FIRST REPORT

of the

Commission to Study the Racing Laws
of the State of Maryland

Appointed by

Honorable Herbert R. O'Conor, Governor of Maryland

Pursuant to a Senate Resolution Adopted at the
Meeting of the Legislature in 1945

ALBERT E. DONALDSON, Chairman
HUGO R. HOFFMANN  CHARLES W. SHAW, JR.
HENRY A. PARR, III  JOSEPH A. WILMER

HUMPHREY S. FINNEY, Secretary

October 12, 1946
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COMMISSION TO STUDY THE RACING LAWS
OF THE STATE OF MARYLAND.

October 12, 1946

TO THE HONORABLE HERBERT R. O'CONOR,
Governor of Maryland.

SIR:

The report of this Commission, appointed by you pursuant
to a Senate resolution passed at the meeting of the Legislature
in 1945, is respectfully transmitted herewith. Copies there-
of are being sent to the Legislative Council.

As stated in the report, a further report will be made on
matters other than taxation.

Respectfully submitted,

ALBERT E. DONALDSON,
Chairman.
FIRST REPORT

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COMMISSION TO STUDY THE RACING LAWS
OF THE STATE OF MARYLAND.

The Commission to Study the Racing Laws of the State of Maryland was appointed by the Governor in the spring of 1946, pursuant to a resolution of the Senate of Maryland passed at the 1945 session of the Legislature.

The preamble to the resolution recites the outstanding record and fine traditions of the State in the sport of racing, the importance of continuing racing in keeping with such traditions, and the frequent charge that the method of taxing the tracks is outmoded and that many other sections of the racing law make impossible future development of the sport. The duties of the Commission, as defined in the resolution, are to study the racing laws of the State, to revise them to conform to modern thought and procedure, and to report its findings and recommendations, with a recommended revision of the racing law, to the Legislative Council and the Governor by July 1, 1946, and to the General Assembly by January 1st, 1947.

Within the time elapsed from the date of the appointment of the Commission to July 1st, 1946, it was impossible for the Commission to make any report to the Legislative Council and to the Governor.

The study of the racing laws of the State falls into two distinct categories:

(1) Laws relating to the powers and duties of the Maryland Racing Commission, the licensing of race tracks known as the mile tracks, the licensing of organizations conducting race meetings on minor or half-mile tracks in connection with or for the benefit of bona fide county fairs or agricultural exhibitions (referred to herein as the half-mile tracks), the licensing of owners, trainers and jockeys, and various
other matters relating to the regulation and conduct of racing apart from taxation.

Since the decision of the Court of Appeals of Maryland on July 23, 1946, in the case of Marylnd Racing Commission vs. J. Dallet Byers, there is no longer any doubt as to the powers and duties of the Maryland Racing Commission with respect to the questions which were presented to the Court in that case, and to this extent the study of the present law has been narrowed. Many other phases of the law within this category are still being studied by the Commission, and it is expected that its report in respect thereto will be made in the near future.

(2) Laws relating to the taxation of racing.

Publication of the report of the Maryland Commission on the Distribution of Tax Revenues, of which the Honorable Joseph Sherbow is Chairman, and which for convenience will be herein referred to as the "Sherbow Report", has rendered it advisable that the report of this Commission insofar as the same will deal with taxation should be made at this time, in order that it may be considered in connection with the Sherbow Report and matters of agreement and disagreement well defined. Accordingly the same is submitted herewith.

THE METHOD AND RATES OF TAXATION OF RACING.

This Commission is in accord with the report of the Sherbow Commission that:

(1) The tax on net revenues on both the mile and the half-mile tracks should be abolished.

(2) The daily license fee on mile tracks should be reduced.

(3) The tax on the gross pari-mutuel pool for all tracks should be an increased percentage of the total "take", such "take" to remain as at present at 10%.

(4) The daily license fee on half-mile tracks should remain unchanged.
(5) The breakage should go to the State from the mile tracks.

