Parliament of Tasmania

JOINT STANDING COMMITTEE

ENVIRONMENT, RESOURCES AND DEVELOPMENT

INTERIM REPORT

Sale of the TOTE

Members of the Committee

Mr Brenton Best MP
Mr Bryan Green MP
Hon Greg Hall MLC (Chair)
Hon Tania Rattray-Wagner MLC

Mr Kim Booth MP
Mr Peter Gutwein MP
Hon Paul Harriss MLC
Hon Jim Wilkinson MLC

Secretaries: Mrs Sue McLeod, Dr Colin Huntly & Mr Nathan Fewkes
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INTRODUCTION

APPOINTMENT AND TERMS OF REFERENCE

The Joint Standing Committee on Environment, Resources and Development was established for a trial period from 7 April 2004 and was re-established on 30 May 2006 following the State Election on 18 March that year. The Committee as at the date of this Report was re-established by Order of the Legislative Council on 4 March 2008, agreed to by resolution of the House of Assembly on 5 March 2008.

At a regularly constituted meeting on 5 February 2009, the Committee resolved to inquire into -

(a) the proposed sale of the TOTE. Tasmania by the Government of Tasmania; and
(b) any other matters incidental thereto.

In announcing the Committee, the Hon. Greg Hall MLC said:

“The Committee does believe that this issue is one of great significance to the State, and it is essential that all Members of Parliament are fully briefed on the circumstances surrounding the proposed sale before we are asked to vote on it.”1

The membership of the Committee currently comprises four members of the Legislative Council – Mr Hall (Chairman), Mr Harriss, Mrs Rattray-Wagner and Mr Wilkinson; and four members of the House of Assembly – Mr Best, Mr Booth, Mr Green and Mr Gutwein.

The Committee has general jurisdiction over the following areas: Government Business Enterprises; regulation of business, commercial and industrial relations; economic and finance development; environment and land use planning; natural resources – forestry, mining and fisheries; energy; tourism; transport; and primary industry.

This is an interim report in relation to the sale of the TOTE.

As at the date of this Interim Report the Committee is still awaiting receipt of a number of documents which were the subject of summonses and addressed to the Secretaries for the Department of Treasury and Finance and the Department of Infrastructure, Energy and Resources. Once these outstanding issues have been resolved, this Committee will table its Final Report on the Sale of the TOTE.

PROCEEDINGS

Advertisements were placed in the three regional daily newspapers on 7 February 2009.

19 witnesses gave verbal evidence to the Committee in Hobart and are listed in Appendix 1. 15 documents received into evidence are listed in Appendix 2. Transcripts of all public hearings are attached in Appendix 3.

The Committee held public hearings in Hobart on 6 and 19 March 2009.
EXECUTIVE SUMMARY

Timeline

The following timeline is adapted from one that appeared in the Mercury on 7 March 2009:

“May 7, 2008: Treasurer Michael Aird first approached Treasury to provide advice about sale of TOTE Tasmania.

November 12, 2008: Legislation for the restructure of the racing industry is introduced to State Parliament. Mr Aird says the restructure is not about preparing TOTE for sale.

November 19, 2008: Treasury provides a Cabinet brief to Treasurer Michael Aird recommending the sale of TOTE. The brief is not signed.

November 20, 2008: Jim Cox says during debate about the racing amendment Bill: “There is no intention at this stage that TOTE is for sale.”

November 24, 2008: Deloitte Corporate Finance begins preparing advice on the restructure of TOTE and possible options for its sale.

December 4, 2008: Mr Aird tells a Legislative Council Government Business Enterprise committee he is “not aware” of rumours he planned to sell TOTE.

December 19, 2008: A second Cabinet document recommending the sale of TOTE is prepared for Treasury, including advice from Deloitte.

December 22, 2008: Cabinet approves the sale.

January 8, 2009: The sale of TOTE is announced.²

January 20, 2009: Mr Greg Hall MLC suggested a review of the sale to the Joint Standing Committee on the Environment, Resources and Development.

February 5, 2009: The review was approved.

This Interim Report contains information that has been gathered by the Committee to date which may assist Honourable Members of both Houses in their consideration of the proposed sale of the TOTE.

The Committee reports without recommendation.

April 2009

Greg Hall MLC
Chairman
THE GOVERNMENT CASE FOR SALE OF THE TOTE

TOTE Tasmania (Sale) Bill 2009
Fact Sheet

The TOTE Tasmania (Sale) Bill 2009 provides for:

- the Treasurer to have the necessary authority and powers to divest the whole or any part of TOTE Tasmania. This will provide certainty to potential bidders during the sale process.
- the Treasurer to sell the shares in TOTE Tasmania or the business of TOTE Tasmania;
- the Treasurer to have regard to the achievement of a fair and reasonable sale price;
- the Treasurer to facilitate the sale by entering into contracts, giving directions to TOTE and amending the constitution of TOTE;
- the protection of employee entitlements in respect of long service leave and the RBF contributory scheme;
- transitional arrangements for the business and arrangements for employees if the business is sold;
- part of TOTE Tasmania or part of a subsidiary of TOTE Tasmania to be transferred into Crown ownership upon sale completion if they are not sold;
- the Auditor-General to review the sale of TOTE after completion and report to Parliament on this review;
- TOTE Tasmania and the Government to disclose all information to bidders, and ensures that existing commercial documents are not terminated as a result of the sale process; and
- normal governance arrangements to apply to the business until the sale is completed.

Passing the Bill will provide Parliamentary support for divestment of TOTE Tasmania and will also facilitate the sale process and provide certainty to all the parties involved.
TOTE Tasmania (Sale) Bill 2009
Second Reading Speech

Madam President

The Government is committed to ensuring the Tasmanian community's assets are put to their best use. In this context, the Government has reviewed its equity investment in TOTE Tasmania to determine whether it is in the public interest to retain, or whether the equity could be put to better strategic use. The purpose of this Bill is to provide for the sale of TOTE Tasmania. This is part of the Government's reforms of TOTE Tasmania and its regulatory environment.

Honourable Members will recall that in November 2008 Parliament approved the separation of the racing and wagering operations of TOTE, with the creation of the Tasmanian Racing Board from 1 January 2009. This has enabled the TOTE to operate solely as a wagering business.

The second part of the reforms is to provide a modern regulatory framework for TOTE that is consistent with the regulation of other wagering and gaming businesses already operating in Tasmania. The Gaming Control Amendment Bill 2009 will provide such a framework.
Madam President
TOTE Tasmania currently provides funding support to the newly formed Tasmanian Racing Board, for the benefit of the Tasmanian racing industry. The Government is replacing these funding arrangements with a legally binding Funding Deed between the Government and the Tasmanian Racing Board.

The Deed provides for the Government to fund the Tasmanian Racing Board to meet its operational expenses. The Funding Deed will also provide funding for capital expenditure upon the successful sale of TOTE. I have provided details about this Deed during the Council’s debate on the Gaming Control Amendment Bill.

Madam President
Let me be very clear on this point. The sale of the TOTE will not disadvantage the racing industry. On the contrary, it will provide $40 million of funding for capital expenditure that would not otherwise have been available. These arrangements while guaranteeing the Tasmanian Racing Board’s future, also place it in a clear commercial context with responsibility for improving its own performance.

TOTE Tasmania has successfully operated since 2000 as a State-owned Company in an increasingly aggressive and dynamic market. If it is to remain competitive it needs to be able to continue to expand its business both interstate and overseas and be capable of dealing with the rigours of national and international competition. There is no longer any justification for retaining the TOTE in Government ownership. Indeed there are very persuasive reasons why it should not continue to be owned by the Government.

All jurisdictions other than Western Australia and the ACT have sold their TABs. The wagering product has subsequently been successfully provided by the private sector. There is no need for the Government to continue to hold equity in a business that can be provided by the private sector.

Secondly, it is the Government’s intention to reinvest the net proceeds from sale, after provision for Tasmanian Racing Board funding and sale costs, into other state assets for the benefit of the wider Tasmanian community.

Thirdly, the sale of TOTE will benefit the community and taxpayers through reduced financial risk. The Australian wagering industry is highly competitive and subject to rapid technological change. This environment presents a number of ownership risks, which are better suited to private ownership, where the business can grow without the constraints of Government ownership. These constraints include the lack of access to capital and lack of scale economies. The Government does not consider that it is either prudent or responsible to continue its ownership of the TOTE within such an environment.

The Government has retained independent expert financial and legal advisers to ensure that the State’s interests are properly protected. A probity adviser has also been retained to ensure that the sale process is conducted fairly and openly.

Madam President
TOTE Tasmania currently has a successful business model and has demonstrated significant earnings growth over the last two years. Despite prevailing economic conditions, I am confident that a sale in the near future will attract significant buyer interest and yield an attractive sale price.
Both the Board and the management of the TOTE fully support its sale. The Board and the management have concluded that there are considerable constraints and commercial difficulties associated with continued government ownership of what is a successful and profitable commercial enterprise anxious to expand its business interstate and overseas. The sale will only proceed if it is in the best interests of the State. The Bill requires the Treasurer to have regard to the achievement of a fair and reasonable price for TOTE Tasmania. The Bill also provides for the Auditor-General to review the sale of TOTE Tasmania and report to Parliament within four months on the outcome. The community has an expectation that the sale of TOTE Tasmania will occur in a manner that:

- is administratively efficient and transparent;
- maximises financial and economic returns to the State; and
- ensures employees are treated fairly.

The TOTE Tasmania (Sale) Bill ensures these factors will be achieved.

Madam President.

Potential bidders for TOTE Tasmania must have certainty about the sale process and, importantly, must have the assurance that the time and resources they devote to the process will be on the basis that a sale can occur. Bidders also require the assurance that there can be timely and swift execution of the sale. The market place needs to know, particularly in the current political and economic environment, that the Parliament has authorised the sale.

This Sale Bill provides the Treasurer, on behalf of the Crown, authority to enter into negotiations for the sale of TOTE Tasmania against a framework of certainty and within defined boundaries. The Bill provides flexibility to enable the sale of the whole, or any part of TOTE Tasmania and establishes the mechanism to transfer any remaining elements of the business back to the Crown. These provisions, which are consistent with the approach taken in other Government business sales – will enable the Government to maximise the outcome for the State.

The Bill specifies provisions that will guide the sale process, including transitional arrangements such as the treatment of existing business contracts and protection for employee entitlements.

Madam President

The Bill also defines the alternative sale structures available for conducting a sale with a proponent. Under either approach, the objective is that TOTE Tasmania is sold as a going concern.

The first approach is to sell the shares in TOTE Tasmania. The second is to sell some or all of the assets and liabilities of TOTE Tasmania and transfer employees to the purchaser. The Bill provides for any remaining business assets and liabilities to then be transferred to the Crown. The availability of two options is to provide bidders with the flexibility to consider their most preferred approach to the purchase of the business. This ensures that the best possible sale value is achieved.

Madam President

The Bill clearly provides for the minimum of disruption to employees arising
from the sale process. The Bill broadly provides for the maintenance of employment terms and conditions for transferring employees and the ongoing recognition of service. It also provides a clear framework within which any potential redundancies arising from the sale of the TOTE business will be managed.

The sale of TOTE Tasmania makes sense, both from the perspective of the business and the Tasmanian community. It opens the way for the involvement of the private sector in an area in which it can appropriately contribute and enables the Government to better address the State’s emerging needs.

The TOTE Tasmania (Sale) Bill provides the enabling mechanism for this strategy to be implemented. It ensures that the sale will occur in a manner that ensures the greatest chance of financial and economic returns to the State being maximised, that employees are appropriately treated and that the sale process is administratively efficient.

Madam President
I commend the Bill to the Council.
# TOTE Tasmania (Sale) Act 2009
## Notes on Clauses

### PART 1  PRELIMINARY

**Clause 1** Short Title.

**Clause 2** The *TOTE Tasmania (Sale) Act 2009* commences on the day it receives Royal Assent.

**Clause 3** This clause interprets key terms used in the Bill.

**Clause 4** This clause defines the business of TOTE Tasmania. It also allows the Treasurer to exclude a part of the business of TOTE, or a TOTE subsidiary from this Act or a provision of this Act. This provides the Treasurer with flexibility to sell part of the business.

### PART 2  AUTHORITY OF TREASURER TO SELL TOTE TASMANIA

**Clause 5** This clause provides authority for the Treasurer to sell the shares in TOTE Tasmania and its subsidiaries, or the business of TOTE Tasmania and its subsidiaries. This clause also provides that the Treasurer must have regard to achieving a fair and reasonable price in exercising this power of sale.

**Clause 6** This clause provides the Treasurer with powers to facilitate the sale process.

**Clause 7** This clause provides that the Treasurer may direct TOTE Tasmania to take certain actions that would facilitate the sale. This is consistent with existing powers under the Constitutions for State-owned Companies and the *Government Business Enterprises (Sale) Act 2003* and removes doubt about this power of direction.

TOTE or its Board must comply with the direction provided by the Treasurer.

**Clause 8** This clause allows the Treasurer to amend the Constitution of TOTE Tasmania and its subsidiaries. This provision allows for the constitution to be amended without tabling the amendments in Parliament as required under the *TOTE Tasmania Act*, which will allow for the sale to be expedited.

**Clause 9** This clause provides the Treasurer with the power to exempt from State tax a document prepared for the sale of TOTE Tasmania or the transfer of any unsold parts of the business to the Crown. This is consistent with the *Government Business Enterprises (Sale) Act 2003*.
PART 3

SALE OF SHARES IN TOTE TASMANIA OR TOTE SUBSIDIARY

This Part contains similar provisions to those in the Government Business Enterprises (Sale) Act 2003 relating to long service leave and superannuation.

Clause 10
This clause specifies that Part 3 of the Bill relates to the sale of the shares in TOTE Tasmania and its subsidiaries.

Clause 11
This clause provides a formula for uplifting the long service leave entitlements of TOTE Tasmania employees covered by the *Long Service Leave (State Employees) Act 1994* when the sale of shares is completed. Its intent is to ensure that employees’ current long service leave entitlements are not diminished as a result of sale.

The clause specifies that employees are not covered by the *Long Service Leave (State Employees) Act 1994* after the sale of shares is completed.

Clause 12
This clause provides that, if the Treasurer agrees to sell the shares in TOTE Tasmania or its subsidiaries, the Minister administering the *Retirement Benefits Act 1993* is to declare the sale agreement a prescribed arrangement for the purposes of the *Retirement Benefits Regulation 1994*. Declaration of the sale as a prescribed arrangement provides for a more favourable superannuation outcome for employees who are members of the RBF Contributory Scheme than would otherwise be the case. It allows them to receive a redundancy benefit if their membership ceases as a result of a prescribed arrangement.

PART 4

SALE OF BUSINESS OF TOTE TASMANIA OR TOTE SUBSIDIARY

This Part contains similar provisions to those in the Government Business Enterprises (Sale) Act 2003 relating to the sale of a business.

Clause 13
This clause specifies that Part 4 of the Bill relates to the sale of the business of TOTE Tasmania and its subsidiaries.

Clause 14
Clause 14(1) defines transferring business.

Clause 14(2) provides that, when the business is sold, unless otherwise agreed, the purchaser assumes full legal responsibility in respect of the business sold, including any legal documents and proceedings.

Clause 14(3) provides that TOTE Tasmania is, after the sale day, discharged from any liabilities and obligations that are transferred to the purchaser on the sale day.
Clause 15

Clause 15(1) defines transferred employee.

Clause 15(2) provides that the Treasurer may transfer the employment of a person employed by TOTE Tasmania or a subsidiary to the purchaser. The Treasurer may also terminate the employment of a person employed by TOTE Tasmania, on conditions the Treasurer considers appropriate, provided that any termination is in accordance with any contract, award or agreement.

Clause 15(3) provides that before transferring or terminating the employment of a person, the Treasurer is to consult with the person in any manner the Treasurer considers appropriate including, but not limited to, consultation with representatives of the person or employee organisations to which the person belongs.

Clause 15(4) provides that any termination must be subject to and in accordance with any relevant contract, awards or agreement.

Clause 15(5) provides that each person whose employment is transferred or terminated is to be given written notice of the transfer or termination.

Clause 15(6) provides that if the employment of a person is transferred to the purchaser, that person becomes the employee of the purchaser and ceases to be an employee of TOTE Tasmania.

Clause 15(7) makes provision for any transferred employee to be employed by the purchaser for the same remuneration as was received immediately before the transfer. It also provides that except where an award, agreement or law otherwise provides, a transferred employee retains all existing and accrued rights and is entitled to claim those rights against the purchaser.

Clause 15(8) provides that an award or agreement applying to a transferred employee before transfer will continue to apply upon and after transfer except where another award, agreement or law provides otherwise.

Clause 15(9) provides that the period of service of an employee with TOTE Tasmania or its subsidiaries is taken to be service with the purchaser.

Clause 15(10) clarifies that the terms of employment of a transferred employee may be altered by an award, agreement or law after the employee becomes a transferred employee.
Clause 15(11) provides that where the employment of an employee of TOTE Tasmania is terminated, that employment is terminated immediately before the business of TOTE Tasmania is sold or on the day specified in the order. The employee is not entitled to any compensation or other payment in respect of termination except as provided by the Retirement Benefits Act 1993 or the Public Sector Superannuation Reform Act 1999, any other law, award, agreement or conditions determined by the Treasurer.

Clause 15(12) provides that the order transferring the employee under section 2 is not a statutory rule.

Clause 16

This clause provides a formula for uplifting the long service leave entitlements of TOTE Tasmania employees covered by the *Long Service Leave (State Employees) Act 1994* if their employment is transferred to the purchaser. Its intent is to ensure that employees’ current long service leave entitlements are not diminished as a result of sale.

The clause specifies that employees are not covered by the *Long Service Leave (State Employees) Act 1994* after the sale of shares is completed.

Clause 17

This clause provides that in the event the Treasurer makes an order under Section 15(2)(a) the agreement for sale is to be declared by the Minister administering the *Retirement Benefits Act 1993* a prescribed arrangement for the purposes of the *Retirement Benefits Regulation 1994*. Declaration of the sale as a prescribed arrangement provides for a more favourable superannuation outcome for employees who are members of the RBF Contributory Scheme than would otherwise be the case. It allows them to receive a redundancy benefit if their membership ceases as a result of a prescribed arrangement.
Clause 18

Clause 18(1) defines for the purposes of Division 3 the terms “transfer day” and “transferring business”.

