

GAMING AND WAGERING LEGISLATION AMENDMENT BILL 2018

Second Reading

Resumed from 30 October.

HON COLIN HOLT (South West) [3.49 pm]: I rise on behalf of the Nationals to make a contribution to the debate on the Gaming and Wagering Legislation Amendment Bill 2018. I will use the second reading speech that was tabled by the Minister for Regional Development as a bit of a guide to my contribution today. A lot of what is contained in this bill has been talked about for quite a while. I remember that when I was Minister for Racing and Gaming, our government was looking at bringing in legislation to deal with some of these issues. Unfortunately, in my view that legislation did not get the priority from the former government that it should have been given and never made it to the floor of this Parliament. However, a number of the amendments that are proposed in this bill have been on the cards for quite a while, so we certainly support those. The bill also contains some new ideas that need explanation and exploration. That is mainly to do with the banning of events or products by the Gaming and Wagering Commission of Western Australia.

I was interested the other day to hear a news grab from Premier McGowan, I assume as he came out of a cabinet meeting. He was asked about his legislative priorities for the remainder of the year, and he said words to the effect that the government wanted to take care of racing. The government has done that with the changes to the point-of-consumption tax that we passed earlier today. The Premier said also that the government wanted to take care of Lottoland. I am not sure what piece of legislation is before this house to deal with Lottoland—this is probably the only one. The second reading speech states —

The federal Parliament recently amended the Interactive Gambling Act 2001 to prevent betting on the outcome or a contingency of Australian and overseas lottery draws.

We could probably call that the Lottoland clause. The federal government has already taken care of that. Therefore, I am not sure what the Premier was talking about when he said that the government wanted to take care of Lottoland.

Hon Alannah MacTiernan: When was that, member?

Hon COLIN HOLT: He spoke about that on Monday a week ago.

Hon Alannah MacTiernan: When did the federal government pass that provision?

Hon COLIN HOLT: That is a good question. It would have been midyear—six months ago. I believe it comes into effect on 9 January. There were some delays in bringing that about, perhaps because of the transition from people playing Lottoland to not being able to play Lottoland and recovering debts.

Hon Darren West: Heaven help us if we had to rely on the federal government!

Hon COLIN HOLT: I thought the member would celebrate that, because that is actually a good thing. That is what his government wants to achieve—except that the federal government has already done it for it. Therefore, I am not sure what the Premier was talking about. I notice on supplementary notice paper 93 a proposed amendment by Hon Aaron Stonehouse to postpone the implementation of the regulations to no earlier than 10 January. Perhaps there is some sort of interaction between this bill and the proposed changes to the Interactive Gambling Act, and that is not going quickly enough for the state government, so it wants to prohibit Lottoland or gambling on overseas lotteries. Therefore, either the Premier was mistaken when he said that the government wants to take care of Lottoland or the government wants to move to ban Lottoland before the federal ban comes into operation on 9 January. That needs to be addressed in the minister's reply.

The minister said also in her second reading speech —

To complement the approach of the commonwealth and enable an immediate response to future undesirable betting products entering the public domain, the bill will amend the Betting Control Act 1954 by making provision for the Gaming and Wagering Commission to prescribe prohibited events and contingencies that can be bet on. ... This provision futureproofs our state against undesirable products or wagering activities so that these can be managed more easily in the future, without the need to amend legislation.

Given that this bill gives the government some regulation-making abilities, we probably need some idea of what those undesirable products and wagering activities could be. I know that that is very difficult, because we do not know what they are, but it is a pretty broad provision-making ability. It would be useful if the minister could give an indication of why the government thinks it needs that.

I also wonder whether any other jurisdiction has taken this approach. Are we the only state that is giving a regulator the ability to ban an undesirable product or wagering activity? It is important for us to know whether we are doing this by ourselves and how this will interact with other jurisdictions, especially when we get to the fines that will

be incurred, which are pretty hefty. When we think about what could be banned, we also need to consider how the fines will be applied. I understand that the Gaming and Wagering Commission will identify undesirable events, wagering products and wagering activities. Will there be any ministerial oversight of that? Will it operate completely independent of a ministerial decision?

