

TAB (DISPOSAL) BILL 2019

Committee

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Martin Aldridge) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

Clause 23: Authorised disclosure of information —

Committee was interrupted after the clause had been partly considered.

Hon STEPHEN DAWSON: Before we broke for question time, Hon Colin Holt had asked a question. Racing and Wagering Western Australia has informed the counterparties to its fixed-odds management and totalisator pooling contracts that it has shared information regarding those contracts with the state and the state may potentially share some information with potential bidders in a future sale process. The need to disclose information was acknowledged by the counterparties and initial concerns around managing commercial-in-confidence information noted by one of the parties. The state also wrote to Tabcorp on the issue. The state is acutely aware of the need to maintain commercially sensitive information. At this early stage, decisions are yet to be made on the extent and nature of information that may be disclosed to short-listed bidders in the sale process. However, the state team and its advisers are accustomed to dealing with issues that arise in processes such as this. As such, the state would be careful in disclosing any information to achieve a balance between optimising the outcome for the state and RWWA and respecting commercially sensitive information.

Hon COLIN HOLT: A little while ago, I asked a question in this place about the governance or integrity—I am just trying to remember the right word to use—arrangements and the protocols that are going to be introduced by the government. Someone will have to remind me of the word I am trying to remember; I always forget it. It is about integrity or the governance around it.

Hon Stephen Dawson: Probity?

Hon COLIN HOLT: Probity! Thank you. I always forget that word for some reason.

The question was about the probity plan around the sales process and the fact that the steering committee has representatives of RWWA, including the CEO and the chair, as indicated by the minister last night, and how a bidder, who may not even be a successful acquirer, actually will be putting commercially sensitive information into that system. A competitor at that time—which is also potentially a competitor in the future because the racing distribution agreement may never be agreed to, so we would carry on with the TAB—or the new acquirer may have access to that sensitive information in the future. What are the probity arrangements? I remember when I asked the question, the answer was, “Oh yeah, we’re working on a probity plan.” I think it is time now to either table that probity plan or give us some indication on where it is at.

Hon STEPHEN DAWSON: I am advised that a probity adviser has been appointed and a probity plan has been endorsed by the steering committee. I am not in a position to provide a copy of it now. I will have to seek some advice. The advisers are anxious about providing a copy of it because it would contain sensitive information about dealing with the proposed bidders, so by providing it and putting it on the record, it may well cause some issues in the future.

Hon COLIN HOLT: That is a very interesting answer: there is caution around tabling a probity plan because it might be sensitive?

Hon Stephen Dawson: There might be sensitive information in it. I am happy to arrange a briefing for you if that would allay your fears on this issue. But the advisers are telling me that it probably wouldn’t be prudent to actually table the plan.

Hon COLIN HOLT: I think the issue is that it is not a potential probity plan for me, but it could give potential bidders the confidence that anything they submit is going to be in accordance with good governance and will ensure the protection of their information. Can the minister explain to us how that is going to be relayed to those potential bidders or acquirers who are going to compete for this and how their information is protected from other bidders? Can the minister give an indication, without revealing the whole plan, about how the CEO and chair on that steering committee are going to manage receiving that delicate information, given that in the future there may not be a sale and the WA TAB will continue to compete against those bidders, or that information potentially will be carried on to the new arrangements? I would have thought that at this point in time we would be trying to get as much interest in the industry and have as many people as possible bidding for the opportunity to take on the licence. They would want confidence that their commercially sensitive information, which would need to be submitted, I would have thought, as part of any bidding arrangement, is protected so that their businesses are protected in the future, especially given that the CEO and chairman of RWWA sit on that steering committee.

Hon Stephen Dawson; Hon Colin Holt; Hon Nick Goiran; Hon Colin Tincknell; Hon Dr Steve Thomas; Hon Aaron Stonehouse; Hon Rick Mazza

Hon STEPHEN DAWSON: I am advised that the government is accustomed to dealing with commercially sensitive information in processes such as this. Public servants and public sector workers with access to the information are bound by duties of secrecy in connection with their work. Advisers are bound by confidentiality provisions in their contracts of appointment. A probity auditor is overseeing this process and potential bidders can engage with them if they have any concerns or questions about the process. This is standard practice and happens across government quite regularly.

Hon NICK GOIRAN: Clause 23(1)(c) is a provision that will relieve people from criminal liability. Clause 23 states —

(1) A disclosure of information that is authorised under this section is not to be regarded as —

...

(c) a breach of, or an offence under, a provision of a written law that prohibits or restricts disclosure of information.

Who would be able to avail themselves of this protection?

Hon STEPHEN DAWSON: I am advised that it would be public servants or government contractors.