Clause 18(2) provides that the Treasurer, if only part of the business of TOTE Tasmania or a subsidiary is sold, may transfer the whole or any part of the remaining business to the Crown and to specify conditions relating to that transfer. The transfer is to occur by order published in the gazette.

Clause 18(3) provides that this transfer may occur before the sale is completed.

Clause 18(4) provides that the business of TOTE or a TOTE subsidiary, other than a liability, vests in the Crown. It also provides for a liability specified in the transferring order to become the responsibility of the Crown.

Clause 18(5) provides that on and after the transfer day the Crown assumes full legal responsibility in respect of the transferred business.

Clause 18(6) provides that if any dispute arises in respect of a transferring employee, the Treasurer may resolve the matter and will provide TOTE Tasmania or its subsidiary with written advice.

Clause 18(7) provides that the Treasurer’s determination under clause 18(6) is final and binding.

Clause 18(8) provides that an order under subsection (2) is not a statutory rule.

Clause 19

Clause 19(1) defines the transfer day as specified in the Treasurer’s order in 18(2).

Clause 19(2) provides that the Treasurer may terminate the employment of a person if the business of TOTE Tasmania or a subsidiary is transferred to the Crown under clause 18.

Clause 19(3) provides that any termination must be in accordance with any relevant contract, award or agreement.

Clause 19(4) provides that each person whose employment is terminated is to be given written notice of the termination.

Clause 19(5) provides that terminated employees are not entitled to compensation or other payments except as provided by the Retirement Benefits Act 1993 or the Public Sector Superannuation reform Act 1999, or any other law, an award, an agreement or any conditions determined by the Treasurer.
Clause 20  This clause provides for the de-registration of TOTE Tasmania and its subsidiaries if the respective businesses are sold. This is because these companies will still exist, without assets or liabilities, and will need to be wound up under the Corporations Act.

PART 5  MISCELLANEOUS

Clause 21  Clause 21(1) defines a potential purchaser.

Clause 21(2) provides for relevant parties involved in the sale to disclose information, including confidential information to each other and to potential purchasers, their directors, employees, agents and advisors in order to facilitate the sale.

Clause 21(3) provides that a person who receives information under clause 21(2) must not disclose that information to parties other than those specified in this clause. It also provides for a penalty if the person discloses this information to unauthorised parties.

Clause 22  This clause provides that the obligations of TOTE Tasmania and its subsidiaries are not guaranteed by the Crown.

Clause 23  This clause provides for the proceeds of the sale to be paid into the Consolidated Fund.

Clause 24  This clause provides that the Auditor-General is to review a sale under clause 5 after the sale has completed and is to report to each House of Parliament within 120 days of the sale or the deregistration of TOTE Tasmania. This clause also provides that the Auditor-General must be given access to all information that the Auditor-General considers relevant to the report.

Clause 25  This clause provides protection for acts done or omitted under the Act if the act or omission is done in good faith. It protects contracts and agreements from being terminated and claims that confidentiality has been breached as a result of the sale.

Clause 26  This clause provides for matters to be excluded from the Corporations Act 2001. For example, this includes a sale under clause 5 and the amendment of TOTE's constitution under clause 8. This is a fairly standard provision for the sale of State owned Companies.

Clause 27  This clause provides for the Treasurer, by an order published in the Gazette, to exclude sale contracts from the Trade Practices Act 1974 and the Competition Policy Reform (Tasmania) Act 1996.
Clause 28

This clause provides that TOTE Tasmania or its subsidiaries or any person concerned in the management of TOTE Tasmania or a TOTE subsidiary be convicted separately of an offence unless they had no knowledge of the offence or they used all due diligence to prevent the act or omission.

Clause 29

This clause empowers the Governor to make regulations for the purposes of this Act.

Clause 30

This clause provides that the administration of the Act is assigned to the Treasurer.

Clause 31

This clause provides for the Auditor-General to conduct an audit for the financial year prior to the sale. It also requires the Treasurer to table TOTE’s annual report in parliament. It provides for a penalty if TOTE does not provide the necessary information to the Auditor General.

Clause 32 and schedule 1

This clause provides for the repeal of the Portfolio legislation once all the shares in TOTE are sold, or TOTE has been deregistered and the Governor has made such a proclamation on the recommendation of the Treasurer.

This clause also provides for section 23 of the TOTE Tasmania Act 2000 to be repealed on Royal Assent. Section 23 does not permit the company to sell its assets or main undertaking unless the sale or disposal is approved by both Houses of Parliament.
CONFIDENTIAL

Funding Deed

The Crown in Right of Tasmania Government
Tasmanian Racing Board TRB
CONFIDENTIAL

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Funding Deed dated

Parties: The Crown in the Right of Tasmania (Government)
Tasmanian Racing Board (TRB)

Background

A. The TRB is responsible for the corporate governance, strategic direction and funding of the
Tasmanian thoroughbred, harness and greyhound racing and breeding industries.

B. The Government has agreed to provide funding to the TRB for the promotion and development
of the Tasmanian thoroughbred, harness and greyhound racing and breeding industries and for
capital works to Tasmanian racing venues.

C. This deed represents the terms and conditions on which funding is granted.

Operative provisions

1. Definitions and interpretation

1.1 Definitions

In this deed:

Adjustment Amount has the meaning given in paragraph (a) of the definition of "Operational
Amount";

Business Day means a day that is not a Saturday, Sunday or public holiday and on which
banks are open for business generally in Hobart;

Capital Amount means SX;

Capital Funding Condition means each condition specified in clause 2.2;

Capital Funding End Date means 30 June 2010 or such later date as may be notified by the
Government to the TRB;

Commencement Date means the latter of 1 July 2009 and the first Business Day after all
Operational Funding Conditions are satisfied or waived;

CPI figure means the Consumer Price Index: Average All Capital Cities published by the
Australian Statistician under the Census and Statistics Act 1965 of the Commonwealth, or, if
the index is no longer published, an alternative index reflecting the average cost of living in all
capital cities of Australia as determined by the Government;

CPI year 0 means the average of the CPI figure for the four (4) Quarters ending 30 June in
respect of the Financial Year preceding CPI year 1;

CPI year 1 means the average of the CPI figure for the four (4) Quarters ending 30 June in
respect of the Financial Year immediately preceding the Financial Year in which the
Operational Amount is to be paid;

CPI indexation factor means CPI year 1 divided by CPI year 0;
CONFIDENTIAL

Financial Year means the 12 calendar months commencing on 1 July in any year and ending on 30 June of the following year;

Funding Term means the Original Funding Term plus any extension pursuant to clause 3.2;

Indexation Factor means the CPI Indexation factor less 0.01;

Insolvency Event means in respect of the TRB, the occurrence of any of the following:

(a) the TRB, or any person for or on its behalf, disposes of all, or substantially all, of its assets and/or undertakings;

(b) the TRB ceases to carry on business;

(c) an administrator is appointed or a resolution is passed or any steps are taken to appoint, or to pass a resolution to appoint, an administrator to the TRB;

(d) a receiver, receiver and manager, official receiver, trustee, administrator, other controller, as defined in the Corporations Act, or similar officer is appointed, or steps are taken for such appointment, over any of the assets or undertaking of the TRB;

(e) the TRB proposes or takes steps to implement a scheme of arrangement or other compromise or arrangement with its creditors or any class of them;

(f) the TRB is or becomes unable to pay its debts when they are due, or is otherwise insolvent;

(g) the TRB suspends payment of its debts generally;

(h) an application or order is made for the winding-up, dissolution or deregistration of the TRB or a resolution is passed or any steps are taken, including to pass a resolution in connection with, the winding-up or dissolution of the TRB;

(i) the TRB is declared or taken under any applicable law to be insolvent;

(j) a notice under section 601AB of the Corporations Act is given to, or an application under section 601AA is made by, or in respect of the TRB or, where the TRB is an incorporated association, any steps are taken in connection with the cancellation of its incorporation; or

(k) a person appointed under a power of attorney or other instrument or arrangement with the TRB or the TRB's financiers becomes entitled to manage the business or affairs of the TRB or to perform obligations of the TRB;

Minister means the Minister for Racing in Tasmania;

Operational Amount means, subject to clause 5.3:

(a) in respect of the first Financial Year or part thereof during the Funding Term, $X million less the amount of any moneys received under any Previous Funding Arrangement in respect of that Financial Year (Adjustment Amount) whether such money is received before or after the commencement date;

(b) for each subsequent Financial Year during the Funding Term, the amount paid by the Government in respect of the immediately preceding Financial Year in accordance with clause 5.1(a) multiplied by the Indexation Factor;
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Operational Funding Condition means each condition specified in clause 2.1;

Operational Funding End Date means 30 September 2009 or such later date as may be notified by the Government to the TRB;

Original Funding Term means the period as provided in clause 3.1;

Previous Funding Arrangement means any funding or other financial arrangement in relation to the TRB or any thoroughbred, harness and greyhound racing or breeding organisation or part of an organisation under any legislation or any arrangement with TOTE Tasmania Pty Ltd or the Government in existence before the Commencement Date;

Sale means the sale of the shares in and/or the assets of TOTE Tasmania Pty Ltd to a private interest.

1.2 Interpretation

In this deed:

(a) headings are for convenience only and do not affect interpretation;

and unless the context indicates a contrary intention:

(b) an obligation or a liability assumed by, or a right conferred on, 2 or more persons binds or benefits them jointly and severally;

(c) "person" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;

(d) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation;

(e) a reference to a document (including this deed and the Treasurer's Instruction GBE 07-44-01 Investments) is to that document as varied, novated, ratified or replaced from time to time;

(f) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;

(g) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;

(h) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to it;

(i) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;

(j) "includes" in any form is not a word of limitation; and

(k) a reference to "S" or "dollar" is to Australian currency.
2. Conditions Precedent

2.1 Conditions relating to Operational Amount

Clauses 3, 4.1, 4.3, 5.1(a), 7 and 8 do not become binding on the parties and have no force or effect unless and until each of the conditions listed below has either been satisfied or waived in accordance with clause 2.4:

(a) the Minister’s Order transferring assets and liabilities to the TRB from TOTE Tasmania Pty Ltd under the Racing Regulation Amendment (Governance Reform) Act 2008 (Tas) is published in the Tasmania Government Gazette; and

(b) sections 42 and 46 of the Gaming Control Amendment Bill 2009 or their equivalents are proclaimed.

2.2 Conditions relating to Capital Amount

Clauses 4.2 and 5.1(b) of this deed do not become binding on the parties and have no force or effect unless and until:

(a) each Operational Funding Condition is satisfied or waived in accordance with clause 2.4; and

(b) the Government receives the funds which are due and payable on the completion of the Sale.

2.3 Notice in relation to satisfaction of Conditions

Each party must within 1 Business Day after becoming aware of the satisfaction of any Operational Funding Condition or any Capital Funding Condition, notify the other party of the satisfaction of that condition and provide reasonable evidence that the condition has been satisfied.

2.4 Waiver of Conditions

The Government may in its absolute discretion waive an Operational Funding Condition and/or a Capital Funding Condition by giving notice to the TRB.

2.5 Failure of Operational Funding Conditions

If any Operational Funding Condition has become incapable of satisfaction and is not waived in accordance with clause 2.4 within 10 Business Days of the date the incapacity became evident, then the parties will negotiate in good faith an alternative funding agreement.

2.6 Failure of Capital Funding Condition

If:

(a) at any time before the Capital Funding End Date the Capital Funding Condition has become incapable of satisfaction and is not waived in accordance with clause 2.4; or

(b) at any time after the Capital Funding End Date the Capital Funding Condition has not been satisfied or waived in accordance with clause 2.4; or

(c) the Government gives notice to the TRB that it is no longer pursuing the Sale;
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clauses 4.2 and 5.1(b) shall be deemed severed from this deed and this deed shall be read as though clauses 4.2 and 5.1(b) did not exist.

3. Funding Term

3.1 Original Funding Term

The terms and conditions specified in this Deed commence on the Commencement Date and cease on 30 June 2014.

3.2 Extension of Original Funding Term

Subject to clauses 3.3 and 9.1 this deed, with the exception of clauses 4.2 and 5.1(b), will automatically be extended for a period of one Financial Year at the beginning of each Financial Year, commencing from the second year after the Commencement Date.

3.3 Funding term

The terms and conditions in this funding agreement cease to have effect on 30 June 2029.

4. Funding

4.1 Operational Funding

The Government will, in order to fund operational expenses, pay to the TRB the Operational Amount during the Funding Term.

4.2 Capital Funding

In addition to the amount payable under clause 4.1, the Government will, in order to fund capital expenditure, pay to the TRB the Capital Amount during the Funding Term in accordance with clause 5.1(b).

4.3 No other funding

The TRB acknowledges that in respect of the Funding Term, the amounts payable by the Government under this deed are the only amounts that the Government will contribute to the TRB and the Tasmanian thoroughbred, harness and greyhound racing and breeding industries and the TRB will not seek any additional funding or financial assistance from the Government.

5. Payment of Operational Amount and Capital Amount

5.1 Payment of Operational Amount and Capital Amount

(a) The Government will pay to the TRB the Operational Amount within 10 working days of the beginning of each financial year provided that the Commencement Date is after 1 July 2009, the amount of the first instalment will be reduced by the Adjustment Amount; and

(b) The Government will pay to the TRB the Capital Amount on the day that is 10 Business Days after the date on which the Government receives the funds due and payable to it on the completion of the Sale. The Capital Amount must only be used to fund capital expenditure.
5.2 **Withholding Payment**

Notwithstanding clause 5.1 the Government may without liability withhold the whole or part of any payment due to the TRB under this deed whilst ever the TRB is not in full compliance with any Tasmanian legislation.

5.3 **Reduction/Set-Off of Double Payment Amounts**

If the TRB receives any amount of funding or financial assistance under a Previous Funding Arrangement which relates in whole or part to any period occurring during the Funding Term (or in the case of capital funding or assistance, which relates to projects or purposes to which the Capital Amount would otherwise relate) the amounts which would be otherwise payable by the Government to the TRB under this deed shall be reduced by the amount of such funding.

6. **Self Generated Funding**

6.1 **Self Generated Funding**

Nothing in this deed shall be taken as preventing or restricting the TRB from generating through its own activities income from sources other than Government.

7. **Distribution of and Agreements Relating to Distribution of Funds**

7.1 **Distribution**

The Operational Amount and Capital Amount must only be distributed or used by the TRB:

(a) in the best interests of the Tasmanian thoroughbred, harness and greyhound racing and breeding industries;

(b) in a manner which promotes the development of an efficient and effective racing and breeding industry that accords with industry best practice;

(c) in accordance with the TRB’s obligations under the *Racing Administration Act 2004* and any other Tasmanian legislation relating to the TRB;

(d) for the purpose for which it was provided; and

(e) in relation to the Capital Amount, in accordance with any requirements under clause 5.1(b).

7.2 **Reporting**

The TRB must report to the Minister the amount of the Capital Amount received and spent on capital expenditure projects undertaken in each Financial Year during the Funding Term in the applicable annual report of the TRB.

8. **Investment of Funds**

To the extent that the TRB is not obliged to distribute or expend funds received which comprise Operational Amount and/or the Capital Amount immediately, the TRB may invest such funds, provided that it does so through the Tasmanian Public Finance Corporation (Tascorp) and in doing so must comply with Treasurer’s Instruction *GBE 07-44-01 Investments.*
9. Termination

9.1 Termination by Government

The Government may terminate this deed:

(a) if the TRB breaches any provision of this deed and fails within 30 Business Days of receiving notice of the breach to remedy the same;

(b) if the TRB fails to comply with its obligations under the *Racing Regulation Act 2004* (Tas);

(c) the TRB ceases to exist or its functions are substantially changed;

(d) the TRB ceases to be the controlling body for all three codes of racing (thoroughbred harness and greyhound); or

(e) if an Insolvency Event occurs in relation to the TRB.

9.2 Effect of Termination

If this deed is terminated then:

(a) the provisions of this deed shall cease to have effect except for the provisions of clauses 9 and 10.

(b) each party retains the rights it has against the other in respect of any breach of this deed occurring before the termination.

9.3 Adjustment on Termination

The TRB must repay within 10 Business Days of termination that part of any amounts paid to it under this deed prior to the termination date which relate to any period occurring after the termination date.

10. General

10.1 Damages

The Government will have no liability in respect of any claim or action for any indirect or consequential loss or damage arising from or in connection with any breach of this deed by the Government.

10.2 Notices

Each communication (including each notice, consent, approval, request and demand) under or in connection with this deed:

(a) must be in writing;

(b) must be addressed as follows (or as otherwise notified by that party to each other party from time to time):
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Government

Name: Department of Infrastructure, Energy and Resources

Address: 10 Murray Street, Hobart, TAS, 7000

Fax:

For the attention of: Secretary

TRB

Name: [insert relevant contact]

Address:

Fax:

(c) must be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party;

(d) must be delivered by hand or posted by prepaid post to the address, or sent by fax to the number, of the addressee, in accordance with clause 10.2(b); and

(e) is taken to be received by the addressee:

(i) in the case of prepaid post on the third day after the date of posting;

(ii) in the case of fax at the time in the place to which it is sent equivalent to the time shown on the transmission confirmation report produced by the fax machine from which it was sent; and

(iii) in the case of delivery by hand on delivery,

but if the communication is taken to be received on a day that is not a working day or after 5:00 pm, it is taken to be received at 9:00 am on the next working day ("working day" meaning a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally, in the place to which the communication is posted, sent or delivered).

10.3 Governing law

This deed is governed by and must be construed according to the law applying in Tasmania.

10.4 Jurisdiction

Each party irrevocably:

(a) submits to the non-exclusive jurisdiction of the courts of Tasmania, and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this deed; and

(b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 10.4(a).
10.5 **Taxes, Charges, Rates, etc**

The TRB:

(a) must pay all relevant state and local taxes, duties, levies, rates, charges and the like and any related fines and penalties in respect of this deed, the performance of this deed and each transaction effected by or made under this deed; and

(b) indemnifies the Government against any liability arising from failure to comply with clause 10.5(a).

