fact, this was not done and Winning's promotion was not delayed on that account. Having regard to the Commissioner's view of the report, confirmed as it was by Inspector Tetterington, such a "threat," if it could be so called, was not improper.

5. The Commissioner received a complaint from Father Valentine that an Italian had been taken to the Police station and roughly treated by Detectives Winning and Richardson.

The Commissioner interviewed the Italian, who stated that the two detectives had kicked and insulted him. The Commissioner sent for Winning and Richardson and asked them about it. They denied the allegations. The Commissioner said that, if such a thing happened, he would not countenance it and would take serious action.

I am satisfied that the Commissioner did not tell the detectives that he did not believe their denial.

Detective Richardson gave evidence before me and his view was that the Commissioner did the normal thing in investigating the complaint, that his attitude was not offensive, and that he, Richardson, was perfectly satisfied with the Commissioner's action and felt that Winning should have been satisfied also.

In my opinion, the allegations in this subparagraph are not substantiated.

6. A letter was received by the Commissioner from a Mr. McMillan, chairman of the Royal Agricultural Society of Northam suggesting that Detective Winning, who was then stationed at Northam, should be supplied with a motor car to assist in the performance of his duties.

Mr. McMillan verbally told the Commissioner that this suggestion was made at Winning's request. The Commissioner saw Winning and told him that it was no good McMillan trying to get him a car because it was impossible to get a car for Perth.

I can see nothing in this incident to amount to unfair treatment or unfair accusation against Winning.

19.—William Charles West.

Complaint.—That the Commissioner of Police unfairly treated Constable W. C. West, No. 2217, by disclosing to a member of the public, to the prejudice of the said West, a confidential document received in the course of the administration of the Police Department.

This was one of two additional complaints and not brought before my Commission until the 9th February, 1949.

In February, 1948, Constable West, a young traffic constable, was on point duty in Perth when he had a discussion with a Mr. Gerloff, a solicitor. An argument ensued between them and West took hold of Gerloff by the arm. Later, Gerloff charged West with assault in the Police Court in respect of this incident and West was convicted for what may have been a technical offence.

Giving evidence before the Court, West swore that Gerloff was under the influence of liquor at the time the incident occurred. He was cross-examined by Mr. Gibson, who appeared for Gerloff, and who put to him that he did not mention that fact in the report he had furnished at the time.

West asked Mr. Gibson how he knew this and was told by Mr. Gibson that he had a typewritten copy of West's statement in front of him. West admitted that he had made no mention of Gerloff's condition as to sobriety in his report.

It transpired that Mr. Gibson had asked the Commissioner for West's statement prior to the hearing and the Commissioner had told Inspector Cameron to let him have a copy of it. In my opinion, it was important in the interests of justice that the magistrate be informed of this discrepancy and of course Mr. Gibson would have been entitled to call in Court for the production of West's statement. In my opinion, there was nothing unfair in the Commissioner allowing Mr. Gibson to get a copy of West's statement before the hearing.

20.—John Wrigley.

Complaint.—That the Commissioner of Police, Mr. John Doyle, unfairly treated Constable John Wrigley in not promoting him to the rank of third class sergeant, nor giving him any reason for same, and permitting statements derogatory to the said John Wrigley to be recorded without giving the said John Wrigley an opportunity of persuading or answering such statements.

The complaints made by Constable Wrigley were threefold. First, that he has not been promoted to the rank of sergeant.

In my opinion, having read his personal file and seen and heard Constable Wrigley himself, I am satisfied that he is not suited to be a non-commissioned officer.

His second complaint is that he has not been told the reason why he has not been promoted. In 1941, when not selected for promotion, he appealed to the Promotional Board but did not appear personally to support his appeal, which was dismissed. Mr. Doyle, then Acting Commissioner, instructed Inspector Pyke to inform Wrigley that his appeal was disallowed. This was all the information given to him. He has not since then appealed against the promotion of any other member of the Force.

I do not consider that there was anything unfair in not telling him why his appeal had not succeeded.

Constable Wrigley swore that since 1941 several inspectors have told him it would be no use appealing as he would never be promoted and would never know the reason why. If this is true, I think it desirable, as he seeks to know the reason, that some further information should be given to him, but it may well be that the withholding of it was done in order to spare his feelings.

The third complaint is that statements adverse to him attached to his personal file have not been shown to him nor has he had an opportunity of answering them. In my opinion, the Commissioner and other senior officers have a discretion as to which reports should be shown to a member of the Police Force.
In this case, had I been the Commissioner, I think that I would have allowed Constable Wrigley to pursue and answer the adverse report made concerning him by Inspector Yonkin on the 2nd September, 1948, but it may be that the Commissioner had good reasons for not doing so.

The Commissioner was not questioned about this aspect of Constable Wrigley's complaint when he gave evidence before me.

Term of Reference 2A—

Whether any motor spirit ration tickets or Police Department petrol were used in connection with a journey from Perth of a motor car in which the Commissioner of Police was a passenger when proceeding to a Police Conference in 1947 at Brisbane, and, if so, whether and to what extent there was, in relation to the use of such tickets or petrol—

(a) anything wrongful or improper on the part of the Commissioner;
(b) any falsification of Police Department records; or
(c) any obstruction by the Commissioner or any member of the Police Force of officers of the Liquid Fuel Control Board in this State in any arising out of investigations by such officers.

