

GREGORY J. WATERS

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OPERATING ON THE BORDER :

**A HISTORY OF THE COMMERCIAL PROMOTION,
MORAL SUPPRESSION, & STATE REGULATION
OF THE THOROUGHBRED RACING INDUSTRY
IN WINDSOR, ONTARIO, 1884 TO 1936**

BY

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UNIVERSITY OF WINDSOR**

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OPERATING ON THE BORDER:
*A History of the Commercial Promotion,
Moral Suppression, & State Regulation
of the Thoroughbred Racing Industry
in Windsor, Ontario, 1884 to 1936.*

Gregory J. Waters

A Thesis Submitted to the Faculty of Graduate Studies and Research Through
the Department of Kinesiology in Partial Fulfillment of the Requirements for
the Degree of Master of Human Kinetics at the University of Windsor.

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ABSTRACT

This is a history of the commercial promotion, moral suppression, and state regulation of the thoroughbred racing industry in Windsor, Ontario, in the years 1884 to 1936. The central questions which structured the process of enquiry were, first, in what ways did promoters, reformers, and regulators influence the conduct necessary for the economic viability of thoroughbred racing at an incorporated racing association in Windsor, from 1884 to 1936, and second, in what ways was this influence on the operation of racing mediated by historically specific circumstances. Answers to these questions were eventually realized by engaging in a series of reciprocal sojourns between proposed questions, available evidence, and the appropriate concepts to be employed when answering.

It was the structural legality of the conduct necessary for viability that was the fundamental point of contention around which the interests of promoters, reformers, and regulators collided and coalesced. For commercial promoters, it was revenue derived from the sale of bookmaking privileges, and after 1914 deducted as a percentage of a pari-mutuel pool, that provided the keystone underpinning the enterprise. Accordingly, the legality of racetrack gambling must be maintained; if it was not, capital was destroyed. For moral reformers, the widespread gambling necessary for the viability of the commercial racetrack industry was immoral because it epitomized the direct antithesis to the ethos of the protestant work ethic and was thought to be an impediment to the harmony of the working class family. For these reasons, it was believed that the the business of racetrack gambling (and by extension the viability of the industry) ought to be eradicated via prohibitive

legislation. For the state, the operation of racing was regulated because it concomitantly meant capital accumulation (which was positive) *and* widespread gambling (which was negative). As to the relationship between promoters, reformers, and regulators, the two former actors attempted to align themselves with the agenda of the latter.

What is demonstrated in this history is that while particular structural circumstances were given, it was actors who were responsible for what was done within the bounds of those circumstances. Moreover, while it was promoters, reformers, and regulators who were responsible for operations at the tracks in Windsor, such agency was profoundly conditioned by their class positions in the historically specific circumstances in which they acted. These circumstances, it is argued, were characterized by contradictions inherent to capitalism. Accepting that these contradictions mediated the agency of all the actors involved, what is elucidated in this history is how specific actors conveyed appropriate representations, implemented strategic policies, and secured essential resources so as to realize their particular agendas.

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Without these sources this history could never have been generated.

ABBREVIATIONS.

- WFDPA - Windsor Fairgrounds and Driving Park Association (1884-1913)
WRA - Windsor Racing Association (1906-1913)
WJC - Windsor Jockey Club (1913-1927)
KJC - Kenilworth Jockey Club (1916-1934)
WRA - Western Racing Association (1916-1933)
DJC - Devonshire Jockey Club (1933-1936)
OJC - Ontario Jockey Club (1881-1936)
HJC - Hamilton Jockey Club
NRA - Niagara Racing Association
MJC - Montreal Jockey Club
CJC - Canadian Jockey Club (1895-1908)
CRA - Canadian Racing Association (1908-1932)
ICRA - Incorporated Canadian Racing Association (1932-1936)

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Part I.

CONVEYING DIMENSIONS: *Confronting the "Poverty of Empiricism" & the "Politics of Theory."*

I-i. Mapping the Epistemological Terrain: *From Introspection to Exposition.*

What is documented and explained in this history is predicated on a particular orientation toward representing the past. For this reason it is imperative that the dimensions of this approach be conveyed. To acquaint readers with the territories of ideation that undergird what is said in this history entails mapping the epistemological terrain from out of which questions were defined, evidence interpreted, and the narrative argued. Making this map is necessarily an act of private critique in which subjectivities are confronted and made explicit. The intention of this introspection is to facilitate a thorough exposition of the theoretical footing and empirical edifice of this history.

One aspect of the transition from introspection to exposition becomes manifest in the section; **Conciliating Theoretical Impetus & Empirical Project.** Considered here is what may be imagined to be this history's proverbial Achilles' Heel; that conceptual space which if pierced is ostensibly liable to undermine the significance of what has been said and done. With that picture in mind, imagine a large red target being painted around the most pregnable point of the heel; and then imagine this spot being systematically fortified. Such painting and fortification are the objectives of the following section. The aim of providing the target is not to guide the arrow, but instead to help illuminate fundamental points of departure that may be used to direct

evaluation or inspire revision. The purpose of offering the protection is not to deceive, but instead to demonstrate that the vincibility of the heel must be attributed to an arrested conceptualization at a specific moment during the *process* of enquiry and that this vulnerability in no way contradicts the significance of this history.

Accordingly, this painting and fortification involves; first, locating the theoretical impetus which gave rise to the research proposal, second, identifying the discrepancy between the proposed question and what can be answered, and finally, explaining the conceptual means by which this inadequate conceptualization was overcome. Although conciliation evolved in sporadic bouts of "violent abstraction" (coloured by a political radicalization), it was nevertheless grounded in interpretations/judgements respecting accessibility to what *actually* transpired. It stands to reason then, that an explication of an argument regarding the *process* of conciliating theory and practice is made most concrete by mentioning both. To that end, the theoretical comments offered in the section below are inundated with references to phenomena sampled from the times and spaces under investigation. Before this is done, however, another aspect of the overall transition from introspection to exposition must be mentioned.

In light of what has been said thus far, it ought to be readily apparent that this history is as selective as the mentalities that crafted, and that were shaped by, the materials necessary for its generation. To be sure, this history is concerned more with representation and argumentation than it is with replication and confirmation. To address this subjectivity, and avoid committing an act of theoretical terrorism or succumbing to "empirical parochialism," requires a caveat in respect to how the narrative was argued. Readers are afforded this caveat in **An Impolite Narrative**.

I-ii. **Conciliating Theoretical Impetus & Empirical Project:
*Defining Operations & Ascribing Interests.***

In 1958, W.A. Hewitt, a prominent turf commentator and amateur sport organizer, chronicled his experiences as a racing official in Down the Stretch: Recollections of a Pioneer Sportsman and Journalist. In the course of relating his many reminiscences, Hewitt succinctly noted that "Horse-racing is not all horses and tracks; it is also people."¹ This was a claim familiar to an earlier and arguably more influential scribe of the Canadian turf. Close to fifty years before Hewitt penned his memoirs, E. "King" Dodds published his own as Canadian Turf Recollections and Other Sketches.² In it, Dodds allocates ample space to praise and chastise those individuals Hewitt affectionately termed the "colourful and delightful characters ... associated with the sport of Kings and Queens."

Though Dodds' method undoubtedly lacked that empirical rigor which supposedly differentiates history from fiction, his Turf Recollections was nevertheless an attempt to structure the elusive, and sometimes illusory, realities of the Canadian turf from about 1870 to 1909 into a representation of what *actually* occurred during this period.³ Despite the possibility of diminishing the richness of his narratives or over-emphasizing their importance, a consideration of the history generated by Dodds provides both a point for reference and departure for this history.

¹ W.A. Hewitt, Down the Stretch: Recollections of a Pioneer Sportsman and Journalist, (Toronto: Ryerson Press, 1958), 163.

² E. "King" Dodds, Canadian Turf Recollections and Other Sketches, (Toronto: By the Author, 1909).

³ E. "King" Dodds to James P. Whitney, 2 July 1909, Whitney Papers, Public Archives of Ontario (hereafter PAO).

After only a cursory glance through Turf Recollections, it is readily apparent that what Dodds considered important was coloured by a specific set of assumptions. The loudest of these premises is ironically the silent contention that it was jockey club members and riders, stewards and touts, and breeders and bookmakers who were responsible for making racing what it was. In stark contrast to any stoic structuralism which posits history as "a process without a subject," the content of Dodds' work connotes an implicit respect for the transformative capacity of individuals and groups to consciously influence one another and to maintain or modify aspects of the circumstances in which they live. Similar to Dodds, it is a basic appreciation for agency that, in part, constitutes the footing underlying this history.

Clearly, the operation of racing was grounded in human conduct necessary to ensure its economic viability. For instance, although the consolidation of the thoroughbred racing industry in Windsor would not be complete until 1908, the organizational foundations on which it developed were intact by 1884. In May of that year, six respected and reputable Windsorites⁴ carved out a niche for commercial racing by securing a legal charter, forming a joint stock company, and building a half-mile oval. In July of 1936, the niche was abandoned; unlike the forefathers of the industry, the last promoter in Windsor calculated that operating on the border was no longer a viable venture. To be sure, these were decisions made by humans, not "structures."

The conception of agency which underlies this enquiry, however, differs from that of Dodds in its sympathy for Marx's contention that *history*, though made by humans, is not made "under circumstances chosen by

⁴ In fact, most of the original investors were celebrated in J.H. Beers, Commemorative Biographical Record of the County of Essex, (n.p.: By the Author: 1905).

themselves, but under circumstances directly encountered, given and transmitted from the past."⁵ Indeed, advocates and opponents of the industry found themselves promoting or suppressing conduct necessary for viability within circumstances that had been constantly evolving and intricately interwoven (and perhaps seemed to be hopelessly entangled) within the fabric of colonial, continental, and domestic affairs. Though the aforementioned qualification provided by Marx is apt in conveying the pervasiveness of circumstances, a casting of their concreteness in bolder relief is necessary to explicate the theoretical impetus that gave rise to the research proposal. Such illumination may be garnered by briefly considering the exploits of one exceptionally astute promoter during the 1920s.

Vern DeGeer, Sports Editor of the Border Cities Star during the 1920s, wrote that the story of William Robinson Woollatt "cannot be told in anything less than book form." What was so remarkable about this promoter was that during his tenure as managing director of the Western Racing Association (WRA), the \$1,000,000 Devonshire Park was made viable after falling close to \$300,000 into the red. Not surprisingly, DeGeer suggested that the story of Woollatt would be filled with tales of "gigantic struggles with financial problems that frequently taxed the patience and the pocketbook of genial William to the limit." In light of what Marx gestured to above, what else would writing such a story entail?

Hardy would no doubt contend that such an account would require relating Woollatt's "visible hand of power and manipulation" to the so-called "invisible hand of the market."⁶ Presumably, the story would develop

⁵ Karl Marx, The Eighteenth Brumaire of Louis Bonaparte, (Moscow: Progress, 1934), 10.

⁶ Steven Hardy, "Entrepreneurs, Organizations, and the Sport Marketplace: Subjects in Search of Historians," Journal of Sport History 13 (1986), 15, 27.

around attempts by Woollatt to secure quality stables, attract patrons, and induce wagering,⁷ without falling victim to the "odds of population density, per capita wealth, existing modes of transportation, alternative services, or entrenched tastes" (not even to mention accidents).⁸ For the time being the latter hand will be put on hold. Indeed, the market becomes more and more visible after the "hand of power and manipulation" becomes increasingly blurred.

To be sure, what ought to be added to Hardy's contention, is that there were other *hands* vying for control over operations in Windsor. In addition to competing with other promoters (attempting to ensure the viability of alternative tracks), Woollatt confronted moral reformers endeavoring to eradicate the industry. Mediating the handshakes and punches were state regulators who were portrayed as impartial conciliators of the palpable antagonism between promoter and reformer. Indeed, regulatory legislation enacted on ostensibly utilitarian grounds, was thought by many contemporaries of Woollatt to signify the common thread that bound industry to morality.

⁷ Reported to be "progressive in every way," Woollatt was not afraid to alter the lengths of races or refrain from selling beer at the track to satisfy, and to attract, a "thirsty mob" from Detroit. The managing director of Devonshire Park was even bold enough to designate a certain number of dates each meeting as "Ladies Days." On these days the admission tariff to women was reduced to twenty-five cents. Other "square-shooting policies" included securing strict officials to ensure that "Those who chunk their dough into the pari-mutuel machines are going to get a fair break at the barrier." As well Woollatt continued the popular tradition of honouring prominent citizens or institutions by naming handicaps after them i.e., "Adcrafter," "Starbeams," "Canada Daily Running Horse," "Detroit Athletic Club," "Detroit Times," "Detroit Free Press," and "Border Cities Star." Border Cities Star, 21 June 1924; 10 July 1925, p. 5; 14 July 1926, p. 3; 29 May 1928; Woollatt Scrapbooks, Book 1, pp. 1-2, 5, 11, 19, 22, 24; Book 2, p. 1-3, Archives of the University of Windsor Archives (hereafter UWA).

⁸ For example, the roofs of the grandstand, betting shed, and totalizator at Devonshire Park were ripped off by high winds three times between 1924 and 1936. Detroit Free Press, 2 June 1924; 4 May 1936; Woollatt Scrapbooks, Book 1, pp. 12, 15, UWA.

The degree to which Woollatt would have agreed, is another question altogether. It is here that Marx helps illuminate matters. By considering the pervasiveness of the historically specific circumstances in which Woollatt dealt with other promoters, reformers, and regulators, a greater sensitivity to what exerted pressures and set outside limits on the extent to which his promotional initiatives *intentionally* contributed to the viability of operations at Devonshire Park, may be garnered. For instance, the promotional innovations introduced by Woollatt were facilitated by an economic climate contoured by continental consumer capitalism, though the volume of betting at Devonshire Park was tempered by provincial taxation structures which had been enacted during a period of post-war reconstruction. To acknowledge that these phenomenon, *inter alia*, conditioned the ability of Woollatt to save the WRA from certain bankruptcy, calls for the modification of the conception of agency alluded to above. To this end, the extent to which the transformative consequences of action can be deemed *intentional* is dependent on the capacity of an actor to mobilize and exploit resources inherent in historically specific circumstances (social structures and natural conditions), and at the same time react to the capacity of others to do the same.

Herein lies the theoretical impetus which gave rise to the research proposal; and in retrospect, it is here that the Achilles' Heel can be located. To be more precise, the questions articulated at the proposal defense were based on the premise that the economic viability of the racing industry in Windsor, in the years 1884 to 1936, could not be understood without considering the

*structures*⁹ that facilitated and constrained the actors involved. Specifically, the statement of problem and sub-problems read:

In what ways did commercial promoters, moral reformers, and state regulators influence the operation of racing in Windsor in the years, 1884 to 1936?

In what ways was such agency enabled or limited by structure?

In what ways did structure, apart from the agency of promoters, reformers, and regulators, influence the operation of racing?

Clearly, the proposed questions were framed within the ecumenicities of *making history*, and not in regard to the idiosyncrasies involved in the operation of racing in Windsor, in the years 1884 to 1936. This is significant because this arrested conceptualization of the theoretical impetus for enquiry in *relation* to the empirical object of enquiry renders what is ultimately argued susceptible to a request for a justification *confined* to what was defended in the research proposal. Make no mistake, confronting this discrepancy is not an apology; on the contrary, it is a comment on representing the past.

Recognizing the objective bounds of what can potentially be known about the past, it is impossible, *a priori*, to articulate an answerable question without passing judgement on the attainability of the historical record necessary for answering.¹⁰ Instead, operationalized questions are eventually

⁹ In light of what was said in regard to Woollatt, the term *structure* ought to have been circumstances; for structure was defined as rules and resources inherent in societal conditions which include; relations of class, gender, ethnicity, and race; economic and political arrangements; and cultural definitions. In other words, aside from natural phenomenon, this definition incorporates almost *everything*!

¹⁰ Even if Elton's "first principle" of studying the past "in its own right and its own sake" is accepted, every historical enquiry is confronted with the fact that even though contemporary circumstances continue from past events, the former can never be proven to be a consequence of the latter. Albeit inspiring with its rhetoric of "letting the facts speak for themselves," traditional historical empiricism is archaic to all but idealists. In addition to stating that all the *facts* documented in this history are mute, there exists an objective measure by which purveyors of "data-driven" history may be taken to task. What impedes replication

realized by engaging in a series of reciprocal sojourns between proposed questions, available evidence, and the appropriate concepts to be employed when answering. Thus, it is not what was articulated at the time of the proposal that dictated what was done, but instead it was a dialogue between explanatory concept and obtainable data that charted the overall orientation.¹¹ By elucidating what was *said* during these conversations, the dimensions of the *process* of enquiry may be conveyed and the Heel fortified.

The term *process* is emphasized because attempting to document and explain past eventuation was *not* a linear (nor logical) trek from initial idea to final presentation. What lurked between the two points was what seemed at times to be the haphazard (re)conceptualization of organizing questions that eventually served to conciliate theory and practice.¹² To be sure, it was not

is that without knowing the rationale motivating ideation or action, the consequences of that thought or activity cannot be judged intentional or not. This in turn opens an unbridgeable crevasse between what *actually* occurred at a particular and forever lost moment in time and what can be known about that occurrence at a later moment in time. Accordingly, the discontinuity between antecedent and consequence is incessantly amplified by the passage of time, finiteness of material evidence, and the selective preservation of whatever evidence remains. G. Elton, The Practice of History, (London: Collins University Press, 1967), 65; John Tosh, The Pursuit of History: Aims, Methods, and New Directions in the Study of Modern History, 2nd. ed., (New York: Longman, 1991), 15; Ian Winchester, "History, Scientific History, and Physics," in Clio's Craft: A Primer of Historical Methods, ed. T. Crowley, (Toronto: Copp Clark Pitman, 1988), 119.

¹¹ E.P. Thompson, The Poverty of Theory and Other Essays, (London: Merlin Press, 1978), 230-231; Raphael Samuel, "History and Theory," in People's History and Socialist Theory, ed. Raphael Samuel (London: Routledge and Kegan Paul, 1981), xiii; Philip Abrams, "History, Sociology, Historical Sociology," Past and Present 87 (1980), 15; Arthur L. Stinchcombe, Theoretical Methods in Social History, (New York: Academic Press, 1978), 1.

¹² Broadly defined, theory is inherent to, and may be identified in, even the most avowed "data-driven" history; provided, of course, that its organizing question can be identified. Selecting one out of an infinite number of potential questions is an act of passing judgement on what is deemed important about the past. Accepting the contention that ideation is grounded in material conditions, it follows that particular genres of history are inseparable from an understanding of contemporary circumstances and the various interests which fuel the maintenance and modification of modernity. Thus, the ascription of significance to *realities* that have already transpired is necessarily a theoretical process because such decisions are made in the present. For an interpretation of twentieth century Canadian historiography read Carl Berger, The Writing of Canadian History: Aspects of English-Canadian Historical Writing Since 1900, 2nd. ed. (Toronto: University of Toronto Press, 1988), 260-261, 263-266, 297-

asking questions that was risky; rather it was defining what was required to answer the questions that posed the problem. Looking back, there was essentially one definition that proved problematic; the operation of racing.¹³

The operation of racing came to be defined as the intentional conduct necessary for the economic viability of thoroughbred racing at a track owned or leased by an incorporated racing association. The fundamental term is incorporated. To be incorporated meant that the racing association was a joint stock company. To remain viable, a joint stock company is forced to generate revenue so as to pay stock dividends. In the case of a racing association, revenue was primarily derived from the sale of admission tariffs and bookmaking privileges and/or deducted from a pari-mutuel pool. While gate receipts were important, in the final analysis, it was the volume of betting that was the key source of revenue.

The problem in regard to this definition is that the intentional conduct necessary for economic viability was predicated on the *legality* of racetrack gambling. To be sure, a racing association could not exist as a viable corporate entity if its fundamental source of revenue was not protected by law. By failing to adequately conceptualize the structural legality of the operation of racing, the extent to which any specific circumstance facilitated or constrained agency could not be identified. Moreover, without understanding that it was the legality of racetrack gambling that lay beneath operations, rationality/intentionality could not be adequately ascribed to consequences when attempting to document/explain the respective agencies of promoters,

298, 301; For a wider discussion with various samples read Fritz Stern, The Varieties of History: From Voltaire to the Present, (New York: Vandom, 1956).

¹³ Both Colin Campbell and Alan Metcalfe articulated this point during the proposal stage of this enquiry.

reformers, and regulators. Both of these problems were resolved by passing fundamental judgements in regard to the nature and accessibility of evidence.

Facing the objective bounds of empiricism that circumscribe the historical record,¹⁴ it was acknowledged that whatever could be known about the past would exist only as a body of inferences.¹⁵ By definition, inferential knowledge, though based on empirical *realities*, can only be generated via an *incessant* negotiation with theory (albeit more or less explicit).¹⁶ Because theory provides concepts that help explain past eventuation, it was used to traverse the crevasse that lays between antecedent and consequence.¹⁷ In the process, an intelligible representation was wrestled out of what otherwise seemed to be an "infinite regress of disguises."¹⁸

In the final analysis, it was the structural legality of the conduct necessary for viability that was the fundamental point of contention around which the interests of promoters, reformers, and regulators collided and coalesced. Although the economic viability of racing in Windsor sometimes

¹⁴ For instance, incorporated racing associations were not compelled to disclose revenue-expenditure ratios in annual returns filed at the Provincial Treasury. Furthermore, when witnesses were called to testify in front of a Select Parliamentary Committee in 1910 and a federally commissioned Royal Inquiry in 1919-1920 they were not held in contempt if they refused to answer questions or supply accounts. Rutherford Report, 149, 158-159, RG 14 D2 Royal Commission in Racing Inquiry, 1920 64 Public Archives of Canada (hereafter PAC)

¹⁵ Michael Stanford, The Nature of Historical Knowledge, (Oxford: Basil Blackwell, 1987), 24; Gareth Stedman Jones, "History: the Poverty of Empiricism," in Ideology in Social Science, ed. R. Blackburn, (Glasgow: Fontana, 1972), 113.

¹⁶ Gordon Leff, History and Social Theory, (Alabama: University of Alabama Press, 1969), 56-57, 62.

¹⁷ Of course this transpires as a mental process and leads to the inevitable fact that all that remains of *actual* eventuation is characterized cultures, periodised eras, and colonized territories. Thus, the political bias of selecting a particular theory ought to be readily apparent. For an extended discussion in regard to the politics of the "linguistic turn" read Bryan D. Palmer, Descent into Discourse: The Reification of Language and the Writing of Social History, (Philadelphia: Temple, 1990).

¹⁸ Samuel, "History and Theory," xi; Gareth Stedman Jones, "From Historical Sociology to Theoretical History," British Journal of Sociology 27 (1976), 296; Stanford, Historical Knowledge, 73.

owed its character to traditions extraneous to the region, and at others times to customs instigated there, the intentional consequences of agency on such operations can not be documented/explained without considering how the spatial generalities (i.e. Canada) and peculiarities (i.e. Michigan) of the legality of racetrack gambling mediated promoters, reformers, and regulators. Such documentation/explanation may be realized by first "grasp[ing] state forms culturally [i.e. legality] and cultural forms as state-regulated [i.e. racetrack gambling],"¹⁹ and then accepting that:

Any theory of culture must include the concept of the dialectical interaction between culture and something that is *not* culture. We must suppose the raw-material of life experience to be at one pole, and the infinitely complex human disciplines and systems, articulate and inarticulate, formalized in institutions or dispersed in the least formal ways, which "handle," transmit, or distort this raw material to be at the other.²⁰

Rejecting the staticism and elitism inherent in "high-brow" definitions restricted to artistic, literary, or intellectual expression, this is a culture defined as the *process* through which actors experience and express meaning in their lives.²¹

To be sure, sport in general,²² and horseracing in particular, must be included in such a definition; but as points of departure not as hard and fast

¹⁹ Philip Corrigan and Derek Sayer, The Great Arch: English State Formation as Cultural Revolution, (New York; Basil Blackwell, 1985), 3-6, 184.

²⁰ E.P. Thompson, "The Long Revolution I," New Left Review 9 (1961): 33; Idem, "The Long Revolution II," New Left Review 10 (1961): 34-39.

²¹ John Clarke, "Pessimism Versus Populism: The Problematic Politics of Popular Culture," in For Fun and Profit: The Transformation of Leisure into Consumption, ed. Richard Butsch (Philadelphia: Temple University, 1990), 41; Stuart Hall, "Cultural Studies: Two Paradigms," Media, Culture, and Society 2 (1980), 63; Raymond Williams, What I Came To Say, (London: Hutchison Radius, 1989), 199.

²² John Hargreaves, Sport, Power, and Culture: A Social and Historical Analysis of Popular Sports in Britain, (Cambridge: Polity, 1986), 5, 9; Idem, "Sport and Hegemony: Some Theoretical Problems," in Sport, Culture, and the Modern State, ed. Hart Cantelon and Richard S. Gruneau, (Toronto: University of Toronto Press, 1982), 104-139; Pierre Bourdieu, "Sport and Social Class," Social Science Information 17 (1978), 826; David Whitson, "Sport and Hegemony: On the Construction of the Dominant Culture," Sociology of Sport Journal 1, no. 1 (1984), 64-67; Idem, "Structure, Agency and the Sociology of Sport Debates." Theory, Culture and Society 3

conclusions. For the case at hand, two questions must be addressed; what interest (i.e. "the raw-material of life experience") do promoters, reformers, and regulators have in the legality of racetrack gambling?; and what mediates (i.e. "'handle,' transmit, or distort") the degree to which interests are realized?

Ascribing intentions to dead actors (or living for that matter) is an extremely synthetic sort of business; unless the following "secret" is made known:

It is always the direct relationship of the owners of the conditions of production to the direct producers - a relation always naturally corresponding to a definite stage in the development of the methods of labour and thereby its social productivity - which reveals the innermost secret, the hidden basis of the entire social structure, and with it the political form of the relation between sovereignty and dependence, in short, the corresponding form of the state.²³

Of course, the ascription of rationale to agency will *always* remain subjective; if it was not, everything that has been said thus far would be a farce. As Marx would no doubt concur:

This does not prevent the same economic basis - the same from the standpoint of its main conditions - due to the innumerable different empirical circumstances, natural environment, racial relations, external historical influences, etc., from showing infinite variations and graduations in appearance, which can be ascertained only by analysis of the empirically given circumstances.²⁴

Accordingly, what are described below as the interests of promoters, reformers, and regulators in regard to the legality of racetrack gambling are in essence conclusions based on an historical analysis of the themes, times, and spaces under investigation.

(1986): 99-101; Peter Donnelly, "Sport as a Site for 'Popular' Resistance," in Popular Cultures and Political Practices, ed. Richard S. Gruneau, (Toronto: Garamond Press, 1988), 70; Jennifer Hargreaves, "Theorizing Sport: An Introduction," in Sport, Culture and Ideology, ed. Jennifer Hargreaves, (London: Routledge and Kegan Paul, 1982), 11; Richard G. Hollands, "The Role of Cultural Studies and Social Criticism in the Sociological Study of Sport," Quest 36 (1984), 72.

²³ Karl Marx, Capital, vol. 3, (Moscow: Progress, 1959), 791-792; Read also Alan Sears, "The Health of Nations: Public Health and the Social Reproduction of the Working Class in Canada and Britain, 1900-1920," Ph.D. diss., University of Warwick, 1989, 32-33.

²⁴ Marx, Capital, 791-792.

For commercial promoters, it was revenue derived from the sale of bookmaking privileges, and after 1914 deducted as a percentage of a pari-mutuel pool, that provided the keystone underpinning the enterprise. Accordingly, the legality of racetrack gambling must be maintained; if it was not, capital was destroyed. For moral reformers, the widespread gambling necessary for the viability of the commercial racetrack industry was immoral because it epitomized the direct antithesis to the ethos of the protestant work ethic and was thought to be an impediment to the harmony of the traditional nuclear family. For these reasons, it was believed that the the business of racetrack gambling (and by extension the viability of the industry) ought to be eradicated via prohibitive legislation. For the state, the operation of racing was regulated because it concomitantly meant capital accumulation (which was positive) *and* widespread gambling (which was negative).²⁵ As to the relationship between promoters, reformers, and regulators, the two former actors attempted to align themselves with the agenda of the latter.

Now that rationality has been imposed, what must be taken into account is what mediated the degree to which these interests were realized. The answer argued in this history is grounded in the premise that the capacity of an actor to maintain, eradicate, or regulate the legality of racetrack gambling (while aided and abetted by gender, race, political persuasion, ethnic allegiance, and religious conviction), is in the last instance rooted in the actor's class position in the historically specific mode of production in general, and in accord to amity and struggle between classes and class

²⁵ To be sure, the state is not a monolithic entity. In this introductory context, however, contradictions between various levels of the state (i.e. federal, provincial, and municipal jurisdictions) and the difference between a ruling government and the agenda of the capitalist state will not be addressed in any detail. Instead, because such contradictions and differences as context specific, they will be addressed in the narrative.

factions.²⁶ Although class connotes a quantitative access to material resources, it was wider transformations and contradictions in the social *relations* of capitalism that profoundly conditioned attempts to maintain, eradicate, or regulate the legality of racetrack gambling and thus the viability of operations in Windsor.

Indeed, what is argued in this history is predicated on the inference that the intra-class promoter-reformer antagonism and the nature of state regulation, reflected a wider discrepancy over how to accommodate an incessant inter-class capital-labour contradiction. Such an argument is warranted because although inter-class conflict is the central dynamic in the struggle for hegemony, to ignore heterogeneity within the ruling class smacks of a vulgar reductionism that "glosses over" the various interests which fracture bourgeois culture.²⁷ With this in mind, and a sensitivity to the inherently contradictory nature of capitalism at heart, a series of crises which illuminated the main adversaries and their divergent interests which threatened to destroy the racing industry in Windsor were identified. To elaborate in this introductory context, however, would be bogus, for;

The notion of class entails the notion of historical relationship. It is a fluency which evades analysis if we attempt to stop it dead at any given moment and anatomize its structure.²⁸

²⁶ Alex Callinicos, Making History: Agency, Structure and Change in Social Theory, (Oxford: Polity, 1987), 9-11, 94-95; Bryan D. Palmer, "Marxist History and the Canadian Working Class," in Clio's Craft: A Primer of Historical Methods, ed. T. Crowley, (Toronto: Copp Clark Pitman, 1988), 225-226; Perry Anderson, Arguments Within English Marxism, (London: NewLeft Books, 1980), 19-20.

²⁷ Stuart Hall, "Notes on Deconstructing 'the Popular'," in People's History and Socialist Theory, ed. Raphael Samuel (London: Routledge and Kegan Paul, 1981), 233, 227-228, 238; Idem, "Two Paradigms," 63; Clarke, "Pessimism Versus Populism," 28, 29, 41; Bryan D. Palmer, "Working-Class Canada: Recent Historical Writing," in Contemporary Approaches to Canadian History, ed. Carl Berger (Toronto: Copp Clark Pitman, 1988), 130; David Robbins, "Sport, Hegemony, and the Middle Class: The Victorian Mountaineers," Theory, Culture, and Society 4 (1987), 580-583; Williams, What I Came To Say, 223.

²⁸ E.P. Thompson, The Making of the English Working Class, (London: Vintage, 1968), 9.

Thus, what has to be explicated next is how a representation of this "relationship [that] must always be embodied in real people and in a real context" shall be argued.

**I-iii. An Impolite Narrative:
*A Caveat Respecting Periodisation.***

To have engaged in any prolonged posturing in regard to the abstract class relations and interests of promoters, reformers, and regulators without contextualizing them in the times and spaces under investigation, would have been an act of theoretical terrorism. Not to have mentioned them at all; letting the flow of the narrative conjure illusions of causality, would be to succumb to "empirical parochialism." This is the case for *history* says nothing, historians do the talking; the narrative is the medium.²⁹ Even to acknowledge this, an uninterrupted narrative connotes a sense of continuity from particular antecedent to specific consequence; for this is how eventuation is apprehended, but rarely occurs. In contrast, an impolite narrative "actively interrogated by theory" interrupts the flow, it pokes and prods the reader when inferences are made and conclusions drawn. Most of all, an impolite narrative is wary of the epistemological abyss that lies between the past and history.

To this end, a conceptual device called the *duality of antagonism* will be employed as an organizing principle for the periodisation of the narrative.³⁰ The duality of antagonism means that crises which threatened to

²⁹ Stuart Hall, "In Defence of Theory," in *People's History and Socialist Theory*, ed. Raphael Samuel (London: Routledge and Kegan Paul, 1981), 383.

³⁰ To those readers familiar with the sociology of Anthony Giddens, the duality of antagonism will no doubt bear a resemblance to the *duality of structure* central to his theory of

undermine viability concomitantly represent a consequence of agency and a medium for future action. More precisely, given that a crisis, *at various levels of abstraction*, is an outcome of promoter-reformer-regulator agency, then it can be said to be reflective of the conflicting interests/actions that caused it. From here, actors mobilize and exploit resources inherent to responses to the crises when attempting to realize their respective interests. In this way, responses to the original antagonism reform or transform the circumstances that condition subsequent action. By portraying antagonism as concomitantly reflective (i.e. crisis as consequence) and formative (i.e. response as antecedent), an appreciation may be garnered for the extent to which conjunctures of past agencies provide the medium for subsequent agency. By instilling this awareness of the similarities and peculiarities in circumstances *divided* by time/space, a sensitivity may be fostered for how change over time and across space defines the limits of what is possible and what is believed possible.

In the final analysis, the fundamental structural dynamic in regard to the economic viability of the industry in Windsor was the tension between the legal continuity of operations in Canada and the peculiarity of access to a consumer market (and quality stables) conditioned by Michigan legislation. It was clear that capital failed to recognize international borders if an exploitable market beckoned. After such considerations are taken into account, the consumer market on which the Windsor industry developed becomes

structuration. The difference being that duality in the case of antagonism is simply a conceptual device used to convey a sense of how crises concomitantly reflect agency and serve as a medium for future action, whereas Giddens' duality is conceived as the constitutive means for societal formation and transformation. Anthony Giddens, Constitution of Society: Outline of the Theory of Structuration, (Berkeley: University of California Press, 1984), 8, 14-29, 373; Idem, "Marx's Correct Views On Everything," Theory and Society 14 (1985): 167-174; Alex Callinicos, "Anthony Giddens: A Contemporary Critique," Theory and Society 14 (1985): 133-166.

increasingly visible. To be sure promoters did not operate blindly nor did shareholders invest without reason. This is why it can be said that the economic viability of the thoroughbred racing industry in Windsor, in the years 1884 to 1936, was conditioned by the extent to which the agency of promoters and reformers was mediated by international, national, provincial, and municipal state responses to various manifestations of the basic promoter-reformer antagonism.

The fifty-two years in which there existed a thoroughbred racing industry in Windsor can be divided into essentially two parts. The periodisation is based on the nature of the state responses that mediated the viability of operations in Windsor.³¹ The period from 1884 to 1921 is considered in **Part II. A PROBLEMATIC OF CLASS RULE**. The British legacy of exempting colonial turf clubs from anti-betting laws was incorporated into the Canadian Criminal Code. Such incorporation provided the legal foundation on which the racing industry would develop. The problematic becomes manifest in the fact that paralleling the legality of racetrack gambling operated by chartered associations like the WFDPA was the illegality of off-track cash betting. The contradiction posed serious problems for both the state and the industry when moral reformers called for the abolition of the business of betting. In the end, state responses to the promoter-reformer antagonism during this period tended to benefit the viability of operations; for they were designed to concomitantly encourage capital (by regulating the industry) *and* engender morality (by suppressing plebeian off-track betting).

³¹ It is a sensitivity to the continual interplay between how wider phenomenon conditioned operations in Windsor, and how innovations there influenced more general trends, that underlies sub-periodisation within each part.

The period from 1922 to 1936 is addressed in **Part III. THE CONTINGENCY OF AGENCY & THE DETERMINISM OF STRUCTURE.**

After provincial taxes were imposed as, arguably, a prohibitive measure, the viability of operations tended to be limited by state responses to crises. In addition to the monies that had to be paid to the Provincial Treasury, the taxation structures unintentionally facilitated private handbook operators. This in turn cut into the volume of on-track betting from out of which the industry derived most of its revenue. What exacerbated the troubles of the industry was the economic crisis that permeated North America during the 1930's. Now that racetrack gambling was a source of provincial revenue, and more and more welfare demands were being made on the state, it is argued that governments were reluctant to significantly modify the taxation structures. In 1933, the final barrier that constrained operations in Windsor was thrown up when the Michigan legislature legalized the business of betting. This decision effectively stifled the supply of quality stables, and access to a consumer market, necessary for the viability of operations in Windsor.

Final remarks will be drawn in **Part IV. OPERATING ON THE BORDER.** In this concluding chapter, the significance of this history will be noted with respect to how what was documented and explained in regard to the viability of operations in Windsor relates to *making history* in general, and bourgeois hegemony in particular.

Part II.

A PROBLEMATIC OF CLASS RULE: *Encouraging Capital & Engendering Morality, 1884 to 1921.*

II-i. Colonial Legacy:

One Law for the Rich & One Law for the Poor.

Imperial garrisons were erected across British North America to protect the exploitation of staples. As governor and officer stood watch over the Dominion they took as their New World, they released into its forbidding backwaters traditions exported from the Old; some sank and others were actively drowned. The so-called "Sport of Kings" was enthusiastically kept afloat in and around Windsor by cavalry officers, local farmers, and trading voyagers who engaged their mounts in trials of speed across the frozen straits of the lower Detroit.¹ Given the utility of the horse as either a beast of burden or a form of conspicuous consumption, it was not rare for contemporaries to proclaim; "horse-racing in some shape or form will always be carried on where the English language is spoken."² What must be remembered, of course, is that the particular *shape or form* of racing was profoundly conditioned by the cultural contours of the environs in which it was *carried on*. This is especially significant when considering the legal status of racetrack

¹ At the time Jockey Club Park was established in 1884, over sixty-four percent of the local population was from the British Isles. R. Cancian and others, Windsor: A Statistical Package, (Essex County Historical Society, 1983), 2; Windsor History Scrapbook Book 3c, p. 60, Public Archives of Windsor (hereafter PAW).

² "The Queen's Plate," Canadian Magazine, May 1900, 270; Read also Francis Nelson, "Horse Racing in Canada," Canadian Magazine, May 1902, 230; T.C. Patteson, "Papers Concerning Horses," MU 2309, Patteson Papers, PAO.

betting when the Windsor Fairgrounds and Driving Park Association (WFDPA) was incorporated in 1884.

Initially restricted to contests between cavalry officers and members of the aristocracy, the practicality of "man's most useful servant" hastened the spread of racing beyond garrison outposts and private manners, into towns, and across the countryside. Though class would dictate the nature of involvement, racing soon permeated the whole of colonial society. Despite the democratization of racing in regard to participation, its organization was restricted to men said to be "of the most brilliant intellect and the most scrupulous character." In other words, leadership was provided by actors who were in command of a variety of material resources and who possessed superior organizational skills. It was the administrators and defenders of the colony (and later a few prosperous merchants) who met this criteria.³ Accordingly, they grasped the reins used to steer the early development of thoroughbred racing. The memoirs of T.C. Patteson attest to the contributions made by military officers who purchased thoroughbred stallions in antebellum Maryland, Virginia, and the Carolinas and brought them north for racing purposes.⁴ The legality of the meetings at which these southern steeds raced, however, had more to do with the statutes of England than the stables of the Southern United States.

³ A consequence of imperial politico-economic policies which concentrated the majority of resources at the disposal of a minority of governors, merchants, bankers, and landlords. Stanly Ryerson, Unequal Union: Roots of Crisis in the Canadas, 1815-1873, (Toronto: Progress Books, 1968), 42-53, 113-117; Peter Lindsay, "The Impact of Military Garrisons on the Development of Sport in British North America," Canadian Journal of History of Sport and Physical Education 1 (1970), 33-35; A. Cox, "A History of Sport in Canada, 1868-1900," Ph.D. diss., University of Alberta, 1969, 349.

⁴ T.C. Patteson was a turf commentator/historian and a founding father of the Ontario Jockey Club.

Looking to the motherland for direction, the sporting gentry sought to fashion racing in the Canadas with customs imported from Ascot, Epsom, and Newmarket. Such influence was evident by the 1840s when flat and steeplechases were conducted and, more importantly, *wagered* on under the auspices of formalized turf clubs.⁵ Carried across the Atlantic with the traditions of the finest ovals of England were the blatantly hypocritical and paternalistic class-biased statutes that condoned credit wagering in the clubhouse while condemning cash betting along the back-stretch. When it came to backing a favorite with a side bet or two, the social elite declared themselves beyond reproach. Adamant in defence of their own speculations (as harmless diversions), it was in the interests of the sporting gentry to comply with the moral condemnation of widespread "street" betting to avoid incurring the wrath of their more pious brethren.

Threatened by this possibility, members of private turf clubs tacitly agreed that gambling by "lower orders" was apt to explode into "moral distemper." To combat what was termed a "morbid habit," Colonial governments' enacted legislation designed to suppress "inappropriate" gatherings by limiting the times and spaces available for mass recreation.⁶ In contrast, credit wagering (which by nature excluded wage-labourers) between club members and their guests if conducted at a recognized track was not considered a crime and had been officially preserved in Britain under the

⁵ Alan Metcalfe, Canada Learns To Play: The Emergence of Organized Sport, 1807-1914, (Toronto: McClelland and Stewart, 1987), 147; Louis E. Cauz The Plate: A Royal Tradition, (Toronto: Deneau Publishers & Company, 1984), 9; Richard S. Gruneau, Sport, Class, and Social Development, (Amherst: University of Massachusetts, 1983), 95.

⁶ Lord's Day Act 1845, Statutes of the Province of Canada; Gruneau, Class, Sports, and Social Development, 96, 102.

Lotteries and Betting Act of 1853.⁷ Evidently, the sporting gentry were not reluctant to let class dictate who and where gambling could legally transpire. When in 1886, the Parliament of Canada amalgamated existing English legislation regarding gambling into a general statute dealing with offences against religion, morals, and public conveyances it implicitly extended the privileges of the private turf clubs to incorporated racing associations.⁸

No doubt the exemptions afforded the nineteenth century turf clubs weighed "like a nightmare on the brain" of any early twentieth century moral reformer who realized that it was these privileges which provided the legal foundation on which the business of betting was based.⁹ If the state had prohibited members and guests of the colonial turf clubs from on-track gambling, the genesis of the racing industry in Windsor could never have legally transpired. When in 1909, H.H. Miller introduced his Private Members Bill to deny the industry its colonial legacy, the ensuing committee hearings and parliamentary debates called into question the fact that there existed two laws pertaining to racetrack gambling in Canada; one which sanctioned "speculation" by gentleman with viable bank accounts (not to mention enough income to afford transportation and admission tariffs) and another which forbade crass "gambling" by punters who had not.

⁷ Wray Vamplew, The Turf: A Social and Economic History of Horse Racing, (London: Lane, 1976), 204; R. McKibbin, "Working-Class Gambling in Britain, 1880-1939," Past and Present, 82, (1979), 147.

An Act Respecting Gaming Houses. S.C. 1886, c. 158; Judith A. Osbourne, and Colin S. Campbell, "Recent Amendments to Canadian Lottery and Gaming Laws: The Transfer of Power between Federal and Provincial Governments," Osgoode Hall Law Journal 26 (1988), 22; Colin S. Campbell, "Gambling in Canada," in Canadian Criminology: Perspectives on Crime and Criminality, ed. M.A. Jackson and C.T. Griffiths (Toronto: Harcourt, Brace, and Javanovich, 1991), 154.

⁹ The phrase is from Marx's oft-quoted statement; "The tradition of all the dead generations weighs like a nightmare on the brain of the living." Marx, The Eighteenth Brumaire, 10.

Though Miller, and advocates of the moral reform movement of which he was the parliamentary spokesperson, endeavored to avenge this legal injustice, the racing and attendant betting they denounced had been profoundly altered. Similar to the statutes themselves, class relations were central to the development of the racing industry. In particular, access to capital (via lucrative business connections) underlay the material superstructure of tracks, grandstands, betting rings, railways, and ferries at, and through which, operations were conducted.

II-ii. A Symbiotic Arrangement: *Racing & Capital.*

With the legality of the WFDPA intact, the business connections of the majority of its shareholders provided important sources of capital necessary for the viability of the Driving Park.¹⁰ For example, even though Alexander Cameron had served as a provisional director and spared no expense in procuring the best blood when breeding his racing stock, his mark on racing was due more to his agency as a businessman than as a horseman. Specifically, his contribution to the industry lay in acquiring and developing the property on which the original Driving Park would be built. Important to this acquisition and development was Cameron's partnership in the Essex

¹⁰ Of the thirty shareholders who purchased company stock in June of 1884, twenty-three were merchants or professionals and at least four sat on the Windsor Board of Trade. Although fifteen of the original deeds were not located the occupations of those holding shares were noted in supporting documentation. Similarly, shareholders in the Kenilworth Jockey Club and Western Racing Association were either industrials, merchants, or professionals. RG2 DIII-1/15-30, Deeds 1884, PAW; *Border Cities Star*, 10 March 1928, p. 5; *Woollatt Scrapbooks*, Book 2, p. 20; Charles Millar to T.W. McGarry, 8 May 1916, Department of Treasury and Economics, Office of the Minister General Correspondence File, PAO; Transcript of the Public Accounts Committee, Appendix (1), *Journals of the Legislative Assembly*, 1917, p. 169.

County Bank. The bank offered "an ideal engine to obtain money to buy and then sub-divide the land." The engine proved so lucrative that by 1883 all the lots necessary had been purchased for approximately \$3,000.¹¹

Once the track was operating, arranging transportation services with the ferry and street railroad companies was crucial to ensure viability. In 1884, Dr. John Coventry the president of the WFDPA, and Francis Cleary a director, were instrumental in securing improved ferry service between Windsor and Detroit.¹² Then in 1893, the electrified Sandwich, Windsor, and Amherstburg Street Railroad (SWA) was bought out by a Windsor syndicate which had elected the same Coventry as its president and whose directors included, George M. Hendrie, John Davis, William J. Pulling, and William J. McKee all of whom were directors of the WFDPA.¹³ The first order of business of the SWA was to extend the line north along Ouellette Avenue to the gates

¹¹ Beginning in 1874, Cameron, known as someone who "would not part with a dollar unless he was sure of getting more in return," in partnership with James Richie Curry, began buying the lots on which the original half-mile oval was to be constructed. In 1877, before all the property had been secured James Richie Curry died and Cameron initiated a new partnership with John Curry in the Essex County Bank. Cameron and Curry owned or partly owned five out of the nine largest land developments in Windsor. At the time of his death, Cameron the "Earl of Essex" was estimated to be worth \$1,500,000, but after his will was probated his value was reduced to \$700,000. The operations of the Cameron Stock Farm and the racing times it produced were made public in articles about Cameron and in advertisements selling horses bred at his farm. Weekly Record, 29 April 1892, p. 4, 8; Patrick Brode, Alexander Cameron and the Flowering of the County of Essex, 1853-1893, (Essex County Historical Society, 1987), 10, 14, 16. RG2 DIII-1/7-14, Deeds 1874-1883, PAW. John Curry was the President of Windsor and Walkerville Land Co., Essex County Saving and Load Co., Secretary and Treasurer Walkerville Wagon Works. J.H. Beers, Commemorative Biographical Record of the County of Essex, (By the Author, 1905).

¹² On February 11, 1884 Windsor Town Council passed a by-law granting a lease to the Detroit, Belle Isle, and Windsor Ferry Company. F.J. Holton, Bedford D.H., and Francis Cleary, "History of the Windsor and Detroit Ferries," Papers and Records, Ontario Historical Society 16 (1917), 11-14.

¹³ W.J. Tringham, one of the six original shareholders in the Driving Park was involved with the street railroad since at least 1886. Detroit Free Press, 4 June 1886; Evening Record, 9 June 1886.

of the track.¹⁴ The "Driving Park" extension made it possible for patrons from Detroit to step off the ferry at the foot of Ouellette and ride the street railway directly to the track.¹⁵

The business connections of the shareholders were not only essential but proved highly lucrative.¹⁶ From its initial four day meet at which less than eight thousand patrons watched \$3,000 in purses be distributed to stables from the surrounding countryside, the popularity and capitalization of the WFDPA expanded rapidly.¹⁷ By the early 1890s, the association was consistently hosting "Red Letter meetings" at which one to three thousand patrons could be expected to attend. These crowds, according to the Record were "large enough from a financial point of view."¹⁸ Evidently, operations were viable enough that, with "Dame Fortune" in their corner, the directors presented a resolution calling for the construction of a new one mile track and twelve-hundred seat grandstand. The shareholders thought this was a "proper thing" and endorsed the resolution in April of 1893. In June of that

¹⁴ Windsor History Scrapbook, 9a, p. 9; E. Bloomfield, G. Bloomfield, and P. McCaskell, Urban Growth and Local Services: The Development of Ontario Municipalities to 1981, (Guelph: University of Guelph, 1983), 97-99.

¹⁵ On July 5, 1893 the railway proved its worth when it hauled two-thirds of the five thousand people who attended the races that day. Indeed, the street railway would prove invaluable in the viability of the WFDPA. The electric cars (with a capacity to carry one hundred persons each) were guaranteed to transport the patrons "without mishap and with neatness and dispatch." As well private hackmen did a "rushing business" and eventually taxi drivers would draw a great deal of business from the track. Evening Record, 26 June 1893, p. 4; 5 July 1893, p. 2, 20 March 1894, p. 4; 24 April 1894, p. 4; 3 May 1894, p. 4; Weekly Record, 8 June 1894, p. 1.

