



CRIMINAL JUSTICE  
COMMISSION

REPORT ON  
S.P. BOOKMAKING AND  
RELATED CRIMINAL  
ACTIVITIES IN  
QUEENSLAND

AUGUST 1991

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Dear Sirs

In accordance with Section 2.18 of the Criminal Justice Act 1989, the Commission hereby furnishes to each of you its Report on SP Bookmaking and Related Criminal Activities in Queensland.

Although this report was completed in August 1991, it could not be released at that time on the advice of the Special Prosecutor, Mr Francis Clair. However, it was submitted to the Government and the Chairman of the Parliamentary Criminal Justice Committee in October of 1991 as a Confidential Briefing Paper.

The circumstances that prevented the release of this document as a public report at that time no longer apply, and the Commission therefore now furnishes to each of you its official Report.

Yours faithfully

A handwritten signature in cursive script, appearing to read 'Max Bingham'.

**SIR MAX BINGHAM QC**  
Chairman

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**This report is a publication of the  
Research and Co-ordination Division**

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## FOREWORD

The Report of the Commission of Inquiry ("Fitzgerald Report") drew attention to what other writers have described as the "over-reach" of the criminal law. By this is meant the tendency for the law to intrude into areas which are more appropriately left to other forms of social control - morality, religion, education and the like.

The Report noted that where such extensions of the proper legal function occur, stresses and strains develop which have the effect of distorting the legal process. Having discovered the existence of such distortion (in the form of corruption), especially in those parts of the law enforcement system connected with sexual behaviour and gambling, the Commission of Inquiry deduced that this situation might be a case in which the law was being forced to extend beyond the bounds of its effective operation - a case of "over-reach". Accordingly, the Report recommended that this Commission should undertake a review of the relevant law - especially in relation to prostitution and "SP bookmaking".

For reasons of which the Queensland Government is aware, this document was presented to it in October 1991 as a confidential briefing paper. However the Commission is now in a position to release the findings of its research into SP bookmaking as an official report.

This report is intended to present the findings of the Commission's research and thereby enable informed decisions to be made in relation to reform of the law and its enforcement. As such, information that may tend to implicate individuals is largely unnecessary. As a result, individuals are referred to by code and some information has been generalised or omitted if it points too markedly to specific persons.

All information contained in this report is current up to August 1991.

Two major questions are involved. First, is legal intervention required; and secondly, if so, in what form?

The Commission has concluded that some degree of regulation is inevitable. While the possibility of complete deregulation is logically available, such a position is not realistic, for the reasons set out in the body of the report. Having reached that conclusion, the Commission goes on to recommend certain legislative and administrative action. The report presents the factual material upon which the recommendations are based, and the results of experience in Queensland and elsewhere.

As the Commission of Inquiry intended, decisions about future legislation, if any, can then be made by government in the light of an informed opinion. It must be emphasised that in our parliamentary democracy recommendations from bodies like the Commission are only recommendations; the ultimate decisions rest with the elected representatives of the people.



SIR MAX BINGHAM Q.C.  
Chairman

## ACKNOWLEDGEMENTS

In the preparation of this report, the Criminal Justice Commission has received the assistance and advice of numerous organisations and individuals. The Commission acknowledges with thanks the contribution that each of these have made.

In particular, the Queensland TAB and the Division of Racing within the Department of Tourism, Sport and Racing, have obligingly provided a considerable body of relevant information to the Commission. The Police Forces of all the Australian jurisdictions have supplied valuable insights into operations of SP bookmaking and the Commission gratefully acknowledges such assistance.

Although they must remain nameless for obvious reasons, the Commission wishes to expressly thank a select number of serving officers of the Queensland Police Service, for providing the benefit of their knowledge and for relating their considerable operational experiences. Equally, their advice in relation to the process of reform has been invaluable. Without their assistance, this report would not have been possible.

This report was substantially prepared by Andrew Williams. Phil Dickie contributed to the chapter on History of SP Bookmaking in Queensland and Jon Moore contributed to the economic analysis part of the report. The subject matter of the paper is very complex and there exists limited empirical and other research. The authors therefore deserve credit for this substantial contribution to knowledge. The Commission is grateful for their efforts.

I also wish to express my thanks to Avril Alley, Amanda Carter and Paul Bailey for their research assistance, and Linda McGilvery, Megan Atterton, Andrea Faux and Tracey Stenzel who undertook the tedious task of preparing the several drafts and final manuscript. The staff of the Commission's library must also be thanked for their patience. Susan Johnson, Greg Cummings and Marshall Irwin, all of the Commission, must also be recognised for providing their considerable assistance in the painstaking editorial process.

Finally, I wish to express my gratitude to Sir Max Bingham Q.C., Chairman, the Commissioners and the Directors of the Commission for their continued support.



**Satyanshu Mukherjee**  
Director  
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## EXECUTIVE SUMMARY

Before substantive changes to either the law or law enforcement methods can be made, grounds to justify such change must be established. On the basis of the studies that it has undertaken over the last twelve months, the Commission is satisfied that such grounds do exist. Moreover, if there were to be no change in current arrangements, the Commission believes that Queensland will experience a progressive increase in SP bookmaking activity to the detriment of legal gambling, consolidated revenue, and the community as a whole.

To summarise briefly, the aspects of concern in unlawful bookmaking that give rise to grounds for some action to be taken would appear to be as follows:

- \* SP bookmakers pay no turnover tax or licensing fees. This represents a substantial denial of government revenue;
- \* SP bookmakers do not pay their full share of income tax;
- \* The racing industry suffers as a direct result of SP bookmaking;
- \* The greater economy must also be seen to suffer as the result of money being siphoned into the black economy by unlawful bookmakers;
- \* There are other costs associated with unlawful bookmaking. These include such matters as the need for additional police resources, and the significant costs associated with the prosecution of SP bookmakers. Significant amounts of time and resources must be devoted by various government departments to the on-going SP bookmaking problem;
- \* Unlawful bookmaking has connections with other forms of major and organised crime;
- \* Because of the associations between SP bookmakers and other criminals, the SP network provides an ideal conduit for crime. Criminals who may otherwise have been regionally confined, are given the opportunity to expand their activities and make contact with other criminals and crime opportunities in other states;
- \* The SP bookmaking industry has consistently proven itself to be one of the principal sources of corruption of police and other public officials;
- \* SP bookmakers are able to resort to either the threat, or actual use of violence;
- \* There is a nexus between SP bookmaking and racefixing;
- \* There are significant social problems involved with SP bookmaking. These include the family dysfunction that tends to result from gambling addiction.

## **The Approach That Should Be Adopted**

It is often claimed that SP bookmaking continues to prosper due to the inability to sentence unlawful bookmakers to terms of imprisonment in Queensland.<sup>1</sup> However, the SP industry also continues to thrive in other states despite those states having default imprisonment, and notwithstanding efforts directed at its suppression.

While the absence of risk of imprisonment in Queensland has certainly been *one* factor that continues to be conducive to unlawful bookmaking, it is certainly not a complete explanation for its continued existence. Nor could it be said that simply re-introducing default imprisonment will be the complete solution. Giving the law more "coercive teeth" may result in some decline in SP bookmaking activity, but it is likely that some of this decline could be expected to be due to SP bookmakers simply shifting out of Queensland and into other jurisdictions of lesser enforcement or lesser penalties. Significantly, where SP bookmakers do "border hop" they usually retain contact with their existing clients by telephone. The problem will not therefore be removed, but merely relocated.

It is most unlikely that the enactment of stiffer penalties alone will have any more effect than to make the industry more mobile and circumspect, and may even lead to a change in industry personality, to one where it is primarily constituted by ruthless and violent criminal entrepreneurs, who are more prepared to accept the risks of harsh penalty.

### **Changes to lawful gambling**

In the past, strategies aimed at the suppression of SP bookmaking have placed undue emphasis upon the ability of increased law enforcement efforts to solve the problem. This Commission's studies have indicated that the principal initiatives that are adopted to suppress SP bookmaking must instead become economic.

SP bookmaking continues to exist despite efforts directed at its suppression and despite a wide diversity of lawful gambling options, because it provides a service that a substantial minority of punters demand. The service that is currently provided by unlawful bookmakers must be supplanted by some legal alternative. The aim must be to attract the market share that SP bookmakers currently hold away from the unlawful operators by offering legal alternatives to those aspects of their service that attract punters in the first place.

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1 This point was made several times in submissions received by the Commission on the issue of SP bookmaking. Several police officers interviewed in the course of this study have expressed this opinion, and it has also been expressed in internal police departmental reports and memorandums viewed by officers of this Commission.

In this regard, it must be recognised that the crucial aspect is not merely to simply expand the array of legal options, but to replace the specific type of service that is currently offered (only) by SP bookmakers. Recent experiences in other states where attempts have been made to simply expand legal gambling options (by such means as the introduction of FootyTAB and PubTAB), do not appear to have led to any significant reduction in the incidence of SP bookmaking.

