

**TAB (DISPOSAL) BILL 2019**  
**BETTING CONTROL AMENDMENT (TAXING) BILL 2019**

*Second Reading — Cognate Debate*

Resumed from 13 August.

**HON NICK GOIRAN (South Metropolitan)** [5.20 pm]: I am delighted to continue the consideration of these bills in this cognate debate.

**Hon Dr Steve Thomas:** Surely we need a recap!

**Hon NICK GOIRAN:** I would like to briefly take another trip down memory lane. Members will recall that yesterday we were considering these two bills in this cognate debate. I am focusing my attention on the first bill, the “TAB (Disposal and Breathtaking McGowan Government Hypocrisy) Bill 2019”, as I think it should be called. In particular, members will recall that we had this quite incredible situation in which the Treasurer of Western Australia was in deep, deep conflict with the Premier of Western Australia. We see that in a number of areas. I would be grateful if the minister with the carriage of this bill, Hon Stephen Dawson, would correct me if I am mistaken, but my understanding is that the minister with the overall carriage of this legislation is the Treasurer.

**Hon Stephen Dawson:** That is correct.

**Hon NICK GOIRAN:** It is therefore the Treasurer who has requested his minister in this place, the long-suffering Hon Stephen Dawson —

**Hon Simon O’Brien:** What a martyr he is!

**Hon Stephen Dawson:** I do not feel like I’m suffering, honourable member.

**Hon NICK GOIRAN:** The Treasurer of Western Australia has requested or directed Hon Stephen Dawson to state in his second reading speech —

Its introduction is not “pokies by stealth” or other such hyperbole we may hear in the course of debate.

The Treasurer, Hon Ben Wyatt, said to Hon Stephen Dawson, “Please make sure that you say that in the second reading speech when you introduce this bill.” That is extraordinary, because plainly that remark is directed at the Premier of Western Australia. It cannot be directed at anyone else because the person who has been the master of the hyperbole is none other than the Premier of Western Australia, Hon Mark McGowan. I wonder why Hon Ben Wyatt would do that. Why would he be so cruel to the Premier of Western Australia, to underscore in a second reading speech in such a fashion the hyperbole of the Premier of Western Australia? We have to remember that it was not that long ago that Hon Ben Wyatt tried to take out Eric Ripper as Leader of the Opposition, as my memory serves me. I know there was a bit of scuttlebutt at the time about the role that Hon Mark McGowan played in that whole situation in effectively launching and encouraging Mr Wyatt to take out Mr Ripper, which of course was one of the most epic fails in WA political history. Is this in some way Mr Wyatt’s attempt at some kind of revenge? It reminds me a little of Julius Caesar and Brutus and so forth.

I know that members will want me to return to the substance of these bills. I return quickly to the remarks of Hon Stephen Dawson in his second reading speech. Who is the author of this hyperbole that Hon Stephen Dawson speaks of? Has Hon Ben Wyatt directed him to say this? Is it directed at the Premier of Western Australia? On the basis of the extensive media reports that I drew to members’ attention last night—whether on WAtoday on 11 October 2018, in *The West Australian* of 16 October 2018 or on the ABC on 11 July 2018—it appears that the only person that such a comment could possibly be directed to is the Premier of Western Australia.

I am a bit concerned that there is this level of dysfunction and conflict between two senior members of the McGowan government. Is it a coincidence that Hon Ben Wyatt has asked Hon Stephen Dawson to use the word “hyperbole”? It is very interesting to me that he should choose to use that word starting with the letter “H”. Was it actually an error? Has there been a drafting error and, instead, was the intended “H” word “hypocrisy”? Which of those two words was it supposed to be? I ask Hon Stephen Dawson, in the fullness of time, when he replies to conclude this debate, to clarify for the chamber whether there has been an error in the second reading speech and whether it was intended that the word “hypocrisy” be used. Was “hypocrisy” supposed to be said by Hon Stephen Dawson or was it “hyperbole”? Which one of those two “H” words was Hon Stephen Dawson asked to utter in this place by Hon Ben Wyatt? This has been one of the greatest displays of breathtaking hypocrisy that Western Australia has seen. The Premier of Western Australia and his advisers pretended to the media last year that the Premier’s remarks were limited to keno. He said, “When I was making those comments at the time that Hon Colin Holt was the minister, I was just referring to keno.” That has been exposed by the media outlets that I referred to yesterday as utter rubbish.

I finished my contribution yesterday evening by saying that the people of Western Australia are fed up with this type of attitude from this government. I remind members that it was only last week that Hon Simon O’Brien



exposed this government for its over-promising and underdelivering. The people of Western Australia, and particularly the people in the region of Darling Range, spoke loud and clear. They were sick of Labor lies and elected a new and very good member for Darling Range in Alyssa Hayden, MLA. In more recent times, the people of Western Australia have spoken loud and clear and have indicated that they are sick and tired of these lies.

