Speech by

Hon. D. HAMILL

MEMBER FOR IPSWICH

Hansard 24 March 1999

GAMING MACHINE AND OTHER LEGISLATION AMENDMENT BILL

Hon. D. J. HAMILL (Ipswich—ALP) (Treasurer) (12.46 p.m.), in reply: I wish to thank honourable members from both sides of the House for their participation in the debate on what is very important legislation. In a debate such as this, it is gratifying to have substantial and, in fact, almost unanimous support for the bulk of the Bill. Much of the content of the Bill deals with mechanisms designed to further enhance the operation of machine gaming in Queensland. Those are non-controversial measures. The thrust of the Bill—and I make no apology whatsoever for this—is to ensure that the industry that was established in this State some seven years ago can flourish and indeed prosper, and that participants within the industry have the ability to operate in a way that is consistent with the philosophy behind the introduction of gaming machines in the first instance. That point leads us to the areas where there has been some disagreement. Again, I suspect that in many instances those areas of disagreement are more apparent than real.

I wish to take honourable members on a little walk through recent history so that they can fully appreciate the consultations that were conducted in relation to the Bill and the fact that the Bill and the amendments that I will be moving in the House today are the product of that consultation. The white paper occupied much of the discussion of the member for Moggill. The white paper on machine gaming that he charted through numerous consultative meetings in 1996 is very much the genesis of many of the measures that we are dealing with here. It is a part of what is at issue in the Bill. It was interesting to hear the honourable member for Moggill discussing these matters, because he suggested that the white paper and the legislation that followed it were all about bringing in a much more competitive environment within the machine gaming industry in the State.

New structures and entities came out of that process, most notably licensed monitoring operators. There was a change in the role of the Office of Gaming Regulation, which hitherto had been the body charged with overseeing the operation of the industry in Queensland and also, importantly, was the owner of gaming machines in this State. As the role of the Office of Gaming Regulation was pushed squarely into that of a regulator, the ownership of machines was transferred to clubs and hotels. Ownership was placed in the hands of those who held licences in respect of gaming machines in Queensland. Therein lies the fundamental problem that has arisen. Even the Government that sponsored the legislation back in 1997 did not perhaps fully appreciate the genie that was being let out of the bottle.

To be fair to the member for Moggill—and I always try to be fair to the honourable member for Moggill in these matters—I note that he said that he envisaged that there should be some revenue sharing arrangements whereby monitoring operators could enter into agreements with clubs and hotels and share in the spoils. However, the member for Moggill sees a problem when these arrangements are taken to the stage at which the monitoring operators become involved in, for example, building up club premises; his foreshadowed amendment suggests that he sees a problem in that area.

I listened very intently to the comments made both yesterday evening and this morning by the member for Southport, who sat at the very same Cabinet table as the member for Moggill. His recollection of the intention of the Government at the time that it sought to amend the Gaming Machine Act was somewhat different from that of the member for Moggill. Perhaps a couple of meetings were going on around the table! Cabinet secrecy would preclude the member for Moggill from

informing me. The recollections of the members for Southport and Moggill are at variance in relation to this matter. The member for Southport stated—

> "When the former Government amended the Gaming Machine Act in July 1997 to allow licensed monitoring operators to broaden their activities within club structures by providing services such as linked jackpot sites, I can say quite honestly that it did so with the very best intentions."

I do not doubt that at all. He went on to say—

> "It was never the intention of the former Government that Queensland clubs should become tools for entrepreneurs to make profits. That goes against the whole spirit of the original legislation governing the operation of clubs in this State."

He continued—

> "The current Government has reiterated this philosophy, and I have to give it credit for that."

Then he went on to say nice things about me that would cause me to blush if I read them, so I will not read them into Hansard now.

Dr Watson: This is not inconsistent with what I said.

Mr HAMILL: I am merely stating that the recollection of the member for Southport was that the Government did not intend by its amendments to see the sorts of circumstances arise with which we are dealing in this legislation. The member for Moggill is conceding that point. However, I think the difference is that the member for Moggill saw a range of areas where revenue sharing could operate effectively, and I suspect that the member for Southport does not really share the same view.

This is where I must come back to the position of the Government. Quite a number of the members of this Government were part of the Cabinet which authorised the introduction of machine gaming in this State and remember well the public debate and the debate in Cabinet on this issue. First and foremost among our concerns was that we had to have an industry that was beyond reproach. Probity issues were very much at the forefront of the arguments of those who were against the introduction of machine gaming.

