

PARLIAMENT OF THE
COMMONWEALTH OF AUSTRALIA

36th Parliament

LEGAL CASINOS
AND
ORGANISED CRIMINAL ACTIVITY

A Report by the Parliamentary Joint Committee on the
National Crime Authority

June 1992

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Legal Casinos
and
Organised Criminal Activity

COMMITTEE'S DECISION TO SUSPEND THE INQUIRY

1. The Committee has decided not to pursue at this stage its inquiry into legal casinos and organised criminal activity. The Committee proposes to review this decision early in the next Parliament. By this time, the Committee expects that governments will have responded to the reports and recommendations of other inquiries that overlap with the Committee's inquiry. It will then become clearer whether there is any need for the Committee to pursue its inquiry.

2. The remainder of this report sets out the background to the Committee's decision.

BACKGROUND TO THE DECISION

The Committee's Inquiry

3. Under paragraph 55(1)(d) of the *National Crime Authority Act 1984* it is the duty of the Committee 'to examine trends and changes in criminal activities, practices and methods and report to both Houses of the Parliament any change which the Committee thinks desirable to the functions, structure, powers and procedures of the Authority'.

4. Pursuant to this duty the Committee decided in December 1990 to conduct an inquiry into aspects of the establishment and operation of legal casinos in Australia. The Committee advertised its inquiry in major newspapers in January 1991 and re-advertised, in slightly different terms, in early May 1991. On the latter occasion the advertisements stated that the Committee would:

examine trends and changes in criminal activities, practices and methods relating to:

(a) the establishment, licensing, operation and regulatory monitoring of legal casinos in Australia; and

(b) the relationship, if any, between crime and legal casinos;

and, in the light of its findings from this examination, report to both Houses of the Parliament any changes which the Committee thinks desirable to the functions, structure, powers and procedures of the National Crime Authority.

The Committee also wrote to relevant regulatory bodies, casino operators, individuals and other organisations drawing their attention to the inquiry and inviting submissions. The Committee received submissions from 19 individuals and organisations.

5. A number of matters were raised in these submissions that merit further inquiry. However to a significant extent these issues were by this stage (August, 1991) being addressed by other inquiries.

The New South Wales Inquiry and Report

6. On 6 August 1991, the New South Wales Government announced an Inquiry into the Establishment and Operation of Legal Casinos in New South Wales to consider a draft Casino Control Bill. The Inquiry was headed by the Hon. Sir Laurence Street, AC, KCMG and its terms of reference required examination and report on, amongst other matters:

- *The adequacy of the principles of the proposed New South Wales Casino Control legislation to ensure that:*
 - the management and operation of casinos remain free from criminal influence and exploitation
 - casinos are not used to dispose of and launder proceeds of criminal activity
 - gaming in casinos is conducted honestly.

- The preferred methods and procedures for the establishment of legal casinos, to ensure the selection of casino operators of good repute, sound and stable financial backgrounds and appropriate business ability.

7. The NSW Inquiry presented its report in November 1991.¹ On the matters having direct relevance to this Committee's inquiry, the Street report stated:

I am entirely satisfied that the principles of the Bill, the provisions contained in it and the mechanisms and controls that can be implemented under it, combine to create a fabric in which the casinos can be protected from criminal influence and exploitation, kept free from money laundering and maintained as places for honest gaming.²

8. Some submissions to the Committee which expressed concern at the possible links between legal casinos and crime relied upon a 1990 paper by the Australian Institute of Criminology. Similar concerns were put to the NSW Inquiry. Sir Laurence Street considered these concerns and responded in his report:

The need for care in using documents produced in other contexts is particularly relevant to weighing arguments advanced to the inquiry in reliance on the Australian Institute of Criminology's 'Gambling in Australia' *Trends and Issues in Crime and Criminal Justice* Number 24, July 1990, by Susan Pinto and Paul Wilson. This paper includes a brief discussion of issues relating to casino gambling. In several submissions, the Institute's words were cited in support of views critical of casinos and the shortcomings of regulation. The Institute was retained as consultant to this Inquiry, and has prepared an analysis of the criminological issues. Its current views underlie

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1. Inquiry into the Establishment and Operation of Legal Casinos in New South Wales (The Hon. Sir Laurence Street AC KCMG), *Report*, 27 November 1991.
 2. *ibid.*, para. 6.1.5.

the conclusions in Chapters 6 and 7 that the criminological concerns can be adequately dealt with.³

9. The Street Report also addressed the national context for regulation of casino gambling. In relation to criminal activity, it stated:

10.1.2 A further matter of prime concern in the operation of casinos is the prevention of criminal infiltration. Efficient and effective co-operation within the industry is essential. The mobility of criminals and of criminally derived assets is not confined within State or Territory borders. Irregularities which taint the industry in one State or Territory can reappear across the continent. Casino operators, control authorities, and law enforcement agencies throughout Australia have a very real interest in sharing knowledge of risk and vulnerability in the operation of casinos. Law enforcement agencies in particular have a common interest in sharing criminal intelligence relevant to the gaming industry. This situation requires a nationally co-ordinated approach.