This Commission has identified the following as being the most significant aspects of SP bookmaking that are attractive to punters. Any major extension in available legal gambling should be directed towards replicating as far as possible these services:

- \* SP bookmakers offer telephone access;
- \* SP bookmakers offer fixed odds betting;
- \* SP bookmakers offer credit; and additionally,
- \* SP bookmakers accept wagers on a diverse range of contingencies; and
- \* SP bookmakers often offer a discount on losing bets.

The legal gambling options currently available to punters are rigid, inflexible and largely unappealing to those who bet SP. The legal gambling industry must become more flexible and responsive to market demand. It is probably reasonable to conclude that the community is either neutral towards the present off-course betting arrangements provided by the TAB, or alternatively that it believes the TAB is not adequately servicing a legitimate social activity.

SP operators have a flexibility which allows them to tailor their products to match their customers' requirements - they offer credit, a personalized and convenient service, and a more acceptable betting form. Fluctuating totalisator odds are essentially unattractive to many large punters.

#### *The TAB's Potential to Counter SP Bookmaking*

The TAB believes that there are two areas of their own operation which could improve their capacity to compete with SP bookmakers:

- \* a relaxation of legislation which has previously prohibited the Queensland TAB from trading in licensed areas (Pub TAB); and
- \* further investigation of either fixed odds betting or national win and place betting pools.

While TAB facilities in licensed premises may have some impact on the SP trade, its potential should not be overstated. The introduction of PubTAB in other states has not been able to demonstrate any significant impact upon the continued viability of SP bookmakers. PubTAB is only likely to impact upon the

few remaining small-time SP bookmakers who still may field from licensed premises. The net impact of PubTAB on SP bookmaking is therefore likely to prove to be negligible.

The introduction of fixed odds betting is however, likely to be substantially more effective. Fixed odds betting has been identified by this Commission as being one of the most significant attractions that SP bookmakers are able to offer. Whilst the TAB continues to offer only a *pari-mutuel* form of betting odds, it cannot present itself as an attractive alternative to wagering with SP bookmakers. As such, the introduction of fixed odds betting should be explored by the TAB as a matter of some urgency.

Whilst the introduction of fixed odds would mean that the TAB could then offer the dual advantages of telephone access and fixed price betting, it is still unable to offer punters a favourable credit facility. The TAB has admitted that major obstacles still remain before it could present any real alternative to the convenience and bet forms offered by SP bookmakers.

#### *The Role of the Licensed Bookmaker*

Given that the TAB foresees the introduction of TAB credit betting as an impossibility, the best alternative would appear to be to allow licensed bookmakers to field by telephone.

If licensed bookmakers were allowed to field by telephone, the "need" to bet SP, experienced by many punters to obtain the service that they so clearly demand could then be obviated. The issue of allowing licensed bookmakers to field by telephone has always been rejected in the past.<sup>2</sup> The predominating consideration has invariably been fear as to its likely impact upon TAB revenue.

This Commission's research has indicated that given the inability of the TAB to offer a system of credit, the provision of telephone betting with on-course bookmakers should be seriously explored. The Commission believes that the arguments that have traditionally been advanced in opposition to telephone betting can be largely overcome. In this regard, the following points are made for consideration:

- \* Fears about the impact of telephone betting with bookmakers upon government revenue have generally been premised upon an assumption that bookmakers will continue to pay turnover tax at the same nominal rate. There is no reason why turnover tax should not also increase, nor why bookmakers could not also make some direct financial contribution to the racing industry, thereby preserving government revenue;

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2 The proposal was most recently rejected by the Conference of State Racing Ministers, held in Perth in February of this Year.

- \* Fears about the impact upon TAB turnover have largely been based upon an assumption that bookmaker telephone betting would be introduced with "all other factors remaining constant". If nothing else were changed, then the likely impact upon the TAB would perhaps be more significant. However, if the TAB were simultaneously to introduce either national pools or fixed-price betting, then the impact of telephone betting with bookmakers upon the TAB should be minimal. In any event, this Commission's studies tend to indicate that SP bookmaking is more deleterious to bookmakers than it is to the TAB;<sup>3</sup>
- \* The belief that the TAB should be recouping the money currently bet with SP bookmakers' is unnecessarily centralist. Punters should be allowed the freedom to choose whether they wish to bet with a bookmaker or alternatively with the state run TAB. Similarly, the rights of on-course bookmakers to earn a living should not be denied to them by a policy designed to minimise competition for the TAB;
- \* There needs to be some recognition that the role of on-course bookmakers is an important one. On-course bookmakers have an important cultural and historical role within the Australian community. Bookmakers fielding at racing carnivals provide one of the prime attractions for racegoers. As such, their presence (or otherwise) at race meetings will have an important determinant effect on the overall viability of the racing industry. Policy decisions that impact upon the future viability of bookmaking should take such factors into account;
- \* This Commission's studies support the view that if licensed bookmaking becomes unprofitable and continues to demise, then the way will be left open for a substantial enhancement of the role of the SP bookmaker.

The Commission believes that the integrity of bookmaker telephone betting could be ensured by the introduction of a computer telephone betting system. Appropriate measures are envisaged to include:

- \* the number of telephones that each on-course bookmaker is allowed to operate should be strictly limited;
- \* the entire system should be made to be tamperproof and be purchased, owned and maintained by an appropriate Government instrumentality, who then lease the equipment to bookmakers;
- \* all bets received should be automatically recorded by computer. The recording of bets must include the date and *exact* time of each bet. All betting tickets issued to punters should be computer generated; and

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<sup>3</sup> Information contained in the TAB's submission that is said to have been provided by the New South Wales TAB, lends support for such a view and indicates that SP bookmakers in New South Wales are actually benefiting the TAB. This occurs in the sense that they are increasingly less prepared to accept small bets, and are telling punters to take their smaller bets to the TAB. New South Wales TAB turnover is thought to have actually increased by somewhere between 8.1 and 14 per cent accordingly.

- \* in order to minimise any perceived threat to TAB operations, a minimum value bet should be introduced for bookmaker telephone betting.

In addition to recording the transmission of bets, integrity can be better safeguarded by increasing the presence of betting inspectors and giving them extensive new supervisory powers. Simultaneously, stringent vetting of all current and future holders of bookmakers' licences will be required.

Conviction for any offence under the *Racing and Betting Act 1980 (Qld)* should become grounds for the automatic disqualification from the right to hold a bookmaker's licence. As a further deterrent, licensed bookmakers convicted of any betting offence should be also subjected to the mechanism for default stamp duty assessment discussed elsewhere in this report.

The Commission feels that the following advantages will flow from strictly supervised telephone betting by on-course bookmakers:

- \* a substantial amount of money that is currently bet unlawfully will now be able to be wagered legally, in so doing a substantial criminal enterprise will be minimised;
- \* bookmakers' turnover will substantially increase, which could then justify the levying of higher levels of turnover tax;
- \* computer recording of all bets will minimise the possibility of money laundering.

### **Legislative Reform**

Although this Commission has seen fit to recommend that the principal strategy that should be adopted to deal with unlawful bookmaking should be economic, it has recognised that single issue strategies are not the complete answer. Given the significant levels of persistent and insidious criminality found in association with unlawful bookmaking, substantive changes to the law should also be considered. The Commission recommends that the following reforms be introduced to the law of Queensland.

#### *Upon conviction for the Offence of Unlawful Bookmaking*

The fines presently provided by section 218 of the Racing and Betting Act are among the most substantial in the country. However, the civil process for recovery of such fines provided by section 218A is essentially inoperable. Accordingly, the Commission recommends that section 218A be repealed in its entirety.

The magnitude of fines in section 218 should remain unchanged. Although some judicial discretion should be retained in the case of a first offence, in all other cases the discretion to impose a lesser penalty should be removed.



Notwithstanding the retention of some discretion to impose a lesser penalty in the case of a first offence, it should be accompanied by an absolute minimum substantial enough to provide a significant deterrent.

In all cases default imprisonment should apply as the natural consequence of failure to pay the prescribed fine. The Commission envisages that fines and default imprisonment will be applied on the basis of an incremental range, depending on the magnitude of the unlawful operation that has led to conviction. This would work somewhat similar to the following:

Upon conviction for a first offence:

Fine of \$15,000 - \$20,000 or less than this amount (but not less than \$3,000), at the discretion of the court.

Default imprisonment three to six months depending on the circumstances of the case.

Upon conviction for a second offence:

Fine of not less than \$20,000 and not more than \$30,000. Default imprisonment 12 - 18 months depending on the circumstances of the case.

Upon conviction for a third or subsequent offence.

A fine of not less than \$30,000 and not more than \$50,000, and default imprisonment for three to five years, depending on the circumstances of the case.

When it is considered that a significant number of those with existing convictions for unlawful bookmaking in Queensland have failed to pay their fines, and when that fact is taken in conjunction with the fact that several of Queensland's largest presently operating SP bookmakers have numerous convictions for unlawful bookmaking, yet continue to hold the law in contempt, serious consideration should also be given to making this legislation retrospective to July 1981. (When default imprisonment was removed).

