

**CRIMINAL JUSTICE COMMISSION
QUEENSLAND**

**SP BOOKMAKING AND OTHER ASPECTS
OF CRIMINAL ACTIVITY IN THE
RACING INDUSTRY**

AN ISSUES PAPER

NOVEMBER, 1990

RESEARCH & CO-ORDINATION DIVISION

557 Coronation Drive
TOOWONG QLD 4066

Tel (07) 360 6060
(008) 773 342
Fax (07) 360 6333

P.O. Box 157
NORTH QUAY QLD 4002



PUBLIC SUBMISSIONS

The Commission seeks written public submissions on its investigation of S.P. Bookmaking and other aspects of criminal activity in the Racing Industry. The review will culminate in a report to Parliament and the Premier early in 1991 which may include recommendations for changes to existing laws.

For the purposes of facilitating informed community responses, the Criminal Justice Commission has prepared an Issues Paper entitled, SP Bookmaking and Other Aspects of Criminal Activity in the Racing Industry.

Written submissions should be sent to the Commission by 11th January, 1991. The address for submissions is:

Criminal Justice Commission
P.O. Box 157
NORTH QUAY QLD 4002

All submissions received will be copied and made available for public inspection in the Commission's Library at 557 Coronation Drive, Toowong.

Copies of the Issues Paper can be obtained from:

Attention: Paul Ascough
Criminal Justice Commission
557 Coronation Drive
TOOWONG QLD 4066
OR
P.O. Box 157
NORTH QUAY QLD 4002

Tel: 360 6060 (Brisbane); (008) 77 3342 (Country)
Fax: (07) 360 6333

NOTE: Persons desiring to collect a copy of the issues paper in person, are requested to do so by calling at the Commission on or after Monday, 10th December, 1990.

CONTENTS

	PAGE
Summary	1
1. Introduction	5
2. A Definition of SP Bookmaking	8
3. The Social Context	8
4. SP - The Criminal Aspect	11
5. Race Fixing	18
6. The Size of the Problem	20
7. Money Laundering	23
8. The Current Queensland Law	24
9. SP - What does it cost the Tote?	26
10. Cost to Licensed Bookmakers	27
11. The Modus Operandi in Queensland	28
12. The Issue of Utilization of Telecom Facilities	30
13. The Parameters of Crime	31
14. Compulsive Gambling	31
15. Options for the control of SP	33
16. Appendix A Sections 218, 218A Racing & Betting Act (1980-83)	35
Bibliography	38

SUMMARY

In response to comments of concern voiced by Commissioner Fitzgerald about the size of the SP industry in Queensland and his suspicions about possible links with organised crime, the Criminal Justice Commission is undertaking intensive investigation of the illegal bookmaking industry in Queensland.

SP bookmaking is a term commonly used to describe all forms of illegal bookmaking. The term "SP" refers to the *starting price* of horses, and illegal bookmakers became known as the "SP's" because of a widespread practice of paying out winning bets on the basis of the starting price. The term is somewhat misleading in that illegal bookmakers commonly take bets on sporting contingencies other than racing, and not all SP's operate on the basis of the horse's starting price.

For the purposes of this issues paper the following definition has been utilized:

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

To date, the following issues of concern have been identified:

- * Of all illegal industries, SP bookmaking has been the one most consistently involved in police corruption in this state. This historical association with corruption extends to include Telecom employees and other government officials.
- * Despite the SP industry "lying low" during the course of the Fitzgerald Inquiry, it is now largely business as usual for the SP industry.
- * Preliminary investigation undertaken by this Commission suggests that historically, the SP bookmaking industry did not become as dominated by professional criminals as that in southern states because of the protection afforded by wide spread and largely uninterrupted police corruption prior to the Fitzgerald Inquiry. There is reason to believe that with the removal of this system of informal police regulation, the way has been paved for the future widespread dominance of SP bookmaking by professional criminals. Steps need to be taken to prevent this from happening.
- * The SP industry already has identifiable links with other forms of criminal activity and organised crime.

- * The SP industry generates a substantial cash flow which is often made available to finance other illegal activities including the importation and distribution of narcotics.
- * SP bookmaking and its associated illegal activities, are adversely affecting the integrity of the racing industry, and possibly that of other sports. Although SP bookmaking is in the process of corrupting the very industry that sustains it, its presence is tolerated by many.
- * Race fixing is often synonymous with SP bookmaking. There appears to be a degree of commonality between the blackmarket trade in race fixing drugs and other illicit drugs. The association between SP bookmakers and criminals in race fixing substantially increases the opportunities for the diversion of funds to other fields of criminal endeavour, as well as substantially increasing the risks to the integrity of the racing industry generally.
- * The immediate losers as a result of SP, are honest punters and bookmakers, the TAB, and the community generally in terms of revenue losses. In the longer term, the losers will be the community in terms of the greater burden it will have to bear as a consequence of increased organised crime activity, and the racing industry which stands to lose community confidence in its operation, which it must retain if it is not to lose control and progressively degenerate into a convocation of criminality.
- * This Commission considers that SP bookmaking cannot continue to be viewed as an aspect of criminality in isolation. It must rather be viewed as part of a broader range of misconduct within the racing industry, and treated accordingly.
- * The persistence of the folklore image of SP bookmaking serves to obfuscate the true nature of this type of crime and has helped to prevent an adequate understanding of its potential social implications. Additionally, it has not been conducive to its effective control.
- * This Commission has become aware that some registered bookmakers are currently operating illegally, and have contact with SP bookmakers.¹
- * SP bookmaking is heavily dependent on the services of Telecom, and as such is a corrupting influence on the telecommunications network.

1 Based on Criminal Intelligence documents.

- * Both legal race-gambling and SP bookmaking, provide means by which the proceeds of crime may be laundered.
- * Experience in all Australian states, has indicated that expanding the available avenues for legal gambling has not in itself, been sufficient to eliminate illegal operators. Despite the increase in legal racing turnover, SP bookmaking also continues to grow.
- * The competitive advantages enjoyed by SP bookmakers must be offset by efficient law enforcement. Except for isolated brief periods, Queensland has never had efficient enforcement of the law with respect to SP bookmaking.² Law enforcement in this area has been generally constrained by police corruption and ineffective legislation. Although police corruption has largely been removed as an obstruction to law enforcement in this (post Fitzgerald) era, the deficiencies in legislation continue to present enforcement difficulties.
- * By its very nature, the illegal SP bookmaking industry, which offers relatively easy gambling credit, cannot employ normal, legal methods of debt recovery. If debts are to be recovered, non-legal means must be employed and there are indications based on police information, that these involve threats of violence or actual violence.
- * The SP industry is denying the State and Commonwealth governments large amounts of tax revenue. This revenue must accordingly be raised by other means. In Queensland estimates have been made that the illegal gambling turnover is in the order of \$500 million to \$800 million and the cost to consolidated revenue more than \$30 million annually. This Commission as yet has not produced any reliable estimates of the scale of the problem. All that can be stated with any confidence is that the losses to both taxpayers and the legitimate racing industry are considerable.
- * Illegal bookmaking currently employs three principal modes of operation:-
 - Illegal activities by registered bookmakers;
 - Illegal bookmaking conducted on licensed premises; and
 - Illegal bookmaking through the telecommunications networks.

² Report of a Commission of Inquiry pursuant to Orders in Council, see generally pp. 32-39, 51-55.

- * By far the greatest volume of business occurs through the telecommunications network, and it is in this area that there is most reason for concern with respect to organised criminal activities and high level corruption.
- * On its research to date, the Commission is of the view that effective enforcement of the laws as they pertain to SP bookmaking is dependent on effective liaison with telecommunications carriers (such as Telecom), and a willingness by those carriers to do their utmost to prevent use of their facilities for illegal purposes.

