



Speech by

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MEMBER FOR SURFERS PARADISE

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RACING AMENDMENT BILL

Mr LANGBROEK (Surfers Paradise—Lib) (2.30 pm): I rise to speak to the Racing Amendment Bill 2005. In my capacity as coalition shadow minister for racing, I have analysed this bill and assessed the recent history of Queensland racing extensively. At the outset, I would like to say that I do not intend to personalise this debate, because racing is too important for that. I want to thank the minister for the briefing provided by the chairman of Queensland Racing and the lawyer who oversaw the process of consultation with the race clubs. I note that the objective of the bill is to amend the Racing Act 2002 to facilitate the transfer of the employees, assets and liabilities and ongoing responsibilities of the Queensland Thoroughbred Racing Board to the new control body for thoroughbred racing, Queensland Racing, from 1 July 2006.

Queensland Racing will be a company limited by guarantee and will be the control body for the thoroughbred code of racing in Queensland. Queensland Racing will be the body responsible for the allocation of race dates; the licensing of animals, clubs, participants and venues for racing; distributing money to licensed clubs for prize money; and allocating funds for venue development and other infrastructure relevant to the code of racing. Queensland Racing will truly be an overriding control body.

The bill will also extend the operation of the Queensland Harness Racing Board and the Greyhound Racing Authority as statutory authorities until 30 June 2006 for policy reasons that are sound and about which I will not be commenting today. I note, though, that after the changes to be effected today any minister for racing will be only the minister for harness racing or greyhound racing, and I do not see that happening in any other state. I hope that racing stays an important ministerial portfolio under any future coalition government.

It is important to note that I, and indeed this side of the House, am often put in a position where I recognise that reform is needed and that legislation has to be changed. In situations where legislation needs to be changed, we will support it. But when an opportunity becomes available it is my duty to identify and articulate reservations and concerns to any such changes, for example that the changes do not go far enough or, as was the case on Wednesday in relation to the Major Sports Facilities Amendment Bill, the changes go too far. Hopefully, the articulation of these concerns will lead to further reform and provide constituents and interest groups who have contacted me about their concerns the ability to be heard in this House.

Today, I will voice certain legitimate concerns that, hopefully, will be taken on board for the future development of the industry and its regulation by this government. Importantly, these reservations are not only my own but also are the reservations of members of the industry itself who have contacted me. As coalition shadow minister for racing, I will give these constituents every opportunity to have their concerns raised in this House—concerns that are legitimate and worthy of consideration.

In his second reading speech the minister made great play that, of the 123 racing clubs and associations representing industry participants, only the Queensland Turf Club continues to express concerns about the membership structure and voting rights of members of Queensland Racing. To the untrained eye, having only one group concerned about the changes is a commendable statistic that one

could not blame the minister for drawing attention to. However, what must be recognised is that the QTC is very concerned and that the QTC is, in fact, the biggest club with the longest history. Consequently, in this context the concerns of the QTC should not be disregarded as easily as they have been.

Before I delve into those concerns, which I share, of the QTC and other stakeholders, I point out that this House needs to recognise the fact that, because the QTC has been around for so long and is big enough, it has the confidence to voice its concerns. There is a real danger in accepting the idea that all the other clubs and associations in this state are happy with the changes and/or the proposed Queensland racing structure. In my capacity as shadow minister, I have been contacted by many clubs in this state. It is apparent to me that many clubs, not just QTC, are apprehensive about what this bill will achieve. They are also apprehensive about voicing these concerns for fear that they will be singled out and victimised in the future.

That is not indicative of a great culture. We have seen this culture from this government in Health and Police. Clubs are fearful that if they raise their concerns, the overriding board may hold it against them. That is a very real possibility and a very real exercise of unfettered power that this bill will effectively give Queensland Racing.

Whether this is currently the case is not the main issue that comes to light. The issue is that this bill does not provide Queensland Racing with a formula by which the distribution of prize money and race dates is to be decided, which are arguably the most important controls that the board will decide. If this bill provided a formula, I submit that many more clubs would have made their concerns known to the minister, because they would not be so anxious about their fate, which will inevitably be in the hands of Queensland Racing—a body that will have no formula to follow in allocating their support in the decisions that they hand down. Those clubs are frightened to raise their concerns because that may put Queensland Racing offside. Why would a club risk doing that with a control body that wields an uncapped discretion?

Clubs are aware that whether they eventually get or do not get support from Queensland Racing will be decided by a board that is not subject to any formula and, effectively, is accountable to itself only. If, in fact, certain members of Queensland Racing are responsible for creating the current polarisation of clubs, the fact that those in administration can be there for another three years, after having already served three years, could not possibly be a good thing for a culture that is already suspect.