10.1.3 There is an obvious need for a database of information relevant to investigations necessary for the licensing of operators and employees of casinos throughout Australia. Many in the workplace of casinos are itinerant, using this type of employment as an opportunity for travel. At present each authority with independent responsibility for assessing the suitability of people to be licensed has to engage in similar inquiries, some of which inevitably involve information stored in another State or even further afield. This fact nationalises the matter of employee licensing, requiring checks to be made across the continent.

10.1.4 I have in the three preceding paragraphs identified three areas in which a nationally co-ordinated approach would be beneficial - research into social harm, exchange of operating information and criminal intelligence, and establishing a database to assist in the licensing process. In the course of the

3. *ibid.*, para. 2.3.3.

Inquiry I have raised this matter with informed persons. Some degree of co-operation presently exists, but it is largely informal and I am of the opinion that a more structured approach is highly desirable. In relation, in particular to operating information, intelligence and licensing data there is much to be said in favour of establishing regular and formal links between control authorities and creating a national database of information and intelligence under the auspices of a new joint body or a suitable existing national body such as the Australian Bureau of Criminal Intelligence.

The NCA's Inquiry into Money Laundering

10. On 5 December 1990, the Attorney-General gave a reference to the National Crime Authority to investigate money laundering. As the Authority's work on the reference progressed, it became apparent that one aspect of its investigations would be into the extent to which legal casinos were or could be used to launder money. This issue also fell within the scope of the Committee's inquiry. Submissions to the Committee raised concerns on the issue.

11. In February 1992, the National Crime Authority delivered the report on its inquiry to the Attorney-General.⁴ The report stated (footnotes added by the Committee):

3.107 Like racing, casinos are another industry thought by the community at large and many in law enforcement to be widely used for money laundering. This may in part derive from the perception that casinos overseas are linked to organised crime.

3.108 This inquiry was informed of allegations of known criminals using casinos for recreation purposes, using money derived from crime for their gambling. This would be

4. National Crime Authority, *Taken to the Cleaners: Money Laundering in Australia*, 2 vols, December 1991. Volume One was released to the public in May 1992 with some sections deleted in order to protect current law enforcement activities. All of Volume Two remains confidential for the same reason. The extract quoted in the text comes from the publicly-released Volume One.

considered money laundering under the POC Act.⁵ This activity is, however, quite different from using casinos for money laundering as it has been defined for this Report, that is, to conceal the origin of funds.

3.109 In using a casino to conceal the source of funds, a launderer would probably wish to be able to present his money as gambling winnings. This could be accomplished by buying chips with the proceeds of crime and later cashing them in for a winner's cheque. This would both conceal the origin of the funds and provide the launderer with a legitimate source for the funds.

3.110 The inquiry brought to light no known cases whereby casinos were used to conceal the origin of criminal funds. Casinos were not found to be used for laundering money in Australia in terms of the commonly accepted view of the phrase.

3.111 It was found that the high level of monitoring of play makes it unlikely launderers could successfully claim false winnings. The introduction of CTRA⁶ requirements was also felt to lessen the potential for casinos to be used for laundering.

5. *Proceeds of Crime Act 1987 (Cth)*. Subsection 81(2) of the Act makes it a criminal offence to engage in money laundering. Subsection 81(3) provides:

A person shall be taken to engage in money laundering if, and only if:

- (a) the person engages, directly or indirectly, in a transaction that involves money, or other property, that is proceeds of crime; or
- (b) the person receives, possesses, conceals, disposes of or brings into Australia any money, or other property, that is proceeds of crime;

and the person knows, or ought reasonably to know, that the money or other property is derived or realised, directly or indirectly, from some form of unlawful activity.

Under this broadly worded provision, money laundering includes, for example, the recreational spending in a casino of the proceeds of a robbery by the person who committed that robbery.

6. *Cash Transaction Reports Act 1988 (Cth)*.

3.112 Questions were, however, raised concerning the regulations surrounding the 'junket' tours of casinos from overseas. It was found that there is the possibility that these groups can allow the proceeds of overseas criminal activities to be laundered in Australia.