1. INTRODUCTION

- 1.1 The Criminal Justice Commission is conducting a review of SP bookmaking activity in response to revelations as to the extent of this problem in Queensland, and comments of concern voiced by Commissioner Fitzgerald in his report.
- 1.2 Commissioner Fitzgerald made the comment that "a review of the criminal laws, particularly those affecting prostitution and S.P bookmaking, needs more information if it is to make decisions with reasonable confidence that it is not simply creating more problems"³ 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".⁴
- 1.3 The Commission of Inquiry highlighted the inadequacies of the current Queensland legislation that is available to control SP, and recommended that this area of the law be given a thorough review by the Criminal Justice Commission.
- 1.4 Commissioner Fitzgerald 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 (amongst other things) SP bookmaking 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."⁵

³ Report of a Commission of Inquiry pursuant to Orders in Council, p. 190.

⁴ *ibid*, p. 195.

⁵ *ibid*, p. 377.

- 1.5 In accordance with the recommendations of the Commission of Inquiry, the Criminal Justice Commission has been vested with (amongst other things) the following statutory responsibilities:-
- * To review and where necessary initiate reforms of the criminal justice system;
 - * To discharge those functions that the Commission feels it is not appropriate for the police to discharge, particularly in relation to organised crime;
 - * To generate reports based on the Commission's own research, that relate to the effectiveness of the criminal law and its enforcement;
 - * Provide the police force with clear policy directives in relation to law enforcement priorities, and enforcement methods.
- 1.6 In discharging these functions, the Commission is obliged by statute that wherever practicable, it should consult with persons or bodies known 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.⁶
- 1.7 The purpose of this issues paper is to assist the public in making informed comment as to the existing laws that proscribe illegal bookmaking, and on any directions for change. Many of the various Racing Industry Groups have already been approached and invited to have some input into this study. The time has now come to approach the wider community to seek submissions other than those that may be categorised as being in some respects tainted by vested interest. At all times it is the policy of the Commission to undertake widespread public consultation prior to making recommendations for changes to the law.
- 1.8 Accordingly, the contents of this Issues paper are directed at the wider non-racing community, and not at those who may have a more intimate knowledge of this Industry and its

⁶ Criminal Justice Act (1989-90) s. 2.14 (1).

milieu that has proven to be conducive to SP bookmaking. Its purpose is to provide some basic awareness of the incidence of SP bookmaking and some of its aspects that must necessarily arouse community concern.

- 1.9 Some issues of community concern will be raised in this paper. In no way should this paper be considered to be either complete or conclusive. Nor should matters raised in this issues paper be taken to be pre-emptive of any ultimate recommendations that the Commission may make. Until this Commission has completed its studies, no definitive material on the SP industry in Queensland exists, and interstate reports on the matter are not always of equal application to the Queensland experience.
- 1.10 For these reasons, it may well prove to be the case that as studies progress, further issues will be raised or the degree of complexity contained in some or all of them may vary. The Commission's studies, of necessity, must include the gathering of criminal intelligence data that is often difficult and time consuming to obtain.
- 1.11 The factors alluded to above must be borne in mind when reading this issues paper. Equally, the reader must accept that the data presented herein is (at this stage) at best based only upon estimations. Alternatively, the data may be of a purely historical nature and has been presented solely to assist in community debate and to assist in defining the issues.
- 1.12 The issues covered in this paper may not be exhaustive, and the Commission encourages persons making submissions to bring to the attention of the Commission any other matters of relevance that may not have been covered.
- 1.13 The Commission has written to all of the various State Racing Clubs and Authorities, as well as the various interest groups involved in racing in Queensland, soliciting from them submissions on the incidence of SP bookmaking, their attitudes towards it, and advice on directions for change. These submissions will be collated and examined and then compared with general public submissions made in response to this issues paper. Additionally, the Criminal Justice Commission is undertaking its own studies of SP bookmaking and is in receipt of police, intelligence and other data from other states. This information, when collated, will form the basis of the Commission's final report on SP bookmaking and any recommendations for changes to the law, police enforcement methods, and aspects of legal gambling that the Commission may see fit to make.

- 1.14 This report will be submitted to the Parliamentary Criminal Justice Committee. Depending on the amount of time required to fully examine public attitudes, it is hoped that this report will be ready for tabling before the Legislative Assembly in February, 1991.

2. A DEFINITION OF SP BOOKMAKING

- 2.1 The term "SP" refers to the *starting price* of horses, usually as is quoted in daily newspapers. Illegal bookmakers came to be known as "the SP's" during the earlier part of this century, because of the widespread practice of paying winning bets on the basis of the horse's starting price. The term has come to be used as a general epithet for all forms of illegal bookmaking and is somewhat misleading, in that illegal bookmakers do not generally confine their activities to only horse and greyhound racing. It is common practice for SP bookmakers to also accept bets on sporting fixtures such as the New South Wales Rugby League competition, as well as on other events and "contingencies". Definitions of SP bookmaking tend to be fairly fluid and are often used to include activities by licensed bookmakers outside the parameters set for lawful operation. For the purposes of this paper, the Commission has adopted 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 any sporting event or other event or contingency.

3. THE SOCIAL CONTEXT

- 3.1 Any consideration of SP bookmaking in Australia must include due consideration of the role of the Australian ethos in the development of the SP phenomena.
- 3.2 It has become an integral part of the contemporary Australian self-image to believe that Australians are a people that like to "have a go". Such a myth has served to preserve a romantic link with a more venturesome past.⁷ Some social commentators have speculated that this "have a go ethos" is part and parcel of the national psyche and, as such, represents

⁷ Alfred W McCoy: "Sport as Modern Mythology" at p 34 in "Sport Money Morality and the Media", Cashman and McKernan (Eds) New South Wales University Press, Kensington N.S.W.

an identifiable national trait. As a result, the big gambler (be he an entrepreneur, or horse-race punter), is likely to receive a generally favourable public appraisal.⁸ In keeping with this myth, leading illegal gamblers, the most venturesome of them all, have been regarded as cultural archetypes.⁹

- 3.3 The reasons advanced by social commentators for Australians being wont to align themselves with these "high flyers" (despite their often operating at the very fringe of legality) are numerous. Explanations offered include Australia's convict origins and the large numbers of Irish immigrants that together have given rise to an underlying ethos of anti-authoritarianism.¹⁰
- 3.4 Whatever the precise reason for this phenomenon may be, Australians have always been avid gamblers and gambling has always been viewed as one of the traditional forms of recreation for the working classes.¹¹
- 3.5 The predominant form of gambling has been on horse racing, which led to the emergence of bookmakers to cater for the needs of the gambling public. Bookmakers were (and still are) either of the legal, licensed variety, or are unlicensed, unregistered off-course bookmakers.
- 3.6 Historically, the unregistered, unlicensed off-course bookmakers emerged to cater for the needs of working class punters. This was due largely to the fact that in the early history of Australian Racing Clubs, access to the tracks was denied to working men by virtue of the fact that the cost of entry to the courses was deliberately set at such a level so that it would prove to be prohibitive to workers. The Race Clubs were largely controlled by the upper classes and they actively sought to create what they saw as being the appropriate "genteel atmosphere" at their race meets.¹²

8 Royal Commission on the Activities of the Federated Ship Painters and Dockers Union. Final Report, Volume 4, Victoria 1982-84, p. 1. Mr Frank Costigan Q.C.

9 McCoy, p 34, op cit.

10 Costigan Q.C. p 1, op cit.

11 See the chapter "The Australian Gambling Tradition" (John O'Hara) in "Sport: Money Morality and the Media", Cashman and McKernan (Eds.). University of New South Wales Press, Kensington N.S.W.

12 For a more precise discussion of this phenomenon see the chapter entitled "in search of a fair bet" (Charlie Fox) in "Constructing a Culture; a Peoples History of Australia since 1788". Burgmann and Lee (Eds) Penguin, Ringwood Victoria 1988.