¹⁶ In April of 1887, the shareholders of the WFDPA agreed sell their respective lots for its value in stock. To realize any sort of return on their investment during this period when land prices were increasing meant that the association must have been paying handsome dividends on the issued stock. RG2 DIII-1/38-39, Deeds 1887, PAW.

¹⁷ Recollections of opening day in 1884 by W.A. Hanrahan, Secretary of Windsor Water Works and Windsor Board of Trade, who was reported to have served as the Secretary of the Windsor Jockey Club for over thirty-eight years. Windsor History Scrapbook Book 3c, p. 60, PAW; Evening Record, 1 July 1893, p. 4.

Weekly Record, 15 June 1894, p. 3; 12 July 1895, p. 4.

year provincial Letters Patent were secured so that an additional four hundred and forty \$100 shares of stock could be distributed among the existing shareholders in addition to thirteen new investors to raise money for the proposed track.

To ensure that the new facility would be popular with both spectators and horsemen, the directors spared no expense in acquiring the most modern plans for track design and grandstand construction, travelling to tracks in the Eastern United States to ascertain the necessary particulars. In hopes of breaking records, special banked curves were engineered to ensure the track would be the "fastest in Canada." Furthermore, the track was constructed using a soil clay loam guaranteed not to "get too hard," and ceramic drainage tiles were laid beneath the track which allowed the horses to train early in the morning; "the advantage of which every horseman will appreciate."¹⁹ The careful planning demonstrated by the directors began to pay dividends the following autumn. During the fall meeting in 1893, the Dominion record for the fastest mile ever trotted or paced was broken in front of a crowd of over three-thousand patrons.²⁰

Although establishing national records went a long way to fill the grandstand, the directors were forced to confront the fact that the majority of the competitors that ran at the Windsor track did not possess any chance of breaking records. Most of the horses belonged to an agricultural class of interest to local farmers, but less attractive to individuals not directly

¹⁹ The new grandstand was complete with special private boxes, a press gallery, a bandstand, a concession stand, and a wooden walkway which connected it with the street railway. Evening Record, 20 April 1893, p. 1; 6 May 1893, p. 2; 11 September 1893, p. 2; 13 September 1893, p. 2.

²⁰ Weekly Record, 15 September 1893, p. 3.

involved with breeding.²¹ Accordingly, trotting and pacing constituted the largest share of the program and received the majority of the purse monies distributed. The symbiosis between the Driving Park and area breeders was acknowledged by Lieutenant Governor Kirkpatrick when he traveled to Windsor in the spring of 1894 to "officially" open the new track and donate a plate and cup. Pleased to see the interest taken by the WFDPA in the local breeding industry, Kirkpatrick predicted that racing at the new track would increase the quantity and quality of stallions in the vicinity resulting in a "much needed improvement of horse stock."²²

Despite the association's close ties to breeding, the WFDPA (similar to the jockey clubs at Woodbine and the Hamilton track), was a joint stock company and was therefore forced to *sell* the races at the Driving Park to pay dividends, off set the costs of purses, and cover (what by the time it was paid off in 1898 amounted to nearly) a \$40,000 capital expenditure on the track.²³ While a monetary element was always central to racing it was not until the advent of the incorporated racing association that the "Sport of Kings" was

²¹ As "buggy supplanted saddle" during the mid-nineteenth century, trotters were bred for utilitarian, as well as, sporting purposes. Drawing on a wider geographical and social base, trotting thrived especially among "sporting farmers" who raced their steeds at agricultural fairs. By Confederation, tracks, where at least one race meet was conducted annually, had spread from sea to sea. Metcalfe, Canada Learns To Play, 143; Windsor History Scrapbook Book 3c, p. 60, PAW; Neal Morrison, Garden Gateway To Canada, (Windsor: Herald, 1954), 47, 75; K.G. Jones, "Sport in Canada, 1900-1920," in History of Sport in Canada, ed. Maxwell Howell and R. Howell (Champaign, Ill.: Stipes, 1981), 218-219.

²² The concern with breeding was also evident in the amount of space reserved in the Record for local agricultural fairs and stock exhibitions. Weekly Record, 13 May 1892, pp. 3, 11; 8 June 1894, p. 1; Evening Record, 5 July 1893, p. 2; 20 March 1894, p. 4; 24 April 1894, p. 4; 3 May 1894, p. 4; 6 May 1893, p. 2.

²³ This figure was arrived at by adding the cost of a \$25,000 loan, interest over the five years it took to pay it off, and the \$7,000 necessary to buy the addition seventy acres of land required for the new track. The additional seventy acres of land necessary for the expansion had been purchased in 1892 for \$7,098 from Daniel Goyeau by W.J. McKee, W.J. Pulling, and John Davis who then conveyed the lots to the association for \$7,000. RG2 DIII-1/43,44,46,112 Deeds 1892, 1893, 1908, 1928, PAW; Letters Patent granted to the Windsor Fairgrounds and Driving Park. RG 14 D2 Royal Commission in Racing Inquiry, 1920 65 File (7) Exhibit (7), PAC.

operated so as to yield income (in the form of stock dividends) for actors other than those who were actually racing (breeders, jockeys) or who had wagered on the outcome. In contrast to the colonial turf clubs which relied on private sponsorship or agricultural fairs (where success was judged by how much money a horse would attract after the meeting), the viability of a WFDPA meeting was dependent on revenue derived primarily from gate receipts and/or the sale of bookmaking privileges.²⁴ Until 1895, monies derived from these sources was constrained by the demographic composition of the Windsor market and competition from tracks in Detroit.

II-iii. Necessities & Constraints:

Generating Revenue & the Windsor Market.

One strategy that would ensure that everyone who was watching the races had paid their fifty cents for the privilege to do so, was to construct a nine-foot fence around the perimeter of the Driving Park. The key source of revenue for the WFDPA until 1914, however, was the sale of daily bookmaking privileges. In addition to the \$100 that was paid for the privilege to "keep a book" each day, professional bookmakers were crucial to the viability of the association because they were "willing to offer odds on all horses, and also long ante-post odds on yearlings and other unraced [sic] young horses, something no-one dare risk unless they were betting round."²⁵ Thus, while for the first decade of its operation the Driving Park catered especially to the

²⁴ Secondary sources of revenue included the collection of purse fees, the sale of clubhouse privileges and refreshments, and the leasing of the track for any lawful purpose. For example, J.M. Ouellette staged matinees in 1892 distributing \$75 purses and charging a twenty-five cent admission ticket to crowds of one thousand. Weekly Record, 14 October 1892, p. 4; 1 July 1893, p. 4.

²⁵ Vamplew, The Turf, 215; Evening Record, 3 July 1893, p. 2.

"sporting farmer," organized gambling was nevertheless essential for the ongoing viability of operations.

Understanding this, the directors endeavored to create conditions conducive for spectating and wagering by constructing "ample betting booths and paraphernalia [which] provided every convenience ... for pool-selling." In addition to providing the physical amenities, arousing and maintaining public interest in watching and betting on the slower races required that the meetings be absolutely free from "defrauding influences ... [or any] semblance of a deal." The associations' interest in keeping the bookmakers and ticket dispersers busy was evident in its motto: "fair field and no favours," a dictum enforced so vigorously that the association came to be known for its "square dealing and honest sport."²⁶ Given that there were so many other factors working against the bettor, this sense of integrity was especially important to induce attendance and wagering.²⁷

In addition to its significance in terms of generating revenue, the integrity of the association would be called upon to temper a province-wide chauvinism against standard-bred trotting meets. The antagonism was manifest most explicitly in cavalier attitudes equating trotting with corruption and thoroughbred running with nobility.²⁸ Fortunately the Windsor association could count on the reputation of its membership to

²⁶ A reputation substantiated after the Canadian Racing Association steward and Sports Editor of the Globe, Francis Nelson swore that he had "never known a case of either prejudice or partisanship in [rule] enforcement" at the Driving Park. Evidence taken by Select Committee, Journals of the House of Commons, Appendix (6), 1909-1910 p. 547.

²⁷ As well, much to the pleasure of horsemen, purses were guaranteed to be paid promptly. Evening Record, 9 September 1893, p. 7.

²⁸ For instance, it was said "the patron of the trotting track has been classified with the gambler and the blackleg, for honestly dwelt not there." Dominion Illustrated Monthly 5, no. 111, 102 cited in S.F. Wise, "Sport and Class Values in Old Ontario and Quebec," in His Own Man: Essays in Honour of Arthur Reginald Marsden Lower, ed. W.H. Heick and R. Graham (Montreal: McGill-Queen's University Press, 1974), 106; Metcalfe, Canada Learns To Play, 154-155.

rebuff such criticism. The fact that members of the prestigious Ontario Jockey Club had purchased shares in the WFDPA no doubt helped. For example, when the Lieutenant Governor visited the Driving Park in 1894, he was in the company of the President of the Ontario Jockey Club and was joined by representatives from the Toronto and Hamilton Hunt Clubs and the Hendrie, Seagram, and Orkney stables.²⁹ Evidently, the integrity of the WFDPA helped protect the Driving Park from that "predatory horde of outlaws" alleged to infiltrate betting rings and fix races under the noses of unsuspecting and ill-managed trotting associations.

This integrity was not hard to come by; given that the directors were known to be "respectable and representative men of [the] locality" whom had already "made their pile" as bankers, merchants, and lawyers. Such exploits were said to "prove" that racing at the Driving Park was "conducted by those ... not in it solely for financial gain, but for good honest sport."³⁰ For example, William J. McKee, a vice-president of the association during the 1880s, recalled that racing "was more of a sport in those days ... [with] a better class of people interested."³¹ Membership in the association, McKee went on to note, served as an indication of the high social standing of a citizen. In fact, before the turn of the century five Windsor mayors would either serve on the executive or hold shares in the association.³²

Equally important in establishing and popularizing the integrity of the executive and members was the Windsor Record. With a reputation "to

²⁹ Weekly Record, 23 March 1894, p. 2.

³⁰ *Ibid.*, 16 March 1894, p. 6.

³¹ McKee, was a successful lumber merchant, member of the Windsor Board of Trade, and a MP. Border Cities Star, 1 June 1935; Woollatt Scrapbooks, Book 3, p. 49, UWA; Hansard, 1910, p. 6456-6457.

³² Dr. John Coventry, Solomon White, John Davis, Oscar E. Flemming, Francis Cleary. After the turn of the century, other mayors involved in the WJC included E.S. Wigle and C.R. Tuson.

oppose anything which [was] injurious to the public interest," the Record made it known that operations at the Driving Park were "pure, legitimate sport" and for that reason the track "should receive the support of our citizens."

The establishment of such a track, so carefully and fairly conducted as have been the meetings here in the past, will do much to make Windsor known abroad.³³

It ought to have been expected that the Record report that the new track would be "appreciated by the people of the city and county" and extoll the effort expended by the "enterprising association" in building the one-mile oval, given that the proprietor of the paper, John A. McKay, was one of the nine directors that ran the association.

Although the Record routinely congratulated the WFDPA for its "business enterprise" and claimed that the names Davis, McKee, and Hanrahan "guarantee[d] club stability and chance for success," the directors could not ensure that trotting was conducive to mass spectatorship or speculation.³⁴ Understanding that increased volume of betting (necessary to sell more bookmaking privileges) was dependent on attendance, and that the fastest features drew the largest audiences, the executive reasoned that patrons would remain at the track all day if the feature races were run last. To the displeasure of patrons, however, the inferior class of races were usually long and drawn out and often not even completed. If such displeasure was not expressed at the track, the Free Press provided the directors with the necessary details.³⁵ In an attempt to remedy this situation the services of

³³ Evening Record, 6 May 1893, p. 2; 26 June 1893, p. 4.

³⁴ Weekly Record, 23 March 1894, p. 2.

³⁵ For example, when a feature race was cancelled because of time restraints, the Free Press suggested that "in justice to the many from Detroit who helped make the meeting a success" the feature should have been run before the slower classes because "there is little doubt that this race attracted more people from Detroit than any others on the card, and that being

well-known officials were secured.³⁶ This, however, was to no avail; the problem lay not with officiating but in that racing between standard-bred trotters was traditionally decided by a series of heats (that were conducive for testing stamina).

Logically, the only solution to generate larger amounts of revenue would be to protract the meetings to collect more gate receipts and sell more daily betting privileges. Though this plan was rational, it would have in all probability failed. Even though the WFDPA could supply the "fastest track," and the Record made it known that the Driving Park was more conveniently located than either the Grosse Point or Blue Ribbon tracks,³⁷ its purses were considerably smaller than those distributed by racing associations in Detroit.³⁸ If the promoters of the Windsor track failed to recognize this constraint, they were reminded when counting gate receipts. In most cases, the WFDPA realized it was operating at a marked disadvantage and would cancel or postpone meets until racing had been completed across the river. All of the promoters in Windsor, however, did not show the same respect. For instance, when the independent promoter W.W. Lyles, took his "whirl at the wheel of fortune" and leased the Driving Park in direct conflict with the Blue Ribbon track in Detroit, the venture failed miserably.³⁹

Considering the prospects of competition from tracks in Detroit and the agricultural nature of the surrounding environs, operations at the Driving Park were restricted in regard to the nature of racing promoted. The

the case, the people had the right to see it." Cited in the Evening Record, 18 September 1893, p. 5-6.

³⁶ Ibid., 4 May 1894, p. 5.

³⁷ Weekly Record, 13 May 1892, p. 3, 11; Evening Record, 7 April 1902, p. 7.

³⁸ The Detroit Driving Club which sponsored racing at the Grosse Point track was inaugurated in the same year as the WFDPA. It drew twice as many patrons as the Windsor track and distributed double the purses. Evening Record, 17 July 1900, p. 4.

³⁹ Border Cities Star, 1 June 1935; Woollatt Scrapbooks, Book 3, p. 49, UWA.

viability of racing operated by the WFDPA required that its annual calendar be limited to less than ten days racing. Emphasizing trotting and pacing, operations at the park, while undeniably commercial, remained closely tied to breeding concerns in particular and agricultural interests in general. That is why it was completely unprecedented for the Windsor track to host sixty days of primarily thoroughbred running at the turn of the century. Had it not been for significant transformations in Continental turf affairs and the economies of Windsor and Detroit, racing at the Driving Park would have remained restricted to one small spring and fall trotting meet conducted by the WFDPA, a truncated thoroughbred meeting sponsored by a fledgling jockey club, and a few two or three day meetings hosted by local agricultural societies or private promoters.

**II-iv. Objective Markets & Subjective Boundaries:
*"Betting Places," "Better Places," & the
 Consolidation of Operations on the Border.***

Subtle changes in the promotion of racing at the Driving Park can be discerned as early as 1893 when the president of the WFDPA promised that the association would "use their best endeavors for the elevation of horse speeding" and more importantly a jockey club which only sponsored thoroughbred running was formed.⁴⁰ The jockey club was organized by John Davis after the WFDPA had "struck [the] key note of success by running bang-tails" the previous year.⁴¹ The runners became even more prominent after the Driving Park was leased by George M. Hendrie, who was a member of the

⁴⁰ Evening Record, 11 September 1893, p. 2.

⁴¹ On other occasions the "bang-tails" were reported to have "called much excitement." Weekly Record, 8 July 1892, p. 3; 19 August 1892, p. 1.

jockey club and had been holding successful thoroughbred running meets at the Highland Driving Park in Detroit. In contrast, however, to the operation of racing at Windsor till then, the commercial promotion of thoroughbred running at the Windsor track was conditioned more by Continental phenomenon than by local tastes, national trends, or British customs.

When civil war fractured the union in 1860, the resulting carnage forced southern owners and breeders to migrate north to Kentucky and New York. The influx of horsemen aided and abetted the resurrection of a once prosperous racing industry.⁴² To reduce travel costs and avoid conflicting racing dates, regularized circuits connecting larger towns and cities were organized. Accordingly, racing associations in the surrounding northern States established the Grand Circuit; driving parks in Detroit represented lucrative tracks on the circuit. Because of the proximity of Windsor and Detroit, trotters at the Grosse Point and Blue Ribbon tracks could be expected to run at the Driving Park.⁴³ Optimistically, the Record predicted that the ample transportation links that connected Windsor to the continental Mid-west would make it possible for competitors and patrons to travel from Detroit, Buffalo, Chicago, Cleveland, Toledo, Sandusky, and Port Huron, to compete and spectate at the Windsor track.⁴⁴ Accordingly, the Windsor

⁴² Melvin L. Adelman, A Sporting Time: New York City and the Rise of Modern Athletics, 1820-1870, (Chicago: University of Illinois, 1986), 75, 82-84.

⁴³ This limited cartel activity between tracks in Detroit and the Driving Park helps explain why commentators on the North shore of the Detroit River (the Michigan Horse News, the Detroit Free Press, and D.J. Campeau, the President of the Detroit Driving Park Association) joined the resounding chorus orchestrated by McKay in praising the new track in 1893 as being the "Pink of Perfection", a "credit" to Windsor, the "prettiest seen in this part of country" and "most popular ... in Canada or the States." Evening Record, 11 September 1893, p. 2; 3 May 1894, p. 4.

⁴⁴ The Great Western Railway in 1854, the Canadian Southern and the Lake Erie, Essex and Detroit River Railways during the 1880's, and the Canadian Pacific Railway in 1890 gave Windsor direct connections with the Continental Mid-west and wide range throughout Ontario. Evening Record, 2 May 1893, p. 2; H.J. Lassaline, and Ernest S. Wigle, Essex County Sketches, (Windsor: Herald Press, 1974), 12.

meetings were scheduled to take place one week prior to the Grand Circuit "with the program arranged so that horses can perform at Windsor without prejudice to their records."⁴⁵

It was not until 1895, however, that significant changes began to transpire. In that year, anti-gambling legislation was enacted in the States of Illinois, Ohio, and Wisconsin. Apparently, moral dissent in these States was pitched enough, that the respective legislatures decided that the destruction of capital was warranted. Because the viability of operations was predicated on the primary source of revenue being legal (i.e. dependent on betting privileges paid by bookmakers to off-set the costs of purses paid out by the racing associations), to ban betting in effect meant to ban commercialized racing.

With the demise of the Grand Circuit, the WFDPA was forced to truncate its trotting programs and increasingly promote the runners to capture the interest and money of patrons from Detroit.⁴⁶ In addition to amplifying the prominence of thoroughbred running, the demise of the Grand Circuit had the effect of interesting "a batch of Americans" in the

⁴⁵ American trotters were essential for local success because if there were scheduling conflicts on the Canadian circuit, the best Canadian stables would compete at the more lucrative tracks in Toronto, Hamilton, and Montreal. Weekly Record, 8 June 1894, p. 1.

⁴⁶ Five years later a week of trotting sponsored by the WFDPA at which races were run for purses as low as \$150 and with betting reported to be "decidedly light" was nevertheless congratulated given that all the Michigan meetings had failed as a result of lack of entries. Though the Michigan trotting circuit was devastated while trotting at the Driving Park continued to attract a limited following until 1910. From 1904 to 1907 trotting at the Driving Park would bring in an average \$4,936 per year in bookmaking privileges. The final blow to trotting at the Driving Park was struck in 1910 when racetrack gambling at each incorporated track was limited to fourteen days racing. Given that running was the more lucrative of the two styles it was promoted over trotting. Evening Record, 14 July 1900, p. 3; 19 July 1900, p. 4; 24 July 1900, p. 4; Hansard, 1910, p. 6457-6458; The trotters would return to Windsor in 1924 when the Blue Ribbon Driving Club leased Devonshire Park. Border Cities Star, 1 August 1924, sec. II, p. 3.

Windsor track.⁴⁷ W.O. Parmer, Secretary at the Blue Ribbon track, realizing that many American horsemen and bookmakers would be deprived of their "usual fields of operation," began organizing US capital in the Driving Park. This led to a situation, opponents of racing declared, which had the effect of "bringing racing in that part of the province into great disrepute." What in part prompted this comment, was that Samuel Wagner, owner of a number of illegal gaming houses in Chicago, was said to have become principle owner of the Windsor track.⁴⁸

While no evidence was discovered that confirms the involvement of Wagner, what is certain is that the infusion of US capital influenced the adoption of the dash system of thoroughbred running. The dash had been imported from England and been popularized throughout the northern US by the American Jockey Club.⁴⁹ Inherent to the dash system was a greater emphasis on speed, both in regard to an actual race, and in the number of races that could be completed in one day. Because expanded programs offered more opportunities to "come out ahead," they were applauded by owners and bookmakers. To fill expanded programs, however, promoters were forced to offer more and larger purses. As the dash system gained approval, it became necessary for jockey clubs to increasingly depend on public patronage to off set rising costs.⁵⁰

⁴⁷ Windsor History Scrapbook Book 3c, pp. 60-61, PAW; John Staley, "History of Sport in Essex County, Ontario," M.A. thesis, Wayne State University, 1972, 38.

⁴⁸ Evidence taken by Select Committee, Journals of the House of Commons, Appendix (6), 1909-1910, p. 280, 881; W.E. Raney, The Business of Race Track Gambling, (Toronto: SSCC, 1918), 6; S.D. Chown, "Plea for Legislation on Gambling," circa 1910, United Church Archives (hereafter UCA).

⁴⁹ In 1866 a syndicate of wealthy New Yorkers created the American Jockey Club (AJC). By discouraging match races between club members, and adopting the dash in place of heats, the AJC altered the direction of racing throughout the union. Adelman, A Sporting Time, 75, 82-84.

⁵⁰ Adelman, A Sporting Time, 85-88; W.H.P. Robertson, The History of Thoroughbred Racing in America, (Englewood Cliffs, N.J.: Prentice-Hall, 1964), 91-92.

Now more than ever before, the key to the viability of the Windsor track lay in the legal betting conducted there. As purse distribution increased, the WFDPA was forced to rely on the "seductive voice of the auction pool seller" to pitch its meets.⁵¹ Moreover, it was not just the races that were up for sale; to be sure, the changing nature of operations had to be sold. Here the association relied on the reasoned voice of the Record to ensure that changes at the Driving Park did not undermine the utilitarian justifications offered by its promoters. The improvement of the breed was still declared the fundamental objective, however, the particular details of how thoroughbred running provided any practical benefit were few and far between. Instead, as Adelman suggests, the "spin-off effects" were advertised:

[The meet] will attract a large number of outsiders to the city which means the expenditure of a considerable sum of money during the week. Not only are the persons dealing with these people directly benefited, but all classes of the citizens participate more or less in the advantage.⁵²

This was not the last time that the Record endeavored to justify operations in Windsor.

Though the WFDPA still had to contend with the fact that racetrack gambling was legal in Michigan (where for example the Detroit Blue Ribbon would attract up to ten thousand patrons and distribute up to \$8,000 in purses each day), the illegality of betting in Illinois, Ohio, and Wisconsin *seems* to have allowed promoters in Windsor to expand programs. For example, George Fuller a retired businessmen leased the track for thirty days at \$100 per day, and after what was reported to be a huge success, was granted a lease for

⁵¹ For instance, at a three day summer meeting, even if there were capacity crowds of three thousand paying a fifty cent admission tariff each day, gate receipts would still only constitute \$4,500 of the purses distributed. Even to artificially cap purse distribution at \$4,000 per day would mean that the remaining \$7,500 would have to be made up of entry fees (five percent of purses), the sale of refreshments, and betting privileges. Evening Record, 7 July 1896, p. 6; 5 March 1897, p. 8.

⁵² *Ibid.*, 1 August 1899, p. 4.

an additional thirty days. What is known, is that when stables running in Detroit were scheduled to race at the Windsor track, the Record did its utmost to supply local bettors with a healthy diet of entries, training times, post-times, finish times, odds, and tips to induce wagering and attendance.⁵³

By the turn of the century, the efforts of the Jockey Club in conjunction with reports published in the Record were beginning to pay substantial dividends. Driven out of Ohio by anti-betting legislation, Cincinnati bookmaker Seth Jacobs set up operations at the Driving Park anticipating that the open betting ring would be a magnet for bookmakers from "all over." Evidently, Jacobs knew what he was talking about:

[E]leven books drew in, and on the block were some of the best known pencilers in the business. The odds were good in every way, proving the advantage to the public of open betting.⁵⁴

The president of the jockey club assured owner and punter "pure sport" by securing a "superior handicapper." As it turned out, odds in the ring were so satisfying that it was frequently reported that the "public enjoyed an afternoon of real enjoyment, many of them taking some of the book-makers easily earned money."⁵⁵ Other "knowledgeable men" predicted the betting ring would induce "desirable" owners to ship to Windsor. Such predictions proved correct as the Driving Park attracted stables from Chicago forced to flee Illinois when the authorities "cracked down." Featuring six races per day, the jockey club hosted up to thirty days continuous racing and by 1902 had introduced the \$12,000 Frontier Handicap.⁵⁶ By distributing at least \$2,000 in

⁵³ Appropriately, the association provided a roomy press gallery at the track and served an elegant lunch to turf reporters. *Ibid.*, 26 June 1893, p. 4.

⁵⁴ Evening Record, 7 July 1900, p. 4; 10 July 1900, p. 4.

⁵⁵ Betting was so brisk that the "Loose book" (individual field bookmakers) routinely ran out of money and the "Big Book" (regular pool box where all the bets were added together) had to be sent for to pay bettors. Evening Record, 1 August 1898; 11 July 1900, p. 1.

⁵⁶ *Ibid.*, 7 April 1902, p. 7.

purses each day, the association secured full and competitive fields which "furnished loads of excitement" for the fifty cent admission tariff.⁵⁷

Though the open betting ring was the key to the viability of the Jockey Club, the wagering that transpired therein and at area "gambling joints," was blamed for at least one suicide, linked to the destruction of "domestic and social harmony," and was supposedly responsible for the "killing" of industry.⁵⁸ Indeed, racetrack gambling in Windsor and across Ontario was increasingly being condemned as a "public scandal [that was] demoralizing in the extreme."⁵⁹ Though Saturday Night maintained that the "betting evil" was inherent to human nature, the "modern" form of racing was nevertheless said to exacerbate the rowdiness, drunkenness, and gambling associated with the sport.⁶⁰

The first attack on racetrack gambling at the Driving Park was initially directed toward off-track betting at a pool room in the nearby town of Sandwich.⁶¹ Early in April of 1898, E. Girardot, the Mayor of Sandwich, was forced to respond to complaints made by "Detroit papers, a few cranky and pious hypocrites, and some meddlesome parsons in the neighborhood." The Mayor stressed that the fervor over the pool room was "purely a financial

⁵⁷ Ibid., 25 August 1902, p. 3; 26 August 1902, p. 4; 24 September 1902, p. 7.

⁵⁸ For it was believed by some that "a man used to reaping scores or hundreds of dollars from the gaming table will never be content with slow work." Evening Record, 6 April 1898, p. 3; Read also C.B. "Sport and Hegemony: Windsor c. 1895 to c. 1929," M.A. thesis, University of Windsor, 1986, 30.

⁵⁹ This claim was in reference to operations at the Windsor track around the turn of the Century. Extract from Chief Inspector Archibald's address published in Canadian Municipal Journal, n.d., 1909, Ministry of Justice, PAC

⁶⁰ Saturday Night 20 May 1899, p. 3.

⁶¹ The Record had inadvertently fueled the fire by quoting at length a sermon delivered in Washington D.C. by Rev. Dr. Talmage who predicted that gambling "must result disastrously in the near future to the morality and well-being of the community" for its gains were not "the just rewards of honest enterprise and endeavor." Evening Record, 6 April 1898, p. 3.

matter," and as far as he was concerned, it was wagering at the Driving Park that was the real evil.⁶² Girardot went so far as to state that the patrons of the Windsor track "do not even watch the races but are only interested in reports in the betting ring under the grandstand." After lambasting the legislators of Canada for what he considered blatant hypocrisy, Girardot accused the WFDPA of teaching women and children their first lessons in gambling and "incit[ing] an appetite that degenerates into vice;" concluding that "if the race track is abolished the pool room will follow."⁶³

When news of the Sandwich pool room first broke, Alexander Bartlet, Police Magistrate of Windsor, agreed not to encroach on Girardot's "jurisdiction to deal with the morality and welfare of the citizens of Sandwich."⁶⁴ By the end of June, however, Bartlet, a devote and active Presbyterian, was satisfied that a sufficient proportion of the areas most "respectable and reputable residents" had had enough.⁶⁵ No doubt much to the dismay of the WFDPA and the jockey club, it was not operations at the pool room that were cited by Bartlet as the source of the community's ills, but instead those at the Driving Park. In a letter to David Mills, Minister of

⁶² By maintaining that it was the proprietors of a Detroit pool room and the stockholders of the Mt. Clemons Street Railroad that were behind these attacks he argued that to close the Sandwich pool room would not end betting nor improve morality but only mean a revival of the Detroit pool room. If it had not been for newspapers, Girardot claimed, then ninety percent of local residents would not have known that the pool rooms existed. He pointed out that the citizens of Sandwich were satisfied with the pool room given that a large sum of money was spent in the community daily and thus to close it down would constitute a "legal injustice." An opinion, the "majority" of parishioners at St. John's Anglican Church did not subscribe. Evening Record, 9 April 1898, p. 3; 12 April 1898, p. 9.

⁶³ Evening Record, 9 April 1898, p. 3.

⁶⁴ Instead, Bartlett in concert with Girardot ordered the proprietors of the pool room not to grant admittance to any resident of Sandwich, Windsor, or Walkerville. As well, the proprietors were instructed to strictly enforce regulations pertaining to gambling, rowdiness, the use of profane language, and the consumption of liquor. Once such sanctions were in place, Bartlet and Girardot came to the tacit understanding that until a sufficient proportion of the areas most "respectable and reputable residents" complained, no action would be taken.

Windsor History Scrapbook Book 3c, p. 63, PAW.

Justice, Bartlet outlined the "demoralizing effects of the race course at Windsor." Though Mills agreed that racing attracted a large number of persons "who are not of the most desirable class [whom sometimes engage in] a great deal of gambling and disorderly conduct," the containment of such conduct, advised the Minister, was nevertheless a matter of the local police, not Parliament.

Mills' reply to the letter by the Windsor Magistrate was based on a decision made during the process of codifying the Criminal Code in 1892. In May of that year, the Minister of Justice, Sir John Thompson, felt it his duty to inform a House Committee that the inclusion of the "McCarthy amendment" would formally legalize betting on races conducted by an incorporated association. In the ensuing debate, several members agreed that the proposed exemption would result in the most "extraordinary" law ever to be enacted:

In the one case you make it criminal for a man to play a game of whist, a game of skill, for ten cents, in a railroad car, and in the other case you relieve him from criminal action if he bets a thousand dollars on a horse race.⁶⁶

Despite such apprehension the "McCarthy amendment" was codified after the Solicitor General assured Parliament that the "law has always allowed betting on horse races." Six years later, in his letter to Bartlet, Mills supported the exemption. Believing it to be a great abuse of power "to interfere with the peaceful avocations of the members of the community," Bartlet insisted that federal regulation was a "very illogical and indefensible course [and that] the police can more effectively reach that class of the community which is involved."⁶⁷

⁶⁶ Hansard, 1892, pp. 2976-2977; For a descriptive account of the codification read D.H. Brown, The Genesis of the Canadian Criminal Code of 1892. (Toronto: University of Toronto, 1989).

⁶⁷ David Mills to Alexander Bartlett, 28 June 1898, Ministry of Justice, PAC.

Two years later Bartlet effectively "reached" a member of such a "class" when he convicted Edward Hanrahan, brother of the WFDPA secretary W.A. Hanrahan, as the keeper of a disorderly house. In May of 1901, police raided a club house belonging to the Essex Racing and Athletic Club (ERAC) located at the Driving Park.⁶⁸ The wagering that was taking place in the ERAC clubhouse was not confined to the races being conducted at the Windsor track but included (via telegraph communications) those in progress at Morris Park in New York. Hanrahan's lawyer argued that the McCarthy amendment which made the betting at the Driving Park lawful, also extended to wagers on other races if made at the same time and in the same place. Stressing that the "[betting] place is the evil aimed at," Hanrahan's lawyer contended the ERAC was protected under the WFDPA charter. The Deputy Attorney General J.R. Cartwright countered by arguing that the McCarthy amendment stood by itself and that Parliament "never intended that betting on races all over the world would be protected" by the Canadian Criminal Code. Bartlet opted for Cartwright's case over that of Hanrahan's.⁶⁹

Though the Hanrahan case may have tarnished the pristine reputation of operations at the Driving Park, the federal state was still not willing to strike out the provisions extended to incorporated racing associations. Instead, in May of 1905, Parliament enacted an amendment to that section of the Criminal Code used to convict Hanrahan which made it even more explicit that the business of betting conducted by an incorporated racing

⁶⁸ The police discovered between one hundred-fifty and two hundred people in attendance, thirty of which were caught betting with Hanrahan, or one of his assistants. As President of the Essex Racing and Athletic Club, Hanrahan was found guilty of "keeping" the house. "Rex. v. Hanrahan," Ontario Law Reports 3 (1902), 659-663.

⁶⁹ Presumably to ensure that justice had been served, Bartlet submitted to the Court of Appeal a stated case asking if given the facts the conviction was correct. The five appellant judges thought the decision was appropriate by unanimously affirming the conviction.

association was not the same as that which is operated at a common gaming house. Opposition in the House was led by a A.H. Clarke, MP for South Essex and a resident of Windsor. Objecting to the amendment on the grounds that there was "no greater curse to the community" than the track where:

The horse races are incidental; gambling and betting is the main issue. I know nothing that has ruined more young men in that vicinity than this very race track. It has been my experience to have to prosecute several young men who were in trusted positions, but who had squandered the money of their employers, all traceable to this race track.⁷⁰

Though opposition by Clarke was to no avail,⁷¹ it was evident that betting at the Driving Park was becoming increasingly divisive. Although racetrack gambling was increasingly subjected to public and judicial scrutiny the consequences of such censure fostered a climate conducive for greater commercialization because it popularized the fact that the Criminal Code struck at "betting places" instead of "betting persons" and thus protected mobile bookmakers.⁷²

The first of three precedent setting decisions was handed down later in 1905 when the Police Magistrate of Toronto, the ardent reformer George T. Denison, used the Hanrahan decision to convict William Hendrie, President of the Ontario Jockey Club (OJC), as a keeper of a common betting house. Much to the pleasure of George M. Hendrie who was leasing the Windsor track, the Supreme Court of Canada quashed the conviction on the basis that Hanrahan, unlike the President of the OJC, was involved in the actual act of betting. In its decision the court ruled:

⁷⁰ Hansard, 1905, pp. 5138-5139.

⁷¹ Perhaps the political composition of the Ottawa Racing Association influenced the vote; for the ORA was formed two years earlier by, *inter alia*, Sir Frederick Borden (Minister of Defense), Sydney A. Fisher (Minister of Agriculture), Clifford Sifton (Minister of the Interior), and Charles Fitzpatrick (Minister of Justice). Transcript of the Public Accounts Committee, Appendix (1), Journals of the Legislative Assembly, 1917, p. 169.

⁷² Hansard, 1909, p. 863.

[That] the president of an incorporated company, owners of a racecourse, who lease for valuable consideration the privilege of taking and receiving bets in part of the premises, is not, merely by virtue of his office, and without anything more than acquiescence on his part, liable to conviction as a party to the offence of keeping a common betting house under sections 197 and 198 of the Criminal Code.⁷³

The next year Saunders, a Toronto bookmaker, was convicted as a keeper of a common betting house after he and his companions were arrested making a book from a booth at Woodbine.⁷⁴ Assuming the case would establish a precedent that could be used to convict bookmakers at the Driving Park, those opposed to unabated racetrack gambling declared that the racing game would "be on a firmer and better basis with the elimination of the feature which arouses public comment and opposition."⁷⁵ Such hopes were dashed when the conviction of Moyett, another bookmaker at Woodbine, was quashed on the grounds that Moyett and his "assistants did not use any desk, stool, umbrella, tent of booth, or erection of any kind to mark any place where bets were made."⁷⁶ The Moyett ruling only made it illegal for a bookmaker to stand on a fixed spot (a betting place) and take money. If the bookmaker continually walked around within the betting ring his business was not considered a crime.

The Highland Park Racing Association (HPRA) which was leasing the Windsor track was about to open its summer meeting when the decision was handed down. The president of the HPRA, George M. Hendrie, stated that the

⁷³ "Rex. v. Hendrie," Ontario Law Reports 11 (1905), 205.

⁷⁴ "Rex. v. Saunders et al," Ontario Law Reports 12 (1906), 615-633; "Rex. v. Moyett et al," Journal of the Supreme Court of Canada 3 (1907), 382-393.

⁷⁵ Parratt, "Sport and Hegemony," 30.

⁷⁶ This decision was based on an English precedent established in the 1899 Powell v. Kempton Park case. This decision was a "body-blow from which the National Anti-Gambling League never recovered." David Dixon, "Anti-Gambling and the State: Developments in the Legal Control of Betting in England and Wales, 1890-1929," Ph.D. diss., University of Wales, 1985, 94; Hansard, 1909, 860-862.

Moyett ruling would not significantly affect the betting ring because there was no direct legislation against issuing and writing tickets, providing odd sheets, or collecting bets. Acknowledging that the "process [of walking around would] be a novelty for a while, and may have some small effect for a time" he could not see how such measures could "be lasting especially as the ticket system so popular with racing patrons, is to be retained, as well as [the popular practice of] paying off at the booths."⁷⁷

The 1905 amendment, OJC ruling, and Moyett decision, no doubt helped convince George M. Hendrie that Windsor was a "better place" than Detroit to conduct operations.⁷⁸ This was especially the case, given a report by the District Attorney of Brooklyn, NY., that the HPRA lease had not been renewed because prosecutions instituted by the District Attorney for Wayne County, MI., "put an end to its gambling operations on Woodward avenue."⁷⁹ Instead of continuing to just lease the Driving Park, however, Hendrie "worked quietly" to gain controlling interest in the WFDPA.⁸⁰ By 1906, he and W.O. Parmer (who had served as the secretary of the HPRA) had secured

Evening Record, 16 March 1907; 19 March 1907, p. 3.

⁷⁸ Originally from Hamilton, George M. Hendrie was resided in Detroit for business reasons. He was a director of the Commercial National Bank of Detroit and held major interest in several land developments in Detroit and a large stake in "South Detroit" (a Walkerville sub-division developed by Cameron and Curry). In partnership with his elder brother, John S. Hendrie of Hamilton (and past-president of the Ontario Jockey Club), he owned the Valley Farm racing stable, "one of the most important in the Dominion." Evening Record, May 15, 1893 p. 12; Dodds, Turf Recollections, 214-215, Rutherford Report, 143; Hendrie Cartage Company Papers, PAO; Brode, Alexander Cameron, 18.

⁷⁹ At a Royal Commission in 1919, Hendrie reacted to accusations that the HPRA had been "put out of business by legislation" by stating that the lease had simply expired. Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 65 File (5), 626, 630.

⁸⁰ Although Hendrie and Parmer declined to answer any questions regarding the amount of capital invested, and given that exact figures do not exist because no books or records were kept, racing at the Windsor track must have been highly lucrative for Hendrie and Parmer to pay as much as \$1,000 for a single share which sold for \$100 nine years earlier. Windsor History Scrapbook Book 3c, p. 61, PAW.

enough stock to reorganize the WFDPA and form the Windsor Racing Association (WRA).

The WRA was now controlled by Hendrie as president and Parmer as its secretary; indeed a significant change from the nine directors and the thirty-four other shareholders who were involved in operations before the reorganization. To be sure, Hendrie and Parmer were involved for the profits that stood to be made. To that end, they introduced promotional innovations intended to mine the available consumer market for all it was worth. Thought the "spin-off effects" provided by Hendrie and Parmer were apparently appreciated by the local "community," the viability of operations on the Windsor-Detroit border aroused considerable commentary and suspicion in the province's industrial heartland and the nation's political capital. For instance, A.E. Pratt, MLA, wrote Premier Whitney complaining that the Windsor track did not employ Canadians, was controlled by Americans, distributed the majority of its purses to "foreign" horses, and presented only "a few crippled, broken down stallions, some of which the farmers have looked over and wisely refused to accept."⁸¹

Similar complaints were lodged by members of chartered racing associations in Toronto, Hamilton, and Montreal. These objections illuminate a burgeoning sectarianism within the industry. Though demarcations between respectable and crass were inundated with references to the honour of England and the swine of the US, the fact remained that it was the Criminal Code that determined who could and could not legally bet. It is argued below, that the demarcation between *social* and *commercial* racing

⁸¹ Pratt concluded his letter by proposing that the promoters of the Driving Park be forced to pay a \$1,000 daily license fee and employ Canadian officials. A.E. Pratt to James P. Whitney, 28 December 1909, Whitney Papers, PAO.

was part of a policy of *business* reform orchestrated by turf regulators who understood that the industry *in toto* was liable to incite moral censure. To this end, the bifurcation of racing in general, and the development of thoroughbred racing industry in particular, must be understood in regard to, as Metcalfe argues, "the social structure of Canadian society and the impact of urban-industrial society on that system."⁸² This entails situating the popularity of either trotting or running in relation to wider transformations in industry, agriculture, and transportation and thus contextualizing calls for *business* reform in terms of commodity rather than nobility.

II-v. Disregarding Reputation:

Enjoying the Structural Impotence of Business Reform.

In addition to securing control over the Driving Park and thus racing in Windsor, the WRA assumed control over on-track bookmaking. While the open betting ring had proved highly popular with local patrons, Hendrie decided that he stood to make a larger profit on gambling at the track by implementing American style syndicate betting. Instead of the \$100 paid by each bookmaker for betting privileges, the WRA collected a "handsome figure" for granting exclusive betting rights to first Marcon Cartwright from Nashville, Tennessee and then later to Messrs. Chambers and Walker.⁸³ While the move may have been financially sound, to those opposed to racetrack gambling it was considered morally bankrupt. This was the case because under open bookmaking, individual bookmakers were forced to compete against one another for the patronage of the punter, thereby

⁸² Metcalfe, *Canada Learns To Play*, 146.

⁸³ Unfortunately, exact figures are not available for there were no annual returns filed before 1912.

providing better odds and being somewhat more "open" in their dealings. In contrast, under "closed" bookmaking, given that a single set of odds were imposed on the field, there was perceived to be a greater chance of manipulation. This possibility did not go unnoticed; a suspicious OPP Inspector, William Greer reported that racing at Woodbine and Hamilton was "carried on in a superior manner" to that at Windsor because there was less betting, touts, and "objectionable" people at the track.⁸⁴

What further instigated adverse commentary was the fact that in 1908, without any legal restrictions as to how long a meeting could last, the WRA sponsored sixty days continuous racing.⁸⁵ The viability of a protracted calendar was made possible because earlier that year anti-betting legislation which forbade racetrack gambling was enacted in Michigan and New York.⁸⁶ The legislation that was passed in these States can be attributed to the efforts of the same reform movement that was successful in banning racetrack gambling at the Grand Circuit tracks eight years earlier. The effects of this legislation proved devastating to the racing industry in the United States. Before the First World War, thirty classic events disappeared, the property value of racetracks was drastically slashed, purse distribution decreased by over sixty percent, and the breeding industry virtually collapsed. Commercial operations in Detroit met the same fate.

⁸⁴ The Chief of the Windsor Police Department did not agree and testified that patrons in Windsor "behaved themselves equally as well" as those who attended the races in "Toronto, Ottawa, and other places." Evidence taken by Select Committee, Journals of the House of Commons, Appendix (6), 1909-1910, pp. 279, 281, 289.

⁸⁵ Prior to 1908, Hendrie had been guilty of sponsoring calendars "of considerable length" in Fort Erie where he and Parmer had (since 1897) leased the oval owned by the Niagara Racing Association (NRA). Francis Nelson, "Horse Racing in Canada," Canadian Magazine, 19 (1902), p. 233; Border Cities Star, 23 June 1928; 1 June 1935; Woollatt Scrapbooks, Book 1, p. 25; Book 3, p. 49, UWA.

⁸⁶ E.C. Devereaux, "Gambling and the Social Structure: A Sociological Study of Lotteries and Horse Racing," Ph.D. diss., Harvard University, 1950, 269; Dodds, Turf Recollections, 17, 19.

As the tracks located in and around Detroit stood idle, the grand stand from the Grosse Pointe track was severed from its footings and erected at the Windsor track to accommodate the flood of American patrons; "ninety percent" of whom were reported to be "poor people."⁸⁷ During the eight years prior to the ban, the economy and population of Detroit had undergone a profound period of "hyper-growth." Changes in the demographic composition of the city resulted in ideal conditions for the development of highly commercialized racing.⁸⁸ In fact, the WRA was granted a monopoly over a consumer market larger than those available to either the BlueBonnetts in Montreal or Woodbine in Toronto; only "twenty minutes" from the gates of the Driving Park.⁸⁹ Accordingly, in 1909, after the WRA distributed over \$100,000 in stakes and purses, it was reported to have taken no less than \$150,000 in profit.⁹⁰

As news of the "crass commercialism" spread, some Windsorites no doubt supported the Member for South Essex's condemnation of operations at the Windsor track as "an unmitigated curse" upon the community. While there is no direct evidence in regard to the Driving Park, the Woman's Christian Temperance Union (which had been active in Windsor throughout

⁸⁷ Evidence taken by Select Committee, Journals of the House of Commons, Appendix (6), 1909-1910, pp. 280-281.

⁸⁸ By 1910 the population of Detroit had reached four hundred seventy thousand; earning \$167,016 in wages. M.G. Holli, Detroit, (New York: New Viewpoints, 1976), 269, 275; R. Codot, American Odyssey, (New York: William Morrow & Co., 1974), 177.

⁸⁹ By the early 1920s the "twenties minutes" had been reduced to "six;" a three minute ferry ride across the Detroit and a three minute train ride up to the track. The speed at which patrons could be transported continued to increase throughout the time period under investigation. By the early 1930s, a tunnel and bridge were complete, and two ferry companies with connecting taxi-cabs, buses and street cars were in operation. Detroit This Week, 22 July 1928; Woollatt Scrapbooks, Book 1, p. 27; Book 4, p. 26, 61, UWA; Cancian and others, Windsor, 7.

⁹⁰ Only four years earlier the entire Canadian Jockey Club circuit was limited to seventy-eight racing days with total purse distribution of \$228,868. Metcalfe, Canada Learns to Play, 150. Regarding distribution read Dodds, Turf Recollections, 214-215. Regarding profit read A.E. Pratt to Sir James P. Whitney, 28 December 1909, Whitney Papers, PAC.

the period under investigation), included the suppression of racetrack gambling as part of their social purity agenda. Furthermore, the Member for North Essex reported to Parliament that he had received "a few communications" requesting that he support a measure to eradicate racetrack gambling.⁹¹ The moral dissent that did exist, however, was tempered by religious affiliation, and at times effectively smothered by the legacy of integrity inherited from the WFDPA, ties to the Record, connections to the Windsor Police Department, and the fact the Mayors' of Windsor from 1897 to 1909 had all but for three years been shareholders in the Driving Park.

When in 1907 a visiting Minister lectured some six hundred Windsorites on the evils of gambling, pointing out why it was a recreation to be "discarded," he failed to mention the open betting ring located at the Driving Park. Perhaps the preacher thought it prudent not to explicitly condemn the Windsor track, because the area was dominated by Anglicans, slightly over twenty-nine percent, and Roman Catholics, slightly over twenty-six percent, who were "not afraid" to visit the racetrack; believing "racing [to run] in the blood of man and Beast."⁹² Even so, the Record made sure to counter opposing views by pointing out there was "no protest from the press or pulpit as to money lost at bucket houses and commission shops." "Of course," the Record continued, betting at the track could be considered

⁹¹ Mariana Valverde, The Age of Light, Soap, and Water: Moral Reform in English Canada, 1885-1925, (Toronto: McClelland and Stewart, 1991), 18; Morrison, Garden Gateway To Canada, 294-295; Hansard, 1910, p. 6452.

⁹² According to the Catholic Encyclopaedia, gambling may be a waste of time and money, but on the whole, there was nothing essentially immoral about it. Evening Record 4 April 1907, p. 1; Cancian and others, Windsor, 20; Windsor History Scrapbook Book 3c, p. 49, PAW; Saturday Night, 20 May 1893, p. 1; C.E. Silcox, The Ethics of Gambling. Social Welfare, (September, 1935), p. 136.

gambling, but it was not "a crime that would either wreck a man's fortune or damn his soul."⁹³

Even if "continuous racing ... interfered with other business," and was considered "a detriment, a great detriment" by A.F. Healy, President of the Chamber of Commerce, nothing was ever done to rectify the situation at City Hall.⁹⁴ This might have been expected given that at times when public outcry ought to have been most vocal (the Hanrahan conviction and Hendrie takeover), John Davis (1897-1901) and Ernest S. Wigle (1905-1909), both of whom held shares in the Driving Park since its inception in 1884, ran the municipal government.⁹⁵ In fact, Gorden J. Leggatt, Windsor Police Magistrate at the time, later testified that apart from a few petty offenses there had not been any major complaints; adding that the citizens of Windsor derived a considerable monies from the track and looked upon it as a benefit to the city. "[N]early 600 signatures of the best citizens in the riding of North Essex," backed Leggatt's claim:

The peace does not suffer to a noticeable extent from the periodical presence of the vast racing colony, and the business of the police court derives no stimulus therefrom. On the contrary these events bring an immense material benefit to the city, stimulating every line of commerce, and it is doubtful if there is a business man in the city who would advocate abolition.⁹⁶

Indeed, far from considering the track a "disorderly place," Leggatt and Windsor Police Chief, Elias Wills, forthrightly defended the morality of local

⁹³ The Record continued: "It would be a dull sort of business if a man simply had to go see a bunch of horses run around a track without having a personal interest in the result." Evening Record, 20 March 1907, p. 2; Parratt, "Sport and Hegemony," 31.

