



The evidence demonstrated that a Mr Yates and the appellant shared stables which were described in the transcript as being like a garden shed. In addition all of their racing equipment "or gear" as referred to in the transcript was stored in the stables and was used communally. The co-operation between the two included tending and feeding horses and transporting them to the track.

On the basis of this evidence the Stewards drew the inference that in their opinion Mr Nightingale had knowledge of the improper contrivance.

On the material before the Tribunal, we are satisfied that it was open to the Stewards to form the opinion which they did.

Counsel for the appellant has also argued that the finding of the Stewards was not, as a matter of law, a breach of Rule 175(a) as the appellant's knowledge was not "an action". The Tribunal is satisfied that the categorising by the Stewards of the appellant's conduct as an action was a mere particular of the offence against him.

The Tribunal is also satisfied that in the context of the phrase "action or practice" the word action is wide enough to cover a state of affairs which includes a state of knowledge, as was proved in this case.

Accordingly the Tribunal dismisses both grounds of appeal against conviction.

As to the penalty, the Tribunal is not persuaded that the Stewards were in error in arriving at the two year disqualification. The appellant was afforded a reasonable opportunity by the Stewards to present material in relation to the penalty.

Both the conviction and the penalty are confirmed and the fee deposit that was paid upon lodgement of the appeal is forfeited.



DAN MOSSERSON, CHAIRPERSON