- 3.7 The unlicensed, unregistered off-course bookmakers tended to offer "starting price" odds to the punters. Over the years the nature of the odds offered, has led to the illegal bookmakers being referred to as "the SP's".
- 3.8 Because of the Australian attitude to gambling, that which has led to the now famous (but perhaps erroneous) generalisation that "Australians would bet on two flies crawling up a wall", and the willingness amongst Australians to subscribe to the likeable-larrikin myth that has enveloped the SP bookmaker, SP bookmaking continues to thrive, despite being illegal in all Australian states.
- 3.9 Today in Australian society, given the fact that the average punter places his bets with the TAB¹³, very few people have any contact with the SP bookmaker. Despite this, the attitude of general acceptance and even tacit approval of the SP continues. The SP bookmaker has assumed a place in popular history, and despite the limited public contact that the community has with SP, the illegal bookmaker has been accorded an acknowledged role in the community.¹⁴
- 3.10 He is not regarded as a sinister criminal as is the drug trafficker, but rather he is regarded as being a businessman providing a service that at its worst should be regarded as merely a quasi-legal activity, from which many people derive relaxation and enjoyment. The attitude seems to be that, notwithstanding the failure of the SP bookmakers to pay either turnover taxes or income tax, they are likeable rogues who do the community no great harm.
- 3.11 Further, any sinister aspects of SP are lost on the lay public as the SP bookmaker may well be a person of some prominence within the community and is held up as something of a role model for success and upstanding citizenship. It is not uncommon for SP bookmakers to also be successful businessmen in their own right or to be high profile, colourful members of the general turf scene which is followed with keen interest by the public, and which is accorded the "glamour image" usually associated with such convergence points for fashion, finance and political power. In such a setting, it becomes difficult for the public to accept that SP has identifiable links with organised crime.

¹³ According to Australian Racing Statistics TAB betting accounts for 75% of all racing gambling.

¹⁴ Costigan Q.C. op cit at p 2.

- 3.12 The community seemingly continues to view SP in the context of what it *may* have been like during another era. Meanwhile those who are deriving substantial incomes from illegal bookmaking, and who are likely to be involved in activity far more criminal than simple tax evasion, are not the subject of either public scrutiny, or criticism.
- 3.13 This attitude has probably emerged as a result of the lack of reliable information upon which the community can develop an informed opinion about SP. The prevailing community attitude is unfortunately unfounded, and is now really only historical - any function that the SP *may* have served in providing recreational amenity to working class gamblers is now simply a thing of the past. The average gambler¹⁵ of today, now places his bet on the off-course totalisator.
- 3.14 In fact, it could be said that the perpetuation of the "SP myth" has served only to obfuscate the real issues of concern with respect to SP. The real issue is the level of criminality to be found in association with illegal bookmaking in particular, and in the racing industry in general.
- 3.15 Lack of community awareness as to the true extent of SP is one thing, but more peculiar is the attitude of many of those involved legitimately in the Racing Industry. Bookmakers and the various racing clubs suffer directly at the hands of the SP bookmaker and, although in many cases well aware of SP operators, many within the industry tolerate their presence and stand idly by, doing little to bring their activities to police attention.
- 3.16 Not only must it be the function of this Commission to raise community awareness of SP, but also where necessary to facilitate the change in attitudes and practices that at present see its tacit acceptance.

4. SP - THE CRIMINAL ASPECT

- 4.1 Much of what will be raised here is currently the subject of Criminal Justice Commission or police investigation. In order to safeguard the integrity of these investigations, the issues will only be addressed in general terms. At this stage this will be sufficient to highlight those issues of which the community needs greater awareness.

¹⁵ The average TAB bet in Queensland is only \$8.21.

- 4.2 SP bookmaking is often lumped together with prostitution, other forms of illegal gambling, and the smoking of marijuana, as being one of the so called "victimless crimes".
- 4.3 Those involved in such victimless crimes, are sometimes described as people willingly entering into a transaction that is proscribed by law either due to a moral standard that has been imputed into the statute, or due to the fact that the legal control exists in order to extract government revenue from that activity.
- 4.4 The proscription of SP bookmaking has been the historical result of both considerations. In Victorian times, gambling was viewed as an avaricious working class distraction from their function as providers of labour to the ruling classes. Working class access to gambling was consequently restricted for "moral reasons".¹⁶ Additionally, as is still the case today, illegal gambling was a form of revenue crime by which government was denied its tax component from gambling turnover. It is partly as the result of the need for public revenue that we still see legal restriction of gambling in every state of Australia today.
- 4.5 For some, arguments that SP is a victimless crime - at worst only a minor and harmless revenue crime - and as such should be de-criminalized, seem attractive. Proponents of the de-criminalization of SP bookmaking argue with some conviction that the vice involved in SP is not of such an order that warrants its continued proscription and the consequential wasting of police resources to enforce. They argue that the simplest solution would be changes to the law so that the activity is able to be conducted lawfully and openly. They claim that the subsequent competition provided by lawful operators would lead to the eradication of the criminal element currently in control of SP and the State would then derive its turnover tax and income tax.
- 4.6 Like the prevailing attitude that gives rise to this belief, it is an oversimplification. There is already considerable lawful gambling operating in every state which has had little significant impact on the SP trade.
- 4.7 Irrespective of the degree to which legal racing gambling is expanded, there will always be an element amongst bookmakers prepared to step outside the parameters

¹⁶ Charlie Fox, "Constructing a Culture", p. 84-85.

established for lawful operation, and thereby derive profits of an order not available to honest bookmakers. Douglas Meagher, Q.C, had the following to say about the market advantage of the SP over other bookmakers:-

"The profitability of his operation arises out of his capacity to give better service to the punter. He is able to give the better service because:-

- (a) He avoids payment of tax at all levels. He does not pay bookmaker's tax and although I have often heard it suggested to the contrary, he does not pay his full measure of income tax either. This is often reduced by the simple expedient of operating a number of bank accounts in false names. Thus his profit is larger, and this allows greater competitive "edge".
- (b) By "fixing" a few races somewhere in Australia, and conducting his operation over the field, he can set the odds in his favour for winning in the long run.
- (c) By techniques of violence and corruption he monopolizes the gambling in his district.
- (d) Financial support for the operation comes from the proceeds of other areas of organised crime. This provides him with access to large amounts of money at rates and on terms denied to the legitimate operator, and thus gives him a competitive edge as it allows him to withstand losses which the legitimate operator could not contemplate.
- (e) His "recovery" processes against the defaulting punter, based as they are upon means outside normal law enforcement, are far more effective than those placed in the hands of the legitimate bookmaker.
- (f) He can provide easier credit, secure in the belief that his enforcement procedures will be an effective security for the money advanced."¹⁷

4.8 Other than the extraction of government revenue, there are other, equally cogent reasons eluded to by Meagher to retain legal controls on gambling. These reasons include the protection of legitimate enterprise, and the suppression of criminal control.

¹⁷ Organised Crime, papers presented by Mr Douglas Meagher, Q.C. to the 53rd ANZAAS Congress, Perth, W.A. 16-20th May, 1983, p. 34.

- 4.9 Certainly it would be an easy exercise to simply decriminalize what was previously an illegal activity. Such an approach however, would do nothing to remedy the range of connected criminal activity that is associated with SP bookmaking.
- 4.10 It seems likely that there will always be some legal restrictions on gambling. An issue that must be resolved in the course of this study, is to what extent changes to the available array of legal gambling alternatives could impact on illegal betting.
- 4.11 There are already considerable avenues for legal gambling in Australia. For those who particularly choose to punt, there is the choice of either bookmakers or the on-course tote for those that attend the races, and the TAB and TAB-telephone betting for those who are unable, or do not desire to attend the races. Both bookmakers and the TAB provide a form of credit service to bettors.¹⁸
- 4.12 The reason that SP has retained its marketability in light of all this available legal race-betting, is the fact that the SP operators are able to offer better odds to punters, they are able to offer vast amounts of unsecured credit, and will even give discounts on losing bets.
- 4.13 Some determination will need to be made as to whether the TAB and bookmakers should be offering a better service to punters than is currently available, and whether such a measure will decrease SP betting. It is expected that this issue will be addressed at length by both the TAB and the Paddock Bookmakers Association in their submissions to the Commission, but the Commission is equally desirous of ascertaining public attitudes as to the desirability of expanding legal betting options.
- 4.14 Police records indicate that the race track has always been a great meeting place for criminals. This is due to the sizeable cash incomes and large amounts of spare time that many such individuals have, and the fact that gambling has always been seen as a convenient (and even pleasant) means by which to launder ill-gotten gains.

