

DETERMINATIONS AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT : **PETER HALL**

APPLICATION NO. : **A30/08/256**

PANEL : **MR D MOSSENSON (CHAIRPERSON)**
 MR F ROBINS (MEMBER)
 MR J SYME (MEMBER)

DATE OF HEARING : **21 JUNE 1995**

IN THE MATTER OF an appeal to the Tribunal by Mr P Hall against the decision of the Western Australian Turf Club Stewards on 31 May 1995 imposing a suspension of 6 weeks under Australian Rule of Racing 135 (b) and (c).

Mr T F Percy, instructed by Karp & Monaghan, represented the appellant.

Mr R J Davies QC represented the WA Turf Club Stewards.

Rule 135 states:

" ...

- (b) The rider of every horse shall take all reasonable and permissible measures throughout the race to ensure that his horse is given full opportunity to win or to obtain the best possible place in the field.
- (c) Any person who in the opinion of the Stewards has breached, or was a party to breaching, any portion of this Rule may be punished, and the horse concerned may be disqualified."

At the Stewards' inquiry, the appellant was charged as follows:

"... that through your lack of vigour and purpose in the straight you have failed to take all reasonable and permissible measures throughout the race to ensure that your horse was given full opportunity to win, or obtain the best possible place in the field. ..."

The Tribunal has given careful consideration to its Reason for Determination in the appeal described by Mr. Percy as "Maynard Three", namely appeal number 202 which was heard on 30th June 1994. In that appeal, the Tribunal was dealing with Australian Rule 175(h)(ii) and the defence of honest and reasonable belief of the power of Mr Maynard, the trainer. That defence in the context of that Rule raises a different issue for consideration by the Tribunal than the issue to be decided in the present appeal.

In the matter before us the relevant Rule contains the provision that a rider may be punished in relation to his riding of a horse, where in the opinion of the Stewards, he has breached any portion of the Rule. This type of provision requires the Tribunal to determine whether, taking into account all of the relevant facts and circumstances, the Stewards form an opinion which no reasonable Stewards could have reasonably formed in relation to the matter. We uphold the submission of Mr Davies QC that it is not appropriate for the Tribunal to substitute its own opinion for the opinion reached by the Stewards unless satisfied that it has been demonstrated that the Stewards erred in a material particular. We are satisfied after careful consideration of all of the material placed before the Stewards together with the submissions which were made to us by counsel, that the Stewards did not err in arriving at the opinion which they did.

Accordingly, the appeal as to conviction is dismissed.

We are also satisfied that it has not been demonstrated that the penalty of six weeks suspension that was imposed by the Stewards, was excessive in all of the circumstances. Therefore, the appeal as to penalty is also dismissed.

We confirm both the conviction and the penalty. The fee that was paid on lodgement of the appeal is forfeited.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

26/7/1995

