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TRAINERS' RIGHTS?

Justice—and injustice—are as old as humanity. Our contemporary ideas and standards of fairness trace all the way back to the very beginnings of recorded history, whether in Egypt, Greece or Rome.

"Lady Justice" appears at courthouses and law schools almost everywhere, although few of us take the time to see what she symbolizes. The scales of justice connote impartiality, the weighing and balancing of the sides to any issue. The sword, usually unsheathed, commands respect, and means there's no justice without enforcement of a decision. A double-edged blade protects the innocent as well. The blindfold—a relatively contemporary addition—stands for objectivity and is a barrier to connections, politics, fame or wealth influencing an outcome.

The evolution and role of justice in racing are more ambiguous. Even though King Henry VIII (or possibly Lord George Bentinck) famously declared that "all men are equal on the turf, and under it," such an opinion has rarely if ever applied to the discipline or behavior within our sport's community. It's probable, in fact, that the description of the lowly being "called on the carpet" originated in racing: when the grand poohbahs or stewards of the Jockey Club in England confronted an offender to the regular order of behavior who deserved a scolding. Or worse.

In my own time, dating back only 50 years, I'm ashamed to say we in track management used to laugh that the Constitution of the United States applied everywhere except within a race track enclosure. For better or worse (and in the earliest years of modern racing during the Great Depression, it may well have been for the better), to speak of "rights" for anyone other than the track ownership and stewards was anathema. But in those early days, as the only organized sport or activity with state-sanctioned and legal betting on the outcomes, amidst a sea of economic deprivation, hardship and blossoming organized crime, preserving racing's integrity seemed to demand draconian rule.

In California, one steward was appointed by management—one by the State of California—and those two selected a third. Needless to say, the track had the upper hand in all decisions and discipline. It was the mid-1970s before things started to change, gradually at first. Still, when the major tracks had multiple applications from horsemen for every available stall, and many major owners still had private trainers, we weren't living in a "civil rights" paradise for anyone—whether customers, horsemen, or backstretch denizens.

By its nature, with enormous sums of money involved, in betting, purses, real property and bloodstock values—not to mention public economic impacts and multipliers far beyond any individual track or farm—racing required (and still requires) meticulous statutory and regulatory oversight. The law is there, and the rules are there to protect and enhance the public interest, including the economy. In California, that means the Horse Racing Board (CHRB) is empowered to supervise all of it. Politics may enter, of course, because the governor appoints its commissioners. But until the 1970s, CHRB had only three members . . . increasing politicization came during years of expansion and labor strife as it grew from the original three to five to the current seven appointees.

Nowadays, trainers everywhere, not just in California, are justifiably concerned with methods of rule enforcement and their legal protections (or lack thereof) as they prepare and race horses under greater public scrutiny than ever before. Are they entitled to meaningful fair procedures when their conduct is questioned or criticized, not just in the rule enforcement process, but generally? Can they be protected from scapegoating in a sport that is fundamentally reliant on risk, and inherently hazardous, involving precious animals?

In California, both its racing law and official rules call for formal contracts to be negotiated and agreed between tracks and the horsemen's organizations . . . where we have separate entities representing owners and trainers. These "Race Meet Agreements" describe the agreed conditions for the conduct of racing, as well as the "welfare, benefits, and prerogatives" of both tracks and trainers.

It's true that tracks are often private property, which confers benefits on their operators. However, owners of tracks operating within a highly regulated industry voluntarily diminish their customary private property rights, by virtue of that regulation and its requirements. And the horses, remember, are also private property, of their owners, who in more cases than ever before are also their trainers. The trainers themselves are also licensed, operating their own private businesses, from which the tracks are benefiting. So, it's clear that formal agreements, approved by the regulator, are necessary to define the extent of private property and other rights of both the licensed tracks and the participants, and to balance them in the public interest.

Yes, tracks have rights. Trainers do, too.

All this calls to mind Ed Bowen reminding us, in his October 1991 column in *The Blood-Horse*, of our ongoing need to "grasp the interdependence" among all segments of our game.

Every segment needs the others, and every segment needs to respect the rights and prerogatives of the others. The legislature has invested the racing commission with the authority to do the balancing.

Our sport has never been at a point where we need the regulator's wisdom and our respect for each other's prerogatives more than we do now. Individual livelihoods and the very viability of our sport are at stake.