Hon NICK GOIRAN: In what circumstances could such persons, whether they be the public servants or government contractors the minister referred to, disclose information and be in breach of criminal law?

Hon STEPHEN DAWSON: I am told that section 81 of the Criminal Code deals with unauthorised disclosure of official information. It deals with a public servant or government contractor improperly disclosing any information that person has because they are a public servant or government contractor. In disclosing information to a potential bidder, they could otherwise be in breach of that provision.

Hon NICK GOIRAN: To what extent is the clause 23(1)(c) shield a protection for a public servant to an offence under section 81 of the Criminal Code?

Hon STEPHEN DAWSON: My advisers tell me that it is to the extent that a disclosure of information by that person is authorised under clause 23(2).

Hon NICK GOIRAN: If a public servant or a government contractor discloses information in accordance with clause 23(2), will they have an unlimited immunity from section 81 of the Criminal Code?

Hon STEPHEN DAWSON: I am told yes, provided that it is in accordance with clause 23(2).

Hon NICK GOIRAN: Why is it appropriate for that person to have that shield from section 81 of the Criminal Code?

Hon STEPHEN DAWSON: I am told that it is necessary because, otherwise, public servants doing their jobs pursuant to the disposal could be exposed to liability.

Hon NICK GOIRAN: What would be an example of some information that a public servant would have in their possession that they would disclose that would mean that but for this shield they would be in breach of section 81 of the Criminal Code?

Hon STEPHEN DAWSON: I am advised that it could be information about RWWA's TAB business.

Hon NICK GOIRAN: Information about RWWA's TAB business? I think yesterday we worked out that some shops are owned by RWWA. It is not the intention of the government to get rid of those things. The information about the existence of those shops would be information to do with RWWA's TAB business, but I assume we can both agree that disclosure of that information would not trigger an offence under section 81 of the Criminal Code. I am looking for a tangible, proper example for the chamber of why we are providing this massive shield in clause 23(1)(c). Why is this chamber saying that other public servants have to comply with section 81 of the Criminal Code, but these public servants get an enormous shield to protect them from section 81 of the Criminal Code? Someone in government has decided that it is really important for these public servants to have this enormous shield from the Criminal Code. I am sure that every Western Australian would love to walk around with this shield from the Criminal Code, but it will be only these people. What is the practical example or scenario that justifies them having this enormous shield against section 81 of the Criminal Code—just one example, minister?

Hon STEPHEN DAWSON: I am told that, for example, some information that could be obtained by public servants or public sector workers and properly disclosed bidders, particularly involving third party contract rights, would be sensitive but its disclosure is necessary and appropriate for the sale process.

Hon NICK GOIRAN: Would the clause 23(1)(c) shield also provide a public servant protection from any investigation into serious or minor misconduct by the integrity investigation agencies in our state?

Hon STEPHEN DAWSON: I am told that it would not be a shield. For example, in a CCC investigation, it would still be able to investigate.

Hon Stephen Dawson; Hon Colin Holt; Hon Nick Goiran; Hon Colin Tincknell; Hon Dr Steve Thomas; Hon Aaron Stonehouse; Hon Rick Mazza

Hon NICK GOIRAN: That is curious. I am reading the terms of clause 23(1)(c), which states —

a breach of, or an offence under, a provision of a written law that prohibits or restricts the disclosure of information.

I know, for example, that over its history, the Corruption and Crime Commission has investigated wrongful disclosure of information. I even have a particular case in mind. It certainly has done that. It seems to me that, on the face of it, clause 23(1)(c) is protecting that person, because it says that it is not to be regarded as a breach of a provision of a written law that prohibits or restricts the disclosure of information. I am not persuaded that that advice is correct. Is this a matter that, in the course of the drafting of this provision, specific advice has been sought on this point, and/or has there been consultation with the CCC and the Public Sector Commissioner in respect of its implications?

Hon STEPHEN DAWSON: I am told that disclosure that amounted to misconduct for the purposes of the Corruption, Crime and Misconduct Act 2003 would not be authorised by clause 23(2). I am further advised that the bill has been broadly discussed with the CCC.

Hon NICK GOIRAN: This is quite interesting. We have a situation in which a public servant is being protected from disclosing information and protected from section 81 of the Criminal Code. The minister has explained why that is necessary—so that they are able to provide information to facilitate this disposal without fear of being in breach of criminal law. However, in the same breath, they still need to be in fear of disciplinary action. I am not sure how comforting it is going to be for government contractors or public servants to know that they are not going to be imprisoned or prosecuted by either the WA Police Force or the Director of Public Prosecutions, but they could still be subjected to disciplinary action. Nevertheless, if that is the advice, that is why we are asking these questions.