(6) The Maryland State Fair Board should continue to receive $4,000 annually from each mile track, and the Maryland Horse Breeders' Association should continue to receive $2,000 annually from each mile track.

(7) An allocation (which differs from the Sherbow Report) of taxes received from the half-mile tracks should be made to the Maryland State Fair Board, and the Board should be given the power to use the funds thus received in a manner best calculated to strengthen and revive, if necessary, the agricultural fairs and exhibits in Maryland.

(8) The Enabling Act which established the Maryland State Fair Board should be repealed and re-enacted in such a way that the Board will for the future be a completely individual administrative agency of the State Government, and have no connection with the Maryland Racing Commission or any other State Administrative Board now in existence.

(9) The Baltimore County—Pimlico Special Tax of $3,000 per day should be abolished.

(10) The expenses of the Maryland Racing Commission should continue to be paid by appropriations from the State general funds. The present limit on these expenses will be discussed in a later report.

The recommendations of this Commission relating to the taxation of racing which differ from those of the Sherbow Report are as follows:

(1) The daily license fee on mile tracks should be reduced to $200.00 per day.

(2) The total "take" for all purposes should be definitely fixed at 10% of the gross pari-mutuel pool.

(3) The tax on the gross pari-mutuel pool should be increased to 3½%, and apply equally to the mile and half-mile tracks, provided, however, in respect to the mile tracks,
that if and when the gross pari-mutuel pool at each mile track equals the sum of $1,000,000 multiplied by the total number of days of racing for which licenses are granted to such track during the calendar year, the gross pari-mutuel pool in excess of such amount should be taxed at 4%.

(4) One per cent of such gross pari-mutuel pool should be allowed the respective tracks, whether mile or half-mile, to be dedicated to and expended only for the purchase of land or permanent improvements, purchased or made after the year 1945, or to discharge indebtedness incurred for such purposes, or for the increase in purses or other monetary awards to owners and breeders over and above those awarded by the respective tracks in the year 1946.

The amounts now impounded and to be impounded until December 31st, 1946, under the provisions of Section XI-A of Chapter 961 of the Acts of 1945, should remain subject in all respects to the provisions of said section of said Act, but there should be no further impounding under such Act after December 31st, 1946. Questions have been raised as to the legality of said Section XI-A of the Acts of 1945, under which the State now impounds ½ of 1% of the mutuel pool, and which amount, failing expenditure by the tracks in the manner prescribed in said Act, reverts to the State as part of its general funds. While this Commission is still studying this question, it can definitely be stated that its final recommendations as to such restricted 1%, as set forth in this report, will assure the proper application thereof.

(5) The remaining part of the 10% “take” should be allowed the respective tracks for their general purposes.

(6) Breakage from the half-mile tracks as well as the mile tracks should go to the State, but such breakage from the half-mile tracks should be allocated by the State to the Maryland State Fair Board.

(7) The requirement of Chapter 514 of the Acts of 1941 that the half-mile tracks shall annually provide and set aside the sum of $5,000 in premiums for bona fide livestock and
agricultural exhibits, and that any part of said sum not claimed by exhibitors shall be paid to the Racing Commission for the use of the State, should be abolished.

(8) All tax revenues received by the State from the mile and half-mile tracks should be paid into the State general funds, and out of such funds there should be paid to the Maryland State Fair Board an amount equivalent to the breakage received from the half-mile tracks, as hereinbefore set forth.

Allocation of tax revenues, except as such allocation affects racing and the Maryland State Fair Board, and through it the agricultural fairs and exhibits, is not deemed to be within the scope of the matters committed to this Commission by the Senate resolution, and accordingly no recommendation is made in respect thereto.

Taxes on Mile Tracks Recommended by the Sherbow Report.