10.6 **Variation**

This deed may be varied by a deed executed by or on behalf of each party.

10.7 **Waiver**

(a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this deed by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed.

(b) A waiver or consent given by a party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.

(c) No waiver of a breach of a term of this deed operates as a waiver of another breach of that term or of a breach of any other term of this deed.

10.8 **Further acts and documents**

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to this deed.

10.9 **Assignment**

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior consent of the other party.

10.10 **Counterparts**

This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the deed of each party who has executed and delivered that counterpart.

10.11 **No representation or reliance**

(a) Each party acknowledges that no party (nor any person acting on a party’s behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed.

(b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for representations or inducements expressly set out in this deed.
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10.12 Entire deed

To the extent permitted by law, in relation to its subject matter, this deed:

(a) embodies the entire understanding of the parties, and constitutes the entire terms agreed by the parties; and

(b) supersedes any prior written or other deed of the parties.

Executed as a Deed

Signed, Sealed and Delivered by the Minister for Racing for and on behalf of The Crown in the Right of Tasmania in the presence of:

Signature of witness ___________________________ Signature of Minister for Racing

Name of witness in full ___________________________ Name of Minister for Racing

Signed, Sealed and Delivered for and on behalf of The Tasmanian Racing Board by its authorised signatory in the presence of:

Signature of Witness ___________________________ Signature of Authorised Signatory

Name of Witness in full ___________________________ Name of Authorised Signatory
Gaming Control Amendment Bill 2009
Fact Sheet

- The Gaming Control Act Amendment Bill amends the Gaming Control Act 1993, to enable the regulation of TOTE Tasmania’s gaming and wagering activities. The Bill also repeals the Racing (Totalizator Betting) Act 1952 and the TOTE Tasmania (Racing Regulation) Act 2004.

- It also abolishes the current funding arrangements between the TOTE and the Tasmanian racing industry. The new Tasmanian Racing Board will be funded directly by the State Government through a separate Funding Deed.

- The amendments provide for the regulation and financial arrangements of the TOTE or its purchaser. Specifically, amendments to the Gaming Control Act:

  - establishes a new endorsement under a Tasmanian Gaming Licence (TGL) for totalisator betting with an annual fee of 350 000 fee units ($448 000), waived for the TOTE or its purchaser;

  - establishes an agent endorsement to allow TGL holders to participate in an agent arrangement with an external (third party) gaming or wagering provider for which it receives a commission. An annual licence fee of 5 000 fee units ($6 400), will apply to an agent endorsement, waived for the TOTE or its purchaser;

  - provides that the holder of a totalisator endorsement must pay a fixed wagering levy of 4.7 million fee units ($6 million per annum);

  - deems TOTE to hold a Tasmanian gaming licence with totalisator, race wagering (fixed odds), sports betting, and an agent endorsements;

  - deems TOTE’s existing agent arrangements to be allowable under the endorsement. New arrangements will be subject to disallowance by the Tasmanian Gaming Commission;

  - deems TOTE’s equipment (software and hardware) to be compliant for 24 months and control systems (manuals) for 6 months;

  - deems TOTE’s special employees to be licensed for 12 months;

  - enables a second exclusive totalisator licence, subject to the Treasurer’s written approval, to be granted by the Tasmanian Gaming Commission if the TOTE is sold;

  - establishes a period of exclusivity of 15 years after the new operator’s totalisator endorsement commences;

  - sets the term of the Tasmanian gaming licence for the new
operator to be 50 years then renewable for 49 years while the operator holds a totalisator endorsement;

- deems the new operator’s equipment (software and hardware) to be compliant for 12 months and control systems (manuals) for 6 months;

- deems the new operator’s special employees to be licensed for 12 months;

- provides that the TOTE or new operator can establish wagering rules under the licence that are allowed unless disallowed by the Tasmanian Gaming Commission;

- provides that commission can be deducted, dividends are rounded and the fractions retained by the TOTE or the new operator;

- authorises commission rates (take out rates) set out in operators rules are subject to maximum rates as determined by the Tasmanian Gaming Commission.

- waives the race wagering, sports betting and agent endorsement fees for the TOTE or its purchaser while a totalisator endorsement is held;

- limits the maximum fee payable for multiple endorsements held by any other operators (ie without a totalisator endorsement) at 450 000 fee units per annum ($576 000);

- abolishes the current tax on sports betting from of 0.25 per cent of turnover and race wagering (fixed odds wagering) of 1.0 per cent of turnover;

- limits the fees for the holder of both sports betting and race wagering endorsements to 200 000 fee units ($256 000);

- provides that a totalisator, or any other Tasmanian gaming licence holder, may operate as an agent for a third party gaming or wagering operator external to Tasmania, for which the Tasmanian based operator receives a commission;

- provides that unclaimed monetary prizes or dividends be paid to the Treasurer after six months;

- provides that a totalisator operator may use retail outlets as an agent to accept wagers on its behalf;

- provides that the actions of an outlet agent are taken to be the actions of a licence holder;

- introduces penalties for serious offences by the outlet agents, such as allowing a minor to gamble, the outlet agent will also be held
responsible;

- contains transitional and savings provisions in respect of the operations of the TOTE and the TOTE’s agents, employees and technicians as they come under the control of the Act;

- allows employees to wager on their employer’s wagering activity only when off duty; and

- provides for an adjustment of the product levy payable to Tasmania by Betfair where it is also required to pay race-fields publishing fees, product fees, or levies to racing authorities for the same event.
Madam President

The *Gaming Control Amendment Bill 2009* can be considered in three distinct parts. Firstly, it provides for the regulation of TOTE Tasmania’s gaming and wagering activities under the Gaming Control Act and the repeal of legislation currently governing the operation of the TOTE, namely the *Racing (Totalizator Betting) Act 1952* and the *TOTE Tasmania (Racing Regulation) Act 2004*. This is achieved by creating a new Tasmanian Gaming Licence totalisator endorsement, for the conduct of pari-mutuel wagering. This is the same process that was used to provide for betting exchanges.

Secondly, it provides for a new totalisator operator, if the TOTE is sold, to be licensed and regulated under the Gaming Control Act. There are also changes to the endorsement fees and tax rates for sports-betting and fixed odds wagering that will facilitate the attraction to Tasmania of corporate bookmakers. The Government is confident that this will help to make the sale of TOTE more attractive.

Thirdly, the Bill addresses several unrelated matters that have been raised by Betfair. These matters have arisen out of administering the regulatory and tax arrangements specific to its betting exchange activities.

Madam President

Since the original TOTE operations were established, the world has changed substantially and the gaming and wagering industry in particular is now more complex and commercially oriented than ever before. At present, a self-regulatory framework is in place for totalisator operations. This essentially means two things. First, the business itself is responsible for regulatory oversight of its wagering activities. Second, in responding to new market opportunities, the TOTE is often reliant on the Government or Parliament either to approve changes to the rules under which it operates, or for legislative change to introduce new products or services. Given that the commercial world requires quick assessment and fast response times, the current arrangements
can be a cumbersome and time consuming process. This can inhibit product development. It is also the case that Government, through the relevant Minister, and Parliament, should not be involved in normal commercial decisions of TOTE. In fact, in the absence of any need for policy change, this is not an appropriate role for either. In those cases where there is a relatively low level of change required, and changes in wagering rules is a good case in point, the Gaming Commission is more technically equipped to make such decisions.

Furthermore, as the Government intends to sell TOTE Tasmania to a private sector operator, this cannot be done while the current regulatory arrangements are in place. This would open the Government to unnecessary risk in terms of accountability. It would also look to be treating other gaming providers in the State differently to have a situation in which the self-regulation model was permitted to transfer from a Government-owned entity to a new owner.

Therefore, sale or no sale, the current arrangements for regulatory oversight are no longer appropriate.

Madam President

The Bill before the House will bring TOTE under the same regulatory framework as other gambling providers in Tasmania, such as Betfair and lottery providers.

This will introduce a number of new requirements on the TOTE in relation to probity and the management of problem gamblers and consumer protection. On balance, these requirements will be no more or less burdensome for the TOTE as they are for other licensed Tasmanian-based gaming providers.

There are key regulatory considerations that have been applied to the wagering business model and these are contained in the Bill. For example, under the Gaming Control Act the TOTE will:

- have certain key employees and technicians licensed;
- establish the ability for its customers to self-exclude, or for third party exclusion;
- enable its registered customers to be able to pre-commit loss limits;
• have all its wagering equipment and systems independently tested; and

• have independent oversight of its wagering rules, its agent agreements, and the operation of its retail outlets.

Madam President

The Gaming Control Act currently provides for a Tasmanian gaming licensee to hold endorsements separately for the activities of: sports betting; fixed odds wagering; major lotteries; simulated gaming; and betting exchanges.

The amendments in this Bill provide for a new totalisator endorsement and the necessary financial and regulatory provisions needed to govern this activity. However, while other endorsements are non-exclusive, the totalisator endorsement will be provided on an exclusive basis, this being consistent with the exclusivity of licensing totalisator operations in other jurisdictions.

Bringing the TOTE activities directly under the regulatory control of the Gaming Control Act does not require significant change to the way in which TOTE activities are governed at present. However, it does need to remove some key inconsistencies between current TOTE practices, and the way other gaming providers are regulated. Bearing this in mind, the Bill provides for some transitional arrangements so that the main changes required of the TOTE, for example the validation of its systems, or the licensing of its employees where required, won’t have to be in place immediately the new licence takes effect.

Madam President

Along with its totalisator activities, the TOTE currently offers fixed odds (race wagering) and sports betting products. The Bill provides for TOTE to initially be deemed to hold a Tasmanian Gaming Licence to enable it to operate its full current range of wagering activities. This deemed licence will be for an indefinite period while held by the TOTE.

TOTE also offers racing products on behalf of third parties that are licensed in other jurisdictions. TOTE offers these third party products under agency agreements, which are very similar in nature to a franchise. For example, the TOTE currently participates
in agreements with the operators of South African and Swedish international totalisator pools.

In order to deal with these agency arrangements the Bill provides for the establishment of what will be referred to as an agent endorsement. This will allow for the continued participation of TOTE in its current third party-agent arrangements.

Given that the TOTE does not conduct these activities itself, rather it is an agent under an agreement with the primary licensed operator, the annual licence fee for an agent endorsement will be set lower than other endorsements. The fee will be 5 000 fee units per annum (which is currently equivalent to $6 400), to reflect the lesser regulatory oversight required for this type of activity.

These arrangements have also been accommodated because they are relatively common in the wagering industry and in recognition of this these endorsements will be made available to other licensed operators.

Madam President

The Bill provides for the current use of retail outlets, most of which are not actually owned by TOTE, to continue to be operated in the same way. This includes stand-alone totalisator retail outlets (that is the TOTE branded shops); retail outlets in licensed premises (such as in hotels); and retail outlets at various race courses.

Rather than licence each outlet and its employees, the actions of the outlet owner will be taken to be the actions of the primary licence holder.

However, certain disciplinary provisions will apply directly to these owner/agents for breaches of conduct, such as allowing minors to gamble, for providing credit betting; for not enforcing wagering rules as may required by the Gaming Commission; and for not complying with player exclusion requirements.

Madam President

Transitional arrangements will apply for the certification and testing of systems and equipment. This will be achieved by deeming the TOTE’s existing systems and equipment to be fully compliant for an initial two-year period. This will allow time for the progressive
independent validation of the TOTE’s IT infrastructure and any non-compliance issues to be addressed during that period.

Key TOTE employees requiring a special employee licence will be given a 12 month period to apply for a licence, during which time they will effectively be deemed to be licensed. Similar transitional arrangements will be given to the purchaser of TOTE, with 12 months for the testing of equipment and 12 months for the licensing of special employees.

Consistent with current practice, unclaimed winnings are held for 6 months by the TOTE. However after this period, the unclaimed winnings will be paid to the Treasurer as unclaimed monies, rather than kept by the TOTE, as currently occurs.

This requirement for the payment of unclaimed winnings to the Treasurer will also apply to all Tasmanian gaming licence holders.

Also, consistent with current business practices of TOTE, the amendments provide for the deduction of commissions from bets and for the rounding of dividends.

The roundings from dividends, which amounted to $4.4 million in 2007-08 for the TOTE, are to be retained by the totalisator operator.

Madam President

Country race meetings remain an important part of the racing industry in all jurisdictions, but particularly in Tasmania and we need to continue to have totalisator services at those meetings. While not profitable services for the TOTE to provide, the amendments in this Bill will require that where a Tasmanian racing club needs a totalisator to operate at a programmed race meeting, or betting only meeting, the TOTE (or its successor) will be required to conduct the totalisator on behalf of that club.

This ensures that the current arrangement continues whereby the TOTE conducts the totalisator on behalf of the club. However, the Government must strike a balance between the expectations of the community and the commercial viability of the TOTE, or its successor. There cannot be an expectation by clubs that they will be able to request totalisator arrangements for any number of meetings they may wish to conduct. Therefore a limit of 40
meetings has been set that must be conducted by the TOTE or the new operator.

This is 10 more Tasmanian race meetings than the total number currently conducted by the TOTE.

Madam President

I have detailed the key changes required to bring the TOTE under the regulatory oversight of the Tasmanian Gaming Commission. However, there are some issues that the Government has considered, which are of direct relevance to the sale of TOTE. I will now deal with those matters.

Once the TOTE is sold there will need to be a new licence to the new operator. The amendments in this Bill provide in the first instance for the TOTE to be deemed to hold an exclusive endorsement to cover totalisator operations in Tasmania; and this will not be transferable to the new operator. Therefore the new operator will need to be licensed in its own right by the Gaming Commission.

Potential purchasers of the TOTE will, therefore, need to apply for a Tasmanian Gaming Licence so that they can be tested against Tasmania’s strict probity tests. The licence endorsed for totalisator betting can only be granted by the Tasmanian Gaming Commission with the approval of the Treasurer. Therefore, this will ensure that only the successful bidder is granted the licence endorsed for totalisator betting and this licence will be granted for an exclusive period of 15 years after the TOTE is sold.

In addition to being exclusive for 15 years, the new operator’s licence will be for a term of 50 years, renewable for a further 49 years while the operator holds a totalisator endorsement and continues to meet the probity standards required of all Tasmanian-based gaming operators. In return, the Government will be requiring that the new owner establishes a corporate presence here in Tasmania for the period during which it holds the exclusive licence endorsement.

The licence term I have outlined is consistent with licences granted to totalisators in other jurisdictions.

Madam President
The tax arrangements for the new operator have been difficult to establish. On the one hand the Government wants to be able to demonstrate to the community that this wagering opportunity is valuable and can support the commitment to directly fund the Tasmanian racing industry. However, we also need to recognise that a tax-free environment will potentially generate the greatest sale value in the TOTE business. The balance must also take into account that the tax environment here in Tasmania for totalisator activities will need to remain broadly aligned with totalisator tax regimes in other jurisdictions.

Therefore, the Government has decided that a fixed annual levy, rather than a tax on turnover, will provide the right balance. The holder of the totalisator endorsement will be required to pay a fixed annual wagering levy of 4.7 million fee units (currently about $6 million per annum). No tax in respect of the turnover of its totalisator activities will be required.

By using a fixed levy, this will allow growth activities now and into the future to be effectively tax free. This means that the incentives will be right for the operator to grow the TOTE business.

Madam President

In addition to conducting a totalisator, potential new purchasers of the TOTE will most likely also wish to conduct the same or similar sports betting, fixed odds and other related third party race products as the TOTE currently does.

Sports betting, race wagering and agent endorsements will therefore be available to the purchaser of TOTE, but in recognition of the fixed annual levy the fees associated with these additional endorsements will be waived while these endorsements are held in conjunction with the totalisator licence.

Madam President

In preparation for the sale of TOTE I have been made aware of the possibly synergies in having corporate bookmakers establish in Tasmania alongside our totalisator operator. Corporate bookmakers are potential major customers for the TOTE through the use of TOTE to lay-off substantial bets on their books.

With corporate bookmakers basing their operations here in the State, this would enable further opportunities for joint business
arrangements between the TOTE (or its successor) and corporate bookmakers.

However, since the introduction of fixed odds and sports betting licences under the Gaming Control Act there have been no applications for such licences because of Tasmania’s uncompetitive taxation regime.

Currently, the most competitive taxation regime in the nation for these activities is in the Northern Territory, where the majority of fixed odds and sports betting operators are located.

Therefore, to make Tasmania the most competitive jurisdiction for corporate bookmakers, the proposed amendments abolish the current tax rates on race wagering of 1 per cent of turnover; and sports betting of 0.25 per cent of turnover.

In addition, the endorsement fees where both a sports betting and race wagering endorsement is held will be 200 000 fee units ($256 000) in total for both endorsements. In return, the Government will be requiring that corporate bookmakers that are licensed in Tasmania will need to establish their risk management teams in Tasmania so that the State gets the employment benefits associated with the concessions made on fees and taxes.

Madam President

Members will be aware that new governance arrangements for the Tasmanian racing industry, which came into effect in January 2009, transfer the TOTE’s racing development functions to the new Tasmanian Racing Board – the TRB

By separating the TOTE from the governance of the racing industry, the proposed amendments in this Bill sever the long-standing funding nexus between the TOTE and the Tasmanian racing industry.

The current requirements for the TOTE to directly fund the Tasmanian Racing Board under the TOTE Tasmania (Racing Regulation) Act 2004 will, therefore, be abolished. The amendments also abolish the need for tax and product levy fee
revenue from Betfair to be appropriated to the TOTE under the Gaming Control Act and then passed-on to the racing industry.

The racing industry will now enjoy funding certainty through the Deed with Government and have growth revenue opportunities to it through sponsorship arrangements and the revenue it raises directly through product fees or race-fields levies.

Madam President

As I have said, a separate funding Deed will be finalised shortly between the Government and the TRB to directly fund the Tasmanian racing industry and I am pleased to inform Honourable Members that it has in-principle support from the TRB. I have tabled a draft of the Deed.

Under the Deed, which will have an initial term of 20 years, the TRB will receive at least $27 million in annual recurrent funding, and this will be indexed, together with a one-off capital payment of $40 million. The capital funding will become payable after the sale of TOTE has been completed.