3.113 Overseas experience indicates that a potential area of vulnerability lies in the process by which a licence to operate a casino is obtained. If a corrupt management were to be installed, the opportunities to launder money through the corporate structure of the casino would be greatly increased. The appointment of casino management needs, therefore, to be carefully considered. In this context the NCA notes that there has been a degree of inconsistency in the granting of management rights to Australian casinos. For example, one company has management rights at a casino in one State, acts as a consultant at a casino in another State, but was rejected as unfit by an inquiry in a third State.

3.114 Accordingly, the NCA recommends that:

The Attorney-General refer the NCA's findings in relation to the casino industry to the appropriate State Governments, with the recommendations that:

(i) consideration be given to the establishment of a National Casino Standards Organisation; and

(ii) junket operators should be licensed and all participants on junket tours should be fully identified.

12. The Attorney-General has yet to respond to the recommendations of the NCA's report.

The West Australian Royal Commission

13. In January 1991, a Royal Commission was appointed in Western Australia:

to inquire and report as follows: to inquire whether there has been corruption, illegal conduct, or improper conduct by any person or corporation in the affairs, investment decisions and business dealings of the Government of Western Australia or its agencies, instrumentalities and corporations in respect of the matters referred to in Schedule 1, and to report whether any matter should be referred to an appropriate authority with a view to the institution of criminal proceedings or changes in the law of the State or in the administrative or decision-making procedures are necessary or desirable in the public interest.

Item 11 in the schedule of matters was 'The Burswood Island Casino'.

14. The Royal Commission sat in June and July 1991 for some 25 days taking evidence and hearing argument on the Burswood matter. It heard allegations that there had been impropriety in awarding the licence to operate the Burswood Casino, and that the licensing process had been flawed. Similar allegations had been made in submissions to the Committee.

15. At one stage it was expected that the Royal Commission would issue an interim report dealing with the Burswood matter. However, it is now planned to deal with the matter in the Royal Commission's final report, which is expected to be delivered at the end of October 1992.

Conclusion

16. In view of the findings and recommendations of the NSW and NCA Inquiries and the fact that the Western Australian Royal Commission has heard casino-related evidence but not yet reported, the Committee considers it would be unproductive were it to pursue its inquiry at this stage.

17. The Committee emphasises that it is not terminating its inquiry. Early in the next Parliament the Committee will review the decision to suspend its inquiry. In doing so, it will take into account any action by governments in response to the NSW and NCA

Inquiries, and whether the Royal Commission has reported and sufficient time has elapsed for its findings to be acted upon.

18. The Committee expresses its appreciation to those who made submissions and in other ways assisted its inquiry.

Senator Amanda Vanstone
Acting Chairman

DISSENTING REPORT

by

PAUL FILING MP and SENATOR NOEL CRICHTON-BROWNE

Introduction

1. The decision by the Committee to suspend its inquiry into legal casinos and organised crime is disappointing. It effectively places into "cold storage" an important investigation into an Australian leisure industry which, because of its peculiar characteristics and capacity for profit, has great potential for the corruption of those responsible for licensing and supervision as well as criminal activities associated with the operation of casinos.

The Terms of Reference

2. In launching the inquiry to "examine trends and changes in criminal activities, practices and methods relating to:

- (a) the establishment, licensing, operation and regulatory monitoring of legal casinos in Australia; and
- (b) the relationship, if any, between crime and legal casinos";

the Committee was focussing on an industry where the huge potential for profits for operators and host governments alike may lead to a conflict of interest between the need for stringent standards to vet casino licence applicants and the supervision of operations, and the desire to maximise taxation revenue.

3. In particular, there is scope for the conclusion to be drawn that the key area where corruption may occur is the assessment process for the licensing of operators and the transfer of ownership of casinos which makes for a greater level of difficulty in the assessment of the eligibility of the successors to operate the casino licence.

The Committee's Inquiry

4. The Committee advertised its inquiry in January and May 1991. It also wrote to relevant regulatory bodies, casino operators, individuals and other organisations inviting submissions.

5. The number of responses was less than anticipated. This contributed to the Committee's decision to consider a number of options as to the future conduct of the inquiry. It settled on the course of action described in its report.

The New South Wales Inquiry and Report

6. The Committee's report cites the report of the 1991 *Inquiry into the Establishment and Operation of Legal Casinos in New South Wales* headed by the Hon Sir Laurence Street, AC, KCMG and the National Crime Authority's report, *Taken to the Cleaners: Money Laundering in Australia*, 2 vols, December 1991, to support its view that the Committee's inquiry should be suspended.