The people of Western Australia spoke out strongly about the housing and retiree tax that the Labor administration was going to put in. I remind members that it was the Premier of Western Australia, Hon Mark McGowan, who was telling the people of Western Australia to definitely vote for Bill Shorten and that he would be the best thing for Western Australia. That was another Labor lie, and the people of Western Australia saw through that. This is the latest example. I wonder whether this conflict that is emerging and has become clear between Hon Ben Wyatt and Hon Mark McGowan also has something to do with that gold tax episode that this fortieth Parliament had to deal with previously. It was Hon Mark McGowan who, prior to the last election, told everybody in Western Australia that if they were to elect him as the Premier, there would be no new taxes and no increases in taxes, and that he would reveal all of his revenue-raising initiatives. Who was the minister after the election who went out of his way to do the exact opposite of what Hon Mark McGowan had promised the people of Western Australia? It was none other than Hon Ben Wyatt. If it was not good enough for him to try to bring in his gold tax once, he actually tried to do it twice. Such is the disdain of the Treasurer of this state for the Premier of Western Australia that he went out of his way twice to do the opposite of what the Premier had promised beforehand. We now have this very cruel remark in the second reading speech in which he underscores the hyperbole of the Premier of Western Australia. I wonder what is going on within this government when two senior figures really are at loggerheads.

It would be good if Hon Stephen Dawson could indicate to what extent the Premier has been involved in the passage and consideration of this bill, because it strikes me that the only possible conclusion that one could reasonably draw in this situation is that on the day this bill passed through cabinet, the Premier either was not paying attention or was absent and Hon Ben Wyatt quickly snuck it through the cabinet. Then all of a sudden there is the diabolical situation in which there is a bill before the Western Australian Parliament that is in direct contradiction of the policy articulated on numerous occasions by the Premier of Western Australia. As I said yesterday, I remind members that this position of Hon Mark McGowan is not new. It goes back as far as 2006 when he was a minister in the Carpenter government. One does wonder who is actually running this government. Is it Hon Mark McGowan or is it Hon Ben Wyatt? It is clear that irrespective of who is actually running this government, they are in direct conflict with each other. I can only conclude that it goes all the way back to the Ripper episode from when they were last in opposition, and that those wounds remain very deep in this government.

I would call on those two members, who have a lot of experience, to put their bitter feud to one side and start acting in the best interests of Western Australia. The people of Western Australia are sick and tired of this behaviour from this government. We continue to have more Labor lies. We continue to have more incompetence. The latest episode is the systemic process of pushing incompetent legal advice into the Parliament. We are seeing multiple displays of that. I remind members that another one of this government's senior members, Hon Roger Cook, tried to ram his very important Human Reproductive Technology and Surrogacy Legislation Amendment Bill through the Parliament. He said there were no problems, that they were mere technical matters, only for that to be exposed as another Labor lie. That bill would have brought in unlawful discrimination against women. This is the level of competency that we have within this government. That is to say nothing about another piece of legislation that I am sure will slowly make its way through the Parliament, and that I have already seen is in direct conflict with and inconsistent with commonwealth law. Additionally, a report has been tabled in this Parliament today that once again indicates that the highest levels of leadership in the Labor government are simply pushing incompetent legal advice into the Parliament. This is becoming systemic. We have Labor lies from the leader; we have a feud between the Treasurer and the Premier; and we have the systemic pushing of incompetent legal advice through the Parliament. It has to stop, for the benefit of the people of Western Australia, who have well and truly had enough of this.

In recent times, a number of stakeholders have contacted me expressing their concerns about this monumental demonstration of hypocrisy by Hon Mark McGowan. Multiple stakeholders have contacted me about this; so many stakeholders, in fact, that it is difficult to keep up with the volume. I suspect that even now, as I am on my feet making this contribution, I am probably still receiving emails about this breathtaking episode of hypocrisy by Hon Mark McGowan. I last looked at my emails during a recent recess when the house rose momentarily, and I could see more of these emails from stakeholders. Hon Alison Xamon has already taken the opportunity to read some of those responses into the record on behalf of those stakeholders. I am quite confident that she has not had the opportunity to read all of them in, because, as I say, some of them have only arrived since her contribution on this debate. To the extent that I share the view of Hon Alison Xamon, I agree that those stakeholders are entitled to have their concerns heard. Perhaps other members have also received correspondence along these lines. In the past week, I have received correspondence from the Financial Counselling Network. I have also received correspondence from the Salvation Army Australia Territory, the Women's Council for Domestic and Family Violence Services WA, the Western Australian Council of Social Service and Communicare. I have received other correspondence as well. I simply do not have time, in the limited time that I have this afternoon, to deal with all those pieces of correspondence



from those stakeholders, but I acknowledge their right to be heard on this breathtaking episode of hypocrisy by the McGowan government. Once again, I wonder whether the short and long titles of the bill ought to be amended to properly reflect what is taking place with this bill.

