Speech by

Mr S. SANTORO

MEMBER FOR CLAYFIELD

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GAMING MACHINE AND OTHER LEGISLATION AMENDMENT BILL

Mr SANTORO (Clayfield—LP) (4.12 p.m.): How pathetic that members come into this place week after week after week and, three or four Governments later, we still hear references to the corruption of Bjelke-Petersen and the impact that it has had and continues to have on today's society.

As an aside—and to add to what the honourable member for Mansfield said—he may be interested to know that the President of the Liberal Party, Mr Bob Carroll, was for many years the President of Valleys Rugby League Club. In fact, he was also its patron for many years and has a high and distinguished place within its history. So there are lots of people on all sides of politics who had a lot of involvement with the great clubs, including the great Valleys Rugby League Club which, by the way, was located in my electorate. The current President of the Liberal Party was one of them. He served as president and patron. In fact, during his time the club blossomed and was one of the great Rugby League clubs of this State.

It was pleasing to read in this morning's Courier-Mail that the Treasurer has at last woken up—and it is pleasing to see that all the other members opposite have woken up—to the fact that the Bill we are debating, while motivated by the right policies, would have set a dangerous precedent and was, essentially, a very unfair piece of legislation. I acknowledge that the amendments the Treasurer has foreshadowed will go some way towards ameliorating the harshness of retrospectivity which is the hallmark of the unamended Bill.

Before discussing the Bill in detail, I believe that there are two competing strands of thought in the community with respect to gambling in general and poker machines in particular. Firstly, it is clear that, without the revenue generated by gaming machines, social and beneficial organisations would be placed in severe financial difficulties. Australians are, by their nature, gamblers, and the introduction of poker machines has been a boon to many small, medium and large social clubs. Part of the problem lies with the fact that poker machines have been too popular, leading to a range of social and legal problems.

Secondly, the growth of gambling has led to many in the community querying whether the social costs of gaming are proving to be a major problem for our society. One has only to look at the statistics to see why many people are concerned. By the end of the 1997-98 financial year there were 23,000 poker machines in 1,150 hotels and clubs, with a further 3,600 poker machines licensed for the four casinos. The number of extra jobs that this explosion in poker machines has generated is hard to calculate, but it would have to be in the thousands. Gambling earns for the Consolidated Fund around $528m per annum, and just over $90m of this is returned to the community through four community benefit funds. But the social costs—I am sure that many members would agree—are very high.

The Beattie Labor Government has announced that the member for Cleveland will be examining all aspects of gaming and reporting back to the Treasurer. This review comes hot on the heels of the Productivity Commission inquiry into gambling, which will be reporting by August. As usual, the Beattie Labor Government has been slow to act, and the so-called Briskey inquiry is just a scaled-down version of what the Productivity Commission is already doing. But I do not want to be churlish. I am sure that there is bipartisan support for all levels of government closely looking at both the good and the bad impacts of gaming, especially poker machines, on society.

Perhaps this Government will discover that one of the prime motivating factors in State

Governments legalising and sometimes promoting gambling is that gaming taxes are one of the very few areas of growth revenue available. The Premier and the Treasurer will be told that, until such time as there is a GST and the States get a fair and equitable share of the national revenue cake, there will always be the temptation for States to fund essential social projects from whatever legitimate revenue sources are available. Decades of successive Federal Governments of all political persuasions, starving the States of revenue, combined with an ever-growing demand for more and more services from the public, led inevitably to the States and Territories looking at gaming as a means of providing the revenue to fund the tasks the public demands but which the Commonwealth fails to pay for. Now, it is certainly true that the regulation of gaming machines is a very difficult exercise, not just from the policing aspect but also balancing the various policy imperatives from sometimes mutually antagonistic pressure groups. The basic thrust of this legislation is appropriate and builds upon the amendments made to the Gaming Machine Act 1997 following the review of gaming machine regulatory arrangements.

As an aside, and in answer to some of the questions asked by the honourable member for Mansfield, that certainly was a coalition initiative which was of enormous assistance to the industry that we are talking about here today.

The 1997 amendments allowed for the introduction of third-party licensed operators to take over the electronic monitoring of gaming machines in licensed clubs and hotels and for the Government to cease having sole and exclusive ownership of gaming machines. The Treasurer pointed out in his second-reading speech that the 1997 amendments allowed for arrangements whereby licensed monitoring operators could provide services to a gaming machine site in return for a share of the gaming machine revenues from the site. He also informed the House that a number of licensed monitoring operators have taken advantage of the changes by offering linked jackpots to sites in return for a percentage of the gaming machine revenue.

However, in addition to monitoring services and linked jackpots, some arrangements have been entered into whereby clubs are financed in return for a percentage of the gaming machine revenue from the clubs. It is the Treasurer's contention that such arrangements blur the relationship that licensed monitoring operators have as intermediaries between gaming machine manufacturers and the management of hotels and clubs. Indeed, it has been suggested that, as a result of these funding arrangements, the licensed monitoring operators take on a role as, in effect, joint managers of the hotel or club, as the case may be. It is true that the vast majority of clubs, through their association Clubs Queensland, oppose these arrangements and support the Bill, including, I dare say, the retrospective elements. This is also the view of the hotels.