Minister, we can shift our gears for a moment and look now at the issue of civil liability. I note that under clause 23(1)(a), any disclosure is not to be regarded as a breach of contract or confidence or any other civil wrong. If the government does something through its agents—whether that be a public servant or a government contractor—that is a breach of contract, should the state not be responsible for that breach and remedy that situation after the event? Of course, government agents should always be model litigants and model citizens, so we would not want a situation in which they are breaching contract law routinely. Why is it appropriate for the government to be shielded from breach of contract?

Hon STEPHEN DAWSON: Regarding the member's earlier comment, I want to place on the record that, firstly, public servants do not need to fear prosecution if the disclosure is for the purposes of a section 8 disposal under clause 23(2). Secondly, this is the policy in disposal. These provisions applied to the disposal of the Perth Market Authority and the proposed disposal of Pilbara port assets.

Hon NICK GOIRAN: If I understand the minister correctly, and I am happy for the minister to provide his answer through interjection if it is more convenient, he is saying that the justification for this is that it has been done in the past. If I can elaborate, the minister has mentioned a couple of examples —

Hon Stephen Dawson: Yes, it has been done in the past and, yes, it has been accepted by Parliament in the past at least a couple of times.

Hon NICK GOIRAN: This brings me to my next point. What I do not like about this process of lawmaking is that when we interrogate these things, we find that governments—I will not necessarily be critical of just this one; I will talk about government in the generic sense—seem to routinely say, “Actually, this has been done before.” Let us remember the context here. At this moment in time, we are being forced to agree to this provision because the government has said that if we want to amend it, it will drop the whole thing and we will not sell the TAB anymore. What will then happen is that a future member of Parliament, or even the next Parliament, will ask questions about this matter, such as, “Why are these people allowed to have these criminal and civil shields?” The minister—it may not be this one; it may be somebody else—will simply say, “Don't forget that this was done on the TAB bill and Parliament agreed to that. The Legislative Council considered it at length—there was even lengthy interrogation of those clauses—and the end result was that the clause was put and passed.” They will use that as a justification to say that it is therefore a good thing. This is bad lawmaking. Just because we have used an unjustified bad template in the past does not mean it should continue to be used in perpetuity. It is incumbent on not only this government but also future governments to provide cogent persuasive reasons why particular clauses should be included. This is yet another example, and I am grateful to Hon Colin Holt for initiating scrutiny on this clause. This is another significant clause. It is not some superfluous mild matter; it is a very, very significant thing to provide public servants with shields from the criminal and civil laws of Western Australia. These are significant matters and the justification is to say, “Well, it has been done in the past, so we will keep doing it.”

This brings me to my next question on this clause. I propose to wrap up with clauses 24 and 25 and the intersection between each of those three clauses, because, as the minister will see, clauses 23, 24 and 25 all fall under division 2,

Hon Stephen Dawson; Hon Colin Holt; Hon Nick Goiran; Hon Colin Tincknell; Hon Dr Steve Thomas; Hon Aaron Stonehouse; Hon Rick Mazza

“Disclosure of information”. If we compare and contrast clause 23, which will allow the disclosure of information and provide shields for the disclosure of that information, with clause 25, clause 25 creates offences for disclosing information. As best as I read clause 25, these offences are not intended to be applicable to the same people whom clause 23 will apply to; clause 23 is, if you like, for the sender of the information and clause 25 is for the catcher of the information. I ask for the minister’s confirmation that that is the case.

Hon STEPHEN DAWSON: The honourable member is correct; clause 23 relates to the authorised disclosure of information, while clause 25 relates to unauthorised disclosure. If they disclose something that was unauthorised, it could be captured by clause 25. That includes public servants.

Hon NICK GOIRAN: Can the public servant who is entitled to the shield under clause 23 also be a bound recipient, as mentioned in clause 25(1)?

Hon STEPHEN DAWSON: Yes, they can.

Hon NICK GOIRAN: Although the public servant and the contractor are shielded from section 81 of the Criminal Code, they can still be subject to an offence under clause 25. Should those offences be established, that might include a fine of up to \$200 000 in each instance. I note that clause 24, which is sandwiched between clauses 23 and 25, allows the Auditor General to disclose information. In what circumstances would it be appropriate for the Auditor General to disclose information, or is this another template clause?