Hon Alannah MacTiernan: In terms of the regulation of prescribing? We will talk about it. My understanding is that a normal regulation is required to be signed by a minister.

Hon COLIN HOLT: Sure. I am getting it on the record so that we get it clear. I am posing questions to which the minister can respond in her second reading reply.

The second reading speech referred to the fines that could be imposed. If a person bets on a prohibited event or contingency, it may attract a fine of up to \$2 500, while the penalty for a person who offers such betting is a fine of \$5 000 and one year imprisonment. There are hefty fines in this bill. I would like to know how that will work. It might be better to ask these questions in committee, but I am happy to listen to the minister's reply. Will proof that someone has placed a bet on an undesirable wagering activity or product be a paper slip that someone got when they visited Sydney and bet on an event that New South Wales has not banned? They may have the betting slip in their pocket when they come home. Even though we have banned that undesirable activity or product, New South Wales has not. They may have an app to play. An example would be Lottoland. I assume that people can still download the Lottoland app and play it until 9 January. After that date, if it is an undesirable product that has been banned, is an app with some data on it good enough proof? What happens if a person places a bet on that app when they are in New South Wales or overseas? They could place a bet on a UK lottery or an event that is banned in Western Australia. If they have a paper slip or data on their app, will they be fined in Western Australia for doing something that they thought was legal when they were in another jurisdiction? There are some questions around that.

If Western Australia is the only jurisdiction that has this approach and bans an undesirable product in Western Australia, will there be any potential constitutional issues across jurisdictions? Could some group, organisation or company that offers one of those products that is banned in Western Australia but is not banned in any other state have a case, on constitutional grounds, concerning restrictions on trade or whatever it might be? Will there be any transitional arrangements during the period that the Gaming and Wagering Commission moves to ban undesirable products? The state government and regulators will have to play a bit of catch-up with legislation like the Gaming and Wagering Legislation Amendment Bill 2018. For example, a new wagering product may come on the market, and after people have played it, issues may be recognised by the Gaming and Wagering Commission and the government may move new regulations to ban it. What will the transitional arrangements be? Regulations cannot be imposed in any other way but catch-up. If people buy a ticket or wager some money and that product is then banned, how will those people recover their money or get a payout?

I will move on to some of the other provisions of the bill. We are currently out of step with other jurisdictions on the treatment of betbacks and the betting exchange under the racing bets levy scheme. The calculation of racing bet levies will also change; we think that is sensible and agree with those provisions. The bill will also amend the definition of "turnover". The bill states that "turnover" means —

in relation to a betting exchange — the net winnings of racing bets placed with the betting exchange.

That change has been requested for a number of years, and we support it.

The second reading speech states —

The Gaming and Wagering Commission of Western Australia has the legislative ability to prohibit Racing and Wagering Western Australia from establishing or operating a TAB agency where the commission considers it detrimental to the public interest. However, no equivalent legislative provisions exist for the commission to prevent licensed operators in other jurisdictions from establishing facilities ...

That makes complete sense. I am not sure why we have not had that before now. It will protect our Western Australian TAB. Things are already bad enough, given mobile phones, apps and personal devices, and this will prohibit betting agencies setting up some sort of retail face to the industry in WA. That is obviously a good idea that can only be good for the potential sale of the WA TAB, because some of its value is the exclusivity of its retail outlets. We need to protect that, so that provision gets our support.

Has another operator ever set up a TAB-style agency in Western Australia? From my memory of the briefing, it has not. That is good. With the advent of the internet and personal devices, it could take other forms. I am interested to know whether that change was prompted because it has happened before in Western Australia.

The second reading speech states —

... the bill will amend the Gaming and Wagering Commission Act 1987 to enable regulations to be prescribed prohibiting live betting odds being broadcast during sporting events at prescribed sporting arenas and stadiums.

