

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT : KAY MILLER
APPLICATION NO. : A30/08/137
PANEL : J SYME (ACTING CHAIRMAN)
T MULLIGAN (MEMBER)
F ROBINS (MEMBER)

DATE OF HEARING : 16TH JULY 1993

IN THE MATTER OF an appeal by Mrs Kay Miller against the determination of the Western Australian Turf Club Stewards on 18th June 1993 against the three months disqualification under Rule 178.

Rule 178 states:

"When any horse which has been brought to a racecourse for the purpose of engaging in a race is found by The Committee of the Club or the Stewards to have had administered to it any prohibited substance as defined in A.R.1, the trainer and any other person who was in charge of such horse at any relevant time, may be punished, unless he satisfy the Committee of the Club or the Stewards that he had taken all proper precautions to prevent the administration of the prohibited substance."

At a hearing before the Stewards the Appellant was charged as follows:

"...with presenting DUAL'S SAMSON at the Pinjarra Racecourse on the 29th of the 4th, '93, to race in the Banksiadale Maiden Handicap, which had had administered too it a prohibited substance as defined in A.R.1, the prohibited substance being clenbuterol."

The unanimous decision of the Tribunal is as follows:

The Tribunal does not accept that Section 24 of the Criminal Code applies to the Rules of Racing. This matter has been recently decided by the Tribunal in another matter when the Tribunal was constituted differently.

The Appellant having been charged and found guilty under Rule 178 the only defence available to her is that she took all proper precautions to prevent the administration of the prohibited substance.

When we examine the evidence as to the procedure for feeding the horses in the Appellant's stables we detect a degree of possible carelessness. It is probable that there was confusion of the several horses' feeds. This would lead to medication being supplied to the horse engaged in a race within the prescribed period. The Appellant as the responsible trainer cannot be said to have taken proper precautions "judged by reference to stringent standards" (see Pyrah and Wilson per Mr K A Cullinane Q.C. Queensland reported in Racing Appeals Reports at page 175.)

In permitting two casual and unregistered helpers to distribute the horses' feed without adequate supervision the Appellant did not satisfy the onus which lay on her to take proper precautions.

Accordingly we dismiss the appeal against conviction.



J SYME, A/CHAIRMAN



T MULLIGAN, MEMBER



F ROBINS, MEMBER