At that time we also believed that it was okay to have gaming machines introduced into clubs and hotels but that there was a fundamental difference. In the case of hotels, we were dealing with private profit centres. In the case of clubs, we were dealing with organisations that were non-profit by nature. They were charged with the responsibility of providing services to their membership and, in turn, to the wider community. That is why, when we introduced the framework, differing taxation measures were put in place that provided a financial advantage for clubs. It was for that reason that clubs were allowed to have a greater number of machines than hotels. Why was the Government prepared to tolerate that situation? It was because of the direction of the proceeds of the moneys.

Dr Watson: And we preserved that.

Mr HAMILL: It changed a bit, but in essence that was preserved. That is different from the situation that applies in some other jurisdictions where there is no distinction in respect of the taxation rates applied to pubs and clubs. Perhaps in those jurisdictions there was a different philosophy behind the introduction of machine gaming. We hold very firmly to the philosophy that we held to when those machines were first introduced. I suggest to all honourable members that that is why the Bill and my amendments are before the Parliament.

That leads me to make a couple of more general comments about the community debate on this issue. In this context, I wish to take issue with the sort of sentiments that are typical of those appearing in the editorial of today's Gold Coast Bulletin, which seemed to single out the Bill as being an "anti-TABCorp" Bill. I suggest to all honourable members that it is not an "anti-TABCorp" Bill. Two licensed monitoring operators are caught up through their revenue sharing agreements. One is TABCorp and the other is the Queensland TAB. There are also a few other licensed monitoring operators knocking on the door. If the Government had not taken this action, other LMOs would also have been writing revenue sharing agreements.

This legislation treats them all on the same basis without fear or favour. However, it seeks to hold paramount the fundamental philosophy that licensed club operations should be operating first and foremost in the community interest and in the interests of the members. That is why I take issue with the writer of the editorial in today's Gold Coast Bulletin. In referring to me, the editorial writer states—

> "He says he wants the clubs to retain their independence and not to sell control to companies motivated by profit."

I did indeed say that, and I hold to those views. The editorial writer goes on to state—

"Mr Hamill should acknowledge that clubs have not lightly relinquished control to outsiders such as TABCorp."

Not lightly relinquished control? Is that not exactly the essence of this debate? Many of the amendments before the Parliament are about preserving the control of the affairs of clubs in the hands of duly elected directors of those clubs and, in turn, the club membership. Why would we give advantages to clubs such as preferential taxation and so on but for the fact that those returns from revenue were going to be ploughed back into the community which those clubs serve? I make no apology for that. I ask the editorial writer from the Gold Coast Bulletin to take a close look at the philosophy behind the legislation, which I have outlined today, and to try to understand not from the point of view of any particular commercial operator but from the point of view of public interest what this debate is all about.

A number of members raised various issues about how the legislation would affect clubs, particularly clubs in their electorates. Again, it is necessary to recount a bit of history. Late last year, concerns were raised with me about revenue sharing arrangements—certainly arrangements that neither the member for Southport, as the former Minister, nor the member for Moggill envisaged. I had a Bill being prepared in relation to gaming machine governance matters, and it was highly appropriate to take the opportunity to address what I saw to be a rapidly growing concern. I would have been negligent in terms of my office if I did not move to quickly address what was a growing problem for the industry. Again, the record supports that statement.

Some 15 clubs are caught up in the amendment that I intend to move, which will give them a transition period. About half of a dozen of them had their agreements signed with TABCorp the day before the Bill came into the Parliament. If that does not indicate an acceleration of interest in these sorts of arrangements, I do not know what does. After the luncheon adjournment, I will recount a bit more of the history of this issue.

Sitting suspended from 1 p.m. to 2.30 p.m.

Mr HAMILL: Before the House rose for lunch, I was taking the Parliament through some of the history behind the legislation. I was making the point that there was extensive consultation in relation to this matter. There was actually a rush late last year to sign up a number of revenue sharing agreements which caused considerable concern, mainly out there in the wider community, but particularly among a number of members of Parliament. Therefore we introduced as part of the Bill—a Bill that I was already preparing at that stage— a measure which would deal specifically with this issue of revenue sharing.

As I stated at the outset, it has always been the view of members on this side of the House that revenue sharing was not a desirable development with respect to the operation of the machine gaming industry in Queensland. Yes, I put forward as part of the Bill a provision which would take the legislation back to the situation that was prevailing prior to the introduction of the 1997 amendments. I might say that that provision would have given clear effect to that which the member for Southport believed the former Government was happy to have as well even though, as I said, the member for Moggill has something of a different recollection and maybe a different objective.

