

267. Nothing, therefore, but a compelling necessity would justify any interference with the introductory phase of the section. The phase with which the Racing Conference is concerned is supplementary to the primary and initial phase and is necessary for the proper enforcement of that phase ; this by reason of the fact that in given instances it might be possible to prove actual agency, but impossible to prove solicitation by letter or otherwise. Incidentally, the secondary phase also operates, as was emphasized by the Commissioner of Police, to preclude persons found taking money on the racecourse, doubtless as bookmakers, from raising the defence that they were in fact acting as agents for the investment of the money on the totalizator.

268. For these reasons it appears to us unwise to attempt to qualify or restrict the provisions of the section. It may be that no such qualification is necessary, for the crucial word in that phase of the section which the Racing Conference has in mind is the word "employs," and it may be that one friend, acting for another gratuitously in sporadic instances, could not be held to be "employed." Such a construction conforms to the practice of the Police Department, which has never considered prosecuting any one in respect of such circumstances as the Racing Conference has in mind. The section has never, therefore, operated oppressively, and it would, we think, be wise to leave it as it is.

SECTION 10.—UNIT OF INVESTMENT AND A FIVE-SHILLING TOTALIZATOR

269. Some evidence was given in favour of an investment unit of 5s. In the early days of the totalizator the unit varied with different clubs, most operating on a £1 unit. Some few employed a £2 unit. Then the £1 unit became universal, and remained so for some years. Provision was, of course, made for £5 tickets at special windows. Then a number of clubs lowered the unit to 10s., with provision for £1 and £5 tickets, but for a long time they were in a minority. To-day the 10s. unit is universal. About 1932, during the depression, a number of clubs, racing and trotting, operated on a 5s. unit, but the experiment was short-lived, despite the scarcity of ready money. The handling of so much silver and the extra work in calculating dividends made the system unpopular with totalizator staffs, and, rightly or wrongly, the clubs concerned felt that it tended to reduce the total volume of betting. The same arguments which had been used by the clubs resisting the 10s. unit were used against the 5s. unit.

270. In England, when the totalizator was first operated on racecourses, the unit was fixed at 2s., and it remained at that figure until recently, when it was raised to 4s. At dog-races in England the unit is 2s. 6d. In all Australian States the unit is 5s. No difficulty has ever