¹⁸ The TAB does not provide credit in its strict sense. Credit punters must bet against the debit of a TAB credit account.

- 4.15 Additional to the need amongst underworld figures to be able to conveniently launder the proceeds of crime, the racing industry is seen as a source of income in itself. Many identified crime figures own racing animals and many crime figures are major and inveterate punters.
- 4.16 It has been clearly indicated by police intelligence from all over the country that the racing industry provides a *milieu* for many forms of criminal activity.
- 4.17 Probably the single greatest factor that the SP bookmaker of the modern era has had to his advantage is the incorrect community perspective of SP bookmaking. This has served to create the type of environment where SP can not only survive, but continues to flourish and in turn, provide revenue for other crime. The late George Freeman, a notorious criminal and colourful racing industry figure, said in his autobiography:-¹⁹
- "one of the reasons that everybody thought I was out of the stealing business was because of the SP".²⁰
- 4.18 This example serves to illustrate how members of the underworld have in the past operated under the veil of the "less serious" crime of SP bookmaking, and thereby disguised their more morally reprehensible activity.
- 4.19 Some prominent members of the racing fraternity are strongly suspected of involvement with criminal activity in several states. These individuals are sophisticated, high profile, well connected, influential and sensible enough to adequately distance themselves from their criminal operations. As a result, the extent of their involvement in crime is difficult to ascertain.
- 4.20 As the weaponry and levels of skill available to fight organised crime improve, major crime figures must adopt significantly more sophisticated techniques than were required in the past. Operators are more circumspect and strive to actively remove themselves from their shadowy activities. Their effective concealment from police detection is often assisted by the professional advice of lawyers and accountants.

¹⁹ P. Jack (Ed), "George Freeman: An Autobiography", George Freeman, New South Wales 1988, p. 72.

²⁰ At the time, Freeman was involved in a highly organised gang of safecrackers.

- 4.21 For these reasons, SP is probably not used to the same degree it once was, as a "more respectable" front for other crime. Instead, the selected front is more likely to be that of a successful businessman, professional punter, or other racing industry identity. Nonetheless, these crime figures often still have interests in SP bookmaking or associate with SP's for "professional reasons".
- 4.22 While the acceptance of SP is perpetuated and continues to be viewed in its historical context as a form of criminal endeavour in isolation, without links to other forms of crime, it will not be accorded recognition as a threat to the integrity of the community which should consequentially be viewed as a significant social evil. Instead, SP is styled as a relatively minor problem that does not warrant immediate or on-going attention. The SP operators are able to operate in this environment with relative safety.
- 4.23 Already, it has become apparent to this Commission that SP is normally not an endeavour carried out in isolation, but rather, it is one that exists within a truly symbiotic relationship with other illegal enterprise.
- 4.24 In the past, SP bookmaking was an activity on the periphery of the racing industry. There is every indication that this is increasingly no longer the case. Given the data that indicate this alarming trend, some analysis of our prevailing social, economic and political structures must be undertaken to determine to what extent they are conducive to organised crime. For too long, the assumption has been made that all aspects of organised crime are external to society, and not a problem from within. The internal aspect, whereby organised crime is present within structures in our community, is well demonstrated by the racing industry. Even if known criminals have not infiltrated the echelons of power within racing, the grip that illegality has over the industry has been sufficient for the industry to develop its own sub-culture and set of values that facilitates the SP bookmaker, the race-fixer and the money launderer.
- 4.25 The fact that it is the racing industry that stands to lose most from parasitism by SP, yet apparently does little to suppress it, is simply indicative that SP is no longer an externality to the racing industry but is now an integral part of it. Evidence collected by the Commission to date, appears to indicate that many "players" in racing are "in on the scam" of race-fixing, illegal betting, money laundering and tax evasion. Consequently they have no wish to do anything more than pay lip service to the need for tighter controls over these

types of crime. It will be futile to continue to examine SP in isolation. The whole racing industry must be carefully scrutinized for impropriety. The questions that must be asked are, for whom does racing exist? Who are the real beneficiaries?

- 4.26 This is an issue that the community must firstly face, and then give serious consideration to, before any decisions about what the community desires be done with the racing industry in this state can be made.
- 4.27 For those who are interested in the issues as raised in this paper that relate in particular to the future of racing in Queensland, some regard should be had to the Queensland Department of Tourism, Sport & Racing Green Paper entitled, "The Development of the Racing Industry in Queensland". Many of the proposed structural changes to the racing industry outlined in the Green Paper are designed (in part) to protect the future integrity of racing. Those who wish to make submissions to this Commission, may in addition care to respond to the issues raised in the Green Paper.
- 4.28 It is useful to note the categorisation that Dr Alfred W. McCoy uses to describe SP bookmaking. McCoy sees current SP bookmaking as being the evolution of an enterprise conducted by persons on the fringe of the racing industry to one dominated by professional criminals. McCoy says of the current SP industry of New South Wales:-

"The SP industry is, in fact, a modern enterprise which has adapted constantly during the last fifty years in response to new technology, consumer demand and government policy. As an industry there is very little about it that is romantic. Among its essential components are controlled violence, political and police corruption, and economic integration with other forms of syndicated vice - prostitution, narcotics trafficking and illegal gambling. Moreover, the illegal bookmaking business is in the process of corrupting racing, the very sport that sustains it. Since it is a highly profitable industry vulnerable to eradication, the rise of the SP industry over the past half century has left an indelible imprint on the State's political process and the quality of its governance."²¹

²¹ Richard Cashman & Michael McKernan (Eds), "Sport, Money, Morality and the Media", University Press, N.S.W., p. 35.

- 4.29 Although McCoy was making specific reference to the situation in New South Wales, and the *milieu* he describes is far more extensive in that state than it is in Queensland (due to the fact that the New South Wales racing industry is far larger), there is still good reason to take cognizance of the New South Wales situation when trying to define Queensland SP bookmaking.
- 4.30 To make mention of "Queensland" SP bookmaking is somewhat of a misnomer. In the modern era, the SP trade is typified by the use of mobile telephones and frequent interstate airline travel. As such, it is misleading to talk of "the Queensland SP's" or "the New South Wales SP's", as the major operators are not confined to any one state. Virtually all the major SP's have clients who are interstate or even overseas. While their operation may be *based* in one state, they will often travel to different states on different race days. This interstate movement is confirmed by the fact that major southern SP operators have been surveilled by police making regular trips to south-east Queensland that coincide with race days.
- 4.31 It is not only the SP's who are frequently operating in Queensland. Intelligence gathered by police from every state indicates that Queensland has become the base of operations for a number of national crime figures who are also active in the racing industry.
- 4.32 The nature of their involvement in the Racing Industry varies. They may actively own and race animals, and invariably they are big gamblers - both in order to launder money, and simply by virtue of the fact that they love the punt. Some of them are active SP bookmakers or bet SP. Alternatively, legitimate bookmakers may accept bets from them with knowledge that their money is in all probability, the proceeds of crime.

5. RACE FIXING

- 5.1 Those who are fielding as bookmakers or betting as punters stand to make sizeable gains if they can manipulate the outcomes of races. The obvious methods by which the outcome of a race can be controlled are to bribe or "standover" the jockey of a particular horse to have him "pull up" that horse and thereby not let the animal run on its merits, or to "get at" the animal, and "nobble" it.