The Sherbow Report recommends that the tax on net revenues be abolished, that the daily license fee on mile tracks be reduced from $6,000 to $1,000 per day, and that the tax on the gross pari-mutuel pool should be increased from 2% to 4%, the State continuing to take the breakage.

In 1945 the Legislature increased the taxes on mile tracks by requiring them to pay to the State the breakage which they had formerly retained. Experience has shown that breakage amounts to approximately ¾ of 1% of the total mutuel pool, and in 1945 the increased tax paid to the State (the amount of the breakage) was $714,579. The adoption of the recommendations of the Sherbow Report would again substantially increase taxes over the amount payable under the law as amended in 1945.

The Sherbow Report shows for the purposes of comparison the actual amount paid to the State by the four one-mile tracks over a period of twenty-one years, the amount which would have been paid if the existing method of taxation had
been in effect throughout that period, and the amount which
the State would have received had the recommendations of
the report been in effect during such period.

Any attempt to readjust the total income to the State in
prior years to reflect different methods of taxation necessi-
tates the assumption, as stated in the Sherbow Report, that
all other factors of income and expense are the same. The
auditors' report on which the Sherbow Report is based states:
"As a practical matter, however, it is recognized that such an
assumption would meet with considerable changes under
actual operating conditions." An assumption contrary to
facts, which are matters of common knowledge, renders the
result obtained totally unreliable.

It is submitted that any comparison between what the
State actually received over a long period of years, with a
wide disparity in total betting, numerous changes in the rates
of taxes as shown on page 43 of the Sherbow Report, and con-
stantly changing conditions, both as to the size of purses and
the cost of labor and materials, with what the State would
have received under the present law, or under any proposed
law, is of no value.

The auditors' report on which the Sherbow Report is
based states that in certain instances the amount of the pro-
posed increase in taxes, as computed under the recommenda-
tions of the Sherbow Report, is larger than the net income of
the track before income taxes. Examples of this condition
are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Track</th>
<th>Amount Bet</th>
<th>Increase in Tax Under Sherbow Report Recommendations</th>
<th>Actual Net Income (Loss*) Before Income Taxes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1925</td>
<td>Laurel</td>
<td>$11,785,000.</td>
<td>$121,000.</td>
<td>$105,000.</td>
</tr>
<tr>
<td>1926</td>
<td>Bowie</td>
<td>12,881,000.</td>
<td>142,000.</td>
<td>127,000.</td>
</tr>
<tr>
<td>1927</td>
<td>&quot;</td>
<td>13,454,000.</td>
<td>154,000.</td>
<td>129,000.</td>
</tr>
<tr>
<td>1930</td>
<td>Pimlico</td>
<td>13,385,000.</td>
<td>155,000.</td>
<td>91,000.</td>
</tr>
<tr>
<td>1932</td>
<td>&quot;</td>
<td>3,577,000.</td>
<td>72,000.</td>
<td>36,000.*</td>
</tr>
<tr>
<td>1938</td>
<td>&quot;</td>
<td>9,510,000.</td>
<td>65,000.</td>
<td>17,000.</td>
</tr>
</tbody>
</table>

* Denotes loss.
Under the recommendations of the Sherbow Report, losses would have been experienced by the respective tracks in each of the above instances; in the case of Pimlico, the loss of $36,000 in 1932 would have been increased to $108,000. There are undoubtedly many instances in which while the increased tax would not have exceeded the net income of the tracks before income taxes, it would have unreasonably reduced the same.