Hon STEPHEN DAWSON: I am told that this clause allows the Auditor General to disclose information in her possession or control to any person, if it is for the purposes of a section 8 disposal. This enables the Auditor General to provide information that may assist with the disposal and which she is specifically requested to disclose, even though the disclosure might otherwise be a breach of the Auditor General Act 2006. The member asked in what circumstances the Auditor General might disclose information. There are no specifically contemplated circumstances at present. A possible example would be if the state’s financial and accounting consultants, who are engaged for the purposes of assisting with the sale, wish to consult with the Auditor General as RWWA’s auditor about RWWA’s past annual accounts. This clause would permit the Auditor General to respond to a request for consultation.

Clause put and passed.

Clauses 24 and 25 put and passed.

Clause 26: Application of proceeds of disposal —

Hon COLIN HOLT: Just before we get to the supplementary notice paper, I want to ask a question. Can the minister tell us the expected transaction and implementation costs?

Hon STEPHEN DAWSON: Clause 26(1) of the bill defines the net proceeds of a disposal as gross proceeds less transaction and implementation costs incurred by the state, as determined by the Treasurer. Transaction costs include the cost of expert advisers for the state and RWWA—for example, legal and due diligence advisers. Implementation costs include any one-off costs incurred by RWWA and funded out of sales proceeds in transitioning to the new arrangements—for example, the costs of separating RWWA IT systems, and staff redundancy expenses. The full amount of costs expected to be incurred is not known at this stage; it will depend on the outcome of the separation analysis currently underway by the state’s due diligence adviser and the final solution offered by a buyer of the TAB. However, the state expects this number to be in the low tens of millions.

Hon COLIN HOLT: The low tens of millions. Could it be \$40 million? A better estimate than that would be useful to the industry.

Hon STEPHEN DAWSON: We do not have a strong estimate. My advisers tell me that it could be between \$20 million and \$30 million, but that is a guess. It could be more; it just depends on the process and the bidder, and where we get to as part of the process.

Hon COLIN HOLT: When that final figure is arrived at, will there be some transparency for the industry to know how much the actual transaction has cost the industry or the government or the opposition or the Parliament in fees and charges?

Hon STEPHEN DAWSON: I am advised, yes; that can be reported.

Hon COLIN HOLT: Before the chamber gets to the amendment on the supplementary notice paper, I want to confirm that the transaction and implementation costs will come off the overall gross receipts, and then the 35 per cent—or 45 per cent—will be split up.

Hon Stephen Dawson: Yes, you are correct.

Hon COLIN TINCKNELL: I move —

Page 18, line 25 — To delete “35%” and substitute —

45%

There has been quite a bit of discussion about this issue since the bill entered this chamber. I have listened very intently to the discussion by members on both sides of the chamber. During my contribution to the second reading debate, I said that there are major issues with the way that the bill has been presented to not only this chamber, but also racing clubs and the industry. Just under three years ago, I put up my hand to run in the state election. One of the first groups of people to ring me was the racing industry of WA, and it had some concerns about the sale of the TAB.

Hon Stephen Dawson: Sorry, member? Who rang you?

Hon COLIN TINCKNELL: The racing industry—people from the racing industry.

Hon Stephen Dawson: I thought you said an organisation. So it was not an organisation; it was just generally people.

Hon COLIN TINCKNELL: Different organisations rang me after that, but initially it was just general people who worked in the racing industry. The main thing they wanted to highlight to me was how the sale would go through. They had seen what had happened in the eastern states and they had issues with it. One issue they had was that they were not sure whether the proceeds of the sale would be enough, considering, as we have discussed—it has been raised in further discussions since the bill was introduced—that more than two years have passed since the 35 per cent has been mentioned. In my reckoning, the value of the TAB has gone down in that time. That is hard to determine, but I based that on history and on what has happened, and on one of the main reasons that I believe the TAB is up for sale. It is also one of the main reasons that the former Liberal–National government was also thinking about selling the TAB in its last term of government, but because it was not re-elected that did not happen.