⁹⁴ Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), 654.

⁹⁵ Cancian and others, Windsor, p. 2.

⁹⁶ Hansard, 1910, p. 6453.

constables who were *paid* by Hendrie to suppress "drunkenness, rowdyism" or any other infractions at the Driving Park.⁹⁷

While local opposition to the WRA may have been muzzled, reactions to protracted calenders and syndicate betting by directors of the more prestigious jockey clubs in Toronto (OJC), Hamilton (HJC), and Montreal (MJC), were loud and clear. As American capital, bookmakers, and stables threatened the "purity" of thoroughbred racing, there soon developed a demarcation between racing which supposedly epitomized "fine British Sport" and that which was "conducted purely for business purposes or perhaps for gambling purposes." The polemic of Dodds is apt in illuminating the former:

Men did not pronounce judgement on the success of a meeting by the amount of money they won and turfmen [sic] were ready to gather together and enjoy a pleasant social time, open a cold bottle and not shout 'thief, thief' when beaten.⁹⁸

Apparently, the noble "Sport of Kings," when honestly conducted, required neither apology nor defence, but when it was operated for the sole purpose of making money "evils and abuses" crept in and the public confidence was shaken.⁹⁹ This was the rhetoric of *business* reform; contextualized as a question of faith and duty, the industry was portrayed in *sporting* rather than financial terms. The goal of *business* reform was to insulate capital invested in the respectable tracks from moral censure and possible destruction; its strategy was to blame individual promoters, particular racing associations, and Jews, so as to represent the industry as an enterprise to be reformed not eradicated.

⁹⁷ Evidence taken by Select Committee, Journals of the House of Commons, Appendix (6), 1909-1910, pp. 279, 281.

⁹⁸ Dodds, Turf Recollections, 11, 115, 129.

⁹⁹ *Ibid.*, 12, 15.

Convicted as a keeper of a common betting house in the 1890s, Abram M. Orpen was "Unofficially reported to control the principal gambling houses and hand-book rooms in the Toronto area." Though Orpen had made his "pile" as a contractor and brick-maker, he had acquired a reputation as a "died in the wool" gambler who was not afraid to admit that his interest in the half-mile "bull-rings" he operated in Toronto, had more to do with financial considerations than for any love of the thoroughbred.¹⁰⁰ For these reasons, Orpen afforded turf reformers a prime target to clear the industry of any wrong-doing. Accordingly, the Secretary of State came under attack for his indiscretion when issuing Dominion charters to Orpen and what were considered bogus racing associations. Such indiscretion was said to be "doing more unintentionally ... toward the abolition of horse-racing than the Moral Reform Association and the Churches put together."¹⁰¹

Similarly, operations at tracks on the Canada-US border were denounced:

The meetings held at Toronto, Hamilton, and other places are well conducted, the game not being overdone, but the danger is not the Canadians, who appreciate liberal laws, that will kill the sport, but the same element which has been driven out of the States is seeking to get a foothold in Canada. The meetings at Fort Erie and Windsor are not held for Canadians, but for Americans from Detroit and Buffalo.¹⁰²

It was not just the WRA and NRA, supposedly owned by Americans and operated for Americans, however, but "much of the trouble" was said to be "directly traceable to the fact that a low class of Jew gamblers have, during the past few years, invaded the ring and may be said to practically control it."¹⁰³

¹⁰⁰ Devereaux, "Gambling and the Social Structure," 345; Hewitt, Down the Stretch, 66; Memorandum, n.d. 1902, Office of the Attorney General, Series 4-32 1813, PAO.

¹⁰¹ Saturday Night 25 September 1909, p. 1.

¹⁰² Extract from the [New York?] Herald, 20 February 1907, Ministry of Justice, PAC.

¹⁰³ Dodds, Turf Recollections, 17.

Fearing prohibitive legislation would be enacted in reaction to the emerging operating practices of the border tracks that would by extension render the prestigious tracks "useless," it was decided that what was crucial for the survival of the "Canadian turf" was the creation of a national governing body with teeth sharp enough to curtail protracted calendars and prohibit syndicate betting. It was hoped that the "confidence of the public" could be restored by the creation of the Canadian Racing Association (CRA). Organized in 1908, the CRA was formed for the avowed purpose of "properly guarding and protecting the interests" of racing in Canada.¹⁰⁴ Attempts, however, to reform racing from "within" had a long record of failure.

By the 1870s, even though the Royal Plate was crucial in elevating the quality of the racing stables across Ontario, its reputation had been marred by artful touts, dishonest bookmakers, and fraudulent owners. Though the Plate had become the most popular of Canadian turf events, it was not just its fate that was in jeopardy. Instead, the societal legitimacy of racing in *toto* was threatened by the various larcenies of the turf.¹⁰⁵ Fearing being denied their "right to sport" and especially their capital investments in thoroughbred racing stock, a six pack of Ontario's most affluent racing advocates organized to quell the nefariousness of "jobbery" and other assorted evils. Their leader, the "audacious" Thomas Charles Patteson, led a crusade to "discipline" the decadence of the racing fraternity and demand some coherence out of the chaos and "the rottenness of the whole racing business."¹⁰⁶ By 1881, the

¹⁰⁴ Canadian Racing Association Rules of Races, 3, Royal Commission in Racing Commission 65 (1920), File (5), Exhibit (13).

¹⁰⁵ M. Lennox, E.P. Taylor: A Horseman and His Horses, (Toronto: Burns and MacEachern, 1976), 39-41; Peter Gzowski, An Unbroken Line, (Toronto: McClelland and Stewart, 1983), 17, 97, 133; Trent Frayne, The Queen's Plate, (Toronto: McClelland and Stewart, 1971), 6.

¹⁰⁶ Patteson, in addition to pontificating from his post at the Mail and Empire, began organizing the reputations and financial support of Col. Casimir Gzowski, Joseph E. Seagram, Nathaniel Dymont, John S. Hendrie, William Hendrie, and Dr. Andrew Smith. J.S. Hendrie to

discipline necessary to regenerate racing across the province (and in the process elevate its thoroughbred stock) that was so desperately sought by turf reformers, could supposedly be exacted by the rod of the Ontario Jockey Club (OJC).

While the officials of the OJC eagerly incurred financial loss in exchange for control over racing at Woodbine as well as organizing circuits, and scheduling, and handicapping at other Ontario tracks, by 1894 there had developed a deep rift in the OJC executive.¹⁰⁷ The fracture illuminates the fact that the authority of the OJC across the province was rooted more in the reputations of its directors than in any legal power. The next year, when the control of racing was in danger of moving "beyond the purview of the socially acceptable and prominent members of society" what remained of the OJC assumed the lead and organized the Canadian Jockey Club (CJC).¹⁰⁸ In the process, the CJC inherited the same instability that had plagued the OJC; instability that left the Jockey Club standing idle as it watched the consolidation of commercial racing on the border.

Similarly, when the CRA was formed in 1908, the structural inadequacies that had rendered the OJC and CJC impotent were passed on. More precisely, whatever regulatory authority the CRA had to negotiate with the New York Jockey Club, curtail "commercialism," inquire into "fraudulent practices," sanction "recognized" meeting, and grant and revoke licenses to

the Ontario Jockey Club, 23 June 1894, MU 2309, Patteson Papers, PAO; Metcalfe, Canada Learns To Play, 149; Cauz, The Plate, 58.

¹⁰⁷ The executive was divided; on one side, the breeders represented by Hendrie, Seagram, and Dymont, and the other the promoters lead by Patteson and Gzowski. The separation was said to be a result of officiating problems, the fact that Hendrie acquired shares in the WJC and HJC (supposedly in an attempt to uphold the provincial character of the OJC), and the "claim made by the horsemen that non-owners had no business in the corridors of power." T.C. Patteson to J.S. Hendrie, 8 June 1894, MU 2309, Patteson Papers, PAO; Hewitt, Down the Stretch, 112.

¹⁰⁸ Metcalfe, Canada Learns To Play, 150.

trainers and jockeys, was *self-appointed* and *self-approved*.¹⁰⁹ In its attempt to restrict thoroughbred racing to distinct times and locations, the CRA similar to its predecessors, had not the legal jurisdiction to determine the length of meets, nor who was granted racing charters.

Even though the CRA could theoretically "blacklist" the WRA for operating syndicate betting and running protracted meetings (by having its executive forbid "association" stables or jockeys to compete there), the Windsor track could count on stables from the "demoralized" American turf to run in their place. What was worse, associations like the WRA, responsible for shaking the public confidence gave those "gentleman of high social standing and business probity" who belonged to OJC, HJC, and MJC a bad reputation because they were all connected by their involvement in the "gambling business." Accordingly, it was the emergent operating practices (protracted calendars and closed betting) at tracks in Windsor and Fort Erie (and those independent tracks controlled by A.M. Orpen) which posed the greatest threat to the industry as a whole.

To eliminate such practices before they undermined the entire industry, Saturday Night suggested that the provincial government allow only two weeks racing at Woodbine and two at the Hamilton track.¹¹⁰ One fact Saturday Night conveniently ignored was that at Woodbine the previous summer, the "best people of the community" had bet \$2,600,000 with fifty to eighty bookmakers who for all but "eight or ten" were from "outside" Canada.¹¹¹ It was clear that even the self-professed guardians of the "Sport of Kings" were forced to rely on revenue derived from "the business of betting"

¹⁰⁹ Canadian Racing Association Rules of Races, 3-5, Royal Commission in Racing Commission 65 (1920) File (5), Exhibit (13).

¹¹⁰ Saturday Night 25 September 1909, p. 1.
Hansard, 1909, p. 867.

to offset rising expenditures. By portraying mid-to-late nineteenth century racing as being inherently more pleasurable to its patrons and involving less commercial considerations by its promoters, the purveyors of racing for "racings' sake" glossed over the structural conjunctures and class contradictions which precipitated requests for prohibitive legislation.

The most apparent structural transformation throughout mid-to-late nineteenth century Canada was the emergence of industrial over mercantile-agrarian capitalism as the dominant mode of production.¹¹² The transition from farm to factory had far reaching implications for the operation of racing. Technological advancements in the manufacture and distribution of industrial products had the effect of transforming the horse from a means of production to a mode of recreation. In the shift, the bifurcation of racing into standard-bred trotting and thoroughbred running transpired. To be more precise, the practical necessity of racing, especially thoroughbred running, as a measure of utilitarian value was rendered obsolete and was quickly becoming a luxury few could afford to engage in.

With the introduction of "stud" books, breeding thoroughbred racing stables became a "specialized science" which demanded the attention of expert trainers "devoting themselves to nothing else." This was a demand that most "sporting farmers" could not afford. This in turn resulted in the consolidation of the thoroughbred breeding industry in a hands of a small

¹¹² Palmer, "Marxist History," 234-237; Ian M. Drummond, Progress Without Planning: The Economic History of Ontario from Confederation to the Second World War, (Toronto: University of Toronto, 1987), 16; R.C. Brown and R. Cook, Canada 1896-1921: A Nation Transformed, (Toronto: McClelland and Stewart, 1974); Gregory S. Kealey, "Labour and Working-Class History in Canada: Prospects in the 1980s," in Canadian Labour History: Selected Readings, ed. D.J. Bercuson, (Toronto: Copp Clark Pitman, 1987), 235-237; Michael S. Cross and Gregory S. Kealey, The Consolidation of Capitalism, 1896-1929, (Toronto: McClelland and Stewart, 1983).

group of owners.¹¹³ For although speed "commands a fancy price ... there is a lottery about the game ... that does not pay the farmer to engage in."¹¹⁴ To offset the costs of owning and running a thoroughbred breeding farm required an increase in the value of stakes and purses that were distributed at the track.¹¹⁵ Without the financial patronage, administrative support, or social sanction that was extended to the thoroughbred, trotting associations were unable to offer purses necessary to meet these costs. As a result standard trotting was never promoted as a highly capitalized endeavor and instead remained local in nature with closer ties to breeding.¹¹⁶

As discussed in regard to the bifurcation of racing at the Windsor track, the introduction of the dash further increased the amount of money awarded by the jockey clubs. In contrast to the colonial turf club which could count on the private resources of its membership to pay for purses and stakes, the late nineteenth century racing association was operated as a joint stock company and thus was forced to rely on the democratization of racing to offset expenditures for extended programs and larger purses (while at the same time paying dividends to its shareholders). Though class would always dictate

¹¹³ By introducing breeding books it was hoped that the Canadian Jockey Club would place the control of thoroughbred racing in the hands of a small group of wealthy owners who could "protect and enhance their investment" by ensuring they controlled key positions of decision-making. Metcalfe, Canada Learns To Play, 150.

¹¹⁴ Dodds, Turf Recollections, 26; Maclean's Magazine, 15 May 1927, p. 7, 53-56.

¹¹⁵ At the first meeting of the WFDPA in 1884 the daily average distribution was \$750. By 1894 the daily average had increased to \$6,000. As documented above, by 1902, the jockey club at Windsor was offering a \$12,000 feature. Similarly, after Woodbine became the official home of the Royal Plate, \$1,250 was added in addition to a \$1,600 purse given by Ontario Jockey Club. Another \$10,000 was added after the turn of the century. "The Queen's Plate," Canadian Magazine May 1900, p. 271.

¹¹⁶ This was a situation many moral reformers were prepared to tolerate. During a parliamentary committee hearing struck to collect evidence in regard to the legality of racetrack betting, the legal representative of those opposed to gambling argued: "The facts so far as the trotting association are concerned, being thus reduced to a negligible quantity, there is nothing to argue about under this heading, and we may dismiss the trotting horseman." Metcalfe, Canada Learns To Play, 159; Evidence taken by Select Committee, Journals of the House of Commons, Appendix (6), 1909-1910, pp. 15-16, 33.

who would speculate from the clubhouse and who would wager from under the grandstand, ruler and ruled were nevertheless bound together by racings' *raison d'etre*; gambling.¹¹⁷ "The realities of economic necessity" expunged both racings' rigid exclusivity and its specious banter of "sport for sport's sake." As economic viability became the primary concern "gambling exchanged its stool in the corner for a seat at the main table."¹¹⁸

In the exchange, thoroughbred racing was transformed from a private diversion into a public commodity; a product sold by promoters to a separate group of consumers.¹¹⁹ It was fortunate for *all* the racing associations that significant transformations in production had broadened the social composition of that separate group of consumers. Working in factories and managing factory work, both clarified the temporal demarcation between work and leisure, and usually meant a regulated work schedule and a reasonably stable income. When combined with state economic initiatives, the increasing urban concentrations of labour-intensive industry which had prompted an exodus from the family farm fostered a ideal climate for the development of commercial spectator sport in general, and the thoroughbred

¹¹⁷ For example, even though opening day of the first meet sponsored by the Ontario Jockey Club in 1881 was reported to have been "pulled off" without evidence of any "of those objectionable practices that have hitherto done so much toward bringing horse racing into disrepute," the "prominent" and "respectable" of Toronto's sportsmen nevertheless enthusiastically lined the pockets of professional bookmakers with bills once in their possession. Accounts such as this on such an occasion, attest to the fact that no matter how restrictive or democratic its operation, the keystone of underpinning racing was gambling. Louis E. Cauz, *The Plate: A Royal Tradition*, (Toronto: Deneau Publishers & Company, 1984), 58-59; Wray Vamplew, "Horse-Racing," in *Sport in Britain: A Social History*, ed. Tony Mason (New York: Cambridge University, 1989), 215; Idem, *The Turf*, 214.

¹¹⁸ Robertson, *The History of Thoroughbred*, 91.

¹¹⁹ Organized business syndicates increasingly invested in racing associations and organized "circuits" offered lucrative opportunities for professional jockeys. In 1902, reflecting the increased demand for racing information the *Canadian Sports and Daily Racing Form* began operations in Toronto. A. Cox, "A History of Sport in Canada, 1868-1900," Ph.D. diss., University of Alberta, 1969, 365; K.G. Jones, "Sport in Canada, 1900-1920," Ph.D. diss., University of Alberta, 1978, 384, 388; Regarding process of commodification read Hardy, "Entrepreneurs, Organizations," 17.

racing industry in particular. Requiring large consumer markets, prosperous urban centers in Ontario and the US were targeted as prime locations to promote racing.

To the delight of promoters across Ontario (even if some were not willing to admit it), racetrack gambling was considered as, Vamplew suggests, the "cheapest of luxuries" by members of the working class who were increasingly able to afford admission tariffs and wager in open betting rings. Even if admission tariffs remained too steep for some punters, the chartered racing association could accrue revenue by selling betting information to "news companies" to be used in off-track "gambling joints" which catered to a predominantly plebeian clientele. For instance, even though "People of all classes" were reported to attend the races at Windsor, the WRA was accused of selling betting information to illegal gaming houses in Detroit by witnesses testifying before a sub-committee of the Judiciary of the US Senate on a Bill designed to prevent the nullification of State Anti-gambling laws by international or interstate transmission of gambling bets or racing odds.¹²⁰

~~* For proponents of a burgeoning moral reform movement, working class involvement in gambling both on-and-off the track posed a serious threat to the "success-through-work" rhetoric they so zealously espoused.¹²¹~~ The discrepancy between commercial promoters and moral reformers over the issue of racetrack gambling, however, reflected a more fundamental antagonism which had developed within the bourgeoisie during the latter decades of the nineteenth century. A quip by an incensed H.H. Miller,

¹²⁰ Evening Record, 20 April 1893, p. 1; Hansard, 1917, p. 317; W.E. Raney, The Business of Race Track Gambling, (Toronto: SSCC, 1917), 15-17.

¹²¹ Similarly, racetrack gambling in England was denounced as "a vast engine of national demoralization." Lord Beaconsfield cited in J. Runciman, "The Ethics of the Turf," Contemporary Review 55 (1889), 603.

parliamentary mouthpiece for the movement, was apt in offering a glimpse of the deeper dissent; "the whole matter [of enacting prohibitive legislation is] a question of the horse-race versus the human race."¹²² To illuminate how the discrepancy alluded to in the comment by Miller relates to the industry in general, and to operations in Windsor in particular, it is necessary to consider the spacio-temporal context in which a rudimentary inter-class contradiction instigated an ideological intra-class antagonism between promoter and reformer.

II-vi. Instigating Dissent: *Rudimentary Contradictions of the Spacio-temporal Context.*

If the teeth of the CRA were too dull to "put the bite on" operations at Windsor, they were considered nothing but bare gums by those opposed to the business of betting. To these prohibitionists, *business* reform was a protective policy employed by the industry. What was needed in its place, they argued, was moral reform. Although reformers denounced the evils of racetrack betting before the first amendments intended to criminalize racetrack gambling were petitioned in 1907,¹²³ its suppression was not explicitly included in their "social purity" agenda.¹²⁴ Prior to the turn of the

¹²² Hansard, 1909, p. 920.

¹²³ As early as 1868, racing was considered by some to be responsible for "producing more fraud, falsehood, pilfering, and misery than any other popular, quasi-respectable amusement or occupation which could be mentioned." Globe, 19 June 1868, cited in A. Cox, "History of Sport," 350.

¹²⁴ The social purity agenda included called for alcoholic temperance, the payment of workmen's compensation, the abolition of child labour, the suppression of vices stemming from prostitution, illegitimacy, "Indians and Chinese," obscene literature, and investigated problems of divorce and public education. C.W. Watch, "Social Purity Work in Canada," in National Purity Congress, ed. A. Powell, (Baltimore, 1895), 272-277 cited in Valverde, The Age of Light, Soap, and Water, 17; B.J. Fraser, The Social Uplifters: Presbyterian Progressives and

century such "intermeddling" in the public affairs of the state would have been condemned, even by reformers, as "a detriment to the progress and happiness of the human race."¹²⁵ At the time, the role of religion was to buttress the social order; by offering moral guidance to individuals. By the first decade of the twentieth century, however, it was aspects of the social order that reformers sought to guide.¹²⁶ Thereafter, their efforts shifted from persecuting subjects guilty of "personal vice," to suppressing agents of "social sin." What conditioned this change in emphasis, must be understood historically and structurally.

Through the alienating process of mechanization central to modern industrialism, producers were "divorced" of all control over the means of production.¹²⁷ As industrial capitalism consolidated and managerial innovations and technological change were increasingly implemented "with the intention of standardizing tasks, minimizing workers' autonomy, and, thus, increasing output" working class resistance flared.¹²⁸ Indeed, Heron and Palmer argue that "what emerges clearly from even the most superficial glance at strike activity in the years 1901-1914 is the magnitude of the conflict between labour and capital."¹²⁹

the Social Gospel in Canada, 1875-1915, (Watterloo: Wilfrid Laurier University Press, 1988), 137-138.

¹²⁵ R.H. Falconer, The Church in Politics in Ontario, (Toronto: Ellis and Company, 1894), 2,8.

¹²⁶ Ramsey Cook, The Regenerators: Social Criticism in Late Victorian English Canada, (Toronto: University of Toronto Press, 1985), 4, 228; J.S. Moir, Enduring Witness: The Presbyterian Church in Canada, (Don Mills, Ont.; United Publishers, 1974), 175.

¹²⁷ B.D. Palmer, Working-Class Experience: Rethinking the History of Canadian Labour 1800-1991, 2nd. ed. (Toronto: McClelland and Stewart, 1992), 156; Palmer, "Marxist History," 234.

¹²⁸ Palmer, Working-Class Experience, 160-161, 170-171.

¹²⁹ Craig Heron and Bryan D. Palmer, "Through the Prism of the Strike: Industrial Conflict in Southern Ontario, 1901-1914," in Canadian Labour History: Selected Readings, ed. D.J. Bercuson (Toronto: Copp Clark Pitman, 1987), 85.

This is not to imply that strike and union activity around the turn of the century represented the first time that the Canadian working class rose up in defiance of their bosses, rather as Stedman Jones points out:

Contradiction is not episodically, but continually, present; the antagonism, between the producers of the surplus and the owners and controllers of the means of production extracting the surplus, is a structural and permanent feature.¹³⁰

Capitalism is inherently contradictory because, as Sears explains, capital and labour are concomitantly "mutually dependent and perpetually in conflict."¹³¹ How best to accommodate this incessant structural contradiction and explicit manifestations of it, posed serious problems for, and was widely contested between, factions within the bourgeoisie. Especially vocal in the polemic and substance of these debates was a "new" middle-class (composed of professionals, managers, and merchants), that had emerged with the shift from farm to factory.

It was a large, mostly Methodist and Presbyterian section of this "new" middle class that constituted the organizational base of what is represented here as the moral reform movement.¹³² By 1907, the consolidated voice of Protestant middle class dissent was expressed through the Moral and Social Reform Council of Canada (MSRCC).¹³³ The Council earnestly assumed a

¹³⁰ Gareth Stedman Jones, Languages of Class: Studies in English Working Class History, 1832-1982, (New York: Cambridge University, 1983), 80.

¹³¹ The dependence of capital and labour on one another is evident in that capital provides owners with control over production but production is dependent on the labour of workers. Similarly, workers can only survive and reproduce themselves if they are paid a wage in exchange for their labour. The conflict arises in the fact that the mutual dependence between capital and labour is not equal. Instead capital accumulation is a process based on competition and is thus dependent on the *exploitation* of workers; a process in which unpaid surplus labour is sold. Sears, "The Health of Nations," 20; Callinicos, Making History, 50-52.

¹³² Mariana Valverde, The Age of Light, Soap, and Water: Moral Reform in English Canada, 1885-1925, (Toronto: McClelland and Stewart, 1991), 15.

¹³³ In addition to the Protestant Churches, the MSRCC, included the Trades and Labor Congress of Canada and the Dominion Grange and Farmers Association. Constitution of Moral and Social Reform Council of Canada, circa 1907. Richard Allen, "The Social Gospel and the

position of leadership in an effort to morally accommodate various manifestations of the capital-labour contradiction. If only industrial capitalism could be "Christianized" (by improving working conditions and securing a fair wage for workers), reformers argued, "moral and spiritual life" could be "deepened," and urban vices thought responsible for moral degeneration be quelled.¹³⁴ To be sure, the impetus for action was not one of benevolence, but instead, as Sears explains, the movement was a "vigorous campaign" to reverse an "environmentally-induced moral decline which undermined the working class family." By morally regulating, *via state legislation*, the traditional working class family, reformers sought to ensure the long-term social reproduction of labour necessary for the nation's march on modernity.¹³⁵

In contrast to moral reformers, competition and the necessity of immediate profit forced members of Canadian Magazine's "national class" of "capitalists," "bankers," and "businessmen," to concentrate their energies on physically suppressing working class resistance when strikes stymied production. Indeed, many of Canada's "Captains of Industry" would contract "Dyspepsia of the Mind" at the slightest whiff of any odor smelling of state intervention that might impede the unfettered exploitation of labour.¹³⁶ If the MSRCC had restricted its activities to sponsoring educational campaigns and organizing various reform organizations, its efforts would not incite

Reform Tradition in Canada, 1890-1928," in Readings in Canadian History, 2nd. ed., ed. R.D. Francis and D.B. Smith (Toronto: Holt, Rinehart and Winston, 1986), 297.

¹³⁴ Cody, Why Is It Wrong To Gamble? (Toronto: Moral and Social Reform Council of Canada, circa 1907), 14-15.

¹³⁵ Sears, "Health of Nations," 350-351.

¹³⁶ Canadian Magazine, March 1905, 487 cited in Michael Bliss, "'Dyspepsia of the Mind': The Canadian Businessman and His Enemies, 1880-1914," in Readings in Canadian History: Post-Confederation, 2nd ed., ed. R.D. Francis and D.B. Smith (Toronto: Holt, Rinehart and Winston, 1986). 204.

opposition. Apparent collaboration with an "impartial umpire" to enact *regulatory* legislation in what was supposedly an *open* market economy, however, was contradictory and drew considerable commentary and resistance by factions of the ruling class.

As could have been expected it was the "Captains of Industry," holding large tracts of stock in chartered racing associations who most adamantly denounced prohibitive legislation introduced to suppress working class gambling.¹³⁷ Given this basic ideological antagonism, it must be expected that the respective capacities of promoters and reformers to align themselves with the agenda of the state would significantly condition the maintenance or eradication of the legality of racetrack gambling. Before such alignment (or lack thereof) is represented, how this ideological antagonism played out in regard to sport in general, and racing in particular, must be cast in bolder relief.

As industrialism transformed conceptions of time, and urbanism values of space, leisure time activity was increasingly targeted by commercial and moral entrepreneurs as potential sources of revenue and souls, respectively. Not surprisingly, the nature of what wage-labourers were doing during time away from work had become especially important for advocates of the reform agenda.¹³⁸ Believed to be a site for cultural learning and expression, organized team sports were actively sponsored by physical educators, health experts, and moral reformers who hoped the promotion of "rational recreation" based on amateur ideals would engender temperance, allegiance, diligence, and obedience within the "degenerated" urban

¹³⁷ Hansard, 1909, p. 889.

¹³⁸ Regarding Sunday recreation read Christopher Armstrong and H.V. Nelles, The Revenge of the Methodist Bicycle Company: Sunday Streetcars and Municipal Reform in Toronto, 1888-1897. (Toronto: Peter Martin, 1977).

proletariat. Such impositions, however, inspired vehement resistance by sections of the working class for whom the rigidity of the amateur code was not "culturally appealing."

To satisfy their alternative tastes, many wage-labourers eagerly accepted invitations by entrepreneurs who offered commercial spectator sport as an avenue for cultural expression (albeit a severely circumscribed one).

Initiatives for leisure discipline, regulation, or reform have always had a contradictory character in capitalist societies. For every factory owner who bemoaned the lack of discipline at the workplace - or middle-class moral custodian who wanted to civilize the "rough" elements of the working class - there seemed to be an entrepreneur prepared to market opportunities for pleasure, sociability, and escape.¹³⁹

From a financial perspective, entrepreneurs rejected the amateur ideology which permeated organized sport at the time, and instead conceived the expanding working class as a consumer market to be mined. Potentially, commercial promoters stood to make a handsome profit; indeed changing material circumstances prompted workers to become more and more dependent on the market-place as a source of "gratification."¹⁴⁰

In reaction to what they considered crass commercialism, moral reformers earnestly joined a chorus of condemnation led by zealous amateur organizers who accused commercial promoters of exacerbating the gambling, drinking, violence, and frivolity, usually associated with plebeian leisure.¹⁴¹

¹³⁹ Richard S. Gruneau, "Modernization or Hegemony: Two Views on Sport and Social Development," in Not Just a Game: Essays in Canadian Sport Sociology, ed. Jean Harvey and Hart Cantelon (Ottawa: University of Ottawa Press, 1988), 29.

¹⁴⁰ Richard S. Gruneau, Sport, Class, and Social Development, (Amherst: University of Massachusetts, 1983), 114-119; Richard Butsch, "Introduction: Leisure and Hegemony in America," in For Fun and Profit: The Transformation of Leisure into Consumption, ed. Richard Butsch, (Philadelphia: Temple University, 1990), 9; A.H. Cole, "Perspectives on Leisure Time Business," Explorations in Entrepreneurial History 1 (Summer Supplement, 1964), 28-32; F. Redlich, "Leisure Time Activities: A Historical, Sociological, and Economic Analysis," Explorations in Entrepreneurial History 3 (1965), 18-22.

¹⁴¹ Gruneau, Class, Sports, and Social Development, 111-115; Mark Dryeson, "The Emergence of Consumer Culture and the Transformation of Physical Culture: American Sport in the 1920s," Journal of Sport History 16 (1989): 265.

Not surprisingly, some of the loudest chords were struck in protest to what had become one of the most lucrative spectator sports of the era; highly capitalized and commercialized racing:

[T]rue sport can not possibly thrive where money considerations are so overshadowing. It will be blighted and wither and die. In the interests of sport, if for no higher reason, the business of race track gambling should be brought to an end.¹⁴²

Moral reformers, though, had plenty of higher *reasons*. To be sure, a request for legislation that would eradicate the business of betting was one aspect of a broader reform agenda intended to ensure the social reproduction of labour. To be more precise, the betting evil (i.e. lost wages, moral degeneration) was blamed for undermining the harmony of the working class family; the means of social reproduction.

✓ Far from being the "exclusive sport of the wealthy few" who could afford to "squander" their money, moral reformers insisted that the evil inherent to the racing industry was a "national ill, infecting all classes of society."¹⁴³ While the supposedly legitimate element of risk-taking involved in stock market speculation was "appropriate for special persons for it demands and develops the highest activities of mans' judgement and reason" it was completely inappropriate for members of the working class to wager because the gambling they enjoyed:

¹⁴² S.D. Chown, "Plea for Legislation on Gambling," circa 1909, UCA.

¹⁴³ Cody, Why Is It Wrong, 4-5.

[D]oes not take proper account of the stewardship of money ... destroys proper conceptions of the rights and apportionment of property, strikes at the root of sound commercial dealing, substitutes feeble chance for strenuous effort, threatens the well being of society by gaining through anothers loss, ... destroys the spirit of industry, leads to dishonesty, ... degrades the morality of the individual ... popularizes the idea of getting something for nothing, [and neglects] the duty of labour, and duty of using talents.¹⁴⁴

Though "fools and weaklings" who let jockey clubs and bookmakers "draw millions out of [their] pockets" received a tongue-lashing, the fact that racetrack gambling was not spontaneous, but had become "a business investment for some [i.e. joint stock companies] and a means of livelihood for others [i.e. professional bookmakers],"¹⁴⁵ marked it a prime agent of "social sin." Indeed, Abram Orpen need not tell any reformer that: "Book-making is a business, it is a matter of figures, of handling money at different prices so as to figure out a percentage for the book-maker."¹⁴⁶ Accordingly, in interviews and correspondence with the federal state, the Council stressed the point that despite the fact that many of its member organizations thought it prudent to criminalize private betting, the Council as a whole did not support such legislation; but endeavored only to suppress the industry.¹⁴⁷

Because racing associations across Canada were increasingly relying on plebeian patronage (either on the track or by extension in pool-rooms) to off

¹⁴⁴ Ibid., 9-13.

¹⁴⁵ A. Cox, "A History of Sport in Canada, 1868-1900," Ph.D. diss., University of Alberta, 1969, 365.

¹⁴⁶ Though the CRA winched at such blatant honesty, the MSRCC respected the candor; "Abe Orpen is a man who honourably keeps his engagements amongst the gambling fraternity, but he is confessed gambler on a large scale." To be sure, while the CRA portrayed Orpen a dubious adjunct to a noble game, the Council thought Orpen a respectable businessman operating a dishonest business. Evidence taken by Select Committee, Journals of the House of Commons, Appendix (6), 1909-1910 p. 22; Transcript of Toronto Hearing, 2 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920) File (5), 262; Hansard, 1910 p. 6470.

¹⁴⁷ This distinction was clearly drawn and repeatedly emphasized by the MSRCC. Correspondence between Minister of Justice and MSRCC, 9 January 1908; 11 February 1908; W.E. Raney, and J.G. Shearer, The Anti-Racetrack Gambling Campaign, (Toronto: MSRCC, 1910), 2-3.

set expenditures, the industry as a whole incited the wrath of reformers. Border tracks exploiting state responses to a similar promoter-reformer antagonism in the US offered the additional impetus for action. For instance, operations in Windsor were considered especially troublesome; not only were its citizens exposed to the gambling evil, it was reported to be cowardly "foreigners" fleeing US anti-betting legislation who were encouraging and profiteering from such immorality. The cure reformers proscribed to eliminate "this disease which necessarily weaken[ed] the character and resulted in misery and criminality" was a lethal dose of prohibitive legislation.

To be sure, this proscription would necessarily result in the destruction of capital. No doubt, it was the threat of losing money which prompted the most vocal objections in Parliament; objections apparently loud enough to temporarily drown out moral dissent. The objective manifestation of this drowning was the enactment of an amended moral reform Bill which preserved the industry while suppressing those supposedly detrimental elements associated with racetrack gambling; specifically, working-class punters involved in off-track betting. This amendment to the Criminal Code (which would come to be known as the Miller Bill), may be taken as a measure of the capacity of the racing industry to build a power bloc with MPs opposed to the reform agenda. This power bloc successfully down-played internal divides over commercialism, framed plebeian punting as the "real evil," and justified racetrack gambling for its apparent contribution to Canadian breeding. While there is no denying the influence of this instrumentalism, the footing on which the power bloc stood was squarely situated within the circumscribed agenda of what Sears aptly characterized "an unequivocally capitalist state."

II-vii. A Not So Impartial Umpire:
*Judging the Evils of Plebeian Punting & the
 Benefits of Canadian Breeding.*

Instead of internal regulation, the MSRCC decided that prohibitive legislation was the appropriate avenue to follow when dealing with the issue of racetrack gambling. Believing that the Moyett ruling had effectively legalized the business of bookmaking, just as the "great majority of the American States" had enacted laws which criminalized such activity, made it all the more important to protect Canadians against "the scum of the American sporting world ... A very large number of them swindlers, criminals, or moral lepers."¹⁴⁸ To that end, in December of 1907, a Council delegation traveled to Ottawa to request that Prime Minister, Wilfrid Laurier, and his Minister of Justice, A.B. Aylesworth, introduce an amendment to the Criminal Code designed to render the business of racetrack gambling unlawful. Initial efforts by reformers to convince Laurier and Aylesworth of the moral necessity of legislation were met with indifference and inaction.¹⁴⁹

By September of 1909, the executive of the reform association had realized its depositions to the Office of the Prime Minister were leading nowhere; accordingly, it sought to contact MPs directly. A petition was prepared and a signature drive was initiated. "Sympathetic merchants" and other "responsible men," were instructed to request signatures (at the "church doors" or by "house-to-house canvass") on a petition that read:

¹⁴⁸ J.G. Shearer to Wilfrid Laurier, 28 March 1908; J.G. Shearer to A.B. Aylesworth, 31 March 1908, Laurier Papers, PAC.

¹⁴⁹ J.G. Shearer to A.B. Aylesworth, 4 October 1909 referred to in Raney and Shearer, Anti-Racetrack Gambling, 4-5.

We, the undersigned electors, humbly pray your Honorable Body to enact without delay such amendments to the Criminal Code as will, under adequate penalties and by simple process, make pool-selling, book-making, and the business of gambling, clearly unlawful everywhere and under all circumstances, as well as the publication of information tending to aid in gambling, and in other respects to render the law effective for the suppression of gambling.

After the returns were sent back to headquarters, the Secretary of the Council, John G. Shearer, cunningly created an impression of "wide-spread popular demand" for prohibitive legislation.¹⁵⁰ It was the consequences of such legislation, that the Editor of the Canadian Sportsman, E. "King" Dodds, was considering when he wrote "Black is the cloud which at the present time overshadows the future of the thoroughbred horse in America."¹⁵¹ These desperate words, published in the fall of 1909, were apt in conveying the fear that jockey club shareholders and breeders must have experienced when they heard a Criminal Code amendment was before Parliament that was designed to ...

... utterly, entirely, completely suppress and prevent the business of betting, pool-making, book-making ... or gambling in connection with or upon race tracks in any place in Canada.¹⁵²

Understandably the loudest objections in Parliament were voiced by MPs who had "many hundreds of thousands of dollars" invested in racing associations and breeding farms. In fact, it was fortunate for the industry, that every jockey club in the CRA had a Parliamentary representative. If it had not, the

¹⁵⁰ In fact, after introducing his Private Members Bill, H.H. Miller proudly explained that "one of the reasons why it has been thought proper to introduce [the] Bill [was] because it has been asked for by the Moral and Social Reform Council of Canada." Miller went on to say that in addition to the various conferences, synods, presbyteries, church, and farm papers who endorsed the Bill, the Orange lodge of Canada, the Toronto Globe, Telegram, and Star, and many "layman, business men [and] men of the world" supported the measure to avoid making Canada's "race tracks the chief rendezvous of gamblers and other criminals from all over the continent." Hansard, 1909, pp. 864-865; 1910, pp. 6427-6428.

¹⁵¹ Dodds, Turf Recollections, 11, 14-15.

¹⁵² As well, the Bill made it a crime for an owner or lessee of a track to permit devices designed to defy the enforcement of anti-gambling laws, explicitly included the prohibition of off-track betting, and the publication of betting information. MSRCC to Wilfrid Laurier, 12 October 1909 cited in Raney and Shearer, Anti-Racetrack Gambling, 4; Hansard, 1909, pp. 856-857.

industry would have been destroyed; for the Bill was voted down by a majority of only one after it had passed a Select Committee vote, five to two.¹⁵³ Ironically, testimony and argument as to the nature of operations at the Windsor Driving Park was crucial in securing the eventual compromise.

Before a Select Committee that had been struck to collect evidence in connection with the Miller Bill, W.E. Raney, legal representative of the MSRCC, employed a divide and conquer tactic by exploiting the sectarianism within the racing industry; playing especially the nationalist card that had been one of the foci of the *business* reform campaign.¹⁵⁴ In his opening remarks at the Miller Bill hearings, he described racing at Woodbine to be "essentially a social and a sporting event" conducted "by eminently respectable men, strong men financially, all Canadians," and attended by "the best people of Canada." In contrast, racing at Windsor, Raney intimated, was owned, manned, and frequented by Americans; considered by its owners as a business pure and simple, and by its enemies as simply an excuse for gambling. Astutely, the Council's lawyer framed Hendrie and Parmer as a couple of Yankee cowards who had "found it to the benefit of their health to move South when the Special Committee began its work."

The demarcation, however, was not substantiated by evidence from either Windsor or the CRA. O.J. Wilcox, MP for North Essex, countered Raney's claims by pointing out, somewhat dubiously, that the *original* shareholders of the WFDPA were all Canadian citizens, some of who were the "best in the Dominion," and that the books of the *Driving Park* Association (which was still sponsoring standard-bred trotting meets) had been

¹⁵³ Raney and Shearer, *Anti-Racetrack Gambling*, 4; SSCC, "Race Track Inquiry," *Social Welfare*, 1 December 1919, p. 13.

¹⁵⁴ Evidence taken by Select Committee, *Journals of the House of Commons*, Appendix (6), 1909-1910, pp. 15-16.

subpoenaed, examined, and dismissed by Raney.¹⁵⁵ Favorable testimony offered by Police Magistrate Leggatt and Police Chief Wills no doubt helped; though not officially endorsing the "legalization of book-making," it was clear that Leggatt and Wills did not think "there was cause for legislation to put the track out of business."¹⁵⁶ As well, some of the "most prominent businessmen" of Windsor came out in full support of the WRA. One merchant in particular noted that the "many thousands of dollars ... spent daily in our city to maintain the supplies requisite to the life of men and horses," was important to off set the money which was spent by Windsorites on leisure activities in Detroit.¹⁵⁷

As alluded to above, at the height of the crisis it was necessary to defend even those undesirable tracks "owned, controlled and operated by professional gamblers or book-makers," which had been, though not totally, responsible for provoking the crusade. Evidently, advocates of commercial racing realized that corporate action was required to defend the industry. Colin Campbell of the MJC and Wm. Hendrie of the OJC agreed that there was no "distinction that could be fairly brought to the attention of the committee" that would separate the racing conducted by the WRA from that at BlueBonnetts or Woodbine. Hendrie added that they are all controlled by the CRA, the Windsor association was not an American syndicate, and that "some of the nicest people in Detroit, including a member of the local House, and a member of the Dominion House" had attended the races the previous fall.¹⁵⁸ A MP for Welland even claimed that the tracks at Windsor and Fort Erie were

¹⁵⁵ Hansard, 1910, pp. 6456-6457.

¹⁵⁶ Evidence taken by Select Committee, Journals of the House of Commons, Appendix (6), 1909-1910, pp. 279, 281.

Hansard, 1910, p. 6453.

¹⁵⁸ Evidence taken by Select Committee, Journals of the House of Commons, Appendix (6), 1909-1910, p. 98.

forced to extend their calenders to attract "the same numbers of people ... [and] the same class of horses" as did Toronto, Hamilton, or Montreal. Even if Windsor had at one time been "objectionable," a Select Committee MP claimed, it was no longer the case. He continued, if there was anything wrong with racing, it could only be corrected by regulation not suppression.¹⁵⁹

Wilcox agreed, pointing to touts and street betting as the source of the industry's ills. To be sure, the regulation the jockey clubs supported necessarily included the suppression of off-track gambling. It seems that the Justice Minister's notion of the "innate propensity of the Anglo-Saxon race to bet, calculate, and take chances" included only those members of the "race" who could "with all propriety be spoken of as, socially and in every other respect, among the best people in the community."¹⁶⁰ In other words, it was those bettors who could afford to pay a tariff to get to the track and then pay another to get through the gate. In accord with Aylesworth and others opposed to the Bill, Wilcox reasoned that "public opinion" in Windsor favoured the continuance of racing so strongly that to prohibit on-track betting would facilitate handbook men and thus amplify the "volume of illegitimate and underhand betting." The point was driven home by Samuel Barker, MP for East Hamilton and President of the HJC:

The whole odium of the betting evil is due to a matter with which [the Miller Bill] does not attempt to deal, that is the maintenance in small shops, barber shops, and other small places, of betting places where small wage-earners can wager small sums upon horse-racing.¹⁶¹

With an estimated \$22,000,000 bet in the street, taverns, and poolrooms across Canada in 1909,¹⁶² it was clear that the chartered racing associations had

¹⁵⁹ Hansard, 1910, p. 6438.

¹⁶⁰ Ibid., 1909, pp. 906-907.

¹⁶¹ Ibid., 1909, p. 893.

¹⁶² Metcalf, Canada Learns To Play, 150.

essentially two enemies; off-track bookmakers and moral reformers.¹⁶³ Both threatened the industry by severing sources of revenue: monies paid for on-track betting privileges and gate receipts. The strategy to combat both would entail incorporating all but the most dangerous aspect of the Miller Bill; the criminal prohibition of on-track betting.

To realize such incorporation, jockey club MPs and members opposed to the reform agenda formed a power bloc to convince Parliament of, first, the necessity of the thoroughbred blood for breeding; second, the necessity of the racetrack as a means of cultivating "courage, and fibre, and stamina" in the said blood; and finally, that the racetrack "rests upon the foundation of 'book-making'," and therefore restrictions on racetrack gambling would "seriously effect, if not destroy the noble sport of horse racing."¹⁶⁴

This was a set of premises and a proposition to which the Farmer's Advocate did not subscribe:

... the old, exploded arguments that are being brought up that book-making is necessary to maintain racing, and that racing is necessary to encourage horse-breeding. More absurd fallacies have rarely been offered for the public to swallow.¹⁶⁵

¹⁶³ Dodds' claim that it was not Canadians responsible for the turf crisis, but the infusion of "a class of owners of an undesirable kind, many of them owning a few cheap animals ... in it solely for the purpose of making money whether by fair means or foul" and other "foreigners, mostly a class of Jew gamblers, whose motto is to make money, no matter whether they make it honestly or otherwise" infected the existing class-based chauvinism with a nationalist gob of anti-Americanism and racist dose of anti-semitism. Dodds, Turf Recollections, 17-20; Hansard, 1910, p. 6412, 6419.

¹⁶⁴ F.E. Meredith and others, Argument on Behalf of Interests Heard in Opposition to Bill No. 6 An Act to Amend the Criminal Code, (1910), 18.

¹⁶⁵ Farmers Advocate, 16 December 1909, cited in Hansard, 1910, p. 6463; The Weekly Sun, added that "no really useful purpose is served by breeding horses of that class." Evidence taken by Select Committee, Journals of the House of Commons, Appendix (6), 1909-1910, p. 916.

Despite arguments that "every farm paper of prominence in Canada [was] editorially emphatically in favour of the Bill,"¹⁶⁶ at least four hundred farmers from in and around Windsor wrote Wilcox asking him to oppose the measure; and thus not deny the "great value afforded" by racing and the use of the Driving Park for agricultural exhibitions.¹⁶⁷ To do otherwise, they claimed would "destroy the opportunity of making Canada one of the important cavalry horse-breeding units of the empire." This was a plea the Manager of the Canadian National Bureau of Breeding and the Minister of Agriculture were prepared to grant.¹⁶⁸ To be sure, the Minister of Agriculture quoted Dodds in the Canadian Sportsman, during the height of the debate:

If betting under any and all systems is prohibited on Canadian race-tracks, the clubs must either close their gates or offer such small purses that it would be impossible for a horse owner to pay running expenses, even if he should win a liberal proportion of the prizes offered.¹⁶⁹

As noted above, the original bill was defeated; the "drastic, extreme, unjust, and unfair provisions of the Bill," ostensibly being too daunting for the majority, albeit of one, to ignore. Perhaps recognizing aspects of the original measure could be used to reserve commercial operations for that "class of men who are in that business for the sport that is in it," representatives of the jockey clubs shrewdly convinced Miller to let his Bill stand on the order paper; five days later a fundamentally amended Miller Bill was passed.¹⁷⁰ An editorial in the Record read by Wilcox earlier during the

¹⁶⁶ The Farmer's Advocate, Canadian Farmer, Farm Journal, and Nor'West Farmer. Hansard, 1910, pp. 6409-6410

¹⁶⁷ Earlier that year, the WRA had made a liberal offer to the City of Windsor to construct extensive buildings in which up-to-date county shows and auction sales of horses and other live stock could be held. "A fact which is appreciated by the farmers of the surrounding country as well as by the business men of Windsor." Dodds, Turf Recollections, 214-215.

¹⁶⁸ F.E. Meredith and others, Interests Heard in Opposition to Bill, 18.

¹⁶⁹ Hansard, 1910, pp. 6440-6441.

¹⁷⁰ Ibid., 1910, p. 7270.

debate, captured the essence of the eventual compromise. It seemed that "judicious legislation" was necessary to prohibit off-track handbook men and to regulate protracted meetings, but to suppress on-track betting would result in a "great injustice." What was said to be at stake was the "honor and dignity" of the Dominion; attributes that would necessarily be damaged if the breeding industry of Canada was "seriously crippled."¹⁷¹

In the end, the Council failed to knock down the power bloc built by the industry. On the surface, moral dissent was accommodated by temporarily reconciling internal fractures, scapegoating plebeian punters, and procuring support for what was rapidly becoming an archaic rationale for highly capitalized racing; the necessity of thoroughbred blood for national defense. Though the hearing on, debate over, defeat of, and fundamental amendment to the original bill were physically sheltered by the granite walls of Parliament, they must not be conceptually separated from what was happening on shop-floors, in union halls, and along picket lines during the first decade on the twentieth century.

The same working-class resistance that drove a wedge between factions within the bourgeoisie, "led to an acute crisis for the industrial-capitalist order, necessitating the intervention of the progressive state in the social relations of production."¹⁷² Despite "its appearance of autonomy," the state did not serve as a "neutral arbitrator" of divergent interests, but necessarily

¹⁷¹ Cited in Hansard, 1910, p. 6453.

¹⁷² To be sure, as Palmer contends, the Canadian state "drew a good part of its early sustenance from the need to respond to class antagonism." Palmer, Working-Class Experience, 156-157.

intervened in civil society to create and maintain conditions conducive for the accumulation of capital.¹⁷³ As Palmer explains:

[T]he rise of the state in Canada was clearly related to the development of class differentiation, specific class interests, and, at certain points, the critical necessity to contain and regulate, in ways that would be perceived as legitimate, the threatening possibilities of working-class resistance.¹⁷⁴

Although "in defense of capitalism, the state was prepared to kill,"¹⁷⁵ intervention, for the most part, was characterized by an attempt to accommodate contradictions inherent to capitalism via regulation, rather than physically crushing manifestations of them.¹⁷⁶ The problem, however, was that it was contradictory to regulate a so-called *free or open* market economy. Hence, the federal state confronted an especially precarious situation when it was forced by the MSRCC to deal with the issue of racetrack gambling.