The following tabulation shows the number of days of racing at each of the mile tracks, the total betting and the actual revenue to the State, from 1930 through 1945.
<table>
<thead>
<tr>
<th>Year</th>
<th>Track</th>
<th>Days</th>
<th>Total Bet</th>
<th>Percentage to State</th>
<th>15% of Net Revenue to State</th>
<th>Daily License Fees to State</th>
<th>Breakage to State</th>
<th>Total to State</th>
</tr>
</thead>
<tbody>
<tr>
<td>1945</td>
<td>Pimlico</td>
<td>46</td>
<td>$32,580,458</td>
<td>$1,657,368.12</td>
<td>$283,251.07</td>
<td>$276,000.00</td>
<td>$114,583.00</td>
<td>$3,596,072.35</td>
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<td>1945</td>
<td>Laurel</td>
<td>38</td>
<td>39,255,753</td>
<td>788,135.06</td>
<td>288,738.04</td>
<td>216,000.00</td>
<td>296,696.00</td>
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<td></td>
<td>92,125,212</td>
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<td>1944</td>
<td>Pimlico</td>
<td>50</td>
<td>47,435,687</td>
<td>948,713.34</td>
<td>296,788.34</td>
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<td>34,555,802</td>
<td>697,170.64</td>
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<td>196,780.96</td>
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<td>Bowie</td>
<td>24</td>
<td>9,419,589</td>
<td>188,391.78</td>
<td>39,033.25</td>
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<td>Havre de Grace</td>
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<td>44,697.39</td>
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<td>1941</td>
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<td>11,463,610</td>
<td>220,372.39</td>
<td>37,850.80</td>
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<td>44,270.47</td>
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<td>Bowie</td>
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<td>212,772.06</td>
<td>63,705.96</td>
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<td>Bowie</td>
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<td>35,577,308</td>
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<td>Year</td>
<td>Horse</td>
<td>Age</td>
<td>Price</td>
<td>Total</td>
<td>Commission</td>
<td>State Share</td>
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<td>6,396,009</td>
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<td>26,223,900</td>
<td>15,990.99</td>
<td>150,000.00</td>
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<tr>
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<td>Pimlico</td>
<td>23</td>
<td>9,377,855</td>
<td>26,725,251</td>
<td>None</td>
<td>138,000.00</td>
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<tr>
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<td>Laurel</td>
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<tr>
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<td></td>
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<td></td>
<td>47,754,676</td>
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* Prior to 1933 no percentage to State; thereafter including spring 1939 1% to State; thereafter to date 2% to State.
It is submitted that any review of the revenue received by the State in past years and the amount of betting, which was and is the source of the tax irrespective of the method of taxation, is of value only for the purpose of forecasting, so far as possible, the amount of future betting and the amount of revenue therefrom to be received by the State.

In 1942 racing was conducted on all four tracks, for a total of 99 days, and apparently without the betting having been affected by war conditions. The total amount bet in that year was $43,094,551.

In 1943 racing was conducted on 50 days only, all at Pimlico, a joint meeting of the four mile-tracks, and the total amount bet was $38,373,099.

In 1944 joint meetings were held, 50 days at Laurel and 50 days at Pimlico, and the total amount bet was $82,291,469; and in 1945 joint meetings were held, 36 days at Laurel and 46 days at Pimlico, a total of 82 days, and the total amount bet was $82,125,212.

It must be kept in mind that betting reached unprecedented proportions in 1944 and 1945, and whereas in normal years only 25 days of racing are held at Pimlico, 50 days were held at that track in 1944 and 46 days in 1945, which probably resulted in a far greater mutuel pool than would have been the case had racing been conducted by the four tracks on their respective premises. Pimlico has always enjoyed a very much higher mutuel play than the other mile tracks.

The years 1940 to 1945 inclusive serve sufficiently to illustrate the wide range in the number of days of racing, and in the total betting and total revenue actually received by the State, and in the revenue which would have been received had the recommendations of the Sherbow Report been in effect, and the increase in taxes under such proposed revision.
The Sherbow Report, for the purposes of comparison and to support its recommendations that taxes on racing be again increased, refers to the laws of several states in which racing is conducted. In such states the total “take” varies, the rate of tax on the mutuel pool is in some cases a flat percentage and in other cases a graduated percentage, and in some cases breakage is taken by the state, in others by the track, and in still others divided. From the standpoint of the track, however, the matter of most importance, and on which depends its ability properly to operate, with the resulting advantage to the state, is the percentage of the mutuel pool and the breakage which it is permitted to retain. It is therefore interesting to note that even if conditions in Maryland were comparable, which in most cases they are not:

In California the track retains a minimum of 7% of the mutuel pool and breakage to 5¢.