Can the minister provide some examples of the form that is likely to take and the sorts of venues it will cover? Will advertisements on the big screen at Optus Stadium for betting with Ladbrokes on, let us say, the West Coast Eagles winning at \$1.65 be prohibited, or will it take another form? How will that advertising be kept track of? Could it take another form such as, “Visit Ladbrokes right at this moment for the best live sport betting odds for the West Coast Eagles to win”? How do we discern between those in the regulations? If the government will put this sort of stuff in regulations, which is a sensible idea, how will it manage to keep track of all the potential venues and what they are doing with live odds advertising at all those venues? Even though the government can ban advertising, we know that the Asian punting market is very clever and bets on smaller events nowadays. It will target smaller venues. How will the policing occur to ensure that this regulation is adhered to, or will it just pertain to some of the larger venues and sporting codes? They are interesting questions that need to be answered.

This bill also removes the prohibition on raffles conducted in other states and territories being offered in Western Australia. Again, this has been on the cards for many a long year, and it is good to see the bill address this. It will be interesting to see whether there are any safeguards around what a national charity or sports organisation charity is, and is there a national register? Are there any loopholes that can occur in which a charitable organisation based in, say, Sydney will not have to go through the hoops to establish a raffle in Western Australia but through this provision can do it in the state? Is there any way of checking the legitimacy of some of those interstate raffles that want to sell their tickets in Western Australia?

We support the bill. There are some questions to answer about how it might operate, the severity of the fines, how they were arrived at and how they are going to be enforced. We need to spell out for and warn the people of Western Australia how these laws will operate in the future so they can be prepared to deal with prohibited events into the future.

HON DR STEVE THOMAS (South West) [4.07 pm]: I am looking forward to a fairly small contribution to the debate on the Gaming and Wagering Legislation Amendment Bill 2018, given that we had a fairly extensive general discussion about gambling in the debate on the Betting Tax Bill 2018. There are a few little issues that I would like to raise. I am not the lead speaker for the Liberal opposition. I am sure Hon Tjorn Sibma will have much to say, because we still have a bet on who can speak the longest on their particular bill. In fact, I am thinking about running odds, honourable members, on how long we can make this particular bill last. It is a three to one ratio I will get to Thursday lunchtime, if possible!

Hon Sue Ellery: Give it your best shot.

Hon Dr STEVE THOMAS: It is possibly a five to one ratio, given the expression of the Leader of the House. We might talk a little later about the things that are appropriate to bet on.

The Gaming and Wagering Legislation Amendment Bill 2018, which I guess is rather separate but overlaps a little with the taxation bill, more specifically outlines the capacity of the government to make a provision to prescribe prohibited gambling effectively. It will identify those things that it thinks is inappropriate. Obviously, the discussion has largely been around Lottoland, which is effectively banned anyway based on national legislation; however, it raises the potential discussion about some of those other products that might be identified by government, as other members have identified in both this house and the other one. I use the example of artificial electronic racehorse racing. Effectively, should we prevent people from engaging in gambling on an electronic race that occurs on a television screen in an appropriate venue? I have been around the racing industry—those genuine animals with four legs that move fairly fast—for many years. It is not an easy process to select and make an appropriate bet on a racehorse. Members have to remember that the genetic capacity of a racehorse—its inheritance of running fast—is very low. From memory, there is only a 10 to 20 per cent chance that a horse bred from a fast-running racehorse will itself be a fast-running racehorse in the next generation. It is a complicated process; it is not all that easy. We had this old rule of thumb that one in 10 racehorses that were bred would start, and one in 10 of those might potentially win a race, so the chances of winning a race were about one in 100. It is an old rule of thumb that we always had in place. Although it is difficult to judge a horse’s running ability, to me that makes gambling on a racehorse a bit of an art, because there are so many factors to take into account. When that is done in an electronic form on a television screen, I have some questions about how that becomes an art form. I would personally be very nervous about any significant gambling that effectively relies on a computer program to dictate a winner. I do not know how that works. We are relying on an 18-year-old computer expert, programming anywhere in the world and putting it into a machine. Do they randomise which horse wins? Do they have a set pattern? I do not know. It is hard

enough to trust a racehorse and a jockey sometimes. I have known the occasional jockey to jump off at an inappropriate moment, over many years.

Hon Alannah MacTiernan: What do you think happens with pokies?