If in fact the business of betting did impede the social reproduction of labour, then the suppression of the industry would be in the long term interests of capitalism. Despite reports that petitions were "pouring in ... by the hundreds," and acknowledgements of the "strong body of public sentiment upon this question," however, the Laurier Government was not prepared to introduce legislation that would necessarily mean the immediate destruction of capital. Accordingly, it donned the guise of impartiality when confronted by moral reform deputations and Miller's Private Members' Bill.

¹⁷³ Sears, "Health of Nations," 18-20, 32; Leo Panitch, "The Role and Nature of the Canadian State," in The Canadian State: Political Economy and Political Power, ed. Leo Panitch (Toronto: University of Toronto Press, 1977), 6, 19.

¹⁷⁴ Palmer, Working-Class Experience, 18.

¹⁷⁵ Ian McKay cited in Palmer, Working-Class Experience, 163.

¹⁷⁶ For example, in 1900, the Department of Labour was ostensibly created to serve as an impartial conciliator between, labour, capital, and the "community." To a similar end, the Industrial Disputes Investigation Act was passed in 1907. Palmer, Working-Class Experience, 162-163, 205-206.

To this end, C. Murphy, Secretary of State, responded to queries by opposition MPs as to why such an apparently important matter was handled by a backbencher,¹⁷⁷ by declaring:

The members of the House of Commons are the mirror of the public opinion of this country, and I submit that it is not competent for any man or set of men to tell us what legislation we must pass and what we must not.¹⁷⁸

Murphy was supported by Saturday Night in the street, and Wilcox, *inter alia*, in the House. The Toronto weekly suggested to its readers that the "great proportion" of the "average citizens" of Canada regarded moderate amounts of betting as a:

... legitimate and time honoured institution ... that should not be done away with by a process of the law ... endeavoring to manufacture morality by acts of Parliament instead of by education and home and church influences.¹⁷⁹

Similarly, Wilcox professed to be "entirely in sympathy with the Moral Reform Association," but nevertheless made it clear that he did not support the Miller Bill because it was "impossible to make [the youth of Canada] respect such [Christian] teachings and [moral] ethics and control their acts by legislation."¹⁸⁰

The fact that seventy-eight voted not to wreck the racing industry reinforced the explicit commitment of non-interference by the state in what are portrayed as *laissez-faire* liberal democracies.

Those [in 1910] who supported the business of race track gambling did so not because they did not recognize the immorality of gambling, but on account of

¹⁷⁷ It was equally as puzzling to the MSRCC who had received word that the "Premier had already last Session expressed his readiness to undertake this Amendment." J.G. Shearer to A.B. Aylesworth, 27 January 1909, Laurier Papers, PAC; Hansard, 1910, p. 6443.

¹⁷⁸ Hansard, 1909, p. 910.

¹⁷⁹ Saturday Night, 11 December 1909, p. 1.

¹⁸⁰ Hansard, 1910, pp. 6449-6550.

their opposition to Parliament interfering with their individual liberty to do or not do wrong.¹⁸¹

The fact that seventy-seven MPs voted to eradicate what was thought a source of domestic strife and thus rid capitalism of a structural barrier to the social reproduction of labour, attests to the interest of the state in the moral regulation of the working class.

Theoretically, the agenda of the capitalist state would call for the operation of racing to be *regulated* so as to concomitantly encourage capital accumulation and engender morality (by suppressing widespread working class gambling). It was the instrumentalism of the racing bloc that aligned the interest of the state with that of the Laurier Government, by incorporating all of the elements of the original Bill that would suppress betting by the wrong sort of punters, while encouraging capital accumulation by the right sort of promoters. Indeed, while the Laurier Government was not prepared to end betting completely it was ready to regulate *who* could bet by restricting where, and for how long, on-track betting could be legally operated.¹⁸²

Similar class-biased legislation had been enacted in England three years earlier.¹⁸³ What the Street Betting Act represented, as did the Miller Bill, was a transition "from selective criminal prosecution to administrative regulation."¹⁸⁴ While Dixon concludes that the priority of such a policy was the "prevention of criminal exploitation and individual access," it at the same time formally sanctioned racetrack gambling as a legitimate business. In effect, the state explicitly reaffirmed the legality of those sections of the

¹⁸¹ J.M. Godfrey, Argument of Mr. John M. Godfrey On An Investigation Conducted By Dr. Rutherford The Commissioner Appointed By The Dominion Government To Investigate Racing And Race Track Gambling, (Toronto: Social Service Council of Canada, 1920), 5.

¹⁸² Racing at each incorporated track was restricted to two seven day meets with no less than twenty days in between each meeting and the development of new tracks in towns or cities of under fifteen thousand was prohibited.

¹⁸³ Vamplew, The Turf, 210.

¹⁸⁴ Dixon, "Anti-Gambling and the State," 1.

Criminal Code which provided one law for the jockey clubs and one for street betters. It was this response that provided the structural basis for the unrestricted operation of the racing industry in Windsor between 1910 and 1916. To be sure, the Laurier Government response to the 1909 crusade resulted in, as one Progressive Party MP succinctly summed up, "the general tightening up of the law against the keeping of what were defined as betting houses, and the general loosening up of the law as it applied to racing associations."¹⁸⁵

Between the 1909-10 crisis and 1916, the thoroughbred racing industry in Ontario expanded in the total number of tracks operating.¹⁸⁶ When the Miller Bill was enacted in the spring of 1910 there were only five one mile tracks operating across the province. With two in Toronto, and one in Hamilton, Fort Erie, and Windsor, the provincial circuit was limited to a total of seventy days racing. By 1916, however, the circuit sponsored one hundred and forty days racing at ten tracks. This growth was particularly evident in Windsor where in the fall of 1916 two new tracks opened. In Windsor that year, there were forty-two days racing and betting revenue alone amounted to \$430,332 for each of three tracks in operation. While this rapid development was undoubtedly facilitated by the "prosperous" economic climate prevalent throughout the first two decades of the twentieth century,¹⁸⁷ it was the on going suppression of racetrack gambling in the Northern US¹⁸⁸ that proved

¹⁸⁵ Hansard, 1923, p. 653.

¹⁸⁶ "The Race Track Betting Houses," Social Welfare, 1 April 1920, p. 178.

¹⁸⁷ As the transformations in production which had given rise to a burgeoning consumer market in the latter years of the nineteenth century matured, conditions necessary for the continued development of commercial racing as an accessible form of amusement increased. "Assigning to the Border Cities an estimated population of 30,000 persons, we may calculate that Ford's new wage scale changed the economic condition of about one-quarter of that population." Morrison, Garden Gateway, 231, 234; Cancian and others, Windsor, 9.

¹⁸⁸ In 1910, the State of New York enacted the Directors Liability Act, which rendered racetrack owners directly responsible for violations of Governor Hughe's anti-gambling laws.

fundamental to the reported prominence of the Windsor track before "the eyes of the great American public."¹⁸⁹

The importance of both stables and patrons from the US was readily acknowledged by promoters in Windsor. Hendrie later recalled that the quality of racing improved at the Driving Park after racetrack gambling was banned in New York because large stables were forced to move north in search of alternate fields of operation.¹⁹⁰ In explaining an increase in gate receipts collected by the association, Hendrie noted that the unprecedented attendance was a consequence of "the population of Detroit ... more than doubl[ing] in the last few years."¹⁹¹ With the crack-down on the American turf, concerns with attracting stables and spectators prior to 1908 thereafter turned into worries over how to handle overcrowding.¹⁹²

In fact, it was commonplace during the years following the enactment of anti-betting legislation in Michigan and New York for the WRA to receive reservations for up to one thousand bang-tails, when there existed accommodations for only six hundred at the track.¹⁹³ Similarly, patrons from Detroit who used the Driving Park as "a delightful way to entertain parties" (often fifteen thousand strong), squeezed themselves into a grandstand

Devereaux, "Gambling and the Social Structure," 297; Saturday Night, 19 April 1913, p. 1; Evening Record, 4 July 1913, p. 2.

¹⁸⁹ So prominent, that by 1917, close to sixty percent of the members of the Jockey Club resided in Detroit. Moreover, there circulated rumors that crowds up to twenty five thousand regularly attended the races at Windsor. Windsor Jockey Club Members, RG 14 D 2 Royal Commission in Racing Inquiry 65 (1920), File (7), Exhibit (4).

¹⁹⁰ In fact, American owners who attempted to ship their thoroughbred stables to England were turn away. Vamplew, The Turf, 59-60; Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), 614-616.

¹⁹¹ Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), 612; By 1920 there was a increase of over one hundred-thirteen percent over the 1910 figure; now there were 993,675 people earning \$245,434,000 in wages. Holli, Detroit, 269, 275; Codot, American Odyssey, 177.

¹⁹² Evening Record, 16 July 1913, p. 11.

¹⁹³ Ibid., 16 August 1916, p. 6.

designed to seat half that number.¹⁹⁴ So forthcoming was American patronage, that by 1913 Hendrie was able to secure fifteen-hundred new shares of capital stock worth \$100 each which increased the capitalization of the company from \$50,000 to \$200,000. The increased capitalization afforded the WRA the opportunity to sell more shares or for Hendrie and Parmer to divide larger dividends between themselves.¹⁹⁵

What lay beneath the economic viability of the market, and Hendrie's astute exploitation thereof, was the fact that the betting privileges of the jockey clubs used to satisfy the so-called "sporting instincts of the human race" had been firmly entrenched in the Criminal Code.¹⁹⁶ In addition to the legal foundation it provided the industry, the provisions of the Miller Bill afforded incorporated racing associations a sense of *societal* legitimacy on which they could relinquish themselves of all wrongdoing by blaming the moral improprieties of the turf on off-track "gambling joints." The consequences of this new found legitimation was readily apparent in the failure of the reform movement until 1917.

Even as the Miller Bill received Royal Assent, the MSRCC feeling betrayed, vehemently condemned the insidious way the compromise had been procured by MPs sympathetic to the industry.¹⁹⁷ To rectify the injustice, every citizen that believed in equal rights was called upon to rise in protest for:

¹⁹⁴ At times the ferry companies transported so many cars across from Detroit that there were too many to travel up to the track. Instead, cars were abandoned on Ouellette avenue as patrons decided to walk rather than miss the races. Evening Record, 13 July 1912; 15 July 1912, p. 3; 4 July 1913, p. 2; 18 July 1913, p. 1.

¹⁹⁵ Letters Patent granted to the Windsor Jockey Club Ltd. RG 14 D 2 Royal Commission in Racing Inquiry, 1920 65 File (7) Exhibit (7).

¹⁹⁶ Evening Record, 7 April 1910, p. 1.

¹⁹⁷ Raney and Shearer, Anti-Racetrack Gambling, 2-6.

So long as [the Miller Bill] remains part of the law of the country each citizen participates in the guilt that is associated with, and the evils arising out of this form of dishonesty; a form of dishonesty, which if all the glamour of social approval is taken away, remains but thinly disguised thievery. The persons who are willing to lose their money in that way are generally those who have not honestly earned it. The race track is a paradise of parasites. The man who does not earn what he gets either steals his living from the community or some member of it.¹⁹⁸

Though the MSRCC faced daunting odds, it held steadfast to its convictions and vowed to fight on.¹⁹⁹ The Council was encouraged in 1912 when an amendment was passed which prevented the granting of any more racing charters.²⁰⁰ With this favorable news the MSRCC initiated "a widespread educational and legislative campaign to rescue the promising manhood [that was] so extensively ruined by this enslaving vice."²⁰¹ Working with the National Committee for the Suppression of the White Slave Trade, the MSRCC asked for a series of amendments to criminalize racetrack gambling. Contrary to the optimistic predictions by the executive of the Council (that the amendments would "carry by a large majority"), victory was routinely denied. After successive defeats the executive was forced to report to its membership that without "popular demand," prospects for the prohibition of the business of betting looked bleak.²⁰² This general disinterest in the condemnation of the racing industry prior to 1917 must be attributed, in large part, to the state sanctioned installation of mechanized pari-mutuel machines at the tracks.²⁰³

¹⁹⁸ S.D. Chown, "Address on Gambling," circa 1910, UCA.

¹⁹⁹ A battery of articles published in the Presbyterian Record February thru September 1910 outlined the churches interest in moral reform, how Canadian laws bear on morals, and why it was important to continue to press for legislation.

²⁰⁰ Only those racing associations which had been incorporated prior to 20 March 1913 were granted the right to conduct racing with betting privileges.

²⁰¹ Minutes of the Moral and Social Reform Council of Canada, 6 September 1912, pp. 5-6. PAC.

²⁰² Minutes of the Moral and Social Reform Council of Canada, 18 December 1914, p. 3, PAC.

²⁰³ With the use of pari-mutuel machines the bookmaker is eliminated from the betting process. Instead of making a bet with a bookmaker, bettors wager between themselves by depositing their money in one mutuel pool. How much an individual bettor wins is a function

By operating pari-mutuels the jockey club effectively "killed two birds with one stone."²⁰⁴ Through the process of appropriating all on-track betting revenue the racing association eradicated that "professional layer of odds" that many considered responsible for the 1909 crusade.²⁰⁵ With a monopoly over on-track betting and the elimination of that element of suspicion which followed the bookmaker (especially syndicate bookmakers), the miracle of the "iron-men" was complete; or so it seemed.

While it might have been expected that the ability to directly rake-off percentages from the pari-mutuel pools would benefit existing associations, the fact that news of lucrative windfalls interested new entrepreneurs in the racing industry had not been anticipated by those who supported the Miller Bill. With the Criminal Code not restricting the number of tracks that could operate in any one locality, promoters eagerly secured charters granted prior to a 1912 deadline and established operations in areas with growing consumer populations. To be sure, it was the respectability and profitability of pari-mutuel wagering on the Windsor-Detroit border that provided the impetus for the construction of two new tracks no further than three miles from Jockey Club Park. Such developments worked to widen *pre-existing* divides within the industry across Ontario and set the stage for a fractious confrontation between the three tracks in Windsor. Added to the threat of moral censure were fears that the Detroit market could not support three tracks.

of the total pool divided by the number of winning selections after the racing association deducts a percentage of the total pool as betting revenue.

²⁰⁴ Raney, Race Track Gambling, 18.

²⁰⁵ During a debate over an amendment to the Corporations Tax Act that provided for a five percent tax to be imposed on pari-mutuel pools, the amounts deducted by bookmakers (by way of the odds they offered) were condemned as amounting to nothing less than criminal extortion. Globe, 13 May 1922.

II-viii. Taking the Ring:

The Respectability, Profitability, & Divisiveness of Pari-mutuel Wagering.

While the racing industry as a whole emerged from the 1909 crisis intact, it was evident that a social divide had grown up between the tracks run by the OJC, HJC, and MJC and those operated by the WRA and NRA. Accordingly, efforts were made in Windsor in hopes of eliminating the distinction.²⁰⁶ For instance, the Record continued to praise the Windsor track by reporting "that every dollar spent on [provisions for participants at the Driving Park] comeback ten fold to the merchants and businessmen of Windsor." Even Hendrie was committed to discarding any and all stigmas liable to conjure up images of a corrupt gambling resort.²⁰⁷ To distance the association from its sordid past, Hendrie changed its corporate name to the Windsor Jockey Club (WJC) and the Driving Park was renamed Jockey Club Park. Furthermore, as Raney would later write, the "WJC put out anchors against popular breezes by distributing blocks of stock to wealthy and influential men in Windsor."²⁰⁸ In fact, five highly respected citizens; Baxter, Pulling, McKay, McKee, and Wigle, who all had been involved in the WFDPA were issued qualifying stock and

²⁰⁶ For example, roads in the vicinity of the Driving Park were (re)paved by the WRA and the best CRA officials were secured. Evening Record, 22 July 1912, p. 3.

²⁰⁷ The necessary impetus had been provided by Raney. In the Autumn of 1912, Raney accused the WRA of operating in violation of the Miller Bill because, as he (correctly) claimed, the original WFDPA charter only provided for Driving competitions not bookmaking. Though Raney did not immediately pursue the matter, Hendrie, wary of the legal status of the WFDPA charter, secured Supplementary Letters Patent which extended the powers of the original charter to explicitly include racing *and* betting in January, 1913. This was over one year and a half *after* the 20 March 1912 deadline fixed by the Miller Bill. Evening Record, 11 September 1912, p. 1; Edward Bayly (Deputy Attorney General) to W.E. Raney (Attorney General), 22 June 1920, Office of the Attorney General, Series 4-32 1611, PAO.

²⁰⁸ Raney, Race Track Gambling, 9.

appointed honorary directors.²⁰⁹ The appointments were remembered, as far as "society" and the CRA were concerned, to be responsible for reviving racing in Windsor from "a period of somnolence."²¹⁰

The most fundamental change responsible for rendering the business of betting at the WJC respectable, was the move to pari-mutuel betting. Much of the criticism levied against the WRA after 1906 had been in reaction to its operation of on-track syndicate betting. After the WJC was incorporated in 1912, Hendrie decided to return to open bookmaking, reasoning, perhaps, that any lost revenue attributable to changes in the format of betting would be made up by increased gate receipts. After raising the admission tariff to \$1.50 and selling bookmaking privileges, the WJC averaged just over \$50,000 in profit in 1913 and 1914. Evidently, this figure was not adequate; instead it was decided that the more lucrative strategy to follow was one that had been first implemented by the OJC in 1911.²¹¹ More specifically, it was a plan based on the use of pari-mutuel machines in place of professional bookmakers in the betting ring.

Prior to the Miller Bill, it had be suggested (as a strategy of *business* reform) that commercial racing would be rendered acceptable to the "average citizen," if the possibility of manipulation posed by bookmakers was eliminated by the use of pari-mutuel machines.²¹² At the time, W.F. Fraser, Secretary of the CRA and President of the OJC, opposed the "iron-men" on the grounds that they offered a "greater temptation" than bookmaking. After bearing witness to an immediate increase in profit, however, he quickly

²⁰⁹ None of the honorary directors paid anything for their qualifying stock nor did they share in any profits. Windsor Jockey Club Directors. RG 14 D 2 Royal Commission in Racing Inquiry, 1920 65 File (7) Exhibit (2).

²¹⁰ Evening Record, 17 July 1913, p. 1.

²¹¹ Rutherford Report, 151.

²¹² Saturday Night 25 September 1909, p. 1.

recanted.²¹³ So long as patrons bet between themselves or with private bookmakers, the jockey club made no net gain from the *volume* of on-track betting. In contrast, pari-mutuel wagering granted the racing association a monopoly over all legal on-track betting by rendering the job of the bookmaker "superfluous."²¹⁴

The institutionalization of the iron-men, however, was not without a fight. Professional bookmakers were not prepared to just standby and watch their business be monopolized by the racing associations. Somewhat ironically, their resistance was, at least on principle, supported by the SSCC. According to the Council, it was inevitable that the introduction of the pari-mutuels "bear a terrible harvest of harm" because novice punters who were once "afraid of matching their wits against the book-makers" would lose all inhibitions when wagering through the seemingly neutral pari-mutuels.²¹⁵ Accordingly, when one newly unemployed book maker prosecuted the OJC under the Criminal Code, the legal representative of the SSCC made it known to the Office of the Attorney General that he was of the opinion that pari-mutuel wagering was in direct violation of the Miller Bill. In contrast, the Attorney General thought the system was legal, and desirable, and accordingly refused to initiate prosecutions against the OJC.

It certainly would not be in the public's interest to try and prevent the user of the pari-mutuel machines when it is certain that book-making with all its objectionable features would be substituted for it.²¹⁶

²¹³ Rutherford Report, 94-96.

²¹⁴ Evening Record, 12 July 1912; Border Cities Star, 11 June 1920; C.B. "Sport and Hegemony," 33.

²¹⁵ Minutes of the Moral and Social Reform Council of Canada, 26 September 1911, p. 1-2, PAC.

²¹⁶ Memorandum regarding desirability of Pari-mutuels, n.d., 1913, Office of the Attorney General, Series 4-32 1007, PAO.

After members of the Toronto Police Department testified as to the "reform which has been worked in the character of the people who 'follow' the races," the case was decided in favour of the OJC.²¹⁷ Upon news of the judgement, the CRA passed a resolution supposedly "in the interest of the community as well as the breeders of thoroughbred horses," restricting all betting at the tracks under its jurisdiction to the pari-mutuels. At this time the CRA did not fix a uniform rate of commission to be deducted from the pari mutuel pools. The reason why, the Secretary of the CRA later explained, was because the association had no jurisdiction to enforce such a regulation. This in turn provided jockey clubs an unmitigated opportunity to "rake-off" whatever amounts they considered appropriate.

Seizing the chance, the new "respectable" WJC installed thirty-two pari-mutuel machines at Jockey Club Park after the fall meeting in 1914.²¹⁸ After an initial installation expenditure of about \$70,000 the machines proved incredibly profitable; many of the parks patrons not being afraid to line up at the \$20 window.²¹⁹ Though, the "romance ... fled from the turf when mutuel machines displaced the spectacularly dressed, raucous-voiced book-makers,"²²⁰ betting revenue skyrocketed from \$81,150 under bookmaking

²¹⁷ While there was an amendment submitted to the Minister of Justice which would have forced all tracks to operate pari-mutuels, such a measure was not enacted until 1920. Memorandum, 7 April 1914, Ministry of Justice, PAC.

²¹⁸ Evening Record, 6 August 1918, p. 7.

²¹⁹ Ibid., 18 July 1916 p. 7.

²²⁰ D. Epps, "Canadian Racing - Wither?" Maclean's Magazine 1 March 1928, p. 9.

in 1914 to \$196,650 under pari-mutuels in 1915.²²¹ When the iron men took over the betting ring at Jockey Club Park they effectively guaranteed the WJC a monopoly over legal on-track betting in the Windsor-Detroit area. This in turn, wrote Professor J.W. Falconer in an SSCC pamphlet, resulted in "fabulous" profits for the WJC which represented a two thousand percent return on its original investment.²²² Betting revenue increased to \$300,332 in 1916 and seven days racing in 1917 brought in more money from betting than the entire twenty-eight days in 1913 and 1914.²²³ Accordingly, profits jumped from \$54,627 in 1914 to \$120,766 in 1915 and continued to increase. After clearing \$179,177 in 1916 the WJC warranted the issuance of three thousand new shares of stock at \$150 each to increase the tracks capitalization from \$200,000 to \$500,000.²²⁴

As monies poured in from inflated admission tariffs and pari-mutuel "rake-offs," the WJC could afford to run more expensive programs and

221 Betting Revenue, 1913-1917:

	1913	1914	1915	1916	1917
WJC	77,075 (BM)	81,150 (BM)	196,650 (PM)	300,332 (PM)	159,777 (PM) (7 days)
KJC				70,000 (PM)	160,370 (PM) (7 days)
WRA				60,000 (BM)	268,674 (PM) (14 days)
TOTAL	77,075	81,150	196,650	430,332	588,821

222 J.W. Falconer, Gambling and the Race Track, (Toronto: SSCC, circa 1917), 5.

223 Statement of Receipts-Expenditures, RG 14 D 2 Royal Commission in Racing Inquiry, 1920 65 File (7) Exhibit (5).

224 Hendrie failed to wait until the charter was officially amended before he sold an additional one thousand-five hundred shares of new stock. This was an indiscretion Rutherford ignored. Letters Patent granted to the Windsor Jockey Club Ltd, RG 14 D 2 Royal Commission in Racing Inquiry 65 (1920), File (7), Exhibit (7).

distribute larger purses; even larger than the Hamilton Jockey Club.²²⁵ This in turn attracted a better class of runners which elevated the level of racing which made for more exciting fields and finishes. The prospects of which served to whet the appetites of local spectators and punters.²²⁶ The resulting prosperity "could not but excite the cupidity of outsiders," wrote Raney, as he documented the trafficking of charters and the subsequent waging of a minor "turf war."²²⁷

After witnessing the generosity patrons from Detroit had bestowed on the WJC, Abram Orpen decided it was time he became a beneficiary of such "outpouring;" Kenilworth Park was to be his seat at the banquet table.²²⁸ Ideally situated about three miles south of Jockey Club Park at the junction of the street railway and the Michigan Central line, Kenilworth Park welcomed

²²⁵ Statement of Purses, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (7), Exhibit (5).

<u>Year</u>	<u>Purses</u>
1913	63,010 (BM)
1914	64,570 (BM)
1915	74,200 (BM)
1916	85,800 (PM)
1917 (7 days)	53,500 (PM)

²²⁶ Statement of Gate Receipts, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (7), Exhibit (8).

<u>Year</u>	<u>Gate</u>
1913	\$85,902 (BM)
1914	\$92,294 (BM)
1915	\$91,041 (BM)
1916	\$137,494 (PM)
1917 (7 days)	\$59,031 (PM)

²²⁷ Raney, Race Track Gambling, 24-25.

²²⁸ A provincial licence was granted after Charles Miller, a principle shareholder and director, assured the Provincial Treasurer that, first, the endeavor was a "bon fide" Canadian operation (the five shareholders/directors residing in Toronto), second that \$57,780 had been spent on acquiring the one hundred forty acres of property on which the track was constructed, and third, that an "arrangement" had been worked out with the Michigan Central to transport patrons from Detroit. Charles Millar to McGarry, 8 May 1916, Department of Treasury and Economics, Office of the Minister General Information File, PAO.

patrons and stables by way of the traditional ferry-street railroad route, as well as those who traveled direct from Detroit via a railroad tunnel.²²⁹

The distance the racing charter used at Kenilworth Park traveled before ending up in the hands of Orpen attests to the financial advantages offered by the proximity of Windsor to Detroit. The original charter which made it legal to conduct betting on races at Kenilworth Park was purchased from R.R. Gamey, MLA and President of the Gore Bay Riding and Driving Park Association, who had been granted the power in 1899 to operate a track on Manitoulin Island. In November of 1915, Orpen secured the charter from Gamey, changed its corporate name to the Northern Riding and Driving Association (NRDA), and increased its capitalization from \$1,500 to \$25,000.²³⁰ When the Kenilworth Jockey Club (KJC) was formed the NRDA charter was brought down to Windsor to legalize the syndicate and pari-mutuel wagering that was operated at Windsor's second track.²³¹ While the mutuel "handles" were smaller than those at Jockey Club Park the first fourteen days racing at Kenilworth netted the Jockey Club about \$70,000 in profit which was put back into the track to pay capital costs.²³² While the KJC was probably not counting

²²⁹ Indeed, the Solicitor to the Treasury reported to the Provincial Treasurer that the Kenilworth and Devonshire Parks (both located on the Michigan Central Line) were better located than the WJC to receive patrons from Detroit. The grand stand at Kenilworth, the largest in Canada with a capacity of ten thousand had been purchased for \$5,000 and transported from its original location in Buffalo. J.T. White to T.W. McGarry, 12 September 1916, Exhibit No. 13, Appendix (1), Journals of the Legislative Assembly, 1917, p. 202.

²³⁰ Letters Patent granted to the Gore Bay Riding and Driving Park Association, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (7), Exhibit (8).

²³¹ Twenty-seven pari-mutuel machines were installed. A CRA official was employed to handle the iron-men but the KJC was not a member of the CRA. Rutherford Report, 154; Evening Record, 3 September 1916, p. 8.

²³² By 1917, \$188,000 had been paid toward the original capital investment of \$230,000. In September of 1918, the original charter was further amended and the capitalization of the track was increased to \$200,000. The corporate name was also changed to the Kenilworth Jockey Club. Letters Patent granted to the Northern Riding and Driving Association, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (7), Exhibit (8).

on matching the profits made by the WJC (since it operated both its meets late in the season), it had not anticipated competition from a third track.²³³

As Orpen's construction company was adding the finishing touches to Kenilworth Park in preparation for opening day, Grant Hugh Browne²³⁴ was desperately scrambling in search of a Provincial racing licence, pari-mutuel machines, and labourers with dump-wagons in an attempt to initiate operations at Devonshire Park; a one mile track that was being built on one hundred and twenty-three acres of land *directly* opposite Kenilworth Park.²³⁵ Similar to the trafficking of the KJC charter, the legal privileges which sanctioned the business of betting by the Western Racing Association (WRA) had been secured from afar; Ottawa to be precise.²³⁶ Unlike the genesis of

²³³ After the 1916 season, Devonshire Park was in a much worse financial position than Kenilworth Park; it being \$45,058 in the red. There is no single reason sufficient to explain the poor showing. Instead a conjuncture of compounding and confounding factors are in all probability responsible for the deficit i.e. inflated expenditures accrued during construction of a racetrack in just five weeks, inconsistent officiating which incited a public demonstration, operating a open betting ring instead of pari-mutuels, time of the season etc. According to the Rutherford Report the pari-mutuel system was used in both 1916 and 1917 however according to WRA financial statements submitted to the commission betting-ring privileges were sold in 1916. Perhaps the necessary pari-mutuel machines had not been secured in time for the meetings. Evening Record, 6 October 1916, p. 14; 16 October 1916, p. 6; 30 October 1916, p. 8; Financial Statements of the Western Racing Association, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (7), Exhibit (9); Rutherford Report, 167.

²³⁴ Grant Hugh Browne was stock broker and boxing promoter from Goshen, NY. Brownes' intimate friendship with the German "Ex-Kaiser" and interest in Cuban tracks made him a easy target for reformers.

²³⁵ "With knowledge of the popularity racing has won in this part of the country, the promoters of the new track ... spared no expense" in raising platforms to accommodate patrons using the Michigan Central line and building the largest pari-mutuel shed in the Dominion. The WRA rented the property on which Devonshire Park had been constructed for \$3,720 per year, with an option to purchase, within twenty years, at \$600 per acre. After Devonshire Park had been built, Browne quickly moved to increase the capitalization from \$100,000 to \$200,000. On 25 January 1917 the capitalization was again increased to \$350,000. Rutherford Report, 162; Copy of Letters Patent issued to Western Racing Association. RG 14 D 2 Royal Commission in Racing Inquiry, 1920 65 File: (7) Exhibit (10); Evening Record, 1 September 1916, p. 11; 2 September 1916, p. 2; 26 September 1916, p. 8.

²³⁶ Had the price been right Devonshire Park would have been operated on a local charter granted in 1911 which belonged to the Windsor Athletic and Racing Club (WARC). In February of 1916, the principle share holder Ed Glassco of the WARC (who would later be charged with keeping a common betting house) had given the charter to Dr. Reaume, Minister of Public Works and a minority shareholder in the WJC, to bring to the Solicitor of the

Kenilworth Park, however, there was stiff opposition to the construction of the third track. While Hendrie did not raise any objection to the granting of a Provincial license to Kenilworth Park, the granting of a third license was a different matter all together.²³⁷

Objecting on the grounds that "the people of Windsor were well satisfied with two tracks," and the Detroit market could only support the Jockey Club and Kenilworth Parks, the WJC sought to "outlaw" the WRA as a menace to racing by orchestrating a widely endorsed resolution denying jockeys or horsemen who raced at Devonshire Park any and all racing privileges at tracks in Toronto, Hamilton, Fort Erie and Windsor. Indeed business dissent was so pitched that the Vice-President of the WRA's contention that if "horse-racing with its accompaniments is good for the breeding of horses and for the amusement of the people [at two tracks then it ought to be] good for three" raised the ire of area MPs, MLAs, Alderman, the Record, the membership of the Windsor and Kenilworth Jockey Clubs, the majority of the CRA, and, of course, local Protestant Ministers and the SSCC.²³⁸

Provincial Treasury, W.T. White, to see if it was valid. White thought that it was, and Reaume mentioned that Glassco was either going to sell the charter or establish a track himself. When White heard this he remembered that in a "thoughtless moment" he had promised Grant Hugh Browne that he would keep an eye out for any charters for sale. Browne was a personal friend, and White was used as an "intermediary" between Glassco and Browne. During the Glassco-Browne negotiations Reaume acted "in a sort of friendly capacity" for Glassco until it was clear that Browne was not prepared to pay the \$75,000 asked for by Glassco. After the Glassco-Browne deal fell through, both White and Reaume swore that they were not involved in any negotiations for the WRA charter other than discussing the fact the charter was "in litigation and that it looked to [White] as though they were going to have trouble with it." Transcript of the Public Accounts Committee, Appendix (1), Journals of the Legislative Assembly, 1917, pp. 164-166.

²³⁷ The only protest was by W.R. Woollatt who wrote to the Provincial Treasurer requesting that the KJC meet be re-scheduled so it would not conflict with the fall fair of the North Essex Agricultural Society.

²³⁸ At a Public Accounts Committee struck to review all information and correspondence respecting negotiations between J.T. White, Solicitor of the Treasury Department, and the WRA, Reaume responded to questions regarding his role in the granting of the WRA licence by testifying that his first dealings with the track transpired when he was approached by some of its officials who wanted a local man to secure lumber, hardware, and labour for its

Though the Secretary of the WRA promised that Devonshire Park would conduct "quality high level racing" under the control of a directorate which included a MP and "three prominent Windsor men,"²³⁹ the Parliamentary representative for operations in Windsor during the Miller Bill debate, O.J. Wilcox, nevertheless warned that with a third track "an undesirable class of rabble, thugs, crooks, confidence men, pluggers, and blind pigs would gather [and] surely kill the pleasant and pleasurable sport of racing."²⁴⁰ The Record, its proprietor now a honorary director of the WJC, concurred.

People of this community are perfectly well satisfied with the existing state of affairs. They are not clamoring for any more racing. They are willing now that it is established to accept Kenilworth since it is already built, but they positively do not want any more.²⁴¹

In fact, declared the Record, the KJC and WRA charters had never been in operation and ought to have been annulled years ago. With rumors circulating as to a fourth (Windsor Racing and Athletic Club) and fifth charter (Walkerville Jockey Club) being in the hands of local promoters interested in opening tracks, Windsorites were told they must "fight back" or face the possibility of returning to the days of "continuous" racing.

Resistance by those opposed to Devonshire Park was facilitated by the suspect history of its charter; at one point the Record reported that the

construction. As to his reported interest of \$5,000 in Devonshire Park he stated that he only held \$1,000 worth of stock in the WRA and the same amount in the WJC for he was "just as fond of a horse-race as anyone else [and] manifested [his] interest in it by taking a little stock." Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), 686; Transcript of the Public Accounts Committee, Appendix (1), Journals of the Legislative Assembly, 1917, p. 176

²³⁹ Evening Record, 23 August 1916, p. 6.

²⁴⁰ Ibid., 23 September 1916, p. 3.

²⁴¹ Ibid., 22 August 1916, p. 4.

Provincial Treasurer would not grant a third licence.²⁴² The charter used by the WRA had been originally issued to the Ottawa Racing Association (ORA) in 1903. It was then purchased by the Connaught Park Jockey Club (CPJC). In December of 1914, the corporate name of the ORA charter was changed to the WRA and its powers were extended so as to allow racing anywhere in the Province. After the transfer of name and extension of powers, the WRA charter was sold to B.E. Hepburn, MP, for \$10,000. When Hepburn applied for a Provincial racing license his request was denied; this decision was based on the argument that the original powers were cancelled in the 1914 transfer. Hepburn then sued the CPJC and received a Supreme Court of Ontario decision by Justice Middleton in June of 1916 that ruled the charter had been in operation and was valid. It was from Hepburn that Hugh Browne purchased legal power to race at Devonshire Park.

Despite the judgement by Middleton, legal representatives for the WJC and KJC, Geo. Lynch Staunton and Charles Millar respectively,²⁴³ were not convinced that the charter was valid to allow betting; accordingly they pursued the matter with the Provincial Treasurer and Attorney General.²⁴⁴ Fortunately for Hugh Browne, the legal representative for the WRA, successfully convinced the Treasury Department that at the time of the 1914 transfer, the WRA was incorporated under the Extra Provincial Corporations Act which saved its original powers from extinction.

²⁴² Knowing that the WRA had already spent \$100,000, the Record warned its readers that the "promoters have something up their sleeve." *Ibid.*, 15 September 1915, p. 14.

²⁴³ Charles Millar was especially familiar with the history of the charter because he was a shareholder in the CPJC which had sold the charter to Hepburn. Charles Millar to J.H. Rodd, 5 September 1916, Office of the Attorney General, Series 4-32 1611, PAO.

²⁴⁴ Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), 642; Transcript of the Public Accounts Committee, Appendix (1), Journals of the Legislative Assembly, 1917, p. 230.

With the legality of the charter confirmed, the Provincial Treasurer had no other option but to send the Solicitor to the Treasury to inspect the third track. In a report to the Treasury, White wrote that Devonshire Park was a "first class track" in which the WRA invested \$74,000 (total cost \$250,000) and that he had not heard of any "objections raised by anybody at Windsor."²⁴⁵ White seems to have conveniently ignored dissent by Aldermen who were preparing a resolution in protest to Devonshire Park. The Record reported that it was scheduled to be passed the afternoon of 25 September but that the licence was granted before the resolution was tabled. Indeed, White explained to his superiors that whatever criticism was reported in the Record "might be accounted for in part by the fact that the editor of the paper is a director of another track in Windsor."²⁴⁶ The licence was granted less than two weeks later.

Two days after the provincial licence was issued the WJC, KJC, NRA, HJC, and three smaller tracks in Toronto issued the following ill-written warning.

All persons that participate in the forthcoming advertised meeting of the so-called Devonshire track, Windsor, that those persons and horses so participating will be denied any and all privileges at meetings hereafter to given at Toronto, Hamilton, Fort Erie and Windsor.²⁴⁷

A Devonshire official held that it was "laughable and ridiculous that men like Abe Orpen [who operated] half mile bull rings, with a fifty cent admission, \$300 purses, and syndicate betting should try to dictate to horsemen where they should race their horses."²⁴⁸ In reaction to the "outlawing," the General Manager at Devonshire Park made arrangements

²⁴⁵ Evening Record, 26 September 1916, p. 1.

²⁴⁶ J.T. White to T.W. McGarry, 12 September 1916, Exhibit No. 13, Appendix (1), Journals of the Legislative Assembly, 1917, p. 202.

²⁴⁷ Cited in Raney, Race Track Gambling, 25.

²⁴⁸ Hugh Browne promised to supply the "best class" of racing for the local patrons and to repair area roads for the local rate-payers. Evening Record, 25 October 1916, p. 8.

with the Jockey Club of New York to ship horses on special trains if Canadian horsemen took heed of the above warning.²⁴⁹ Much to the chagrin of the opponents of Devonshire Park, owners in Mexico and Cuba, in addition to the Canadian, Kentucky, and Eastern thoroughbred horsemen associations agreed to cooperate with the WRA. As a sign of solidarity, thirty-seven owners moved their stables from Kenilworth Park to Devonshire Park; where there was still only accommodations for three-hundred steeds.²⁵⁰

Wary of inciting a full-blown turf war, the CRA capitulated to the new "Independent" track; reasoning that the WRA had already secured a Provincial licence and Devonshire Park was completed.²⁵¹ Understandably, the OJC acquiesced; but not before it passed a private resolution declaring that the club reserved the right to refuse privileges to horsemen and jockeys who competed at meetings thought detrimental to Canadian racing.²⁵² Though the resolution was not explicitly aimed at the WRA, it was apparent that the entire proceedings which surrounded the granting of the Devonshire licence "aroused considerable speculation and suspicion," similar to that which had surfaced in reaction to operations by the Windsor Racing Association from 1906 to 1909.²⁵³

Though a turf war was avoided, after the "hatchet ... dug up and sharpened" by Orpen was "buried and the neighboring tracks [agreed to] cooperate during the remainder of the season," the WJC nevertheless, considered both the KJC and WRA, "second rate intruders on the turf;" fearing

²⁴⁹ *Ibid.*, 27 September 1916, p. 8.

²⁵⁰ *Ibid.*, 28 September 1916, p. 6.

²⁵¹ Samuel McBride, "Dummy" President of Kenilworth, vigorously opposed the position of the CRA.

²⁵² *Evening Record*, 30 September 1916, p. 12.

²⁵³ *Globe*, 28 September, 1916; *Evening Record*, 29 September 1916, p. 14.

that "the multiplicity of race tracks in the vicinity would arouse a sentiment against racing and result in the killing of a sport the majority of Windsor citizens enjoy and favor here."²⁵⁴ After Hendrie successfully demonstrated that the WJC was a respectable "Association" track, CRA accusations once directed at Hendrie and Parmer were turned against the "Independents" (i.e. independent of the CRA; the WRA and the Orpen owned tracks).

The Globe declared that it was a grave mistake to compromise with the WRA for such cooperation simply "put off the evil;" leaving the door open for reprisals by reformers capable of provoking hostile legislation.²⁵⁵

Understanding that the KJC was quickly sliding down a slippery slope into a pit of CRA dissent, Millar of Kenilworth Park anxiously scurried about trying to quell formal protests that would cause "ministers [to] raise a howl" that was liable to incite state action. For example, he attempted to dissuade Lambert Wigle, MLA for South Essex, from demanding in the Legislative Assembly a full inquiry into the granting of the WRA license.²⁵⁶ Much to the chagrin of the KJC, the efforts of Millar were to no avail as the reform-minded Toronto Telegram accused Devonshire *and* Kenilworth of being nothing more than "Yankee owned traps" rigged to catch the "alien gambler" and guilty of "tricking" Parliament and "yoking" the public.²⁵⁷ This sentiment figured prominently in the 1917 Wilcox Bill.

²⁵⁴ Evening Record, 4 October 1916, p. 8; 14 November 1916, p. 7.

²⁵⁵ Globe, 2 October 1916, cited in Evening Record, 2 October 1916, p. 8.

²⁵⁶ Severin Ducharme MLA for North Essex intimated in the Record that he fully supported Wigle. Evening Record, 14 March 1917, p. 9; Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), 670, 673.

²⁵⁷ Toronto Telegram, 7 October 1916, p. 4.

**III-ix. Paying the Penalty for Prosperity:
*Unabated Rake-off, Mobilizing the Nation,
 & Post-War Reconstruction.***

With forty-two (and the potential for seventy) days racing in Windsor, Wilcox was determined not to let his constituency serve as a refuge for a surplus of gamblers from the US. Seeking to avenge the one "put over on Parliament," he introduced an Act to amend the Miller Bill during the Winter session of 1917. The Wilcox Bill was intended to limit the number of racetracks in any town, city, or county, by forcing established associations located fifty miles of one another to divide fourteen days racing among themselves. Wilcox reasoned that after the Provincial Treasurer decided how to divide the fourteen days among the Jockey Club, Kenilworth, and Devonshire Parks (and a reasonable tax was levied on profits) that:

[I]t will be found not to be financially profitable to operate one of these tracks for less than 14 days and the legislation will have the effect of causing the associations to negotiate one with the other, to dispose of their separate interests and to establish only one track where more than one exists.²⁵⁸

In this way, Wilcox believed racing could be made respectable to the majority of Windsorites in particular, and Canadians in general.

To be sure, the Wilcox Bill was a *business* reform measure; intended to ward off moral reform agitation (that could eradicate the industry as a whole). Recognizing that for a Canadian jockey club to take \$123,000 from the public was scandalous in peace time, Wilcox reasoned that to do so during a World War was simply extortion. Just as Jews were scapegoated prior to the Miller Bill, Wilcox framed Americans like Hugh Browne and promoters who had held interest in tracks in the US like Orpen as the enemy; accordingly he

²⁵⁸ Hansard, 1917, p. 324.

accused the WRA and KJC of evading the spirit of the Canadian Criminal Code (by reviving charters granted prior to 1912).

Intimating that the Canadian turf was under the control of the American Turf Association, Wilcox attempted to drum up support for his amendment by playing on suspicions as to the infiltration of "foreign" interests into the Canadian racing industry.²⁵⁹ Even the "Association" WJC was not beyond reproach; Wilcox read a letter written by the Inspector of Employment Agencies to the Department of Interior which stated that G.M. Hendrie believed that the "Canadians who are complaining [about jobs lost to Americans] are incompetent and undesirable." Mitchall went on to write "it is very unbecoming [of] the President of the WJC to insult Canadian people in such a manner, as they are more than equal to some of the Americans he employs on his track."²⁶⁰

Had the Wilcox Bill not threatened to damage the OJC or HJC (they being located fifty miles of each other), and in the process destroy "the legitimate racing class," perhaps the MPs who supposedly had the interests of the "seventy-five percent of the population" that desired racing at heart, would not have raised immediate criticism as to the un-enforcibility of the proposed amendment. Even if they had not, the strategy of business reform had failed the industry again. Indeed, the winds of moral dissent were just beginning to gust as the MP for Moosejaw proposed a motion that Parliament "do away with racing during the war." Prime Minister Borden was receptive

²⁵⁹ Wilcox later rose on question of privilege to respond to accusations made by Francis Nelson, Sports Editor of the Globe. Nelson had taken exception to Wilcox's reference to the power of the American Turf Association. Wilcox denied saying that the ATA controlled the Canadian turf but that many Canadian tracks were "connected with associations that operate south of the line, as far a way as Mexico." Hansard, 1917, pp. 8, 42.

²⁶⁰ In October of 1916, Americans were banned from pari-mutuel work unless no competent Canadian could be found. Evening Record, 16 October 1916, p. 6.

to both the motion and the Wilcox Bill, but thought it best that the discussion continue in Committee.

Already betrayed by Parliament, the legal representative of the SSCC,²⁶¹ W.E. Raney, reported to the Council that the Wilcox Bill was introduced in the interests of the CRA, and if it was enacted it would be sure to rescue those jockey clubs whose profits were threatened by "Independents" like Orpen and Hugh Browne. A second strategy for action, Raney said, was to lobby the state to impose the "German" system of racetrack gambling on the industry and take all the revenue derived from betting and use it for agricultural purposes. While the second option was preferable to the first, the plan that Raney favoured, "the final alternative," was to secure amendments to the Miller Bill that would eliminate racetrack gambling all together.²⁶² It was the third option which the SSCC had been clamoring for since it sent its first delegation to Ottawa in 1907. And it was also the third option which the Council had been unable to secure after a decade of effort. Circumstances, however, had changed; to be sure, the outbreak of war had spurred moral reformers to "new heights of social welfare activity." As alluded to above, much of that activity was directed at exposing the "process of millionaire-making through commercialized vice."²⁶³ Now that Canada was embroiled in World War I, the possibility of arousing "insistent public opinion" in opposition to the "process" seemed very promising. Once more, the legally unfettered and, for the most part, socially unmitigated expansion of the industry during the

²⁶¹ In 1915, the Moral and Social Reform Council of Canada changed its name to the Social Service Council of Canada (SSCC). The change reflecting, perhaps, its desire to distance itself from being considered simply a *moral* organization.

²⁶² Raney, *Race Track Gambling*, 28-30.

²⁶³ *Canadian Annual Review*, 1920, 512.

previous half-decade had unintentionally stoked a powder-keg to the brim; what reformers sought, and what promoters feared, was one stray spark.

When the Prime Minister returned from a first hand view of the hostilities in Europe, he decided, given that England had imposed a ban the year before, that the promise of the Union Government to organize "the whole force of the nation" to meet war conditions and necessities meant banning racetrack gambling.²⁶⁴ Encouraging "thrift and economy" among the Canadian population was deemed impossible with the "extravagant and unnecessary" expenditure of resources on racing. Accordingly, as of 1 August 1917, and until six months after the conclusion of the war, the Miller Bill was rescinded by an Order-in-Council under the provisions of the War Measures Act.²⁶⁵ Understanding the potential of the Order to destroy racing "forever," horsemen and track owners proposed that if the Union Government allowed them to continue to operate until the end of the summer they would voluntarily close-down *without any need* for legislation.²⁶⁶ While their efforts were to no avail (only the Royal Plate was run at Woodbine in 1918 and 1919), their worries were not unfounded. At the end of the war, responses by Borden to jockey club deputations demonstrating the readiness of the industry to resume operations were discouraging. Even though the 1917 Order was indeed a war measure, the Prime Minister noted, he had not pledged the present Government and Parliament to any definite policy on the subject and considered it "entirely open for such determination as may be deemed wise."

²⁶⁴ Globe, 23 May 1917 p. 1.

²⁶⁵ Robert L. Borden to George E. Foster, 7 June 1917, Borden Papers, PAC.

²⁶⁶ Evening Record, 18 June 1917, p. 8.

While Borden was not opposed "to permitting a few leading race tracks to operate during a limited period each year, [he hoped] old conditions which permitted extensive race track gambling by American concerns in border cities [would] not be renewed."²⁶⁷ In other words, what the Prime Minister desired was for only "leading" tracks to operate and "respectable" people to speculate. To better understand why the state was prepared to intervene when it had been reluctant to do so during the rapid expansion of the industry, such intervention must be considered within the broader context of national working class resistance which succeeded the First World War.²⁶⁸

Off-track gambling had flourished when professional bookmakers were forced off the track by the installation of pari-mutuel machines. Unable to afford inflated admission tariffs or preferring to bet with kindred spirits, wage-labourers were forced, or chose, to enjoy the "cheapest of luxuries" in "gambling joints" rather than the grandstand. For example, while the Methodist minister, Rev. F.W. Holinrake, denounced Windsor as a "haven" for "leaches", "blood-suckers," and "thieves" (who were supposedly responsible for digging the "graves" of many local men), his attack was not directed against the WJC, but instead toward handbook operators conducting business in area pool-rooms disguised as cigar stores.²⁶⁹ Moreover, the business reform lobby (as articulated in Saturday Night),²⁷⁰ while unable to

²⁶⁷ Thomas White to Robert L. Borden, 5 February 1919; Robert L. Borden to Thomas White, 7 February 1919. Borden Papers, PAC.