7. The statement in the Street Report that the provisions of the draft Casino Control Bill would protect casinos from "criminal influence and exploitation, kept free from money laundering and maintained as places for honest gaming" was qualified in the same paragraph as follows:

Ultimately the measure of success in achieving an honest, crime-free gaming environment will depend upon the capacity, commitment and diligence of the administration and enforcement of the mechanisms and controls. The stature and independence of the (Casino Control) Authority and philosophy of "people watching people watching people" embodied in the statutory scheme, as well as the requirement of accountability through reporting to Parliament, justify confidence in the quality of the administration and enforcement of the mechanisms and controls.

8. The Street Report warned of the need for care in the use of documents "produced in other contexts" in support of arguments to his inquiry that were critical of the casino industry.

9. In particular, the 1990 paper by the Australian Institute of Criminology, *Gambling in Australia* Trends and Issues in Crime and Criminal Justice Number 24, used by a number of submissions to the Committee, was raised in this setting.

10. However in Paragraph 2.3.4, the Street Report described how the Institute views in "Gambling in Australia" fitted into the framework of the report.

11. By emphasising the central tenets of effective regulation - "adequate and workable powers, allocation of sufficient resources for the regulatory task and an active commitment on the part of government to achieving the regulatory goals" - the Institute pinpointed the importance of the behaviour of those responsible for proper licensing, supervision and review procedures to ensure the opportunity for corruption is kept to an absolute minimum.

12. In order to prevent criminal infiltration, the Street Report called for a national system for the coordination of information exchange, intelligence gathering and assessment of operators and employees.

13. These views are supported by the NCA's report into money laundering.

* The NCA recommended that:

The Attorney-General refer the NCA's findings in relation to the casino industry to the appropriate State Governments, with the recommendations that:

(i) consideration be given to the establishment of a National Casino Standards Organisation; and

(ii) junket operators should be licensed and all participants on junket tours should be fully identified.

14. The Committee's report acknowledges that there were allegations made to the NCA Money Laundering Inquiry of "known criminals using casinos for recreation purposes, using money derived from crime for their gambling".

15. These activities, although coming within the definition of money laundering under the Proceeds of Crime Act 1987, did not qualify as laundering under the criteria used by the Authority.

16. They do, however, come within the terms of reference of the Committee's inquiry as showing a relationship "between crime and legal casinos".

17. It should be noted that the NCA's conclusions regarding the incidence of money laundering in casinos were based on methods and information apparently detailed in the second and confidential volume of its report.

18. To date, the second volume has not been made available for the scrutiny of the Committee. To that extent it would be more helpful to examine in more detail how the NCA came to its conclusions.

19. In Paragraph 3.113 of its report the Authority stated "there has been a degree of inconsistency in the granting of management rights to Australian casinos. For example, one company has management rights at a casino in one State, acts as a consultant at a casino in another State, but was rejected as unfit by an inquiry in a third State".

20. This suggests that until a more uniform system of licensing and supervision is introduced into the operation of Australian casinos there remains the opportunity for corruption of public officials and an unsatisfactory level of accountability of the processes involved.

The Western Australian Royal Commission Burswood Island Casino Reference

21. The licensing of the operators of the Burswood Island Casino in Perth was examined by the Western Australian Royal Commission pursuant to its terms of reference.

22. A large number of allegations relating to the licensing of the casino were made and the Commission is due to report later this year.

23. It is important to note that the Royal Commission did not inquire into the cost overruns which culminated in the 1985 rights issue. This matter, regarded as potentially one of the most controversial aspects of the history of the establishment and operation of the casino, was considered to be outside the Commission's terms of reference. Matters associated with the cost overruns were raised in submissions to the Committee.

Conclusion

24. We dissent from the decision by the Committee to suspend its inquiry.

25. During the next year or so applicants will be selected and new casinos will be opening in Cairns, Brisbane, Canberra, Sydney, Melbourne and Christmas Island. The deferral of the inquiry will mean that the Committee's findings will not be available during the licensing and establishment of the new casinos. By delaying its findings the Committee risks trying to shut the stable door after the horses have bolted. This is compounded by the fact that the Committee inquiry was the first opportunity for the general community to comment on casinos as a national issue.

26. Christmas Island will rely on its casino as its principal source of income. This will put extra pressures on casino regulators to overlook irregularities in order to keep the casino operating and the revenue coming in.

27. It is planned that the Christmas Island Casino will be administered under Western Australian legislation which has been strongly criticised in relation to the licensing process for the Burswood Island Casino.

28. It is a matter of regret that the Christmas Island Casino is going ahead with no public inquiry at all.

29. The relationship between crime and legal casinos, raised in the NCA's report and elsewhere is still a matter of concern and it is our view that the submissions made to the Committee substantiate the need for the continuation of the inquiry and the opportunity to examine witnesses.

PAUL FILING MP

SENATOR NOEL CRICHTON-BROWNE