When debating this and other issues, we sometimes lose sight of the tremendous and positive role that the hotel industry plays. It gets no tax breaks, employs the bulk of persons and provides a range of services throughout the State. At a time when there is talk about the NCP being used to allow the sale of liquor in retail outlets, I want to say on the public record that none of us in this Chamber ought to lose sight of the big picture in relation to the positive economic role of the hotel industry in this State. Already hotels compete on an unlevel playing field. We should be vigilant not to create any more barriers for this industry.

The argument that the clubs put forward is that their prime role is to provide recreational, sporting, cultural and social outlets for their members through the delivery of facilities and services to support the broader Queensland community. They also contend that clubs are groups of people sharing a common interest who have bonded together to promote or pursue that interest. Accordingly, all of the net income derived from their members should either flow back to the members or to the wider community.

It is also pointed out that clubs have a beneficial tax position, because clubs are non-profit organisations set up to advance the mutual interests of their members and the wider community. Clubs Queensland argues that the entering into of profit-share arrangements between some clubs and licensed monitoring operators undermines the community focus of the clubs and will result, if unchecked, in a flow of money being diverted from the wider social good into the profits of private organisations. Looked at from that perspective, the arguments raised by Clubs Queensland are very persuasive. But, of course, there is always another side to the story.

One of the groups that strongly opposes the legislation as it currently is before the House is Surf Life Saving Queensland. The concerns of that association are twofold. Firstly, there is the substantive issue: Surf Life Saving Queensland signed an agreement with TABCorp to develop at least three new surf-lifesaving supporters club venues in Queensland. These clubs are an additional avenue for Surf Life Saving Queensland to raise funds for voluntary beach patrols and to promote the activities of surf-lifesaving. The entering into of this arrangement is critical, so it is claimed, to continuing to support 22,000—I stress: 22,000—volunteer surf-lifesavers and to provide a stable and sustainable funding base for much-needed lifesaving equipment now and in the future.

In fact, TABCorp has agreements with 20 Queensland clubs, including surf-lifesaving clubs, and is continuing to negotiate with a variety of

other organisations. Under the terms of the agreements entered into, the surf-lifesaving supporters clubs will manage and operate the venues and TABCorp, in addition to providing monitoring and games services, will build the venue and supply the gaming machines as well as providing assistance with—among other things—staff training on venue service standards, financial and operational procedures; marketing and promotions programs; and analysis of business performance and recommendations for improvements. In short, TABCorp will be providing a range of managerial services to professionalise the operations of the clubs.

Though not going to the substance of the argument, the second point is critical to the retrospective nature of this Bill, that is, the fact that the surf-lifesavers have been working with TABCorp since June 1997. All the necessary and relevant agreements were forwarded to the Treasury. It has been contended that at no time were the parties alerted to the fact that legislation would be prepared to retrospectively outlaw those proposed arrangements. It has been contended that the parties were surprised by the legislation and they believe that, as the legislation stands, it is unfair and inappropriate.

I can well understand the reasoning and the motives for the surf-lifesavers and others entering into arrangements with TABCorp. To those people, many of whom have given tirelessly of their time and money to help the community, the TABCorp proposal offers premises, a steady flow of money and a chance to actually get sustainable results for their members and the community that they wish to serve. To those people, the argument that money generated should go back to the club or the community is academic because, without the money coming in from TABCorp, there would be no premises or revenue to split up in the first place. I see their point of view, but there is the wider picture. That has been spelt out clearly by the wider club movement and the hotels. To allow those sorts of arrangements to continue unchecked would undermine the club movement, would put certain clubs in a favourable position compared with their competitors and could lead to a host of undesirable practices developing. In short, if this sort of activity is not stopped, a range of problems would arise that would have ramifications well beyond the confines of the clubs that have entered into lucrative arrangements with the likes of TABCorp.

But let me repeat this: these clubs did nothing that was illegal or wrong. The law was clear, and their activity was aimed at helping their members and the communities that they serve. They have acted openly, honestly, appropriately and according to the law. So in those circumstances, it is understandable that, when this Bill was introduced, it produced widespread concern, and so it should. I received one letter from a club—which, I add, was not a surf-lifesaving club—in which a club official said as follows—

> "... the State Government's decision to introduce retrospective amendments will make this agreement illegal ... As a consequence anyone who enters into a revenue sharing arrangement commits an offence. There is no doubt that if Parliament passes the proposed amendments, then we will be in breach of the law.
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> However, what does not seem to be appreciated is that this offence is clearly not restricted to the club. It extends to any person who is party to the arrangements.
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> This includes club officials who executed the documents and management committee members who authorised their execution. Overnight the State Government will have turned a group of hard working volunteers into criminals because of their involvement with an agreement that was perfectly legal and in full compliance with the law ...
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> It is not fair or reasonable for a group of people who work to build community services and facilities to be turned into criminals overnight."