- 5.2 Horse and greyhound nobbling involves the administration of drugs to animals to affect their performance. In order to acquire drugs, it is necessary that doctors, veterinarians and pharmacists be corrupted to guarantee sources of illicit supply. Some race fixing drugs reputedly have their origins with overseas suppliers. The continuous demand for drugs by criminals within the racing industry, has fostered a burgeoning blackmarket trade in controlled substances that is a separate, (but related) issue of criminal activity in itself.
- 5.3 Drugs may be administered to animals by "fence jumpers"²², who are usually associated with punters or possibly SP's outside the ranks of the racing industry, intent on fixing race results for their independent purposes. Criminal intelligence has positively linked fence jumping with known organised crime figures involved in the importation and distribution of heroin.
- 5.4 Alternatively, "dopers" may come from within the ranks of the racing industry itself. Such doping may be done by trainers, vets, stablehands, jockeys or even owners, either at their own instigation, or under commission from an organised crime figure. Irrespective of whether the race-fixer is a fence jumper or comes from within the ranks of those who have legitimate reasons for access to animals, the reasons are invariably the same - to manipulate the form of a particular beast, and thus the outcome of the race.
- 5.5 If a known favourite is nobbled, or the performance of a long-odds outsider is enhanced, the aspects of uncertainty and chance involved in the punt are considerably reduced. Those who bet on a particular race with knowledge of "the fix" then have a substantially greater chance of winning. It is not only the relative merit of the animal that is affected, simultaneously the fixer is able to manipulate the odds across the entire field and the flow of betting to his advantage.
- 5.6 There are other less complicated methods of manipulating the outcome of races, such as the use of electric shock devices (usually in the saddle), to make the horse run faster, or the substitution of animals. The most famous recent example of the latter occurred in Brisbane in 1984 when *Bold Personality* was substituted for *Fine Cotton* at Eagle Farm. The aspects of community concern in such activity are numerous:-

²² "Fence Jumping" is racing industry parlance for instances of animal doping where the doper literally jumps the fence to drug the animal before escaping the same way.

- * Firstly, the innocent "mug punter" with no knowledge of the fix stands to lose;
 - * The honest bookmaker and the Totalizator stand to be required to make massive payouts to criminals;
 - * Those who have fixed the race stand to have a massive, potentially non-traceable windfall, and in the process have not infrequently laundered proceeds of other crime.
- 5.7 Not only have criminal proceeds been laundered, but they have been exponentially increased in the process, giving criminals sizeable amounts of "honestly" acquired funds with which they can acquire legitimate assets and conduct business ventures through which further illicit funds can be passed and hidden.
- 5.8 The wealth and power of the criminal figures involved continues to grow, as does their ability to instigate and finance ever more complex criminal endeavour. As the stakes get higher, so too does the degree of their preparedness to resort to violence to enforce the "code of silence" and their ability to corrupt public officials and avoid detection.
- 5.9 If criminals were to simply bet on races where the horses were allowed to run on their merits at all times, they would soon be very poor criminals indeed. Race fixing is simply the underworld way of ensuring a guaranteed return on an investment.
- 5.10 The lengthy winning streaks that were enjoyed by George Freeman serve as a very pointed indicator that on many occasions the horses that he chose to back were not runners in a race in which the result was simply left to chance, but rather were runners in a race where the result was predetermined.

6. THE SIZE OF THE PROBLEM

- 6.1 In 1988-1989, a total of 49 positive drug swabs were returned on racing animals in Queensland. Each of these races involved a legal betting turnover in excess of \$1 million. It is not possible to estimate the illegal turnover for these fixed races, but it would be reasonable to assume that it would at least be the equivalent of legal turnover.

- 6.2 Numerous Royal Commissions and Commissions of Inquiry, in Australia's recent history such as the Costigan Royal Commission (Australia and Victoria 1984), the Connor Inquiry (Victoria 1983), the Moffit Royal Commission (N.S.W. 1974), and the Fitzgerald Inquiry (Queensland 1989) have found that there are vast networks of SP bookmakers operating throughout Australia. They found the monetary flow in this illegal industry to be huge, having the potential to finance other forms of illegal activity. The Moffit Royal Commission warned that there was evidence to indicate that New South Wales SP syndicates were in contact with major heroin smugglers, and domestic drug distributors.²³
- 6.3 Intelligence suggests that a number of those involved in race fixing are also involved in the drug trade. Investigations in Queensland to date, have been sufficient to suggest that there are identifiable links between the importation and distribution of heroin and race fixing. SP bookmakers are known to be involved in regular race fixing. Deductive logic tends to suggest either complicity in the importation and distribution of narcotics by SP bookmakers, or if not direct involvement, at least some financial association with drug dealers. The same sources tend to suggest that criminal elements are continuing to increase their activity and involvement in the Queensland Racing Industry.
- 6.4 Criminal intelligence indicates the size of the Australian illegal gaming industry (all gambling) to be in the vicinity of \$15.5 billion, and SP accounts for the majority of this figure. The major illegal racing industry identities are very active in Queensland and Northern New South Wales, so it is fair to assume that a substantial portion of this \$15.5 billion is turned over in Queensland.
- 6.5 While it is difficult to quantify the extent of the SP trade with any degree of reliability, Connor estimated that the annual turnover for SP bookmaking in 1983 was \$1 billion in Victoria, and \$1.8 billion in New South Wales.²⁴ The 1984 Costigan Royal Commission estimated that (national) SP gambling had a \$4 billion annual turnover. At the same time, the total legal racing gambling turnover for all states and territories was \$6.9 billion.

²³ Susan Pinto and Paul Wilson, "Gambling in Australia", Trends & Issues Paper #24, Australian Institute of Criminology, Canberra 1990.

²⁴ Report of the Board of Inquiry into Casinos, Connor Q.C. Government Printer Melbourne 1983.

- 6.6 In the 1988-89 financial year, the total legal racing gambling turnover for the nation was \$10.4 billion.²⁵ If it is assumed that the proportion of SP betting has remained constant in relation to the volume of legal race betting (the 58% rate determined by Costigan) then SP bookmaking would have had a projected turnover of \$6 billion for the 1989-90 financial year.
- 6.7 Attempts to quantify the extent of SP trade in Queensland are still being made. Until the Commission has a reliable estimation, it is perhaps useful to take note of media estimates that SP bookmakers made \$200 million *profit* in 1988. New South Wales police estimate that the margin for net profit in SP bookmaking is approximately 20%. Applying such a figure to the case in Queensland,²⁶ SP turnover in Queensland during the same period would have been \$1 billion. In the same period the total legal racing turnover for Queensland was \$1.444 billion.
- 6.8 Alternatively, applying the same proportion as estimated by Costigan in 1984, Queensland's illegal bookmaking industry would have had a 1989-90 turnover of approximately \$837 million. These figures may be slightly inflated given that there are indications that the SP industry chose to "lie low" during the course of the Fitzgerald Inquiry.
- 6.9 At this stage, the Commission is inclined to err on the side of caution, and say that SP is worth somewhat less than the above figure.
- 6.10 It is only proper, to point out that any attempt at estimating the full extent of the SP trade is a difficult and inherently inaccurate exercise. SP bookmakers keep very few records, and it is only from those records that can be seized, that estimations of the scope of their trade can be made. For these reasons, the Commission is only prepared at this stage to offer the *range* of estimates reproduced above.
- 6.11 However, it is safe to state that the magnitude of SP turnover is significant, and runs into millions of dollars in Queensland every week. Evidence produced before the Fitzgerald Inquiry gave rise to the train of investigation that has given this Commission every indication that many of those involved in the SP bookmaking industry have close associations with others in the criminal underworld and

²⁵ Australian Gambling Statistics 1972-73 to 1988-89.

²⁶ Queensland Police experienced in SP Investigation, agree that this is a reasonable estimation and of equal application to Queensland.

such activities as prostitution, auto theft, pornography and drug trafficking. By implication, association and involvement with the broader criminal scene must mean there is a financial flow between illegal bookmaking and other forms of criminal endeavour. Those involved in SP bookmaking are either involved in other aspects of organised crime, and co-mingle revenue from their various illegal enterprises, or alternatively SP profits are made available as a source of revenue for other criminal pursuits and as a method by which illicit funds may be easily laundered.

