

and of all other similarly contending claimants in the future may be determined. No absolute test can, it is thought, be evolved, for the circumstances of particular cases must always play an important part. In the main, however, the principle must, in all fairness, be that where a club has enjoyed a particular date or particular dates over a great many years, then it has a *prima facie* right to such date or dates. That right can scarcely be displaced by a claimant in respect of a sport of more recent origin which has been allowed into the category of sporting fixtures in respect of which totalizator licences are granted merely on the ground of a percentage of greater popularity. On the other hand, if the club enjoying the date has, in respect of that date, substantially lost its claim upon the public interest, whilst the contending sport would, in respect of it, command a very preponderating measure of public support, then, on the same basis of fairness, the club which no longer commands a reasonable measure of public support should give way to the sport which is in public demand, provided that demand can fairly be regarded as permanent and not merely temporary or transient.

**208.** Judged by these tests, there is at this stage no warrant for the transfer of a holiday date during the Christmas or Easter period from the Auckland Racing Club to the Auckland Trotting Club. At the same time, there is one date, the 29th January—Anniversary Day, which the Auckland Racing Club acquired from the Takapuna Jockey Club—upon which its tenure is insecure. That date is therefore susceptible of allocation upon a basis different from the other holiday dates enjoyed by the Auckland Racing Club, and it may well be that circumstances might arise which would make it just and equitable that that date should be transferred, if not permanently, then at least from time to time, to the Auckland Trotting Club, so that the latter might have one special holiday date, apart from Labour Day, upon which it could hold contests of particular significance or importance.

**209.** This latter comment is not made as a specific recommendation by the Commission which, in principle, approbates the allotment of dates being left, as in the past, to the mutual agreement of the respective Conferences. It is intended merely as an indication from an independent tribunal of a point of view that seems equitable. On any such question, however, due recognition must always be paid to the relative capacity of the clubs to provide for holiday crowds, and above all, to provide reasonable and satisfactory amenities for those crowds. In the present circumstances, to give the Auckland Trotting Club a Christmas or New Year holiday date would, from the public point of view, be to substitute the deficiencies of Alexandra Park for the inadequacies of Ellerslie.

**210.** We are encouraged to think that the Anniversary Day date can be settled by both clubs approaching it in a reasonable spirit of give and take, as has been done in particular instances previously. For