There will also be a requirement in the Deed that the TRB must not reduce stakes money.

The new funding arrangements under the Deed will commence on repeal of the current funding arrangements under section 152 the Gaming Control Act and Division 3 of Part 2 of the TOTE Tasmania (Racing Regulation) Act 2004.

Madam President

The other matters the Bill addresses are as follows.

Since the licensing of Betfair, race-fields publishing fees have been introduced in some jurisdictions, including Tasmania, as a means for the industry to directly receive payment from wagering operators for the use of racing products.

There is currently no nationally consistent race-fields publishing regime. Therefore, it is not possible to adjust the rate of product levy payable to the State Government by Betfair to accommodate the payment of any race-fields publishing fee paid to racing authorities in other jurisdictions. At present, our arrangements are in effect double taxing Betfair. This issue came to light on the
introduction of the race-fields legislation in NSW. Betfair have raised this with me and I have agreed to address it.

The proposed amendments will adjust the tax base applying to Betfair to take into account the actual payment of publishing fees, product fees or levies in each jurisdiction, including where they may be required under Tasmania race-fields legislation. A head of power in the Gaming Control Act will enable the product levy tax base to be defined in a regulation. This will give flexibility to deal with unforeseen but legitimate needs for change as the racing environment and the use of direct product fees evolves further.

It is also recognised that for existing Tasmanian gaming licence holders (such as Betfair) or potential licence holders that may in the future require multiple endorsements, the total endorsement fees can be substantial (up to $1.5 million per annum for four or more endorsements). This can be a disincentive for establishing operations in Tasmania, or to expand existing activities.

The endorsement fees are largely in place to cover the substantial costs of regulating these activities, such as: requests to approve product changes; have approved and introduce new products; and validation of operator systems and financial controls. However, if the trend in future is for fewer licensed operators to increase the breadth of their gaming activities through holding multiple endorsements, there will be some economies of scale in regulating the same firm for multiple activities, compared with regulating different firms for individual endorsement activities.

In recognition of this it is, therefore, proposed to cap the total amount of endorsement fees to 450 000 fee units ($576 000 per annum) for any one licence holder with multiple endorsements.

Madam President

Bringing the TOTE under the Gaming Control Act will expand the scope of the Tasmanian Gaming Commission to include the regulation of totalisator betting.

This will increase the regulatory work-load of the Tasmanian Gaming Commission. The increased regulatory costs of the Commission will be recovered from the wagering levy and licence fees from wagering operators.

Madam President
In conclusion, the TOTE operating environment has changed significantly from when its activities were first established and licensed. This, together with the Government’s intention to sell the TOTE, makes it important that the TOTE, or a new operator, is appropriately regulated. The community needs the confidence that all of our wagering and gaming activities under licence here in Tasmania are conducted to the high standards of regulation and probity for which this state has gained significant recognition. The Government, on behalf of the community, will want the peace of mind that the regulation of the totalisator operator falls under the independent scrutiny of the Gaming Commission. The Government also wants the confidence that the risks associated with its activities in an increasingly complex and rapidly expanding commercial environment fall to the owners of the business. They are, after all, best placed to manage those risks.

The racing industry also wants certainty. It wants certainty in its funding streams so that it can confidently plan future development of the Tasmanian racing product. This will avoid it having to rely on the revenue risks associated with a direct reliance on the performance of TOTE and various tax revenue streams.

Madam President

The Gaming Control Amendment Bill will achieve these outcomes.

Let me finish by advising Honourable members that consultation has been undertaken with the TOTE in the development of the new regulatory framework and the TOTE supports the transition to regulation under the Gaming Control Act provided by this Bill.

Madam President

I commend the Bill to the House.
Gaming Control Amendment Bill 2009
Notes On Clauses

Clause 1
Short title.

Clause 2
The Act will commence on a day to be proclaimed to allow time for the Tasmanian Gaming Commission to put in place systems and process to be able to regulate the TOTE.

Clause 3
Provides that the Gaming Control Act 1993 is the principal Act.

Clause 4
Provides for a range of new definitions required in the Act which among other things, provide for the TOTE (or its purchaser) to be able to conduct its current wagering business.

Clause 5
An associate includes someone who has a financial interest in the licensed gaming or wagering operator under the Act.

This amendment to section 4 is required to ensure that a customer is not taken to be an associate, and therefore subject to investigation, by reason only that the totalizator has provided the customer with a rebate or discount on the normal commission taken out by the totalizator operator.

Clause 6
Amends section 76B to remove the current exemption of TOTE Tasmania from requiring a Tasmanian gaming licence.

The TOTE will now require a Tasmanian gaming licence under the Act.

Clause 7
Clarifies that the endorsement on the licence must show where the wagering activity occurs (i.e. the equipment and infrastructure that facilitates the wagering activity) and that such activity can only be located at an approved location.

This is achieved by reference to an approved location.

Clause 8
A grammatical improvement only to an existing provision.

Clause 9
Clarifies that a sports betting endorsement is required for the conduct of sports betting (as opposed to being just an agent).

Omits the reference to “Tasmania” as the current drafting is unclear and potentially prevents a sports betting operator from offering sports bets on events held outside Tasmania (such as the Australian Tennis open) to persons physically present at the operator's Tasmanian premises (approved location).
Clause 10  Replaces the term “fixed odds” wagering endorsement with “race wagering” endorsement. This enables a broader definition than fixed odds to be covered under this endorsement.

However the definition of race wagering in section 3 excludes brokered wagering (betting exchange) or totalizator wagering which are covered under other endorsements.

Ensures that a race wagering endorsement is required for the conduct of race wagering (as opposed to being just an agent).

Clause 11  Fixes an omission in section 76V to a reference to paragraph (e).

Clause 12  Creates new section 76VB to establish a new totalizator endorsement for the conduct of totalizator betting, and the accepting of wagers from approved outlets.

Creates a new section 76VC to establish an agent endorsement. This allows Tasmanian gaming licence holders to enter into agent arrangements with third party gaming and wagering providers based outside of Tasmania.

For example, providing an internet portal from the Tasmanian gaming licence holder's web site to the business partner’s website. An agent endorsement can be disallowed by the Gaming Commission if the business partner is considered to be an unsuitable person to be associated with.

An agent endorsement is not required for arrangements with third party gaming or wagering operators based in Tasmania because the third party operator will already be licensed under the Gaming Control Act.

Clause 13  Amends section 76W to clarify that a prescribed endorsement cannot be used to conduct an activity that would require a totalizator endorsement.

Clause 14  This amendment clarifies that a licence can be for a longer term than 5 years under section 76Z, if it is provided for elsewhere in the Act (i.e. under s76ZEE). – this is the second totalizator endorsement only, which will be issued to the purchaser of the TOTE.

Clause 15  This provides that in the case of the TOTE, it is authorised to transfer its licence to a wholly owned subsidiary of the TOTE. This may be a necessary step before the TOTE is sold, i.e. its subsidiary is sold.
Clause 16

This is required because the current legislation does not provide a process for varying an existing licence, only the conditions of a licence.

The Gaming Commission currently has to cancel and reissue a licence if a variation such as a change of address is needed.

Clause 17

This provides that when the Tasmanian gaming licence with the second totalizator endorsement (the licence issued to the purchaser of the TOTE) ends under section 76ZEE, the Gaming Commission cannot refuse to renew the licence unless there has been no breaches and the holder of the licence or its associates are suitable.

This is to give greater certainty for potential purchasers of the TOTE as the normal renewal process set out in section 76ZC does not state the reasons a licence would not be renewed.

Clauses 18, 19, 20

Repeals definitions and sections that relate to registered player exclusions for betting exchange operators and will now be incorporated into a broader “TGL exclusion” process in Div 7, subdivision 2 of this part, (i.e. the exclusions provisions will include all Tasmanian gaming licence holders such as a totalizator).

Customers that wish to self exclude from a venue (including a totalizator customer) can still do so under the existing exclusions provisions under Part 5 Div 3.
Clause 21

Inserts a new Part 4A, Division 5A relating to totalizator operations. The Division applies to a Tasmanian gaming licence with a totalizator endorsement.

Provides that on “changeover day” (the day the amendment Act commences) that the TOTE is deemed to hold a Tasmanian gaming licence (“the transitional licence”) with the initial and only totalizator endorsement. The TOTE is also deemed to hold an agent endorsement, a race wagering endorsement and a sports betting endorsement [s76ZED(1)].

Provides that the TOTE can transfer its licence to a wholly owned subsidiary of the TOTE with the approval of the Minister. (This may be required as part of the sale process). [s76ZED(2)]

Clarifies that the holder of the initial and second totalizator endorsement is not required to be a registered as a bookmaker and pay taxes under the Racing Regulation Act 2004.

Provides that upon a “terminating event” (the TOTE or its subsidiary is sold either by shares or as a business), a second totalizator endorsement can be granted by the Gaming Commission with the written approval of the Treasurer [s76ZEE(1)].

The second totalizator endorsement is for a 15 year exclusivity period. (i.e. only one totalizator endorsement is granted for a period up until 15 years after the terminating event).
Clause 21 (cont)

The exclusive totalizator endorsement is authorised under the Act for the purposes of the Trade Practices Act 1974 and the Competition Policy Reform (Tasmania) Act 1996.

The Tasmanian gaming licence with a totalizator endorsement is granted for 50 years renewable for a further 49 years [s76ZEE (2)].

Provides for special conditions to apply to a totalizator endorsement similar to conditions that apply to a betting exchange endorsement that relate to the management of wagering funds, establishment of wagering rules and which rules can be disallowed by the Commission.

Provides that a totalizator operator must conduct programmed race meetings for race clubs (as currently occurs by TOTE as a service to clubs to enhance their special race meetings). A limit of 40 meetings is set, about 10 more than currently required. [s76ZEF(L)].

Provides for the holder of a totalizator endorsement to be entitled to commission (the take out rate from each totalizator pool) in respect of totalizator betting, up to a maximum rate as the Commission authorises. [s76ZEG]

Provides for the calculating and paying of dividends, and for the rounding of dividends as is current practice in all jurisdictions. [s76ZEH]

For example, under section 76ZEH(2), a dividend of $1.32 has a fraction of 2 cents so the fraction becomes zero i.e. dividend rounded to $1.30. A dividend of $1.35 has a fraction of 5 cents so the fraction becomes 5 cents, i.e. dividend rounded to $1.35. A dividend of $1.38 has a fraction of 8 cents so the fraction becomes 5 cents i.e. dividend rounded to $1.35.

In 2007-08, the amount of fractions retained by the TOTE under this method was $4.4 million.

Provides that certain key employees and technicians of the TOTE or the purchaser of the TOTE are deemed to hold special employees or technicians licences for an initial 12 month period. [s76ZEI and s76ZEJ]

Provides for the TOTE's existing wagering equipment and systems to be compliant for an initial two year period and its control systems (operating manuals) for six months, or longer as prescribed. [s76ZEK and s76ZEL].

For the purchaser of the TOTE, the deeming period is 12 months for equipment and six months for control systems. A shorter period applies as the expectation is that the new operator will have existing systems that is likely to have already been assessed by another regulator.
Clause 22
Inserts new heading Part 4A, Division 7, Sub-division 1 "General Protection".

Clause 23
Registered players of a Tasmanian gaming licence holder can establish self limits on the amount wagered. This is already in place for registered players of Betfair. [s76ZK]

This provision gives the TOTE or its purchaser a transitional period of 12 months to establish the necessary software and systems changes before this requirement takes effect.

Clause 24
Replaces the current exclusions provisions for Tasmanian gaming licence holders in the Act that currently apply only to registered players of betting exchanges [s76ZDH to s76ZDK] with the general provisions that will apply to registered players of any holder of a Tasmanian gaming licence, including a totalizator. [sub div 2 s76ZNA to s76ZNG]

This provision gives the TOTE or its purchaser a transitional period of 6 months to establish the necessary software and systems changes before this requirement takes effect [s76ZNG].

Customers that wish to self exclude from a retail outlet can do so under existing provisions under Part 5 Div 3.

Clause 25
As an account can still be active even if no wager has been made for 2 years e.g. monies deposited or withdrawn. “If no wager has been recorded” is replaced with “if no activity is recorded”.

Clause 26
Amends section 76ZR to define “prize” as including winnings so as to include, for example, wagering winnings from a totalizator.

Clause 27
Inserts new section 76ZRA which requires unclaimed monetary prizes or dividends in respect of a Tasmanian gaming licence holder to be paid monthly to the Treasurer after a period of 6 months.
Clause 28

Inserts new sections 76ZZ, 76ZZAAA and 76ZZAAB to allow a Tasmanian gaming licence holder with a totalizator endorsement to establish approved outlets (i.e. TOTE’s retail agencies such as in a hotel or a standalone shop) to accept wagers on behalf of the licence holder.

Rather than licence the outlets, the actions of an agent are taken to be the actions of a licence holder unless the licence holder has acted in good faith.

Disciplinary action under the Act that would apply to licence holder may also be brought against the agent for such matters “prescribed offences” i.e. providing credit, not enforcing rules, not complying with player exclusions provisions or accepting bets from a minor.

Approved outlets are allowed unless disallowed by the Commission (for example if the outlet or the agent is considered to be unsuitable). It will be a requirement to give 10 days notice to the Commission of an intention to open or close an outlet. A totalizator operator will have to give 3 days notice if there is a change in occupation of the premises.

Clause 29

Extends the ability to operate a trading account with debit and credit balances to a totalizator operator. [s76ZZAA]

Trading accounts are generally used by large customers that need to make large wagers at short notice to lay off bets for example.

The licence holder accepts any financial risk of enabling a large customer to operate a trading account.

Approval from the Gaming Commission is required to operate a trading account.

Clause 30

This provision clarifies that a licensed provider (which includes a totalizator) can give its registered players discounts.

Registered players are players that operate a wagering account with the operator.

Volume discounts are given to large customers of the TOTE on the take out rate (commission on turnover).
Clause 31  Amends section 76ZZC to clarify a prohibition on special employee wagering only in the course of that employment applies only while the employee is on duty. Thereby allowing the employee to wager with its employer when off-duty.

TOTE employees can already bet with TOTE whilst off duty and there are no grounds to restrict this under the Gaming Control Act.

This is also consistent with employees of a licensed premises gaming licence holder (i.e. a hotel with gaming machines or Keno) where there is no restriction on gaming staff gaming while off duty. [s56(3)]

Clauses 32 & 33  This provision requires that gaming equipment and control systems used by Tasmanian gaming licence holders must comply with gaming machine standards as set by the Gaming Commission. [s76ZZG and s76ZZI]

Clause 34  Clarifies that the holder of a foreign games permit cannot conduct the activities authorised by a Tasmanian gaming licence.

That is, a foreign games permit does not allow the permit holder to conduct a totalizator for which a Tasmanian gaming licence would be required with a totalizator endorsement. [s77J]

Clause 35  Amends section 77V to expand the existing provision for the approval of certain contracts by the Commission to include licensed providers (any Tasmanian gaming licence holder's contracts including totalizator contracts).

Approval is required to ensure fairness, probity and to ensure that any of the contract requirements would not be in breach of Act.

This would cover contracts between the TOTE and its retail agents.

Clause 36  Amends section 91 to expand the coverage of the Commission’s power to establish rules to include any licensed gaming or wagering operator (including a totalizator).

Clause 37  Amends section 92 to expand requirements relating to availability of rules to include licensed providers (any Tasmanian gaming licence holder including a totalizator).
Clause 38 Expands the existing provision enabling the removal of persons from a venue by a venue operator to include retail outlets of a totalizator operator or an approved location of a Tasmanian gaming licence holder. [s99]

This will cover approved outlets such as a TOTE retail outlet.

Clause 39 Expands the existing provision enabling the detention of suspected persons in a venue by an inspector to apply to retail outlets of a totalizator operator or an approved location of a Tasmanian gaming licence holder. [s100]

This will cover approved outlets such as a TOTE retail outlet.

Clause 40 Expands the coverage of existing restrictions relating to minors under section 113 to include retail outlets of a totalizator operator or an approved location of a Tasmanian gaming licence holder.

Clause 41 Amends section 125 to expand the functions and powers of the Commission to include the regulation of wagering activities.

Clause 42 Expands the coverage of the existing provisions under section 127A relating to inspectors to include retail outlets of a totalizator operator or an approved location of a Tasmanian gaming licence holder.

Clause 43 Amends section 130 relating to the entry onto premises by police officers or Gaming Commission inspectors to include retail outlets of a totalizator operator or an approved location of a Tasmanian gaming licence holder.

Clause 44 Expands the coverage of the investigation of complaints under section 132 from patrons at a venue or premises to include retail outlets of a totalizator operator or an approved location of a Tasmanian gaming licence holder.

Clause 45 Expands the coverage of the powers of inspectors under section 133 to include retail outlets of a totalizator operator or an approved location of a Tasmanian gaming licence holder.

Clause 46 Expands the coverage of offences relating to inspectors under section 135 by including “wagering” in addition to gaming.

Clause 47 Expands the provision that enables a betting exchange operator to keep records at a place other than at an approved location (for example in another jurisdiction if there are other premises outside of Tasmania) to all Tasmanian gaming licence holders (including a totalizator).
Clause 48  Corrects an incorrect reference section 77 should read section 77V.

Clause 49  Replaces the reference to a “fixed odds endorsement” to a “race wagering endorsement”.

Establishes an annual endorsement fee of 350 000 fee units ($448 000 in 2008-09) for a totalizator endorsement.

Establishes an annual endorsement fee of 5 000 fee units ($6 400 in 2008-09) for an agent endorsement.

Establishes a limit of 200 000 fee units ($256 000) where both a sports betting and race wagering endorsement is held. This is to be competitive with other states in respect of corporate bookmaker licence fees.

In other cases other than above where multiple endorsement fees are held the endorsement fees are capped at 450 000 fee units ($576 000).

For example:

- Sports betting only - 200 000 fee units under s148A(a)
- Sports betting and race wagering - 200 000 fee units (instead of 400 000 fee units) under s148A(f)
- Sports betting and race wagering and agent - 205 000 fee units under s148A(f) and (dc)
- Sports betting, race wagering, betting exchange and agent - 450 000 fee units (instead of 755 000 fee units) under s148A(g)

Waives the requirement to pay totalizator, race wagering, sports betting and agent endorsement fees in the case of the TOTE or its purchaser while a totalizator endorsement is held. [s148A(5)]

Clause 50  Repeals provisions relating to unclaimed winnings of Tasmanian gaming licence holders as this is now dealt with under section 76ZRA.