7. MONEY LAUNDERING

- 7.1 An important concern for organised criminals is to find a way to "launder" the proceeds of their illicit activity. Money laundering²⁷ can best be described as the adoption of some technique so as to make dishonestly acquired monies appear to have been legitimately acquired.
- 7.2 Money laundering by necessity involves two equally important steps, firstly adequately disguising the real source of revenue, and then constructing a fictitious source by which the income takes on the veil of legitimacy. Acquisition of legitimacy allows the criminal to more openly use criminally derived funds to earn even more money from legitimate sources.
- 7.3 The acquisition of the facade of legitimacy allows criminals to more openly display their wealth. They are able to distance themselves from the crime and thus live a luxurious and often prominent lifestyle.
- 7.4 During the course of hearings, the Fitzgerald Inquiry became aware of a wide array of techniques employed to launder illicitly obtained funds. Included amongst such techniques was employing the services provided by both legal and SP bookmakers. Such bookmaker-related techniques include buying winning betting tickets at a premium, falsifying significant wins with registered bookmakers, or simply placing bets with an SP. Some individuals being investigated in association with suspicious cash transactions, have been known to simply state as a defence that, the money was won "betting with an SP".

²⁷ The term is rumoured to have had its origins with the bootlegging gangs in Prohibition Chicago U.S.A. Bootleggers started to purchase laundromats to use as legitimate fronts to explain away their bootlegging profits.

- 7.5 SP bookmakers themselves have the problem of laundering their funds and may do so through licensed bookmakers, or adopt some of the host of other techniques used by the underworld to cleanse funds. The Casino Crime Squad based at Jupiter's Casino has reported sightings of known crime figures who are believed to be involved in the importation and distribution of heroin as well as being involved in the racing industry, betting for high stakes at the casino. This is one method commonly used for laundering criminal profits. There is also some indication based on intelligence gathered to date, to suggest that SP bookmakers are among the ranks of those laundering profits at the Casino.
- 7.6 Often an SP will simply act as banker for other forms of illegal enterprise, keeping himself removed from what the community views as wholly illegitimate and undesirable activity, and staying in the comparative safety of the "grey area" of quasi-legitimacy that SP has been accorded in the perceptions of many.

8. THE CURRENT QUEENSLAND LAW

- 8.1 The legislation that covers illegal bookmaking is found in the Racing and Betting Act (1980-1983). There are a number of sections of the Racing and Betting Act relating to illegal betting that have been identified by this Commission as being either deficient or wholly inadequate. Those sections relate particularly to technical matters of evidence and have created difficulties for Police in the prosecution of known SP bookmakers. These sections will be subject to recommendation for change. They have not been presented in this Issues Paper due to their complexity. A very lengthy and detailed explanation would be required in order to explain their inadequacies.
- 8.2 For the immediate purposes of this Issues Paper, discussion is confined to those sections of the Act that provide for the offence of illegal bookmaking, and which create the greatest difficulties for the effective detection, apprehension and prosecution of SP bookmakers. The relevant sections of the Act are as follows:-

S218 "Prosecution of Penalty for unlawful bookmaking, opening, keeping or using common betting house". (The offences contained in sections 214, 216 and 217)

S218A "Recovery of penalties imposed under S218".

These sections have been reproduced in Appendix A.

8.3 There have proven to be numerous difficulties with these sections. It has become apparent that they do not represent either an adequate punishment, or an effective deterrent for SP bookmaking in their current form.

8.4 Should it be concluded that more concerted efforts to control SP are desirable, these sections would need to be altered immediately. The deficiencies in these sections are as follows:-

The absence of a default imprisonment clause in section 218 means that there is no coercive measure in the current legislation that can ensure that those convicted of SP offences do in fact pay their fines. Records held by the Department of Tourism, Sport and Racing indicate that 38 convictions for SP bookmaking have been brought to the attention of the Department in the last three and a half years. Only four have paid their debt in full, of the remainder full payment is said to be most unlikely.

8.5 Instead of providing default imprisonment for non-payment of fines, the Act provides section 218A as the collection mechanism. Section 218A provides that where an order for payment of penalty or of costs is made against an offender for a conviction for an offence under sections 214, 216, or 217, the Judge making that order, or the Chairman of the District Courts shall, if the payment is not made on the expiration of the time allowed for payment, furnish the Attorney-General with a certificate of the particulars of the matter.

8.6 It then becomes the responsibility of the Attorney-General upon receipt of such certificate to cause final judgement to be entered against the convicted person, so that the amount of that penalty may be pursued via the course of civil proceedings for the recovery of debts.

8.7 Although the fines as provided in section 218 are not insubstantial, they provide little disincentive for the organised SP bookmakers who well know the magnitude of profits to be made and when professionally advised, know how to order their affairs so as to ensure that they may avoid the brunt of these penalties.

8.8 Ordinarily, there is little risk to be borne by the convicted SP bookmaker as payment of the fines under the procedure outlined above is entirely dependent upon the convicted person still having assets of his own. It has become the usual

practice of SP bookmakers to arrange their financial affairs in such a way that they do not (at least apparently) possess title to any recoverable assets upon which distress may be levied.

- 8.9 This unnecessarily long-winded and expensive process, when coupled with the fact that civil recovery is a slow process at the best of times, effectively circumvents any deterrent value that might be found in the magnitude of the fines.
- 8.10 Additionally, it is a common practice for SP bookmakers to put up one of their lieutenants to "cop the rap", or even to deliberately select an elderly impoverished pensioner to act as the front man, in that way keeping their own slate clean.
- 8.11 Any deterrent value in the size of the fines is further diluted by residual discretion given to the trial judge to impose a fine that is less than the minimum fine amount.
- 8.12 While there are good and cogent reasons based on justice and basic commonsense why this discretion has been conferred, its use alongside the theoretically very harsh fines merely serves to illustrate the present deficiencies in the system of proscription.²⁸

9. SP - WHAT DOES IT COST THE TOTE?

- 9.1 Media reports indicate that despite the period of extra "heat" that the SP's experienced during the Fitzgerald Inquiry, it is now largely business as usual. Some estimates put the cost of SP to TAB revenue as high as \$500 million a year.²⁹ Given that it is now a well accepted fact that SP bookmakers understate the extent of their trade (even while under oath), such an estimate is not an unrealistic one. If the SP trade is in fact so extensive, it is denying public consolidated revenue somewhere in the order of \$32.5 million just from the TAB alone.
- 9.2 In 1989-1990 Queensland totalizator turnover (TAB and on-course) was \$977.65 million. Applying the ratio determined by Costigan, this legal tote turnover was denied an additional \$567 million. Again this is only a loose approximation, but it does serve to highlight the magnitude of the SP trade. The actual figure for lost totalizator trade is likely to be somewhat less, as SP's both "lay off" and launder through the tote.

²⁸ Report of a Commission of Inquiry pursuant to Orders in Council, p. 194.
²⁹ Sunday Sun 22nd July, 1990.

10. COST TO LICENSED BOOKMAKERS

- 10.1 The cost of SP to licensed bookmakers is difficult to determine. The real cost of SP bookmaking to bookmakers is clouded by the fact that it is not uncommon practice for SP's to lay-off with licensed bookmakers and vice versa. The method by which honest licensed bookmakers lose to the SP's is perhaps best demonstrated by a hypothetical example of a "bookmaker sting":

Suppose that an SP is taking bets on *Bluebell* in race three at Eagle Farm. On course bookmakers are offering odds on Bluebell at ten to one and trade is slow. Before the end of race one, the SP accepts a bet of \$60,000 on Bluebell from a regular big-punting syndicate. Obviously the syndicate knows something that nobody else does. Should Bluebell win, the SP stands to have to pay out \$600,000. Invariably the SP has "runners" on course whose job it is to ring in with the current course prices. The SP contacts his runners and tells them to put four bets of \$20,000 on the nose for Bluebell with different bookmakers at the end of race two. This the runners do, and the SP gets his bets on at the quoted odds. The rumour that Bluebell is a goer, soon spreads through the betting ring like wild fire. The "fix" is rumoured to be on, and suddenly the punters enter into a mad scramble to back Bluebell before race time. The bookies take fright at this sudden surge of interest in Bluebell, and start to haul in the odds - by the time the barrier opens, Bluebell may be starting at two to one. Should Bluebell hold true to rumoured form, and romp home by the proverbial country mile - the SP has to pay out at the *starting-price* of two to one. The syndicate has won \$120,000 (plus their original outlay is returned). Meanwhile, the SP has covered his loss by laying off, and has had an additional win of his own, at the expense of the licensed bookmaker.