It is a sound business principle to rotate people at the head of organisations on a frequent basis. Whether that organisation is a school, a business, a private company, or a racing board, short to medium terms are used to ensure that at the top there is no stagnation of ideas. In this case we have the possibility of having the same directors who have headed the Queensland Thoroughbred Racing Board head the new Queensland Racing for a consecutive term of up to six years without having been elected by industry stakeholders—a point to which I will return. Such long tenures at the top are, in fact, too long for any board member and go against decades of recognised business practice. The new business model can effectively dispense with the natural accountability of a board to its members through an election process. Such a process allows for the re-election of board members for another term if they have performed well in the eyes of its members. The automatic appointment by way of transfer from one authority to the new control body allowing extraordinarily long terms at the top is not appropriate.

The lack of accountability of Queensland Racing to the stakeholders of the industry is the main theme of the concerns raised by the stakeholders. Stakeholders have said that they believe that a lack of accountability will hinder the effectiveness and transparency of the future control body. With that in mind, one cannot blame them for having issues with the proposed designation of the future directors of Queensland Racing as a separate class of members, called class B members. Class A members are denied the right to appoint the directors of the company. This means that the key providers in the industry—the owners, the trainers, the jockeys; these class A members who provide the infrastructure for and conduct and promote the industry—do not get a say about who is telling them how to operate. The effect of this separate class will be the inevitable disempowering of all industry stakeholders from the decision-making processes that affect the industry that they work for, which is a completely unfair situation. They cannot have a say in appointing directors who will be making the decisions for their industry without having other directors agreeing with their choices.

In this context, no case can properly be made for establishing the directors as a separate class of members. I ask members to remember that, in a company limited by guarantee, the directors are elected by its members. In the same vein as having the bizarre ability for unusually long terms for directors, to have a comparable structure in another public company, or a company limited by guarantee, which has directors collectively as a separate class of members is almost unheard of.

The situation is made worse when we realise that board members—those making the decisions for the industry—are not even nominated by or come from the industry stakeholders themselves. That is yet another example of government hypocrisy. The minister clearly, unequivocally and repeatedly asserted the longstanding principle that, whatever the form the governance infrastructure ultimately took, the

appointments to the board of the governance or regulatory body would be the responsibility of the industry. But this has not been followed through in the draft constitution of Queensland Racing.

I assert that the directors of Queensland Racing should be industry stakeholders and nominated by, and voted for, the industry itself. Queensland Racing will indeed be a uniquely structured company. We cannot take that away from the government. But this unique nature, in light of these concerns, is not for the better with regard to empowering members of the industry who are disregarded in influencing the direction their industry will take in this state.

The working success of other states' racing control body structures, like that of Victoria, is not nearly as unique as what Queensland's will be. Indeed, in both Victoria and South Australia members of those governance companies are industry stakeholders who appoint the directors and to whom the directors are, as a matter of law, accountable. The Queensland structure is so unusual, and the perception of the drafters of the Queensland Racing constitution so askew when compared to the Victorian and South Australian structures, that the drafters of the Queensland Racing constitution are like a woman watching a march—past commenting, 'My son is the only one in step.'

The Victorian structure, which has undoubtedly resulted in an amazingly successful industry, is one where the only members are industry stakeholders. All directors are independent—one half of the directors appointed by a panel of persons with proven industry knowledge and experience and the other half nominated by clubs and industry bodies but are neither individually representative of nor directed by the clubs and industry bodies. Such a structure is independent and totally accountable to the industry as to policies and financial functions are also transparent, unlike the zero formula and unbridled discretion Queensland Racing will be granted.

Queensland Racing's structure effectively disregards the success of this structure in Victoria and gives a class of members, other than the stakeholders, effective control. The granting of absolute power in the hands of a board of directors that is not accountable to its members is a potentially dangerous situation. It dispenses with the logic that without industry stakeholders there would be no racing industry. And this lack of respect may herald an exodus of the stakeholders—a point I will illustrate later on. To deny industry stakeholders any influence in racing governance, such as the right to make appointments to the board via an acceptable process, is inconsistent with all that has gone before and also with the principle.

In its defence to these concerns, Queensland Racing has said there is no evidence that other models are to be preferred to the model proposed by Queensland Racing. It says that the model proposed is different from other models because, consistent with the strategies set by the Queensland government, in not wanting conflict of interest to interfere with the effective running of industry, it does not permit industry to dictate the composition of the board or the direction of the board in making decisions. It is this key independence requirement that the government says differentiates this body from bodies in other states. However, this independence also differentiates the body from any accountability from the people it is supposedly serving, as I have already explained.