I also stated, though, when I introduced the Bill on 19 November last year that we would conduct a proper public benefit test looking at any anti-competitive elements that the legislation may bring forward. As well as that, I would ask my Parliamentary Secretary, the honourable Darryl Briskey, the member for Cleveland, to consult in relation to relevant matters on machine gaming. Both of those tasks have been fulfilled. I made it clear in a series of consultations with interested parties—Surf Life Saving Queensland, TABCorp, registered and licensed clubs or Clubs Queensland as they are now known, Queensland Hotels Association—that no action on the legislation would take place until that public benefit test was completed. There have been some inquiries in the debate about the actual document—the public benefit test. It is a public document. In case members have not seen it, I am happy to table a copy of it here and now.

The public benefit test highlighted, as indeed did the consultations that we conducted, that a number of clubs, some of which have actually been mentioned by members in the debate, had entered into revenue sharing arrangements in good faith on the understanding that it was quite permissible for them to do so and that those clubs or particularly their directors had, in a number of cases, actually taken on further financial liabilities. They had gone and borrowed money in cases to upgrade the premises on the strength of their understanding of what initial revenues would flow through those clubs as a result of additional machines and revenue sharing arrangements being entered into.

It was my view through the consultations that I had with the clubs, with the information that came back to me through my Parliamentary Secretary and also on the strength of the public benefit test and the concerns of the Scrutiny of Legislation Committee that the measures that had been foreshadowed in the Bill as it stood in November last year needed further consideration. I make no secret of the fact—in fact, I have been proud of the fact—that I promised further consultation. On the basis of that further consultation we have refined the instrument that we have before us today, and it is

a much better instrument to achieve the policy objectives of the Government but not at the cost to individuals who acted in good faith.

So all of the concern that was expressed by some members opposite in the debate in here yesterday about suggestions of criminal liability and people being prosecuted and so on and so forth is a pack of nonsense. Just to underline the fact that it was a pack of nonsense, of course, none of that is relevant in the context of the amendment which I have foreshadowed and which I have circulated. So that there can be no doubt about what that amendment provides, I will inform the House in detail. From the consultations that we have had, there was a keenness on the part of clubs to come forward and provide details of their circumstances because of the provision that was in the Bill that was first introduced.

To my knowledge some 16 clubs had actually entered into revenue sharing agreements with licensed monitoring operators, 13 of them with TABCorp and three with the TAB. I found it incredible, though, that one of the agreements with the TAB was actually entered into the day after the Bill had been presented in the Parliament. I thought that that was just a little bit cheeky. I might say that that particular agreement is not protected in the transitional arrangements that the amendment provides, and nor should it be. I might say also that it only concerns about two machines out of 44 and it is not going to be a problem for that particular club.

But there were instances raised about a number of clubs—and I can give honourable members a list; I am happy to provide it: Sandgate Australian Rules Football Club, Moreton Bay Trailer Boat Club, Labrador Australian Rules Football Club, Yeronga Australian Football Club, Deception Bay Sports Club, Redlands Junior Rugby League Club, Kawana Waters Surf Life Saving Club, Maroochydore Surf Life Saving Club, Peregian Beach Surf Life Saving Club, Coolum Surf Life Saving Club, Ayr Surf Life Saving Club, Mermaid Beach Surf Life Saving Club, Ipswich Jets Rugby League Club, Greenbank Sport and Recreation Club and the Miami club.

As honourable members can see, surf-lifesaving clubs are well represented in that list. It makes a mockery, again, of the nonsense in the Gold Coast Bulletin when it says that the Queensland Government's proposed ban on poker machine revenue sharing is really directed towards surf clubs. It is not. It is not directed towards any particular set of clubs at all. It is a matter of policy principle. No-one is being discriminated against in relation to these measures. What we have done is to act responsibly to protect those who have entered into contracts in good faith on the understanding of what the law permitted them to do at the time.

The transitional arrangements allow those agreements which were on foot up to and including the date on which the original Bill was placed in this Parliament to run their course with one minor exception, and that is in relation to the Ipswich Jets. Let me explain the point. With the exception of four cases, all of the revenue sharing agreements of those particular clubs are to run for five years. That is the magic of the five-year transition period. We allowed those clubs and TABCorp and the TAB to honour their agreements for a period of five years. That is five years from when the agreement came into place, and in most of those cases they have about four and a half years yet to run.

In one club the agreement was only going to run for 12 months. In two other cases the agreements were to run for three years and in the case of the Ipswich Jets, 10 years. I therefore considered it reasonable, given that the vast majority of those agreements were of five years' duration, that the five years, or whichever period was lesser according to the particular agreements, was a reasonable transition period. My confidence is bolstered in that view by remarks I read in my own local paper yesterday from the Ipswich Jets, who believed that five years was very reasonable and that they could cope with that very, very well indeed. They were not troubled by the fact that their 10-year agreement was being cut off at five years.