I listened to the former sports minister, Hon Colin Holt, and I heard his passion for this sale to go through. In principle, I agree with him because of the situation today. However, we have a problem. The problem is that members of this chamber are being denied the chance of putting and seriously considering amendments. Members have been told that no amendments will be seriously considered. That is very disappointing. We belong in a house of review, and our job is to review each piece of legislation that comes into this chamber. We have been told, “No, it’s a take-it-or-leave-it bill.” From history, take-it-or-leave-it bills do not go down well in WA. Ask the lobster and taxi industries. They are not too happy. They are two good examples of take-it-or-leave-it governing. It has not gone down well with the public. That is why I moved this amendment. I understand how difficult it is for the alternative government to vote down this bill; I understand that. I understand the politics. I have been in this chamber long enough now to know that. However, it was incumbent upon me to move the amendment as a member of the crossbench and a member of a party that supports the sale of TAB in principle because of the need to sell it before it is worth nothing. The figure of 35 per cent was mentioned and agreed upon two years ago. How was it agreed upon? Was it agreed upon when the government consulted? Was it agreed upon in a way that really left people with no choice; that is, it was a take-it-or-leave-it approach to the industry as it has been to this chamber? If that was the approach, we know that the consultation was not quality consultation; we know that the choices given to the industry were very limited. I read the letters from the industry that the government made available to me. They basically said that they would take the 35 per cent because they knew there was no alternative. I do not see that as being a plus for this government in the way it governs. As I have seen with the lobster and taxi industries, this is not a good bill. The process of this bill is wrong. That is the problem I have. It is important that I move this amendment as a member of this Legislative Council who prides myself on proper consultation with my constituents and the industries that I represent out there. I know the chances of this amendment’s success are limited; however, that does not mean that we should not stand up and be counted. With that, I moved this amendment to line 25, on page 18, to delete “35%” and substitute “45%” to give this industry a chance of recouping some funds from the sale and of having a better future.

Hon Dr STEVE THOMAS: I indicate that the Liberal opposition, unfortunately for One Nation, will not support the amendment moved today. By way of brief explanation, we could play with the numbers all day. In fact, Hon Simon O’Brien suggested to me that he might like an amendment to change the figure to 38.672 per cent and Hon Tjorn Sibma’s amendment was more likely to change the figure to 41.831 per cent. We could play with the percentages all day, but the reality is that a number has been set by the government. In my view, if there is any significant change to this bill, and a 10 per cent change to the sale price is a significant change if the price is \$300 million or \$400 million—it will be a significant change—the bill will not progress. Importantly, on top of that, as we said in the clause 1 debate, there are other mechanisms for the racing industry to be provided with support. I understand that the racing industry says that the bigger the percentage going towards 100 per cent, the bigger the pot it has to play with. I absolutely understand that, but that is not the limit to which the racing industry gets funded by the government. It gets funded from other sources as well. There are other capital sources. It gets capital funding out of the annual remuneration that will continue under the “no worse off” clause. Those are other sources of funding. It has been funded from royalties for regions before. It can be funded out of the consolidated

account. Although we could, in my view, play games with the numbers a little bit, I think the reality is that we need to allow government in the future to make those decisions based on the merit of cases presented by the racing industry, if it says it has insufficient funds at some point and puts forward a proposal to government. The government needs that sort of freedom. I think we have established that the bill is under threat if we do not allow it to proceed. For those reasons, many of which we discussed at length during the clause 1 debate, the opposition will not support the amendment before the house.

Hon STEPHEN DAWSON: I indicate that the government will not be supporting this amendment. The honourable member said in his contribution just then that he did not think this is a good bill, and that he had been told by the racing industry that it does not support the bill as it is. I have to again point out that the racing industry is actually on the government's side. The Racing and Wagering Western Australia board, the Thoroughbred Racing Committee, the Harness Racing Committee, the Greyhound Racing Committee, the Western Australian Racing Representative Group, the Western Australian Greyhound Racing Association, Gloucester Park Harness Racing and a range of racing clubs and groups in the member's electorate have all written to the government and they all support the bill, as drafted and unamended.

The member also raised an issue about this figure being out of date, having been floating around for two years. The member is wrong. I made this point yesterday on clause 1—perhaps the member was away from the chamber on urgent parliamentary business, or perhaps he simply was not listening—and I said then that this issue was first raised during the consultation process in June 2018, just over 12 months ago. It was always envisaged at that time that this process would not come to a conclusion until 2020, so this figure is current. This figure has been canvassed and consulted on with the sector. The state government believes that this is a fair figure for the racing industry in Western Australia. I have to say that, from all the reports and correspondence I have received from the racing industry, it concurs with our view.

The one-off allocation of sales proceeds to the racing industry in the form of an infrastructure fund is justified on the basis that it recognises that the racing industry is the key beneficiary of the TAB under the current legislation, and plays a large part in the leadership and development of the business via its representation on the RWWA board. Therefore, an infrastructure fund will remunerate the industry for changing these arrangements. It will assist in ensuring racetracks are of sufficient quality and condition to meet the racing industry's commitment to supplying quality racing products under the racing distribution agreement with the operator, and it aligns the interests of the state and the racing industry to optimise the sales process. As I have said previously, 35 per cent will go to the racing industry in Western Australia and 65 per cent of the net proceeds of the sale will be paid into a special purpose account as a down payment for the planned new maternity hospital—a new women's and babies' hospital in Western Australia—and we believe that this is a fair split. I am not in a position to support the member's amendment this afternoon, and I urge other members in the chamber to do the same.