Clause 51  Amends section 150A by clarifying that taxation only applies where the section so provides. This clarifies that in the case of totalizator, race wagering and sports betting endorsements where no tax will be levied, section 150A does not apply.

Abolishes current taxation provisions relating to fixed odds and sports betting. (1.0 per cent of turnover for fixed odds and 0.25 per cent of turnover for sports betting).
Clause 52
Provides that betting exchange commission that is subject to the payment of the 20 per cent product levy under section 150AC is to be determined in regulations.

This is required to adjust the commission that is subject to the 20 per cent product levy in the case where the betting exchange operator is required to also pay a product fee or race fields publication fee to a racing authority for the same event.

Regulations are being prepared to commence when the Gaming Control Amendment Bill commences.

Clause 53
Establishes the requirement that a totalizator operator pay a fixed wagering levy of 4.7 million fee units or $6.016 million per annum. (a fee unit is $1.28 for 2008-09).

Payment of the wagering levy is each financial year.

The levy is pro rata if the operator commences the licence, or the licence ends, part way through a financial year.

If a licence with a totalizator endorsement is surrendered the Treasurer may provide a partial refund.

Clause 54
Repeals section 152 so it removes the requirement that revenue from a betting exchange operator is appropriated to the TOTE to fund the Tasmanian racing industry.

This severs the nexus between TOTE revenues and racing industry funding under the Gaming Control Act. A separate deed between the Government and the new Tasmanian Racing Board will be established for the Government to directly fund the industry.

Clause 55
Amends section 153A by replacing the reference to a “fixed odds endorsement to a “race wagering endorsement” in respect of a gaming and wagering guarantee.

Exempts the requirement to pay a wagering guarantee by the TOTE while the TOTE is a government owned business.

A wagering guarantee is required in the case of race wagering and sports betting as there is a potential risk the operator can make losses on these products.
Clause 56  Repeals the regulation making powers relating to the guarantee provided by a betting exchange operator to make up any shortfall in funding to the racing industry because of the impact of the betting exchange operations on TOTE’s funding.

This regulation is not required as funding will no longer be provided by TOTE, rather be provided directly by the Government.

Provides for regulations to deal with any transitional arrangements if required (such as in connection with bringing TOTE under the Gaming Control Act).

Clause 57  Inserts in Schedule 5 of the Act a transitional provision that deems a Tasmanian gaming licence with betting exchange endorsement to also hold an agents endorsement.

This allows Betfair to continue participation with any existing agent arrangements on commencement of this Act.

Clause 58  Repeals the Racing (Totalizator Betting) Act 1952. The Act that currently regulates TOTE’s wagering activities; and

Repeals the TOTE Tasmania (Racing Regulation) Act 2004. That Act sets out TOTE’s current funding obligations to the Tasmanian Racing Board.
APPENDIX 1

The Committee took evidence from the following:

- Mr Tony Murray, General Manager, Racing Services, DIER
- Mr Paul Bullock, former Chair of Greyhound Racing Tasmania
- Mr Max Walker, former Deputy Chair of Greyhound Racing Tasmania
- Ms Denise Fysh, Chair, Hobart Greyhound Racing Club
- Mr Colin Howlett
- Mr Don Challen, Department of Treasury and Finance
- Hon. Michael Aird MLC, Treasurer and Minister for Racing
- Mr Kevin Ring, Secretary, Australian Jockeys’ Association (Tas)
- Mr Terry Clarke, former CEO, TOTE Tasmania
- Mr Craig Coleman, CEO, TOTE Tas
- Ms Robyn Whishaw, Armidale Stud, Carrick
- Mr Kevin Neilson, Manager, Tasmanian Racing Board
- Mr Philip Swinton, President, Thoroughbred Breeders Tasmania
- Mr Graeme Russell, Former Chairman of the DRC
- Mr Walter McShane, President, Australian Trainers Association (Tas)
- Mr Tony Jeffries, North-West Coast Harness Racing
- Mr Robert Biffin, CEO, Tasmanian Turf Club
- Mr Neil Herbert, Chairman of TTC
- Mr Geoff Harper, Chairman, Tasmanian Racing Club

and a number of other witnesses who gave evidence privately.
APPENDIX 2

The following papers were tabled:

- Sale of the Dampier to Bunbury Natural Gas Pipeline
- Dampier to Bunbury Pipeline Act 1997

Bullock, Walker, Fysh

- Newspaper Article – ‘Racing industry “misled” over Tote sale decision
- Tote Tasmania – Industry Funding

Mr Howlett

- Letter to Hon Minister of Racing dated 12/1/09

Ms Whishaw

- Australian Racing Board – *study on the size and scope of the Australian Thoroughbred Racing industry*
- Economic Impact of the Tasmanian Racing Industry – October 2007 – Final Report

Mr Jeffries

- Racing industry representation to the Legislative Council – 27 February 2009

Mr Harper

- Tatts Group – *TOTE Tassie for sale Research Paper*
- Oaths Act 2001 – *Statutory Declaration by Hon Michael Hodgman QC MP 17/3/09*

Mr Craig Coleman

- Report - Review of the Tasmanian Racing Industry’s Governance Structure – 31/10/08

Various private emails and letters.
APPENDIX 3

THE JOINT STANDING COMMITTEE ON ENVIRONMENT, RESOURCES AND DEVELOPMENT MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART, ON FRIDAY 6 MARCH 2009.

**Mr ANTHONY MURRAY**, GENERAL MANAGER, RACING SERVICES, DEPARTMENT OF INFRASTRUCTURE, ENERGY AND RESOURCES, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** (Mr Hall) - Tony, I think that you have given evidence to parliamentary committees before so you are aware of privilege so I do not need to go through that. Thank you very much for appearing today. You have our terms of reference which is to inquire into the proposed sale of TOTE Tasmania by the Government of Tasmania and the old catchall of any other matters incidental thereto. I would like to invite you to make a presentation to the committee and then I would ask committee members to ask any questions they feel relevant.

**Mr MURRAY** - Mr Chairman, I have very little to say in my opening other than to clarify my role. I am the General Manager of Racing Services Tasmania. I am also appointed to the statutory role of Director of Racing under the Racing Regulation Act. My primary role is that I am in charge of, responsible for, the integrity of racing in Tasmania.

**CHAIR** - That is all you would like to say at this stage?

**Mr MURRAY** - Yes.

**CHAIR** - Are there questions from members of the committee to Mr Murray?

**Mr HARRISS** - In those roles which we understand you hold, Tony, in terms of integrity, probity and the like, can you describe to the committee what your beliefs are as to the sale of TOTE versus retaining TOTE in public ownership and the impacts that might have from your perspective one way or the other?

**Mr MURRAY** - From my role under the act, that is the integrity of the racing industry, I have no direct jurisdiction over the operations of a wagering operator such as TOTE. So I have no real opinion in terms of the integrity in terms of the sale because it does not currently come under my jurisdiction. Regardless of if there is a sale or not it still would not come under my jurisdiction so it will not affect the manner in which I do my business or my area of responsibility.

**Mr HARRISS** - So what cross-pollination, if any, then between your roles, your organisation, as to probity/integrity do you have with TOTE particularly given that wagering is one of the areas within any racing industry, no matter what code, that can be compromised?
Mr MURRAY - Under the act I have no responsibility or jurisdiction under TOTE. The only way there would be some cross-pollination is, for example, stewards from time to time may seek some information from a wagering operator in relation to activities on a particular race. If the question is the cross-pollination between my role as director of racing and the governance of TOTE, there is no cross-pollination.

Mr GUTWEIN - Just to clarify that, in regard to matters of integrity with TOTE as it currently stands, you have no role or responsibility whatsoever?

Mr MURRAY - No, I do not.

Mr GUTWEIN - Who does?

Mr MURRAY - At this stage I think it is better asked of Mr Coleman. My understanding is that it falls within the realm of a cross between self-regulation and some form of relationship with Treasury, although I think the minister has indicated that TOTE may well come under the Gaming Control Act - I think he is looking at that into the future. That is more appropriately a matter for the minister.

Mr BOOTH - Have you had discussions with the minister, the Treasurer or anyone in government regarding the proposed sale?

Mr MURRAY - In relation to the proposed sale, no.

Mr BOOTH - So no-one has talked to you about it at all?

Mr MURRAY - No, the only discussion I had was when the minister called me aside at the Devonport Cup this year - which, from memory, was 7 January - and advised me that the next day he was going to announce the sale of TOTE. That is the first and only conversation he has had with me in relation to the sale of TOTE.

Mr WILKINSON - How long have you been involved with TOTE, Tony, in your current position?

Mr MURRAY - I was appointed in August 2003, so five-and-a-half years.

Mr WILKINSON - How long have you been involved in the racing industry?

Mr MURRAY - I have been involved in the racing industry for 23 years. Up until now it has been a regulatory role in New South Wales across the Department of Gaming and Racing. I was a TAB agent for a little while and I worked in Harness Racing New South Wales as racing manager and deputy CEO. I have worked generally in racing regulation for a period of approximately 23 years.

Mr WILKINSON - So it would be fair to say that you have a good understanding of the racing industry?

Mr MURRAY - I would hope so.

Mr WILKINSON - Was that understanding of the racing industry at all tapped into by the Government in order to ask whether they should or shouldn't sell TOTE?
Mr MURRAY - No.

Mr WILKINSON - Not at all?

Mr MURRAY - No.

Mr WILKINSON - Were you aware of any conversations prior to, say, 4 December in relation to selling the TOTE?

Mr MURRAY - We went through a restructure process last year, from August through to November or December. During that restructure process the matter of the sale of TOTE was raised at the forums we conducted.

Mr WILKINSON - When were the forums?

Mr MURRAY - There were two main workshops: one was at Bellerive on 26 September and one was at Launceston on 1 October at the racetrack, so we had two workshops for the whole of the industry.

Mr WILKINSON - And part of the workshop time was spent on whether TOTE should or shouldn't be sold?

Mr MURRAY - No, the workshop was involving the restructure of the industry. There was a presentation by myself on integrity matters, a presentation by Mr Coleman on commercial matters. It was facilitated by Global Value Management and they had various sessions within the workshops. One of them was about the issues confronting the industry at the moment and some persons at each workshop raised the possible sale of TOTE.

Mr WILKINSON - Was the Treasurer there?

Mr MURRAY - No, he was not.

Mr WILKINSON - When whoever it was raised the possible sale of TOTE obviously that was spoken about, whether it should or shouldn't be sold.

Mr MURRAY - There was some general discussion. Mr Coleman was looking after the integrity matters and in his response - and again I am only going from memory - he said something along the lines of 'TOTE is not currently for sale'.

Mr WILKINSON - Are you aware of any business case that has been prepared in relation to the sale of TOTE?

Mr MURRAY - No.

Mr WILKINSON - Have you seen any business case?

Mr MURRAY - No, I have not.

If I may, Mr Chairman, I didn't finish Mr Booth's question. He asked me had I had any conversations and I was discussing those workshops. During those workshops and during the consultation the issue of TOTE being sold was raised and was also raised in the media. At that time I had a private conversation with Mr Coleman and asked him, 'What is going on here?' and he said words to the effect, 'It has always been my belief since taking over the role that TOTE would
be better in private hands’. He also made a comment to the effect, ‘TOTE could be sold regardless of this restructure’. Then we followed up from there and basically said this restructure is not about the sale of TOTE. I asked him that question privately and he said no, the restructure is about a whole range of other issues and challenges facing the industry. We returned to the focus of progressing with the consultation for the restructuring ultimately to make a recommendation to the minister. That is the only conversation I had in terms of the sale of TOTE.

Mr WILKINSON - Does the restructuring make it easier to sell TOTE?

Mr MURRAY - Mr Coleman’s advice to me was no.

Mr BOOTH - Did you get the impression that Mr Coleman’s view was that it would be sold regardless?

Mr MURRAY - No, from my recollection I cannot recall him saying that, no.

Mr BOOTH - When the Treasurer told you on 7 January that it was to be sold, can you detail that conversation?

Mr MURRAY - He just called me aside and said, ‘Just to let you know I am going to announce tomorrow the intention to sell TOTE’.

Mr BOOTH - What was your reaction to that?

Mr MURRAY - I said to him words to the effect, ‘The perception of the industry will be the restructure was about the sale of TOTE’. He responded to me with words to the effect, ‘Well, it wasn’t, Tony, it was to do with all these other issues we had to deal with’. I said to him, words to the effect, ‘That is my understanding and I approached the restructure along the lines it was needed for the racing industry and had nothing to do with the sale of TOTE’.

Mr BOOTH - Did you ask him what day he woke up in the morning and decided to sell TOTE, like what that process was?

Mr MURRAY - No, I did not, it was a very brief conversation.

Mr BOOTH - You must have been somewhat shocked, without putting words in your mouth.

Mr MURRAY - I do not think that shocked is the word. I have worked for government for the last 23 years and governments of the day of whatever political persuasion are entitled to make policy decisions. I have seen governments of all persuasions make all sorts of decisions, so I really have no reaction to it other than to appreciate the fact that he had told me before it was publicly announced.

Mr BOOTH - Given the undertakings that they had made during the consultation in Hobart and Launceston, it is completely opposed to what people were advised at those meetings. Is that correct?

Mr MURRAY - At those meetings, as I said, Mr Coleman, answered the questions along the lines TOTE was not for sale. My understanding is that at that time it was not for sale. Again, it is probably a question to ask Mr Coleman.
Mr BOOTH - Yes, I am just trying to see if there was any other indication of how long they had been intending or what the process was, whether there was some other consultation.

Mr MURRAY - Not with myself and not to my knowledge.

Mr GUTWEIN - Mr Murray, with regard to the conversation, you indicated that you had a private conversation with Mr Coleman during the process that was occurring last year. Was either on either of those dates, the 26 February the forum in Hobart or the October one in Launceston?

Mr MURRAY - It was separate to those two. It was when the matter became quite relevant within the media.

Mr GUTWEIN - Can you think roughly when that was?

Mr MURRAY - Some time between those two dates. I cannot put dates on it but there was some front page back page news/allegations about it and it was at that stage that we had a private conversation.

Mr BOOTH - You saw those reports so did you phone him?

Mr MURRAY - I did not specifically make an appointment to see him it was just at the time were we preparing for the next presentation or meeting I raised it with him. My concern was it was taking the focus off what we were trying to do. This restructure was really important for the future of the Tasmanian industry. My concern was that the media attention on TOTE and the focus on TOTE were taking away from the real purpose of the restructure.

Mr GUTWEIN - Whether you are prepared to answer this or not, you said, I think, that you have around 23 years' experience in the racing industry?

Mr MURRAY - That is correct.

Mr GUTWEIN - Do you have an opinion as to whether or not the sale of TOTE, taking it away from government ownership and placing it in private hands, would be a good thing or a bad thing for the industry?

Mr MURRAY - From a professional viewpoint my role is that of integrity, regulation. I do not have the full facts or the full knowledge of what it would possibly bring to the industry. From a professional viewpoint, I do not think that I have enough information to make an informed comment. Form a personal viewpoint, I will make two comments. As I said earlier, I believe the Government of the day is entitled to make decisions in relation to assets, but I also think the racing industry of the day, under these circumstances, is entitled to seek some guarantees from government in terms of future funding.

Mr BOOTH - What about from a probity point of view? You mentioned that you do not have and role in probity arrangements within TOTE and its currently government enterprise. From that point of view, I guess the implication is that you are satisfied or you do not, in fact, have to look. Do you see that there is a threat in the future, or even currently, in terms of the potential for race rigging or other probity issues, particularly if it fell into private hands, that an owner could get inside information about the size of the pools or other information that would
not be generally available or to manipulate races by the commissions and so forth?

Mr MURRAY - Race rigging in itself would not fall under the domain of TOTE. A wagering operator’s pools, for example, are public knowledge. Anyone can go into the Internet at any stage. If we are rigging, stewards are in charge of race meeting. That is my area of expertise. We look after the integrity of racing, and whether TOTE be in private or public hands would not impact on the way that we ensure that racing is conducted with the highest level of integrity.

Mr BOOTH - Would you not see that integrity or probity issues would be any different whether it was in private hands or in the current arrangements?

Mr MURRAY - Not for the conduct of racing, no.

Mr GUTWEIN - I am wondering, Mr Murray, if you have a view on the type or length of guarantee that might be required under a sale. Obviously the industry benefits to the tune of tens of millions of dollars. In fact, I think the chairman’s report indicated $23 million to $25 million in the last year alone. If a sale were to proceed, those guarantees, what time frame would you think was reasonable?

Mr MURRAY - I think that is a matter properly for the racing industry itself. I would not offer a view. One could argue a whole variety of time periods, but it is not a matter for which I have the current knowledge or expertise to offer a fully informed opinion.

Mr WILKINSON - You did mention your personal view was that if it was to be sold there should be some guarantees. What guarantees should be given?

Mr MURRAY - I said my personal view, just for clarity, was that the racing industry should be able to negotiate some form of guarantee in terms of future funding levels. I would assume the racing industry needs some guarantees for surety into the future. Then I suppose you come back to the current situation. They already have some guarantees through the legislation of what TOTE has to pay the industry and so it comes down to what guarantees they would have under a sale as opposed to without a sale.

Mr WILKINSON - Are you throwing the ball by saying that there should be guarantees? I am trying to find out what guarantees. I know you are probably in a difficult position.

Mr MURRAY - It is not my area of responsibility or expertise. Things we are talking about are stake money, breeding schemes and programming race dates. None of that is under my current area of jurisdiction or responsibility. I do not think it is appropriate that I make a comment because I do not have all the information and I am not fully informed.

Mr WILKINSON - Who do we ask?

Mr MURRAY - I would suggest that Mr Coleman or the racing industry itself obviously is appearing before the committee, so I am sure they will have some ideas to provide the committee.