²⁶⁸ Bryan D. Palmer, "Introduction," in The Character of Class Struggle: Essays in Canadian Working-Class History, 1850-1985, ed. Bryan D. Palmer (Toronto: McClelland and Stewart, 1986), 11

²⁶⁹ John H. Rodd, Windsor Crown Attorney to the Attorney General, 17 April 1917; John H. Rodd, Windsor Crown Attorney to J.R. Cartwright, Deputy Attorney General, 4 June 1917, Ontario Provincial Police File: RG 23 Series E-23 Box 1; Evening Record, 17 February 1913; 26 February 1913; 9 June 1916, p. 14; Parratt, "Sport and Hegemony," 32-33.

²⁷⁰ The Toronto weekly suggested that the "general feeling" was that although racing and betting should not be banned, the jockey clubs must not be allowed to operate "beyond the limits contemplated by Parliament when legislation respecting the subject was enacted in

suggest concrete ways for determining which tracks should be suppressed and those to be encouraged,²⁷¹ was nevertheless explicit in its attack on the dissemination of betting information in general, and the use of it by bookmakers in particular.²⁷²

Recognizing that workers all across Canada were rising up in defiance of their bosses, the receptiveness of the Borden Government to policies intended to morally regulate the life-styles and by extension the social reproduction of labour becomes readily plausible. To be sure, during the post-war "crisis" the state was less wary of encouraging an "explicitly moral campaign," especially when it could portray such a scheme as serving the "national" interest.²⁷³ As the Council intimated:

[The Borden Government] felt it *had* to do *something* [against] low-down American professional gamblers ... who linked up with [the] Canadian socially *elite* ...[to] fleec[e] the thousands who have not sufficient moral stamina to resist the lure of a chance to win.²⁷⁴

1912." If Parliament had only the "sense to limit the number of tracks rather than the season of racing the present difficulty would not have arisen." What was most objectionable about racing on a "pre-war basis" was that the jockey clubs retained too large a percentage of the pari-mutuel pools. What "the majority of Ontario residents" felt, Saturday Night claimed, was that after a reasonable return was taken by the jockey club, the remainder of the money should be used by the provincial government to improve the breeding industry. In effect, this editorial, and another published during the height of the debate, were apt in exposing the essence of the eventual accommodation. To suggest, however, that the response by the Borden Government reflected the opinion of the *majority* is highly dubious. Saturday Night, 10 May 1919, p. 1; 4 October 1919, p. 1.

²⁷¹ All that could be hoped for was that tracks which operated as "gambling institutions" be suppressed and tracks with "clean slates" be allowed to operate.

²⁷² The traffick and dissemination of betting information which fueled the pool-room industry and allowed "any individual to pursue the vocation of book-maker" was briefly considered in Parliament prior to the ban in 1917. Saturday Night, 25 May 1918, p. 1; Hansard, 1917, pp. 336, 896.

²⁷³ In regard to state intervention in moral campaigns during national crisis read Valverde, The Age of Light, 20. Regarding state intervention in the interests of capital during and succeeding the first world war read Palmer, Working-Class Experience, 205-207.

²⁷⁴ SSSC, "The "Status" of Race Track Gambling in Canada at the Close of 1920," Social Welfare, 1 January 1921, n.p.

As could have been expected, moral reformers had been more than willing to provide the necessary impetus for action.

At the conclusion of the "war that was to end all wars" the magnitude of conflict between capital and labour had prompted the reform movement to focus its energy on bringing about an immediate social and moral "reconstruction" of society. Testaments to post-war "reconstruction" are manifest in the appointment of a federally commissioned inquiry into "Industrial Relations in Canada"²⁷⁵ and the renewed enforcement of the Ontario Temperance Act.²⁷⁶ "Religion was to be put into politics," industry reorganized, unearned privileges and profiteering condemned, and speculation discouraged.²⁷⁷ Fundamental to this reconstruction would be the authority of the state; hopefully run at the federal level by the Progressive Party of Canada. After bearing witness to the election of the United Farmers of Ontario to the Legislative Assembly of Ontario explicitly on a "new order" platform, reformers believed the victory to be a sign that the "nation" was approaching a major watershed in the modernization of "Canadian civilization."²⁷⁸

As could be expected, the "moral uplift" climate was conducive to a renewed campaign against racetrack gambling and other practices deemed

²⁷⁵ Gregory S. Kealey, "1919: The Canadian Labour Revolt," in The Character of Class Struggle: Essays in Canadian Working-Class History, 1850-1985, ed. Bryan D. Palmer (Toronto: McClelland and Stewart, 1986), 90.

²⁷⁶ G.A. Hallowell, Prohibition in Ontario, 1919-1923, (Ottawa: Love, 1972), 12.

²⁷⁷ R. Allen, "Social Gospel," 292; Ridout, "Methodist Church (Canada)," 5.

²⁷⁸ While the "new order" was by no measure hegemonic, the fact that the Citizens Liberty League was organized in 1919 "to oppose all legislation, Dominion or Provincial, which tends to curtail the liberties of the Citizen" suggests that the threat was real enough for liberals to organize in opposition. Peter Oliver, Public and Private Persons: The Ontario Political Culture 1914-1939, (Toronto: Clarke, Irwin and Company, 1975), 68.

morally offensive.²⁷⁹ Fundamental to the offensive directed against the racing industry was a SSCC deputation which travelled to Ottawa to request that Borden embody the 1917 Order in permanent legislation. J.W. Brien, MP for Sandwich, was the voice of moral dissent from in and around Windsor.²⁸⁰ Brien expressed the opinion that it was totally unacceptable at a time when society was in the process of reconstituting itself that "ten million people" would invade Canada to gamble at its racetracks. Claiming that "the people of Windsor look upon it as very humiliating that gambling interests of the United States and Canada should be permitted to exploit Windsor [when] ... there is not a track in the State of Michigan, Illinois or Indiana ...," he proposed that the 1917 Order be made part of the Criminal Code.

While the deputation was denied its request, the efforts of the Council proved powerful enough to convince the Borden Government that the situation warranted a Royal Commission which at least theoretically could put an end to the business of betting forever. No doubt some moral reformers thought the battle was lost even before the first attack had been launched when they learned that Dr. John Gunion Rutherford had been appointed Royal Commissioner in charge of the Racing Inquiry. Rutherford had testified on behalf of those opposed to the original Miller Bill. Stating that the thoroughbred horse was the "fountain of light-horse breeding," Rutherford made sure to note that he was entirely in favour of public betting on the tracks. Despite the appointment, Raney led the charge; though not

²⁷⁹ C. Johnston, E.C. Drury: Agrarian Idealist, (Toronto: University of Toronto Press, 1980), 154; Hallowell, Prohibition, 4-5.

²⁸⁰ As well a populist letter writing campaign similar to the 1909 effort was initiated. Minutes of the Legislation Committee of the Social Service Council of Canada, 19 February 1919; 25 February 1919; Essex Free Press, 21 February 1919, p. 6. Staley, "History of Sport," 41; Border Cities Star, 15 February 1919, p. 3, 5.

before mailing a letter condemning the appointment of Rutherford to the Office of the Prime Minister.²⁸¹

"After making a preliminary survey of the whole situation," Rutherford decided that in view of the "widely divergent opinion held" on racetrack gambling, the most effective way of conducting the inquiry would be to hold a number of public hearings across the country where evidence could be ascertained under oath. Though Rutherford was directed to enquire into a wide variety of issues relating to "conditions pertaining to the running of race meets and betting in connection therewith in Canada," the recommendations he offered in his final report focussed on essentially three issues. | The first ✕ dealt with the effects of racing on the morality of the community, the second, the nature of the "means and devices" used to conduct betting, and, finally the relationship between racing, betting, and breeding. |

On each of these issues, as could be expected, testimony offered by promoters and reformers regarding operations in Windsor differed greatly. Moreover, what Rutherford recommended, ostensibly based on such testimony, in his report clearly reflected the interests of the established associations and was presented in such a manner that it could be used by the Borden Government as a conjunctural response to both preserve industry while further suppressing "inappropriate" betting.

²⁸¹ Evidence taken by Select Committee, Journals of the House of Commons, Appendix (6), 1909-1910 p. 59; Hansard, 1910, p. 6450; Legislation Committee of the Social Service Council of Canada, September 20, 1919; SSCC to Prime Minister, RG 14 D 2 Royal Commission in Racing Inquiry 65 (1920) File (1-2).

II-x. Monopoly's Moment:

The Rutherford Commission, Entrenching Privilege, & the End of an Era.

Back in the autumn of 1916 when the Rev. W.A. Ashmore of Bruce Avenue Baptist Church learned that a provincial licence had been issued to a third track in Windsor, he presented the licensing to his congregation as proof that their were government officials who had "sold their birthright [as Brittons] for a mess of pottage."²⁸² "Pollution" from Detroit was transforming Windsor into a "gambling hell" where an "alien gang of scum with low morals and ideals," among them "potential murders," kept businessmen, children and the aged "behind closed doors." The sermon by the Baptist Minister echoed ones that could heard throughout the Protestant community of Windsor.

The following day, Rev. W.E. Prescott of the Central Methodist Church, introduced a resolution (which had previously been passed by the Methodist District Conference) opposed to the granting of any more licences; the congregation "vigorously" supported the minister. The "race fiend," Prescott professed, forced residents to "surrender" the best streets of Windsor; for they were no longer safe for women and children to walk.²⁸³ Quoting, among others, Charles Dickens, George Eliot, and Thomas Hardy, the Methodist minister denounced the betting evil and warned that with \$1,500,000 bet in Windsor the previous year the city was turning into a "miniature Monte

²⁸² *Evening Record*, 26 September 1916, p. 3.

²⁸³ For example on a summer morning in 1910, nine Detroit racing fans where forced by Windsor Police Magistrate Leggatt to contribute \$130 to the municipal coffers after exceeding the speed limit en route to and from the track. In fact so many patrons travelled to the track from Detroit that City Council passed a racetrack taxi by-law. Morrison, *Garden Gateway*, 182, 243; *Border Cities Star*, 28 June 1924, p. 3.

Carlo."²⁸⁴ No matter how sanctimoniously the preachers pontificated or how vigorously the congregations prayed, however, nothing could be done to stop the third track: the Provincial Treasurer was compelled by the Criminal Code to grant the license. Now that the Rutherford Commission had been appointed, Raney and the SSCC were committed to avenge past injustices.

It was "perfectly apparent" to the SSCC that the "refugee" tracks in Windsor existed "by reason of the anti-gambling laws of the United States" and were established solely "for the benefit (or demoralization) of the people of Detroit."²⁸⁵ Claims made by the Council that the tracks in Windsor were "established for the purpose of providing gambling opportunit[ies] for the citizens of Detroit" were not far from the mark.²⁸⁶ Indeed, observers warned that if Michigan ever legalized racetrack gambling, Windsor would "be sure to lose much of the popularity it has enjoyed in the past."²⁸⁷ Moreover, in 1916 when the Treasury Department contacted the Michigan Central Railroad to ascertain how many passengers came from Detroit for taxation purposes, it was discovered that ninety percent of the *total* attendance at Devonshire and Kenilworth came from Detroit and that only two street cars carried patrons from Windsor.²⁸⁸ This influx of "foreigners," insisted the SSCC, led to the moral degeneration of Windsorites.

²⁸⁴ Prescott urged the Record not to print any racing information. Evening Record, 25 September 1916, p. 2.

²⁸⁵ J.M. Godfrey, Argument of Mr. John M. Godfrey On An Investigation Conducted By Dr. Rutherford The Commissioner Appointed By The Dominion Government To Investigate Racing And Race Track Gambling, (Toronto: Social Service Council of Canada, 1920), 16.

²⁸⁶ Indeed, the importance of American patronage was evident in the fact that by 1924 if a Canadian wanted to bet more than \$2 s/he would have to bet at an "American" pari-mutuel machine. Report to Provincial Treasurer of Audit of the WJC conducted by Rutherford, Williamson & Co, 6 August 1924, Department of Treasury and Economics, Office of the Minister General Subject Files, PAO.

²⁸⁷ Evening Record, 14 November 1916, p. 7.

²⁸⁸ Journals of the Legislative Assembly, Appendix (1), 1917, p. 183-184.

While the promoters of the three Windsor tracks were not hesitant to admit that patronage from Detroit and other Northern States constituted at least seventy-five percent of their business, they denied accusations that there was anything in the "heavy" crowds from Detroit that was "objectionable or injurious" to the "high social character" of the citizens of Windsor.²⁸⁹ Much to the pleasure of the established jockey clubs in Windsor, Elias Wills, Chief of Police (responsible for appointing constables to the tracks), concurred that the peace did not suffer as a result of the meetings. Wills testified that apart from a few speeding tickets issued to Detroit patrons rushing to the tracks, "everything was carried on just in the same manner as if they were not there at all."²⁹⁰

Not surprisingly, a Director of the WJC, Ernest S. Wigle, forcefully declared that considering all his time as Mayor no one could condemn the track for it had:

... been of great benefit to this locality and to the whole farming community, and to the whole commercial life of the City, to the merchants, to the grocers and others. I think the whole commercial life of this place has been built up by money from the other side. We are a peninsula here, and I think the whole commercial life as well as the social life of the community depends largely upon Detroit.²⁹¹

Obviously, Wigle had not attended Rev. W.E. Prescott's sermon when the Minister made it known that local businessmen (excepting those with interest in the ferry company) had complained that the local economy suffered "serious injuries" during meetings. Nor did, A.F. Healy, President of the

²⁸⁹ Though, Healy of the Chamber of Commerce noted that the patrons from Detroit like to "dress a little more flashily than some of us like to dress." Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), 651.

²⁹⁰ Personally he would prefer to see four meets instead of six because there was "too much sport." Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), 658-660.

²⁹¹ Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), 647-648.

Chamber of Commerce, have any recollection of a "stormy" meeting which had ensued after Rollo W. Westcott tabled an anti-betting resolution the previous February.²⁹²

Raney's case grew stronger as he documented how the lucrateness of the pari-mutuels, especially in the "profitable neighborhood of Detroit," led to the trafficking of charters by Orpen and Hugh Browne. The pari-mutuel machines, claimed Raney, in addition to doing away the "middle man," removed the possibility of manipulation by bookmakers and allowed the jockey clubs to "rake-off" enormous profits without suspicion.²⁹³ Perhaps anticipating that news of inflated commissions would incite public outcry many jockey clubs reported smaller deductions than was actually the case. In fact when an audit of the industry was conducted prior to the cessation of racing in August of 1917, Clarkson, Gordon, and Dilworth discovered several cases of fraud.²⁹⁴ Initially, both the WJC and WRA were accused of filing inaccurate returns, but after additional correspondence, the differences were cleared up.²⁹⁵ The same however, could not be said about the management of Kenilworth Park where:

²⁹² Though Healy did note that there were traffic problems downtown which hurt business, he qualified his statement by saying the congestion was no different than if a baseball game was being played in Detroit. Border Cities Star, 13 February 1919, p. 3; Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), 655.

²⁹³ Raney, Race Track Gambling, 14, 18.

²⁹⁴ The auditing firm of Clarkson, Gordon, and Dilworth was appointed by Order-in-Council in April of 1917 for the purpose of ascertaining full particulars as to the cash receipts and disbursements of the different racing associations. Memorandum to J.T. White, Solicitor to the Treasury, 24 September 1918, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (6), Exhibit (7).

²⁹⁵ In the case of the WJC, it took a modest seven percent of the pari-mutuel pools in 1917 while the WRA took eight percent on twenty-one races and ten percent on seventy-seven races. After conducting the audit of the WJC and WRA books, Clarkson, Gordon, and Dilworth "detected nothing that would lead [them] to believe that the collections were other than what was represented."

[T]he cards were frequently found to be altered by amounts being added. The staff in the money room were not properly organized and the work of counting the money was so congested that a thorough inspection of this department was impossible.

What strengthened the case by Raney was the fact that Millar testified that the KJC deducted between five and seven percent, while the auditors report showed that up to ten percent was taken on pools worth \$810,780.²⁹⁶

Now profits derived from the protected vice of gambling was bad enough, but the fact that the whole of the "betting house rake-off" had gone into the pockets of the jockey club shareholders and none of it had been diverted to the ostensible purpose of racing (the thoroughbred breeding industry), further infuriated reformers.²⁹⁷ In chronicling the distance the KJC and WRA charters travelled before being used in Windsor, Raney made explicit the fact that a racing charter was a valuable asset, worth at least \$50,000, and moreover those who held one, especially in Windsor, were simply there profiteering with no regard whatsoever for the development of the thoroughbred.²⁹⁸ The fact that no direct contributions had been paid to the breeding industry when so much profit was apparently being derived, may have been the strongest plank on which reformers had to build their argument. At the conclusion of the Racing Inquiry, however, it was clear that this plank had been turned up-side-down and been used to shore up the gambling privileges of the jockey clubs in the Criminal Code.

In February of 1918 the Canadian Thoroughbred Horse Society (CTHS) unanimously endorsed a resolution proposing that the Society present to the Union Government some "facts vital" to the national breeding industry.²⁹⁹ Such facts revolved around the age-old argument that breeding depends on

²⁹⁶ Rutherford Report, 158-159.

²⁹⁷ SSSC, "Race Track Inquiry," Social Welfare, 1 December 1919, p. 12.

²⁹⁸ Godfrey, Investigation Conducted By Dr. Rutherford, 5.

²⁹⁹ William Hendrie to Thomas White, 25 November 1918, Borden Papers, PAC.

racing and racing depends on betting. With the cessation of racing the "practical extinction" of the breeding industry was supposedly "eminent." To avoid such extinction the CTHS proposed that the 1917 Order be rescinded and one meeting of six days be allowed by each incorporated racing association. The effect of such a meeting claimed the CTHS, would be that the breeding industry would be conserved and encouraged to develop, Provincial Governments would generate much needed revenues (via License Fees and War Taxes), and the public could not well object; given that it would be contributing to a national industry. If remedial legislation, however, was not forthcoming warned the CTHS, "we are bound to see the dispersal of thoroughbred breeding stock and establishments in Canada."³⁰⁰

Similar warnings and petitions were sent to the Minister of Agriculture by the Thoroughbred, Standard-bred and Light Horse Breeders of Canada.³⁰¹ According to Live Stock Commissioner, C.M. Macrae, however, the argument that thoroughbred blood was required to improve the Light Horse stock and to breed remounts was highly dubious. His position was based on the fact that very few thoroughbred horses had been bred with this object in mind.³⁰² Instead, Macrae argued that the suggestions offered by the Thoroughbred Society were:

³⁰⁰ William Hendrie, President of the Canadian Thoroughbred Horse Society, to the Minister of Agriculture, 22 February 1918, Ministry of Agriculture, PAC.

³⁰¹ G.S. McCall, (President of the Canadian Standard Bred Horse Society) to T.A. Crerar, Minister of Agriculture, 7 May 1918; Petition by Thoroughbred, Standard-bred and Light Horse Breeders Association of Canada, 2 July 1918, Ministry of Agriculture, PAC.

³⁰² C.M. Macrae, Live Stock Commissioner, to J.H. Grisdale, Deputy Minister of Agriculture, 12 August 1918, Ministry of Agriculture, PAC.

... nothing more or less than a shrewd bid by the parties who controlled racing and who wish[ed] to continue to reap a profit from the pockets of the people of the country under the guise of devoting the surplus to Agricultural purposes. The little that would thus be turned over would be but a bagatelle in comparison to the amount lost by the people at large.³⁰³

Similar to Macrae, the SSCC suffered from no delusions regarding the necessity of betting to breeding; especially after listening to Millar testify that the KJC collected about \$120,000 in profit for the meets it had conducted, but had made no contribution to the breeding industry. To this end, the Council made it known that shareholders in the KJC were "certainly not staying awake at night worrying over the thoroughbred."³⁰⁴ Millar defended his involvement; had it not been for interference by "politicians and the Methodists," he testified that he was prepared to buy a breeding farm, but hesitated after the 1917 Order was enacted. Whether or not he would have actually bought the farm is impossible to confirm, however, it was made clear under cross-examination by Raney that Millar's involvement in racing was not purely "for the love of thoroughbred" but the "game" to be had when "hunting."³⁰⁵

To the SSCC, the WJC was no less guilty; even in light of the fact that the North Essex and Windsor Agricultural Society had been allowed to hold its fair at Jockey Club Park for nine years rent free. Nor did the claim by Hendrie that the US was now reaping the benefits of the cessation of racing in Canada, alter the position of the Council (only nineteen thoroughbred stallions

³⁰³ In light of such criticism, the CRA (which supposedly represented those jockey clubs which had the "breeding industry at heart") proposed a series of regulations it was prepared to abide by if racing was resumed; the central one being a guaranteed percentage of *surplus* profits be handed over for agricultural purposes. William Hendrie (Acting President) Canadian Racing Association, to Sir Thomas White (Acting Prime Minister of Canada) 25 November 1918, Borden Papers, PAC.

³⁰⁴ Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), 670.

³⁰⁵ *Ibid.*, 604, 632; Godfrey, On An Investigation Conducted By Dr. Rutherford, 16.

remained in Canada in 1919 out of seventy-eight recorded in 1906).³⁰⁶ Hendrie said that he had moved his race stable to Kentucky and Maryland where racetrack betting was legal, and had plans to stay there if racing did not resume in Canada. If racing was to resume, Hendrie testified that he was prepared, after purses, maintenance expenses, and reasonable dividends were paid, to deposit any surplus profit to the breeding industry, agricultural societies, or some other municipal purpose.³⁰⁷ WRA testimony regarding the prospects of "elevating the breed," was even more encouraging.

Just prior to the appointment of the Rutherford Commission, Bradley Wilson,³⁰⁸ a promoter from Lexington, Kentucky, had negotiated the purchase of the majority of the stock in Devonshire Park and had made the first payment of \$30,000 to the WRA. Wilson represented the interests of certain breeders and owners from the US and Canada, organized as the Thoroughbred Horse Association of America (THAA).³⁰⁹ Wilson testified at the 1919 inquiry that the THAA proposed to operate the WRA on "improved lines" by adhering to the "Simms Plan."³¹⁰ Not interested in "profiteering" or "car[ing] a rap about dividends," Wilson declared that the THAA was involved in Windsor "for the protection of the thoroughbred and the general public in

³⁰⁶ Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), 614-616.

³⁰⁷ *Ibid.*, 643-646.

³⁰⁸ *Ibid.*, 675; Copy of Agreement Bradley Wilson, T.J. Duggan, and Trustee (Instalment Investment Company Ltd), RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (7), Exhibit (9a) Border Cities Star, 7 August 1919, p. 3; *Ibid.*, 14 August 1919, p. 3.

³⁰⁹ Rutherford Report, 164.

³¹⁰ The Simms Plan, Wilson explained, included paying "a reasonable dividend to the stockholder, liberal purses, and greatly improved conditions for the public. Any surplus we will be only too glad to distribute to charity, good roads, or anything that may be worthy or is proven to be a worthy cause." Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), 678-679.

connection with racing ..."³¹¹ Believing to be "fighting in self-defense" and feeling it necessary to establish a "pace maker" for the Canadian turf, the THAA was determined to transform Devonshire Park into the "Saratoga of Canada." It was purposes specifically connected to breeding, mentioned by Hendrie and Wilson, which Wigle of the WJC claimed justified his condonement of betting; "if properly conducted [and] of benefit to the country."³¹² While the SSCC considered the justification offered by Wigle to be blatant hypocrisy, Rutherford regarded it to be completely rational. In the end, such a justification lay at the heart of the report he submitted in March of 1920.

Despite the fact that none of the racing associations offered any direct financial assistance to the breeding industry,³¹³ Rutherford nevertheless reported to Parliament that the evidence "offered as to the value of the thoroughbred in the breeding of horses for military purposes and other uses" was sufficient to justify the continued operation of racetrack betting by the jockey clubs.³¹⁴ While acknowledging that the racing associations collected larger revenues by operating pari-mutuels than from the sale of bookmaking

³¹¹ "We are going to protect the thoroughbred first, because there are enormous breeding farms at stake and millions of dollars involved in horse flesh." Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), 679-683.

³¹² Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), 650.

³¹³ In addition to testimony offered during the Racing Inquiry, it is evident from reading the Ledger books of the Ontario Horse Breeders Association (OHBA) from 1915 to 1936 that the jockey clubs made no direct contributions to the industry. Ledger books of the Ontario Horse Breeders Association, Department of Agriculture, Series 16-93 Box 1, PAO.

³¹⁴ Although acknowledging that no direct contributions had ever been made to the Canadian Bureau of Breeding (CBB) or the Thoroughbred Horse Society, Rutherford nonetheless agreed with the manager of the CBB's claim "that horse racing develops and improves the breed of the thoroughbred horse ... and without racing the Bureau could not continue." John F. Ryan (Managing Director of the Canadian National Bureau of Breeding), to J.G. Rutherford, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920), File (5), (10) Exhibit (3).

privileges, the Commissioner made sure to emphasize the apparent benefits the public derived from betting based on "business principles."³¹⁵ Downplaying the unrestricted commissions raked-off by the racing associations, Rutherford reported that pari-mutuel wagering, "for various reasons [was] greatly less likely to prove harmful than the older custom of book-making."³¹⁶ To that end, he credited the iron-men with eliminating "touts, rail-birds, tipsters, and other unprincipled purveyors" from the betting ring. If this menacing "professional layer-of-odds" who "induce young men to make bets they otherwise would never dream of making" had not been eliminated, the Commissioner contended, the whole "tone and atmosphere" of racing would never have been improved.

Though Rutherford reported that there were instances when racing (operated by a class of managers who held "mercenary motives") exerted a bad influence on "young and unexperienced men, and others lacking self control and moral stamina," he made sure to point out that the demoralizing effects of racing need not occur if it was conducted by gentlemen "genuinely interested in racing as a manly form of outdoor sport, or the maintenance of the thoroughbred horse as an important factor from a national and patriotic point of view."³¹⁷

This sentiment was echoed in Parliament by the Minister of Justice Doherty when he introduced a series of amendments which were based on the report submitted by Rutherford. The amendments included restricting on-track betting to pari-mutuels, imposing a standardized and graduated deduction schedule based on betting volume, providing for stricter regulation

³¹⁵ Rutherford Report, 175.

³¹⁶ *Ibid.*, 174.

³¹⁷ *Ibid.*, 173.

by creating a Race Track Division of the Department of Agriculture, and commissioning the Royal Canadian Mounted Police to oversee the operation of the pari-mutuels. These amendments, Doherty explained, would dissuade individuals from promoting racing as an "organized betting ... business" and instead "interest only the better class of sportsmen who wished to continue horse racing as the means to improving the thoroughbred horse in Canada."³¹⁸

By June of that year the amendments had been incorporated into the Criminal Code. When all was said and done, the "negligible" moral effect on any community where pari-mutuel betting was conducted by established jockey clubs was deemed insufficient to eradicate the industry. The amendments further entrenched the legality of the monopoly enjoyed by the chartered racing associations in Windsor. Confident that stricter regulation would quell moral dissent or objections that the local jockey clubs reaped too much profit, the Border Cities Star smugly queried its readers to "name a city that thoroughbred racing has killed?"³¹⁹ Accordingly, operations in Windsor resumed in the summer of 1920.

Anticipating that the graduated commission schedule would have the effect of encouraging attendance and volume of wagering (because it increased the percentage of the "handle" out of which winnings were paid), all three associations in Windsor raised their admission tariffs to \$2 and installed more pari-mutuel machines.³²⁰ Of the total \$42,164,546 wagered in Ontario in 1920, \$20,355,566 was bet through the iron-men at the Jockey Club,

³¹⁸ Hansard, 1920, pp. 3415-3416.

³¹⁹ Noting that it could "name many cities resurrected from depression by a racing plant, efficiently and honestly administrated." Border Cities Star, 7 June 1920; Woollatt Scrapbooks, Book 1, p. 14, UWA.

³²⁰ Memorandum, MU 1032 Box 16 File 12, Ferguson Papers, PAO.

Kenilworth and Devonshire Parks. Indeed, it was evident even after the first two seasons that much of the rhetoric extolled during the Racing Inquiry in reference to the Detroit market not being able to support three tracks was all for not.³²¹

Not only were the Windsor associations attracting more patrons and inducing more betting after the Racing Inquiry, each of the border tracks were swamped with North America's most prestigious racing sables.³²² Back in 1916 after it was clear that a full-blown turf war between the Independents and Association tracks had been avoided, the Record called for the factions in Windsor to put aside their grievances and work together to secure quality stables. It was not difficult for the associations to comply during "good" times.³²³ While the sectarianism of 1916 continued to fester,³²⁴ for a half decade following the Racing Inquiry, instead of attempting to put each other out of business the three tracks acted as a symbiotic cartel.³²⁵ By scheduling

³²¹ In 1920 the gate and betting revenue collected by the WRA amounted to \$1,103,935. There was an average each day of twelve thousand during the first meet. Border Cities Star, 16 July 1920, p. 10; 21 July 1920, p. 11; 22 July 1920, p. 10; 30 July 1920, p. 10. Pari-mutuel Pools:

	1917	1920	1921
WJC	2,386,512*	7,819,377	8,219,877
KJC	1,801,939*	6,902,317	6,932,477
WRA	2,575,367	5,633,872	7,445,708
TOTAL	6,763,818	20,355,566	22,598,062

(*) indicates 7 days racing

³²² For example, what was hailed as the "Match of the Ages" transpired in 1920 when Sir Barton and Man O'War competed against one another for a purse of \$75,000 and a \$5,000 gold cup at Kenilworth Park. Over thirty-two thousand attended the race and \$1,000,000 went through the pari mutuels (over \$250,000 on the feature). G. MacEwan, Memory Meadows: Horse Stories from Canada's Past, (Saskatoon: Western Producers Prairie Books, 1976), 54; Windsor This Month, October 1980, 14-17; Border Cities Star, 5 October 1920, p. 11; 12 October 1920, p. 3; 13 October 1920, p. 10; 14 October 1920, p. 12.

³²³ Evening Record, 4 October 1916, p. 8.

³²⁴ For example, after Rutherford had submitted his report, Saturday Night made sure to let its readers know that there was "not the slightest evidence that any considerable body of opinion desires the suppression of legitimate racing" that was conducted at *Hamilton, Toronto, and Ottawa*. Saturday Night, 24 April 1920, p. 1.

³²⁵ The WJC offered the Frontier Handicap for \$10,000, the KJC the Independence Handicap valued at \$5,000 and the WRA the International Handicap worth \$1,200 (In 1920

meetings one-after-another, the three associations afforded horsemen "an opportunity [for] campaigning their stables over a period of three weeks without incurring costly shipping expenses [twice a year]."³²⁶ As a result, purse expenditures, which had been driven up to off-set transportation costs, could be tempered somewhat.

Underlying the cartel activity was the emergence of continental consumer capitalism.³²⁷ With the institutionalization of mass production the relationship between producer and product was "revolutionized."³²⁸ Now those workers who actually manufactured goods and provided services were increasingly able to purchase and enjoy what they created. As entrepreneurs pushed, and were carried by the tide of consumerism, capital was increasingly invested in manufacturing, advertising, and distributing "ready-made goods" that would appeal to the managing and working classes. To this end, commercial spectator sports like thoroughbred racing were considered attractive prospects. What facilitated both the emergence of such a "culture," and the consumption of racing within it, was the use of emerging forms of mass media (i.e. radio).³²⁹ Throughout most of the 1920's resources

the International was worth \$20,000). The WRA and KJC could offer smaller features because the horsemen's loss would be offset by savings in transportation costs. Border Cities Star, 5 July 1924, p. 3; 7 July 1924, p. 7; 14 July 1924, p. 9; Auditor's Report, Racing Inquiry, 1920; Journals of the Legislative Assembly, 1925, p. 220.

³²⁶ Border Cities Star, 6 February 1920, p. 3; 1 August 1923, p. 3; 22 June 1924; 7 June 1925; Woollatt Scrapbooks, Book 1, pp. 1,5, UWA.

³²⁷ The industrial expansion of the Windsor-Detroit area initiated during the previous two decades was consolidated during the twenties. Rooted in assembly line production of automobiles, the industrialism of the 1920s both expanded the existing consumer market and became increasingly dependent on such expansion. Parratt, "Sport and Hegemony," 6; G.D. Short, "Sport and Economic Growth in the Windsor Area, 1919-1939," M.A. thesis, University of Windsor, 1972, 13-17; Cancian and others, Windsor, 9; Bruce Kidd, "Improvers, Feminists, Capitalists and Socialists: Shaping Canadian Sport in the 1920s and 1930s," Ph.D. diss., York University, 1990, vi, 424-425.

³²⁸ Dryeson, "Emergence of Consumer Culture," 271-272; B.D. Palmer, Working-Class Experience, 18, 232-233.

³²⁹ Stuart Ewan, Captains of Consciousness: Advertising and the Social Roots of the Consumer Culture, (Toronto: McGraw Hill, 1976), 26-30.

were expended on improving physical amenities at the Windsor tracks and the mass media was used (by the most successful promoters) to package and market racing to the widest cross section of the burgeoning "consumer culture."

One promoter who was especially astute in taking advantage of the "concentration of tracks" and the emergence of consumerism was William Robinson Woollatt. Woollatt watched his first race in October of 1920 when Sir Barton and Man O'War were pitted against each other at Orpen's Kenilworth Park. Less than a year later Woollatt was the President of the WRA and by 1922 was desperately scrambling about trying to pay back a debt reported to be over \$300,000 (which had been incurred by the managing director Bradley Wilson from 1920 to 1922). As early as August of 1923, however, Lally Collyer, editor and publisher of Collyer's Pocket Manual, wrote of Woollatt:

Everybody in any way connected with the American running turf today knows and admires this versatile Canadian yet only a year ago he was practically an unknown quality. It's all due to the fact that he took up the task of managing Devonshire Park where others left off and unlike his predecessors has made the palatial course on the opposite side of the Detroit River a paying proposition.

By 1925, capacity crowds were reported to be packing themselves into the grandstand and betting shed.³³⁰ By June of that year the WRA was no longer operating in the red.³³¹ All financial encumbrances against the association were settled and credit notes burned at a dinner held at the Prince Edward Hotel.³³²

³³⁰ A situation anticipated by Woollatt who had gambled and spent \$25,000 on renovations and repairs to the track, grandstand, and grounds. Woollatt built over twenty new boxes and refurbished the grandstand to accommodate an additional one thousand spectators. Border Cities Star, 6 June 1925; 7 June 1925; Detroit Free Press, 23 July 1925, Woollatt Scrapbooks, Book 1, pp. 1, 10, 15, UWA.

³³¹ Journals of Legislative Assembly, 1927 pp. 134-135.

³³² Border Cities Star, 23 May 1925, p. 5; Woollatt Scrapbooks, Book 1, p. 10, UWA.

At the time, Collyer wrote that it was Woollatt's "practical ideas of publicity" and his "square-shooting policies" that had transformed Devonshire Park into "the most popular mile track in Canada."³³³ Collyer's observations were apt in capturing the essence of entrepreneurial campaign followed by Woollatt. Whether conscious of the development of a consumer "culture" or not, Woollatt skillfully exploited the local populations desire to "consume" racing by using the media to broadcast advertisements for the "Diamond D;" thereby attracting the largest cross-section of the area's population possible.³³⁴

To know that the widespread transformation of "culture into a purchasable commodity" during the 1920s was especially pronounced along the border (where the American mass media was more accessible),³³⁵ it could have been expected that the ten years prior to the Great Depression were witness to an unprecedented volume of betting (\$1,190,440,000) at the three Windsor tracks. Indeed, considering the on going suppression of betting in Michigan, the recent affirmation of the legality of the racing industry, and the limited cartel activity practiced by the WJC, KJC, and WRA, such viability ought to have been readily predictable and easily explained. Despite what seemed to be an ideal climate for promotion, however, the

³³³ Collyer's Pocket Manual, n.d., 1925.

³³⁴ Woollatt advertised in each of the following: Detroit Times, Detroit Free Press, Border Cities Star, National Turf Digest, Canadian Sports and Daily Racing Form, Collyer's Pocket Manual, Canadian Running Horse, Universal Turf News, and Adcrafter.

³³⁵ B.D. Palmer, Working-Class Experience, 234.

volume of on-track betting steadily *declined* after 1922.³³⁶ Accordingly, 1921 marked an end of an era. ✓

To understand this decline what must be taken into account is one of the most significant testaments to post-war reconstruction; the appointment of W.E. Raney as the Attorney General of Ontario. It was from this office that a measure of revenge for the successive defeats of the 1909-1910 and 1919-1920 anti-racetrack gambling campaigns would eventually be exacted. The revenge, however, was characterized more by its contingent nature, than for its intentionality. Moreover, structural transformations in the North American economy, and an international state response to the promoter-reformer antagonism, would profoundly alter the circumstances in which the operation of racing in Windsor was conducted.

³³⁶ Pari-mutuel Pools, 1920-1929.

	1920	1921	1922	1923	1924
WJC	7,819,377	8,219,877	6,038,468	No meet	4,196,030
KIC	6,902,317	6,932,477	4,629,672	4,640,882	3,600,250
WRA	5,633,872	7,445,708	4,263,733	3,685,563	3,183,693
TOTAL	20,355,566	22,598,062	14,931,873	8,326,445	10,979,973
	1925	1926	1927	1928	1929
WJC	3,863,820	2,149,495*	3,161,402	3,110,690	No meet
KIC	3,368,100	3,005,691	3,064,690	3,070,022	2,907,615
WRA	3,196,741	3,109,125	3,450,492	1,454,644*	2,939,758
TOTAL	10,428,661	8,264,311	9,676,584	7,635,356	5,847,373

(*) indicates 7 days racing

Part III.

THE CONTINGENCY OF AGENCY & THE DETERMINISM OF STRUCTURE: *Responding to the Private Handbook Operator, Economic Crisis, & Market Collapse, 1922 to 1936.*

III-i. "Puritan theocrat out of control:" *Forcing An "up lift" Agenda & Forging A Partnership In Crime.*

Though the 1920 amendments further entrenched the legal privileges of the industry (by committing resources to regulate operations), that sense of *societal* legitimacy which followed the Miller Bill, and especially the pari-mutuel machines, was left wanting in sections of the business community of Windsor, and of course, those opposed to racing on explicitly moral grounds.¹ To be sure, moral dissent voiced during the Racing Inquiry was not silenced by the 1920 amendments, but instead was amplified by a climate of post-war reconstruction. Rejecting any notion of the industry being *socially* sanctioned, the SSCC claimed the legal privileges enjoyed by the racing associations were due to the fact that the jockey club shareholders had connections to "rulers in high places - in politics, in society, and in finance - forces that proved too strong for public sentiment."²

As the 1920 amendments were being added to the Criminal Code, it was suggested to the Methodist Conference that to send letters and petitions

¹ Even as the Criminal Code was amended in Ottawa, a Methodist minister was reported in the Border Cities Star to have vowed that reformers would never "be content and will not rest until this evil of racetrack gambling is made illegal." Border Cities Star, 7 June 1920, p. 3. The Windsor Record was renamed the Border Cities Star in 1918.

² Godfrey, Investigation Conducted By Dr. Rutherford, 15.

to Parliament was useless because "it was a foregone conclusion that these men of the race track would get what they wanted." Dr. Speer who was addressing the Conference, added that it was hoped that the Department of Temperance, Prohibition and Moral Reform would have done something about the "money in the lobby." Even Saturday Night concurred; "many of our wealthy citizens occupying prominent posts, Governmental and otherwise, can look back to race track ownership as their foundation of fortune."³ To W.E. Raney and the provincial Drury Government, however, the aforementioned "forces" were far from being too "strong," nor were there any "conclusions" they regarded "forgone." No doubt, some of Windsor's residents appreciated Raney's resolve, and thought it high time that something was done to rectify the multiplicity of racetracks and influx of "undesirables" from Detroit.

After E.C. Drury led the United Farmers of Ontario to victory in the 1919 provincial election, he selected Raney as his Attorney General.⁴ It was from this office that Raney would serve as Drury's barometer of moral impropriety. Considering what little he had to show for all the years he had spent trying to suppress racetrack gambling, it could have been expected that Raney would persecute promoters guilty of the business of betting with the same vengeance as he enforced the Ontario Temperance Act.⁵ Not

³ Speer later wrote the Speaker of the House, explaining that his comments were not in reference to bribery, but rather just funding deputations. Reported in Ottawa Citizen, 13 June 1920 cited in Hansard, 1920, p. 3491; Hansard, 1920, pp. 3557-3558; Saturday Night, 31 January 1920, p. 1.

⁴ Upon learning the favorable news, the SSCC announced plans for proposed actions against racetrack gambling in the Ontario legislature to other provincial Councils. W.E. Raney was replaced as the legal representative of the SSCC after being appointed Attorney General. Minutes of the Legislation Committee of the Social Service Council of Canada, 29 November 1919; 8 November 1920; 19 November 1920, PAC.

⁵ For example, in March of 1921, an ambitious (and later somewhat infamous) Methodist Minister, J. Spracklin commissioned by Raney to curtail boot-legging operations in

surprisingly, the appointment of Raney did not go unchallenged by many who would later accuse Raney as being a "Puritan theocrat out of control." Even "determined foes" of racetrack gambling like the Editor of the Globe, W.G. Jaffray, opposed the choice by Drury.⁶ The most vocal critic was the Citizens Liberty League. Ironically, Raney used such opposition to suit his own purposes.

In view of the coming election in which Mr. Raney, Attorney General, will seek to obtain a seat somewhere in Ontario, this League has taken into account his continuous and uncompromising attitude towards race tracks and his stand on Prohibition and we have decided to oppose him at the polls. This will entail an expenditure of about \$20,000 and we are asking our friends to help us financially.⁷

The assertion by Raney that the above letter had been delivered to "racetrack proprietors in Ontario," prompted the Globe to query its readers to explain: "How did the League propose to spend \$20,000 legitimately in a single by-election in a rural constituency?" Raney secured his seat.

During his first speech in the Legislative Assembly, the Attorney General denounced racetrack (and other forms of) gambling just as he had been doing at district conferences and in numerous pamphlets over the previous decade. Now that the Dominion Government was the "patron, protector and regulator of gambling devices," Raney was more adamant than ever to put an end to a situation whereby "organized betting houses" dictated the law by which they were to be governed. Such a situation, complained Raney, placed the Canadian state "on the level with the Governments of Cuba and Mexico." No longer, decreed the Attorney General, would there be one law "for the millionaire member of Parliament ... and another for the

and around Windsor, was fined \$500 for trespassing on the yacht of Oscar E. Fleming (Former Mayor of Windsor and a ex-Director of the WJC). Hallowell, Prohibition in Ontario, 121.

⁶ Oliver, Public and Private Persons, 72.

⁷ Published in Globe, 11 February 1920, cited in Raney, The Scandal and Curse, 22.

two-dollar handbook man ... [for] It is such laws that make Bolsheviks."⁸

While Raney was determined to rescue the whole of Canada from the "foreign gamblers," the viability of operations on the Windsor-Detroit border made the Jockey Club and Devonshire Parks attractive targets for his opening assault.⁹

Raney's disdain for operations on the border had been made explicit during the Miller Bill debate when he maintained that there existed a social demarcation between Windsor and Woodbine. Two years later, Raney again challenged operations at the Windsor track, when he questioned the legality of the charter which was being used by the Windsor Racing Association. Arguing the WFDPA charter only provided for racing not betting, he maintained that the bookmakers (and by extension the association) were not protected under the Miller Bill.¹⁰ Without the legitimacy of the Office of Attorney General, however, his 1912 challenge went practically unnoticed. This time around, in addition to the powers of his office, the provincial Under-Secretary of State was of the opinion that it was simply "a matter of interpretation" as to whether the WJC had the legal authority to operate pari-mutuels at Jockey Club Park.¹¹ Moreover, according to the Deputy Attorney General the WJC should not even be allowed to conduct racing for it was not until 1913 (when Hendrie changed the corporate name to the WJC) that the

Canadian Annual Review, (1920), 512; (1921), 557-559; Raney, The Scandal and Curse, 28-29.

⁹ The KJC was not prosecuted in 1920. Two years later, the Leader of the provincial Conservative Party, George H. Ferguson, queried Raney as to why Orpen had not been interfered with in his activities. Raney responded by saying that he had known Orpen for many years, and gave him "credit for being the one frank 'sport' who admitted that he was in the race-track and betting business for what he could get out of it." The Attorney General denied Ferguson's allegations (that Orpen had been the beneficiary of special favours) as being "maliciously and deliberately false." Globe, 16 May 1922.

Evening Record, 11 September 1912, p. 1.

¹¹ Under-Secretary of State to J.R. Roaf (Solicitor to the Office of the Attorney General), 29 May 1920, Office of the Attorney General, Series 4-32 1611, PAO.

powers of WFDPA charter were extended to explicitly include racing and betting.¹²

As Raney prepared to prosecute the WRA, Charles Millar of Kenilworth Park helped build a case against Devonshire Park by writing to the Deputy Attorney General and informing him as to the suspect history of the charter being used at the track. Though Millar was not pleased with the moral reform "OTA press" which supposedly "exploited" the KJC by publishing the aggregate amount bet instead of the percentage the association actually raked off, he nevertheless wrote the Deputy Attorney General stating that the decision of Justice Middleton in the Hepburn v. Connaught Park case of June 1916 did not decide that betting could lawfully take place because both of the parties involved were "interested in upholding the charter for racing purposes."¹³ In effect, the Secretary of State was granting privileges that the Miller Bill states can only be "created by the Parliament of Canada or the Legislature of the Province."¹⁴ Thus, claimed Millar, by licensing such a company the Drury Government was "aiding and abetting a violation of the Criminal Code that it should direct the prosecution of." The Deputy Attorney General agreed that Middleton had erred, the result being that "public betting, mutuels etc., cannot be carried on the grounds of the [WRA]."¹⁵

¹² Supplementary Letters Patent was issued 10 January 1913; over a year and a half after the 20 March 1912 deadline fixed by the Miller Bill. Edward Bayly to W.E. Raney, 22 June 1920, Office of the Attorney General, Series 4-32 1611, PAO.

¹³ Charles Millar to Peter Smith, 27 November 1920, Department of Treasury and Economics, Office of the Minister General Subject File, PAO.

¹⁴ Charles Millar to Edward Bayly, 21 June 1920, Office of the Attorney General, Series 4-32 1611, PAO.

¹⁵ Raney instructed Bayly to inform the associations as to the opinion of the Attorney General in regard to the illegality of the charters and request if the jockey clubs desired a stated case or preferred a criminal prosecution. Legal counsel for the WRA responded that the most expedient way to test if the association had the power to conduct racing under its charter would be for the Attorney General to set forth all the facts (location of course, dates of meeting, actual sale of tickets, bets and wagers) all of which would be admitted by the WRA and then after criminal prosecutions had been instigated ask for a declaratory judgement which could be

In early July 1920, the WRA, its President, and Secretary were formally charged with conducting a Common Gaming House under the Criminal Code.¹⁶ The Commissioner of the OPP instructed two constables to visit Devonshire Park and collect evidence.¹⁷ During opening comments, the Deputy Attorney General made it explicit that the prosecutions had come down from government "headquarters" and were really "test cases."¹⁸ One OPP constable testified as to the cooperation demonstrated by management when collecting evidence and made similar comments as to orderly conduct of operations at Jockey Club Park (when testifying at the WJC trial the next day).¹⁹ More important than the compliments the two associations received, however, was the submission of the Middleton judgement in the Hepburn v. Connaught Park case by legal counsel for the WRA. It was on this judgement that Police Magistrate Miers "felt obliged" (after reserving his decision for

referred to, and be decided by, some Trial Judge after the racing season. While Wigle of the WJC was not of the same opinion he desired the same ends; to be allowed to race during the 1920 season. Stressing the fact that all the arrangements for the meeting that summer had been completed "at a very large expense" and adding that the WJC had been conducting racing for sometime without objection from the Treasury Department and "has been very active in its support to all work during the war" he believed "the right course to pursue" would be to have a Stated Case referred to the Appellate Division of the Supreme Court. Its grounds and buildings had been turned over to the Union Government as a remount station, the 99th Battalion were given use of buildings and track, generous subscriptions were made for the war loans, "and the Club has a very high reputation for the manner in which it has always conducted its meets." Raney adopted the suggestion put forward by the WRA. Edward Bayly to Raney, 22 June 1920; Edward Bayly to J.T. White, 23 June 1920; Bayly to Secretaries of the WRA and WJC, 28 June 1920; Harry C. Moore to Edward Bayly n.d.; E.S. Wigle to Edward Bayly, 2 July 1920, Office of the Attorney General, Series 4-32 1611, PAO; Morrison, Garden Gateway, 251, 253.

¹⁶ OPP Commissioner H.M. Elliot to OPP Constable James P. Smith, 7 July 1920, Ontario Provincial Police File, Series E-23 Box 1, PAO.

¹⁷ OPP Commissioner H.M. Elliot to OPP Inspector Greer, 5 July 1920, Ontario Provincial Police File, Series E-23 Box 1, PAO.

¹⁸ That afternoon Inspector Greer went to Jockey Club Park to secure evidence to warrant laying the same charge against the WJC. OPP Inspector Greer to OPP Superintendent J.E. Rogers, 17 July 1920, Office of the Attorney General, Series 4-32 1611, PAO; Border Cities Star, 3 July 1920, p. 5.