What a terrible message this Bill has sent out to the community, particularly the investment community. At its core, this is a disinvestment Bill. It will drive investment and jobs away from Queensland. It is designed to keep TABCorp out of the State. In the process, it will ensure that many clubs will be denied the money that TABCorp would have poured in. As I said, I accept that despite the level of investment that would have been allowed by the 1997 amendments, the wider social and industry implications of this outweigh the benefits. However, the heavy-handed approach of this Government's attempting to backdate the laws to 1997 is outrageous and unfair. Surely it is a basic principle of fairness and commonsense that no citizen should be penalised for obeying the law. Yet that is exactly what this Bill was designed to do. It was designed to rewrite history and criminalise agreements and conduct that was perfectly legal at the time. All in all, this move was inappropriate, and this Government has once again sent very negative signals to the business community about investing in this State. One simply cannot change the investment ground rules after the event and then presume that business confidence has not been adversely affected.

When the Scrutiny of Legislation Committee queried that aspect of the Bill, the Treasurer replied by saying that he would not comment before a public benefits test under the National Competition Policy guidelines was completed. Now we read on page 2 of today's Courier-Mail that the State Government has given a five-year

reprieve to clubs that entered into profit-sharing deals with TABCorp and similar companies. Simultaneously the Bill was moved up to the top of the Notice Paper today. Why the sudden rush? Why is the Treasurer now pushing this Bill forward with what I consider to be indecent haste when he has let it sit on the table of the Parliament since November last year?

I support the move to ensure that the law is prospective. Retrospectivity is bad in principle and can be justified only in exceptional circumstances. I submit that this is not one of those circumstances. From what one reads in the paper, this Government is simply giving the clubs a five-year reprieve. What happens in five years? I suggest to the Treasurer that this is a bit like a suspended death sentence. Before the Treasurer starts shaking his head, I acknowledge that this amendment is better than nothing. The Bill in its original form could not stand. The damage to this State's standing with the investment community was just too great. Obviously the Treasurer had to agree to that amendment.

I refer the Treasurer to the request by the Scrutiny of Legislation Committee in its Alert Digest No. 1 for an undertaking from him that this Bill would not be debated until the completion of the public benefits test. The Treasurer replied that the test would be completed by 22 March, in other words, Monday this week. What a farce! We are now debating this Bill and most of us have not even seen the final text of the test. It is absolutely ridiculous that we are debating a Bill within hours of the finalisation of the test. How can this Government expect its own members, let alone the Opposition, to properly debate legislation when it operates in this manner? I suggest that, for a Government that was going to bring better standards into this place, this is a pretty dismal example.

I also hark back to the comments in the letter that I read out. Not only that writer but also the Scrutiny of Legislation Committee raised important issues that persons who have entered into relevant agreements will be retrospectively rendered liable to prosecution for breach of clause 189, which is punishable by a maximum penalty of 200 penalty units or one year's imprisonment. In his response, the Treasurer contends that it was never the case that people would be prosecuted for having entered into agreements and that the object of the legislation was simply to render invalid the agreements.

I would respectfully suggest to the Treasurer that he also sought refuge in section 11 of the Criminal Code. That section is very clear, and the Treasurer, despite the fact he did not complete his law degree, should know better. That section simply provides that, as a general rule, a person cannot be punished retrospectively. That section does not say that the Parliament cannot specifically punish a person retrospectively but that, as a general rule of construction, changes to the criminal law will operate prospectively.

Here we have the clear wording of the law operating retrospectively. I wonder what the learned Attorney-General makes of this. I ask the Attorney-General whether he agrees with his colleague the Treasurer or whether he concurs with the interpretation of the Scrutiny of Legislation Committee?

I presume that the Treasurer will wisely do a U-turn and amend the Bill at the Committee stage, otherwise this Government will have perpetrated one of the worst abuses of civil liberties that this Parliament has seen for many a day. And, by the way, it is a pretty lame excuse for the Treasurer of this State to introduce legislation striking at the heart of people's civil liberties, causing immense worry and concern, and then say that he did not intend to cause concern or to have law-abiding Queenslanders prosecuted at a later date.

Mr Reeves interjected.

Mr SANTORO: Again the honourable member for Mansfield, interjecting away from his seat, has not been listening, otherwise he would clearly understand my attitude to this Bill. For the benefit of members opposite, and particularly the member for Mansfield, I point out that my attitude is as follows: this Bill was drafted too widely, has been handled in a ham-fisted, incompetent manner and has caused immense concern to the wider investment community.

The motive behind the Bill is one with which most would agree. I understand the concerns of the clubs and hotels and support remedial legislation, but I do not go along with retrospective laws that attempt to strike down agreements entered into in good faith and in accordance with the law. I do not support club executives being subject to criminal prosecution for the carrying out of acts that were legal at the time they were done. I do not support legislation that is drafted in a vague manner that leaves the liberties of ordinary law-abiding citizens in the hands of Executive fiat as to whether to prosecute.