### *Section 217 Possession of instrument of betting*

This section should be expanded so that it applies to any unauthorised "instrument of betting" including instruments for use in conjunction with the acceptance of bets upon any betting contingency, and not only betting that occurs on horse races, trotting races or greyhound races.

### *The Definition of Bookmaker*

The *Racing and Betting Act* needs to be amended so that the acceptance of a singular bet is deemed to be sufficient for purposes of "acting as a bookmaker" and "carrying on the business of bookmaking".

### *The Concepts of "Using" and "Suffering"*

Difficulties have been encountered in establishing that premises have been opened, kept or used for unlawful bookmaking, in cases where that is not the predominant use that is made of those premises. A provision should be included in the *Racing and Betting Act* that provides a definition of "use" that does not require the unlawful use to be the *predominating* or essential use that is made of those premises. In addition, difficulties have been encountered in securing convictions against owners or occupiers who "suffer" their premises to be used for the purpose of unlawful bookmaking. It would be appropriate if the amending legislation were to also define the concept of "suffer" to some objective standard. Under such a definition, any owner or occupier who could reasonably be expected to have known that his premises were used for an unlawful purpose, could then be convicted.

### *Section 221 Betting on Licensed Premises*

Adequate penalties are provided for use against the licensees of licensed premises found to be permitting or suffering their premises to be used for the purposes of betting. However, the Commission has become aware of instances where the mechanism that allows for forfeiture of a liquor licence have been able to be avoided. Section 221 should therefore be amended so that convicted persons are also denied the ability to retain effective control of licensed premises.

### *Declared Gaming House Provisions for Queensland*

Declared Gaming House provisions have been used to good effect in other states against premises used for both the purposes of unlawful gaming and SP bookmaking. Some similar provisions should be provided for Queensland.

### *A Stamp Duty Recovery Mechanism*

SP bookmaking is, at first instance a revenue crime and its greatest victim is consolidated revenue. As a form of restitution, those who are convicted of unlawful bookmaking should be required to repay the turnover tax that they have sought to evade by fielding unlawfully. Default stamp duty should be assessed in addition to any punitive fine that is imposed.

### *Offences by Licensed Bookmakers*

Given the associations between licensed bookmakers and unlawful bookmaking identified by this Commission, the activities of licensed bookmakers need to be more closely monitored. All licence holders within the racing industry should be subjected to strict vetting. Those convicted of serious racing industry offences

such as unlawful bookmaking, should be disqualified absolutely from holding an industry licence. Those bookmakers apprehended fielding in contravention of their bookmaking licence should also be subject to the default stamp duty mechanism outlined above.

### *The Need to Criminalise SP Betting*

Currently, section 222 of the *Racing and Betting Act* contains a prohibition on public betting. The legislative scheme would be better served if this provision were amended so that the prohibition simply applies to those who bet unlawfully. Those who choose to bet unlawfully not only deny government consolidated revenue substantial receipts, but also enhance the black economy that is then available to finance other serious forms of crime. Specific penalties should be provided for this offence to reflect the seriousness with which it should be regarded.

### *Confiscation of the Proceeds of Crime*

Legislative mechanisms that provide for the confiscation of the proceeds of crime should be vigorously applied in all cases of conviction for unlawful bookmaking. This must include the Crown pursuing assets that have been divested by subterfuge so as to give the true owners the appearance of being assetless. When it becomes common knowledge that convicted SP bookmakers will be subjected to fines, default stamp duty assessments *and* the forfeiture of assets, it is most likely that many will think twice before fielding unlawfully. Consideration should also be given to application of forfeiture provisions to those who bet unlawfully with SP bookmakers.

### *Proscription of Pricing Services*

In all other Australian states it is illegal to operate a pricing service. In Queensland, operating a pricing service does not constitute an offence, yet the operation of a pricing service usually entails unlawfully relaying pricing information from racing venues. In order to remove this inconsistency, and to make Queensland law more consistent with that of the other states, pricing services should also be proscribed. Given the importance of Queensland pricing services to SP bookmakers *nationally* it would be appropriate if the worth of that proscription were sufficient to reflect these facts.

### *Automatic Reference of unlawful bookmaking convictions to the Federal Commissioner for Taxation*

It is recommended that upon conviction for an unlawful bookmaking offence, notification of that conviction and its particulars should be forwarded to the Federal Commissioner for Taxation. This requirement should be specifically embodied within the *Racing and Betting Act*.

### *The Telecommunications (Interception) Act 1979 (Commonwealth)*

It is strongly recommended that the Premier and Attorney-General, in concert with both the Police and the Racing Ministers should, as a matter of urgency consult with their counterparts in the other states, and then collectively make representations to the Commonwealth Minister for Transport and Communications and the Commonwealth Attorney-General to have the *Telecommunications (Interception) Act* amended. This is because it otherwise is highly doubtful that efforts directed at the suppression of SP bookmaking will be any more than partially effective.

### **Law Enforcement**

The Commission has reason to believe that law enforcement efforts directed at the suppression of SP bookmaking that are directed from a local or regional level will be largely ineffective. SP bookmaking is not regionally or locally confined and the parameters of this unlawful activity are continuing to expand. Attempts to police it at a localised level do not therefore correspond with the nature of this illicit industry. The Commission's research has indicated an emerging need to establish some centralised police unit who will become responsible for the policing of unlawful bookmaking.

### *The Role of the Criminal Justice Commission*

It is envisaged that the role of the Criminal Justice Commission will entail the following:

- \* All police and civilian staff of the proposed Racing and Betting Unit should be subjected to independent integrity vetting by the Criminal Justice Commission;
- \* The operational strategy for this unit should be established after close liaison with the Criminal Justice Commission;
- \* Given the level of community concern about police units of this nature, once the guidelines for operation of this unit have been established, they should be publicly announced.

- Therefore, the Criminal Justice Commission should review the continuing need for such an arrangement on at least an annual basis.

### *Deficiencies in Criminal Intelligence*

It remains the fact that there is still little useful criminal intelligence data on the SP bookmaking industry in Australia. More particularly, the Commission's studies indicate that police operations in this field are hampered by the lack of a complete appreciation of the economic aspects of this unlawful enterprise. There is an immediate need to start a complete strategic profile of the unlawful bookmaking industry that focuses upon its specific economic elements. Such strategic profile should become the basis of any intelligence data base for future use in law enforcement.

### *Police Training*

Presently, the Queensland Police Service does have a handful of officers with developed expertise in this field. To safeguard that body of knowledge, it needs to be broadly disseminated. This will require an ongoing, adequately structured in-service training program.

### **The Need for a Co-ordinated National Scheme**

Efforts directed at the suppression of SP bookmaking have been a feature of Australian law enforcement for decades. Notwithstanding some short term successes, it remains the case that those efforts have been largely unsuccessful. This could be viewed as being the combined result of both the community's demonstrated willingness to persist with SP gambling, and as the result of a lack of co-ordination between the various state law enforcement agencies.

Commissioner Fitzgerald (Fitzgerald Report 1989, p. 195), in summarising these difficulties merely mirrors the sentiments that were expressed by Costigan half a decade before:

"A campaign against SP bookmaking will only be made truly effective by co-operative legislation involving the states and the Commonwealth Government. Otherwise it will be defeated by the fragmentation of jurisdictions under the federal system".

To the extent that inconsistencies between the laws of the various states governing SP bookmaking continue, difficulties with SP bookmaking will also continue. Given the far-reaching ability of the telephone, and the facility it affords the SP bookmaker, it is most likely that after some states have reformed their SP bookmaking laws, the *locus conveniens* for SP bookmaking will simply become those states of least enforcement. To this end, all the Australian states should be urged to standardise the regime of criminal law that is used to counter

SP bookmaking. It is recommended that as part of the overall reform process, the Queensland government should also endeavour to initiate the development of a national scheme to deal with SP bookmaking. The other states should be encouraged to better accommodate the gambling public, by providing the type of betting amenity they have so amply demonstrated they are not prepared to forgo.

### **Provision of Social Services for Compulsive Gamblers**

It is essential that any planned introduction of an increased range of gambling options be accompanied by adequate planning for the provision of an effective range of services so that compulsive gamblers are able to obtain assistance.

# CHAPTER ONE

## INTRODUCTION

### **The Reasons for this Study**

During December and January of 1987, *The Courier-Mail* published a series of articles concerning police inactivity in relation to a number of brothels, illegal casinos and other vice services in Queensland, particularly in and around Brisbane's Fortitude Valley.

There was nothing particularly unusual about this most recent series of revelations. Similar controversies had periodically surfaced over the years, and in the ordinary course of events such allegations were met by routine police denials and attacks upon those who dared question police efforts.

However, instead of the controversy merely subsiding after a few weeks as had always been the case previously, this time it was refuelled by the telecast of the "Moonlight State" - a television documentary aired nationally on the ABC's *Four Corners* program on 11 May 1987.

On the following day, the acting Premier, the Honourable William Angus Manson Gunn M.L.A., announced that there would be an inquiry. Mr G.E. Fitzgerald Q.C., was appointed as Chairman to preside over a Commission of Inquiry Pursuant to Orders in Council. The initial terms of reference for the Inquiry, published in the *Queensland Government Gazette* on 26 May 1987, were largely confined to matters that arose out of the "Moonlight State".