Hon COLIN HOLT: I wonder if I could ask the mover of the amendment to give us an indication of how he came up with 45 per cent. Obviously we have had a range of documents tabled by the minister providing information on who in the industry supports the legislation and why. I am wondering whether the member can table any documents to show that he has support from the industry, and the consultation process he has been through, to arrive at the figure of 45 per cent.

Hon COLIN TINCKNELL: I am happy to answer that. When I talked to people in the industry, they spoke about various different figures. The idea was to put an amount of about 45 per cent; there was discussion of about 45 or 55 per cent. We noticed that the Nationals WA had been talking 80 or 100 per cent; that would not be reasonable. The whole idea of that was to debate that percentage in this chamber, but the chamber has been denied the opportunity to debate the issue. That is how that figure came about. It was never hard and fast; it was something we talked about in the early days, near-on two years ago, and it was something we wanted to debate in this chamber, but we have been denied that opportunity because of a take-it-or-leave-it approach.

Hon COLIN HOLT: I think it would add a lot of strength to the member's argument if he could provide that documentation. I am sorry to say it, but 45 per cent is a hard and fast figure, and that is what is in the proposed amendment. We cannot debate that; it is a hard and fast figure. It would really help the member's argument if he could table his level of support from the industry to say, "Yes, we're right behind this 45 per cent." That might actually go a fair way towards convincing the government, which is saying, "Actually, we've got the industry on our side." If the member has a counterargument he would like to table, I would certainly like to see it.

Hon COLIN TINCKNELL: I have no documents; however, what I do have is experience of people being consulted in such a way. People will be too afraid, just like the alternative government is, to challenge this because they have been told, "Take it or leave it." That is the problem here—people have not been included in the consultation process, and now that the legislation is in this chamber, people are not being given the opportunity to

Hon Stephen Dawson; Hon Colin Holt; Hon Nick Goiran; Hon Colin Tincknell; Hon Dr Steve Thomas; Hon Aaron Stonehouse; Hon Rick Mazza

debate these issues. They are being told that this is it; take it or leave it. The member is right; I would love to have some documents, but I do not have those documents.

Hon COLIN HOLT: I wonder whether the member could offer some explanation. If the chamber agrees with the member's argument that the industry needs 45 per cent, and the bill is then removed—never goes back to the other place and is never implemented—how is that in support of the industry, given that I think the member has put up this amendment to show that we care about the industry, knowing that it probably will not get up because of the situation that we have all committed to? We want to see the industry prosper, and one of the issues is around how the TAB, under another licence operator, can provide ongoing support. Can the member explain to the chamber how, if this amendment were successful, it would support the industry in the future?

Hon COLIN TINCKNELL: I know that this amendment is not going to be successful. I have done the figures and I have talked to people. That obviously makes a difference. However, once again, when people are denied an opportunity to debate some issues, that does not sit well. I entered this house as a part of the house of review, and we are not getting the opportunity to debate this issue, I believe, in a fair and democratic way, because it is a take it or leave it situation. That is not the way a government should conduct itself.

Several members interjected.

The DEPUTY CHAIR (Hon Martin Aldridge): Order, members. Hon Darren West, I have heard you interject three times when out of your seat. You should know that you should not do that, or you should return to your seat.

Hon COLIN HOLT: It is an interesting situation here. Everybody wants to see the industry prosper, and although we have made lots of arguments, we know what the government is doing. We know that the government has said "take it or leave it" at 35 per cent. If we make any substantive amendments, the government will pull the bill. We all know what that means, because we support the bill. However, a member moves a motion supposedly in support of the industry, and it seems to me like a very cheap political stunt that shows why crossbenchers play less of a role in real governments.

Several members interjected.

Hon COLIN HOLT: It is quite true. It is all care and no responsibility. If the member were really responsible to the industry and listened to the arguments all the way around, he would know that we all support the industry. We know that we all want more money for the industry, but the government is steadfast and has provided information about what the industry wants. The member is ignoring what the industry wants, because it wants the sale of the TAB. It is not going to happen if everyone agrees to this proposed amendment. The fact that the member says he has done the numbers, and knows that he will not get support for the amendment, just says that he wants to stand up and look like a good guy for the industry. It does not work. The Nationals will not be supporting the amendment. We want to see the TAB (Disposal) Bill 2019 continue to be debated on the other clauses and passed at some point in time so that the industry can get on and test the market for a better outcome.

Hon AARON STONEHOUSE: Just to make it clear, I support this bill, and I am not going to let the perfect be the enemy of the good. I see this ultimately as a move towards deregulation. Privatisation is the first step. Certainly it is not prudent for the government to keep the TAB on its balance sheet. Do not let the actions of two members reflect on the rest of us. There are seven other members of the crossbench, so steady on, honourable member.