I ask: could the Beattie government please recognise that it does not have to concern itself with strategies to ensure the independence of directors through undemocratic processes? The independence of directors is already ensured through Corporations Law. Corporations Law is based on the premise that the duty of all directors, be they appointed by industry or otherwise, is to remain independent of personal interests and advance the aims of the company. Corporations Law makes it possible for directors who have tried to use their position to advance their own interests, have committed fraud or have conducted themselves in an unfair or oppressive way to be removed and fined. These mechanisms ensure independence yet do not encroach upon the accountability directors have to their members—there is no need for a restricted, exclusionary voting and members structure. Let me explain this a little further.

In the realm of Corporations Law, there is a general law and statutory duty for directors to act in good faith and in the best interests of the company. This means that the courts have held that the best interests of a company means regard for present and future shareholders or stakeholders and the company as a commercial entity. Directors must act in the best interests of shareholders or stakeholders collectively and directors have no duty to any individual shareholders. Independence—and remember that is the only point the government seeks to defend its unaccountable and undemocratic voting and member structure on—is already afforded through the law.

I am concerned that this structure may be as difficult to swallow for the Australian racing authorities as it has been for the stakeholders of Queensland Racing. Has the minister considered the fact that this structure, despite that it is going to be accepted in this House because of Labor's majority, may not be accepted as proper by the national bodies? What a pretty mess that would see us in. I appreciate that the racing industry is a different one—an industry worthy of unique treatment. But this uniquely different structure is not the way to afford this industry what it needs. Without industry stakeholders in decision-making positions, the wrong decisions will inevitably be made. They already have been.

Let us keep in mind that Queensland Racing is the body responsible for the allocation of race dates; licensing of animals, clubs, participants and venues for racing; distributing money to licensed clubs for prize money; and allocating funds for venue development and other infrastructure. Let us take the

Beaudesert Race Club as an example. It is a fantastic country club that now struggles to remain financially viable after Queensland Racing decided fewer TAB meetings would occur at the club. The reason given for reducing the meetings was—and I quote—‘with respect to the commercial realities of the racing industry’. It was a purely economic decision made in the interest of the long-term viability of the industry as a whole, not just for individual race clubs. But this reason does not recognise the need to support country racing and the need for commercial realities to be tempered by social consequences. I am confident this decision would have been different if industry stakeholders were on the board.

Let me explain why country racing is so important to our state. Its importance is only understood when one truly recognises the vast economic network racing really is. At the start, breeders invest in land, improvements, broodmares, stallions and genetic research—their economic inputs. As a result, there are outputs—what they produce. Foals, which become yearlings, are sold through auction houses and exported overseas. Owners’ inputs occur when they buy a horse—usually as a yearling at one of the sales—form syndicates, pay for feed, supplements and veterinary services. Owners then agist their horses. Some race, some do not and they pay fees to trainers. Trainers invest in land, stables, tracks et cetera. They employ stablehands, track riders and train horses which require jockeys, apprenticeships, farriers to shoe the horses, float operators to cart them around, and nothing happens unless there are race clubs.

Clubs have also invested in property, they employ staff and contractors, they invest in industry administration and, of course, put on races. They provide prize money that gives returns to owners, trainers and jockeys, and many clubs run profitable non-race day functions. Then we have wagering—bookmakers, staff, on-course totes, off-course TAB and internet—which produces dividends to punters, and distribution of part of the cake to clubs, government taxes and dividends to shareholders. Then there are the attendees, club members, sponsors and television viewers who provide race day income.

In the country some recent statistics are noteworthy. Race day figures recorded by the Stanthorpe Jockey Club grew tenfold from 1998 to 2002; 4,000 people attended the Melbourne Cup race day meeting at Burdekin; Moranbah Race Club hosts two race meetings a year and draws 1,600 people to each of them; the 2003 Gatton Shire Cup at Esk attracted over 6,000 people. These are just some examples.

All those involved result in a direct spend that includes industry investment, oncourse and offcourse spend and net wagering which gives us direct employment, is a tourism generator and has a flow-through multiplier—not to forget the resultant GST and payee taxes that result. Add all that economic description up and you get economic impact. The primary creator of social and economic benefit in racing is the economic impact a healthy industry creates. Racing results in full-time equivalent job creation, total worker employment and flow-through job creation. And this is not contained to metropolitan areas: 67 per cent of jobs created in the racing industry are created in non-metropolitan areas.

Let us keep in mind that this bill is meant to be all about enshrining the principles of this government’s attitude to racing by the appointment procedures and set-up of Queensland Racing. So let us analyse racing in Queensland as a consequence of all that has gone before.

When the current government took power in Queensland, the racing industry formed part of the social fabric of many Queensland country communities and employed, full-time or part-time, around 55,000 Queenslanders. It was contributing around \$1.7 billion annually to the Queensland economy and was the fourth largest employer in the state. It should probably be pointed out at this stage that the minister often disputes these figures, but these figures do come from the peak racing body in Australia—the Australian Racing Board.