Hon Dr STEVE THOMAS: It is a similar process, and I am getting to that, minister—you are absolutely right. My question is why people would gamble under those circumstances. It has been put to me that it is a mild and gentle amusement to keep people occupied between other events, and that might be the case. I am reminded of those sideshow games, where the kids shoot water into a fountain and either a racehorse or a monkey climbs up a post or something. I am reminded of that constantly, and I wonder whether that is really the way we want to progress with gambling. It is probably not. I certainly would not engage in it myself, but I do not necessarily think that that is a reason to ban it.

We are back to this age-old question of whether we protect people from themselves. That is the process that I think we find ourselves in. I would think that people were simply going out there for a bit of mild amusement, taking the odd gamble, as people have often done—walking into a hotel with a Pub TAB and collecting one of those mystery bets, for example. It is a bit of amusement to keep oneself occupied. Maybe the electronic racehorse looks a little bit like that. I would be pretty nervous about it, but I do not think that necessarily means I would want to ban the things. There is a bit of caveat emptor here. People getting involved in that sort of thing need to be aware of the process.

The minister mentioned poker machines, and she is absolutely right. I would expect this type of electronic gambling to look very much like poker machines. As we said previously, poker machines work on a purely mathematical basis. A poker machine is pre-programmed to return a certain proportion of the money it accepts in rewards, to keep people coming in, but it will make sure that the house receives its proportion of all turnover. It is simple mathematics that the house can never lose. The only thing that could happen to the house is that, if the throughput is lower, the house makes less. It is purely based on throughput. If \$1 million goes through a machine, and the machine is programmed to take in 10 per cent for the house, the house is making \$100 000 out of that process. Whether it is \$200 000 out of \$2 million or \$50 000 out of \$500 000, the number does not vary that much; it is a pretty simple process. That becomes the risk. With poker machines, it is purely mathematics. I would assume the gambling involved with electronic horseraces would be a very similar process.

The question will be: which of the things in that process are in and which are out? The threat within the bill is that it does not necessarily prescribe which of those things are in and out. It allows the government to legislate and regulate eventually to prescribe things. I do not see a natural alternative to that. I cannot see us coming before the Parliament every few months for the next and latest invention of something that somebody wants to gamble on. The problem with that is that given the explosion of things that people gamble on, it would mean that we would be here all the time. It is a bit like the tax laws. Every time the federal government tightens tax laws, somebody comes up with an alternative way of getting around them. I think we would be in the same situation. I think that we are stuck with the current proposal; that is, as things come up, the government has to have the capacity, the provision through regulation, to prevent something from happening. I do not object to that process; I just ask that it is a fairly sensible and open process.

We have got to the stage these days that people will gamble on almost anything. I note that sports gambling has taken off. The bill to tax sports gambling that has passed through the house is a welcome step. The advertisements that occur during live sporting shows certainly annoy the blazes out of me; I know other people feel the same. Parts of this bill seek to address that particular proposal. I note that it is common now to get odds on not only sporting events, but also political events. People can get odds on election outcomes. Eventually we will be able to get the odds on a seat-by-seat basis. I wonder where that will end? We might be running odds on the make-up of cabinet, for example. I note that a reshuffle is in the offing and that the odds of Hon Darren West leaping to cabinet at the moment would probably be 400 or 500 to one—but that might be rising.

Hon Simon O'Brien: I'm barracking for him.

Hon Dr STEVE THOMAS: If we had the capacity, we might put some money on Hon Darren West. We might get odds-on up or down. We will have to see how that pans out. We might get odds potentially on some of the clumsier ministers falling out. Hon Fran Logan has had a difficult couple of weeks.

Hon Simon O'Brien: Odds-on; look on—that's the rule.

Hon Dr STEVE THOMAS: Yes.

Hon Darren West: How about the odds that the opposition may lay a glove on a government minister?

Hon Dr STEVE THOMAS: I think that the member would lose his money. Hon Darren West would want to put fairly careful odds on that.

Several members interjected.

The ACTING PRESIDENT (Hon Martin Aldridge): Order, members! Let us just return to the bill.