To the question at hand about the percentage of the sale price that would go back to the industry, I understand from what the minister has pointed out, and from briefings I have received, that there is about \$80 million in cash sitting in RWWA right now. I think Hon Colin Holt pointed out that the industry requires about \$100 million or \$150 million in capital works. We do not know exactly, but around that figure has been thrown around a bit. If \$80 million in cash can be used towards capital works, that means we are a little over halfway there. If the sale is \$300 million, at 35 per cent—I am terrible at maths; let us say it is \$100 million—it would be an easy \$100 million, plus the \$80 million cash, it is presumably enough for capital works. I understand the industry would like to get the largest share, but I think there is a difference of opinion about whether the industry is owed the value of the TAB. I think there is a presumption by some members that the industry is owed that money because the TAB was established to service the industry. I am of a different opinion; that is, I am not entirely sure that the industry is necessarily owed all returns from wagering on racing in the state. It is not like that in other industries. That it has been established that way in racing I think is a tragedy. I would rather see a deregulated market relationship for racing and betting, much like there is in other sports.

I will not support the amendment because I am not entirely convinced that the industry is owed more money. The government has made it pretty clear that it is not accepting substantive amendments. Notwithstanding what I think is a rather bullish tactic of the government in saying take it or leave it, again, we should not let the perfect be the enemy of the good. The sale of the TAB is a good thing and, even if it is only 35 per cent to the industry, the return of funds is a good thing. Getting the TAB off the government balance sheet and into the hands of a private operator

Hon Stephen Dawson; Hon Colin Holt; Hon Nick Goiran; Hon Colin Tincknell; Hon Dr Steve Thomas; Hon Aaron Stonehouse; Hon Rick Mazza

that can provide an economy of scale and more efficiency is ultimately a good thing for the state and for the industry. I think all members should support the bill to that end.

Hon COLIN HOLT: I would like to apologise and withdraw my earlier comments. I got carried away with my language. I was referring to the movers of the motion and support of Pauline Hanson's One Nation Party, which has all care and no responsibility. I apologise to the members of the crossbench and other parties. They know that that would not be my intention. Obviously, an amendment has been moved by a party that, to my mind, is making a rather cheap political point.

Hon RICK MAZZA: I will not support the amendment. However, in saying that, the comments made by Hon Colin Holt about this amendment being a bit of a stunt and that the industry may not support it—I do not know where the 35 per cent came from but the government has pursued that. We are being told that if we do not support that we will blow up this bill. I do not want to do that because I think we need this bill to pass through Parliament. However, my understanding is that an amendment was moved in the other place for 100 per cent. Is that a cheap political stunt? To say that seeking to provide industry with 45 per cent is a cheap political stunt when some colleagues in the other place sought to make 100 per cent, I think is a bit rich.

Hon COLIN HOLT: The member will understand that the government's commentary that it would not accept any amendments because it does not want an amended bill came out of the motion to return 100 per cent to the industry. It was not a cheap political stunt at that time because it was about testing the minister's view about a greater return to industry.

Hon Colin Tincknell interjected.

Hon COLIN HOLT: We had that debate in the other place.

Hon Colin Tincknell interjected.

The DEPUTY CHAIR: Order, members!

Hon COLIN HOLT: We have already heard that the government is not accepting any amendments. That is the whole point. The member is seeking support for his amendment, knowing well that we cannot support it; that is the issue. However, in the other place, it was about testing the minister's view and the veracity of the evidence the Treasurer had to back up what the industry wanted. We have tested that veracity, and the government's commentary that the government will not accept any amendments at all has been reinforced by the representative minister.

Hon COLIN TINCKNELL: My party does not have members in the lower house. Members opposite can do all the testing they like in the lower house. There is no negotiation around 100 per cent. That is not a figure that we can negotiate from. It is not even close to the 35 per cent. I am saying to the government let us look at this figure and talk about it. We cannot start negotiations in a conversation with, "Sorry, we don't care what you have to say because this is it." That is not a negotiation; that is not even a proper debate—that is the point. Hon Colin Holt is the originator of this sale. I understand the member defending the sale. However, he did not sell it during his term of government for whatever reason. Since that time, the value of the TAB has gone down enormously. The member knows that; the government knows that; and everyone in this chamber knows that. The figure was set at 35 per cent. We do not think it is enough to service the industry properly. We think that a 45 per cent figure would be more reasonable. That is what this is about; it is about being reasonable. I do not believe the government is being reasonable in the way it has approached the bill in this chamber and it has not been reasonable to the industry. That is why I moved the amendment.