Border Cities Star, 15 July 1920, p. 3, 10; 16 July 1920, p. 10.

over three months) to dismiss the charges against both the WRA and WJC in late October.²⁰

As Raney devised his next offensive he instructed the Deputy Attorney General to execute a rear-guard attack against the WRA and WJC by prosecuting the associations again in 1921.²¹ No doubt, Major G.H. Wilkinson applauded the resolve demonstrated by the Attorney General. At a meeting of the Retail Merchants Association (RMA), Wilkinson tabled a resolution intended to save Windsor from becoming "the dumping ground for the worst racing element in Ontario and the United States." In introducing his resolution to limit the number of racing days in Windsor, he noted that industrial income declined and downtown shops became deserted during the meetings. Such effects, Wilkinson added, were "noticeable for sixty days" after the racing had concluded.²²

✓ The SSCC shrewdly employed such reports to drum up popular support for the moral condemnation of racing. To this end, it was reported in a Council pamphlet, that the betting evil had the "merchants of Windsor ... up in arms," as they watched their businesses' "suffer" as "Cash is giving place to credit; credit to bad debts and serious losses." Indeed, "money that would have gone for boots, groceries, dry goods, etc., was scattered to the winds ... [causing] Women's hearts to be broken ... homes blighted," and children

²⁰ Border Cities Star, 20 October 1920, p. 3; J.H. Rodd, Crown Attorney of Windsor to Edward Bayly, 21 October 1920, Office of the Attorney General, Series 4-32 1611, PAO.

²¹ Raney claimed that the full reasons for the 1920 decision were not given before the presiding Magistrate died. Upon news of the prosecutions a local member of the SSCC was quoted in the Border Cities Star saying this will be the "last spring of betting with W.E. Raney" as the Attorney General. Border Cities Star, 16 July 1921, p. 11.

²² The majority of the RMA agreed and were in favour of presenting a petition to the Legislative Assembly. The next day, Baxter of the WJC offered a retort to Wilkinson. In a letter to the Border Cities Star, he pointed out that Windsor businessmen had been sponsors of the Windsor track since its inception in 1884 and continued to do so in the present. In addition he cited several examples of communities where racetracks had helped improve business conditions. Border Cities Star, 9 March 1921, p. 3; 10 March 1921, p. 3.

"robbed" of their "birthright," a "happy childhood," and "a fair chance in life."²³

Much to the chagrin of the SSCC, Wilkinson, and the RMA, the rear-guard attack launched by Raney was put down; all of the charges against the WJC and WRA were again dismissed by the local Police Magistrate.²⁴ An appeal was granted and a stated case was tried and quashed before the Supreme Court of Ontario. After such dismal failures, it was clear to the Council that that only way to eradicate racetrack gambling was by amending the Criminal Code.²⁵ "Let pulpit, press, platform and hustings be used to the full to arouse public opinion regarding this stain on Canada's good name." With the growing popularity of the Progressive Party, the 1921 federal election was regarded as the ideal opportunity to rescue Canada's "good name [from being further] scandalized."²⁶ Raney, however, was not yet prepared to abandon the resources he had been afforded as the Attorney General.

After bearing witness to SSCC requests for Provincial anti-betting legislation being denied as *ultra vires*, Raney was aware that to attempt to enact an explicit anti-betting law would be a waste of time.²⁷ Indeed, the limits of the Legislative Assembly in eradicating the industry were clearly

²³ J.G. Shearer, Canada's Legalized Betting Houses: An Appeal for Their Suppression, (Toronto: SSCC, 1921), 3; SSCC, "Our Legalized Betting Houses," Social Welfare, 1 April 1923, p. 57-69.

²⁴ Judgements of Police Magistrate Grundy, 23 June 1921, Office of the Attorney General, Series 4-32 1611, PAO.

²⁵ H. Villa, The Scandal of Race Track Betting Houses in Canada, (Toronto: SSCC, 1921), 2; Minutes of the Legislation Committee of the Social Service Council of Canada, 15 December 1922, PAC.

²⁶ Minutes of the Legislation Committee of the Social Service Council of Canada, 12 September 1921; SSCC, "Race Track Gambling and the Federal Election," Social Welfare, 1 October 1921, p. 30-31.

²⁷ "The charge against a man if any charge were made would probably be forgery, fraud, or theft." Solicitor to the Office of Attorney General to J.G. Shearer (Secretary of the SSCC), 22 December 1916, Office of the Attorney General of Ontario, Series 4-32 2393, PAO.

drawn in 1917. In April of that year, a Public Accounts Committee was struck to investigate the Treasury Department Solicitor's role in granting the WRA licence.²⁸ A committee resolution regretted:

... that notwithstanding the war, the Government of this province has issued still further licences to race tracks promoted for the purpose of sharing in the profits of race track gambling, which driven out of the adjoining States of the American Union, ha[ve] sought refuge in Ontario. This House demands that the Government reverse its policy on this matter, so vital to the morals and well being of the people, and take prompt and vigorous action to suppress the grave menace of organized corporate race track gambling, carried on for a percentage of the profits.²⁹

Understanding that the Provincial Legislature had no jurisdiction to "take prompt and vigorous action," one MLA suggested that all the words following "This House," be substituted with the following: "heartily approves of the declaration of the Government that it will do everything it properly and justly can, to prevent the evils of race-track gambling within the province." The resolution in its amended form carried. Even if the original resolution had been adopted the Provincial Legislature had no power to make illegal what was made legal by Dominion law.³⁰

Raney, however, was determined to try by way of indirect legislation. In 1920, he initiated a plan based on the use of the Corporations Tax Act (CTA) to eradicate the business of betting.³¹ In theory, the strategy was to only issue

²⁸ The Committee was struck after Lambert Wigle, MLA for South Essex, vehemently protested the decision by the Treasury Department to grant the third license in the face of strong protest from the community. Evening Record, 14 March 1917, p. 9; Globe, 20 March 1917; 29 March 1917; 6 April 1917; Mail and Empire, 20 March 1917; 29 March 1917; 6 April 1917.

²⁹ Journals of the Legislative Assembly, 1917, 254-255.

³⁰ As Devonshire was being built, the Solicitor to the Treasury sought legal opinion as to whether the WRA could conduct a meeting with betting and still be protected by the Miller Bill without a provincial licence. All inquiries concluded that the WRA or any other association incorporated prior to 1912 could conduct meetings with betting with or without a provincial licence. Edward Bayly (Solicitor to the Office of the Attorney General) to A.J. Matheson (Provincial Treasurer), 9 July 1912; W.N. Tilly to J.T. White, 11 September 1916, Exhibit No. 14-15, Appendix (1), Journals of the Legislative Assembly, 1917, 206-208.

³¹ In fact, this was a course of action intimated in 1898 by the then Minister of Justice D. Mills to Magistrate Bartlet. Mills suggested that the province might assume *some* control over

licenses which stipulated that racetrack gambling *not* be conducted at the track applying for the license. Whether in practice the Drury Government had the power to enforce such a stipulation had still to be decided.³² To settle the question once and for all, Raney, in December of 1920, asked the Appellate Division of the Supreme Court of Ontario if the Legislative Assembly had the power.³³ In February of 1921 the Court decided three to one in the negative. Justice Meredith was explicit in his connection of racing to betting and his description of the three "classes" of persons (those who oppose betting, those who bet, and those whose businesses would be ruined if betting was suppressed) who would be affected by any legislation regulating the issuance of provincial licences.

It was members of Meredith's first class; those who were "so vehement and earnest in their objection to betting," then in positions of provincial authority, that Justice Middleton judged to be in its attempt to "lay down rules in the interest of public morals" a "trespass upon a forbidden field."³⁴ It was now evident that the CTA would be of no use in refusing to grant licences to incorporated racing associations.³⁵ While the Province had power to tax

racing in Windsor by forcing the WFDPA to secure a provincial license before operating. H.H. Miller received practically the same advise in 1910 by the then Minister of Justice A.B. Aylesworth who thought the only rational means of regulating racing would be action by the "provincial authorities." D. Mills to Alexander Bartlett, 28 June 1898, Ministry of Justice, PAC; A.B. Aylesworth to H.H. Miller, 5 February 1910, published in Hansard, 1910, p. 6424.

³² The Provincial Treasurer in 1917 was of the opinion that the Province had not the power. Because the WRA held a Dominion charter, Provincial Treasurer McGarry held that it could operate without a provincial license. Evening Record, 9 June 1917, p. 1; 12 June 1917, p. 8.

³³ Reference to supreme court of Ontario regarding powers of lieutenant-governor under the Corporation Tax Act, 11 January 1921, Office of the Attorney General, Series 4-32 265, PAO.

³⁴ The lone dissenting opinion was held by Justice Riddell, who could not understand, given the fact that the "Legislature ha[d] forbidden every occupant of land to allow wild oats and other noxious weeds to grow on the land ... [that the] Legislature may not forbid the use of land for betting upon which some at least consider a metaphorical form of wild oats more noxious than the other." Ontario Law Reports 49 (1921), 339.

³⁵ W.F. Nickle (Attorney General of Ontario) to R.W. Craig (Attorney General of Manitoba), 15 February 1926, Office of the Attorney General, Series 4-32 568, PAO.

Dominion companies it had no jurisdiction to cancel the powers granted by Dominion letters Patent or by Act of Incorporation; to do so was *ultra vires*.³⁶

Raney held steadfast to his convictions; realizing "that there are more ways of killing a cat than by choking it with milk," the Attorney General sought to "make the sinner pay" by initiating a process of taxing the racing associations out of existence.³⁷ He would attempt this by first raising daily license fees and then amending the CTA to allow the Provincial Treasurer to deduct a direct rake-off from the pari-mutuel pools. Daily license fees were not a new phenomenon, in fact, they were initiated under the Supplementary Revenue Act over a decade before.³⁸ Each racing association was required to pay \$200 a day for a racing licence. In 1914 the daily fee was increased to \$500 and in 1916 to \$1,250 (which netted the province \$136,265 in revenue).³⁹

In 1920 it was proposed by Drury's Provincial Treasurer, Peter Smith, that the licence fee be increased by \$8,750. In introducing his budget, Smith explained that even though "some people have felt that the government should not allow gambling on race tracks ... for certain reasons we are going to allow it this year."⁴⁰ From a fiscal point of view those "certain reasons" no doubt referred to the \$780,000-\$800,000 that the province expected in revenue. From a *moral* standpoint, however, the \$10,000 daily tax, argued the Editor of Saturday Night, was nothing more than a covert "policy aimed at the

³⁶ A similar interpretation had been offered in 1909 by the then Secretary of State. Hansard, 1909, p. 912.

³⁷ Saturday Night, 3 June 1922, p. 1.

³⁸ The OPP was under instruction of the Provincial Treasurer to stop racing at any track which defaulted on the tax. Globe, 3 March 1911; Mail and Empire, 3 March 1911; Ontario Statutes, 1911, pp. 16-15; OPP file respecting the licensing of race tracks, Series B-1 30.13, PAO; Journals of the Legislative Assembly, 1925, p. 35.

³⁹ Rumors of collusion spread after J.T. White, Solicitor to the Treasury, visited Woodbine to discuss the adjustment of the tax. Journals of the Legislative Assembly, 1917, Appendix (1), p. 155.

⁴⁰ Border Cities Star, 14 April 1920, p. 1, 3; Globe, 4 May 1920.

ultimate abolition of race-tracks" by Raney who was using Smith as a "decoy."⁴¹ Wigle of the WJC condemned the increase as "absolutely prohibitive;" being of the opinion that the measure would force the Windsor tracks to close their gates.⁴² Not only was the plan "uneconomical [it was] tyrannical [for it] aims to deprive decent people of a harmless form of enjoyment." Even John G. Shearer, Editor of the SSCC's Social Welfare, queried: "Will the people of Ontario allow their government i.e. themselves, to draw nearly a million a year of revenue from betting that is criminal in fact, if not in law?"⁴³

What was more appalling to Shearer was the fact that Raney was prepared to take an estimated \$5,000,000 by imposing a five percent tax on the pari-mutuel pools at the tracks.⁴⁴ Regarding "betting [to be] an evil," Drury stated that given the fact that the Dominion Government had "legitimized it" he made "no apologies [and] ... pleaded guilty to the hope that the legislation would ... lessen the evils of betting."⁴⁵ Raney declared he was "serious in wanting to wipe [racetrack betting] out altogether" but denied that it was hypocritical of a government "boasting of high moral standards" to tax an "unsavory" business when "legitimate industry was being taxed."⁴⁶ If the

⁴¹ Saturday Night, 24 April 1920, p. 1.

⁴² The three Windsor tracks would have been required to pay \$420,000 if the license fee had not been reduced to \$7,500 a day. In 1920 the province netted \$770,410 in revenue. Border Cities Star, 10 July 1920, p. 2; Globe, 27 April 1920; Journals of the Legislative Assembly, 1925, p. 35.

⁴³ Despite repeated failures by the Council at the Provincial level, Shearer nevertheless claimed that the Legislative Assembly, with no Senate and no non-English groups to reckon with, could stop racing and would probably attempt to do so in 1921. J.G. Shearer, "What Does Ontario Think of This?" Social Welfare, 1 January 1921, p. 95.

⁴⁴ A similar scheme had been considered by the Federal Minister of Justice but no action was taken. Memorandum, n.p., Ministry of Justice, PAC; Globe, April 28, 1922.

⁴⁵ Globe, 13 May 1922.

⁴⁶ The hypocrisy shown by Raney is strikingly evident in the following statement: "before the war the Germans made elaborate provisions for the regulation of gambling and prostitution. One object was to raise revenue, another was to make the vices of the military

Drury Government and the jockey clubs were indeed engaged in a "partnership in crime," said Raney, "then it was also much more true of the Whitney Government, which originally passed a law taxing the race tracks of the province."

The difference, Raney said, between the partnership in crime then and now was that in those days there were four front-benchers on the Government side of the House, two of whom afterward became Cabinet Ministers, who were directly interested in the profits of the jockey clubs.⁴⁷

While the Liberal Leader wanted to return to the "old days" when the interests of the thoroughbred were supposedly at heart, and just "let the [tax] go along and let somebody else get upset if it is necessary," other MLAs cast doubts as to the constitutionality of the measure, the practicality of its enforcement, and the partisan interest Raney held in introducing the amendment.⁴⁸ Such concerns, according to opponents of the bill, were not properly addressed; in this regard, the amendment "was given third reading immediately after the dinner hour ... when the government faced a sea of empty Opposition benches." The Drury Government openly admitted that the Bill had been passed with such haste so it could be used against the upcoming meeting of the OJC.⁴⁹

Equal expediency was shown by the OJC in securing a court injunction which stayed the amendment. The injunction was granted on the grounds that the five percent levy was possibly an indirect tax which the Provincial Government had no power to impose because the Dominion Government

class cheap, comfortable and safe ... Such laws were the product of, and in turn contributed to, the moral degeneracy which brought about the war." Raney, The Scandal and Curse, 3.

⁴⁷ Globe, 16 May 1922.

⁴⁸ Globe, 17 May 1922.

⁴⁹ While having "no sympathy for the jibes thrown at the Attorney-General as an "up-lifter," Rev. J.C. Tolmie, MLA for Windsor and Pastor of St. Andrew's Presbyterian Church, nevertheless requested in vain that Drury postpone the third reading "in order that H.H. Dewart might carry out his expressed intention of pressing for a division in the Bill." Globe, 18 May 1922; 20 May 1922; 23 May 1922.

had already fixed the amounts of deduction in 1920. For Justice Middleton who granted the injunction, the case revolved around the question of legislative versus judicial supremacy. Reasoning that the eventual decision would carry broad legal implications, Middleton decided that he could keep "the subject matter of the suit ... safely pending" by ordering the five percent tax to be deposited at Osgoode Hall.⁵⁰

Raney regarded the opinion of Middleton as nothing but an "off-hand view." After deciding that it would not be "politically desirable" to padlock Woodbine, he set about to nullify the injunction and "settle the matter" by enacting the Declaratory Act.⁵¹ Considered by Ferguson to be an "outrageous violation of the very fundamental principle of [the Canadian] Constitution"⁵² it contained the most extraordinary and despotic section which read:

Any action heretofore commenced or any proceedings heretofore taken, in respect of the Corporation Tax Act, 1922, and still pending, and any order by way of injunction heretofore made in any such action or proceedings against the Crown or any Minister thereof, or any officer shall be, and is hereby, forever stayed.⁵³

This section in particular, and the Act in general, was no less than Raney's "assertion of the doctrine of legislative supremacy."⁵⁴

The Declaratory Act and CTA amendment, prompted the Editor of Social Welfare to criticize Raney's methods, even though the SSCC was sympathetic to the object of discouraging "an immoral and injurious business." The problem with the CTA amendment, argued the Council, was that it struck at the individual bettor (by decreasing the size of the pari-mutuel pool out of which they could draw) instead of the jockey clubs.

⁵⁰ Globe, 22 May 1922.

⁵¹ Globe, 24 May 1922.

⁵² Ferguson Papers, MU 1032 Box 16 File 12, PAO.

⁵³ Ontario Statutes, 1922.

⁵⁴ Oliver, Public and Private Persons, 86-87.

Fearing that the electorate's "ethical standards [would] be lowered" if the provincial government began relying on its betting rake-off as a source of revenue, Social Welfare decided that the only "hope" to avoid "such temptation" was for Parliament to "save the Provincial Government and electorate..."⁵⁵

This hope was never realized, for Raney and the Drury cabinet were afforded a measure of sanctuary by the Miller Bill. "Mr. Raney has not hesitated to take a very large share of this 'tainted' money and when reproached for doing this ... took shelter behind the Dominion Government ..." wrote Senator N.A. Belcourt (who once held shares in the ORA before it was sold to the WRA) in a letter to Prime Minister Mackenzie King.⁵⁶ Moreover, Provincial Treasurer Smith announced that he "was not so moral as to refuse to put a five percent tax on racetrack wagers when racetrack gambling was legalized by the Dominion Government."⁵⁷

What Raney and Smith were not expecting, was the fact that their taxation structures would facilitate the business of private handbook operators (illegal bookmakers). In effect, the Drury Government and the professional bookmaker (who was not protected by the Criminal Code) had forged what was structurally a "partnership in crime." It was the unintended consequences of this partnership that would almost wreck the industry in Windsor, and in the process cast the limits of the capitalist state, when encouraging business reform, in bold relief.

⁵⁵ SSSC, "Race Track Betting," Social Welfare, 1 June 1922, n.p.

⁵⁶ Senator N.A. Belcourt to William Lyon Mackenzie King, 19 April 1922, King Papers, PAC.

⁵⁷ An article in the Globe 22 June 1922 reported that the Provincial Treasurer said: "He was not normal enough to wish to abolish racing so long as it yielded \$3,000,000 yearly."

III-ii. Exceeding the Limits of Capital:
*State Revenue, Movement Fragmentation,
 & An Anti-Corporate Lobby.*

Saturday Night vehemently objected to the taxation structures; arguing that "so long as horses race and the Anglo-saxon temperament is what it is, there will be betting, no matter how many prohibitory laws we pile on the statute books." In respect to this, the Toronto weekly predicted that the "suppression of the pari-mutuel, which is at least honest" will result in the business of illegal handbook operators being "more prosperous."⁵⁸ This claim was supported by the Border Cities Star; the Windsor daily reported that Raney would never discover the true amount bet in Ontario because the majority of it would be done with handbook operators or in illegal pool-rooms.⁵⁹ Predicting a "harvest for the handbook men" who had already been operating unabated behind storefronts and along backstretches, the Star complained that the tax was nothing more than a "direct incentive to handbook men to open for business downtown or across the river."

An Ontario Provincial Police report confirmed that off-track betting operations were in place at Windsor. Such operations were discovered after a bookmaker named R.J. Kieth, along with some associates from Detroit, had been convicted of conducting syndicate style betting in some of the smaller tracks in Southern Ontario. As well, there was also a report of two gambling houses in Amherstburg. Moreover, the Detroit News complained that Michigan anti-gambling laws were rendered impotent because racing operations in Windsor supplied betting information for Detroit pool-rooms. This was especially disastrous for one Detroit "waster" named Raeburne Besse

⁵⁸ Saturday Night, 17 June 1922, p. 1.

⁵⁹ Border Cities Star, 20 May 1922, p. 3.

who supposedly drowned himself and his two little boys because of his betting losses. Mrs. Besse was reported to have said: "If my husband had not been the victim of the race track gambling evil we would be here today, happy in our home." Not known for its pity, Saturday Night declared "a waster is a waster."⁶⁰

As could be expected, the "race mongols of Windsor" were expecting trouble; Hendrie was the first to write to Raney to request assistance.⁶¹ Raney's promise to crack down on "such men"⁶² was of no use; Hendrie wrote back less than a month later appealing for some "adequate protection from the great number of handbook operators who do business in Windsor;" a "class of men" who were a "general menace to racing," and of which he was "entirely unable to cope."⁶³

✓ The five percent tax was considered to be the prime reason for a decline in gate receipts and a \$12,000,000 reduction in the amount wagered across Ontario and \$7,666,989 in Windsor in 1922.⁶⁴ Reacting to the decline, the Canadian Sports and Daily Racing Form noted that the tax had only stopped wagering at the tracks and as a result opened the way for handbook operators

⁶⁰ Regarding illegal betting read OPP Inspector Greer to OPP Commissioner H.M. Elliot, 17 June 1921; L.W. Reid Pastor of the Wesley Methodist Church in Amherstburg to OPP Superintendent Joseph E. Rodgers, 8 January 1918, Ontario Provincial Police File, RG 23 Series E-46, PAO; Regarding complaints in the Detroit News read Saturday Night, June 10, 1922 37 (32) p. 1.

⁶¹ G.M. Hendrie to W.E. Raney, 11 July 1922, Department of Treasury and Economics, Departmental Secretary File, PAO.

⁶² W.E. Raney to G.M. Hendrie, 14 July 1922, Department of Treasury and Economics, Departmental Secretary File, PAO.

⁶³ G.M. Hendrie to W.E. Raney, 8 August 1922, Department of Treasury and Economics, Departmental Secretary File, PAO.

⁶⁴ Pari-mutuel Pools, 1921-1923. Journals of the Legislative Assembly, 1925 p. 220:

	1921	1922	1923
WIC	8,219,877	6,038,468	No meet
KIC	6,932,477	4,629,672	4,640,882
WRA	7,445,708	4,263,733	3,685,563
TOTAL	22,598,062	14,931,873	8,326,445

and off-course betting which was harder to police.⁶⁵ Moreover, the Racing Form judged the tax to be nothing more than a "confiscation of all possible profit;" warning that "unless there is a modification of the rate imposed [this taxation was] almost sure to deal a death blow to the Canadian turf."

Perhaps many of the shareholders in the WJC thought such a blow had already been dealt, when they heard that Hendrie and the executive of the association passed a resolution in March of 1923 which read:

That under existing conditions as regards to taxation of race tracks in the Province of Ontario the Windsor Jockey Club will be unable to hold its regular meetings.⁶⁶

Even the Solicitor to the Provincial Treasury admitted that in addition to "general business conditions," the "heavy taxation" had forced the WJC to close for the season because it had encouraged the heavy bettors to wager away from the track. The management at Devonshire and Kenilworth Parks figured it better to operate than leave "the costly [tracks] to go the the 'bow wows'." Kenilworth paid the tax under protest and filed for a fiat to take the matter to the courts. The fiat was not granted because the five percent tax was levied against the punter, not the track.

While the WRA was not forced to close its gates, the five percent tax played a large part in almost forcing the association into bankruptcy. Unlike its influence on operations at Jockey Club Park, however, the effect of the five percent tax at Devonshire Park was compounded by a program of extravagant promotional policies implemented by its managing director; Bradley Wilson.

⁶⁵ Canadian Sports and Daily Racing Form, 30 October, 1922; Woollatt Scrapbooks, Book 1, p. 15.

⁶⁶ Before the decision was made final, rumors had circulated suggesting "that the jockey club officials [were] holding off to the last minute in an effort to force the Canadian government to slash the taxes on the tracks." Woollatt Scrapbooks, Book 1, p. 6, UWA; W.A. Hanrahan to Peter Smith, 15 March 1923, Department of Treasury and Economics, Office of the Minister General Subject File, PAO.

Wilson was completely absorbed in a project of operating Devonshire Park "much like Belmont Park ... on an extravagant scale with a beautiful atmosphere." Upon receiving "assurance of the permanence of the sport" in Windsor, Wilson spent thousands; whole heartily engaging his "'red' movement against the powers that be on the 'big line' Canadian circuit."⁶⁷

Apparently, Wilson was backing up some of the rhetoric of "improv[ing] the caliber of racing and giv[ing] patrons the best possible entertainment" spewed forth during the 1919 Racing inquiry. Representatives of the horsemen were invited to view the races from the judge's stand and liberal purses of \$3,000 were routinely awarded with none less than \$1,200.⁶⁸ Perhaps Wilson's most important innovation was the introduction of the "Bowie" system of pari-mutuel betting whereby the total number of tickets sold on each entry were exhibited before each race. The system was dependent on the installation of a "totalizator" which displayed total money bet in each race and how much was bet on each horse "up front" in full view of the forty-seven pari-mutuel wickets and grand stand. The advantage of which was that the "public" was given the "fullest possible information" as to their odds of winning. During the criminal prosecution of the WRA in 1920, OPP Inspector Greer testified that the "Bowie" system was a "great advantage to the public [and] the best system [he knew of], anyway."⁶⁹

⁶⁷ Border Cities Star, 14 May 1920, p. 3; 20 August 1920, p. 10; Collyer's Pocket Manual, 1925, Woollatt Scrapbooks, Book 1, p. 11, UWA.

⁶⁸ At the end of the season, horsemen rewarded Wilson for his generous purses by giving him a trophy. Border Cities Star, 15 June 1920, p. 3; 2 September 1920, p. 10; 9 September 1920, p. 12.

⁶⁹ After an automatic board was developed in the mid-1920s the "tote" used at Devonshire was dubbed an "impossible odds" board. OPP Constables James P. Smith and Jos. P.M. Hannah to OPP Commissioner H.M. Elliot, 6 July 1920, Ontario Provincial Police File, Series E-23 Box 1, PAO; Border Cities Star, 25 May 1921, p. 11; D. Epps, "Canadian Racing - Wither?" Maclean's Magazine, 1 March 1928, p. 9, 31.

The one hundred forty thousand patrons who wagered over \$5,600,000 during the 1920 season seemed to have appreciated it as well.

The following year, after transforming the clubhouse "into a palatial headquarters for societies best," and spending a total of \$350,000 on renovations designed to accommodate the betting public with every convenience, Wilson was on the verge of realizing his dream of managing the "Epsom Downs of Canada."⁷⁰ To entice competitors and spectators from Toronto, New York, and Kentucky, Wilson organized the inaugural running of the International Handicap for a purse worth \$20,000.⁷¹ Knowing full well that the association would be distributing \$40,000 on that one day, and not expecting more than \$30,000 in revenue, Wilson was prepared to incur short term losses in anticipation of creating "atmosphere on a theratrical [sic] scale." When the track closed for the 1921 season Wilson discovered that a record \$7,445,708 had been wagered. Despite the unprecedented volume, now that the industry was bound by the fixed rates of commission set down in the Criminal Code, the WRA was only allowed to deduct a graduated percentage of the \$7,445,708 bet. Wilson was quickly realizing that atmosphere was expensive, an expense "the stockholders at Belmont [were] willing to sacrifice," but too demanding for those local investors who held stock in the WRA.⁷²

The 1922 season was even worse; Wilson later recalled that the Drury "Government hit into us with both hands that year, and I was disgusted. I

⁷⁰ Border Cities Star, 30 July 1921, p. 17; Woollatt Scrapbooks, Book 1, p. 45, UWA.

⁷¹ The grandstand at Devonshire Park only seated five thousand, but more than twenty-six thousand overflowed into the infield (all paying \$3 to enter). A Canadian record was established that day which was not broken until 1941. This record afforded the WRA an opportunity to declare Devonshire Park the "fastest mile track in Canada." Hewitt, Down the Stretch, 154-55.

⁷² Woollatt Scrapbooks, Book 1, p. 45, UWA.

was ready to quit. I was glad when I took the ferry away from here." It was "the increased taxes imposed" under the provisions of the CTA, that Wilson blamed for his retirement. Because the five percent tax "necessitated the cutting of purses and wages at the track," Wilson contended that it "prohibit[ed] the sport being played in a fair and clean manner."⁷³ Wilson explained that with a \$20,000 reduction in purses, it was "impossible to bring in a proper class of horses." Even if Wilson was genuinely concerned with the quality of racing, the fact remained that he had lost the confidence of the track's creditors and was on the verge on abandoning the \$1,000,000 "Diamond D."⁷⁴

Faced with the possibility of bankruptcy, the directors of the WRA took it upon themselves "to appoint in an important executive capacity some substantial citizen who would restore the confidence of the community in the enterprise."⁷⁵ William Robinson Woollatt, a respected and established businessman, was considered "substantial" enough and was subsequently appointed managing director.⁷⁶ Upon the appointment, a writ issued by some of the association's creditors was withheld. The majority of the creditors reasoned that the only way to receive payment of the \$250,000 owing

⁷³ There being reports of "pepped-up" horses and "dog" races. Border Cities Star, 10 July 1922, p. 12.

⁷⁴ Ibid., 22 August 1922, p. 3.

⁷⁵ Woollatt Scrapbooks, Book 1, p. 45, UWA.

⁷⁶ The year before, Wilson, in an effort to rid the track of its ill-gotten title, "Dirty Devonshire," convinced the directors of the association that it would be advantageous for a "local man to hold the post" of president. Deemed to be "one of those rare birds who really likes racing for its own sake and not for the money he can make out of it," Woollatt's persona was judged ideal for serving as a "dummy" president for the WRA. Woollatt had served as an agent for a variety of corporations, was the President of a construction company and Canadian Greyhound Lines, and Director of the Border Cities Chamber of Commerce. Regarding business connections and exploits as a "sportsman" read F.X. Chauvin, Men of Achievement: Essex County, (Windsor: Curtis, 1929), 36. Detroit Times, 29 June 1932; Woollatt Scrapbooks, Book 2, p. 4; Book 4, p. 33; Book 8, pp. 73, 81, UWA; Border Cities Star, 30 July 1921, p. 17; 9 September 1931; 5 May 1934; Western Ontario Sports Illustrated, September-October 1935, p. 48.

them was to allow operations to continue under Woollatt; the new managing director promised to repay debts before accepting a salary or payments due him personally.⁷⁷ After only two days as manager, Woollatt was handed a demand-note from the Dominion government for \$97,000 incurred during the 1920 season.⁷⁸

At the conclusion of the first season under his management, Woollatt was forced to explain to the Provincial Treasurer why the cheque he sent to pay taxes bounced.⁷⁹ Believing that the poor attendance at the first meet was due to the \$3 admission tariff, he wrote that the second meeting, after the tariff was reduced to \$2, was even worse.⁸⁰ The central problem was not the admission tariffs, however, but rather the handbook operators who had flocked to the track "in swarms." One bookmaker, Woollatt reported, was confident enough to approach a WRA director and boast that he would be receiving "a three percent commission on all the money he could pick up on the grounds." With such men, Woollatt complained, the Pinkerton guards and Special OPP constables were "powerless." As a result, the novice manager claimed that "pari-mutuel play was down by fifty percent." With three seizures made by the sheriff during the meeting, Woollatt was forced to pay impatient creditors or face the possibility of losing the track. "Because of the

Canada Daily Running Horse, 30 March 1928; Border Cities Star, 30 March 1928; Woollatt Scrapbooks, Book 2, pp. 2, 20, UWA.

⁷⁸ The Criminal Code amendments adopted in June of 1920 were not brought into effect by cabinet council until 1921 when the RCMP was finally prepared to inspect the operation of the pari-mutuel machines. This in effect meant that the associations could go on deducting from the pari-mutuel pools whatever percentage its directors considered reasonable. When the amendments did come into effect the the associations had to pay the Dominion Government any excess deductions taken in 1920. Globe, 6 May 1921. RCMP Commissioner to Hon. Dr. Tolmie (Minister of Agriculture), 30 April 1921, Ministry of Agriculture, PAC.

⁷⁹ W.R. Woollatt to Peter Smith, 11 September 1922, Department of Treasury and Economics, Office of the Minister Taxation Correspondence, PAO.

⁸⁰ Despite reports stating that attendance had increased with the reduced tariff. Border Cities Star, 28 August 1922, p. 13.

tax situation," Woollatt explained, he could not offer WRA stock as collateral to settle outstanding debts, nor could he sell any land because the property was leased.⁸¹ In fact, by January of 1923, Woollatt had rendered himself liable for over \$100,000.⁸²

No doubt it was clear to Hendrie, Woollatt *and* Orpen that it was the "exorbitant government tax" and the handbook operators, that were responsible for concomitantly forcing the WJC to shutdown in 1923, pushing the WRA deep into the red, and causing a \$2,302,805 decrease in the volume of betting at Kenilworth Park. Recognizing the strike-back by the handbook operators, but unwilling to rescind the five percent tax or reduce the daily licence fees, Raney attempted to suppress illegal racetrack gambling by banning the communication of betting information.⁸³ Early in 1923 the Legislative Assembly enacted Raney's Betting Information Act (BIA).⁸⁴ The Act prohibited the publication and dissemination of any information from the US or Quebec pertaining to racetrack betting.⁸⁵

Millar of the KJC supported the measure believing, theoretically, that the BIA would increase pari-mutuel betting. In practice though, Millar

⁸¹ The Provincial Treasurer took pity on Woollatt; the WRA was given to May of 1923 to pay the debt plus five percent interest. Woollatt ended up paying \$17,000 of this own money to cover this expense.

⁸² After personally borrowed \$25,000 to pay creditors Woollatt was obliged to mortgage his Walkerville home in the sum of \$12,000 to meet the payments. It was said that up to \$300,000 in debt was accrued under Wilson. Collyer's Pocket Manual, 8 September 1923; Canada Daily Running Horse, 30 March 1928, Border Cities Star, 10 February 1928; Border Cities Star, 30 March 1928; Woollatt Scrapbooks, Book 1, p. 9; Book 2, p. 20; Book 3, p. 37, UWA; Ontario Weekly Notes 34 (1928), 277-278.

⁸³ When the Niagara Racing Association which operated the Fort Erie Track requested that OPP constables be allowed to work for the association its request was denied. There had been an order issued from the Office of the Attorney General that year not allowing any constables to be hired by the associations for extra security. J.E. Rogers (OPP Superintendent) to Joseph E. Martin, (Secretary of the Niagara Racing Association), 3 August 1921, Ontario Provincial Police File, Series E-23 Box 1, PAO.

⁸⁴ Ontario Statutes 1923.

⁸⁵ Canadian Annual Review, 1923, p. 528; Border Cities Star, 16 July 1923, p. 3.

doubted Raney had the power to enforce the measure.⁸⁶ In fact, upon passage of the BIA, Raney was faced with the same types of problems he experienced when enforcing the Ontario Temperance Act.⁸⁷ According to Saturday Night the effect of the law was:

... to create a new crime and new crop of criminals. While the law had only been in effect a few weeks the business of bootlegging racing forms had become an organized trade.⁸⁸

In August of 1923, the BIA was declared *ultra vires* on the grounds that the regulation of betting information was "not a case of the Dominion occupying part of the field and leaving the other part open to the Province to occupy. It [wa]s rather a case of the Dominion dealing fully with the subject."⁸⁹

To deal "fully with the subject" was what the Minister of Justice, Lomer Gouin, intended to do. In March of 1923, Gouin introduced an amendment to the Criminal Code similar to Raney's BIA. Gouin's original amendment passed the Lower House, but was reduced to prohibiting the importation of distinctively racing and betting sheets in the Senate.

By 1925, it was readily apparent to the majority of the MPs that:

[T]he evil to-day is not that of the race-track as conducted in Canada. The crying evil that we have to-day is the practice of hand-book betting.⁹⁰

⁸⁶ The constitutionality of a measure similar to the BIA was discussed in 1915 in regard to the legality of the Daily Racing Form. What law makers were forced to consider then was the fact that practically the same information that was published in the Form could be found in any major newspaper. Border Cities Star, 29 June 1923, p. 1; Correspondence between Crown Attorney of Ottawa and Deputy Attorney General, 16 August to 21 October 1915, Office of the Attorney General, Series 4-32 1434, PAO.

⁸⁷ Oliver, Public and Private Persons, 87.

⁸⁸ Saturday Night, 25 August 1923, p. 1.

⁸⁹ Ontario Law Reports 54 (1923), 502; W.F. Nickle (Attorney General of Ontario) to R.W. Craig (Attorney General of Manitoba), 15 February 1926, Office of the Attorney General, Series 4-32 568, PAO.

Hansard, 1923, p. 654.

Accordingly, the new Minister of Justice, Earnest Lapointe, attempted to extend the 1923 legislation to "shut off the supply" of all advance information (tips, betting odds, racing forms, odds, entries and prices), thought to be the "bread and butter" of handbook operators.⁹¹ The use of these materials was especially evident at the three Windsor tracks where OPP Inspector Greer observed, both inside and outside the grounds, numerous vendors selling this advanced information.⁹² To be sure, it was at the "very distinct increase [in the] hand-book evil" that the 1925 amendments were aimed. To the chagrin of the chartered racing associations, the original amendment, as in 1923, passed the Commons, but was rejected in the Senate.⁹³

Without federal or provincial legislation to protect the tracks from the "swarms" of handbook operators, the consequences of Raney's taxation structures became increasingly pronounced. As the volume of pari-mutuel betting declined, the structural limits of the capitalist state in bringing about reform, when capital is necessarily destroyed in the process, were rapidly illuminated.

Though the taxation structures imposed by Raney were a testament to post-war reconstruction, it was reform "radicalism" fostered during this period which eventually fractured the movement during the twenties. Calls by factions within the reform movement to base society's "new order" on cooperation instead of competition provoked assaults from outside and

⁹¹ Woollatt Scrapbooks, Book 1, p. 12, UWA; Hansard, 1923 p. 3538; Saturday Night, 14 March 1925 40 (17) p. 1.

⁹² Greer reported to the Deputy Attorney General that the sale of this information constituted a "decided nuisance." W. Greer to E. Bayly, 13 October 1925, Office of the Attorney General of Ontario, Series 4-32 2894, PAO.

⁹³ Perhaps the Senate was not prepared to pass the 1923 and 1925 amendments because the information that the Acts were designed to suppress could be found in any major newspaper.

inspired sectarianism within.⁹⁴ The most radical factions broke with Methodism to form "labour churches." Others compromised; "from almost total victory in the prohibition fight at the end of the war, [there was a] gradual slide toward government regulation in the early twenties."

The splintering of the movement rendered reformers impotent to arouse widespread support for the suppression of racetrack gambling. For example, after Gouin introduced his betting information amendment, he unintentionally set the stage for a reenactment of the Miller Bill debate. W.C. Good, a Progressive Party MP, and "ardent proponent of prohibitive legislation as devices of moral and social reform" introduced a resolution to Gouin's amendment which called for the repeal of the Miller Bill.⁹⁵ In addition to informing Parliament that there was "nothing new" in the motion by Good, the Minister of Justice vehemently argued that there was "actually no agitation in this country for so radical a change as the one which is proposed."⁹⁶ After a lengthy debate in which evidence from both the Miller Bill debate and the Rutherford Commission was represented in either support or opposition to racetrack gambling, Good's resolution was defeated

⁹⁴ For example, included in the 1922 CTA amendment was the imposition of a \$15,000 per annum tax on all liquor export companies. Moreover, the mid-1920s were witness to the death of J.G. Shearer and the loss of the "evangelicalism and confidence in belief" practiced by the Presbyterian and Methodist churches (when they became one in the United Church of Canada). Regarding the CTA amendment read Globe, 28 April 1922; Regarding the splintering of the reform movement read Allen, "The Social Gospel," 292; Idem, The Social Passion: Religion and Social Reform in Canada, 1914-1928, (Toronto: University of Toronto Press, 1973), 345-347; Robert Bothwell, Ian Drummond, J. English, Canada, 1900-1945, (Toronto: University of Toronto Press, 1987), 196, 280; Ridout, "Methodist Church (Canada)," 6.

⁹⁵ In 1922 a similar W.C. Good amendment was not discussed despite lobbying by the SSCC. A.A. Hudson to MacKenzie King, 23 May 1922, King Papers, PAC; regarding the Progressive Party of Canada read Allen, The Social Passion, 349.

⁹⁶ This was an opinion with which Prime Minister King agreed. Accordingly, he instructed Liberal MPs to be in the House to defeat the motion. Memorandum, 22 February 1923, King Papers, PAC; Hansard, 1923, p. 739.

ninety-six to seventy-six.⁹⁷ Similarly, Lapointe's 1925 amendment offered Good another opportunity to wipe out racing all together; yet after another long debate, Good's resolution was voted down ninety-two to seventy-seven.⁹⁸ With the 1921 electoral success of the federal Progressives, both the 1923 and 1925 votes had been relatively close. The consequences of the reform movement's fractionalization, however, was reflected in the inability of the SSCC to interest the *public* in condemning racetrack gambling which may have swayed the opinions of the necessary MPs. The impotence of the reform movement left Raney's taxation structures open for attack.

After the BIA was declared *ultra vires* and the 1923 Criminal Code amendment was left toothless, handbook operators practiced their trade unabated. Understandably the taxation crisis became increasingly pronounced as betting volume and gate receipts continued to decline.⁹⁹ While one entrepreneur who sold automatic totalizators considered the "diminishing turnover and revenue ... [to be] a reflection of the dissatisfaction of the racing patrons in the information given and the odds paid by the present [pari-mutuel] methods,"¹⁰⁰ the Canada Daily Running Horse clearly placed the blame on the "Drury-Raney [tax] combination," and predicted that

⁹⁷ Eighty percent of the Progressive MPs supported the resolution introduced by Good. The MPs for South and North Essex were either vacant (NE) or not recorded (SE). SSCC, "Our Legalized Betting Houses," Social Welfare, 1 April 1923, p. 147. SSCC, Minutes of the Legislation Committee of the Social Service Council of Canada, 28 September 1923, PAC.

⁹⁸ Hansard, 1925 p. 652, 654-655, 699; SSCC, "Criminal Code Amendments Sought," Social Welfare, 1 February 1925, p. 97; M. Bradford, Recent Social Legislation in Canada, (Toronto: SSCC, 1926), 21.

⁹⁹ Border Cities Star, 23 July 1924, p. 1; Journals of the Legislative Assembly, 1926, p. 135.

¹⁰⁰ F.A. Drake to Attorney General, 4 March 1925, Office of the Attorney General, Series 4-32 838, PAO.

"unless there is some redress, the racing associations will not be able to carry on very much longer."¹⁰¹

The dire outlook of the Running Horse was no doubt influenced by the decision of the WJC not to hold its fall meeting in 1926. When the WRA and KJC reluctantly confirmed dates for fall meetings "knowing they would face deficits," the associations were praised for their part in "keeping [the] district on the turf map of the continent." Furthermore, the cancellation at Jockey Club Park incited commentaries intended to refute claims that the racing associations extracted enormous amounts of money from the local economy.¹⁰² On the contrary, turf advocates argued:

[W]here racing takes place, money is plentiful and is kept in circulation, which is necessary for prosperity, as any economist would admit ... if racing is killed in Ontario in general or on the border in particular, these communities will be dealt a blow that will be extremely hard to recover from.¹⁰³

In an attempt to ensure that such a blow would never be dealt, the CRA, Orpen, and Woollatt petitioned the Ferguson Government to eliminate the five percent tax and \$7,500 daily license fee. In each case, alternatives offered to replace the existing structures varied between each promoter. For example, when Woollatt suggested that a per capita tax be collected on admission tariffs in place of daily licence fees, Orpen and the CRA opposed the plan and advocated alternative policies.¹⁰⁴ Though a corporate lobby was clearly nonexistent, Ferguson felt compelled to do something after the 1926 season when the WRA and the KJC paid \$268,861 and \$275,012 in taxes, derived only

¹⁰¹ Canada Daily Running Horse, 3 December 1926, Woollatt Scrapbooks, Book 1, p. 51, UWA.

¹⁰² Woollatt Scrapbooks, Book 1, p. 6, UWA.

¹⁰³ *Ibid.*, Book 1, p. 16.

¹⁰⁴ For example Orpen was opposed to lowering admission tariffs. In 1925 and 1926 the KJC paid its taxes under protest; denouncing the "taxation imposed [as] confiscatory." A.M. Orpen to Dunlop, 25 August 1926, Department of Treasury and Economics Office of Minister Taxation Correspondence, PAO.

\$208,355 and \$203,427 from betting revenue, and reported to the Treasury losses of \$28,733 and \$21,118 respectively.

The following March, while the Premier was not willing to abandon the revenue derived from the five percent tax, he was prepared to amend the Supplementary Revenue Act (SRA) so as to lower the daily license fee from \$7,500 to \$5,000. Even this modest reduction met ardent objections by Raney who pointed out that despite the fact that the WJC reaped over \$1,100,000 in profit since 1923, it had not helped the breeding industry in any way.¹⁰⁵ Not understanding why Ferguson was sacrificing approximately \$350,000 in revenue for an "enterprise ... driven out of many states in the union by public opinion and legislation," Raney appealed to the Premier to let the unprofitable clubs close; for "financially and morally, the people of the province of Ontario would be better off."¹⁰⁶

To do so, Ferguson maintained, would be a trespass on federal jurisdiction because so long as the Dominion government authorized racetrack gambling he could not "eliminate, suppress or prohibit it." By attributing the decrease in pari-mutuel wagering, attendance, and the cancellation of scheduled meetings to the excessive taxation, Ferguson intimated that his government was close to eliminating the racing industry by prohibitive taxation.¹⁰⁷ The Premier had come to realize that, as Sears contends, the capitalist state "can exceed the limits of capital only at the cost of provoking economic and political crisis."¹⁰⁸ To be sure, the provincial Controller of Revenue had warned Ferguson in an internal memo that

¹⁰⁵ Raney had retained his seat in the Legislature after the fall of the Drury administration in 1923.

¹⁰⁶ Globe, 27 March 1927.

¹⁰⁷ *Ibid.*

¹⁰⁸ Sears, "Health of Nations," 20-21.

taxation must be imposed only for obtaining revenue not for the purpose of putting racetracks out of business.¹⁰⁹ Fearing that eventually one of the racing associations would initiate legal proceedings to test the constitutionality of the taxation structures, the SRA amendment carried.

Unlike the two previous crises, the 1926 crisis did not revolve around an immediate question of legality, nor had it been precipitated by the rapid expansion of the industry. While the crisis reflected the basic promoter-reformer antagonism, its 1926 manifestation must on the surface be attributed more to the handbook operator, than to the influence of an immediate moral reform campaign (which by the late 1920s had fragmented). In contrast to 1909 and 1919, the 1926 crisis was preceded by a five year decline in the volume of betting. And again unlike the Miller Bill debate and Rutherford Commission, which transpired amidst explosive contexts of working-class resistance and fervent moral reformism, the 1926 crisis occurred during a period of mass consumerism in which labour "radicalism was on the wane."¹¹⁰

Though the 1926 breaking point was not *immediately* preceded by rapid growth, working-class resistance, or a question of legality which had preceded the 1909 and 1919 crises, it was nonetheless a consequence of the basic promoter-reformer antagonism and reflected the wider capital-labour contradiction inherent to bourgeois culture; in that the appointment of Raney as the Attorney General was a testament to the pervasiveness of post-war reconstruction. Indeed, it was the unintended consequences of Raney's tenure as Attorney General that facilitated the strike-back by the private

¹⁰⁹ White to Dunlop, 17 March 1927, Department of Treasury and Economics Office of Minister Taxation Correspondence, PAO.

¹¹⁰ B.D. Palmer, Working-Class Experience, 219-220.

handbook operators. Furthermore, the five percent tax had become a source of state revenue that the Ferguson Government was not willing to give up. To be sure, the relationship between the agenda of the state and the viability of the industry had been profoundly altered by the contingencies of Raney's agency.

In 1927 there was an increase in wagering and attendance across Ontario in general, and in Windsor in particular.¹¹¹ While a reduction in the daily tax would save each association \$35,000 per year (perhaps temporarily staving off bankruptcy for those tracks on the brink of collapse), the response by the Ferguson Government did nothing to temper the "handbook evil" which struck at the jockey club's principle source of revenue; volume of pari-mutuel betting. It ought not be unexpected that the next year, Dr. Joseph Montieth, Provincial Treasurer, report a decrease in total attendance, betting, and revenue across the province (except at the Jockey Club Park which showed an attendance increase of close to twenty thousand and betting increase of close to \$51,000).¹¹² Collyer's Pocket Manual reported that the decrease at Devonshire Park could be explained by the "heavy taxation." Related to this, because of depressed pari-mutuel play and thus a larger "take" by the association, dividends paid on winning tickets were "exceedingly

111	1926		1927	
	Wagering	Attendance	Wagering	Attendance
WJC	2,149,495	43,409 (7 days)	3,161,402	58,596
KIC	3,005,691	54,811	3,064,690	55,114
WRA	3,109,125	57,557	3,450,492	79,106
Total	8,264,311	155,777	9,676,584	192,816

Memorandum Box 3, Department of Treasury and Economics, Office of Deputy Minister General File, PAO.