The general public expectation was that this inquiry would, like those that had preceded it, be brief and largely ineffectual. However, the Acting Premier gave Commissioner Fitzgerald Q.C. assurances that a proper, honest and comprehensive inquiry was both possible and necessary (*Report of a Commission of Inquiry Pursuant to Orders in Council 1989*, p. 3, hereinafter referred to as the "Fitzgerald Report" 1989).

By the time the Commission of Inquiry's public hearings commenced on the 27 July 1987, it had become clear that police corruption was not confined to the protection of premises used for unlawful casinos, prostitution and the sex industry, but was more widespread and simply part of a greater problem. Clearly there was a need for the Inquiry to examine wider issues.

It was in this context that the payment of protection money by SP bookmakers to corrupt police officers was also investigated before the Commission of Inquiry.

Whilst giving testimony under oath, Jack Reginald Herbert, former Licensing Branch Inspectors Noel Francis, Peter Dwyer and Allen Stuart Bulger, former Inspector (then Assistant Commissioner) Graeme Robert Joseph Parker, and former branch Senior Sergeants John William Boulton, Noel Thomas Kelly and Harry Reginald Burgess all admitted to having received corrupt payments for allowing the operations of SP bookmakers, gaming house owners and prostitution entrepreneurs.

This corruption was subsequently confirmed by other witnesses who were "players" from the illicit gaming and vice industries. The general body of SP evidence before the inquiry was sufficient to give rise to the gravest suspicions about the real magnitude of the Queensland SP industry. Fitzgerald Q.C. (Fitzgerald Report 1989, pp. 72-73) summarised the SP bracket of evidence thus:

"There are undoubtedly a large number of SP bookmakers paying protection through Herbert. He named 32. Many had earlier been in the first joke in the 1960s and 1970s. One had operated in a provincial centre for 13 years and had settled with his clients at the same hotel at the same time on the same day each week for 11 years. Many SP bookmakers were recorded in Licensing Branch records. Few had been questioned or charged since the beginning of 1980. Where action had been taken against any who had commenced to take protection, it was a result of a mistake or a dispute.

Although it is disadvantaged by the activities of SP bookmakers, they are tolerated within the racing industry.

There is widespread knowledge of SP operations in that industry and a number of those who engage in SP bookmaking are also registered bookmakers, or are otherwise involved in the industry. Registered bookmakers lay off bets with SP bookmakers, and allow SP bookmakers to lay off bets with them. Vast sums of money passed back and forth.

Despite its extent and significance, including the losses which it occasions, SP bookmaking has been passively tolerated by the Government . . . the few convictions for SP bookmaking which have resulted in recent years have had little impact. Most have been against minor offenders, including some without assets. Generally, fines have not been paid or compulsorily collected. For example, there were five convictions in 1986, but only one fine had been paid by the end of 1988. The loss of the revenue from fines which are not collected is probably the least significant aspect of SP bookmaking. Much greater losses are sustained by both the public revenue and the racing industry . . . there are enormous losses of revenue to the Totalisator Administration Board. In 1980, the estimate was \$20 million dollars, which had increased to \$200 million, according to TAB estimates by early 1989".

The Commission of Inquiry found that a central figure in the corruption of police officers and the collection of illegal payments from a multitude of diverse underworld operations, was former police officer Jack Reginald Herbert. On this basis, there were reasonable grounds to assume that some connection between illegal bookmaking and other forms of organised crime may be possible. In his report Mr G.E. Fitzgerald Q.C. dealt with the possibility that SP bookmaking was linked to organised crime in the following terms:

"Less obvious but more sinister, is the association between SP bookmaking and organised crime" (Fitzgerald Report 1989, p. 73).



Although the link was not established conclusively the evidence was suggestive. In the first instance, the illegal activity is known to be highly organised. Many SP bookmakers are associated with syndicates which operate throughout Australia (*Final Report of the Royal Commission on the Activities of the Federated Ship Painters and Dockers Union* 1984, vol. 4, p. 85, hereinafter referred to as the "Costigan Report" 1984). The huge profits which are generated are then available for investment in other illegal activities. Even if profits are not used for those purposes, they are used widely to corrupt public officials, including police. That conduct is a manifestation of the much deeper disrespect which is held by many SP bookmakers for law and authority.

There have been numerous investigations and Royal Commissions in Australia's history into the racing industry and SP bookmaking. In the State of Queensland, there have been no fewer than three separate Royal Commissions into racing that have touched upon unlawful bookmaking.<sup>1</sup> Despite this fact, there is still very little understanding of the reasons behind the phenomenon. Equally, little by way of empirical data exists on SP bookmaking and there is a paucity of academic literature on the subject.

The Royal Commission on the activities of the Federated Ship Painters and Dockers Union undertook extensive investigations of SP bookmaking in 1984. In his report, Commissioner Costigan Q.C. alluded to several aspects of community concern presented by SP bookmaking. Such aspects concerned such matters as the following:

- \* the involvement of SP bookmakers in race-fixing;
- \* the laundering of illegal monies;
- \* the financing of narcotics;
- \* the corruption of public officials;
- \* the use of violence both to enforce debts and the code of silence; and
- \* significant losses to government revenue.

Additionally, Costigan Q.C. recognised that SP bookmaking went beyond being an isolated issue of criminality, and that certain sociological and cultural aspects were important contributing factors to its existence. All of these issues again became a distinct possibility on the basis of the material evidenced before the Commission of Inquiry in 1987. Clearly there was an emerging need for some further broadly based investigation that would go beyond the specific criminal conduct of a few named individuals.

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<sup>1</sup> *Report of the Royal Commission Appointed to Inquire into and Report Upon the Control and Management of Horse Racing and Racecourses in and around Brisbane and Ipswich* 1930; *Report of the Royal Commission Appointed to Inquire into Certain Matters Relating to Racing and Gaming*, 1936; *Report of the Royal Commission Appointed to Inquire into Whether it is Desirable to Make Legal the Method of Betting and Wagering Commonly Known as Off-the-Course Betting*, 1952 Queensland Government Printer.

While the Commission of Inquiry was able to highlight the inadequacies of the current Queensland legislation intended to control SP bookmaking, and raised certain suspicions about the magnitude of the industry and its likely criminal connections, it was confined in its ability to be able to give such a complex issue a complete investigation. Therefore, it was recommended that this topic be given a thorough review by the Criminal Justice Commission.

Commissioner Fitzgerald Q.C. made the comment that:

"A review of the criminal laws, particularly those affecting prostitution and SP bookmaking, needs more information if it is to make decisions with reasonable confidence that it is not simply creating more problems" (Fitzgerald Report 1989, p. 190) and that;

"Law reform in relation to gambling needs to be approached in a comprehensive, considered way, and, until such a comprehensive review is undertaken, narrowly focused piecemeal action (including greater access to expanded forms of legal gambling), is inadvisable" (Fitzgerald Report 1989, p. 195).

Commissioner Fitzgerald Q.C. made the following recommendation with respect to SP bookmaking:

"This Commission recommends that the Criminal Justice Commission, as an essential part of its immediate functions, undertake investigation, review, reform and consideration of criminal justice matters arising from this report, including:

A general review of the criminal law, including laws relating to voluntary sexual or sex-related behaviour, SP bookmaking, illegal gambling, and illicit drugs, to determine:

- (a) The extent and nature of organised crime in these activities;
- (b) The type, availability and costs of law enforcement resources which would be necessary to effectively police criminal laws against such activities;
- (c) The extent (if at all) to which any presently illegal activities should be legalized or decriminalized" (Fitzgerald Report 1989, p. 377).

In accordance with these recommendations, the *Criminal Justice Act 1989* has vested the Criminal Justice Commission (the Commission) with the statutory function to monitor, review, co-ordinate, and if the Commission considers it necessary, initiate reform of the administration of criminal justice (*Criminal Justice Act 1989* (Qld), section 2.14(1)(a)).

In order to facilitate the discharge of such functions, the Commission has then been given certain responsibilities, which include such matters as follows:

Monitoring and reporting on the suitability, sufficiency and use of law enforcement resources and the sufficiency of funding for law enforcement and criminal justice agencies;

Researching, generating and reporting on proposals for reform of the criminal law and the law and practice relating to enforcement of, or administration of, criminal justice including assessment of relevant initiatives and systems outside the State;

Providing the Commissioner of Police with policy directives based on the Commission's research, investigation and analysis, including with respect to law enforcement priorities, education and training of police, revised methods of police operation, and the optimum use of law enforcement resources;

Reporting regularly on the effectiveness of the administration of criminal justice, with particular reference to the incidence and prevention of crime (and in particular, organized crime) and the efficiency of law enforcement by the Police Force;

Reporting, with a view to advising the Legislative Assembly, on the implementation of the recommendations in the Report of the Commission of Inquiry relating to the administration of criminal justice, and to the Police Force. (*Criminal Justice Act 1989*, (Qld), section 2.15).