Mr BOOTH - Given your experience in the industry outside of the probity arrangements, your history in the industry and as a personal comment, not in
your role as director, what would you say could be the consequences on the industry if there were not those guarantees, hypothecated, if you like, or part of the legislation in terms of sale inquiry requiring some prescribed levels of support? For example, if an owner decided to simply not provide any support, what would the consequences be in your view?

Mr MURRAY - Obviously the racing industry depends on funding but we need to understand that the change in the landscape of wagering throughout Australia and internationally means that racing has to become more self-sufficient. We need to be exploring other market to sell our products - for example, Asian markets. The racing industry traditionally has relied upon guarantees, upon handouts through TABs and arrangements through governments more so than ever before. The racing industry must learn to fend for itself and seek other sources of revenue. That is one part of the revenue and the guarantee but they also need to go out and source other areas of revenue. That is what this restructure was all about and that is why I think it is really important to go through the reason for the restructure. The racing industry has never faced so many challenges. We look at corporate bookmakers, betting exchanges, race fields legislation, the breakdown of the gentleman's agreement - traditional sources of revenue are being usurped by new sources of revenue through race fields legislation, selling your product overseas, trying to gain sponsorship and so on. There is a whole range of things facing the racing industry. The guarantee through a TAB or government is but one area. The racing industry must learn to be more self-sufficient. This restructure about taking away from the three code councils and putting into one professional Tasmanian racing board was about meeting the challenges facing the industry and being able to promote and maximise the revenue back to the industry, which wasn't possible under the old structure.

Mr WILKINSON - The restructure was done with consultation with all the bodies in the industry, wasn't it?

Mr MURRAY - Yes. As I said, Mr Coleman and I held two workshops, one in the north and one in the south. We met with the three code councils, we held individual meetings with clubs and associations as required, so there was an extensive consultation before we went through.

Mr WILKINSON - So there was extensive consultation with the industry itself before it went through?

Mr MURRAY - Yes, there was.

Mr WILKINSON - And you believe that that was important?

Mr MURRAY - Yes, it was essential.

Mr WILKINSON - Why do you believe it was important?

Mr MURRAY - I think in any sphere of endeavour, whether it be government or private, you need to take the views of your stakeholders into account before you make any significant changes to a structure.

Mr WILKINSON - Would you suggest that there is a significant change in that now TOTE, if it is to be sold, is going out of the hands of government into the private sphere?
Mr MURRAY - No, I don't think it makes any difference. My concern with the talk about the TOTE sale during the restructure was that it was going to take the industry's eye off the real issues. The restructure, certainly from my viewpoint, had absolutely nothing to do with the sale of TOTE.

Mr WILKINSON - I hear what you're saying. You may have misunderstood the question. I accept what you are saying, that there was extensive consultation had with the industry prior to the restructure. Let's give it a tick. The reason for that is because it was necessary to keep the stakeholders informed as to what was taking place. In relation to the proposed sale of TOTE, would you accept that the stakeholders weren't spoken to, weren't kept in the loop, as they were kept in the loop with the restructure?

Mr MURRAY - They are two separate issues. In terms of the restructure, which was under my joint control, we made sure that there was extensive consultation. I am not aware of any consultation the minister has or has not had. All I am aware of is his announcement of the proposal to sell TOTE. I am also aware that that is dependent upon being passed by both Houses of Parliament, hence this committee will be given the opportunity to hear the views of industry. I am not aware; I can't sit here and say I am aware of the consultation that has taken place.

Mr WILKINSON - But you would be aware whether some consultation had taken place? I have had an extensive involvement in sport in a number of different fields. When I was in one field I was aware of what was taking place in another field just with the general conversation that flows. When I was in charge of Football Tasmania, I was aware of what the players were thinking because of general conversations that take place after a game or in the world of football at the time, likewise cricket or swimming. Are you really saying that you are so insulated in your position that you are not aware whether conversations were taking place with stakeholders in relation to the sale of TOTE or not?

Mr MURRAY - I am not aware of any conversations with stakeholders in relation to the sale of TOTE.

Mr BOOTH - I am not actually conceding that there was agreement in full knowledge by the industry codes to the racing restructure but setting that aside, is it a fair thing to say that the agreement that you achieved ultimately for a restructure was based on the understanding of all of those participants in the consultation processes that in fact TOTE would not be sold? Had the Treasurer announced they were going to sell TOTE during that consultation, what I am suggesting is that the outcome might have been different in terms of an agreement.

Mr MURRAY - That is a hypothetical question, which is difficult to answer. All I can say is that when we went to the workshops there were a number of issues raised and within the report of the workshops the sale of TOTE was but one of a number of issues. I think even in the report it prioritised the issues in terms of the ranking from the opinions of the workshop. Again, from memory, TOTE certainly wasn't high on the list; it wasn't number one, from memory. My point is that there was a whole range of other issues which the industry acknowledged and I went through them before. Hypothesising, it is difficult to know whether the industry would have been any different. I think what they were seeking at the workshops was some assurance of future funding if TOTE was sold rather than questioning whether TOTE should be sold.
Mr BOOTH - Who owned it, basically?

Mr MURRAY - The future funding. What they were saying as an issue at the workshops was - and again this is just from memory - not will TOTE be sold or not, but what guarantees will we be provided if TOTE was sold? So to hypothesise and answer on the basis that there are some guarantees for future funding if TOTE was to be sold, I don't think it would have changed the opinion of the industry in supporting the restructure.

Mr BOOTH - However, I suppose then a corollary of that is that any sale would need to provide exactly the same levels or greater support into the future indefinitely than they already get through the current arrangements. Submissions that people have put to me are generally based around the culture of racing being destroyed as a result of changed arrangements. The Asian racing situation, for example, is raising some serious concerns in regard to the culture of racing.

Mr MURRAY - In my 23 years in racing the most difficult thing to do in the racing industry is to change culture. The racing industry are the most wonderful people you can ever come across but they're very much traditionalists and racing is very much based on tradition and that is how it should be. It is very hard to change the culture of people. I would think, hypothesising, if TOTE was sold and the guaranteed levels of funding met with the approval of the industry and were at least as good as would have been the case if TOTE were not sold, I think the industry would move on fairly quickly and focus on what the real issues are and that is the challenges facing the industry.

Mr BOOTH - So you would see that important, that the funding arrangements be locked into a sale arrangement effectively, some form of support guarantee?

Mr MURRAY - I don't know in which form it would come. I think the industry is entitled to some guarantee of future funding.

Mr BOOTH - But whether it comes through government or a sale arrangement -

Mr MURRAY - I can't really offer an opinion.

Mrs RATTRAY-WAGNER - Mr Murray, do you believe that had the Government of the day and I appreciate you said they have every right to make policy decisions - waited until the new structure of the racing industry was bedded down, so to speak, this would have been a more palatable proposed sale?

Mr MURRAY - I will be very selfish and say I would have preferred a greater period of time. The restructure was about putting a structure in place to quickly face the challenges and get resolutions on a number of issues. It is a really important time for racing. This is a very personal and selfish view because I think the restructure was very important in its own right. I repeat: the Government of the day has its right to make an announcement and make a decision on any matter under its area of responsibility, so I am certainly not criticising the timing, I am just stating my personal view.

Mrs RATTRAY-WAGNER - Do you believe that the new board format has had time to settle into its new role?
Mr MURRAY - They are on a very steep learning curve, there's no doubt about that. They are doing a very good job initially. They are out there consulting with the industry. The chairman of the new board, Don Abell, in my opinion is doing an excellent job. He is engaging the industry, he is understanding the industry. It is early days but I have nothing but optimism for the future of the role of the new board.

Mrs RATTRAY-WAGNER - So with that board engaging with the stakeholders and industry players obviously this particular process is taking away from what they might well be concentrating on?

Mr MURRAY - I would have thought that they are just moving ahead with the job at hand. That is as they should be. In terms of the transitional arrangements under the restructure, the funding, the budget is as it was previously up until 30 June. No doubt they are developing their strategic plan and their future budgets and all those types of things. My understanding is and my belief would be that it would be business as usual from their viewpoint.

CHAIR - Are there any further questions to Mr Murray?

Mr BEST - In camera I would like to ask some questions.

CHAIR - The committee will now move in camera. I would ask everybody apart from the committee and people involved if they would move to out the back again and we will proceed as soon as that is done.
Mr PAUL BULLOCK, FORMER CHAIR, GREYHOUND RACING TASMANIA, Mr MAXWELL WALKER, FORMER DEPUTY CHAIR, GREYHOUND RACING TASMANIA, AND Ms DENISE FYSH, CHAIR, HOBART GREYHOUND RACING CLUB, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Mr Hall) - Thank you very much. I understand you are all appearing on behalf of the greyhound industry and I do not know whether any of you have given evidence before a parliamentary committee before. However, I will talk about privilege and restrictions on reporting so that you are clear on that. Everything you say to this committee is protected by parliamentary privilege. This is to allow you to speak freely. However, once you have left this committee room I must advise you not to specifically discuss your written or verbal evidence with anyone until the committee has made its report to the Legislative Council. You are free to speak generally about any issue to anyone but please do not refer specifically to anyone about the evidence you give to the committee until a report has been published on this.

I now invite you, whoever is the spokesperson, to talk and remind you to keep in the back of your minds all the time that we have specific terms of reference and that is the proposed sale of the TOTE Tasmania by the Government of Tasmania and any other matter incidental thereto.

Mr BULLOCK - Mr Chairman, first of all I would like to thank you very much for hearing us today because I was not available next week and to your secretary for fitting us in today. Thank you very much.

CHAIR - It is a pleasure.

Mr BULLOCK - I know some of the members, particularly Peter Gutwein. I have known Peter a long time, since he was a kid playing football. It is nice to see one familiar face here.

I will give a bit of the background because I don't reckon many people really know me. I started in racing in the early 1950s with my father working horses on St Marys Pass, which was gravel - the road from St Marys to Conara then was gravel, so it was a long time ago. Racing has always been part of my life. Unfortunately I did not have enough money to get into horses so I got into the next best thing, which was greyhounds. It was a pleasure to get involved with greyhound racing and the people in the industry. I owned, trained and bred for a period of 40 years and then I got involved in the administration in 1989 with the Launceston Greyhound Racing Club and was chairman in 1990. I then worked for the Racing Authority, as it was in those days when Michael Martin came from New Zealand, as the racing manager for greyhound racing. I looked after the Hobart club when they had their licence taken off them. I also took over Devonport when they handed theirs in. Mr Caylee became the chairman of the authority and we were worried about Devonport continuing. My suggestion to the authority at that time was to convert to a day meeting and get Sky Channel, if possible, and to race every week of the year if possible.

Around 1999 or 2000 I was elected to the greyhound council and I have been a member for the last nine years. Three of those years I was deputy chairman to my colleague, Max, and the last three years and when the council was wound up
on 31 December 2008 I was chairman. One of the things that the council has
done with the clubs - Denise is here today and is the chairman of Hobart - we
have made sure that the clubs through the council are viable. Each club has
received somewhere between $76 000-$80 000 a year to make sure they have
made a profit at the end of the year.

When I went to the work meetings that the Director of Racing, Mr Murray, and
the CEO of TOTE, Mr Coleman, presided over, along with John Lennon from his
organisation, we were given a guarantee that TOTE would definitely not be sold.
When the announcement came some seven days after the councils had been
wound up, I am certain that people such as Bruce Freeland, Dick Bertram, Doug
Martin - who were the instigators of the Tasmanian Totalisator Board which
came into effect in 1973 - probably turned over in their graves.

For those who aren't racing minded, if they go back through the history of racing
in New South Wales and Victoria, TAB was introduced to wipe the SP
bookmaker in the local pub out of business, if possible. In New South Wales the
result was enormous because they have a large population, and so has Victoria.
The bookmakers, in my opinion - and I worked for two or three of them in
Launceston over a period - were leeches. They took everything and put nothing
back. Here we had an opportunity to have something for Tasmania that was
going to put something back into racing. I can still remember the late Bruce
Freeland saying at the time, 'This will really be good because we are going to
appoint the Premier as one shareholder and the Treasurer as the other'. That
has been the ploy ever since 1973. I believe that the Director of Racing and the
CEO of TOTE either didn't know that the minister had intentions of selling TOTE
or were accomplices for the workshops of getting rid of the councils to enable
them to sell TOTE. I would say our code, and having spoken to the other two
codes at recent meetings in Launces
ton in two previous weeks, it has got to the
stage now that we don't trust the minister. That is a pretty defaming statement, I
know, but we don't trust the minister.

One of the problems we have had with all of it is that there has been no
consultation with the three codes, no consultation with racing and we have not
seen a business plan. Anyone running a business usually has a business plan.
This bloke just says sell. We might get $30 million from somewhere and in
today's economic climate we do not think that is on. So we are very
disappointed, we have an industry where there are 3 000 people involved, we
have a greyhound industry where we race three times a week and distribute
probably $40 000 a week in stake money and if we have not got that $30 million ,
and it is no good saying we have a guarantee, because that money might not be
there with the economic climate we have at the moment.

We are going to be up so and so in the boat. It will just be damn hopeless. We
have got a milking cow in what is now TOTE Tasmania because of the change in
the name sometime back but at the moment they are almost guaranteeing us an
income for racing.

We do not wish to go to the Government of the day and say look we know you
have got education and we know you have health and we know you have got
roads and we know that you have got police et cetera, but we really want
$30 million.

Because the Government are likely to say to us sorry this year you can only
have $21 million. Or only $18 million. With TOTE Tasmania we have got at
least a guarantee at this stage of having enough money to do what we are doing at the moment.

The greyhound industry at this moment, and this is only from my point of view and I may be biased because I am the former chairman of the council, we have three clubs with $200 000 each in their bank account, we have a council that gave the new racing board around about $200 000 to do the job plus another $55 000 for promotion.

I wish the new person replacing me at the Tasmanian Racing Board all the very best. He has a huge job in front of him to represent greyhound racing with very little knowledge of administration but very good on welfare. They have dropped him really in the soup because I do not think that the new board knows where they are going.

That is with all due respect to those seven people that have been appointed. I really believe that if we want to do our best we need to retain TOTE Tasmania. Otherwise I can see racing being shot in the foot. The spin-off from racing is huge.

We race three times a week which means people travel three times a week, they pull into service stations three times a week, there are a new set of tyres three times a week, there is a mechanic somewhere that needs to work on their car. It is a huge employer. We look after the farmers with disposal of stock et cetera.

If we have not got TOTE and we have not got the income to race for what we are racing for now people will drop out of the game. The other thing is that if there are less meetings, if trainers can only race once a week like the gallops do half the people in our industry will drop out simply because they need to be able to compete twice a week and by having three meetings a week there is a chance that you can race twice a week and get an income.

Otherwise we are dead in the water. If you people cannot see that maybe you should not do the job you are doing. I will pass over to my Deputy Chairman.

CHAIR - I might just ask you a question first. I hear what you are saying and I will be the devil's advocate first up. In other jurisdictions, that is in other States, TOTE has been privatised. In South Australia I understand it has been done rather poorly, in Victoria it is working quite well and it has opened up new opportunities. Now if the industry, such as yourselves, were enshrined in legislation some guarantees how would you view it then?

Mr BULLOCK - Mr Chairman, if you listen to the chairman of the thoroughbred breeders in Victoria, in 2012 they will be $40 million to $80 million worse off. And they have all the guarantees in the world.

Mr BOOTH - It is pokie guarantees, isn't it?

Mr BULLOCK - Yes, it is pokies and Tattersalls who aren't allowed to have the licence anymore. If another body put their hand up and say, 'Yes, we want to take it over', the first thing people want is the money for their shareholders. It is not really good when you pick up the Examiner and you read that Tattersalls have made $143 million profit and they are looking at buying TOTE Tasmania. When it has not been through Parliament, it has not been discussed with the
industry, there is no business plan and you say, ‘Please put your hand up and support it’ it is not on!

Mr BOOTH - Thank you, Paul. I want to drill down into what you said that you were guaranteed at the meetings. Presumably that was the Hobart one on 26 September and Launceston on 1 October. Are they the meetings?

Mr BULLOCK - Yes, and there was a follow-up meeting at Campbell Town which I could not go to but Max did go to and the guarantee was given again.

Mr BOOTH - In what form was that guarantee given?

Mr BULLOCK - It was given in writing. In the last handout that was given out at Campbell Town it was given out in writing that TOTE will not be sold.

Mr BOOTH - Do you have a copy of that which you can give the committee?

Mr BULLOCK - No, but I am certain that the place and people who have put together a nice brochure for the MLCs have got it and will supply it at a later date, but it is available.

Mr BOOTH - Would the greyhound racing industry, in your view and the combined view perhaps here, have supported the industry restructure had you known that TOTE was going to be sold?

Mr BULLOCK - There is nothing wrong with change. Getting change right is the problem. Personally and I do not speak on a personal level, Kim, because we have not discussed it, I was quite pleased to not be involved anymore because I have just had a quadruple bypass and I was looking to lay down the tools. But we had a survey back in October that we put out to see how the industry felt. I do not have that with me today but the industry was 50/50 whether we should have the council or not. I do not think the majority of our code or the other two codes understood exactly what their code councils were doing and that is probably our fault rather than the industry's fault.

You are aware with the people you have dealt with in all codes, but we have a lot of people in each code that their education is not the greatest. Some of the kids who work as stable hands and kennel attendants et cetera, do not want to go to school. It is the only place they can find a niche in life. So therefore their education standard is not greatest and they say, what do we have these people for? It is like me saying, what do we have the Legislative Council for. I am pleased they are there but a lot of people are not.

Laughter.

Mr WILKINSON - Keep talking.

Mr GUTWEIN - The lower House shares your view.

Mr BULLOCK - They probably do, Peter. But, seriously, I have been involved in a couple of organisations, and Peter knows only too well that I started the Junior Football Association in Launceston back in 1973. I used to write a page, and this is digressing a bit, for the *Sunday Evening Express* and I had a cartoon drawn up by one of the guys. We had the kids in around playing with a big steel fence around with the parents outside and sometimes you feel the same about
greyhound racing. I wish we could keep them out there and just race the dogs because you really struggle at times to understand the mentality of some people.

From my point of view, the council did its job. It was not always liked by everybody but we did our job to the best of our ability.

Mr GUTWEIN - You said that, under TOTE, you are guaranteed income each year. How does that work and what arrangements are currently in place?