And the said Commission shall be read and construed accordingly.

21.—Robert W. Watson.

Complaint.—In contravention of the National Security (Liquid Fuel) Regulations, Robert W. Watson conveyed the Commissioner of Police, Mr. John Doyle, by motor car from Perth to Brisbane and back, petrol tickets being improperly used for such journey and departmental records falsified to cover the use of some of such tickets. Officers of the Liquid Fuel Board in Western Australia endeavoured to investigate and enforce the law against the parties concerned, but were frustrated by the Commissioner of Police.

This matter only became relevant to the enquiry when the additional term of reference was added.

In 1947 the Commissioner attended the Police Commissioners' Conference in Brisbane and travelled there from Perth in a motor car driven by a friend of his, Mr. Robert W. Watson, the Commissioner returning to Perth in the same vehicle.

The first question I have to decide is whether any police petrol tickets or police petrol were used on that journey. Having heard the evidence called in this matter, I was quite satisfied that no such tickets or petrol had been so used. There was no evidence that they had and the direct evidence on the subject, which I accepted, was that they had not. In view of this finding of fact, it therefore becomes unnecessary to consider the further question raised in this term of reference which would only arise if I answered the first question in the affirmative.

Terms of Reference (2) and (3).

In dealing with the other terms of reference I have referred incidentally to various breaches of duty or of good discipline and other culpable actions on the part of Sergeant Kendall and other members of the Police Force making allegations against the Commissioner.

As appropriate action has already been taken in respect of them, I do not consider that any further disciplinary action is required. I have been in some doubt as to whether I should make a recommendation concerning the attitude of Sergeant Kendall and those who have supported him in obtaining statements and endeavouring to influence other members of the Force to support the allegations made against the Commissioner. I am, however, not unmindful of the fact that this action was prompted by a sincere desire to have a full enquiry into certain aspects of the Commissioner's administration and, while making no such recommendation I wish, in conclusion, to make some general observations regarding the Commissioner and those who have complained of his administration.

I consider that the State of Western Australia is fortunate in having the present Commissioner in charge of the Police Force. His qualities as a Police administrator and investigator based on long and honourable experience in this State cannot seriously be questioned. He himself is efficient and requires efficiency in others. He is a strict but fair disciplinarian, a good quality in a Commissioner of Police. Not being without some faults, he has a directness of manner described by some as "briskness" or "rudeness" which does not endeear him to some of his subordinates who may be more nervous, "thin-skinned" or sensitive than the average man.

I am satisfied that he has not been and is not influenced in the discharge of his duties by sectarian motives and this is shown clearly by the fact that most of the special appointments he has made have been of men of a different religious faith from the one he professes.

As a witness I found him much more worthy of credence than some of his traducers, who appeared to be actuated by that hatred and sectarian malice of which they complain in him.

As for the complaints themselves, many of them were in my opinion trifling and trivial to a degree and hardly worthy of investigation by a Royal Commission.

I am satisfied that much of the trouble has been caused by the personal hatred towards the Commissioner of a few men who became dissatisfied with their comparatively slow advancement in the Force and that this hatred and discontent have been fanned by the bitter wind of sectarianism. This, unfortunately, appears to me to be specially the case with Sergeant Kendall who was once a capable and efficient non-commissioned officer but who, I feel, has allowed his mind to become clouded by a mistaken sense of injustice. The same applies, perhaps to a lesser extent, to Sergeants Smith, Winning and Simons.

I venture to express the hope that it is not too late for these men and others of like mind to forget what has gone before and, in future, to work loyally with the Commissioner and with their comrades for the good of the Force and the welfare of the community. This, however, can only be done if they are really loyal to their Commissioner and, now that their grievances have been fully aired and considered by an impartial tribunal, I am hopeful that such may be the case. They can then expect loyalty from him in return and fair treatment, and I feel confident that the Commissioner is a man big enough of spirit
to fulfil these expectations. If, however, any one of them is not prepared to express his loyalty or if he fails in the future to demonstrate it by his conduct, then in his interest as well as in the interests of the Police Force and the community, he should seek some other avenue of employment.

I desire to express my gratitude to Mr. Wallace T. Unnack who has assisted me in so many ways throughout this enquiry.

I also desire to acknowledge the valuable services of the other counsel who appeared before the Commission and particularly of the two counsel who appeared for the two main parties in the enquiry—Mr. D. F. Walsh, who appeared for the Commissioner and Inspector Blight, and Mr. T. J. Hughes, who appeared for Sergeant Kendall and other complainants. They bore the brunt of the presentation of the evidence in an enquiry which of necessity became at times somewhat heated.

I desire to place on record my appreciation of the work done by the members of the Hansard reporting staff, including their typists. They sometimes worked under great difficulties but were always both prompt and accurate in the discharge of their duties.

Last, but by no means least, I wish to express my gratitude to Mr. G. J. Clarke, who carried out his duties as secretary to the Commission with the utmost zeal and fidelity. At every stage of the enquiry I found his services invaluable.

As this Royal Commission has been concerned in the hearing and determining of specific complaints, and as those concerned will necessarily be in a state of suspense, I have felt it desirable that there should be no undue delay in the submission of this report, with which I enclose seven copies.

I have the honour to be, Sir, your Excellency’s most obedient and humble servant.

Dated at Perth this 9th day of March, 1949.

(Sgd.) C. H. BOOK.

Royal Commissioner.