In Florida the track retains 7% of the mutuel pool but no breakage.

In Illinois the track retains 8 or 9% of the mutuel pool, depending upon the location of the track in suburban or rural areas, and breakage to 10¢.

In Louisiana the track retains 3% on the first $100,000, 8% on the next $50,000, 7% on the next $50,000, 6% on all over $200,000, and breakage to 10¢.
In Massachusetts the track retains 6½% of the mutuel pool but no breakage.

In New Hampshire the track retains 6% of the mutuel pool and one-half of the breakage to 10¢.

In New Jersey the track retains 6% of the mutuel pool and breakage to 5¢.

In Ohio the track retains a minimum of 7% of the mutuel pool and breakage to 10¢.

In Rhode Island the track retains 6½% of the mutuel pool and breakage to 5¢.

The State of Delaware is not mentioned in the Sherbow Report. However, the track retains 6½% of the mutuel pool (1½% of which is restricted) and breakage to 5¢.

The gross “take” allowed and the tax on mutuel pools taken by the states above referred to are set forth in a tabulation on page 50 of the Sherbow Report, from which it will appear that in no state (with the exception of New York) where the “take” is limited to 10% does the state receive as its tax a share of the mutuel pool equal to 4%, and the breakage.

Conditions in New York, with its enormous permanent and transient population, are not comparable with those existing in Maryland. The racing season in New York covers practically every week-day from early spring to late fall. The attendance is accordingly large and the betting is enormous. In the 1946 season to July 20th, a total of 91 days, the total pool was $216,863,963, the average daily pool $2,383,120, and the revenue to the State of New York from the pari-mutuel operations alone, apart from the tax on admissions, was $14,038,566. The 1946 racing season in New York will continue through November 12th.

So far in 1946 there have been 49 days of racing at the mile tracks, exclusive of the present Laurel meeting, with total betting of $51,062,372, or a daily average of $1,042,089.
If the fall racing, at Laurel 25 days, Pimlico 13 days, and Bowie 13 days, a total of 51 days, produces total betting of $49,000,000, making a total of approximately $100,000,000 for the year 1946, the average daily betting will have to amount to $960,800. At Laurel, after 9 days of the present meet, the daily average is $807,703.

Again submitting that any review of the amount of betting and the revenue received by the State in past years is of value only for the purpose of forecasting as far as possible the amount of future betting, it would appear that a study of the foregoing facts and statistics indicates that for the calendar year 1947 betting at the mile tracks of $100,000,000 is the limit of what can be expected, and then only if conditions are comparable to those existing in the present year. That such conditions will exist in 1947 is a matter of speculation, but if conditions at the time of filing this report are considered, the prospect is certainly unfavorable.

While this Commission makes no recommendations other than herein stated as to the allocation of race-track revenues, it believes that it should be pointed out that the Sherbow Report uses the actual revenues received by the State in the fiscal year ended June 30, 1946 from both the half-mile and mile tracks as the basis for calculating revenues under the revision proposed (see pages 63, 64 and 65 of the Sherbow Report). This method, insofar as it relates to the half-mile tracks, brings the same result as if the calendar year 1945 had been used, as all of the revenue from the half-mile tracks was produced after June 30, 1945 and before the end of the calendar year 1945. In the case of the mile tracks, however, the use of the fiscal year ended June 30, 1946 produces a totally different result from the use of the calendar year 1945, in that the actual revenue in such fiscal year was $4,888,545.59 whereas the actual revenue received by the State in the calendar year 1945 was $3,596,072.