¹¹² The increase had much to do with Woollatt promoting racing at the WJC that summer. Border Cities Star, 22 July 1928; Woollatt Scrapbooks, Book 2, p. 20, UWA.

small;" this in turn undermined the confidence of the public, and led to "apathy on the part of horsemen."¹¹³

Moreover, a decision by Woollatt not to build a fourth track near Lasalle "unless [the taxes] change considerably" (after an American syndicate offered "unlimited financial backing" and a bridge and tunnel were to be built), attests to how inhospitable the tax structures remained after the 1927 SRA reduction.¹¹⁴ In fact, Woollatt was of the opinion that Canadian racing could "not be put on a paying basis under the present system of taxation".¹¹⁵ Although illegal on-track bookmaking would be modestly curtailed by betting innovations introduced by Woollatt, the fact that the five percent tax remained unaltered allowed handbook operators to plague the industry in Windsor until the last race there in 1936. For instance, seeking relief, Orpen wrote the Provincial Treasury complaining of the illegal competition from bookmakers which had "continued to grow and prosper." The complaint by Orpen was echoed by Woollatt who maintained that the "greatest menace we have right now [1935] is the twenty-five cent bookies who take the women's household money and the ladies do not even get a chance to see their horse run." Nothing, however, was successful in rectifying the situation.

An attempt was made in 1930; in that year, the Minister of Justice Lapointe sought to enact legislation prohibiting the publication of betting information similar to that proposed in 1925. His efforts were thwarted once again; not in the Senate as in 1923 and again in 1925, but by the electorate who replaced MacKenzie King's Liberals with Bennett's Conservative Party.¹¹⁶ An

¹¹³ Collyer's Pocket Manual, August 16, 1928; Woollatt Scrapbooks, Book 1, pp. 43,46; Book 2, p. 20, UWA.

¹¹⁴ Border Cities Star, 19 July 1928; Woollatt Scrapbooks, Book 1, p. 22, 45.

¹¹⁵ Collyer's Pocket Manual, 18 July 1930; Woollatt Scrapbooks, Book 3, p. 37.

¹¹⁶ Hansard, 1930, p. 2062, 2742.

attempt was made at the provincial level in 1935 when J.J. Glass, MLA, introduced an amendment similar to Raney's BIA, designed to curtail handbook operators. Woollatt considered it a "futile plan [that] would never stop people betting on races in the United States;" adding "This whole matter is one for the Federal Parliament and outside the jurisdiction of the Ontario legislature." Orpen regarded the plan by Glass as "silly;" believing the proposal to be *ultra vires*; and disapproving of any legislation that "muzzles the press."¹¹⁷ The Glass amendment was discharged.

The fact that neither Ferguson, nor his successors, were ever persuaded to adjust the five percent tax (which had become an important source of provincial revenue) attests to the failure of the industry to mount a corporate response to the taxation crisis. Instead, "Independents" like Woollatt and Orpen proposed individual solutions to the government, while "Association" tracks like Jockey Club Park offered their own. It was this sectarianism that impeded corporate activity necessary to secure significant tax reductions. This failure, in conjunction with other unintended consequences of actions by Raney during his tenure as Attorney General, an economic crisis, and market collapse would eventually prove fatal to the viability of the industry in Windsor.

Before this *final conjuncture* is addressed, however, the debates surrounding the fate of Jockey Club Park must be considered. What this descent into the discourses inspired by operations at Windsor's original track demonstrates is that even though the reform movement across the nation was in retreat, and high profile reformers like Raney or the SSCC were not directly involved, the rhetoric of moral reform continued to have disastrous

¹¹⁷ Border Cities Star, 9 February 1935; Woollatt Scrapbooks, Book 7, p. 4. Orpen to Premier Hepburn, Office of Minister General Subject Files, PAO.

effects on the industry in Windsor. Even though the debates surrounding the lease of Jockey Club Park (after it had been sold to the city) were complicated by questions of tax rates and the legality of particular regulatory boards, opinions expressed by City officials and a certain section of area rate-payers attest to the degree to which moral dissent pervaded representations of the racing industry in Windsor.

III-iii. The Jockey Club Park Debate: *Municipal Politics & the Rhetoric of Reform.*

Even without federal or provincial legislation to protect the WRA from the "swarms" of handbook operators, the popularity of Devonshire Park steadily improved under the management of Woollatt.¹¹⁸ It was not until 1927, however, that the WRA realized any profit. Even then Woollatt was forced to purchase overdue leases and property deeds for Devonshire Park with \$50,000 of his own money.¹¹⁹ Though Woollatt was assumed to be re-named manager after his contract expired, he must have decided enough was enough.¹²⁰ At an executive meeting later that year, a resolution was passed stating that the WRA owed Woollatt \$109,458 and ordering a demand-note for that sum be paid.¹²¹ At the same meeting, Wilson discovered that Woollatt

¹¹⁸ Wilson would later testify that Devonshire stock had increased under Woollatt. Even the National Turf Digest used a note from Woollatt as a promotional device. National Turf Digest, 23 February 1926; Woollatt Scrapbooks, Book 1, p. 18.

¹¹⁹ Woollatt had to purchase an addition \$16,000 worth of land to secure these agreements. Border Cities Star, 10 March 1928, p. 5; Woollatt Scrapbooks, Book 2, p. 20.

¹²⁰ Canada Daily Running Horse, 27 March 1928; Woollatt Scrapbooks, Book 2, p. 24

¹²¹ The courts later concluded that there was nothing to indicate that the directors were a front for an American syndicate or acted in anyway other than in the interests of the WRA.

had secured options on unissued treasury stock.¹²² Wilson later recalled that he considered Woollatt's actions to be:

... a move to block me ... I had purchasers who would have taken over that stock at a price that would have put the track on its feet. I came out of that director's meeting ready to cry, and when I'm ready to cry, I'm mad.¹²³

Wilson was apparently mad enough not to pay Woollatt; a decision which prompted Woollatt to sue the WRA. In early November, Woollatt recovered a default judgement from the WRA by Judge J.J. Coughlin. Claiming not to have been notified of the litigation, Wilson secured a Supreme Court injunction restraining the WRA from acting on the Coughlin judgement or any other agreements with Woollatt.¹²⁴

In March of 1928, Supreme Court Judge Rose named Coughlin as a special referee to determine the amount owing Woollatt. In the meantime the default judgement was to stand as security for Woollatt.¹²⁵ At the hearing, lawyers for Wilson stated that the WRA was planning to reorganize itself "when the present litigation was settled and that refinancing would provide sufficient funds to settle the obligation" owing Woollatt. After hearing evidence from both parties, Coughlin awarded Woollatt \$118,563 (over \$9,500 more than Woollatt had originally asked).¹²⁶ Insisting in a letter

¹²² Woollatt would later testify that it was largely his personal credit that kept the track from being seized by creditors and that he acquired voting rights on unissued treasury stock because "Wilson's stock had not been handed over to him until some time after the proxy was given and to protect himself in view of impending judgements against Wilson's stock, which might have resulted in seizure." The same reason impelled him to secure an option on treasury stock in 1925, believing it necessary to protect his interest in the business in the event of a collapse.

¹²³ Border Cities Star, 31 March 1928; Woollatt Scrapbooks, Book 2, p. 22, UWA.

¹²⁴ Mail and Empire, 20 November 1927; Woollatt Scrapbooks, Book 2, p. 20; Book 3, p. 37, UWA.

¹²⁵ Ontario Weekly Notes 34 (1928), 278

¹²⁶ Wilson had offered \$80,000, WRA auditors argued \$118,563. Almost a month earlier, the Provincial Treasurer Dr. Montieth initiated an audit of the WRA to determine the amount owing Woollatt if any. The auditors discovered that \$106,083 was owing Woollatt. Soon after Wilson wrote Montieth informing him of the "bad-faith" displayed by Woollatt;

to the Canada Daily Running Horse that he had not consented to be bound by the decision of the special referee (and that Coughlin erred in the amount granted), Wilson announced that the newly re-organized WRA would appeal the award.¹²⁷ The appeal was granted and the award reduced by \$4,209. In the spring of 1929, the final appeal entered by Wilson was quashed in the Supreme Court of Canada.¹²⁸ In the interlude between the initial 1928 award and the final 1929 judgement, Woollatt decided to lease Jockey Club Park after it had been purchased by the City of Windsor. He explained to a meeting of rate-payers who owned property around the Windsor track the reason why:

I don't know how you feel about racing, and that does not concern me. You all know how I got into the racing game. I can't get out of it until this suit over Devonshire is settled. If I get a cash settlement, then I am out.

Although the reform movement was indeed in retreat, it would be premature to conclude that the efforts of reformers like Raney and the SSCC was all for not. In fact, for the WJC, the response by Ferguson in regard to the taxation crisis (originally provoked by Raney) was not fast enough. In December of 1927 the rate-payers of Windsor passed a Bylaw which provided for the purchase of Jockey Club Park for \$685,442.¹²⁹ The track, clubhouse, and

perhaps in hopes of securing a favorable report. Bradley Wilson to Montieth, 26 February 1928, Department of Treasury and Economics, Office of the Minister General Subject File, PAO; Auditors Report, 25 February 1928, Department of Treasury and Economics, Office of the Minister General Subject File, PAO; Border Cities Star, 10 March 1928; 29 March 1928; 30 March 1928; Canada Daily Running Horse, 30 March 1928; Woollatt Scrapbooks, Book 2, p. 20; Book 3, p. 36, UWA.

¹²⁷ This did not stop Woollatt from applying for receivership in bankruptcy in April. Believing that Wilson did not intend to operate the coming season, Woollatt reasoned that the only way to safeguard his securities and previous judgement was be appointed trustee and manager of the WRA. At the twelfth hour J.W. Smith paid into court \$50,000 to stay the receivership suit by Woollatt. Border Cities Star, 11 April 1928; 21 April 1928; 23 April 1928; 8 November 1928; Woollatt Scrapbooks, Book 2, p. 22; Book 3, pp. 6, 42-43, UWA.

¹²⁸ Ontario Weekly Notes 34 (1928), 280.

¹²⁹ By-law No. 26 to confirm sale of property of WJC to city of Windsor and for the President and secretary of the club to sell for the sum of \$685,442. In 1919, the WJC property was worth \$750,000. Clarkson, Gordon, and Dilworth report on Ontario Race tracks 1917. Windsor Jockey Club Limited Schedule 'G', RG 14 D 2 Royal Commission in Racing Inquiry 65 (1920), File (6), Exhibit (17a).

stables were to be razed; in their place, Kennedy Collegiate and a municipal park were to be built. With construction not scheduled to begin until August of 1928, Woollatt approached City Council with plans to lease the track that summer; promising that the second meeting would be concluded by 28 July.¹³⁰ With \$20,000 for the taking, the Board of Park Management (being empowered by the Municipal Parks Act to lease the park) agreed to accept the offer by Woollatt.

Moral dissent surfaced upon news of the deal; Alderman Wesley Cowell pointed out in a letter to the Border Cities Star that the primary motive which justified the City purchasing the park "at a time of business and financial depression ... was to loosen the stranglehold" that legalized racetrack gambling had obtained upon Windsorites. Cowell wrote that the rate-payers of Windsor voted in favour of the By-law:

... with the avowed purpose and intent, expressed in no meaningless or ambiguous manner, that never again should the Sport of Kings and the Bankrupter [sic] of the Poor, flourish there - not for a season, not for a week, not for a day.¹³¹

The "Gambling is death to public welfare, and dangerous to public morals" message of the letter by Cowell did not convert the Editor of the Border Cities Star. Although acknowledging that "Windsor businessmen - and, for that matter, the citizens generally - are fairly unanimous on the point that two race tracks are sufficient," and agreeing that City Council should not encourage protracted racing seasons, the fact that the \$20,000 could be spent on lowering the tax rate was reason enough for the Border Cities Star to advise

¹³⁰ Canada Daily Running Horse, 27 March 1928, p. 3; Woollatt Scrapbooks, Book 2, p. 24, UWA.

¹³¹ Wesley Cowell changed his tune during the early years of the Depression when he suggested to Woollatt that the profits of one days' racing be turned over to Municipal welfare programs. Woollatt agreed if it was the fifteenth day of racing - an arrangement the Dominion government was not willing to allow. Woollatt Scrapbooks, Book 2, p. 20, 24.

the Finance Committee and Board of Education to accept the offer by Woollatt.¹³² Considering that formal plans had not been completed, and the money was earmarked to be used for tax purposes, the Board of Education was "brought on board" and the lease was approved. There were, however demands made by a minority of alderman who urged the lease question be reopened in hopes of securing up to \$50,000 for two weeks rental.

The outcome of the 1928 season was appropriately summed up by a New York sports writer; "All the Millionaires in Detroit, and all the Wisenheimers in Toronto and Montreal fail to disturb Willie Woollatt. It looks like he has this year's game at Windsor sewed up, so far as making money is concerned."¹³³ Indeed he had, since after "attract[ing] practically the same patronage [close to 80,000] which Devonshire enjoyed in 1927" Woollatt reaped some \$30,000 in profit whereas the WRA lost over \$67,500. While Wilson had proved "resourceful enough to tip up [the] angles" to operate one meeting, the creditors of the WRA were not willing to finance a fall meeting. After the 1928 season Wilson approached Woollatt and offered to sell sixty percent control of the WRA to him for \$100,000. Not daring to risk the settlement pending in the Supreme Court, Woollatt declined.¹³⁴ Instead, after conducting two lucrative meetings in 1928, he decided to lease Jockey Club Park for the 1929 season.

After tenders had been called to buy the old stables and demolish the rest of Jockey Club Park, Woollatt was quick to enter a bid. The offer entered by Woollatt, however, was not to tear the track down but to race on it. In

¹³² C.R. Tuson, Chairman of the Finance Committee, observed that the city should be compensated for the taxes it would have received from the WJC had it continued operating. Border Cities Star, 17 March 1928; 20 March 1928, p. 3; 29 March 1928, p. 3; Woollatt Scrapbooks, Book 1, p. 25; Book 2, p. 24, UWA.

¹³³ Border Cities Star, 21 June 1928; Woollatt Scrapbooks, Book 1, p. 23, 49, UWA.

¹³⁴ Woollatt Scrapbooks, Book 1, p. 45, UWA.

exchange for the 1929 lease he offered a one hundred and three acre farm in Lukerville suitable for a municipal golf course (about twelve miles from Windsor). When the Board of Park Management first considered the offer, Mayor C.E. Jackson (although considering the offer generous), voted to block the contract; believing the majority of the City Councilors would be opposed to the deal. For instance, Alderman Joshua Gitlin declared:

I was opposed to racing at the park this summer and my opinion has not changed any. Many of the people who voted in favour of the purchase of the park late in 1927, did, so I believe, because they wanted the area not only for a park and for school site, but also to do away with the track. It is not good business for the city to allow racing there another year.¹³⁵

Ernest S. Wigle of the Board of Park Management did not consider the opinion of Gitlin and any of the other councilors to be of any concern. Refusing to "bob up and sit down" for City Council, Wigle maintained (with the support of the City solicitor), that the matter was one solely for the Board of Park Management to decide.¹³⁶

In a blatantly hypocritical move (given that he served as a director of the WJC for over twenty years), Wigle declared that he "want[ed] to get horse-racing out of this community as soon as possible," but to reject the Woollatt agreement would be to no avail because Devonshire and Kenilworth would continue to operate until the Dominion government forbade it.¹³⁷ Wigle continued by arguing that the municipal golf course was one of the "most urgent needs" of the City; indeed it was considered by others to be a "civic necessity."¹³⁸ Chairman Muxlow of the Board of Park Management was more

¹³⁵ Border Cities Star, 7 October 1928; Woollatt Scrapbooks, Book 1, p. 50, UWA.

¹³⁶ Border Cities Star, 24 October 1928; Woollatt Scrapbooks, Book 3, p. 36, UWA.

¹³⁷ Wigle went on to predict that Windsor would "probably have races at Kenilworth and Devonshire for the next century." Border Cities Star, 19 October 1928, Woollatt Scrapbooks, Book 1, p. 50; Book 3, p. 9, UWA.

¹³⁸ Woollatt Scrapbooks, Book 2, p. 18, UWA.

interested in the municipal revenue¹³⁹ to be had than in eliminating racing from the community. Pointing out that plans to turn the track into a park had not been actually initiated, Muxlow was of the opinion that the City ought to collect as much revenue as possible until the school was completed and the park developed.¹⁴⁰

At the West Side Citizens' Association in early November, Woollatt provided a detailed description of both the proposal and Lukerville farm.¹⁴¹ Explaining to the membership that the lease was a "business proposition" and that he was not "giving the city anything for nothing," Woollatt made sure to point out that he was no "philanthropist" and the deal was "merely an exchange."¹⁴² After announcing that the citizens would be free to use the park, except during the fourteen days of racing,¹⁴³ Woollatt promised that work on the school would not be delayed and guaranteed contractors that he would indemnify them against possible damage, theft, or any losses resulting from workmen watching the races. Such assurances did nothing to temper opposition by those who held that the track was purchased to "rid the community of a portion of racing at least, the incubus of race track gambling ... being detrimental to the cities legitimate business interests and community welfare."¹⁴⁴ One Ex-alderman, S. Keyser even accused Mayor C.E. Jackson, of

¹³⁹ Later, Orpen was invited by dissenting alderman to enter a bid for the 1929 racing. Detroit Free Press, 15 November 1928.

¹⁴⁰ One Windsorite wrote to the Border Cities Star saying that the "Exchange is real economy", a "wonderful gift", and would probably be worth \$50,000 in five years. Woollatt Scrapbooks, Book 1, p. 50, UWA.

¹⁴¹ While Woollatt was not willing to disclose what he paid for the farm, it was reported by C.R. Tuson, Chairman of the Finance Committee, to be worth no more than \$10,300. Border Cities Star, 8 November 1928, Woollatt Scrapbooks, Book 2, p. 10, UWA.

¹⁴² On several other occasions, Woollatt was at least partially guilty of philanthropy. Border Cities Star, 8 November 1928; Detroit Times, 26 January 1933; Woollatt Scrapbooks, Book 3, p. 6; Book 4, p. 62; Book 5, p. 31, UWA.

¹⁴³ Detroit Times, 9 November 1928.

¹⁴⁴ Border Cities Star, 13 November 1928; Woollatt Scrapbooks, Book 2, p. 11, UWA.

delaying the vote in 1927 "so that not so many would turn out to vote" and others considered the dealings with Woollatt as "fast work."¹⁴⁵

To complicate the matter further, the fact that the Board of Education had already purchased eleven and one half acres of Jockey Club Park meant that the deal required its approval before being sealed. This raised immediate questions as to the legality of the Board of Education allowing racing on its property. While the majority of the trustees refused to vote until legal opinion was secured, the *immorality* of any involvement by the Board of Education was clear enough to Trustee Harding who argued that:

There was \$3,113,000 wagered at the jockey club this year - I am afraid there's a lot of little coats, shoes, and clothes in that. Our business is to elevate and educate, and I can't see any of that in horse-racing.¹⁴⁶

Opposition continued to mount as letters sent by contractors warned that the Collegiate might be delayed if racing was allowed. Even Trustee Ed Begley who had operated pari-mutuel machines at Devonshire Park opposed the deal on the grounds that racing would interfere with the construction of a new stadium. While such opposition seemed to represent an insurmountable barrier to Woollatt's plans there remained a chance that the Board of Education would consent to the lease after Wigle promised to consider reducing the price of the property by \$20,000. To consider its options, and provide Woollatt an opportunity to present "his side of story," the Board of Education scheduled a special meeting to be convened a few weeks later.¹⁴⁷

¹⁴⁵ Keyser argued that the City received \$20,000 from Woollatt in 1928 but had to spend \$44,000 to carry the track. He went on to suggest that the Lukerville farm was not suitable for a municipal golf course. Border Cities Star, 8 November 1928, Woollatt Scrapbooks, Book 2, p. 10.

¹⁴⁶ Mail and Empire, 15 November 1928; Woollatt Scrapbooks, Book 2, p. 10, UWA. Border Cities Star, 13 November 1928; Woollatt Scrapbooks, Book 2, p. 11-12, UWA

In the meantime the Board of Park Management voted four to one to accept the proposal offered by Woollatt.¹⁴⁸ In reaction a few aldermen concurred that the deal "looked pretty slippery;" one even accused Mayor Jackson of "ducking" the controversial vote to avoid having to take a stand. Verbal accusations were not sufficient for Alderman and mayoral candidate Clyde Curry who proposed that the Board of Park Management be abolished claiming that it "considers the interests of race track promoters more than it does those of rate payers."¹⁴⁹ While other alderman insisted that the most lucrative route for the city to adopt would be to accept cash in exchange for granting two weeks racing, the rate payers who lived in the vicinity of the park would not have anything to do with the deal; threatening, with the support of Curry, to issue a writ of injunction against the City if the offer was accepted.¹⁵⁰ Ex-Alderman Edward P. Holden, a resident of Victoria Avenue, explained that area rate-payers were "up in arms against any move that will hold up park development or the Collegiate. Having "waved objections [in the spring of 1928] because it was well understood that the City required the \$20,000," the situation was different given that during the last year, thirty-five new homes had been built by residents who assumed that they would be living next to a park and school.

As opposition continued to mount, Woollatt at the special BE meeting assured the trustees (after it had been determined that there existed no legal impediment to enter into the racing contract) that arrangements would be

¹⁴⁸ Chairman John Muxlow, Ernest S. Wigle, Gordon Morton, and Aaron Meretsky voted in favour of the lease and W.W. Lanspeary voted in the negative. Mayor Jackson and George Klosterman were not present at the vote. Woollatt Scrapbooks, Book 2, p. 12, UWA.

¹⁴⁹ Wigle reacted to the threat by Curry by declaring that "Mr. Curry was trying to get votes by appealing to a certain opposition in Windsor to horse-racing." Border Cities Star, 19 October 1928, Woollatt Scrapbooks, Book 1, p. 50.

¹⁵⁰ Woollatt Scrapbooks, Book 1, p. 50, UWA.

made to facilitate the work of the contractors.¹⁵¹ According to the Board Chairman, the assurances offered by Woollatt combined with promises made by Wigle, apparently swayed the majority of the trustees on side.¹⁵² Before a formal vote was registered, however, Trustee Begley received a phone call from City Hall saying that the Council had passed a resolution calling for a plebiscite to decide if the rate-payers were "in favour of permitting racing at the property known as the Windsor Jockey Club during the year 1929." The question was to be answered at municipal elections to be held 3 December 1928.¹⁵³ While the outcome of the vote was not legally binding on the Parks Board,¹⁵⁴ if the "people vote No" Alderman W.T. Westgate, sponsor of the plebiscite and mayoral candidate, promised that City Council would upset the lease by court injunction.

After the plebiscite was defeated by approximately twenty-one hundred votes,¹⁵⁵ the first motion entertained by the newly elected Board of Education was to put itself on record as being opposed to racing the coming summer and return the unsigned lease to the Board of Park Management.¹⁵⁶ The following March, the Board of Education unanimously authorized the construction of a new \$30,000 stadium; part of which akeed a portion of the track.¹⁵⁷ Solicitors for Woollatt claimed the Board of Education had no legal

¹⁵¹ *Ibid.*, Book 2, p. 18, UWA.

¹⁵² *Ibid.*, Book 2, p. 17, UWA.

¹⁵³ *Border Cities Star*, 27 November 1928; *Woollatt Scrapbooks*, Book 2, pp. 12, 14, UWA.

¹⁵⁴ *Woollatt Scrapbooks*, Book 2, p. 16, 18, UWA.

¹⁵⁵ *Border Cities Star*, 4 December 1928, p. 3.

¹⁵⁶ *Ibid.*, 14 December 1928; *Woollatt Scrapbooks*, Book 2, p. 15, UWA.

¹⁵⁷ *Border Cities Star*, 24 April 1929; *Woollatt Scrapbooks*, Book 2, p. 12, UWA.

power to authorize the construction of the stadium and warned that unless the existing contract was carried out, legal proceedings would be initiated.¹⁵⁸

Although an "internationally renown" developer of municipal parks reported that "the 1929 development program of the park need not be delayed by the proposal to allow two weeks racing," the threat of legal action by Woollatt drew considerable opposition.¹⁵⁹

It is one of the most disgraceful things I ever heard of. It's nothing but a gambler's game for a bunch of foreigners and the city becomes partner to it ... [by making] a gambling hole of something the city paid \$680,000 for.¹⁶⁰

The Border Cities Star, after noting that it was generally assumed that the summer season of 1928 was the end of racing at the jockey club, asked if Woollatt:

... would like to have his home looking out on such a picture as the jockey club premises now present? [In view of the plebiscite] how can Mr. Woollatt reasonably expect the Parks Board to go through with that agreement? Mr. Woollatt is ... a good sport, and the Star has no idea that he will launch legal action against the city in an endeavor to make this agreement function. Mr. Woollatt is not that kind of chap.¹⁶¹

To Windsor Fire Chief, C.J. DeFields, it did not matter whether Woollatt was "that kind of chap" or not. A Border Cities Star headline read

¹⁵⁸ Wigle attempted to have the deed being used by the Board of Education to build the stadium withdrawn by City Council; a plan the Council would have no part in. Wigle then sent a letter to the Board of Education which in part read: "The members of the Board of Park Management feel they were encouraged to enter into the contract with Mr. Woollatt by the unanimous approval of all members of your board who attended the formal meeting at the site where you are now building." Despite the assertion by Wigle, the Board of Education never signed a formal agreement and therefore was not legally bound to what some of its trustees may have verbally approved. Border Cities Star, 15 March 1929, p. 3; 20 March 1929, p. 3; 22 April 1929; 23 April 1929; Hamilton Spectator, 26 April 1928; Woollatt Scrapbooks, Book 2, pp. 12-13, UWA.

¹⁵⁹ Thomas Adams of New York advocated that some of the old buildings be retained as picnic shelters, and the old jockey club oval be developed into a sports complex capable of hosting international cricket and soccer matches. As well, he pointed out that the Lukerville farm would "prove a valuable possession in the immediate future." Woollatt Scrapbooks, Book 2, p. 16, UWA.

Border Cities Star, 23 April 1929; Woollatt Scrapbooks, Book 2, p. 12, UWA.

¹⁶¹ Mayor Jackson and Alderman Gitlin suggested that Woollatt was "too good a sport" to sue. Border Cities Star, 23 April 1929; Woollatt Scrapbooks, Book 2, p. 12, 16, UWA.

"Death Blow Against Racing" after DeFields declared the thirty-six year old track a fire hazard. The order (under the Fire Marshall's Act) which was to be carried out within forty-five days effectively ended the Jockey Club Park debate. The news was especially welcomed by those residents of Dougall, Victoria, and Pelisser Avenues who had invested some \$250,000 in new residences in the area of the park.

It was reported that it was these rate-payers (who had earlier threatened to pursue legal action if the contract had been ratified) that had petitioned City Council for a fire inspection of the grounds. This was confirmed in a report by DeFields which made it clear that his "action was not prompted or influenced by any member of any municipal commission, but that it was done to protect the interests of citizens."¹⁶² Wigle complained that with a watchmen at the track every night "there [was] no more danger there now, than there has been for the last ten years" and condemned the order as an act of political expedience. Woollatt decided not to take legal action; fearing "it would cause embarrassment to the City and friends." Instead, he collected the \$114,393 award from his suit against Wilson and the WRA the following May,¹⁶³ and decided to retire from the racing game, though not for long.

After Woollatt retired, the WRA vowed to continue on. Charles M. Hall succeeded John W. Smith as President of the association and Wilson stayed on as directing manager. That summer, Wilson organized the Devonshire Derby for \$20,000. Despite well published reports to be "the richest stake in the history of the Canadian turf," the Derby only attracted about six thousand patrons and the track lost over \$11,400. The fact that the

¹⁶² Border Cities Star, 25 April 1929; Woollatt Scrapbooks, Book 2, p. 12-13, UWA.

¹⁶³ Wilson decided against pursuing an appeal at the Privy Council, and instead delivered a cash payment 8 May 1929. Mail and Empire, 7 May 1929; Border Cities Star, 9 May 1929; Detroit Free Press, 8 May 1929; Woollatt Scrapbooks, Book 3, p. 38, 41.

WRA lost over \$30,000 the following season, was reason enough to persuade C.A. Pfeffer to seek a court order appointing a receiver to handle the affairs of the association, (Pfeffer was the principle financier of the WRA and had advanced the association \$125,000 to pay Woollatt's claims in 1929).

Noting that the track had lost over \$148,400 under the "unsound" management of Wilson, owed the Provincial Treasury \$13,400, and its municipal taxes were in arrears, Pfeffer argued that the only way he could recover the \$200,000 owing him (and the Detroit syndicate he represented), and avoid incurring larger obligations, would be for the WRA to lease out Devonshire Park. After being awarded the court order, a \$20,000 lease was signed by the only manager Pfeffer trusted to guard his "claims and securities," Woollatt.¹⁶⁴ After his two year hiatus, Woollatt engaged himself in a vigorous campaign to stymie handbook operators, revive Devonshire Park after it had plummeted back into the red under Wilson, and compete against Orpen's Kenilworth Park. Though both Woollatt and Orpen still had to contend with the taxation legacies left by Raney, it was evident that unlike the early 1920s, the possibility of anti-gambling legislation being enacted was no longer a threat.

This time around, in contrast to the widespread consumerism of the 1920s, promoters in Windsor faced a serious economic crisis compounded by stricter controls on the flow of patrons travelling from Detroit.¹⁶⁵ When pari-

¹⁶⁴ Border Cities Star, 2 September 1930; 30 May 1931; 3 June 1931; 9 June 1931; Detroit Free Press, 12 May 1931; Woollatt Scrapbooks, Book 1, pp. 48,52, UWA; Book 2 p. 14; Book 3, p. 41; Book 4, p. 1-4; Profit-Loss Ratios, RG 6 II-5 Box 3 1931 Departmental Secretary Files, PAO.

¹⁶⁵ The Depression severely constrained automobile production; which during the 1920s had become the leading American industry responsible for one out of every six or seven jobs. Indeed, "when the national economy was best by a cold, Detroit normally caught pneumonia." M. Horn, "Introduction," in The Depression in Canada: Responses to Economic Crisis, ed. Micheal Horn (Toronto: Copp Clark Pitman, 1988), 1, 7. Codot, American Odyssey, 258; Holli, Detroit, 126-127; Short, "Sport and Economic Growth," 20-21.

mutuel betting was legalized in Michigan, the fiscal concerns of the DJC¹⁶⁶ and KJC were further compounded by the collapse of their consumer market and source of quality stables. The racing industry in Detroit had been revived in 1933 when the State of Michigan legalized pari-mutuel wagering and formed the Michigan Racing Commission (MRC) to regulate its operation.

Undeniably, the loss of the consumer market was the single most important structural circumstance that undermined the viability of operations in Windsor. This is *not* to conclude, however, that the inhospitality of foreign competition, *necessarily* meant the total destruction of the industry in Windsor. To be sure, it was not *inevitable* that viability be completely undermined. What must be considered along with the blow dealt by the so-called "invisible hand of the market" was that the "visible" hand of "power and manipulation" was tied behind the industry's back. Indeed, the nature of state regulation and sectarianism tempered the capacity of promoters in Windsor to adequately respond to the economic crisis and market collapse. In the end, no particular phenomenon can be judged sufficient to explain the demise of the industry in Windsor; instead the factors responsible must be understood as a final conjuncture.

¹⁶⁶ In 1933, the WRA declared bankruptcy after accruing a deficit of \$235,000. "In an attempt to salvage as much as possible out of the investment the creditors organized the Devonshire Jockey Club." In order to convey the racing rights of the WRA charter to the DJC, special legislation was necessary (under the Bankruptcy Act) to make the racing privileges part of the property of the track. For a copy of "An Act to Incorporate Devonshire Jockey Club," 1933, read Office of the Attorney General, Series 4-32 722, PAO; Hansard, 1933, p. 3641; Border Cities Star, 22 April 1933.

III-iv. The Final Conjecture:

Innovation Unlimited, the Great Depression, & the Inhospitality of Foreign Competition.

The fact that the *actual* authority to control the racing industry was vested in the Criminal Code left promoters free to introduce whatever measures they considered appropriate; legal or otherwise. The Sports Editor of the Toronto Globe, D. Epps, lambasted racing officials for ignoring the many "glaring examples" of the latter.¹⁶⁷ Declaring that the sanction of the state had "nothing to do with the continuance of the Sport of Kings," Epps wrote that the viability of the industry was dependent on the confidence of the public. Citing depressed attendance and speculation figures as an indication of the "public's loss of faith in the game," Epps concluded that it was the "wait and see attitude" adopted by officials of the partisan CRA (considered by some to be "outstanding malefactors and criminals") that was to blame for mistrust by the public.¹⁶⁸ What was needed was the "Canadianization of Canadian racing." Favouring legislation "designed for the betterment of the sport" which had been enacted in France, Australia, South Africa, England, New York, and Kentucky, Epps predicted that ninety percent of horsemen and the public would welcome the appointment of a racing commission by the Province.

¹⁶⁷ For example; form reversals, unreliable totalizators, preferential treatment to large stables, instances of "tongue-tying," and the administration of drugs. D. Epps, "Racing Needs To Be Cleaned Up," Maclean's Magazine, 1 May 1929, pp. 5, 62-64; Woollatt, though, believed he had effectively eliminated any such "monkey business" by establishing a committee of three individuals which included a paddock and patrol judge and veteran trainer all working independently. As well, a track official and OPP constable were used to guard the jockeys. Furthermore the pari-mutuels were under the supervision of five Dominion and six Provincial Government Inspectors. Devonshire Park Official Program July 8, 1936; Woollatt Scrapbooks, Book 4, p. 46, UWA.

¹⁶⁸ A.E. Pratt to Henry, 22 May 1931, Department of Treasury and Economics, Office of Minister General Subject File, PAO; D. Epps, "Canadian Racing - Wither?" Maclean's Magazine March 1928, p. 9, 30-32.

Such a commission had been considered by the Legislative Assembly as early as 1913. In that year and in 1914, Bills by A.E. Pratt to establish a racing commission and to incorporate a board of racing supervision were discharged and withdrawn.¹⁶⁹ Thereafter, provincial regulation was not deemed an appropriate avenue for curtailing the abuses of the turf. What must be taken into consideration when explaining why the Province did not impose a racing commission was a legal precedent established in 1921; specifically, the Supreme Court of Ontario declaration that Raney's attempt to use the Corporation Tax Act to prohibit the issuance of racing-betting licences was *ultra vires*. It was the fear of encroaching on federal jurisdiction that, in part, stymied intervention when Premier Ferguson was considering establishing a commission in 1925. This was the case again in 1929 after a Bill providing for a regulatory commission had been drafted, but not enacted "despite the almost universal support of the horsemen, the press and the public."¹⁷⁰

In addition to the proposed Bill being considered *ultra vires* the Ontario section of the CRA and Orpen opposed provincial regulation and were influential enough to stave off state action.¹⁷¹ Orpen was reported to appreciate "the present arrangement which [gave] him a free hand," whereas Woollatt who was "always a few jumps ahead of the parade" had "realize[d] the necessity of action [and was] the only track mandarin who has come out flat-footed in favour of the idea." When Premier Henry considered the question in 1932 Woollatt was at the top of his list of potential

¹⁶⁹ "An Act Establishing a Racing Commission and regulating Racing in Ontario." Journal of the Legislative Assembly, 1913, pp. 168, 291; "An Act Incorporating a Board of Racing Supervision," 1914 pp. 21, 142.

¹⁷⁰ Memorandum regarding Ontario Racing Commission, 1937, MU 717, Conant Papers; Attorney General of Ontario opinion on Racing Board Act, 31 January 1938, Office of the Attorney General, Series 4-32 1401, PAO.

¹⁷¹ Woollatt Scrapbooks, Book 1, p. 12, UWA.

commissioners.¹⁷² Despite the cooperation of the Thoroughbred Breeders Association, the majority of the racing associations in Ontario were opposed to the plan, citing that they were already overly taxed and could not offset the extra burden of paying salaries to the officials of a commission (estimated to be about \$100,000). This was one reason why the Controller of Revenue recommended that the province leave the regulation of racing to the new Incorporated Canadian Racing Association (ICRA).¹⁷³ A second factor that influenced this recommendation was the sectarianism within the racing-breeding industry.

Ever since the break in the OJC in 1894, an antagonism between the promoters and horsemen was evident. At times when the racing-breeding industry as a whole was threatened the breeders came out in support of the promoters. Now that the industry was not threatened by the possibility of anti-gambling legislation, and perhaps more importantly, the fact that purses had been reduced during the 1920s to cope with Raney's taxes, and then further reduced as the Depression set in, the antagonism between those who promoted the bang-tails and those who owned them was at an all-time high. What further infuriated the breeders was the fact that the CRA was "self-appointed and self-empowered" to accept, fine, and expel any owner, trainer, or jockey.¹⁷⁴ The object of the new ICRA, *inter alia*, was to reconcile the two sides.

Woollatt Scrapbooks, Book 1, p. 70; Book 4, p. 54; Book 8, p. 52, UWA.

¹⁷³ White to Dunlop, 1 December 1932, Department of Treasury and Economics, Office of Deputy Minister General File, PAO.

¹⁷⁴ The relationship between Woollatt and the horsemen, however, seems to have been a symbiotic one; "Bill is the most popular manager on the Canadian circuit and he is held in high esteem by all horsemen." In exchange for sending quality stables to Devonshire, Woollatt made sure that a representative of the horsemen would be in the judges' stand during every race; affording the owners a say in the management of affairs. Moreover, his practice of providing small stables with the opportunity to race was considered "an aid to racing, inspiring, as it does more people to get into the game." Woollatt even purchased a stallion and offered its services

The ICRA was organized in the fall of 1932, "to elevate and govern the running and decisions of all races," after the Quebec section of the CRA broke away from the national association. With only four of the nine Ontario racing associations under its jurisdiction the CRA was no longer considered representative of the Canadian turf. To ensure no scheduling conflicts and be guaranteed the services of a well-respected starter, Woollatt joined the ICRA along with Orpen, the OJC, HJC, and NRA.¹⁷⁵ After its first meeting, a serious fracture was opened between Orpen and those supposedly "disinterested men of responsibility in the turf world, whose livelihood is dependent upon their honesty and integrity" who ran the ICRA. On the surface, the division was based on objections by Orpen over the payment of \$6,000 to the chairman of the association. The \$6,000 was to be derived from fines levied by the ICRA against jockeys and trainers.¹⁷⁶ Though Premier Henry attempted to act as a mediator, his suggestions were to no avail. The fractures between the former CRA and Orpen ran much deeper than the dispute over salaries, starters, and fees.

To be sure, the debate over the ICRA reflected a wider division between the "Association" and "Independent" tracks; the demarcation became most pronounced during the 1910-1916 expansion phase of the industry. Furthermore, during the 1920s sectarianism festered as stables rejected by the

free of charge in an effort to "encourage better breeding in Canada and improve the class of home-bred racers." A gift of Crown Derby chinaware given to Woollatt by the horseman racing at Devonshire attests to the popularity of Woollatt among the racing fraternity. Woollatt Scrapbooks, Book 1, pp. 6, 10, 15; Book 2, p. 24; Book 7, p. 29; Detroit Times, 28 August 1923; Windsor Daily Star, 30 June 1936.

¹⁷⁵ Woollatt Scrapbooks, Book 4, p. 32, 56, 107; Book 8, p. 80, UWA.

¹⁷⁶ Orpen suggested that all fees and fines should go into fund to assist injured jockeys. The dispute over salary and fees intensified after Orpen learned that the ICRA had hired Marshal Cassidy to conduct all the starting at the associated tracks without his consent. As well Orpen only charged \$5 for a licence fee whereas the ICRA charged \$20. Woollatt Scrapbooks, Book 2, p. 4, UWA.

CRA were welcomed with open arms at the Kenilworth and Devonshire Parks. In fact, Orpen held no reservations when recognizing licences from as far away as Mexico and Cuba. The "Independents" supposedly gave the entire industry a bad reputation and left it open to moral censure, just as the WJC and NRA had prior to the Miller Bill.

Orpen pulled his tracks out of the ICRA only two days after its first meeting. When Woollatt withdrew the DJC two years later, fears regarding state action weighed heavy on the minds of many turf advocates.

[T]his every man for himself thing in a game like racing, with all of its possibilities of manipulation, with so much money involved, with so many diverse interests concerned, is not likely to go unnoticed up at the Parliament buildings.

Though Premier Hepburn threatened to impose a commission (if breeders and track owners did not get together), officials in the Department of Treasury and Economics did not believe a racing commission would ever be appointed, explaining that the promoters did not desire a commission (even though the breeders were interested). Once again, an Ontario Racing Administration Act was drafted, but not introduced in the Legislature.¹⁷⁷

Nevertheless, in May of 1935, Woollatt in response to threats by Hepburn, sent a letter to the Thoroughbred Breeders Association suggesting that a voluntary body be formed for the purpose of performing the duties then conducted by the ICRA. Orpen was in favour of a new regulatory body, however, he insisted that "there must be an abolition of all free admissions to women and the posting of a heavy bond by all members of the association that they will abide by whatever agreement is made regarding fixing dates and other decisions." Though such a body was not commissioned until 1950, it

¹⁷⁷ Memo to the Controller of Revenue, n.d. 1934, Department of Treasury and Economics, Departmental Secretary File, PAO.

was evident that Woollatt was, at least ostensibly, in favour of some sort of provincial regulation.¹⁷⁸

The fact that no regulatory commission was ever imposed gave rise to three conditions which profoundly influenced the operation of racing in Windsor. First, the lack of regulation afforded Woollatt the freedom to ignore "tradition" and introduce promotional innovations to deal with handbook operators and the Depression that "Old Timers" like Orpen never dared. This in turn resulted in short term viability, but in the long run weakened the industry as a whole. The second condition, related to the first, was the inability of the promoters to mount a concerted effort to secure tax reductions when the Depression set in and moral dissent was in retreat. Finally, and most important after 1933, without a recognized and representative regulatory commission, Woollatt and Orpen were unable to negotiate with the Michigan Racing Commission (MRC) when pari-mutuel betting resumed at the Detroit Fairgrounds.¹⁷⁹

For much of the 1920s Woollatt and Orpen (while always considered to be "opponents and opposites"), maintained a symbiotic business relationship. The most obvious example of this relationship was the scheduling of meetings one after another so as to save owners transportation costs and ensure quality stables for both tracks. In one especially cordial comment Woollatt pointed out that "We [at Devonshire Park] are anxious at all times to cooperate with Mr. Orpen and his colleagues, as our desires and interests are mutuel."¹⁸⁰ Their relationship, however, was not without antagonism,

¹⁷⁸ Globe, 8 June 1935; Woollatt Scrapbooks, Book 1, p. 16, 41; Book 3, p. 46; Book 5, p. 18, UWA; Windsor Daily Star, 16 November 1935.

¹⁷⁹ Dunlop to Hepburn, n.d. 1936, Department of Treasury and Economics, Departmental Secretary File, PAO.

¹⁸⁰ For instance, Woollatt and Orpen agreed to rotate who conducted racing on Dominion and Independence Day. The advantage of securing 1 and 4 July being that these dates

which became increasingly evident as economic conditions deteriorated, and patrons became more and more reluctant to part with their money through the pari-mutuels.¹⁸¹

Woollatt during those "extraordinary times" responded imaginatively with "extraordinary measures," employing marketing strategies designed to appeal to the largest cross-section of the population. To be sure, Woollatt catered to both rulers and ruled by turning the club-house into a "palatial rendezvous for the social elite" and reducing admission tariffs "making it possible for the rank and file of racing enthusiasts to maintain their interest in the greatest of all sports."¹⁸² While Orpen reluctantly followed suit and cut admission to Kenilworth Park to \$1 he was resilient in not sponsoring any "Ladies Days," whereas Woollatt had always believed in "papering the house [with] ... plenty of Annie Oakleys" and stepped up his promotion of "Ladies Days" as the Depression grew worse.

Indeed, one of the fundamental strategies in the marketing of commercial sport was the reintroduction of women into "public leisure."¹⁸³ For example, a feature in the Record during the period, was a "Women's

usually marked the beginning of the Windsor racing season when "the pent up enthusiasm of the lovers of the 'Sport of Kings', together with the many 'itching palms' acquired through the months of inactivity, usually burst out ..." Woollatt Scrapbooks, Book 1, p. 5; Book 2, p. 10; Book 4, p. 33; Book 5, p. 27; Detroit Times, 29 June 1932.

¹⁸¹ A poignant illustration of such antagonism was the attempt by Orpen to upset Woollatt's lease of Jockey Club Park in 1928. Maintaining that he was the original bidder (with an oral bid of \$17,000), Orpen sent a certified cheque for \$21,000 to the Board of Park Management after Woollatt had already paid \$20,000 for the privilege. The attempt to block Woollatt was eventually defeated when a "stopper" Orpen filed with Ontario Municipal Board was judged useless in securing an injunction against the Parks Board. Fleming to Parks Board, published in Border Cities Star, 21 March 1928; 22 March 1928; Woollatt Scrapbooks, Book 1, p. 43; Book 2, p. 10, 23; Book 3, p. 36, UWA.

¹⁸² As well, club membership dropped in relation to economic conditions; in 1921 the price was \$200, by 1931 it was \$25 plus tax. Border Cities Star, 30 May 1922, p. 16; Woollatt Scrapbooks, Book 4, p. 37, UWA.

¹⁸³ Butsch, "Leisure and Hegemony," 14; Border Cities Star, 14 July 1922, p. 6; 10 July 1925, p. 5; Woollatt Scrapbooks, Book 1, p. 11; Book 4, pp. 72-74; Book 8, p. 71, UWA.

Page," which regularly listed those who attended the races and described what people wore in the clubhouse. To be sure, Woollatt was apt in exploiting this burgeoning market asking "Why shouldn't the women get a chance to see the horses run as well as the men?" In contrast, Orpen was supposedly not interested "in trying to take the household money from the women by staging 'Ladies Days.'" Woollatt countered, "the ladies like them. And after all, when you have a plant why not make it possible for everybody to come out at a reasonable rate?" This did nothing to quell objections by a representative of the KJC who reported that he was witness to "a line up of baby carriages, over a hundred of them, and some of these women had no business to be at a race track doing any betting." Woollatt later promised that "there will be no more babies in arms and toddlers."

While his "Ladies Days" were certainly divisive, Woollatt's most lucrative wagering innovation (employed in reaction to the handbook operators), was the introduction of the "Daily Duet."¹⁸⁴ The first duet pool was made up of fifty \$4 tickets and paid out over \$1,000 to one patron. News of the pay out spread quickly and stimulated a "great deal of chatter and interest ... that sort of word of mouth advertising [which] helps a race track in troubled times."¹⁸⁵ Indeed, the second WRA meeting in 1931 was the largest in

¹⁸⁴ The Daily Duet was a \$4 combination bet on the winner of the first and third races. It was similar to the Daily Double in vogue in Quebec and Maryland with the exception that different races were taken for the duet and the tickets are of a different value. In April of 1931 'The Duet' was copyrighted under the Copyright Act, 1921. Woollatt Scrapbooks, Book 5, p. 6; Book 2, pp. 17-18, UWA.

¹⁸⁵ More than ten times as many duet tickets were purchased the next day and by the last day close to three thousand tickets had been sold on the four dollar feature. The duet proved so popular that Woollatt was forced to alter post times to "permit greater latitude" for those unable to bet because of lack of duet wickets. Detroit Free Press, 9 July 1931; Border Cities Star, 13 July 1931; 14 July 1931; 25 July 1932; Woollatt Scrapbooks, Book 4, pp. 14, 20, 22, 24, 26, 32, 47, UWA.

Windsor since Woollatt left Devonshire in 1927.¹⁸⁶ The same could not be said for Kenilworth Park which did not draw "enough patrons to pay for one good race [and was] probably the poorest meeting from an attendance standpoint ever staged in Windsor." Correspondingly, the KJC lost over \$34,000 that year.¹⁸⁷ Nevertheless, by the end of 1932 attendance and volume of wagering was up at *both* Windsor tracks, especially the WRA, and observers noted that "racing is coming back into its own in the Border Cities."¹⁸⁸

Orpen had reluctantly yielded to Woollatt's "double dummy," not because he wanted to, but because he believed the public demanded it. After declaring himself a conservative in these matters (reported to epitomize the "old Toronto custom of conservatism to frown on anything new, probably on the theory that anything new cannot be sound"), he predicted that these "circus stunts [would] in the end harm the game."¹⁸⁹

Old bosses object to the Duet on the grounds that if a man wins \$2,000 for \$4 he is very likely to ask for a check for the winning amount and leave the track for the day, by so doing \$2,000 is taken out of circulation and the tracks don't get a slice of that money through the mutuel machines in the races later in the day.¹⁹⁰

Apart from the possible fiscal drawbacks, many racing associations opposed the "freak-wager" because its popularity was liable to incite a black-lash from opponents of racetrack gambling. More precisely, the "trouble" with the "daily duet" was the "dangerous publicity" which followed the news of lucrative windfalls. When a "jobless citizen" wins as was often the case, the

¹⁸⁶ Border Cities Star, 20 August 1931; Detroit Times, 24 August 1931; Woollatt Scrapbooks, Book 4, pp. 20-21, UWA.

¹⁸⁷ Globe, 13 May 1931; 11 July 1931; Collyer's Pocket Manual, 21 July 1931; Woollatt Scrapbooks, Book 2, pp. 4, 17-18; Book 4, pp. 4, 6, UWA.

¹⁸⁸ Border Cities Star, 29 July 1932; Woollatt Scrapbooks, Book 4, pp. 37, 44, 48, UWA; Detroit Times, 25 July 1932; Journals of the Legislative Assembly, 1933, p. 41.

¹⁸⁹ Collyer's Pocket Manual, 16 September 1932; Woollatt Scrapbooks, Book 8, p. 71, UWA.