In the discharge of its functions, the Commission is obliged by statute that wherever practicable, it should consult with persons or bodies known to it to have special competence or knowledge in the area, and additionally, to seek submissions from the public. Importantly, in its report on the matter the Commission is obliged to present a fair view of all submissions and recommendations made to it, whether they are supportive of, or contrary to, the Commission's recommendations on the matter (*Criminal Justice Act 1989*, (Qld), section 2.14(1)).

The Commission's research project into SP bookmaking commenced in August 1990. In the preparation of this report and in keeping with its statutory requirements, the Commission has sought the advice of police in each of the Australian States, the Australian Federal Police and a number of other public authorities such as the Australian Institute of Criminology, who were known to have particular knowledge or expertise that may be useful in an analysis of unlawful bookmaking.<sup>2</sup>

In order to obtain information, officers of the Commission travelled to Sydney and Melbourne, to consult with the police in those States, as well as with other agencies such as the Victorian TAB, and the Cash Transaction Reports Agency. Police in the other Australian States were extensively consulted by telephone, prior to a detailed request being made by this Commission of each of the Australian police forces for information on SP bookmaking.

Equally, and pursuant to its statutory requirement, (*Criminal Justice Act 1989*, (Qld), section 2.14(1)) the Commission has written to all of the 186 racing clubs in Queensland, each of the controlling authorities, and various other interest groups involved in racing. Each such body was sent a pro-forma questionnaire asking a range of questions about SP bookmaking issues. The intention was to solicit from participants in the racing industry submissions on the incidence of SP bookmaking, their attitudes towards it, and then seeking advice on directions for possible future change.<sup>3</sup>

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2 Each of the agencies and bodies that the Commission approached for information or advice is listed in the Appendix .

3 Sample of pro-forma letter in Appendix. D

Each body that was approached in this way was advised that the list of issues was intended only as a guide, and they could choose to answer all or any of the issues as they saw fit. Additionally, each such body was invited to present further information if they felt it to be relevant. Some 29 racing clubs and other racing bodies chose to respond to this invitation.

The Commission has resolved that it shall, as a matter of policy, endeavour to incorporate a wide diversity of public opinion in any research activity that is likely to result in changes to the law. In many instances this often entails firstly adequately informing the public about the issues that are involved. In keeping with this policy, the Commission prepared and then released an issues paper entitled:

*"SP Bookmaking and Other Aspects of Criminal Activity in the Racing Industry".*

In order to incorporate the views of the wider public (particularly the non-racing public), a call for public submissions was advertised in a number of major newspapers throughout the State, as well as nationally in November 1990. Sixteen submissions were then received by the Commission in response to this call for public submissions.

All submissions received by the Commission from racing industry bodies, as well as submissions received from members of the public in response to the issues paper, have been collated, analysed and then compared with information derived via the Commission's own studies of SP bookmaking, and information that the Commission has received from police, intelligence and other sources both in Queensland and other States.

The Commission's own studies have been diverse. Extensive discussions were held between officers of this Commission and police officers in every State, Telecom investigators, officials from the various TABs, the Division of Racing, and some of the racing clubs and associations involved with racing in Queensland. Additionally, information for this report has been derived from a multitude of other sources, some of which include: police department records held by the Bureau of Criminal Intelligence; police annual reports; the statistical records of the Departments of Justice and Tourism, Sport and Racing; Crown briefs prepared for the prosecution of unlawful bookmakers; annual reports of the TAB; other criminal intelligence in the possession of the Commission; and the extensive body of exhibits and the transcript of proceedings from the Fitzgerald Commission of Inquiry.

In addition to its own original research, the Commission has made extensive use of information that has been prepared by a number of Australian Royal Commissions, Parliamentary Committees and the works of a relatively small number of academic authors who work principally in the fields of social history, organised crime and criminology.

Any recommendations for changes to the criminal law, police enforcement strategies, or aspects of legal gambling that the Commission has then seen fit to make, have been based upon a consideration of this information in its totality.

SP bookmaking is by nature a clandestine activity. A certain amount of the Commission's studies have, of necessity, required the gathering of criminal intelligence data that is often difficult and time consuming to obtain. Equally, such data is often based on either estimates, or an appraisal of information from sources the reliability of which is unable to be substantiated. These considerations must be borne in mind in any use of, or reference to such data particularly in so far as it relates to the financial aspects of unlawful bookmaking. Reproduction of any statistical or financial material contained in this report should not be done in such a way as to infer that such data is in any way definitive.

In circumstances where no reliable data exists and the Commission has been required to formulate estimates as to the size and extent of the SP bookmaking industry in Queensland, the Commission has determined that it shall as a matter of policy prefer to adopt the more conservative of the possible estimates.

Alternatively, given the clandestine nature of SP bookmaking and the frequent absence of definitive or reliable information, the Commission has in some circumstances where it would prove to be more meaningful, adopted the practice of presenting a range of informed estimates. In such circumstances the Commission has also included its own appraisal of the reliability of such estimates, and the preference that each is given by the Commission so as to assist readers of this report in drawing their own conclusions.

## References

*Commission of Inquiry Pursuant to Orders in Council 1989, Report* (Chairman: G.E. Fitzgerald Q.C.), Government Printer, Brisbane.

Criminal Justice Commission 1990, *SP Bookmaking and Other Aspects of Criminal Activity in the Racing Industry: An Issues Paper*.

*Royal Commission on the Activities of the Federated Ship Painters and Dockers Union 1984, vol. 4, Final Report*, (Chairman: F. Costigan Q.C.) Government Printer, Canberra.

## CHAPTER TWO

### A DEFINITION OF SP BOOKMAKING

It is highly likely that SP bookmaking represents a total mystery to many people. A 1991 national recreational participation survey, commissioned by the Federal Arts, Sport, Environment, Tourism and Territories Minister, indicates that only two per cent of the Australian population go to race-meetings (*The Sunday-Mail* 28 April 1991). A market research survey conducted by the Queensland TAB in 1988, indicates that only nine per cent of the Queensland adult population are regular TAB punters.<sup>1</sup> Although the same research tends to indicate that perhaps as much as 34 per cent of the adult population may be occasional punters, these types of figures give the Commission reason to surmise that a substantial proportion of the population probably has little understanding of the often mysterious world of racing and betting. This lack of understanding probably also means that many people will have little understanding of what is meant by "SP bookmaking".

Michael Bersten believes that the process of definition is of paramount importance. He feels that "definitions act as an instrument to unify a dispersed field of objects, differentiating it from other fields", and that they "... import important theoretical and methodological commitments" (Bersten 1990, p. 49). For these sorts of reasons, the Commission feels that it is most important that it provides an adequate definition of SP bookmaking.

Although SP bookmaking has been examined by a number of Royal Commissions, police investigations and official inquiries, and despite SP bookmakers being referred to in the media regularly, the Commission is not yet aware of any formal attempt having been made to define SP bookmaking.

This is perhaps somewhat curious, and may be the result of the assumption being made that all Australians have some cultural identification with SP bookmakers. However, even the most cursory personal poll will reveal that there are many people who do not know what SP bookmaking is, how it operates, or why it is illegal.

The Costigan Royal Commission represents the most extensive official enquiry into SP bookmaking that has been recently undertaken in Australia. Yet Commissioner Costigan Q.C., did not define SP bookmaking. In the Final Report of that investigation, readers were told that in Australia there are both legal and illegal bookmakers, but were then only given the briefest description of SP bookmaking. Commissioner Costigan Q.C. wrote:

"These off-course bookmakers offer starting price odds to the punters. Thus they have been referred to over many, many years as SP bookmakers or 'the SP's'" (Costigan Report 1984, vol. 4, p. 1).

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1 Letter, TAB to Criminal Justice Commission, 1 May 1991.

As Commissioner Costigan Q.C. has indicated, the term "SP" refers to the starting price of horses. This is the price that a horse is quoted at by bookmakers on-course when the barrier opens, and the race commences.

A practice has developed over the years of the starting price being subsequently reported in daily newspapers, usually the day after the race. Unlawful bookmakers came to be known as "the SPs" during the earlier part of this century, because of their widespread practice of paying winning bets on the basis of the horse's starting price.

This occurred because the unlawful bookmakers who operated away from the race-tracks, had no way of knowing the price fluctuations across the field being offered by bookmakers in the betting rings. Bookmakers who fielded on-course were not restricted to starting price odds as, being in the betting ring amongst other bookmakers, they were able to observe betting fluctuations first-hand and were able to set their own books accordingly.

The term "SP" has come to be used as a general epithet for all forms of unlawful bookmaking and is somewhat misleading, in that unlawful bookmakers today do not generally confine their activities to only the acceptance of bets on horse and greyhound racing. It is now common practice for SP bookmakers to accept bets on a variety of sporting fixtures such as the New South Wales Rugby League competition, as well as on other events and "contingencies". Equally, it is also common practice for unlawful bookmakers to offer odds at other than starting price, as they now have access to reliable information about on-course price fluctuations.