I have received some specific correspondence from a couple of constituents. I distinguish them from the stakeholders to whom I referred earlier and with whom Hon Alison Xamon has largely dealt in reading extracts into the record. I thank her for that, and I once again acknowledge their right to have their concerns heard. I have received a couple of other pieces of correspondence from electors in the South Metropolitan Region, and I thought I would take this opportunity to read them into the record. My constituents are also entitled to be heard when they are aggrieved about this monumental episode of hypocrisy by the McGowan government, all because of the huge feud that is taking place between Mr Wyatt and Mr McGowan. My first constituent wrote to me on this particular matter on 8 August this year. I choose not to reveal the names and addresses of the constituents because I have not sought their consent to do so, but I will read out the content of their communication. The first letter of 8 August this year reads —

As a member of your electoral region I am writing to strongly urge you to oppose the introduction of the Trackside simulated racing machines as part of the sale of the TAB.

Western Australia has been rightly proud that we have prevented the proliferation of electronic gambling machines throughout our community, as has been seen in the eastern states. The current legislation before parliament, however, will allow countless monitors into the 908 TABs across Western Australia—dramatically increasing the accessibility of gambling in our state.

The current WA premier, has previously stated that “WA Labor will always oppose further introduction of pokies and similar gaming machines in Western Australia because of the financial misery they cause”—Mark McGowan, 2016. Similarly, Cohn Barnett, in the same year, is quoted as saying that “this state has got a very strong position of restricting gambling and restricting gaming machines of all types to the casino”.

With the odds generic and the winner randomly generated, it must be recognised that these so-called ‘simulated racing’ machines have much more in common with pokies than betting on a live race. They are a device to increase how often people are able to bet and so increase people’s exposure to the harmful impacts of gambling.

The harms from gambling can have a devastating impact on communities who then see increasing demand for services covering financial counselling, homelessness, alcohol and other drugs, and counselling. As the Shadow Minister for Child Protection; Prevention of Family and Domestic Violence I know this is something that you would feel strongly about given the negative impact that gambling has on families and children.

WA currently has the lowest per capita expenditure on gambling in Australia at \$683 per capita, compared to the national per capita spend of \$1,251. By allowing electronic simulated racing machines into our TABs, the amount of money Western Australians lose on gambling will only increase. Any revenue that the State Government will receive by including the permission to use Trackside as part of the sale of TAB, will be greatly eclipsed by the social costs of gambling harm.

This will only increase hardship in our community. I implore you to oppose the introduction of Trackside into TABs throughout Western Australia.

Yours sincerely,

**Hon Colin Holt:** I received similar letters, almost in identical words. I am wondering whether you know the source of some of that original material.

**Hon NICK GOIRAN:** It is a good question by my good friend Hon Colin Holt, who has far greater experience in this matter than I do. But I will say to the member that, no, I do not know the original source of the, shall we say, campaign. I do not know that, but I do know that this person is a constituent of the South Metropolitan Region and I thought it was appropriate for their comments to be heard. Of course, members may have different views on that, but I have a lot of sympathy for the position that has been articulated by this particular constituent; it is because of their exasperation with the hypocrisy of Mr McGowan. It is this type of arrogance and hypocrisy that Western Australians are sick of. That is precisely why they voted in the way they did in the Darling Range by-election and I believe that is precisely why they voted in the way they did at the last federal election. They are sick and tired of these Labor lies, this hypocrisy and this silly feuding between Mr Wyatt and Mr McGowan. I have a lot of sympathy for the views that have been articulated by that constituent.

I note that I received a letter from another constituent. This one lives a little more north-east in my electorate than does the earlier correspondent. This person wrote —



I am writing to urge you to take action now to avoid electronic gambling spreading throughout WA suburbs and regional areas.

Legislation currently before the Legislative Council for the sale of the TAB includes the provision for the buyer Tabcorp to install in TAB outlets, including those in pubs as well as the stand-alone TABs, screens that show simulated gambling races.

This is a gambling opportunity for people to bet every 3 minutes on games that may have the appearance of a horse race, but in fact are just a game of chance—overwhelmingly the chance to lose!

The biggest winners will be pubs which is why the AHA (Australian Hotels Association) is pushing for the inclusion of simulated racing in the TAB sale and the biggest losers will be West Australians who will be enticed into gambling and their families.