Hon Dr STEVE THOMAS: Thank you, Mr Acting President. I think the odds of Hon Darren West rising to ministerial material just lengthened out to 1 000 to one, and it is increasing.

Hon Alannah MacTiernan: Not at all. He is a great parliamentary speaker.

Hon Dr STEVE THOMAS: It may require the incumbent Minister for Regional Development to trip and break a cannon bone or something to shorten the odds for him to get a closer run. He may have to rely on a scratching, as it were, to get up. We are not expecting a photo finish.

Hon Simon O'Brien: No. There have been ministers from Albany before.

Hon Dr STEVE THOMAS: Hon Simon O'Brien is quite right. There have been ministers from Albany before. I have known them well.

Hon Tjorn Sibma: They may get another very soon.

Hon Dr STEVE THOMAS: Am I hearing somebody offering odds—that might be the question—and would that be legitimate?

We have digressed a little, but let us return to the substance of the bill. I would like to raise a couple of issues. In the second reading speech, the minister referred to the calculating of the racing bets levy and particularly referenced betback. The speech states —

... placed by the wagering operator are treated as two separate transactions. To establish consistency for wagering operators throughout the country so only the value of the customer's original bet is considered, the bill will amend the Betting Control Act 1954 so that any betback placed by a wagering operator with another wagering operator to offset their liability is deducted from their total amount of racing bets received.

Apparently this is a long overdue amendment for wagering operators. The issue is that we have just passed the Betting Tax Assessment Bill 2018. In that bill, it is referred to differently—it is called a lay-off bet. Members might remember that early this afternoon we referred to a lay-off bet in the Betting Tax Assessment Bill as “a bet placed with a betting operator, if the bet is placed for the purpose of reducing the liability of another betting operator”. That sounds remarkably similar to what is referred to in this bill as a “bet back”. It gets a little confusing. What seems to be the same thing is treated differently in the two bills and I am a little interested to know why. In the Betting Tax Assessment Bill, it does not really matter whether it is a lay-off bet—which is effectively an insurance policy for the wagering organisation—it is still treated as a normal bet for the purposes of the assessment of betting revenue and therefore to pay the betting tax. In the Gaming and Wagering Legislation Amendment Bill 2018, it states quite specifically that a betback, which is effectively the same thing, placed by a wagering operator with another operator to offset the liability is deducted from the total amount of racing bets received for the assessment of the racing bets levy. I am not sure why it is treated in different ways in two different bills—coincidentally, both of which we are debating on the same day in the Legislative Council. I would be interested to know why there is a difference between those particular areas. I think that will be interesting.

The other thing I want to refer to is the ability in the bill to enable regulations to be prescribed prohibiting live betting odds being broadcast during sporting events. I am a little interested to know how universal they might be and how universally they might be applied. Betting updates are often seen in the eastern states. They have been precluded in most states now. If members watch a variety of football games, odds are broadcast at the beginning of the game. We used to get an updated set of odds halfway through the game and three-quarters of the way through the game. We saw the advertising that said, “If your team is behind at three-quarter time and you pull out, you'll get your money back or you can get back the equivalent in betting dollars.” It is a very complicated industry now that is designed to attract people. I am a little interested to know how universal the plan is to address those advertising issues, particularly during sporting events.

Obviously, horseracing is an exception. We do not see a lot of horseracing on mainstream television and free-to-air television anyway, to be honest. There is a little bit on a racing channel now, as digital television came along. Those are just a few questions that I have some interest in. I would love to see what odds we can get on various bets coming up, particularly political ones.

Hon Alannah MacTiernan: What would you give the federal government's chances at the next election?

Hon Dr STEVE THOMAS: The horse has not bolted completely, minister! There is still an opportunity for the opposition to falter. That is not a 100 to one bet. I have not looked it up; the minister could probably look it up on her laptop. She would probably find it is in the order of somewhere between five to one and 10 to one. It might be a bit further out at the moment.

Hon Alannah MacTiernan: Would you have a view on the seat of Warringah?