But the industry has faced challenges since the government took the reins. The government had an opportunity to capitalise on the potential that was right below the surface and step the industry up into a position of national and international competitiveness, generate more economic impact, employ more Queenslanders and preside over its rebirth as a dynamic business model and social contributor. The opportunity was there to grow an industry that, handled correctly, would not only create more employment for Queenslanders and increase the revenue base of the state but also showcase Queensland talent and expertise to the world. What has happened, though? Let us take the time to look at two of the industry’s core participants groups—jockeys and trainers—as a barometer of the industry in Queensland today.

In a national environment of record employment and an historically strong economy, characterised by record levels of disposable income and staggering successes in the racing industry in Victoria and New South Wales, in this once-in-50-year, grow-anything climate the Queensland government’s policies, practices and appointees have been responsible for a fall in jockey numbers of 18 per cent and a fall in trainer numbers of more than 30 per cent. In the last five years, one in five jockeys and one in three trainers have been thrown out of work in Queensland.

This loss of jobs in Queensland means there are fewer horses, which means fewer owners, which translates to less economic impact. We can expect this exodus to accelerate as stakeholders feel that they are losing the ability to have a say about who directs the industry on the board of Queensland Racing. The coalition has solutions, but they are for another day.

What can be said at this point is that racing provides many indirect benefits to Queensland's country communities. An economic rationalist approach to an industry that forms part of the social fabric of country communities, which has been handed down by Queensland Racing, will succeed only in damaging those communities and, in turn, the racing industry.

Wrong decisions are being made by people who have not necessarily come from the industry itself, who are not nominated or voted for by stakeholders and who are not accountable to the industry. I have been told by some people involved in country clubs that if only they were given something, they would match it or increase it. However, giving them nothing is crippling.

I would like to refer to comments made by then Premier Goss at a Queensland Grain Growers Association conference in 1993. The then Premier was quoted as apologising to country people for the government's hasty decision to cut rail branch lines. He said that there was a social argument for retaining lines, even though they could not be justified by strict economics. This reasoning should be applied to country race clubs, too.

By taking away race meetings, Queensland Racing has gone too far and it illustrates the sorts of decisions that will be made in the future under such an unusual structure. This structure means that industry stakeholders will be unable to effect change through nominating and voting for the board of Queensland Racing. Nor would they dare, when they realise that they must keep Queensland Racing onside to possibly obtain more race meetings. It is a frightening circle of disempowerment of our industry.

The 2004-05 annual report of Queensland Racing states on page 5—

This year, the industry continued to reap the benefits of reform.

The minister might tell us how regional and country clubs benefited from reform when they could not get race dates. It is this short-sightedness and ignorance about the potential damage of its decision making that makes the structure of Queensland Racing so concerning.

The authorising of control to Queensland Racing in such a way illustrates just how lacklustre this government's attitude is to the future of racing in this state. It just does not seem to care. It has already proven that this year by rejecting coalition actions to prevent unauthorised betting exchanges in Queensland.

Racing is usually relegated to the status of an add-on portfolio or overseen by ministers with little or no interest and experience in the industry. That same problem will probably be encountered when Queensland Racing takes control with a board that is not formed or nominated by the industry itself. In fact, we might as well not have a racing minister. The heads of racing in this state have often had no vision of the massive potential growth, the economic impact and the inevitable employment that follows with a successful racing industry.

I take this opportunity to express that the control and governance in Queensland has suffered from an overwhelming gender and age imbalance, with very few females or young males in roles of major significance or influence, in spite of the skill sets and perspectives that they would undoubtedly bring to the table.

Let us recap the concerns. From 1 July, this board is accountable to no-one—not the minister, not the Premier, not the Treasurer—for at least three years. A culture of fear is evident in the Queensland racing industry and raises serious questions about the statistic that only one club has raised concerns in regard to this bill. This negative culture stems from the fact that there is no formula and no rules about how industry funds and money earned by the industry will be handed out by the control body.

Any club—and it is a real possibility for country clubs—can be sent broke on a whim or the dislike of what are now very powerful board members. The industry knows it, and most people are too scared to open their mouths now for fear of retribution.

The structure of Queensland Racing is completely different from that of any other public company in this country. It ignores the independence assurance that is enshrined in Corporations Law. This bill disregards the fact that every other state racing control body is elected or nominated as independent representatives of the industry stakeholders, which are clubs, industry bodies, owners, jockeys, trainers and punters.

This unique structure could also compromise acceptance of Queensland Racing by national authorities. It is quite amazing that this government can see nothing unusual or potentially damaging to the racing industry in the proposed structure and voting and member entitlements. It should look at some of the decisions of current board members, which are purely based on an economic rationale, including taking away funds and racing dates from country clubs, despite the social consequences. This is a very dangerous development in the racing industry of Queensland. I can only hope that further reform is instigated sooner rather than later.