WA politicians have done the right thing by West Australian for so many years to keep gambling losses to half that of people in the Eastern states: not surprising when 51% of gambling expenditure is on pokies:

\$683 WA per person per year

\$1251 Eastern states per person per year

If the government wants to invest in country racing then it shouldn't come from the losses of gamblers.

Please act now to avoid a future where Tabcorp and hotel owners make electronic gambling part of our community. I appreciate you taking time to consider this important issue for our community.

**Hon Colin Tincknell:** Honourable member, would you take another interjection?

**Hon NICK GOIRAN:** I would be very pleased to.

**Hon Colin Tincknell:** If my maths is right and electronic gaming is an extra 200 opportunities in each TAB and there are 908 TABs, that should be 180 000 extra opportunities.

**Hon Stephen Dawson:** That 908 figure is wrong. You keep using it. There are 327.

**Hon NICK GOIRAN:** I could not hear the honourable member because of the rudeness of the minister opposite.

**Hon Stephen Dawson:** I'm trying to correct his numbers; he's misleading the house.

**The ACTING PRESIDENT (Hon Martin Aldridge):** Members! We have interjections on interjections. It is not up to the member on his feet to decide whether he will take interjections; it is up to the Presiding Officer. The member has three and a half minutes left, so I suggest that he conclude his contribution.

**Hon NICK GOIRAN:** Thank you very much, Mr Acting President. I am grateful to Hon Colin Tincknell for the question. Given the rudeness of the minister, I would recommend that that question be asked of the minister during debate on clause 1 when we consider the bill in detail, in the event that the bill passes the second reading stage, because I would like to hear the minister respond to that question without all the rudeness that we just heard then.

**Hon Stephen Dawson:** You might say "rudeness"; I'm saying "helpfulness", given that he is misleading the house with the figures he is using, honourable member.

**Hon NICK GOIRAN:** Mr Acting President, it is quarter to six and the minister is really losing his temper. It is unbelievable. As you said, I have only three minutes to go. I understand why the minister is losing his cool. If I were in his shoes, I would be frustrated as well. Can members imagine having the Treasurer of Western Australia direct them to say something that is in direct contradiction to their leader, the Premier of Western Australia? Now Hon Stephen Dawson has a problem, because the Premier is going to decide whether he continues to be a minister, so he has this conflict; meanwhile, he has to represent the Treasurer in this place. It is very awkward for Hon Stephen Dawson; I understand that. I also understand why he is losing his temper about this matter. But, at the end of the day, the people of Western Australia are sick and tired of ministers losing their cool, they are sick and tired of these feuds between the Premier and the Treasurer and they are sick and tired of these efforts to have some kind of revenge because of previous feuds about Mr Ripper and the like. The people of Western Australia are disinterested in all of that. They want a government that is competent. They want the government to stop pushing incompetent legal advice through Parliament. They have had enough of that. They spoke once at the Darling Range by-election and they spoke again at the federal election. I share the exasperation of the people of Western Australia when we have a government that behaves in this fashion. As I have said, I call on this government and its senior leaders to put aside their feud and stop these silly games in which they try to make political points against one another in second reading speeches, because the people of Western Australia have had enough of this government. If it has not learnt its lesson from the electoral losses that it has sustained over the last two years, it will be walking into a bigger problem in 2021.

We need to ensure that when we get to the committee stage of these bills and we consider them clause by clause, the minister properly answers all the questions that members might have, because we all represent our constituents. I have



indicated some of the views from people in the South Metropolitan Region who are fed up with this government and this type of hypocrisy. It remains to be seen when we consider clause 1 of the TAB (Disposal) Bill 2019 whether the minister will consider changing the title, because, as I said at the outset, I think there is a case for it to be renamed the “TAB (Disposal and Breathtaking McGowan Government Incompetence) Bill 2019”.

**HON TJORN SIBMA (North Metropolitan)** [5.50 pm]: I wish to speak on the TAB (Disposal) Bill 2019 and the Betting Control Amendment (Taxing) Bill 2019. The people of North Metropolitan Region are also fed up with the hypocrisy of the McGowan government. I would like to read a piece of correspondence that I received from a constituent. For the purposes of this contribution, I will keep the identity of that individual confidential. It may be a vain attempt on my behalf to maintain that confidentiality in light of a report that was tabled in this house earlier today. I do not think the full consequences of what has gone on in the Department of the Premier and Cabinet have been fully comprehended. In paragraph 13 on page 3 of the executive summary of that report, we have evidence that Mr Darren Foster has trawled through literally thousands of emails of former members of this place. I want a guarantee from the government that this practice is not continuing into the present day.