Definitions of SP bookmaking tend to be fairly fluid, and are often used to also include the activities of licensed bookmakers when conducted outside the parameters set for lawful operation by the conditions of their licence. Bearing this in mind, the Commission has determined that it is appropriate for the purposes of this report to use the terms illegal bookmaking, unlawful bookmaking and SP bookmaking interchangeably.

For the purposes of its investigations and this report, the Commission has developed the following definition of SP bookmaking:

The acceptance of unlawful wagers by a person on his own behalf or on the behalf of another, at an agreed rate, on the outcome of any sporting event or other event or contingency.

Unlawful bookmaking currently employs three principal modes of operation, all of which can be considered using this definition:

- \* illegal activities by registered bookmakers;
- \* illegal bookmaking conducted on licensed premises; and
- \* illegal bookmaking through the telecommunications networks.

## References

Bersten, M. 1990, 'Defining Organised Crime in Australia and the United States of America', *Australian and New Zealand Journal of Criminology*, vol. 23, no. 1.

*Royal Commission on the Activities of the Federated Ship Painters and Dockers Union* 1984, vol. 4, *Final Report*, (Chairman: F. Costigan Q.C.), Commonwealth Government Printer, Canberra.

*The Sunday-Mail*, 28 April 1991.



## CHAPTER THREE

### SP BOOKMAKING - A QUEENSLAND HISTORY

In contrast to New South Wales and (to some extent) Victoria, the illicit gambling industry in Queensland has been little studied. Dr. Alfred W. McCoy (1980) has described the involvement of the criminal underworld in all forms of illegal gambling in terms of being a *milieu*, thus describing a class of professional criminals in fluid association in particular ventures, rather than as being a rigidly hierarchical structure.<sup>1</sup> However, the *milieu* described by McCoy is principally a Sydney phenomenon. The unlawful bookmaking industry in Queensland, little examined until the Fitzgerald Commission of Inquiry, has both similarities to and significant differences from the industry in New South Wales.

The industry and its links with criminal activities are perhaps best examined from an evolutionary perspective. This has the advantage of illuminating the effect of past attempts at the eradication of illegal bookmaking through regulation and the expansion of the parameters of legal gambling. It also permits an examination of the influence of social attitudes, enforcement styles and advances in technology.

Illegal bookmaking is as old as Australian racing, and owes much of its early genesis to the desire of racing clubs to control all transactions relating to racing. Gambling transactions, except those concluded between club members, were thought to be best confined to specified areas of racecourses. The single most significant measure of a turf club's success was taken to be attendance. Betting facilities outside the course were correctly assumed to directly affect attendances and the all important gate takings.

Confining gambling in this way had the natural but unintended consequence of creating opportunity for those of entrepreneurial mind prepared to brave some risk in satisfying the demand that the restriction sustained. Consequently the first illegal bookmaking activities were those of unrecognised or unregistered amateur bookmakers operating in unspecified areas of the racecourses. Enforcement of club restrictions on gambling activities by the clubs and on occasion other authorities merely reinforced a natural progression from the paddock to outside the racecourse gates. The consequent loss of gate takings spurred renewed attempts to control the illegal activities and what had been club rules were now elevated to the level of statute. Improvements in communications technology beginning with the mass publication newspaper were beginning to tip the balance in favour of the illegal operator. Although the designation "SP" did not become general usage until the 1920s the basic parameters of the struggle between illegal bookmakers and authority were set in the mid to late 1800s.

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1 In the sense that McCoy chooses to use the descriptive term *milieu*, he is saying that Australian organised crime is roughly analogous to the Marseilles criminal *milieu*, and dissimilar to the Sicilian *Mafia* and the *La Cosa Nostra* of the United States.

The first organised race-meeting in what was to become Queensland is believed to have taken place in 1843, at Coopers Plains. The Queensland Turf Club (QTC) received a grant of land at Eagle Farm in 1863 and Tattersall's Club, with a special class of bookmaker members, formed in 1883. Although off-course betting was conducted quite openly at Tattersall's Club, there was discernible pressure by the principal racing associations for the government to keep other off-course betting under check.<sup>2</sup> The general favour in which these racing bodies were held was illustrated in other ways as well, with Police Commissioner David Seymour complaining in 1888 of "the constant demands for police assistance from racing, sporting, and other clubs and associations . . . to get constables to perform services which should be undertaken by the employees of the associations" (*Report of the Commissioner of Police 1888*).

Under the *Gaming Act 1850* and the *Suppression of Gambling Act 1895* all bookmaking on or off-course in Queensland was technically illegal, although for enforcement purposes an effective distinction seems to have been drawn by the toleration of bookmakers registered by principal racing clubs and periodic police action against other bookmakers. Bookmaking in fact received no legal recognition until the *Racecourses Act* of 1923, but the principle that on-course betting was tolerable while off-course betting (unless at the better clubs) was not, was legally established in legislation to cover totalisators in 1889.

The totalisator, initially a mechanical device totalling all bets and calculating odds accordingly, was invented in France in 1871. Perceived to be "the fairest system of betting in existence" it was adopted in South Australia, at licensed racecourses, as early as 1879. As a machine or in smaller establishments a system of calculation to emulate the machine, the "tote" was equally adapted for legal or illegal use:

"The barber man was small and flash, as barbers mostly are,  
He wore a strike-your-fancy sash, he smoked a huge cigar,  
He was a humorist of note and keen at repartee,  
He laid the odds and kept a 'tote', whatever that may be" (Paterson 1892).

With the exception of a short period in South Australia its introduction was everywhere illegal.

The machine and its derived mathematics appear to have reached Queensland some time in the decade of their invention and totalisator betting "carried on in a quiet, unostentatious, manner in certain betting shops in the city of Brisbane" (*Report of the Royal Commission Appointed to Inquire into Certain Matters Relating to Racing and Gaming 1936*, p. 9, hereinafter referred to as the "Report on Racing and Gaming" 1936).

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2 This background is drawn from a number of sources of which the most useful were three Royal Commissions on racing related matters in 1930, 1936 and 1952 to which reference is made later in this paper.

The keepers of some of the shops were brought to court by the police but the magistrate determined that totalisator betting did not infringe the Gaming Acts. Not surprisingly "betting shops rapidly increased and the proprietors advertised their business in shop windows and in the press" (Report on Racing and Gaming 1936, p. 9). The government response, made even before the Supreme Court was able to consider the totalisator's status under existing legislation, was the *Totalisator Restriction Act 1889*, legalising the use of totalisators at racecourses only. The realisation that legalising gambling could have revenue benefits came only later, despite the financially strapped position of the colony at the time. The *Totalisator Tax Act 1892* redressed this omission three years later. In more recent times, potential benefits to the revenue have been one of the first arguments advanced for allowing previously illegal behaviour.

Although the introduction of the totalisator machine focussed some attention on illegal betting shops, the majority of police action under the Gambling Suppression Acts in the State's early years was directed against the Chinese, who numbered 100 of the 105 persons arrested for gambling offences in 1877 (*Report of the Commissioner of Police 1877*). As the alluvial and easily worked gold became more scarce, or at least more remotely located, community concern over the Chinese did likewise; by the turn of the century police were more concerned with two-up and betting shops than with the Chinese game of fan-tan:

"As I reported last year, the present position regarding gambling was not satisfactory. The police have endeavoured to check the evil as far as possible, but two-up is still in full swing and unchecked as there is no legal power to stop it. Betting on horse racing also continues to attract a very large section of the community, who visit betting shops for the purpose, and though I have given very definite instructions to the police to suppress this and every species of gambling, it is found, especially in the case of betting shops, most difficult to obtain evidence sufficient for convictions. In this, as in the case of the licensing laws, far larger powers are required by police to readily and effectually enable them to suppress or even keep in check the gambling which so large a section of the public now indulge in" (*Report of the Commissioner of Police 1907*).

Another new form of gambling established itself in 1881, when George Adams of Sydney's Tattersalls Hotel extended his sweepstakes on local horse races from his clientele to the public at large: "Tatts became a public institution offering fabulous prizes to its investors but an even more splendid way of life to its founder and director, George Adams" (Brennan 1971, p. 24).

Adams' enterprises were at times deemed legal and at times deemed illegal and Adams himself hopped from one jurisdiction to another, before finally settling with official blessing in Tasmania in 1895. When the New South Wales legislature ran Adams and his lottery out of town in 1892 he came to Queensland; when the Queensland Deposits Bank closed its doors the following year Adams seemed to some to be the logical choice to run a public lottery to dispose of its assets. But Adams soon wore out his welcome - a year later the Queensland legislature followed its southern counterpart with the passage of a Bill to achieve the "suppression of lotteries and consultations, and the suppression of the habit of betting in the young" (Attorney-General T.J. Byrne quoted Charlton 1987, p. 177).

Sending Adams into exile did not completely achieve the objective. Queensland Police Commissioner William Cahill lamented in 1910 that "a large business is done with Hobart in relation to Tattersall Sweeps, but, owing to the precautions taken, both in advertising and carrying on the business, successful action for its suppression is quite impossible under our existing laws" (*Report of the Commissioner of Police 1910*).