Hon Dr STEVE THOMAS: That will be interesting. I have not looked at the odds of that one either. I will be more interested in what happens locally. We will get back to some of the local levels. I think it is long odds that we will see a change and an upgrade in the parliamentary secretary to the Minister for Regional Development. It might be a long smoky at the moment for people to invest in! I am interested to see what odds we can get on a change of Premier before the next election. There are a couple of interesting horses in the race. I might put a long bet on Hon Roger Cook or Hon Ben Wyatt to mount a late charge to become Premier of this state in the lead-up to the next election. I think we would probably get some reasonable odds on that. It is very hard to tell. I will not put a bet on Hon Fran Logan because I think the odds on that longer term future would be very low. We are looking for the outsiders; we are looking for the backbench people to make a stand and to step up. We might get 100 to one on a fast-rising star of the Labor backbench. That might give us a reasonable bet, but for the time being, I suspect, we have been through the most obvious bets. Each gambling outlet will make sure that it does not lose money in the process. With those simple words, I am sure that Hon Tjorn Sibma will have a lot more detail on the opposition's position on the bill.

HON TJORN SIBMA (North Metropolitan) [4.25 pm]: From the outset, I thank the members who have made contributions to the debate on the Racing and Wagering Legislation Amendment Bill 2018. I am the lead speaker for the Liberal opposition and I happily declare that we support the bill.

Hon Alannah MacTiernan: You're not now going to argue it for four hours.

Hon TJORN SIBMA: No, but I will take these joyful interjections to encourage me to offer my felicitations to every member here as we quickly draw our business this year to a close and enjoy what I hope for everyone is a long, happy, relaxing and safe Christmas and joyful New Year.

I return to the substance of the bill. In part, this is an omnibus bill. It offers a range of sensible and non-controversial amendments to two pieces of legislation that will benefit the industry, which I will go into briefly later on. However, there is also the threat of so-called synthetic lotteries around this bill. Claims have been made about the danger of these kinds of betting and wagering products and, indeed, claims have been made about the threat to the Lotterywest business model. I think in large part many of these claims are exaggerated. The so-called threat to Lotterywest has been cited as the principal justification for the expansion of the Gaming and Wagering Commission of Western Australia's power to prohibit wagering on what is described as an undesirable offence or contingencies, which is a very, very broad category, and one on which I will seek further detail to determine what is planned. There is also the issue of the necessity for the creation of a head of power, bearing in mind that earlier this year, federal Parliament passed amendments to the Interactive Gambling Act, which has already effectively prohibited companies, such as Lottoland, from offering wagering products that offer odds on the outcomes of lotteries both overseas and in Australia. That law is a significant one and it comes into operation, I think, on 9 January next year. Having read some of the rhetoric around this bill, the claim is that this bill will complement commonwealth legislation. I do not think that the case has been adequately made to substantiate that claim. When I consider the timing of the drafting of these regulations that will flow from the head of power and their implementation, I am concerned that it might complicate an already complicated regulatory environment. I will seek further details about the government's plans about when it will be in a position to provide exposure to the draft regulations and the time line it anticipates to give them effect.

When discussing issues such as gambling, it is very easy to fall between the cracks of our own moral rhetoric. In this bill lip-service is paid to what we call at-risk or problem gamblers. It is the kind of claim that I think fairly invites some scrutiny when we consider and reflect on the contributions made by previous speakers about the government's plans to introduce a new synthetic racing product called Trackside, which is effectively there to bolster the sale price of the TAB. I understand that the minister has ruled out that this head of power that is being created will give effect to regulations that will prohibit Trackside. I think it is important that all members of this chamber have a very clear understanding of the schema that would drive determinations about what a desirable gaming and wagering product is and what an undesirable one is. From where I sit, there seems to be a very arbitrary demarcation. I can accept that, but only without the moral grandstanding that goes on around talking about harm minimisation. Frankly, to extend the analogy, we cannot have a bet both ways on desirable and undesirable gaming and wagering products. The happy coincidence is that the desirable one bolsters the sale price of a government-owned asset and anything that might undercut that or compete with that is rendered undesirable. I think the government invites all kinds of claims and actions being taken when something is so gratuitously and obviously arbitrary.

Debate interrupted, pursuant to standing orders.

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