The Sherbow Report warns that "it should be kept in mind, however, as to the racing figures, that the fiscal year ended June 30, 1946 was an unusual year for racing, with bet-
ting reaching unprecedented proportions." How far the Sherbrow Commission used the total betting and the revenue to the State in such fiscal year, in respect to the mile tracks, as a reason for its recommendations for increased taxes, as well as for purposes of allocation, is not known, but it must be pointed out that the total betting on which the State actually received revenue in the fiscal year ended June 30, 1946 amounted to $131,502,214, and that in such fiscal year there were 120 days of racing, carrying $6,000 per day in license fees. This total of 120 days was made up as follows. All of the fall racing (71 days) in 1945 was of course within the fiscal year ended June 30, 1946, and was conducted in joint meetings at Pimlico and Laurel. In the spring of 1946 Bowie raced 12 days, Pimlico 12 days, and due to competitive conditions Have de Grace used its entire allotment of 25 days, all within such fiscal year. This situation can never prevail in any succeeding fiscal year. Apart from war or other unforeseen contingencies or conditions, the greatest number of days on which racing can be conducted on the mile tracks in any future fiscal year is 100, and it is extremely unlikely that total betting of $131,502,214 will ever be reached in that number of days. Certainly it would be unwise to allow racing on any greater number of days. As hereinbefore stated, this Commission believes that a gross mutual pool of $100,000,000 is the absolute limit of what can be expected in any year. The effect of using figures for the fiscal year ended June 30, 1946, instead of for the calendar year 1945, appears to hold out to Baltimore City, the counties and political sub-divisions, and the Maryland State Fair Board, amounts which they cannot possibly receive.

The Sherbrow Commission was appointed by the Governor to report on the distribution of tax revenues. In the single instance of the tax on racing, it not only recommends a new method of taxation but recommends a heavy increase in taxes over that being paid under the present law. In every other case, it has taken taxes as it found them and recommended allocation on such basis. This Commission has endeavored, and possibly at too great a length, to set out such facts as it
deems pertinent to show that the increase in taxes recommended by the Sherbow Report, coming after the substantial increase in 1945 through the taking of the breakage, is not warranted and is not in the best interests of the State.

Racing in Maryland has been a traditional sport since colonial times, has been conducted in accordance with the finest standards, and has maintained a reputation of the highest type. It is the opinion of this Commission that the primary interest of the State in racing should be in the continuation of this fine tradition and in the establishment of fair and reasonable laws. Under such laws, it should be possible for the tracks to provide safe and convenient accommodations for the public, and offer purses and awards sufficient to attract the owners and trainers of the highest grade of horses. These views are in accord with those of the Legislature as expressed in the resolution of the Senate of Maryland creating the Commission.

The taxation of racing, although it is now one of the most important sources of revenue to the State, is necessarily of secondary importance. If the State's interest in racing were solely or primarily concerned with the production of revenue, there are innumerable other enterprises which could be authorized and then taxed by the State, such as, betting away from the tracks, lotteries, and other forms of racing, which would yield large returns. We believe that the taxation of racing should be approached in the same manner as the taxation of other enterprises and recreations, but that one important distinction should be kept in mind. There seems to be virtually unanimous agreement that taxes imposed on the tracks must be proportionate to the patronage enjoyed by the tracks, that Maryland racing is confronted with increasing competition, and that unless the caliber of racing in Maryland and the facilities provided for the accommodations of the public and those engaged in racing are equal to the best provided at other locations, the revenues of the State will suffer. For this reason the Commission is firmly of the opinion that the State's primary interest in racing and its pecuniary
interest do not conflict but in fact are identical. If the tracks, faced with additional taxes, endeavor to recoup the diminu-
tion in net income, or in some cases avoid actual loss as pointed out herein, such effort would necessarily take the form of increasing admission rates, making smaller appropriations for repairs and improvements, and, in all probability, reducing purses. To increase admission rates and to fail to make proper repairs and improvements would undoubtedly affect attendance, and to reduce purses would undoubtedly have an influence on the caliber of the stables that were attracted to the meeting, all of which would affect adversely the amount of betting and the revenue to the State.