Mr BULLOCK - We get 16.9 per cent of the profit and whatever else is dished out by Betfair. TOTE, of course, handle the Betfair money. Last year there was $4.75 million of Betfair money distributed to the three codes and then they must have done a little bit better than people thought because we received another $93,000, probably a couple of months into the season. We had a reduction previously because we thought the previous Premier, Mr Lennon, handled the money badly when he gave so much to the interdominion and just about robbed harness racing right throughout Australia. This made it very difficult, where at one carnival that was in South Australia they had to hold a whole lot of heats in Melbourne, otherwise they could not afford it.

The money that we have received every year has increased slightly. It has been by CPI. Last year I think we received $48,000 from TOTE out of the TOTE profit, additional to what we had previously. We received another $93,000 from the Betfair money which was additional. Then TOTE paid a $125,000 bonus to each code. I can give you the figures for that because, unfortunately, the greyhound council in 2006 through freedom of information applied to get the actual figures from TOTE because they didn't want to give them to us. I can give you a copy of that today.

We have done our very best to pay out as much as possible. In the last 12 months we had paid out 79.81 per cent of our allocation. We had used about 20 per cent for administration. Everything that could possibly be pay out to the industry and the participants has been paid out. We have never had a problem with TOTE as such as they say, 'This is your lot'. We have to work with what we have. We have never been in a position to argue that we want a bigger share. We have told them on several occasions we want 19.6 per cent, or 20 per cent if we can get it, but we have always finished up with around 16.9 per cent of the total pool. This year we will pay out about $2,360,000, including our administration.

The clubs themselves - and Denise is very heavily involved with the Hobart club and is doing a very good job - with the administration of the money et cetera are in a situation where they get 3.55 per cent of TAB on-course and off-course turnover of a Thursday night. The clubs get somewhere between $80,000 and $90,000 because the council has always paid the salary of the racing manager, which is around $56,000. He manages all three clubs and does all their bookwork, works with the accounts and makes absolutely certain that every dollar that is spent is accounted for.

Mr GUTWEIN - How many people are involved in dogs in the State?

Mr BULLOCK - I can't give an exact figure, Peter, but there are 600-odd involved registered, but of course we have a lot of hangers-on as well. There are a lot of people involved as silent partners in greyhounds, as they are in horses et cetera.
We have a lot of people who help out at home who aren't registered. My guess would be there are somewhere between 700 and 1000 people involved.

Mr WILKINSON - When you say 'involved', what do you mean?

Mr BULLOCK - Helping with training, cleaning kennels, cleaning yards. A lot of people are voluntary and help catch dogs. A lot of people go to maybe Brighton or the straight track at Mowbray - they can't go there any more because TOTE controls it - but we have always had people put their hand up to help out somewhere. Racing is a social industry and people forget that racing is really about bringing people together. The Launceston Cup carnival might not have been as good as it has been in the past but it gets people together and it is a day out. Greyhound racing is a very social industry. We just had the greyhound dinner at Mowbray in February and there were 190 people there. Getting 190 people to anything of a night socially is very difficult, as we all know. You have been involved in football, it has dropped off a bit to what it used to be. I have been involved in football with North Launceston and Beauty Point. It is not quite what it could be today but racing is very social. All three clubs have their social side of living in hand and care about it.

Mr WALKER - I have been involved since 1971, trying to train and breed dogs. In the late 1970s I became chairman of the Greyhound Owners, Trainers and Breeders Association. Back in those days it had a bit of punch; we conducted things for the Hobart Thousand. There was always a bit of feeling between the owners and trainers and the HGRC because if they blackballed you you couldn't become a member. They had a bit of power then. I left the Hobart area and went to Dover so I wasn't so involved with administration but I became involved in the late 1990s by becoming the Deputy Chairman of the Racing Council for three years. I came back on as chairman for three years and, at that time, I represented Tasmania on the Greyhounds Australasia which meant meeting every three months, overseas, in New Zealand or each of the other States and from time to time. I stepped down from that job and let Paul have a crack at it, and I have been the deputy chairman since that time.

I, like Paul, became involved with greyhound racing because, while I was always a bit of a punter, it was too costly for me to be involved in horses, and I thought I had given up football, which I didn't, but I needed the exercise for another 10 or 12 years. I have always taken the position of an underdog and I think that fits our situation very well because we have been the underdog in the three codes for quite a while.

One thing that Paul probably did not stress as much as he could have is the fact that we do not trust the administration. One of the reasons we do not trust them is the fact that back in 1999 Paul Lennon came to us and said, 'Look, get rid of your so-and-sos running this show and we will put some extra dollars in your pocket'. What was done was we dropped from 19.7 per cent to 16.9 per cent out of the total allocation. It went on from there.

Mr GREEN - When was that?

Mr HARRISS - In 1999.

Mr WALKER - We have been battling from that every since. When the Betfair money came around, we went from 16.9 per cent to 9 per cent for a time. When the big trots episode was on, we were dudded again. We were able to prove our
case, I thought, and they said, 'Oh well, yes, we can bridge you up to 19.7 per cent but it has to be new money. We can’t take it off the other codes'. We have been told lies along the way.

Tony Murray said today that they had two meetings - we had three meetings. It was supposed to be consultation. The first two might have been. We had agreed to meet on a Friday, what happens? They want to put us on on a Thursday night when they know jolly well that people couldn't attend because they have their dogs to race on a Thursday night so two of us went to Campbell Town. Therese Kingston, who was my co-speaker at the time, asked Mr Murray, 'Why are we meeting on a Thursday night? We'd been promised a Friday when everyone could come'. His reply was, 'Well, I'm sorry, Therese, but most of them couldn't come on Friday', so he put it on Thursday night. She had the audacity to get up and ask, 'Who at this meeting can't attend tomorrow?'. There was one fellow out of the whole meeting.

We have been dudged all the way through and so it is easy for us to understand why we think that we are getting shunted again. We do not believe Michael Aird for one minute. We were told on 15 December there would be no sale - this is members of TOTE, of course - and we find three weeks later, 'Oh, she's up for sale, fellas'. We cannot believe him for a minute.

I am happy to answer any questions.

CHAIR - Thanks. We might move on to Denise, if you want to have a few words and then we will ask questions.

Ms FYSH - I have only been in the administration of the club for about six years, but I would like to go back to the question that Mr Booth asked of whether we would have had the same thoughts to splitting racing and wagering had we known in the beginning, that TOTE was for sale. I know from my perspective we would not have supported it until a great deal of discussion was had on the sale of TOTE.

I believe that the industry was deceived by the Government during those workshops inasmuch as it seems obvious now that TOTE was going to be sold at the time of those workshops because the only way you could achieve the sale of TOTE was to separate wagering and racing. I believe that we were deceived that it was better for the industry should that be divided when in fact it was done so TOTE could be sold. Otherwise the announcement would not have been seven days after the new board started.

So I agree, and I think that the industry as a whole agrees that we have been deceived by this Government, that we have no trust in this Government and any guarantees that the Government at this point is going to say they will give, we have no trust in.

I think that there are a lot of areas that need to be brought forward. It cannot done because nothing has been discussed with the industry re the sale of TOTE. We have to look at our breeding, we have to look at our training facilities, we have to make sure that in the long term these things are going to be addressed; that enough money is there to make sure that the facilities can grow so that the industry across the three codes can grow. But until there is some discussion with the industry I do not think that the Government would ever get any support for the sale of TOTE Tasmania.
Mrs RATTRAY-WAGNER - I am aware that there is an agreement that when the Bettfair fund exceeds $5 million that the greyhound arm of racing will actually get up to that 19.7 per cent. Can you tell me what sort of agreement, is it a written agreement?

Mr BULLOCK - There is not an agreement in writing. We discussed it with the acting CEO of the new racing board, Mr Lottering, at the time, and Van Ransley who does not work there anymore. We discussed it with them and they said we will consider the 19.6 per cent. A lot of things that are done in racing are not exactly written all the time.

I am probably at fault but I have always taken peoples word on a handshake. Obviously it does not work a lot of the time. And after one person who is in this room was on ABC Radio at 10.45 a.m. I do not believe him either. Because he treated today as a joke. A great laughing point for Mr Best on radio. The sale of TOTE at 10.45 this morning.

Mrs RATTRAY-WAGNER - So there is not an actual written agreement?

Mr WALKER - There was an understanding given, Tania, that that would take place and as I said earlier it was to be on any new money not the allocation that would have gone back. So if TOTE makes a heap of money we were promised 19.7 per cent of the surplus of what they would have considered normal and anything from Bettfair as well.

Mrs RATTRAY-WAGNER - But not what you would consider a formal agreement as well.

Mr GUTWEIN - In regard to any consultation since 7 January with your industry by the Government has any occurred?

Mr BULLOCK - None whatsoever.

Mr GUTWEIN - Has anybody spoken to you at all about any consultation coming forth?

Mr BULLOCK - Not from the Government's point of view. The three codes met in Launceston three weeks ago today and Chester Bullock and Joel Wallace from the pacing, Pam Cassidy and myself from greyhound racing and Mrs Wishaw from Armidale Stud had a meeting on the Friday. We had a follow-up meeting with five of the MLCs who live in the northern part of the State last Friday re the sale. And if you want their names I am quite happy to provide those. There was Don Wing -

CHAIR - We are aware of those.

Mr BULLOCK - We have had a couple of meetings. I was very impressed with Mrs Wishaw's soapbox in the Examiner. For those people who have not read it, there is a copy available here if you require it. That is it in a nutshell. The whole industry, it is not just greyhound racing, the whole racing industry is absolutely disgusted with the contempt that the Minister for Racing has shown towards the industry.
Mr GUTWEIN - May I ask you a question? You have said that you do not trust the minister -

Mr BULLOCK - I do not trust the minister, Peter, because not only has he lied and said TOTE will not be sold, but the people who are out there -

CHAIR - Order. Have to be careful about casting aspersions there in that regard.

Mr BULLOCK - I believe that the minister has lied. That is me. Sorry, I say it as I see it and I believe that the people who were working for him, the Director of Racing and the CEO of TOTE who done the workshops et cetera, if they knew TOTE was going to be sold, they lied. If they did not know, they were led astray by the minister.

Mr BEST - For fear of leading with the chin.

Mr BULLOCK - No, I am not.

Mr BEST - No, me, not you. I am interested and there is no double edge here. With your code, how often do you meet, just together, do not worry about the political aspect of it, just as a group to discuss issues?

Mr BULLOCK - We meet every month as a council right up until the end of December. Since then, as far a statewide thing goes, no, we have not. Gary Sutton from Devonport and Pam Cassidy from Launceston were in Launceston with the MLCs. Denise, unfortunately, was not there and Denise's partner trains greyhounds and it is not easy to get everywhere you want to be at certain meetings. I reckon she has done it pretty hard to get here this morning.

Mr BEST - No, that is fine. I am interested, though, because we have heard quite a bit about the views of interest versus business and the social aspect you spoke quite in depth about. As a code you must have some policies about some of these issues that you have written down?

Ms FYSH - What issues?

Mr BEST - Issues about how you see, moving forward, how you see yourselves in terms of business and how you see the social aspect?

Mr BULLOCK - One of the things that happens, and Max and Denise are in the same position as I am, I go to two greyhound meeting a week most of the time. Over a period of nine years I think I know almost everybody in the industry by their first name and they all know me. If they have a concern they have usually come to me when I was deputy chairman of the council and expressed their opinion and I have taken it back to a meeting where it has been discussed with the council and the clubs. We have had club and council meeting in Campbell Town et cetera to get the feel of the industry. That is personal consultation. That is the best we can do and I think that is the way it should be done in this instance and it has not been done.

Mr BEST - Finally, what is the collective view that you take?

Mr BULLOCK - The collective view of greyhound racing is not to sell TOTE.

Mr BEST - Okay.
Mr BULLOCK - The other issue is, had we had some consultation and a business plan we may not think that way but we have had nothing.

Mr GREEN - It flows on pretty well from what was just said really because what we are talking about today is the potential sale of TOTE and knowing that sale of TOTE has to go through both Houses of Parliament. So, consultation with respect to business plans and all of the other things associated with that will have to satisfy members of Parliament prior to it being sold.

The issue that I want to put to you is whether or not, given that it is likely that a position to ensure that the industry is looked after financially into the future, would be legislated and if it was, would the code then be satisfied that the industry therefore would be looked after on into the future and could look to build on the existing infrastructure et cetera that you have?

Mr BULLOCK - My answer is that irrespective of what happens we are prepared to look at anything but, for God's sake, please present something. Talking to accountants is probably the right thing to do in a business to sell it if it is worth money. Knowing the fickle industry of racing and the present Government we have, of which you are a member, we do not know.

Mr GREEN - It is fair enough for you to suggest that, and you have every right to do so, but I would say that from the Government's point of view we are taking industry very seriously and have always tried to ensure that the industry moves forward. If the sale of TOTE ensures that the industry has the opportunity to move forward, would the code be satisfied with that and focus on the issues associated with racing, et cetera, and doing all the other things that you enjoy doing?

Mr BULLOCK - I could not exactly answer for the industry.

Ms FYSH - It would also depend on how that was structured and where we sat within it, and what was available within that for future development of the racing industry. I would like to ask, was that decision to sell TOTE a knee-jerk decision that happened overnight because I just find it incredible that a government could do that? Is it good business practice to make a knee-jerk reaction overnight to sell TOTE Tasmania?

Mr GREEN - You are not asking me that question because I am not in a position to answer the question. What I am trying to put back to you is that if all of the things that you are concerned about with respect to the longevity of your particular code were satisfied as part of this process overall, would your code move on and concentrate on all of the things that you are good at, concentrating on running the greyhound meetings and so on?

Ms FYSH - I do not think we are going to have an option there. The alternative is what - that you will not sell TOTE?

Mr GREEN - We may not and we may not get the price, who knows?

Mr WALKER - What is the price?

Mr GREEN - I don't know.
Ms FYSH - Exactly. We do not seem to know a great deal except that the Government wants to sell it.

Mr WILKINSON - Am I right in saying that the real concern I can see over the last half hour is the lack of communication and that things were said which turned out to be not correct, that is that the Government was not selling then suddenly it was? I suppose it is a bit like being put on a plane and not knowing where you are going to. If you knew where you are going to you might say, 'Yes, I like that place, that's where I want to be', or, alternatively, 'No, I don't. We're going to get into trouble if we finish up landing there'.

Ms FYSH - But if you knew where you were going you may never have boarded the plane to begin with.

Mr WILKINSON - Yes, that is what I am saying.

Mr BEST - Sorry to interrupt, my question was really about the plane that you want to get on.

Mr BULLOCK - It would be absolutely lovely, Brenton, to have a look and say, 'Yes, we do' or 'No, we don't'. Seriously, most organisations that I have been wrapped up in do that first and then ask you for an answer, not say, 'We're going to do it' and then we have to argue about it.

Mr BEST - I take that point and I have that message loud and clear. What I am interested in is how you, as an organisation, see yourself moving forward. I hear what you have said, you do not want the sale of TOTE, but I am keen to know what strategies you see that will enhance, say, the interests, business end and the social end for yourselves. That is what I am keen to know about.

Mr BULLOCK - This is a difficult one. I think Craig Coleman, since he has been the CEO of TOTE, has done an outstanding job by getting the Betfair deal on-line with turnover, et cetera. I do not have a problem there. They are not bad people and I am not against them personally, but the whole issue is - and this is the bottom line all the time for me but it may not be for the other two people who are here because we have not been coerced to give you the one answer - there has been no consultation, there is no business plan, no-one wants to talk about it. It does not matter which politician you ring at home, 'Look, there's going to be a hearing in Hobart'. What is the problem? Let us talk about it because we will never get it fixed if we do not talk about it. What Jim says about communication is correct.

Mr BOOTH - What I am interested in is you have clearly said that you are opposed to the sale, is that because you think the culture of your industry will collapse, basically be ruined, if it proceeds!? Is that the risk that in fact you will lose your industry as a result of the sale?

Ms FYSH - It is definitely a risk but until we see something on paper we do not know how big that risk is or where on the ladder the greyhound industry is going to sit. How far under the other two codes are we going to sit? South Australia is a glaring example of how to get it wrong. They have fought for 10 years to get back on their feet.

Mr BOOTH - Are there other intangible benefits that flow as a result of government ownership of TOTE at the moment that are not included in the stakes and
bonuses and so forth, so whatever you provided to the industry that would be part of that like access to the training facilities, say, or facilities generally that might be taken away by a private operator or a charge imposed?

Ms FYSH - We are still trying to get our head around the new structure. We are very early into the new structure and trying to get our head around who now has responsibility for this trial track or that race track or where to go for particular funding. We are still trying to get our heads around this. On top of that, there is this. It is difficult to bring the two together.

Mr BULLOCK - There are a lot of issues in our industry that need attention. I believe, and according to some administrators, there is a problem with the Brighton training track that part of it is going to be taken away for soccer. I do not think there is a lease to the place. I know that the Launceston Greyhound Racing Club still has not signed heads of agreement for Mowbray and they have been there since 2004, that is five years ago.

Ms FYSH - Hobart has not either.

Mr BULLOCK - These are all little administration issues that no-one seems to get to because they do not want to discuss it.

Ms FYSH - And no-one knows whose job it is.

Mr BOOTH - Is it a lot more than just the stakes?

Mr BULLOCK - Yes, a lot more.

Ms FYSH - It goes a lot deeper.

Mr BULLOCK - The stakes are part of it and that is thing that concerns us with the sale of TOTE, but there is maintenance and track maintenance.

Mr GREEN - What about Sky Channel?

Mr BULLOCK - It is a huge problem, Bryan, because at the moment I think TOTE and Sky Channel have signed an agreement up to the end of June. There is some doubt about Hobart staying on Thursday nights because it has become first track of the pay packet when everything can come in for nothing. It is where Sky Channel and the two major players, Victoria and New South Wales, once again, can get a product in that is not costing them anything, race field legislation and fees for buying their product. Tas TOTE will have to buy from New South Wales and Victoria what they are going to bet on. It is a whole changing world. Mind you, some of this was created by Greyhound Racing Authority of New South Wales originally -

Mr GREEN - Does it have an impact on potential dividends?