Importantly, of course, it means that there can be no options to further renew these agreements. It means also that it only operates on existing licensed sites. So there is no transitional arrangement for clubs that do not exist or clubs that do not have a licence for gaming machines. In other words, it is protecting the situation which was existing but draws the line. It draws the line and it does not depart from the fundamental principle, and that is that this Government does not believe that revenue sharing arrangements, albeit in one minor exemption—that is in relation to linked jackpots—are simply not appropriate.

I believe that the amendment I have foreshadowed is a very reasonable one. It protects the individuals and it protects those clubs that have acted in good faith, but it reinforces the policy direction of this Government. It reinforces the philosophy behind the introduction of gaming machines at the outset. I commend that amendment to the House.

I trust that the member for Whitsunday understands why the date of 20 November in the amendment is so important. Given the rush that was occurring among some players in the industry to get more and more revenue sharing agreements in place, simply allowing that circumstance to roll on

and on until such time as this Parliament could get around to debating the issue and proclaiming the Act effectively would have opened the floodgates and undermined the very things that he expressed concern about and which he supports in terms of the other parts of the Bill. That is why the date of 20 November in the amendment I circulated is so important. That is why I will be opposing the amendment that has been put forward by the member for Whitsunday, well-intentioned though it is.

Let there be no mistake: this amendment will do away with the problems that were being expressed by clubs in relation to retrospectivity. There is now no retrospectivity issue in relation to this measure, because it is exactly like many other measures that have a commercial impact. That is, the Government says, "Because of the nature of this legislation, it shall start from the date on which the Bill was introduced into the Parliament. That way, nobody derives some sort of commercial advantage because of the knowledge of where the law is going to change." That is very important.

Before I close I will canvass briefly a number of particular issues raised by honourable members. Some honourable members raised an issue relating to compensation. If the amendment I have foreshadowed is adopted by the Parliament, there is no need for compensation. The amendment protects those who have acted in good faith in terms of the financial obligations those clubs have entered into over the last few months.

The member for Gladstone raised several issues, and I will touch on those quickly. She raised the issue of retrospectivity. I have already canvassed that. She raised the issue of the cost of licences. While the figure is yet to be determined, this relates to the fact that the licences will run for five years rather than two. It is not about obtaining a windfall. The figure that has been canvassed in consultation is around $150 at present. The current fee for two years is $100. All it does is administratively streamline the arrangements.

There was a question about why there is not jail for those who default on fines and so on. That is not our intention in this. The approach contained in the Bill—that is, establishing a penalty infringement notice scheme—allows penalties under this Bill to be accommodated very nicely indeed within the framework dealing with penalties that has already been canvassed earlier this week by my colleague the Honourable the Attorney-General. Unclaimed moneys will always be available to those who may be unaware of their entitlement now but claim them in the future.

I think the transition period has been made quite clear. Certainly in all the consultations I have had, clubs felt very confident that at the end of that time they could move readily to normal commercial arrangements for the operation of machines in those clubs.

There were issues about renewal of licences and ministerial directions for the appointment of administrators. Frankly, there is no need for the ministerial direction to be tabled. It is very much an administrative matter. In fact, the Gaming Commission itself actually appoints any administrator that might be required.

The honourable member raised the issue of multi-site licences. She put it in the context that, if a club had multiple sites, why was each site not treated separately? Was it a tax grab by the——

Dr Watson: It was on the machine limit.

Mr HAMILL: It was on the machine limit as well. Although there are multiple sites it is the same club, and that is why the sites are treated effectively as one for taxation purposes. It makes good sense. In fact, I suspect what the member is actually seeking to achieve is better achieved by what is proposed in the amendments that are before the House.

In short, I believe that this is good legislation. It is legislation which embodies the principles that this Government held dear in the introduction of gaming machines. It ensures that the industry operates in a manner which is consistent with clubs benefiting their members and the communities they serve. It does not preclude TABCorp, TAB, AWA, Jupiters, or any of the other licensed monitoring operators for that matter, from providing financial arrangements which are commercially beneficial and entering into them with clubs. It does say, though, that they cannot get a share of the gaming revenue to service those agreements.

I have heard suggestions about potential sites that some of the LMOs would like to develop. If they want to develop these sites and lease them to clubs they can, but they cannot get a share of the gaming revenue—the profit, if you like, out of gaming. We are seeking to preserve that ethos and I suggest that the Bill and the amendments I have foreshadowed will achieve that purpose. I commend them all to the House.

———