**The DEPUTY PRESIDENT:** Order! The member needs to relate his second reading remarks to the bills that we are considering. I trust that he will do that rather than risk anticipating other items of business that are on the Council notice paper.

**Hon TJORN SIBMA:** Thank you, Mr Deputy President. I will return to the substance of the bills. I make the point that I am attempting to maintain the confidentiality of an individual who has expressed their concern about elements of these bills. I think the genesis of that frustration and concern lies with the breathtaking hypocrisy of the Premier in relation to Trackside and other virtual gaming products.

I think you might agree, Mr Deputy President, that the Australian public respects conviction politicians. The public might disagree with their individual brand of politics —

*Point of Order*

**Hon STEPHEN DAWSON:** These bills are about Western Australia. The member is talking about Australia—the whole country. I wish he would talk to the bills before us. These bills seek to amend Western Australian legislation. They seek to dispose of a Western Australian organisation. I ask the member to try to contain his remarks to the legislation before us.

**The DEPUTY PRESIDENT:** Minister, I will give you some comfort in the certain knowledge that you will have a right of reply. There is no point of order.

*Debate Resumed*

**Hon TJORN SIBMA:** Before the minister made that attempted point of order, I was providing a preamble to a serious point about the substance of the bills. It has been identified that for over a decade—between 2006 and 2016—the Premier of this state was adamantly opposed to virtual gaming consoles or platforms, the very likes of which are contemplated in this bill. Over a 10-year period, the current Premier had a track record of opposition to Trackside and like gaming because of the consequential social dysfunction that he considered it would cause. That was from 2006 to 2016. That is a decade of conviction, which I respect. I disagree, but I respect the Premier during that 10-year period that he was opposed to something. He knew he was opposed to something and he knew why. I do not understand what has changed. I think that is the genesis of this individual’s contribution, which I will now read. It refers to an article in yesterday’s *The West Australian* relating to the sale of the TAB sale. It states —

Did you see this item in yesterday’s West Australian?

I did. It continues —

The State Government is going to permit the introduction of “gaming machines” into the community via the sale conditions of allowing virtual races at TAB facilities.

In effect it’s going to allow the spread, into every TAB agency in the community, of a type of a “gaming” machine.

Virtual Gaming machines are deliberately programmed to nurture addictive behaviours. This is done by programming the machine to cause the punter to experience “near win” experiences. These “near win” experiences release in the punter’s brain the hormones associated with the experience of “winning” and so encourage repetition of the event that generated that feeling. The consequence being the nurturing of addictive gambling ... That is more gambling.

Addictive gambling is a serious individual and community issue affecting our society.

One might legitimately disagree with the argument being proffered. We cannot disagree with the genuine sentiment and concern that underlines that correspondence. It is a position that has been put to the majority of members in



this state from respected stakeholder organisations, be it Anglicare, the Salvation Army, the Financial Counsellors' Association of Western Australia, the Western Australian Council of Social Service or the Australian Christian Lobby. The list goes on; I have probably omitted a good five or six organisations. They are all genuinely concerned about the social implications of these bills. I think their concerns should be respected and addressed in a serious, considered and fact-based way. I hope to hear the minister's second reading reply. I think he owes it to the community of Western Australia to explain why this does not present a manifest social danger. In so doing, I believe it would be helpful if the minister could explain the justification or the reasons for this change of policy.

I was probably sailing a little close to the wind when I was talking to the confidences in which constituents can contact MPs. That is a preamble to another concern I had with the functioning of government. I do not think that the concerns provided to me by my anonymous constituent or the concerns expressed to me by a raft of respected organisations, which probably are spread across the political spectrum, if I am to be perfectly honest, are not also present in the Labor Party caucus. When these bills were presented to the government's party room, was there a demurring or an argument or a concern? I am very interested to know. If there was, it was probably given ineffective voice. Has it changed the composition of these bills at all? In terms of comparison, I am far more libertarian than those opposite. I believe that adults have the right to make decisions and sometimes those decisions are unfortunate. I can think of no greater wasted time than putting money into a Tracksie console or a pokie. But what I do have on my side is consistency.

**Hon Ken Baston:** And the Dockers.

**Hon TJORN SIBMA:** Yes, the Dockers. I have done that once and it came off. On the two or three occasions they won last year, I did well. That is an aside.

What is at issue here is not so much the justification or the rightness of the disposal of this asset. We support that disposal. I am sure that any move to strike Tracksie or amend the bills under contemplation would have the effect of scuppering the bills. I think that would be a worse outcome. If there is one business that the government should not be in—there are plenty of businesses that the government is in that it should not be in—it is the gambling business.