Taxes on Mile Tracks Recommended by This Commission.

(1) This Commission agrees that the daily license fee, which is now $6,000, should be reduced. It also agrees with the Sherbow Report that in most states in which racing is conducted, the revenue from a percentage of the pari-mutuel pool constitutes a very high percentage of the total revenue to the State. Accordingly, the amount of the daily license fee bears a distinct relationship to the amount of the tax on the pari-mutuel pool and the breakage, and should be no higher than an amount which, when taken in connection with such tax and breakage, would produce in the aggregate a proper amount of revenue to the State. Accordingly, this Commission recommends that the daily license fee be fixed at $200.00 per day.

(2) The tax on the gross pari-mutuel pool should be fixed at an amount which, together with the breakage and the daily license fee, would produce total revenue in an amount approximately equal to that received under the existing law in the year 1945. Accordingly, this Commission recommends that the tax on the gross pari-mutuel pool should be increased to 3½%, and apply equally to the mile and half-mile tracks, provided, however, in respect to the mile tracks, that if and when the gross pari-mutuel pool at each mile track
equals the sum of $1,000,000 multiplied by the total number of days of racing for which licenses are granted to such track during the calendar year, the gross pari-mutuel pool in excess of such amount should be taxed at 4%. 

(3) The Commission recommends that the breakage from the mile tracks go to the State.

From the following tabulation it will be seen that based upon the calendar year 1945, as revised in accordance with this recommendation, the State would have received revenue slightly in excess of that actually received; based upon the year 1944, the State would have received far in excess of the amount actually received. In the prior years when the pari-mutuel pool was so very much smaller, it will be seen that the revised revenue is slightly larger or approximately the same as the actual revenue, except in the case of 1940 when in the full 100 days of racing, total betting amounted to $31,941,731.

<table>
<thead>
<tr>
<th>Year</th>
<th>Days</th>
<th>Total Bet</th>
<th>Total Actually Received by the State</th>
<th>Amount Which Would Have Been Received by the State Had A Tax of 3½% of the Mutuel Pool, the Breakage and Daily License Fee of $200 Been in Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>1945</td>
<td>82</td>
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<td>$3,596,072.00</td>
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<tr>
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<td>100</td>
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<td>$2,698,794.00</td>
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<td>$38,378,099.00</td>
<td>$1,343,026.00</td>
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<tr>
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<td>99</td>
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<td>$1,625,791.00</td>
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<tr>
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<td>$41,852,697.00</td>
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<tr>
<td>1940</td>
<td>100</td>
<td>$31,941,731.00</td>
<td>$1,357,471.00</td>
<td>$1,257,741.00</td>
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</table>

The foregoing well illustrates the statement in the Sherbow Report that the productivity of a system of taxing under which the greater part of the revenue originates through the tax on pari-mutuel sales will be directly related to the amount of business done at the various race-tracks. The result will necessarily be that when business for the racing industry is good, the tax receipts inuring to the State will be large; when the business for the tracks is bad, the tax load will be correspondingly light.
Taxes on Half-Mile Tracks Recommended by the Sherbow Report.

The Sherbow Report recommends that the tax on net revenues should be abolished, that the daily license fee (which is $50.00 a day for each day of racing and is paid to the county in which the meet is held) should remain unchanged, that the breakage should be retained by the tracks, and that the tax on the gross pari-mutuel pool should be increased to 4%.

Taxes on Half-Mile Tracks Recommended by This Commission.

This Commission believes that with the exception of the daily license fees to be paid by the mile and half-mile tracks, the taxing of all tracks, mile and half-mile, should be uniform, except that in respect to the half-mile tracks the tax on the gross pari-mutuel pool should be fixed at 3½%, as there is little likelihood that betting at the half-mile tracks will ever exceed the amount after which the tax thereon in the case of the mile tracks is increased to 4%.