- 10.2 Reading the above hypothetical example, the average person probably feels little sympathy for the licensed bookmaker. Unfortunately, those that "diddle the bookies" seem to be hailed as folk heroes in this country. The admiration so given belies the fact that such activity is simply cheating, and that the cheats are criminals making vast sums of money that is then available to be used for other crime.
- 10.3 The issue of the true extent of licensed bookmaker losses is further obscured as it is known that many bookmakers do not always record all bets.

- 10.4 On official figures,³⁰ licensed bookmakers had a turnover of \$466 million. If there was no SP bookmaking this figure would certainly be higher but how much higher is difficult to say. There is some evidence to suggest that most bets would go to the TAB via telephone betting if the SP trade were wiped out. This is used as the basis for arguments advanced by the Paddock Bookmakers Association that licensed on-course bookmakers should be allowed to accept bets by telephone. This Commission is currently considering the advisability of allowing telephone betting by bookmakers.
- 10.5 It is still too early to make any pre-emptive comments about such a move, other than to say that the issues thus far identified with telephone betting by bookmakers are:-
- * ensuring the accurate recording of all bets; and
 - * whether legal telephone betting would have an impact on curtailing the SP trade, or whether it is merely going to facilitate more illegal betting.
- 10.6 The Commission would welcome public submissions on the issue of telephone betting with bookmakers.

11. THE MODUS OPERANDI IN QUEENSLAND

- 11.1 It is a reasonable proposition to say that the way in which laws against SP bookmaking have been enforced has served to shape the way in which the SP industry operates. Costigan noted that the highly publicised "Zebra Taskforce" operations in Victoria even had the effect of temporarily driving SP's interstate.
- 11.2 Past crackdowns on SP's in Queensland only had the effect of ensuring that SP operators have largely abandoned the hotels. SP bookmaking in hotels is highly detectable by undercover Police agents. This fact in large part formed the basis for a decision by the police to undertake vigorous crackdowns on Hotel SP's in the past.
- 11.3 Telephone use by SP's has been common since telephones were made widely available in the 1920's, however this method of operation did not come to characterise the SP industry until some time later. Although the SP bookmakers started to realise the comparative advantages of telephone

³⁰ Australian gambling Statistics 1972-73 to 1988-89; Tasmanian Gaming Commission. Data base prepared after a resolution of Government Racing and Gaming Ministers Melbourne 1983.

operations for themselves, it was the heavy enforcement against SP's in hotels coupled with the takeover of the Licensing Branch by corrupt officers around the end of the 1970's, that sounded the death-knell for widespread hotel based SP bookmaking. It also heralded the setting up of operations in alternative premises and the practice of paying for police protection. From approximately this time on, the SP industry could be characterised by its near total reliance on the telephone network.

- 11.4 Police enforcement practices were the catalyst for the evolution of the SP industry in Queensland to one where the core of the industry is virtually entirely centred on the use of telephones. SP operators are in this way able to operate with virtual impunity due to loopholes in Commonwealth legislation that prevent Police from monitoring suspicious telephone use.
- 11.5 The introduction of mobile telephones on the "mobilnet" network, has further enhanced this modus operandi for the SP's and has created even greater detection difficulties. This technological advance has possibly been the most significant bonus for SP's in recent times, giving them true mobility and making their operations virtually undetectable. Additionally, the use of mobilnet has meant that the SP's client base is spread over even vaster distances than ever before.
- 11.6 As previously mentioned, the enforcement policy adopted in a particular state will affect the modus operandi of the SP's. The operational structure of SP bookmaking identified by Costigan in Victoria evolved in response to Police enforcement. Queensland's enforcement history is in many ways unique. For this reason, we do not see an identical modus operandi in Queensland. While there is still SP in some Queensland hotels, both of the "old time" variety and of the variety where a bar-room tout relays bets to a central bookie, this is not the principal means of operation of SP's in Queensland. These activities are minimal in the context of the totality of the SP problem.
- 11.7 The real issue with the few hotel SP operators that may still exist is their sending business to bigger SP's. Being small operators, they are unable to cover bigger bets and subsequently pass these on to other larger S.P. operators.

- 11.8 There may not be a strict criminal network that is controlling the hotels, but the small hotel SP's are certainly in contact with the larger syndicates, and this is an issue of which the community ought to be mindful when forming opinions about the degree of criminality involved in even "minor SP".

12. THE ISSUE OF UTILIZATION OF TELECOM FACILITIES

- 12.1 Telecom is run along principles of private enterprise and is accordingly motivated by profit. In light of evidence that has come to light in various Royal Commissions and Commissions of Inquiry, it is an issue of some considerable concern as to the ease with which known criminals are able to obtain Telecom services and telecommunications network access, in the furtherance of their criminal activities.
- 12.2 Whether Telecom should be supplying this telecommunication access when there is on many occasions at least a strong inference that the equipment supplied will be used for purposes contrary to state law, is an issue that must be resolved. To prevent criminal networks gaining widespread access to the telephone system in order to commit crimes will require some better system of vetting of telephone applicants.
- 12.3 Ultimately this is an issue of Commonwealth law, the reform of which is only incidental to the function of this Commission. It is sufficient for the purposes of this Issues Paper that it be drawn to public attention that the telecommunications network is being heavily utilised by SP bookmakers and not enough has been done by the Commonwealth to prevent them, despite national concern about the growing organised crime problem.
- 12.4 The other Telecom issue is conspiracy by Telecom employees (linking networks, rewiring telephones with dummy numbers, installation of "blackbox" diverters, activation of non-active lines on race days, re-assigning lines, altering Telecom records etc). Although such activity is not as prevalent today as it was prior to the introduction of mobile telephones, it is still an issue of concern particularly for Telecom, involving as it does the commission of criminal offences by Telecom employees. The fact that SP bookmakers are able to suborn Telecom employees in this way, serves as a further indicator of their extensive criminal influence.

13. THE PARAMETERS OF CRIME

- 13.1 Today the SP's are amongst the most sophisticated and technologically eclectic criminals in our midsts. The mobile telephone has virtually outmoded all other methods for the receipt of SP bets. The pace at which the SP bookmakers are prepared to embrace new generation technology ensures that they are several steps ahead of their police counterparts, and well ahead of legislation that controls the exercise of police powers in relation to use of the telecommunications network.
- 13.2 The advent of the mobile telephone, the facsimile machine, and modern, relatively inexpensive airline travel, has meant that the parameters of crime have expanded exponentially. This is particularly the case with the SP bookmaker. In this era, the SP may choose to place himself in any state that best facilitates his trade and accept bets from anywhere in, or outside of Australia. It is not at all uncommon for SP bookmakers to move frequently from state to state in order to avoid detection.
- 13.3 Unfortunately, Queensland has become a favourite venue for many major southern SP's due to the ineffectiveness of the Queensland Racing and Betting Act. Ineffective legislation is synonymous with ineffective enforcement. Such a combination is most conducive to SP activity, and even to its active promulgation.

14. COMPULSIVE GAMBLING

- 14.1 There are those in our community who are addicted to gambling. Such individuals are as much addicts as are people addicted to either heroin or prescription tranquillisers. These people are unable to control the grip that addiction has over their lives and as a result their health, work performance and families suffer.
- 14.2 These individuals will satiate their addiction by any avenue open to them. Unfortunately for them, legal gambling options often become unavailable. This is because their betting judgement is erratic and controlled by their addiction. As a result they frequently lose heavily and will not be given credit.
- 14.3 Unable to obtain credit from the casino or the TAB, and soon ignored by legal bookmakers as being bad risks, they have little option but to turn to the SP in order to obtain their fix.