¹⁹⁰ Detroit Times, 21 July 1932; Woollatt Scrapbooks, Book 4, p. 37; Book 8, p. 75, UWA.

picture of the lucky punter was published in the local paper, where the fact that s/he was unemployed was given prominent publicity. It was feared moral reformers would exploit such reports and "rightly claim the track is no place for jobless citizens and where one workless citizen wins a large wager, many other workless citizens lose plenty." In fact, it was reported that Windsor's Commissioner of Relief, while visiting Devonshire Park, recognized a number of welfare recipients.

Woollatt further fueled this "conservative" back-lash after introducing the "Oneto,"¹⁹¹ a \$3 combination bet, and a special Canadian National Railway excursion package.¹⁹² The "general feeling that the sport would carry on just as well, if not better, without the freak-wagering" was *not* the message delivered in the papers of Windsor and Detroit.¹⁹³ This could have been expected claimed D. Epps of the Toronto Globe, who noted that Woollatt had appointed a representative from "practically every paper in this section to various positions at Devonshire."¹⁹⁴ In fact, W.A. Hewitt, Ed Allan, Jack

¹⁹¹ The 'Oneto' was a Daily \$2 bet on the seventh race. It was reported that the Oneto kept patrons from leaving the park before the seventh race. In April of 1932 the 'Oneto' was copyrighted under the Copyright Act, 1921. "Devonshire Official Program," 8 July 1936; Canadian Sports and Daily Racing Form, 21 July 1932; Border Cities Star, 8 July 1933; Woollatt Scrapbooks, Book 4, pp. 36, 56; Book 5, p. 5, UWA.

¹⁹² Border Cities Star, 23 July 1932; 9 August 1932; 15 August 1932; Detroit Times, 21 July 1932; Woollatt Scrapbooks, Book 4, p. 37; Book 8, p. 6, 37, UWA.

¹⁹³ While admitting that there was nothing "tangible" on which to base his claims, J. Ayers an Official at Devonshire and the Sports Editor of the Detroit Times, nevertheless maintained that "Devonshire Park was a much more popular track than Kenilworth [and that] ... It [was] cleaner in every way, and the majority of the horse followers are not suspicious there of the usual race track happenings." Indeed, such suspicions were in large part cast aside by the avowed interest of Woollatt in the patrons; "It's the public that keeps racing gates open and its the public I'm interested in." Woollatt tried his utmost to instill an atmosphere of fair play which was important as a advertiser during lean times. Once, when it was possible that no one could win the daily duet (there being "little doubt that few of the players understood this matter"), he instead of destroying the tickets and taking the whole pool, rearranged the payout so a winner(s) could be declared. Border Cities Star, 28 October 1931; Woollatt Scrapbooks, Book 2, p. 20; Book 5, p. 28, UWA; London Free Press, 21 March 1935.

¹⁹⁴ Devonshire Park Official Program, 8 July 1936.

Ayers, and Vern DeGeer were all sports editors who officiated at Devonshire Park.

Considered to be a "doubtful adjunct" and "expert manipulator" by those who supposedly had "the interests of the the sport nearest at heart ... these stunts to increase attendance and the mutuel handle" were predicted to spell the end of the industry in the long run.

Everybody has gone wild these days in the effort to improve business conditions at the tracks [and] racing in Eastern Canada is in for an upheaval that may leave the sport high and dry on the rocks of ruin ... and its principle cause is 'Bill' Woollatt's desire for publicity and the length he will go to in order to obtain mention in the press.¹⁹⁵

Though this unregulated innovation is not sufficient to explain the demise of racing in Windsor, the fact that Woollatt could go on implementing his policies without fear of retaliation by a provincial regulatory commission contributed to a situation (by inciting sectarianism) where the industry as a whole could not mount a powerful lobby to secure tax benefits from the state at a time when other industries were able to do so.

It is difficult to understand why Lappage would write "Strange as it may seem, 'the sport of kings', horse-racing, retained its popularity during the Depression and proved to be financially successful," when in 1930 there was a decrease of seventeen percent in the volume of betting across Canada, and the following year it was down twelve percent.¹⁹⁶ In fact, Pfeffer correctly predicted that:

¹⁹⁵ *Globe*, 30 September 1932; *Woollatt Scrapbooks*, Book 8, p. 75, UWA.

¹⁹⁶ Ron Lappage, "Sport Between the Wars," in *A Concise History of Sport in Canada*, ed. Don Morrow and others, (Toronto: Oxford University Press, 1989), 98; Memorandum, 1931, Departmental Secretary Files, PAO; *Journals of the Legislative Assembly*, 1931, p. 21; *Woollatt Scrapbooks*, Book 3, p. 5, UWA.

The depression and immigration regulations ... will materially interfere with the attendance of patrons from Detroit and other parts of Michigan ... [and] unless the racing meetings ... are operated under the most careful and able business management the assets of the association will be entirely dissipated and other debts will be incurred.¹⁹⁷

In 1930 the KJC and WRA lost \$30,481 and \$30,487¹ in profit respectively, and in 1931 the volume of betting at the Kenilworth and Devonshire Parks was down by twenty-three percent and twenty-six percent, respectively; gate receipts at both tracks were down the same proportion as betting volume.

While it is evident that the Depression affected racing just as it did all other commercial forms of amusement, it also had the effect of shifting the emphasis of what remained of the reform movement away from racetrack gambling. In 1930 the final Parliamentary debate that could have potentially criminalized the operation of racing in Windsor transpired when the Minister of Justice Lapointe attempted to enact legislation prohibiting the publication of betting information. If the 1930 session had not ended, Lapointe's amendment was well on its way to becoming law, there being no reformers in the House like W.C. Good clamoring for racetrack gambling to be abolished. The absence of ardent moral reformers in the debate can be attributed to significant transformations in the "uplift" movement during the latter 1920s and the Depression in the 1930s. After the market crashed in the fall of 1929 the SSCC observed "where race-track gambling has slain its thousands, stock speculation has, during the past year, slain its tens of thousands."¹⁹⁸ While all the time maintaining that "the real work of the world is done by men who have little time to gamble,"¹⁹⁹ the "tragedies of loss, poverty [and] dishonesty" exacted by the Depression, turned most of

¹⁹⁷ Woollatt Scrapbooks, Book 4, p. 2, UWA.

¹⁹⁸ Report of the Executive Committee of the Social Service Council of Canada for the Year 1929, (Toronto: SSCC, 1930), 16, PAC.

¹⁹⁹ C.E. Silcox, "The Ethics of Gambling," Social Welfare, September 1935, p. 138.

what remained of the movement toward immediate emergency relief efforts.²⁰⁰

The shift away from explicit moral reform, coupled with increasing state intervention in the area of economics, ostensibly created a climate conducive for promoters to secure tax reductions.

During the 1930s businessmen pressed for reforms not because they wished to remove injustices that existed within the capitalist system but because they recognized that the system could not survive without some structural reforms.²⁰¹

In 1930, an auditor in the employ of the Provincial Treasury reported that the racing associations of Ontario were still suffering from "heavy burdens" caused by taxation. Upon learning of the auditor's report, Provincial Treasurer Dunlop, announced increases in rebates and the daily licence fee was lowered from \$5,000 to \$3,000 a day. In April of 1931, after the effects of the Depression became increasingly pronounced, a representative of the Border Cities Star wrote to the Henry Government warning Dunlop that unless some "tax relief" was forthcoming, Devonshire and Kenilworth, *inter alia*, would remain closed for the season.²⁰² Later that month an Order-in-Council was enacted "owing to special circumstances," which deemed it inequitable to demand from the racing associations the full amount in taxes; accordingly, a rebate of \$28,000 was paid to the WRA and the

²⁰⁰ G.W. Paul, "The Board of Evangelism and Social Service of the United Church of Canada: An Historical Analysis of the Enterprises of the Board from 1925-1968," T.H.M. thesis, Vancouver School of Theology, 1974, 6.

²⁰¹ A. Finkel, Business and Social Reform in the Thirties, (Toronto: James Lorimer & Co., 1979), 1, 168.

²⁰² The next year the Border Cities Star was prepared to reopen the debate on the Miller Bill asking its readers to explain "why should the law permit each track to operate only 14 days in a year?" Contending that it was "perfectly ridiculous that racing plants worth hundreds of thousands of dollars should be tied up for 50 weeks of every year." Brown to Dunlop, 6 April 1931, Department of Treasury and Economics, Office of Minister General Subject Files, PAO; Border Cities Star, 23 July 1932; Woollatt Scrapbooks, Book 4, p. 37, UWA.

KJC (Orpen had received \$22,000 the year before).²⁰³ Two years later the daily licence fee was reduced to \$500 per day and by 1934 a track would be granted a racing licence after paying only \$1 a day.²⁰⁴

While these reductions no doubt facilitated promotion, the fact that Woollatt and Orpen secured these concessions as individuals attests to the antagonism between the two promoters, and more importantly, provides some insight as to why there was no alteration to the five percent tax which had been clearly shown to discourage betting at the tracks. No doubt failing to employ Canadian labour during the Depression did not facilitate efforts by Woollatt or Orpen to secure amendments to the five percent tax.²⁰⁵ This lack of patriotism was discussed in Parliament on more than one occasion during the early 1930s.²⁰⁶ Moreover, the fact that the five percent tax could be used to generate provincial revenue at a time of economic crisis when there was an increased demand for state social welfare services stood as an impediment to any significant reductions.

As mentioned above, by the end of 1932 the industry in Windsor

²⁰³ The HJC, OJC, and Thorncliffe Park received \$24,000, \$14,000, \$14,000 respectively. Memorandum, 21 April 1931, Department of Treasury and Economics, Office of the Deputy Minister General File, PAO

²⁰⁴ Deputy Provincial Treasurer to Hepburn, n.d.; Dunlop to Lieutenant Governor, 8 August 1934, Department of Treasury and Economics, Office of Minister General Subject Files, PAO.

²⁰⁵ The lobby by Orpen was met with stiff opposition by Col. A.E. Pratt who argued that Orpen was a convicted criminal who employed foreigners when Canadians needed jobs, openly boasted that he subsidized the police, and would endeavor to corrupt and subsidize the officials of the Treasury Department. Orpen to Hepburn, n.d.; Pratt to Dunlop, n.d., Department of Treasury and Economics, Office of Minister General Subject Files, PAO.

²⁰⁶ Hansard, 1932, p. 1973; 1933, p. 4540.

seemed to be recovering, albeit modestly.²⁰⁷ What was in store the coming year posed a serious new barrier to this modest recovery. Beginning in the early 1920s, State Legislatures across the US experienced a "change of heart regarding gambling in general, and the operation of commercial racing in particular."²⁰⁸ In fact, the 1920s were witness to the rapid (re)development of the American turf. The racing industry spread from nine to twenty states; thirteen new tracks were opened, the race horse population almost doubled, hundreds of new breeding farms were opened, and the annual purse distribution between 1920 and 1927 increased by \$6,162,220. The volume of illegal gambling that paralleled the development of the industry, "lent weight to the argument that the time had finally come to drop the hypocrisy of unenforced and unenforceable laws and to legalize race track gambling." It was not until the 1930s, however, that there was a widespread legalization of pari-mutuel betting:

The efficient cause which served as the catalyst in setting off this wave of favorable legislation was undoubtedly the great economic depression and the concomitant falling off of state revenues at a time when budgets were making particularly strong demands.²⁰⁹

In January of 1933, a committee was struck by the State of Michigan to aid in the passage of a Bill to legalize pari-mutuel betting. By August the Michigan Racing Commission (MRA) had been created to quell any residual moral dissent, and the Detroit Racing Association (DRA) leased the Michigan

²⁰⁷ Border Cities Star, 6 July 1931; Evening Telegram, 28 October 1932; Globe, 28 October 1932; Woollatt Scrapbooks, Book 4, p. 48, 52, 60. 63; Book 8, p. 71, UWA; Collyer's Pocket Manual, 16 September 1932:

	1930	1931	1932	1933	1934	1935	1936
KJC	2,243,893	1,387,441	1,567,518	One meet	One meet	Closed	Closed
WRA	2,168,424	1,929,936	2,310,952	1,850,000	Closed	984,272	120,000
TOTAL	4,412,317	3,317,377	3,878,470	NA	NA	984,272	120,000

²⁰⁸ Devereaux, "Gambling and the Social Structure," 274.

²⁰⁹ *Ibid.*, pp. 278-279.

Fairgrounds; after paying the state \$480,000 for a licence to race thirty-one days starting that September.²¹⁰

Earlier that year Collyer wrote "there is no denying the fact that Windsor racing cannot exist in the face of competition from Detroit."²¹¹ Given that promoters from Windsor testified during the 1919 Racing Inquiry that the population of Windsor alone *could* support one meeting, what must be added to the contention by Collyer is that the industry as operated during the last two decades could not possibly continue.²¹² In fact, while Woollatt considered it "suicidal" to challenge the DRA head on, he wrote to the Border Cities Star asking it to tell the:

... readers for me, that the Devonshire Jockey Club officials have not thought of closing their track here ... horse-racing in Detroit will not injure the sport on the Canadian side. Naturally however, in arranging future dates, it will be our endeavor to arrange programs so as not to conflict with Detroit meetings.²¹³

In fact some of the stables scheduled to run at the Detroit Fairgrounds raced at Devonshire Park that summer.²¹⁴ Nevertheless, the DJC still lost over \$25,600 that year; whereas the DRA welcomed an opening day crowd of thirty thousand and raked-off a percentage from the \$3,519,656 wagered during the meet.²¹⁵

Given that the KJC had already made arrangements to operate during the fall, Orpen was denied access to stables running in Detroit and was thus forced to cancel his fall meeting, losing \$20,000 in the process. The decision,

²¹⁰ Detroit Times, 26 January 1933; 4 August 1933; Border Cities Star, 5 September 1933; 29 December 1933; Woollatt Scrapbooks, Book 2, p. 68; Book 4, p. 62, 70-71, 77, 108; Book 7, p. 30, UWA.

²¹¹ Collyer's Pocket Manual, 7 July 1933; Woollatt Scrapbooks, Book 4, p. 56, UWA.

²¹² Transcript of Windsor Hearing, 4 October 1919, RG 14 D 2 Royal Commission in Racing Inquiry 64 (1920) File (5), 642; Rutherford Report, 148.

²¹³ Border Cities Star, 14 August 1933; Woollatt Scrapbooks, Book 4, p. 108, UWA.

²¹⁴ Woollatt to Dunlop, 3 October 1933, Department of Treasury and Economics, Office of the Minister Taxation Correspondence, PAO.

²¹⁵ Detroit Free Press, 18 April 1934; Woollatt Scrapbooks, Book 2, p. 30, UWA.

Orpen said, was due to the inability of the Hepburn Government to extend "appropriate relief to the situation created when Detroit interests were given permission to race at the State Fairgrounds on dates clashing with those Kenilworth chose [the previous] April."²¹⁶ While the KJC was prepared to alter its dates the DRA was not. The next year the DRA scheduled one hundred and twenty days of continuous racing. Not surprisingly the KJC, with no means of negotiating with the MRC, only secured one hundred and sixty bang-tails to run at its summer meeting; it lost \$40,000 on the meet.²¹⁷ That was the last meeting held at Kenilworth Park; Orpen, decided that it was impossible to compete against the DRA, and moved the KJC to London.

Without the Detroit trade Woollatt did not dare open in 1934. Instead of completely abandoning the DJC, however, he set out to engineer a mutually advantageous Detroit-Windsor circuit. His first stop was Ottawa where he persuaded the MP for East Essex to introduce a bill to amend the Criminal Code to allow fourteen days continuous racing, instead of two seven day meets. The amendment, designed to benefit associations on the border (by cutting shipping bills, overhead coasts etc., in half), was especially intended to meet the contingency created by the legalization of pari-mutuel betting in Michigan. After the Minister of Justice checked with the provincial authorities the amendment was agreed to and adopted.²¹⁸ The DJC took full advantage of the amendment and a fourteen day meet was scheduled in 1935 (to be run in between two meeting being held at the Detroit Fairgrounds). The efforts of Woollatt seemed to have paid off, for there were seven

²¹⁶ Woollatt Scrapbooks, Book 4, p. 116, UWA.

²¹⁷ Border Cities Star, 26 April 1934.

²¹⁸ Hansard, 1934, pp. 1472, 1570.

hundred thoroughbred reservations by opening day; fifty percent of which had been running in Detroit.²¹⁹

The 1935 season, however, was marred by more than just the Depression and the Detroit competition; in the end, the DJC ended up defaulting on its Provincial taxes.²²⁰ In August of 1935, the Reeve of Sandwich East was adamant in closing Devonshire Park.²²¹ With the DJC's municipal taxes in arrears, the Reeve maintained that a deal had been struck which called for Woollatt to employ residents of Sandwich East. After Woollatt apparently reneged on his promise, the Reeve padlocked the gates of the track closed. In his defense, Woollatt argued that the track attracted "a large amount of money in the vicinity, by far the greater part of which came from outside the community," and that fifty-three residents of Sandwich East were already employed at Devonshire Park. "For the sake of retaining [his] reputation in connection with race track management," Woollatt ordered the locks smashed off.

Fisticuffs ensued between Woollatt's brother and one of the special deputies enforcing the padlocking. The Reeve accused the directors of the DJC of being "Foreign jugglers" guilty of defrauding the township for years;

²¹⁹ Woollatt Scrapbooks, Book 5, pp. 30, 44-46, UWA.

²²⁰ Essex Times, 27 July 1935; Border Cities Star, 28 September 1935; *Ibid.*, 5 August 1935; Woollatt Scrapbooks, Book 5, p. 28, 43, 60, 66, UWA; Dunlop to W.R. Woollatt, 25 August 1935, Department of Treasury and Economics, Minister's Office Taxation Correspondence, PAO.

²²¹ The conflict between the WRA and the Township of Sandwich East dated back to 1928. In that year, a check for municipal taxes was returned by the Township on the basis that the WRA had not paid a default penalty. The returned check had been precluded by a threat by Woollatt to turn the water off to the Township (the water main being constructed and owned by the WRA). The antagonism flared again in early 1935 when the WRA appealed a tax assessment. The lawyers for the association argued that Devonshire Park had not been assessed in proportion to other properties which surrounded the track. The conflict reached a breaking point in August of that year. Bradley Wilson to Reeve J.E. Fred Ferrari, published in Border Cities Star, 29 March 1928, p.3; 30 May 1931; Windsor Daily Star, 5 July 1935, p. 15; 11 August 1935; 12 August 1935; 14 August 1935; 24 August 1935; Woollatt Scrapbooks, Book 5, pp. 26, 46-47, 52, 58-59, UWA.

intimating that Devonshire Park was the property of the notorious gangster Al Capone (who had been rumored to be involved when the WRA was reorganized in 1931), and home to "fascist" gatherings. If not vindicated the Reeve vowed to return with "over two hundred citizens of Sandwich East" at his back, "armed with clubs and Mr. Woollatt can bring on his army." During the entire affair, Woollatt was of the opinion that only the RCMP had jurisdiction to close the track. Furthermore, Woollatt believed the money owing in municipal taxes could only be recovered via court proceedings. Much to Woollatt's displeasure the Ontario Municipal Board had given the Township the power to close the track down; but the OPP declined enforcing the order without the sanction of the Attorney General (who could not be reached at the time). Further violence was quelled by the payment of \$1,000 of the \$10,000 owing. At the time, Woollatt remarked:

If Sandwich East had been successful in closing the gates, Devonshire would be through and the township would have a white elephant on its hands. Having completed the meet however, it has retained its standing and prestige with the horsemen and public, and no doubt there will be future meetings and Devonshire will be able to pay the taxes.²²²

In the end, there was another meeting, but Devonshire Park was not able to pay its taxes.

In 1936, after receiving assurances of a good thoroughbred representation from the DRA, a meet was scheduled to be run in mid-July. An optimistic Woollatt declared that the co-operation of US stables was probably the healthiest "racing sign we've had in this district in years [and] the fact that we have two Wednesdays, Windsor half-holidays, on our 10-day racing program, should be enough to ensure the success of the meeting."²²³ While, US stables were prepared to co-operate, the weather was not; as one turf

²²² Windsor Daily Star, 24 August 1935; Woollatt Scrapbooks, Book 5, p. 59, UWA.

²²³ Windsor Daily Star, 7 July 1936; Woollatt Scrapbooks, Book 7, p. 31, UWA.

commentator later recalled, the "horses look[ed] like grilled steak on the hoof as they went post-ward."²²⁴

The one-hundred-four degree heat which claimed the lives of sixteen Michigan residents baked the two thousand five hundred patrons who came out to watch the bang-tails at Devonshire Park in July of 1936. A fair number of those who braved the heat had entered free of charge compliments of Woollatt. Blaming the weather for the poor turn out, the managing director considered it unreasonable to "ask race patrons to patronize any track" during such inhospitable weather. Woollatt found it "difficult to believe that the customers [were] staying away for any other reason except the heat," especially after close to six thousand free passes had been distributed "to persons who went to the trouble of applying for them by mail or in person."²²⁵ Indeed, it seems that the temperature was hot enough to convince the residents of Michigan to stay home (the "tightening of immigration barriers on both sides of the river" no doubt influenced such decisions), they being afforded the opportunity to watch the "galloppers" throughout the fall by the DRA.

After only two days racing the track had lost \$5,000. Anticipating losing another \$15,000, Woollatt decided to close down rather than risk not being able to pay Devonshire's debts.

Whether Devonshire will ever open its gates again is a matter that is in the lap of the gods. We've taken it on the chin here for three years now. We thought we might swing back into more prosperous times ... [b]ut the heat has destroyed all hope of that. [The] days when the greatest thoroughbreds of America were at Devonshire are only memories and unless we can find somebody who will gamble on the weather and patronage [Windsor] will play host to the horses for the last time Saturday.²²⁶

²²⁴ Windsor Daily Star, 3 September 1943, sec. III, p. 11.

²²⁵ Woollatt Scrapbooks, Book 7, p. 42, UWA.

²²⁶ Windsor Daily Star, 9 July 1936; Woollatt Scrapbooks, Book 7, pp. 40, 44-46.

Though Woollatt had no intention of gambling on the weather and patronage, his employees and visiting horsemen persuaded him to continue operating.²²⁷ Given the scarcity of jobs during the Depression and the amiable relations between Woollatt, his workers, and the horsemen, it was not surprising to learn that the stewards, ticket-sellers, and stable-hands were willing to work for reduced salaries and the horsemen were prepared to run for truncated purses (as low as \$300).²²⁸ Accordingly, Woollatt agreed to the arrangement, and post-times were pushed back to escape the afternoon heat. Prior to the first race under the new plan, however, the horsemen calculated that it would not "pay" to compete for such measly offerings. The last thoroughbred race ever run in Windsor was completed 10 July 1936. Woollatt lost \$9,000 on the four day meet. Unable to pay to the municipal taxes, Devonshire Park was conveyed to the three farmers who had first leased the property to the WRA, twenty years earlier.²²⁹

²²⁷ Woollatt had previously won the allegiance of the employees by providing "a boarding house on the grounds conducted at a loss by the WRA that outclasses any other race-track feedery [sic] in Canada or the United States for service and low cost ... for the workers, caretakers, horsemen, etc." As well Woollatt provided for the employee's entertainment during the meetings by paying \$800 for the installation of radio speaker to receive boxing matches and radio concerts. Woollatt Scrapbooks, Book 1, p. 11; Book 7, pp. 41, 48, UWA; Windsor Daily Star, 12 July 1936.

²²⁸ Woollatt Scrapbooks, Book 7, p. 53, UWA.

²²⁹ Detroit Free Press, 14 July 1936; Woollatt Scrapbooks, Book 7, pp. 27, 49-50, UWA.

Part IV.

OPERATING ON THE BORDER: *Legal Continuity & Market Peculiarity, 1884 to 1936.*

IV-i. Noting Significance:

Considering Horseracing, History, & Hegemony.

A history masters' thesis is usually introduced by adumbrating its particular organizing principles in relation to a specific body of knowledge, argued in terms of evidence sampled from the historical record, and concluded by mentioning its significance thereto. To be sure, this masters' thesis is different. All that will be said in reference to what was known about the commercial promotion, moral suppression, and state regulation of the thoroughbred racing industry in Windsor, from 1884 to 1936, before this history was finished, is that it was obscured by the unique questions that were brought to bear on (samples of) the available evidence. In regard to what was documented and explained, the contours of this history have been moulded by both the availability of evidence, and an approach to understanding the past which is inextricably entrenched in the premise that *history* actually matters when defining what is believed to be reality. With respect to the conclusion, then, specific organizing premises are neither confirmed nor refuted, instead they are presented in their reconstituted form in the remarks below.

Apart from what was said above, any prolonged posturing on these considerations shall be forgone. To do otherwise would be blatantly hypocritical; for it would imply that the knowledge that was generated in the process of enquiry was important in itself. Clearly, the interests which

inspired this history, have more to do with *making history* and conceptualizing sport in that process, than with the idiosyncrasies of racing in Windsor during the late nineteenth and early twentieth centuries. To this end, noted below is the significance of this history of the economic viability of the thoroughbred racing industry in Windsor, from 1884 to 1936, in regard to how humans *make history* in circumstances not of their own choosing; circumstances that are wrought by contradictions that must be incessantly accommodated.

In the end, the fundamental structural dynamic in regard to the economic viability of the industry in Windsor, was the tension between the legal continuity of operations in Canada and the peculiarity of access to a consumer market (and quality stables) conditioned by Michigan legislation. Given that this basic tension mediated the agency of all the actors involved, what must be elucidated is how specific actors conveyed appropriate representations, implemented strategic policies, and secured essential resources so as to realize their particular agendas (i.e. promotion, reform, regulation). To address this concern, requires that the reflective and formative aspects of antagonism throughout the period be sorted out in regard to how conjunctural responses facilitated or constrained the agency of the actors.

More precisely, state responses to crises instigated by promoter-reformer antagonisms must be grasped as reflective cultural forms and at the same time be understood as the medium for cultural formation. By articulating how crises represent both a consequence and an antecedent, an appreciation may be garnered for the extent to which conjunctures of past agencies shaped subsequent actions. By arguing the concluding remarks in this manner, a sensitivity may be garnered for how change over time and

across space (re)defined the circumstances that mediated the agency of promoters, reformers, and regulators. Moreover, recognizing the instability of capitalism and the vested interests which motivate attempts to accommodate dissent, whatever is considered to be the bounds of *reality* ("just the way things were") must not be regarded as natural or neutral, but instead selective limits on what was believed possible; to be sure, limits intended to perpetuate the dominant social order.¹

Given that politics and the economy are inextricably tied, it was a matter of course that the capitalist state introduce policies conducive to Canada's "Golden Age of business enterprise." While successive "national policies" were explicitly designed to facilitate economic development, until 1910 state responses to the operation of racing was characterized more by its lack of interference than by its intervention. By sanctioning the paternalistic class-biased betting statutes of England, Colonial governments (and later Parliament) concomitantly provided the legal basis on which the racing industry in Windsor would develop, and created the fundamental structure around which the promoter-reformer antagonism would revolve. To be sure, it was this legal foundation that moral reformers sought to undermine. The organization of dissent, however, was based not on the sporting diversions of the gentry, but instead on the *business* of betting; an industry that was built on widespread gambling.

¹ Antonio Gramsci, *Selections from the Prison Notebooks*, trans. Quentin Hoare and Geoffrey Smith (New York: International, 1971), 12; T.J. Jackson Lears, "The Concept of Cultural Hegemony: Problems and Possibilities," *American Historical Review* 90 (1985), 567-593; Thomas R. Bates, "Gramsci and the Theory of Hegemony," *Journal of the History of Ideas* 36 (1975), 351; Hall, "Two Paradigms," 63, 67-69; Raymond Williams, *Marxism and Literature*, (London: Oxford University Press, 1977), 110-12; Idem, *Problems in Materialism and Culture*, (London: Verso, 1980), 37; Peter Burke, *Sociology and History*, (London: George Allen & Unwin, 1980), 78-79; Richard S. Gruneau, "Introduction: Notes on Popular Cultures and Political Practices," in *Popular Cultures and Political Practices*, ed. Richard S. Gruneau (Toronto: Garamond Press, 1988), 21, 24.

By 1884, in contrast to most of the nineteenth century, control over racing in Windsor had moved beyond the exclusive purview of the social elite. No longer based on private resources, racing at the Windsor Driving Park was promoted by businessmen holding shares in a joint stock company. By 1893, membership had increased to forty-three, a new \$40,000 one-mile oval was constructed, and the new Driving Park would soon be hailed as the "fastest track in the Dominion." To offset operating expenditures and pay stock dividends, the WFDPA was forced to raise revenue by charging admission fees and selling bookmaking privileges. Barriers posed by the demographic composition of the Windsor market in conjunction with competition from tracks in Detroit (which offered longer and more lucrative meetings), however, necessitated that WFDPA calendars be truncated and features cater mostly to sporting farmers (interested in trotting).

Although a rhetoric of dishonesty may have tempered the popularity of trotting among "gentleman" outside Windsor, parochialism/ideological censure had no immediate influence on racing at the Driving Park, and thus is not reason enough to explain the bifurcation of racing there. Instead, the racing industry in Windsor acquired its particular shape and form because of the Driving Park's proximity to, and ample transportation links with, the racing industry in the Northern United States. Indeed, the rebirth of that industry after the Civil War marked a turning point in North American turf affairs in general, and held tremendous implications for operations in Windsor in particular.

In 1895, operations at the Driving Park were profoundly altered. It was the internationalism of consumer markets that proved most important in conditioning the changing operations. What precipitated the transformation was state responses to a promoter-reformer antagonism that had become

manifest in Ohio, Illinois, and Wisconsin. By the turn of the century, stables from central Ontario and the mid-western US raced at the Windsor track and the open betting ring there was "invaded" by bookmakers from Cincinnati and Chicago fleeing anti-gambling legislation. To be sure, the consumer market possessed no objective nationality; rather it was simply divided by subjective laws. American capital traveled north in search of new markets; in the process, operations at the Driving Park were transformed.

The most explicit manifestation of this transformation was the shift from standard-bred trotting (decided by heats) to thoroughbred running (decided by dashes). The shift from trotting to running required that more and larger purses be distributed. This in turn required that more betting privileges be sold and more gate receipts collected. The only way this could be realized was by extending the season. The viability of protracting calendars was made increasingly possible as more and more American states cracked down on racetrack betting. By 1908, the viability of a protracted calendar was ensured after racetrack gambling was prohibited in Michigan and New York; the consolidation of the industry in Windsor was complete, as the WRA was granted a monopoly over the Detroit market.

Of course, what lay beneath the monopoly over the Detroit market, was the continuity of the legal sanction provided by the Criminal Code. Hendrie would never have considered Windsor a "better place" than Detroit, if incorporated racing associations were not exempted from Canada's anti-gambling laws. With three precedent setting rulings delivered between 1902 and 1906 that confirmed that the Code struck at "betting places" instead of "betting persons," operating on the border became even more attractive to promoters and American bookmakers.

Fortunately for the WRA, dissent from within Windsor was tempered by religious affiliation, a legacy of integrity, and connections to the Windsor Police Department, City Hall, and the Board of Trade. For instance, aside from making sure Windsorites understood that the racing conducted at the Driving Park was "legitimate sport," the Record laid the ideological foundation on which highly commercialized racing would rest by popularizing the ostensible benefit of racing to breeding as well other "spin-off effects." By citing examples of the direct and indirect economic benefits the "community" would be granted, the Record successfully masked "the growing insecurity of racing for its own sake," as profit became the overriding factor at the Windsor track and syndicate style betting was introduced. The same, however, could not be said of dissent from outside Windsor.

The fact that operations were made legal by the Criminal Code, and not by any particular racing association, rendered the CRA impotent to deal with the protracted calendars or syndicate style betting conducted at the Windsor track. Even to "black-list" the WRA would be futile for the Windsor track could rely on stables from the US to run programs. Threatened by the possibility that operations on the border would undermine the confidence of the public, but without legal authority to curtail the so-called crass commercialism, sectarianism (articulated in the rhetoric of *business reform*) soon developed between the so-called *sporting* tracks in Toronto, Hamilton, and Montreal and the *commercial* tracks in Windsor and Fort Erie.

A measure of this sectarianism can be identified in the narratives contained in Dodd's Turf Recollections. Its pages were chock full of poignant anecdotes liable to conjure up nostalgic memories of bygone days prior to the incorporation of chartered racing associations, protracted calendars, American style syndicate betting, and "the modern dollar-worshipping owner." Lost in

its idyllic images, however, are the structural transformations which conditioned the commodification of thoroughbred racing. By pointing to unscrupulous American promoters and "a low class of Jew gamblers," Dodds and turf regulators attempted to blame the improprieties of the industry on the consequences of individual actors without considering how changes in the social organization of capitalism mediated the operation of racing.

The fact which proponents of *business* reform would not publicly admit, was that revenue used to off-set purse distributions and pay stock dividends was derived from *selling* racing as a commodity. As expenditures increased, the viability of highly capitalized racing became increasingly dependent on patronage by all sections of the population. It was the democratization evident through those who attended and bet that raised the ire of the Moral Reform Council of Canada. To be sure, unlike complaints inspired primarily by fiscal considerations, there had grown up a more fundamental discrepancy over the most pervasive and resilient of colonial sporting legacies; gambling.

Internal regulation was not the answer for reformers; disdain for the industry by the MSRCC was not based on the fact that some tracks were more commercial than others. Instead, the industry incensed reformers because *all* the tracks were increasingly relying on working class patronage to off set expenditures. Border tracks exploiting state responses to a similar promoter-reformer antagonism in the US had simply provided the additional impetus for action. If the capital-labour contradiction that was erupting during this period of rapid industrialization was to be reconciled, then the suppression of racetrack gambling was necessary; or so thought the MSRCC. Recognizing that racetrack gambling was the primary source of revenue underlying the industry, its prohibition was added to a broader social policy designed to

morally regulate the working-class family; the basis of the social reproduction of labour.

By 1902, racetrack gambling was condemned by the Methodist and Presbyterian Churches as an agent of social sin. By 1907 the MSRCC had sent a deputation to Ottawa requesting the betting evil be made a criminal offense. By 1909, a Private Members' Bill designed to criminalize the business of betting was before Parliament. Just as the continuity of the Code protected operations in Windsor, the original Miller Bill threatened its extinction. Though moral reformers sought to suppress the entire business of betting, their agenda could potentially be realized by exploiting the exiting sectarianism as a divide and conquer tactic. Indeed, while there existed a continuity in the reformers' objective condemnation of the industry, an attack on operations on the border could be employed as a rhetorical device to potentially smash the industry as a whole.

In the end, the Council failed to knock down the processes by which the desperate racing factions aligned themselves with sympathetic MPs to form a power bloc capable of temporarily accommodating moral dissent. It was not solely the instrumentalism displayed by the power bloc, however, that secured the compromise. Rather, agency demonstrated in the House must be considered in respect to the agenda of the state. When the Laurier Government first received deputations and petitions clamoring for prohibitive legislation, it endeavored to don a guise of impartiality to avoid the destruction of capital. Luckily, the physical composition of Parliament (i.e. MPs who held shares in jockey clubs or breeding stables) was such that it staved off the enactment of the original Bill. Recognizing, the useful aspects of the original Bill, representatives of the industry were successful in tabling an amended Bill that incorporated all those sections that would engender

"morality" while rejecting those that would have the effect of destroying capital. The amended bill, however, still had to be enacted; this is where the power bloc proved decisive. Specifically, it was by representing the industry as being in the national interest and by portraying plebeian punters as the evil, that the compromise was reached.

Indeed, shades of the insidious paternalism that underlay the original colonial laws had re-surfaced in the more blatant attempts by the Canadian Racing Association and sympathetic MPs to regulate the industry. Though twentieth century *business* reformers adopted rhetoric similar to that uttered by their predecessors, the racing and its attendant betting they sought to suppress or regulate, had been profoundly altered. To be sure, the breeding rationale underpinning highly capitalized racing was becoming objectively archaic; thus what was required was the selective preservation of the breeding tradition. It was here that appropriate representations of the past mattered in affirming or challenging contemporary explanations of what caused the "Black cloud" to form in the first place, and what was possible to accommodate the crisis.

Though Miller introduced his amendment in December, the magnitude of the damage, if any, would not be known until the following spring. During the ensuing committee hearings and parliamentary debates, *historical* accounts in regard to the necessity of thoroughbred blood for national defense supplied ammunition to both reformers who prayed the "Black clouds" would rain down and to promoters who hoped they would pass. Given the contextuality of knowledge, what was represented in testimony and argument was inextricably conditioned by the specific temporal and spatial context. Thus, while what was articulated was undoubtedly a product of consciousness, it was not conceived in circumstances that could be

controlled. This in turn brings to the fore the transformational capacity of histories (as the "sanction of the past") when justifying specific responses to the crisis.

By April of 1910, the interest of the capitalist state in engendering morality, while at the same time ensuring the longevity of capital was aligned with the interests of the promoters in Windsor. By affirming the legality of existing class privileges, the amended Miller Bill both preserved the industry and placed further restrictions on working class betting, all the time justifying the compromise as essential for Canadian breeding. This by extension set the stage for monopoly's moment in Windsor, for along with the renewed legal sanction, the provisions of the Miller Bill offered incorporated racing associations a sense of *societal* legitimacy with which they could relinquish themselves of all wrongdoing. By blaming the improprieties of the turf on off-track bookmakers, moral dissent was temporarily silenced.

The consequences of this new found legitimation was readily apparent in the unfettered expansion of the industry in general, and in Windsor in particular. Continuing to benefit from the ongoing suppression of racetrack gambling in Michigan, the viability of the WJC was further secured after it followed the lead of the CRA and operated pari-mutuels at Jockey Club Park. After the state sanctioned "iron-men" drove the bookmaker off the track the industry was blessed with a new found respectability and profitability. While it might have been expected that the ability to directly rake-off percentages from the pari-mutuel pools would benefit existing associations, the fact that news of lucrative windfalls interested new entrepreneurs in the racing industry had not been anticipated by those who supported the Miller Bill. With the Criminal Code not restricting the number of tracks that could operate in any one locality, promoters eagerly secured charters granted prior

to a 1912 deadline and established operations in areas with growing consumer populations. Kenilworth and Devonshire Parks stood as testaments to the viability of operating on the border and the hospitality of the federal regulatory structures.

The unmitigated profitability exacerbated the existing sectarianism within the industry across Ontario, and initiated a divide within the industry in Windsor. Indeed, after 1916 a fracture developed between "Association" and "Independent" tracks. The demarcation was reflected in Windsor in that the WJC represented the former, and the associations run by Orpen and Hugh Browne the latter. There, however, was nothing the CRA could do about the growing multiplicity of tracks seeking to exploit the Detroit market. Not unlike the years preceding the Miller Bill, the impotence of internal regulation/business reform lay in the fact that the actual authority to control racing lay in the Criminal Code.

Though the convictions of moral reformers had been spurred on by the fact that the unrestricted development of the racing industry transpired under the protection of the "national flag," their initial campaigns to secure popular support for the suppression of on-track betting were to no avail. By 1917, however, circumstances had changed. To be sure, even the Association tracks were raking-off unrestricted profits during a world war. Moreover, manifestations of the capital-labour contradiction flared during the last months of, and immediately following, the war. The intensity of working class resistance sparked calls for the reconstruction of society. When in 1917, the Union Government enacted an Order-in-Council rescinding the provisions of the Miller Bill as a war measure, it provided the impetus to a crisis as potentially menacing as that of 1909-10.

As the three Windsor tracks stood idle behind padlocked gates, the crusade which threatened to destroy the racing industry in 1910 returned. Seizing what seemed to be an opportunity to end the business of betting completely, the SSCC sent deputations to Ottawa to convince Prime Minister Borden of the necessity of entrenching the 1917 Order in the Criminal Code. Though Borden denied the Council its demand, the renewed moral reform movement was powerful enough to convince the Government not to allow racing to resume at the conclusion of the war. Instead, a Racing Inquiry was commissioned which offered the possibility that the tracks would remain closed indefinitely.

The 1919 crisis reflected the basic promoter-reformer antagonism which had precipitated the Miller Bill. The intensity of the crisis was especially pitched because the seven years following the Miller Bill were witness to the unabated expansion of the racing industry. Similar to the 1909-10 crisis which had been provoked in part by the protracted calendars and American style syndicate betting run at the Windsor track, so too was moral dissent intensified by operations in Windsor from 1911 to 1917. The SSCC was livid over the fact that there was sometimes twenty-one continuous days racing in Windsor and that the charters used at the two new tracks had been "trafficked" from Ottawa and Manitoulin Island. What further enraged the Council were reports that the Windsor associations were "raking-off" inflated percentages from the pari-mutuel pools, while no direct contributions were made to the breeding industry. On top of all of that, reformers believed that the influx of patrons from Detroit would inspire moral decay among the citizens of Windsor.

Similar to the state response in 1910, the 1920 Criminal Code amendments reflect the incorporation of the most radical elements of moral

dissent that would have destroyed the industry completely. Promising stricter regulation by creating a Race Track Division of the Department of Agriculture, and commissioning the RCMP to enforce a "rake-off" schedule, it was hoped that the abuses of the Code evident during the industry's expansion phase would be quelled. Once again, moral dissent was accommodated by justifying the legal exemptions enjoyed by the racing associations in terms of the industry's contributions to national breeding. By definition this meant the further suppression of gambling off the track.

The viability of the 1921 season in Windsor clearly demonstrates the hospitality of administrative regulation. In respect to the Criminal Code, it is safe to conclude that operating on the border was structurally more viable than before 1916 when one association held a monopoly over the Detroit market. Though the Borden Government explicitly affirmed the legal privileges of the industry and committed resources to regulate operations, the viability of operations in Windsor would be tempered by the concerns of reconstruction following the First World War. In fact, 1921 marked the high water mark in regard to the economic viability of the racing industry in Windsor. Even though the 1920's was a decade of unprecedented volume of betting, they were also ten years in which the volume of betting declined.

What must be considered to understand this decline, especially given that the 1920s were witness to the emergence of continental consumer capitalism, are the legacies that were created during a period by post-war reconstruction. To be sure, the reform agenda and the provincial manifestation of the state were essentially aligned after the United Farmers of Ontario were elected to rule the Province of Ontario and Raney was appointed Attorney General. After Raney's use of the Criminal Code to prosecute the WJC and WRA proved ineffective, his efforts in the Provincial

Legislature set precedents that would dissuade provincial regulation of the industry and create provincial laws that would plague the jockey clubs throughout the era. In his attempt to eradicate the industry by imposing prohibitive taxation structures, Raney unintentionally armed a powerful strike-back by private handbook operators which tempered the ability of the racing associations in Windsor to exploit the favorable climate of consumerism which pervaded the 1920s.

Forced out of the betting ring by the pari-mutuel machines, bookmakers who had been catering to a working class clientele in "gambling joints" since 1914 swarmed the Jockey Club, Kenilworth, and Devonshire Parks after Raney's amendments to the Corporation Tax Act resulted in smaller pari-mutuel pay-outs. Patrons who usually wagered via the iron men increasingly placed their bets with private bookmakers and thus deprived the racing associations of a percentage of each bet. Subsequent attempts in the Legislative Assembly and Parliament to enact legislation designed to suppress the handbook operator (by cutting off the supply of betting information) proved to no avail. Though the United Farmers of Ontario lost power in 1923, and the national reform movement was on the wane, by 1926 the three associations in Windsor were on the verge of financial collapse.

Unlike the two previous crises, the 1926 crisis did not revolve around an immediate question of legality nor had it been precipitated by the rapid expansion of the industry. While the crisis reflected the basic promoter-reformer antagonism (in that the appointment of Raney as the Attorney General was a testament to the pervasiveness of post-war reconstruction), its 1926 manifestation must be attributed to the contingencies of Raney's agency as Attorney General. In 1927, Premier Ferguson was forced to confront the

fact that the provincial taxation structures had over stepped the limits of the capitalist state in bringing about reform, in that they necessarily meant destroying capital.

It was unfortunate for the industry overall, promoters in Windsor, and especially the WJC in particular, that corporate action was not practiced to secure significant reductions in the five percent tax (which was shown to be responsible for circumscribing pari-mutuel pools). While the Ferguson response to the taxation crisis was sufficient to stave off bankruptcy for the WRA and KJC, the tax structures prompted the WJC to sell Jockey Club Park in 1927 to the City. By the fall of 1929, a high school stood in the place of the forty-six year old track. In the time between the sale of the track and its destruction, the rhetoric of moral dissent proved influential in up setting a lease of the track (even though the movement was practically bankrupt on the national front and the debates over the use of the track were permeated by municipal politics).

By 1936, operations in Windsor were no longer viable. Raney, who had been dead for over a year by then, must have smiled. His dream for the industry in Windsor to be terminated had finally come true. He ought to have been pleased with himself, for it was the unintended consequences of his efforts to suppress racetrack gambling in the Provincial legislature in the early 1920s that contributed in part to the demise of the industry in Windsor. In addition to the taxation structures, the unconstitutionality of eradicating the industry by provincial legislation established during Raney's tenure as Attorney General perpetuated a pre-existing sectarianism by dissuading the establishment of a regulatory commission. The fact that there were no representative regulatory structures to reconcile such fractures proved significant because unlike the widespread consumerism of the 1920s, the

1930s were witness to a severe economic crisis. and the collapse of the Detroit consumer market (which by extension meant no more quality stables).

Though the threat of prohibitive legislation was tempered by the fragmentation of the movement during the 1920s, and the remaining energies of reformers shifted away from the evils caused by gambling to those brought on by the Depression in the 1930s, promoters in Windsor still faced the handbook menace which had been magnified by the economic conditions. To cope with the illegal bookmakers and the Depression, Woollatt introduced betting innovations and other promotional gimmicks without limits. In conjunction with the promoter-breeder and Association-Independent antagonisms, this unlimited innovation impeded corporate action necessary to secure significant tax reductions during the Depression. Moreover, given that the state had "acknowledged the primordial instinct in man - for betting on the horse,"² what was once considered by some a dangerous agent of moral degeneration (of benefit only to private investors), had been transformed into a legitimate revenue generating enterprise. Now that racetrack gambling was a source of provincial revenue, and more and more welfare demands were being made on the state, governments were reluctant to significantly modify the taxation structures.

The final barrier that constrained operations in Windsor was thrown up when the Michigan Legislature legalized the business of betting in 1933. Deciding that the state revenues to be had outweighed potential moral degeneration, the MRC licensed the DRA to run meetings of up to one-hundred-twenty days. This decision effectively stifled the supply of quality stables, and access to a consumer market, necessary for the viability of

² Border Cities Star, 1 June 1935, sec. 3, p. 49.

operations in Windsor. The sectarianism that had festered without a regulatory commission undermined the capacity of promoters in Windsor to negotiate with the MRC when racing resumed in Detroit. Accordingly, Orpen moved the KJC to London, after the DRA was unwilling to alter its dates. Though the final two years of racing at Devonshire Park were marred by contingencies posed by municipal affairs and physical phenomenon, respectively, the circumstances in which operations were conducted had been profoundly altered.

Undeniably, the fundamental dynamic which undergirded operations in Windsor in the years 1884 to 1936 was the legal continuity-market peculiarity tension. What has been demonstrated in this history is that while this structural circumstance was a given, it was actors who were responsible for what was done within the bounds of that circumstance, *inter alia*. Though it was promoters, reformers, and regulators who were responsible for operations at the tracks in Windsor, such agency was profoundly conditioned by their class positions in the historically specific circumstances in which they acted. These circumstances, as has been argued throughout this history, were characterized by contradictions inherent to capitalism.

Though inter-class conflict is the central dynamic in the struggle for hegemony, what was documented and explained in this history points to the heterogeneity of the ruling class and illuminates how inter-class struggle fractured the bourgeoisie in its attempt to accommodate contradiction. Moreover, because contradictions were impossible to evade, the amplification or restriction of any particular policy or arrangement was cast in regard to the insidious way in which the state intervened, as Corrigan and Sayer suggest, to rationalize, normalize, render "natural, taken for granted, in a word

'obvious,' what are in fact ontological and epistemological premises of a particular and historical form of social order."³

To be sure, the structural legality of the industry in Windsor was predicated on an unequivocally capitalist state agenda that sought to encourage capital accumulation by regulating the industry while engendering morality by suppressing working class gambling, all the while portraying the law as being in the *national* or public interest. Far be it from coercive manipulation or explicit social control;⁴ the regulation of racetrack gambling was embedded in historical justifications of what was possible and what was not. Indeed, similar to the fluctuation of a front caused by resistance and capitulation in a closely contested battle, so too were mainstream notions of the limits of promotion, reform, and regulation actively driven in-and-out of consciousness over time and across space.⁵

When all is said and done, the ultimate significance of this history lies in its approach to politicizing a part of the past that was justified as apolitical. It is only by knocking down the processes by which "common sense" consent is orchestrated for a social order perpetually open to crisis that a viable alternative can be realized. To this end:

History is a form within which we fight, and many have fought before us ... For the past is not dead, inert, confining; it carries signs and evidences also of creative resources which can sustain the present and prefigure possibility.⁶

³ Corrigan and Sayer, *The Great Arch*, 3.

⁴ For vulgar functionalist (so-called marxist) accounts read Paul Hoch, *Rip Off the Big Game*, (New York: Doubleday, 1972), 4,10; Jean Marie Brohm, *Sport: A Prison of Measured Time*, (London: Ink Links, 1978), 45.

⁵ Hall, "Notes on Deconstructing," 238; Clarke, "Pessimism Versus Populism," 28, 29, 41.

⁶ E.P. Thompson, "The Politics of Theory," in *People's History and Socialist Theory*, ed. Raphael Samuel (London: Routledge and Kegan Paul, 1981), 407-408.

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