

criminal law, so there are many matters with respect to which the State may find it necessary to make laws independently of any question of ethics. In any event, as was pointed out by the British Royal Commission, public opinion generally would not support legislation based solely on ethical objections to gambling. The British Commission was, of course, speaking with respect to conditions in England, but those conditions do not, we conceive, differ materially from conditions in the same relation in New Zealand.

56. It was, no doubt, the acceptance of the truth of this conception which influenced the associated Churches to refrain from asking for a present lessening of the means of gambling in New Zealand. The wisdom of that is obvious, for it is notoriously unprofitable, if not futile, to attempt to enforce laws which exceed the moral standard of conduct of the community.

57. We conclude, therefore, that the proper function of the State is to impose restraints and restrictions only in respect of gambling which is or is likely to be productive of detrimental social consequences. That does not, of course, mean detrimental consequences in sporadic instances, but consequences on a scale more widespread and more general.

58. One method of imposing such restraints and restrictions is, of course, to restrict or restrain those contests which are habitually made the basis of gambling. That, however, is not presently sought even by the most decisive opponents of gambling. The field over which legislative control is to operate is thus somewhat narrowed. It would, however, be obtuse and productive of detrimental consequences if any consideration of the problem of the duty of the State with respect to gambling proceeded upon any basis other than a clear and definitive appreciation that gambling can be productive of serious social consequences. To that fact the New Zealand Racing Conference and the New Zealand Trotting Conference are both alive, as was amply testified by the condemnation to which counsel for both parties gave voice in their references to what they termed "the big punter." Both bodies seemed to be inspired with what is beyond question the proper conception of the most desirable condition—namely, that horse-racing should be run as a sport for sport's sake and as an amusement, with moderate gambling as a means for the creation of pleasurable excitement and further interest.

59. That conception substantially coincides with the views expressed by the Church of England and by the Roman Catholic Church neither of which, even as an end result, seeks the entire suppression of betting. It certainly, we think, coincides with the opinion of the great majority of the public, which is, we judge, definitely opposed at present to the suppression of betting.