- 14.4 As SP bookmakers offer credit, the compulsive punter is particularly susceptible to being lured by the services offered by the SP bookmaker. Legally, no SP debt is enforceable, but then the law has never unduly worried the SP bookmaker.
- 14.5 Operating as they do outside the parameters set for lawful bookmaking, they are able to employ to full effect the *wholly unlawful* methods of debt enforcement. Since early days, the SP's have employed standover men to enforce their debts, and most people have some general familiarity with the "razormen" of the depression era. What most people are unaware of is that debt enforcement by the use of violence is still common today.
- 14.6 Given the threat of bodily harm (or even death), that the SP's are able to use as an incentive to ensure prompt payment of punting debts, they will often have fewer bad debts than legitimate business enterprises. The quality of life and the well being of individuals who suffer from gambling addiction is thus capable of being threatened by the operations of SP Bookmakers.

15. OPTIONS FOR THE CONTROL OF SP

15.1 The perceived options for the future control of the current SP bookmaking industry lie somewhere within the range of alternatives set out below. Additionally, some indication of the probable consequences of the various options, that are indicated by this Commission's research to date, is provided for general discussion and consideration. Many matters of detail within these broad options are yet to be addressed, and the following summary should *not* be taken as any constraint upon the subject matter or scope of submissions.

1. No substantive legislative or administrative change

The likely result will be a progressive increase in SP bookmaking to the detriment of legal gambling and consolidated revenue. Criminal syndicates could continue to extend their influence over the SP bookmaking industry generally. Associated misconduct in the racing industry would be among factors adding to a decline of gambling turnover in the racing industry in favour of other gambling.

2. Legislative and administrative amendment to enhance enforcement measures

This would see a decline in SP bookmaking to the benefit of legal gambling and consolidated revenue. Some of this decline could be expected to be due to SP bookmakers shifting out of the jurisdiction of active enforcement into other jurisdictions of lesser enforcement or penalties (i.e. other states or areas of federal jurisdiction). Past experience indicates that given determination and sufficient resources, SP bookmaking within a jurisdiction can be suppressed, even spectacularly so in the short term. In the medium to longer term, a variety of factors may affect the balance between illegal and legal gambling:-

- With apparent success or with the passage of time, resources are diverted away from enforcement;
- SP bookmakers exploit new legislative and administrative shortcomings;
- SP bookmakers resort to corruption.

These last three factors indicate the types of considerations that must be borne in mind when future enforcement strategies for SP bookmaking are considered.

3. **Extensions of legal gambling**

- * This could result in a decline in SP bookmaking to the benefit of the legal industry and consolidated revenue. Some of the increases in turnover are likely to come from new custom, rather than from the illegal industry. Past experience particularly with the introductions of TAB's, has been that in the medium to longer term, illegal SP bookmaking operations continue, sometimes in new forms. The more recent experience of such extensions to legal gambling (such as FootyTAB and PubTAB) in other states, appears to indicate that such a move will not lead to any significant reduction in the major form of SP bookmaking.
- * The major extension in available legal gambling that should be considered in terms of its possible impact on the SP trade, is whether or not it would be advisable to allow telephone betting to be conducted by registered bookmakers. The major issue here is guaranteeing the integrity of recording of such bets. Submissions on the appropriateness of such a step are invited.
- * Extending legal gambling facilities does not remove the tax and credit advantages enjoyed by S.P. bookmakers.

The possibility that future directions for change could include elements of both options two and three (above) should be considered.

16. APPENDIX A

Racing & Betting Act (1980-83)

1. Section 218. Prosecution and penalty for unlawful bookmaking, opening, keeping or using common betting house.

- (1) A person who contravenes section 214, 216 or 217 commits an offence against this Act, which is a misdemeanour, and, subject to subsections (3) and (5) and section 237 (4), is liable:-
 - (a) for a first offence, to a penalty not less than \$15,000 and not more than \$20,000;
 - (b) for a second offence, whether against the same or another provision of those sections or any of them, to a penalty not less than \$20,000 and not more than \$30,000;
 - (c) for a third or subsequent offence, whether against the same or another provision of those sections or any of them, to a penalty not less than \$30,000 and not more than \$50,000.
- (2) Notwithstanding any other provision of law or any rule of law or practice a person who, having been arraigned before a court of competent jurisdiction (whether consequent upon his committal for trial or otherwise), has pleaded not guilty shall be tried by a Judge of that court sitting alone.
- (3) If a Judge before whom a person has been convicted of an offence referred to in subsection (1) is satisfied that in the particular case there are special circumstances that make it just so to do, he may impose a penalty less than the minimum penalty prescribed by subsection (1) for that offence.
- (4) A person charged with an offence against any provision of section 214, 216 or 217 may upon his trial be convicted of any offence against any other provision of the section that he is alleged by the charge to have contravened that is established by the evidence in lieu of the offence with which he is charged.
- (5) Where within a period of 12 months different persons commit offences against a provision of section 214, 216

or 217, whether the same provision or different provisions, in respect of the same place, then:-

- (a) the person who commits the second of such offences shall be deemed to have committed a second offence and shall be liable to the penalty prescribed by paragraph (b) of subsection (1); and
- (b) the person who commits the third or subsequent such offence shall be deemed to have committed a third or subsequent offence and shall be liable to the penalty prescribed by paragraph (c) of subsection (1).

2. **Section 218A. Recovery of penalties imposed under s. 218.**

- (1) Where an order for the payment of a penalty or costs is made against an offender against section 214, 216 or 217 an order that, upon default in payment of the same, the offender should be imprisoned or the same should be recovered by the levy and distress shall not be made, but the following provisions of this section shall apply in relation to the recovery of the same.
- (2) Where an order referred to in subsection (1) is made the Judge making the order or the Chairman of District Courts shall, if the penalty is not paid within the time allowed by the Judge for payment of the penalty or costs on the expiration of that time or, if no time is allowed for payment, then immediately, furnish to the Attorney-General a certificate in the prescribed form, setting forth:-
 - (a) the amount of the penalty or costs;
 - (b) the full name and place of residence or business of the person on whom the penalty or costs has or have been imposed;
 - (c) the reason for the penalty or costs.
- (3) Upon receipt of the certificate specified in subsection (2), the Attorney-General shall cause final judgment in the prescribed form to be entered in a court of competent jurisdiction for the amount of the penalty or costs and costs of entering judgment.

A judgment entered pursuant to this subsection is for all purposes a judgment of the court in which it has been entered.

- (4) An appeal does not lie in respect of a judgment entered pursuant to subsection (3).
- (5) The registrar of a court to whom a certificate referred to in subsection (2) is duly produced for registration shall, upon payment of the appropriate fee, register the certificate in the court and, upon such registration, the certificate shall be a record of the court in which it is registered and the order to which it refers shall be deemed to be a judgment of that court obtained by the Crown as plaintiff against the offender as defendant for the payment of the Crown of money comprising:-
 - (a) the amount of the penalty or costs;
 - (b) costs of registration of such certificate in such court,

to the intent that like proceedings (including proceedings in bankruptcy) may be taken to recover the amount of the judgment as if the judgment has been made by such court in favour of the Crown.

Bibliography

- Report of a Commission of Inquiry pursuant to Orders in Council. Government printer, Brisbane.
- Royal Commission on the activities of the Federated Ship Painters and Dockers Union. Final Report, Volume 4, Mr Frank Costigan Q.C. Government Printer, Melbourne, 1984.
- Drug Traffic, Narcotics and Organised Crime in Australia. Alfred W. McCoy. Harper and Row, Sydney, 1980.
- Sport. Money, Morality and the Media. Edited by Richard Cashman and Michael McKernan, University of N.S.W. Press.
The Chapter entitled: "Sport as Modern Mythology: SP Bookmaking in N.S.W. 1920-1979".
- Constructing a Culture: A peoples history of Australia since 1788. Edited by Verity Burgman & Jenny Lee. Penguin 1988.
- P. Jack (Ed), "George Freeman: An Autobiography", George Freeman New South Wales 1988.
- Gambling in Australia. Trends and Issues Paper No. 24. Australian Institute of Criminology.
- The Racing and Betting Act Queensland 1980-83.
- The Criminal Justice Act Queensland 1989-90.
- Australian Gambling Statistics 1972-73 to 1988-89, by The Tasmanian Gaming Commission.