I will leave my contribution there. I think we need to give consideration and respect to serious, sustained and genuine community concerns about the social implications of these bills. I look forward to the minister's contribution when he makes it.

**HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment)** [6.00 pm] — in reply: I appreciate the contributions that have been made by a number of members over the last day or so in the cognate second reading debate of the TAB (Disposal) Bill 2019 and the Betting Control Amendment (Taxing) Bill 2019. I want to address a number of issues that were raised. However, at the outset I want to say that I am aware that the Western Australian Council of Social Service has on its website a template letter expressing concern about simulated racing. I think that letter was probably the genesis of a number of members' contributions. That letter refers to 908 TABs in the state. That is factually inaccurate. Hon Colin Tincknell used that figure twice.

**Hon Colin Tincknell** interjected.

**Hon STEPHEN DAWSON:** The figure should be 327 TAB outlets. That figure was stated at the briefing and it has been stated previously, so I place that on the record.

**Hon Colin Tincknell** interjected.

**Hon STEPHEN DAWSON:** The figure is 327 and not 908, which is fanciful. I wanted the member to know the correct figure. Of those 327 TABs, 177 are in the metropolitan area and 150 are in regional Western Australia.

Hon Dr Steve Thomas asked about the risks to the racing industry of a 40-year term. He wanted to know what would happen if an operator were to go broke or something along those lines. Proposed section 10C of the Betting Control Act allows for licence terms of up to 40 years; however, those licences will be subject to a number of conditions. Proposed sections 10K and 10L of the Betting Control Act will allow the Gaming and Wagering Commission or the Minister for Racing and Gaming to take a number of actions if the licence conditions are contravened, including fining the licensee or amending, suspending or cancelling the licence. Proposed section 10H of the Betting Control Act provides that it will be a condition of the wagering licence that the wagering licensee must have in place and give effect to a racing industry arrangement with Racing Western Australia, including for the wagering licensee to provide funding to RWA. The general licence conditions are also likely to require a licensee to maintain a reasonable level of liquidity. Therefore, although the processes that will select a private TAB licensee will consider the financial strength of private bidders in the unlikely event that a private TAB runs into financial troubles and is unable to meet its financial obligations to the racing industry, the government will have a number of options to address this, including cancelling the licence and appointing a new licensee.

A question was asked about how we will make sure that TAB agents are not left significantly worse off if a TAB operator is squeezed out of the system and about what method of appeal they will have to seek compensation. We were asked whether they will be able to seek compensation through the courts ultimately, or whether the bill removes



any capacity for them to be compensated outside of what is included in the bill. Currently, 64 TAB agencies operate under an assignable business account with Racing and Wagering Western Australia. I outlined in the second reading speech the commitments the government has made to the WA TAB Agents' Association —

Although supportive of the proposed sale, TAB agents are concerned about their status quo contractual standing and what additional protection may be included within the sale framework to address these concerns. The bill allows for the preservation of TAB agents' existing contractual rights as part of the transfer of operations to the new operator—contractual rights that were negotiated under the previous Liberal–National government. Nevertheless, the McGowan government has committed to TAB agents that it will secure additional protections relating to their contractual termination provisions under a new operator. In response to the concerns raised by TAB agents, the government has agreed to require the incoming operator to offer termination payments to agencies identified for closure upon review of network requirements. These payments will be in addition to the 12-month notice period currently required under the standard agency contract and will be set at a minimum of 60 per cent of the prior year's commission up to \$100 000 for the first five years of the new operator taking control. In addition, within the first 12 months of the new operator taking control, any TAB agent that falls below a low commission threshold can choose to be bought out of their agency to the uncapped value of 100 per cent of their previous year's commission.

... these protections will be secured as a contractual undertaking by the new operator rather than within the bill.

The precise mechanics of how that contractual commitment will be made by the new operator and how it will be enforceable are a commercial matter and those mechanics have not yet been settled. However, the government has advised the TAB Agents' Association that it will consult with the association on the form of that contractual undertaking once it is further developed. The intention is that agency contracts already in place with RWWA will transfer to the new operator with those terms intact, other than in the limited ways that the bill allows for those transfers to occur; for example, clauses in those contracts that prohibit it or require consent for transfer by RWWA will not operate. Other than in this way, the bill will not remove any capacity that agents have to enforce the terms of agency contracts with the new operator. It is also important to note that TAB agents are likely to also benefit from additional revenue that will be generated from betting on simulated races, a more level playing field relative to online competitors following the introduction of the point-of-consumption tax on 1 January this year, and the likelihood of a well-capitalised TAB operator investing in the retail network.