Hon NICK GOIRAN: Has the government received any advice or recommendations that it can table that provides advice that 35 per cent is the preferred figure? Separate to that, has the government received any advice about the issue of 45 per cent; and, if it has, can the minister table that advice?

Hon STEPHEN DAWSON: No, we have not received any advice about the 45 per cent figure. As I have mentioned a couple of times, the 35 per cent figure was first raised early to mid-last year as part of the consultation process. The discussion paper was put out in June last year and that figure was included in the consultation process. Between February and April last year, conversations took place with the board of RWWA. At that stage, the 35 per cent of net proceeds figure was put forward along with other elements of the package that I have previously mentioned. As part of those conversations, the industry recognised that that was a good offer and agreed at that time that that was appropriate, and that was put out for consultation. Obviously, that consultation happened over a few months. Consultation forums were held around the state, and over 107 submissions were submitted as part of that process. Since that time, however, we have received correspondence from the racing industry acknowledging its support of the 35 per cent figure, which was in a letter from the CEO of RWWA in June this year, which I mentioned yesterday. He specifically stated that RWWA and the racing committees supported the establishment of an infrastructure fund with 35 per cent of the net proceeds of the sale being applied to the fund.

Hon Stephen Dawson; Hon Colin Holt; Hon Nick Goiran; Hon Colin Tincknell; Hon Dr Steve Thomas; Hon Aaron Stonehouse; Hon Rick Mazza

Hon NICK GOIRAN: The government has not received any advice on the appropriateness of a 45 per cent figure, but, obviously, it has settled on 35 per cent. Is there any other figure between zero and 100 that the government has obtained advice on; and, if it has, can be minister table that advice?

Hon STEPHEN DAWSON: No specific advice has been received and therefore I am not able to table it.

Hon NICK GOIRAN: My last question is: at any stage has the government considered a figure other than 35 per cent; and, if there has been active consideration by anyone in government on another figure, what was that figure?

Hon STEPHEN DAWSON: The answer is no, honourable member.

Division

Amendment put and a division taken, the Deputy Chair (Hon Martin Aldridge) casting his vote with the noes, with the following result —

Ayes (2)

Hon Robin Scott

Hon Colin Tincknell (*Teller*)

Noes (27)

Hon Martin Aldridge
Hon Ken Baston
Hon Robin Chapple
Hon Jim Chown
Hon Tim Clifford
Hon Alanna Clohesy
Hon Stephen Dawson

Hon Colin de Grussa
Hon Sue Ellery
Hon Diane Evers
Hon Donna Faragher
Hon Nick Goiran
Hon Laurie Graham
Hon Colin Holt

Hon Rick Mazza
Hon Kyle McGinn
Hon Simon O'Brien
Hon Martin Pritchard
Hon Tjorn Sibma
Hon Charles Smith
Hon Aaron Stonehouse

Hon Matthew Swinbourn
Hon Dr Sally Talbot
Hon Dr Steve Thomas
Hon Darren West
Hon Alison Xamon
Hon Pierre Yang (*Teller*)

Amendment thus negatived.

Hon COLIN HOLT: I have a few questions about where the money will go. It will go to a Treasurer's special purpose account. Will it always be held there, or will it be transferred, in a physical sense, to the racing infrastructure fund referred to in clause 27(1)?

Hon STEPHEN DAWSON: I am advised that once we have calculated the 35 per cent, it will then get transmitted to the RWWA account referred to in clause 27—that is, the racing infrastructure fund.

Hon COLIN HOLT: Clause 26(3) states —

An amount equal to 35% of the net proceeds ... must be charged to the Treasurer's special purpose account ...
That sounds to me like the calculation of the 35 per cent has already been done.

Hon Stephen Dawson: We obviously cannot do the 35 per cent calculation until the sale has happened and we know what the net proceeds are. Obviously, we do not know that at this stage.

Hon COLIN HOLT: The minister will have to explain clause 26(3) to me then, because it states —

An amount equal to 35% —

So the government has done the calculation —

of the net proceeds of a section 8 disposal must be charged to the Treasurer's special purpose account ...
What is that to do with?

Hon STEPHEN DAWSON: Just to be clear, all the money will go into the Treasurer's special purpose account. Once we have worked out 35 per cent of the net proceeds, that amount will be transmitted into the fund that is mentioned in clause 27. We have no idea at this stage what that 35 per cent figure will be, because we cannot possibly know until we start a process. Until this bill passes through this place and allows for the disposal to take place and for the conversations to happen with industry, we will not know what the 35 per cent figure will be.

Progress reported and leave granted to sit again, pursuant to standing orders.