By 1916, however, the perceived needs of wartime patriotism were such that the Queensland Golden Casket was established under conditions of extremely dubious legality as the first State sponsored lottery in Australia. The lottery being an enterprise of the Patriotic Fund and its purpose being to provide homes for war widows meant that the anti-gambling lobby, dominated as always by some among the Protestant clergy, remained uncharacteristically silent (Charlton 1987, p. 189).

Early opposition to gambling among the populace at large came from an uneasy coalition of interests; clergy trying to root out a social evil often found themselves on the same side of the argument as the social elite of the race clubs. When the arguments prevailed the result was often tainted by an element of hypocrisy. The inherent contradiction between all gambling being irredeemably evil and some being acceptable, did not always go unnoted:

"Our whole gambling law seems constructed on the principle of straining at the gnat and swallowing the camel. We run boys in for playing pitch and toss in a back street, and make systematic raids on the miserable Chinese players of fan-tan, but our virtue collapses before the popular betting of thousands on the gamble of the racecourse, and we thrust our people into what has been described as a sink of iniquity and a deathly evil by systematic proclamation of race holidays" (Charlton 1987, p. 180).

Hypocrisy had another formulation; gambling by some was acceptable but gambling by others constituted moral risk. This was a point taken up in debate on the 1895 *Suppression of Gambling Act* in Queensland, aimed principally at Adams and Tattslotto. Labor member J.H. Dunsford complained that "though the Act may prevent poor man's gambling, it does not prevent gambling in high places - gambling in clubs, on racecourses, and on change [the stock exchange] - where men may still gamble as much as they like". The justification for this state of affairs was expressed by prominent conservative Catholic Legislative Councillor A.J. Thyne, as follows:

"I do not see any great evil in a sporting bet of a small amount; but the evil comes in when a person stakes a sum of money in the grasping and greedy spirit of wishing to take money out of the pocket of another person for the sake of personal gains. When a man begins to gamble for the sake of making money, it becomes a sordid and discreditable thing" (Charlton 1987, p. 178).

Catholic author Niall Brennan, in a generally sympathetic biography of illegal gambling entrepreneur John Wren, set out some of the class and religious overtones of the debate thus:

"When one reformer announced boldly in 1893 that 'Victoria is one state that will never be blighted by the iniquitous evil of Tatts', it might almost have been a challenge. A red-blooded young man from the slums would find such a challenge irresistible. Not only would he take a perverse delight in initiating such a pleasant form of wickedness but he might also ask himself, as many did, why a working man's bet was so immoral while the bet of a rich man in the Victorian Club was not. There were several such clubs and they were called 'our well-known betting institutions' by some voices which loudly condemned the poor man's flutter" (Brennan 1971, p. 25).

Wren's "Collingwood Tote" became one of the most noted illegal gaming institutions in Australia. It operated virtually continuously from 1893 until the passage of severe anti-gambling legislation in 1906. Wren was apprehended only once - on Melbourne Cup Day 1893 - and fined £50. Victorian Detective Herbert William Sainsbury told a 1912 New South Wales Royal Commission on totalisator gambling that in the heyday of the tote "Wren would average £750 a week" (*Report of the Royal Commission of Inquiry Respecting the Question of Legalising and Regulating the Use of the Totalisator in New South Wales 1912*, p. 134, hereinafter referred to as the "Report of Totalisators" 1912).

Wren went on to become a shadowy and controversial figure of influence in Victorian, Queensland and Federal Labor politics, and is believed, even by sympathetic biographers, to have provided the bulk of a £5,000 inducement to a Labor member to stand aside to allow the entry into the Federal Parliament of former Queensland Premier E.G. Theodore (Brennan 1971, p. 165).

Wren was also deeply involved in the central public issue in Queensland racing regulation from 1915 to 1930 - the challenge to the established racing hierarchy of "unregistered" or "proprietary" racing. Although illegal betting shops still existed and police still periodically requested more effective laws to deal with them, public debate focussed on the often unruly private race-tracks and clubs. The debate appears to have mounted in intensity to the degree that the unregistered industry threatened the interests of the Queensland Turf Club and it culminated in a Royal Commission into the racing industry in 1930.

"The first connection of the Melbourne partnership of Nathan and Wren with Queensland racing was on the purchase in 1909 of Albion Park . . .

Being desirous, as Mr Wren now admits, of securing a monopoly of metropolitan racing in Brisbane outside Eagle Farm, they proceeded gradually to acquire, partly in their own names and partly in the names or through the agency of various associates, control of all the other courses or projected courses around Brisbane . . . Thus, by the end of 1922, the desired monopoly was completely attained, and the monopolists had nothing further to fear except from a possible interference by Parliament" (*Report of the Royal Commission Appointed to Inquire into and Report Upon the Control and Management of Horse Racing and Racecourses in and around Brisbane Ipswich 1930*, p. 25, hereinafter referred to as the "Report on Horse Racing and Racecourses" 1930).

These courses raced during the week and featured large fields but little in the way of amenities:

"Like his (Wren's) trotting tracks, the Queensland courses showed starkly the weaknesses of running racecourses as private industries. Races were geared to the profit of the courses, and generally the courses were untidy, sometimes unruly, and many of the desirable amenities were neglected . . . Other racing men said that the short sprints for ageing horses made victory a matter of desperation, and the races were full of interference, bad tempers, flailing of the whip and the curses of despondent jockeys" (Brennan 1971, p. 170).

The first issue on which the courses were attacked was safety, with, according to another of Wren's biographers, the Queensland Police Commissioner writing to Wren at the behest of the Queensland Turf Club seeking reductions in the fields. After three fatalities among jockeys at Kedron Park Racecourse a Royal Commission was held in 1921, which did no more than produce a recommendation for the minimum radius of turns (*Report of the Royal Commission Appointed to Inquire and Report Upon the Safety of the Kedron Park Racecourse at Brisbane for Racing and Trotting Purposes, and Matters Incidental Thereto* 1921, hereinafter referred to as "Kedron Park Racecourse Report" 1921).

Opposition continued to mount, now on the basis that Queensland racing was falling under the control of southern syndicates. In 1923 the Brisbane Amateur Turf Club (BATC) was formed and promptly bought two of Wren's racecourses. Brennan, referring to this "bold move for an organisation without a penny to its name", commented:

"A cloud of secrecy lay over the sudden acquisition of wealth by the club, but there was little doubt in the minds of onlookers that in effect, Wren had been the moving spirit behind the new club and had in effect sold the racecourses to himself" (Brennan 1971, pp. 169-170).

The 1930 Royal Commission found that, although Wren and his partners had not interfered in the management of the club's affairs, "the Commission is still left in doubt as to whether Nathan and Wren and the original promoters did intend a genuine sale, and whether the terms of sale were not designedly and by preconcert so arranged as to keep the property always within the reach of the vendors, should they determine to resume control" (*Report on Horseracing and Racecourses* 1930, p. 28).

In the case of the BATC, Wren amended the offending agreement of sale while the Royal Commission was sitting but it also found that a number of other independent clubs and associations were not bona fide. Unregistered racing was abolished by the *Racing Regulation Amendment Act* of 1930.

Despite such questionable dealings, Wren by this stage was essentially a businessman and sports promoter with political influence. While he made a highly profitable start in illegal gambling and while gambling by others, both legal and illegal, was what made his race-tracks the business proposition they were, Wren himself does not appear to fit the criteria of an organised crime

figure. His activities following the closure of the Collingwood Tote were more shady than overtly criminal and his biographers, generally sympathetic, do not attribute any violence to him in this period. It may also be that even his political activities were principally attacked due to the interests they favoured rather than because they were extraordinary for the time. In the long run, Wren's money can be seen to have wielded less influence than the established interests of the principal racing clubs.

The principal criminal concern of the 1920s appears to have been with the "larrikin" element, some of whom were later to evolve into standover men for the vice and gambling trades generally. The "razor gangs" of Sydney, dominating discrete areas and extracting a toll from illegal activities in those areas, had some counterparts in Brisbane but one gets the impression that the "larrikin" element predominated over the criminal element and the level of violence was considerably less.

According to McCoy, the emergence of the "male standover merchant" during the 1920s was an important step in the development of organised crime:

"While the cultural prerequisites for an underworld, such as the rule of silence and hostility toward police authority, were well developed by the 1890s, Australia's urban economies were still incapable of sustaining a large class of powerful professional criminals. It was not until the 1920s that conditions changed enough to allow the emergence of organised crime. Paralleling developments in the United States and Europe, Australia imposed severe restrictions on the sale of alcohol and banned outright the sale of narcotics, both important commercial opportunities for the nascent milieu. The sudden proliferation of telephones and radios throughout urban Australia tied a majority of households into a statewide electronic network and facilitated the rise of the illegal SP bookmaking industry. By the late 1920s the combination of prostitution, illegal gambling, narcotics traffic and the operation of 'sly grog shops' after 6 p.m. hotel closing provided a sufficient economic base for the establishment of a pervasive milieu outside the traditional waterside vice areas . . . Perhaps unimpressive by comparison with the United States, the establishment of criminal milieu in Sydney and Melbourne during the 1920s still represented an important step in the growth of organised crime. The expansion of the illegal economic sector spawned a new figure, the progenitor of the contemporary syndicate leader: the male standover merchant. While nineteenth century Australian illegals had been specialists in a particular field, mainly prostitution or gambling, the 1920s saw the emergence of entrepreneurs in violence who collected a form of tax on a whole range of illicit activities. Instead of living on income earned by his own violation of the law, the standover merchant profited from almost every aspect of the economy's illegal sphere by imposing a turnover tax on his comrades in the milieu: prostitutes, cocaine dealers, sly grog vendors, SP bookmakers and thieves" (McCoy 1980, pp. 103-104).