Hon Colin Holt put the case that RWWA is the main source of support for the bill, but implied that it is not necessarily representative of the industry. The government has received support from a broad cross-section of racing industry stakeholders, including specific support for the 35 per cent infrastructure fund. Submissions that support that arrangement were received from the Western Australian Racing Representative Group, Gloucester Park Harness Racing, the WA Greyhound Racing Association, the Greyhound Racing Committee, the Harness Racing Committee and the Thoroughbred Racing Committee. Most recently, we received a number of letters supporting the bill unamended.

**Hon Colin Holt:** Are you happy to table them?

**Hon STEPHEN DAWSON:** Let me keep going for a second. That includes the 35 per cent infrastructure fund. For the member's benefit, letters of support were received from the Albany Racing Club, Gloucester Park Harness Racing, the Albany Harness Racing Club Incorporated, the WA Greyhound Racing Association, the Toodyay Race Club, the Bridgetown Harness Racing Club, the Busselton Harness Racing Club, the Nor West Jockey Club, the Collie Harness Racing Club, Narrogin Racing, the Collie Race Club, the Pinjarra Harness Racing Club, the Bunbury Turf Club, the WA Country Harness Racing Association, the United Harness Racing Body and the WA Racehorse Owners' Association. Because Hon Colin Holt asked so nicely, I am very happy to table those documents. I will provide them to the attendants, but ask that a copy be taken and given back to me in case I need to refer to them when we get to the Committee of the Whole of the bill.

[See paper 2932.]

**Hon STEPHEN DAWSON:** The member also asked what role the government will have in building the business. The TAB is part of RWWA, a statutory authority of the state. The state has maintained RWWA's position as the exclusive retail and totalisator betting provider in WA. This exclusivity has been important in maintaining the strength of the TAB and will be maintained under the proposed arrangements. The state has also supported the TAB in its expansion from mainly race betting to a broader range of products, such as fixed-odds products and sports betting. This has been of enormous benefit to the profitability of the industry.

Hon Colin Holt claimed that the government had already made up its mind at the time it released its discussion paper to provide 35 per cent to an infrastructure fund. The member also said that letters from three subcommittees did not explicitly support that figure of 35 per cent. The member also claimed that that 35 per cent figure was not mentioned at the consultation forums that followed the discussion paper. I think I have properly summed up what the member said. As I have already flagged, the government received a number of submissions and letters supporting



the 35 per cent infrastructure fund. This included submissions from not only the three subcommittees that the member referred to, but also a range of other stakeholders. I can also confirm that the 35 per cent figure was an explicit part of the consultation forums held from 9 to 27 July—the presentations, including the 35 per cent figure, are on the Treasury website.

**Hon Colin Holt:** Is that July this year?

**Hon STEPHEN DAWSON:** That was July 2018. The member asked about the scope to renegotiate the agreement at the end of the term. Proposed section 10H requires the licensee to have in place and give effect to a funding agreement with Racing Western Australia, so with any new wagering licence there is a new opportunity for RWA to renegotiate funding arrangements.

The member claims that 35 per cent is not enough to cater for the industry's infrastructure needs. It is important to emphasise that the infrastructure fund is not the only source of future infrastructure funding for the industry. The new operator will be required to pay a significant sum of money to the industry each year—the equivalent annual payment the industry would have received from Racing and Wagering Western Australia. This is the annual no-worse-off payment. These payments are based on RWWA's cash flows, some of which are currently used for infrastructure and investment. There is no reason industry would not continue to allocate part of these payments to infrastructure. This industry gets the most generous point-of-consumption tax sharing arrangements in the country—it receives 30 per cent of proceeds, and that is expected to grow to around \$30 million a year. The racing industry will benefit from greater autonomy in the setting of race field fees. The industry will have more control over its racing bets levy or race field fee revenue under the reforms included in this bill; for example, it will have more control over its rates. This growing revenue source collected around \$80 million last year. The industry will receive additional revenue from simulated racing, and, of course, industry will inherit RWWA's cash at bank, which is around \$80 million—a significant amount of money.

The government has conducted a thorough analysis and consultation to arrive at the agreed position with the racing industry and, as already noted, the government has received substantial support for the package. The member claims there has been catch-up consultation. The consultation process could not have been more transparent and extensive. In March 2018, the Treasurer and the Minister for Racing and Gaming released a statement outlining a comprehensive plan for consultation. That plan involved two stages. The first stage was direct talks with the RWWA board and the harness racing and greyhound subcommittees. This process concluded with the subcommittee chairs writing to the minister, in which they noted that the government's review process was constructive and provided a clear understanding of the issues and potential solutions. They noted that they were —

... encouraged by the approach being taken and progress reached to date ...