The breakage should be taken by the State but allocated to the Maryland State Fair Board.

It will be seen that the tax of 3½% on the gross pari-mutuel pool, plus the breakage, will approximate the amount of revenue which would be received by the State from a tax of 4% on the mutuel pool but without breakage, as in the Sherbow Report, but the recommendation of this Commission which reduces the tax on the mutuel pool and allocates the breakage to the Maryland State Fair Board would assure the half-mile tracks that they would receive back from that Board an amount in that proportion which the relative size and importance of the agricultural fairs and exhibits held by the respective tracks bear to all agricultural fairs and exhibits participating in the fund. The foregoing recommendation would seem to be in accord with the statement in the Sherbow Report that the half-mile tracks were granted their franchises in order that they could support and maintain agricultural fairs.
Conclusion.

For the reasons set forth herein, the Commission recommends:

(1) The tax on net revenue on all tracks should be abolished.

(2) The daily license fee on mile tracks should be reduced to $200.00 per day.

(3) The daily license fee on half-mile tracks, which is $50.00 a day for each day of racing and is paid to the county in which the meet is held, should remain unchanged.

(4) The total "take" for all tracks and for all purposes should be definitely fixed at 10% of the gross pari-mutuel pool.

(5) The tax on the gross pari-mutuel pool should be increased to 3 1/4%, and apply equally to the mile and half-mile tracks, provided, however, in respect to the mile tracks, that if and when the gross pari-mutuel pool at each mile track equals the sum of $1,000,000 multiplied by the total number of days of racing for which licenses are granted to such track during the calendar year, the gross pari-mutuel pool in excess of such amount should be taxed at 4%.

(6) One per cent of such gross pari-mutuel pool should be allowed the respective tracks, whether mile or half-mile, to be dedicated to and expended only for the purchase of land or permanent improvements, purchased or made after the year 1945, or to discharge indebtedness incurred for such purposes, or for the increase in purses or other monetary awards to owners and breeders over and above those awarded by the respective tracks in the year 1946.

(7) The amounts now impounded and to be impounded until December 31st, 1946, under the provisions of Section XI-A of Chapter 961 of the Acts of 1945, should remain subject in all respects to the provisions of said section of said Act, but there should be no further impounding under such Act after December 31st, 1946.
(8) Breakage from both the mile and half-mile tracks should go to the State, but the breakage from the half-mile tracks should be allocated by the State to the Maryland State Fair Board, and the Board should be given the power to use the funds thus received in a manner best calculated to strengthen and revive, if necessary, agricultural fairs and exhibits in Maryland.

(9) The Maryland State Fair Board should continue to receive $4,000 annually from each mile track, and the Maryland Horse Breeders' Association should continue to receive $2,000 annually from each mile track.

(10) The Enabling Act which established the Maryland State Fair Board should be repealed and re-enacted in such a way that the Board will for the future be a completely individual administrative agency of the State Government, and have no connection with the Maryland Racing Commission or any other State Administrative Board now in existence.

(11) The requirement of Chapter 514 of the Acts of 1941 that the half-mile tracks shall annually provide and set aside the sum of $5,000 in premiums for bona fide livestock and agricultural exhibits, and that any part of said sum not claimed by exhibitors shall be paid to the Racing Commission for the use of the State, should be abolished.

(12) The additional daily license fee of $3,000 paid by Pimlico and allocated to Baltimore County should be abolished.

(13) Other than as above stated, allocation of tax revenues is not deemed to be within the scope of the matters committed to this Commission by the Senate resolution, and accordingly no recommendation is made in respect thereto.

Respectfully submitted,

HUGO R. HOFFMANN,
HENRY A. PARR, III,
CHARLES W. SHAW, JR.,
JOSEPH A. WILMER,
ALBERT E. DONALDSON, Chairman.