How closely Brisbane paralleled these developments is not known; certainly no local equivalent of Melbourne's "Squizzzy" Taylor or Sydney's Phil "The Jew" Jeffs comes to mind. Queensland did mirror the various prohibitions of the 1920s, with "dangerous drugs" (including cocaine, cannabis and heroin) being enshrined in health regulations in 1924 and "sly-grogging" remaining the perennial problem it appears to have been since the birth of the State. Annual reports of the Commissioner of Police may not give a complete picture but the principal offenders against the liquor trading restrictions appear to have been publicans. Although concern was registered in 1924 over an upsurge in the

opium trade, Queensland's participation in the cocaine traffic appears to have been relatively minimal. Police powers to deal with dangerous drugs were strengthened in 1929 and the number of cocaine prosecutions peaked, at eight, in 1930-31. A medical practitioner and a number of pharmacists were also prosecuted for selling narcotics (Annual Reports 1930, 1931, 1932). The weapon of choice in the southern "cocaine wars" of the late 1920s, the razor, was not once mentioned by the Commissioner of Police (*Annual Report of the Commissioner of Police 1932*).

SP betting, as it was then generally known, rose sharply during the depression years in all States of Australia. In 1924, the Queensland Commissioner of Police Frederick Ryan had reported "a considerable diminution" in illegal gambling following the passage of the *Racecourses Act 1923* (*Annual Report of the Commission of Police 1924*). Prosecutions for all types of illegal gambling were 300 in 1921-22, 596 in 1929-30 and 1,221 in 1932-33 (*Annual Reports of the Commissioner of Police 1930, 1931, 1932*).

"Owing to the scarceness of money, it is undoubted that people who are accustomed to visit race courses now indulge in betting elsewhere, having facilities to do so at normal outlay, and the wireless and telephone facilities enable them to gratify their desire with the latest and adventitious aids with consequent loss to the clubs, as well as to the state's revenue" (*Report of the Commissioner of Police 1932*).

Although the depression was often singled out as the principal reason for the explosion in illegal gambling, technology would also seem to have played a significant and generally under-appreciated role; in the late 1920s the radio and the telephone were introduced into an increasing proportion of homes and offices. In 1933 the attention of the Commissioner of Police was focussed on "the broadcasting of racing news which has been brought to such a fine point that persons away from the racecourse are kept in as close touch with the starters in a horse race, positions at barrier and description of the races as persons on the course itself" (*Report of the Commissioner of Police 1933*).

McCoy also notes that the sharp rise in SP bookmaking coincided with the decline in the illicit drug (principally cocaine) trafficking industry following vigorous enforcement by police in New South Wales. In Sydney, the razor gang wars between vice and cocaine syndicates led to the passing of the "Consorting Clause" amendment to the *Vagrancy Act* in 1929 providing penalties for anyone who "habitually consorts with reputed thieves, or prostitutes, or persons who have no visible or lawful means of support". McCoy (1980, p. 137) labelled it "one of the most authoritarian and effective measures against organised crime ever passed in a Western democracy".

McCoy (1980, p. 153) said that in Sydney:

"The resilience and popularity of SP bookmaking made it the major 'illegal' activity of the 1930s. Denied access to police protection, SP operators were vulnerable to extortion demands from the standover men. As the illicit cocaine trade was reduced, standover men shifted to SP operators as an alternative source of income . . . As standover exactions from the SP men increased, smaller operators armed themselves and the larger ones hired their own gunmen. Occasional killings plagued the SP business until the start of World War II".



Police could enlist the support of most of the population for their moves against the cocaine traffickers but could arouse no comparable sense of evil about SP bookmakers. "Bookmakers as a class are reputable people . . .", wrote Queensland Commissioner of Police William Ryan in his 1931 Annual Report. In these circumstances it was hardly surprising that in New South Wales reports of corruption began to circulate. These reports, combined with race club lobbying, led to a Royal Commission being appointed in New South Wales in 1936, in turn leading to a severe crackdown on SP betting (McCoy 1980, p. 40-41).

Queensland's experience was quite different: allegations of corruption by both police and political figures were ignored, but the increasing scale of illegal bookmaking led to a Royal Commission into racing. Some cosmetic amendments to the law followed and another Royal Commission 16 years later found the scope and scale of the SP betting industry unchanged.

McCoy noted that in New South Wales, conservative governments favoured the interests of the racing clubs and Labor Governments those of the ordinary working man's right to have a bet, with the consequent risk this posed of allegations that they were soft on illegal bookmaking. Similar dispositions can be discerned in Queensland where, however, the period of conservative rule (1929-32) was comparatively brief. Allegations of police and political corruption derived from the activities of publicans, bookmakers and the owners of other gambling houses, particularly in North Queensland. Those of most note were first aired in an anonymous letter in the Police Union Journal in September 1933 and led to calls for a Royal Commission into whether certain police who commenced to enforce the gambling laws in the north and west of the State had been subject to sudden and unjustified transfer as a consequence. The Government dismissed the allegations in November.<sup>3</sup>

Concerns about the scale of SP betting in Queensland had led to the formation of a Royal Commission under the chairmanship of Thomas Ferry, a member of the Industrial Court, the year before. One of the three men appointed to inquire into off-course betting and the operation of the State's racing and gambling legislation was the newly appointed Commissioner of Police, Cecil James Carroll.

While there is no reference to any police or other corruption, the Royal Commission's Report, tabled in 1936, detailed police estimates of 749 illegal bookmakers in Queensland of whom 380 operated in Brisbane. Some 205 hotels, 117 billiard rooms, 196 barbers and tobacconists, and 156 other premises were stated to be used for illegal gambling (Report on Racing and Gaming 1936, p. 48).

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3 See Queensland *Parliamentary Debates*, 7 November 1933, pp. 1240-1251.

The Licensing Inspector estimated that in Brisbane 25 per cent of the total adult population were "habitual bettors"; Brisbane Tattersall's club was singled out for special attention:

"In this club the 'card' is called on the night preceding important race meetings, and the betting members are accommodated by bookmakers registered with the Queensland Turf Club. A number of registered bookmakers also have offices situated on the ground floor of the club's premises in what is known as Tattersall's Arcade, and illegal betting was said to be carried on in these premises by employees of the bookmakers when the latter are fielding on course" (Report on Racing and Gaming 1936, p. 47).

The bookmakers operations in Tattersall's club were described by the Chairman of the Brisbane Amateur Turf Club as 'the root of the betting evil' and the same witness expressed the opinion that "if betting in Tattersall's club and in the adjoining premises was suppressed the betting evil would be cut down by two thirds" (Report on Racing and Gaming 1936, p. 48).

The Royal Commission visited "one important town in North Queensland, where, in the larger betting shops visited we found from 200-300 persons, mostly males, engaged in betting".

". . . the proprietors of the illegal betting shops pay no attention to the comfort of patrons, for the seating accommodation provided is enough for only a mere handful of the frequenters, and the remainder find it difficult to obtain even standing room.

The larger betting shops are equipped with a number of telephones, not only to receive bets from patrons unable to attend personally, but also to receive the racing information from the South Coast Press Agency. The walls are covered with large blackboards which show particulars of the jockeys, barrier positions, and ruling prices in respect not only of Brisbane, but also of Sydney and Melbourne races. A wireless receiving set entertains the audience with an actual description of the race, at the conclusion of which winnings are paid and betting is renewed. Most of the bettors were 'silver' bettors, and we noticed that the majority appeared to spend the afternoon in the betting shop, except for occasional visits to nearby hotels.

The majority of the betting shops we visited were conducted by bookmakers registered with the principal racing club of the district" (Report on Racing and Gaming 1936, p. 49).

As in the case of most such inquiries the Royal Commission heard much evidence from the two interest groups historically most concerned with respect to illegal gambling - the religious anti-gambling lobby and the racing clubs. The viewpoint of racing clubs received the greater sympathy; the Commission deploring the "depleted attendances and consequent financial loss" to the clubs resulting from even registered bookmakers preferring to ply their trade illegally:

"We are satisfied that betting shops which are so well equipped with racing information as to put their patrons in almost as good a position as the person who actually attends the course have attracted many persons away from the racecourse, particularly those persons to whom the expense of visiting a racecourse is a matter of some importance" (Report on Racing and Gaming 1936, p. 50).