The second stage kicked off with the release of a public consultation paper in June 2018, as announced in another media statement by the Treasurer and minister. Amongst other things, the consultation paper noted the potential inclusion of simulated racing in the licence and the prospect of a racing infrastructure fund funded through 35 per cent of the sale proceeds. Following the publication of the discussion paper, Treasury and RWWA conducted 12 consultation forums, including regional forums in Bunbury, Albany, Geraldton and Kalgoorlie. In total, about 107 submissions were made to the discussion paper process from a range of individuals and stakeholder groups, with submissions published on the Department of Treasury's website. These stakeholders supported the 35 per cent infrastructure fund in their submission: 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; and Gloucester Park Harness Racing. Then, on 9 October 2018, following the conclusion of the consultation process, the minister and the Treasurer announced the government's decision to move forward with the sale of the TAB. More recently, we have received a number of letters from those organisations in support of the unamended bill, including that 35 per cent infrastructure fund. I have read the list out already and, of course, members have copies of that correspondence in front of them now.

Hon Rick Mazza asked whether the \$1.2 million paid to Crown Perth under the agreement for simulated racing would be deductible for the purpose of calculating net sales proceeds. The answer is no. If a private operator of the TAB chooses to provide betting on simulated races, this amount will be paid directly from the private TAB operator to Crown Perth. It will not be a transaction or implementation cost incurred by the state and deducted from the gross sale proceeds in the calculation of the infrastructure fund under clause 26 of the bill.

Hon Alison Xamon gave an expansive contribution—I thank her for that. She did raise a number of issues, which I hope to provide an answer to.

The member raised various concerns regarding simulated racing. I just want to put on the record that betting on simulated racing is not the same as playing electronic gaming machines. I think a number of other members who have made a contribution to this debate acknowledged that and made the same point. Electronic gaming machines



are individual in nature, providing an opportunity to bet at a fast rate and with limited decision-making. They are available 24/7 at Crown Perth. Betting on simulated racing does not involve a gaming machine. It involves the same steps as betting on a normal race—choosing a horse based on a form guide; filling out a betting slip, as one would with any other race; putting the betting slip through the terminal; and waiting for and watching the race on a screen on the wall like any other race. This is a new product for small business TAB agents that is not available to their online competitors. Obviously, we are aware—I think it has been raised a few times in this place over the past few months—of the significant risks associated with some of those online gambling or bookie organisations, and the implications and effects that they have on the TABs, which are essentially Western Australian small businesses.

Simulated racing will be regulated in three important ways. The first is where and when—it will be restricted to TAB venues and their hours of operation, and will not be available online. The second is timing. There is regulated timing of races; for example, in Victoria, simulated races are required to be a minimum of 20 seconds long and must be separated by a minimum of three minutes. The third is what it involves. It is restricted to depictions of the three racing codes. It is not expected that simulated racing will have a significant impact or uptake in Western Australia. Figures sourced from Tabcorp illustrate that turnover from Trackside—a simulated racing product in operation over east—as a percentage of total wagering turnover in both New South Wales and Victorian markets has steadily declined since 2012–13. It appears to be a minor wagering product from the suite of wagering operations offered by Tabcorp to consumers. Similar to the Tabcorp trend, Crown Perth has also experienced a steady downturn in Trackside turnover. The Gaming and Wagering Commission has considered the introduction of simulated racing in TAB outlets and does not oppose it, subject to the regulatory measures proposed.

A question was asked about what matters the State Administrative Tribunal will take into account if it is asked to review a decision of RWA about a race field publication and use approval. Hon Alison Xamon sought clarity about what matters SAT will take into account. To remind members, proposed sections 25A to 25D, to be inserted by clause 67 of the bill in the Betting Control Act 1954, will provide for restrictions on publication and use of WA race fields by wagering service providers unless a wagering service provider has obtained approval from RWA to do so. This approval will be called a publication and use approval. Proposed sections 25B and 25C set out the process for application by a wagering service provider and grant by RWA of a publication and use approval. RWA may grant an approval subject to any conditions RWA thinks fit, including a condition that the wagering service provider pays fees. RWA may vary or revoke a publication and use approval.

Proposed section 25D allows a wagering service provider to apply to the State Administrative Tribunal for a review of particular decisions of RWA under the regime, which broadly include, first, a decision to not grant a race field approval; second, a decision as to a condition on a publication and use approval other than relating to payment of a fee; and, third, a decision to vary or revoke a publication and use approval, but not a decision varying a condition relating to a fee. The way in which proposed section 25D is drafted results in SAT having review jurisdiction over these decisions of RWA under the State Administrative Tribunal Act 2004. Accordingly, a wagering services provider wishing to challenge any such decision made by RWA in relation to it may commence proceedings for SAT to review the decision.

Debate adjourned, pursuant to standing orders.