Mr BULLOCK - Yes, it does.

Mr GREEN - Changes on Sky can impact on your dividends overnight.

Mr BULLOCK - That's right.
Ms FYSCH - Even down to how much time they allot you. If they do not give you a couple of minutes running into your race your turnover can be down $10 000 or $20 000 and you are talking a minute.

Mr BULLOCK - The other issue is that you are getting to is that if Hobart was taken off Thursday night and put on Tuesday morning there is going to be a huge downturn -

Mr GREEN - There is.

Mr BULLOCK - in TAB turnover. I understand that fully. I have discussed it with Sky Channel, I have discussed it with TOTE Tasmania.

Mr GREEN - Does Sky make those decisions or is it part of the -

Mr BULLOCK - I think Sky are dictating to the industry everywhere in Australia.

Mr GREEN - Yes.

Mr BULLOCK - The other issue with that is it is only New South Wales by Tabcorp. They always show the New South Wales races irrespective thereof and the rest are fill-ins. It is interesting to note that Victoria and New South Wales have the same number of programs on each occasion, the other States are just -

Mr BEST - I am interested in that you know a lot more about greyhound racing -

Mr BULLOCK - No, I do not.

Mr BEST - Where would be the top three or four places in the world for greyhound racing? Are we one of them?

Mr BULLOCK - Australia is one of them.

Mr BEST - How would you rate it if, as you said, Australia is one?

Mr BULLOCK - There is no doubt.

Mr BEST - What are the others?

Mr BULLOCK - Ireland, United Kingdom, America, Macau, Vietnam, Sweden and New Zealand. I went to New Zealand about 12 months ago and could not believe how far in front of us they are with stake money. The minimum stake in New Zealand is $2 900 and they are there by default with their screening of a Sunday afternoon. No-one wanted to race Sunday afternoons so they did and their TAB turnover went up something like 78 per cent. Just as now everybody wants to get on Thursday nights and Sundays in Australia with Sky Channel, the little people are getting forced out of the game.

The other thing is, since the mines have folded in Western Australia, TAB turnover has gone down something like 43 per cent in the last two months and people in Western Australia were buying greyhounds from the eastern States, to race over there, that were miners and those miners have either lost their job or they have come back to the eastern States and some of those dogs have gone by the wayside.
Mr BEST - So out of that, just a quick answer. Where would be the most turnover or the most betting out of those places that you have named?

Mr BULLOCK - I think, population wise, probably the United Kingdom.

CHAIR - Thank you very much for presenting. You have done that with passion and I think we have heard it loud and clear. I must just remind you again, though, that what you have said in here is protected by parliamentary privilege. However, it is a different matter outside that door. Thank you very much to the three of you and we will keep going with our hearings.

Mr BULLOCK - Once again, Mr Chairman, thank you for hearing us today because I would not have been available next week.

THE WITNESSES WITHDREW.
Mr **COLIN HOWLETT** WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Hall) - Colin, you are aware of our terms of reference. I think you may have given evidence to a parliamentary committee before, and you heard what I read out in regard to parliamentary privilege. Are you okay with that?

Mr **HOWLETT** - I understand, Mr Chairman.

CHAIR - Okay. I will ask you to make a presentation.

Mr **HOWLETT** - Mr Chairman, unlike my former colleagues, I will read most of my notes. Unfortunately I do not have enough money to own a greyhound, a harness racer or a galloper. So that is my position.

Mr **GREEN** - I fly pigeons.

Mr **HOWLETT** - I am thinking about flying pigeons, Bryan. If you tolerate me reading this, it is in two parts.

CHAIR - That is fine.

Mr **HOWLETT** - I have written a letter to the Minister for Racing which I would certainly like to share with you.

Objection to the sale of TOTE Tasmania. The three racing codes in Tasmania provide significant employment to a broad range of individuals involved in small businesses, including tourism, in this State. Historically, the three codes of racing provide socioeconomic benefits to rural communities who are unable to provide the diverse job opportunities in more populated areas.

We wish to submit that private enterprise's first obligation is to its shareholders and not to the individual owners providing the product. Many examples exist where governments have forced transfers of ownership of publicly-owned enterprises and pledged its intervention would provide improved economic and customer service.

In many instances when governments decide to sell a public profitable enterprise it has a pecuniary interest to prop up a poorly managed budget. We wish to submit that in the case of the proposed sale of TOTE Tasmania the Government must be accountable to the industry shareholders and in any sale contract must make provision for realistic, long-term finance (indexed) for the infrastructure, breeding and prize money.

Mr **GREEN** - Excuse me Colin, when you say 'we' who are you talking about? Are you talking about the general public?

Mr **HOWLETT** - I am talking about many people in the greyhound industry and I am talking about -

Mr **GREEN** - But you say 'we must' as if you are representing a committee or somebody else. Are you on your own?
Mr HOWLETT - I am representing life members of the greyhound industry; I am representing many people who are unable to come along and attend the meeting today.

Mr GREEN - You are saying that we must be satisfied -

Mr HOWLETT - Do you want to discredit my attendance?

Mr GREEN - Not at all. I am asking the question whether you are representing yourself or representing another group because it sounded as though you were talking about a committee or somebody else who -

Mr HOWLETT - I am talking about the racing code and if you let me go through the entire process, you will probably learn more of where I am coming from.

Mr GREEN - Fair enough, Colin, go right ahead. I was only trying to help.

Mr HOWLETT - There is a little heading 'Sustainability for the greyhound industry'. Historically the greyhound industry has been treated as the poor relation by governments over many years. And I have heard that repeated and inferred many, many times this morning.

The TCA on the Hobart Domain accommodated greyhound racing and training activities for a long period of time until the racing authority/Government needed additional reasons to spend significant funds to upgrade the harness racing track at the Royal Showgrounds at Glenorchy.

The racing authority was keen to secure funds for the harness racing and training facility at the Royal Showgrounds, however, they needed additional justification to obtain government funds. Eventually all greyhound activities accommodated at the TCA ground were transferred to the Royal Showgrounds.

No say, similar to what is proposed at the moment. The transfer of greyhound racing to the Royal Showgrounds presented many challenges linked to infrastructure and many difficulties relating to the shared facilities.

People who are in the operational side of greyhound racing would be able to share those challenges with you with lures breaking down, boxes not working properly, track disintegrating to the point where race meetings had to be postponed and all those sort of challenges. And that is the intent and the spirit of what I am saying about challenges.

Subsequent to the greyhound racing and training being transferred to the Royal Showgrounds the southern Tasmanian component of the greyhound industry incrementally lost its independence and became more reliant on outside influence.

That statement is purely focused towards the Government. The greyhound code had more sustainability at the old TCA grounds because they had an independent lease arrangement with the principle of the TCA and in many respects people would argue that they had more future there had they not been manipulated and taken away from their principle home.

For numerous reasons some greyhound participants preferred to use privately-owned training facilities. However, over time the privately owned facilities in
southern Tasmania disappeared. Thirty years ago there would have been 10 to 12 privately-owned training facilities for greyhounds, some of which were registered with the national body. My family had the first semi-circular track at Richmond registered during Mr Morgan's administration at the TCA ground. You had to go through a process there to go the tracks registered but that was one particular track. Many others were registered under the national greyhound regime.

Greyhound Owners, Trainers and Breeders Association was active in asking the Government to provide funding to commission and operate a much needed straight and circle greyhound training facility. Again, we were unsuccessful in obtaining funding. However, the GOTBA was mindful that the racing authority was starving the industry of infrastructure facilities and without alternative training facilities the greyhound industry would not be sustainable.

The following events have been documented and are in a separate briefing covering the GOTBA and the Howlett family providing funding for developing two training tracks on crown land at Brighton. The events over the past 23 years regarding the intent and spirit of the industry, which was intended to be a 99-year lease occupancy for the greyhound code, of approximately - and there is debate about whether it is 11 hectares or 12 hectares, but it is in that area of ground - 11 or 12 hectares of ground at Brighton which adjoins the horse training facility at Brighton. It is on the south-eastern end of the trialling facilities for harness racing and gallopers. Our understanding is that it is still under the one title. Historically the greyhound industry has not had the influence of other codes and in many respect has been handicapped from the provision of sustainable infrastructure. The racing authority, to the best of our knowledge, has not put money into training facilities other than on the proper principal racecourse venue.

Sometimes under difficult circumstances our participants have struggled to remain in the industry, which makes a significant contribution to the Tasmanian economy. Following large sums of money being spent on the horse training complex at Brighton, TOTE Tasmania is currently mowing grass on the straight greyhound track at Brighton. To the best of the greyhound code industry that is about the only dedicated money off the racing track proper that has been provided.

Employment and downstream benefits - racing authorities must recognise that the three codes of the racing industry provide significant employment throughout rural Tasmania.

Financial support for the other industries - historically governments have provided financial support for industry employment, however there is little evidence of the three industry codes receiving recognition in the same way. In fact, it is extremely difficult to access individual greyhound industry infrastructure programs which would support sustainability.

Essential tools required for a sustainable future for the greyhound industry - to provide sustainability the Government must enter into a legal contract providing a 20-year blueprint plan acknowledging that greyhound racing is an industry and future allocation of funds to be indexed to CPI for the provision of infrastructure, stake money, which must be fair and equitable and be performance-based.

The reason we say that is that is the greyhound, as I understand at this very moment, from a betting point of view, is producing a very significant amount of
betting revenue to TOTE Tasmania. In fact, it is getting very close to the galloping code.

The greyhound code must be provided with a fair percentage of revenue produced from betting turnover which must be divided into infrastructure, development and stake money. The allocation of funds must be tied, indexed and distributed to an independent group delegated by the code to represent the entire participants.

The Joint Standing Committee on Environment, Resources and Development are requested to reject the sale of TOTE Tasmania, based on not being in the best interest of the industry and the Tasmanian economy.

I certainly would like to be questioned on some of these things but, in the end, I thank the committee for providing me with the time to produce this.

CHAIR - Thank you, Colin.

Mr HOWLETT - I have a letter here that went to the minister.

CHAIR - Do you want to table that?

Mr HOWLETT - Do you want me to table it rather than read it?

CHAIR - Yes, you can table that, if you wouldn't mind.

Mr HOWLETT - This deals entirely with the Brighton fiasco with land. Mr Chair, there are two or three additional copies here if any individual member would like one.

CHAIR - Thank you.

Mr GUTWEIN - Colin, I am sorry I missed the first couple of minutes of your presentation. You mentioned that the greyhound code needs a 20-year blueprint and that under that there would be provision made for infrastructure spending for stake money etcetera. You said that it needed to be performance-based; I am wondering what you meant by that and how that fits in.

Mr HOWLETT - The reason we say that is simply that governments will say that they cannot guarantee revenue from government to government. In our view, it would be quite simple if it was performance-based, providing the Government is not permitted to run down an industry and that is the way it appears at the moment. As I said, and I am repeating myself, the greyhound code has no influence, politically or otherwise, or it doesn't appear to have had any influence over the years that I have been involved.

I was a long-life member of the Greyhound Owners, Trainers and Breeders Association and some 23 years ago I had seven or eight years involved with the association. That is how my family and I became involved with Brighton because we knew it was absolutely essential. If it is performance-based, and the Government is not allowed to run down the code, which it appears it is doing at this very moment, providing that is treated fairly from a performance-based point of view, I think we are talking about revenue earned from betting. At the moment the greyhound industry is producing very close to the amount of money that the gallopers are producing, well in excess of the harness racing. I think it could be very close to a photo finish between the amounts of money that the galloping
code and the greyhound code are producing in revenue. The argument would be that if they do not perform and they are treated fairly - and that will have to change because they have never been treated fairly - they would be quite happy to have it performance-based on betting turnover.

Mr GUTWEIN - That is fair enough.

Mr HARRISS - I want to go from the back of that. I want to know, Colin, do you have the statistical data to support that statement that you are getting close to the contribution that the gallopers make?

Mr HOWLETT - I do not have it here but I am sure I can access it for the committee.

CHAIR - If you could do that, thank you. You can provide that to the secretary when you can.

Mr BOOTH - Colin, thank you for your statement so far. What do you see as the threats if TOTE were privatised? Where do you see the greyhound industry being in the future?

Mr HOWLETT - Without being facetious, at the moment we getting our grass mowed on the straight track, which was provided by private money, and the Government absolutely did not, to my knowledge, put one cent into that. So the pluses are, at the moment, that TOTE Tasmania has been good enough to have the grass mowed on the straight trialing track at Brighton. That is a plus. We have made the evaluation that there is a better risk that TOTE Tasmania will treat the industry fairer; if we can prove to the politicians that we are not being treated fairly, we think there is a better proposition with the TOTE.

 Needless to say, at the moment, at the Brighton Council the Government seems to be running a coordinated effort to incrementally squeeze the greyhounds out of the Brighton trialing facility. It is questionable whether, in fact, what the Brighton Council is doing is fair and reasonable from a planning perspective because, as I understand, that entire 11-12 hectares that we speak about is annexed as one title to the Brighton training complex. When the straight track went in there and the circle track was put in there, we were told that we did not have a planning problem because that section of ground, that 12 hectares, was already zoned for training purposes.

CHAIR - Colin, I think we need to move back to the core issue that we are here for today and it is about the sale of TOTE. I understand that is an issue that you have.

Mr HOWLETT - With the greatest respect, Chair, it is linked very closely to the sale of TOTE. If you rule differently I will have to accept that but I would think you are being a bit hard on me if you say it is not linked.

Mr BOOTH - Chair, for confirmation, it was following from a line of questioning about the effect of the sale. What Colin is detailing is a general support in the industry, off-track and on-track. I think it is relevant in terms of what I asked him.

Mr HOWLETT - The facility up there is extremely important for the future sustainability of the industry, for training, for people who want to use the facility to get the best performance out of their product for race nights. A lot of people do not like training their product on the track on which they race. I do not
understand the technicalities but they will tell you and I can provide that information if you so desire. It is absolutely imperative that the racing code does not lose that 12 hectares of land that was originally intended. We were duded. I have heard comments here earlier where I believe the industry was duded, because when we went in there the intent and spirit was that we had a 99-year lease on that 11 or 12 hectares of land, which was growing white wattles at the time.

CHAIR - Okay, I understand the nexus.

Mr BOOTH - Do you think the total aggregated industry as whole would be able to come up with a blueprint for the future in terms of your funding needs, support, and infrastructure to maintain your present culture?

Mr HOWLETT - I am absolutely certain they could come up with a business plan. The answer to that is, yes, we can. But on past performance, I would not like our chances.

Mr BOOTH - So there is a lack of trust in what the Government -

Mr HOWLETT - There is a local trust. As I say, it is unfortunate but the greyhound racing code has never had the interest, really. Geoff Pearsall was the only elected member that I can remember who took an interest in greyhound racing. It was about the time he was minister that this took place at Brighton - 23 or 24 years ago.

Mr BOOTH - In terms of a privatisation and sale of TOTE, the areas that you would lose out on would be generally the off-track support that you are currently getting, off the racing track support?

Mr HOWLETT - Private enterprise is generally interested in bottom lines and unless there is a very robust legal contract, there is no way. You only have to cast your mind back to other public enterprises that have been sold. It is always said it has been for the benefit of the customer but it generally does not turn out that way. There is the lack of trust. There is the lack of previous support. There is the lack of private money being spent to provide these facilities that are now being eroded.

CHAIR - Thank you. Are there any further questions to Colin? Do you have a closing statement, Colin?

Mr HOWLETT - I thank the committee for hearing me. I plead with members of the Legislative Council not to pass this bill to sell TOTE Tasmania unless there are long-term legal and binding contractual arrangements to protect us. In my view, the galloping code will be okay. They have the right doors to open and they will be okay. I am very concerned about, to a lesser degree, the harness racing and the greyhounds, and the greyhounds are the ones that always miss out.

Mr BEST - A long-term contract for funding for the codes; is that what you are saying?

Mr GUTWEIN - That is a blueprint you are talking about, is it?
Mr HOWLETT - I am talking about a proper strategic plan with objectives to keep the industries, with particular reference to the greyhounds, vibrant and robust and producing revenue for the State of Tasmania.

Mr BOOTH - You feel that the obligation of Government, before they consider a sale, is to make sure they consult with you, get that blueprint, look at it and factor in whatever arrangements are made?

Mr HOWLETT - Absolutely.

CHAIR - Thank you.

THE WITNESS WITHDREW.
Mr DON CHALLEN, DEPARTMENT OF TREASURY AND FINANCE, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Hall) - Welcome, Mr Challen. Don, you are well aware of our terms of reference and that is the proposed sale of TOTE by the Government of Tasmania and any other matters incidental thereto. I will hand over to you if you would like to make a statement and then you can take some questions from the committee.

Mr CHALLEN - I thought it might help if I made a brief statement outlining the structure and process that the Government has in mind in relation to the restructuring of the industry around TOTE and the sale. Members of this committee would be aware that some legislation has already been before the Parliament last year, and is now in place, that had the effect of separating the funding of the racing industry from the gaming operations of TOTE. That legislation established the Tasmanian Racing Board, which is now in place. It has left the TOTE as a business that is entirely focused on its gaming activities. Apart from that, the status quo hasn't changed and in particular the nexus that exists in the existing legislation between the income of the TOTE business and the funding of the racing industry has not changed.

The Government has in mind to bring two further pieces of legislation before the Parliament. One will be a set of amendments to the Gaming Control Act and the other will be a piece of legislation authorising the sale of the TOTE business. The amendments to the Gaming Control Act will break the funding nexus between the income of the TOTE and the racing industry. That will be replaced by a direct funding arrangement under which it is proposed there would be a funding deed, a legally-binding agreement between the Crown and the Tasmanian Racing Board. That will become the basis for the funding of the racing industry in the future. In addition, these amendments to the Gaming Control Act will provide for the licensing of the totalisator activity that is undertaken by the TOTE at present and bring the TOTE within a regulatory framework that is identical to the framework that other operators in the gaming industry are currently subject to. The mechanism we have in mind to do that would be the creation of a new totalisator endorsement under a Tasmanian gaming licence. If you are familiar with the Gaming Control Act, it creates a number of endorsements under Tasmanian gaming licences. There will be a new one for a totalisator licence and the TOTE will initially be deemed to hold one of those. Obviously there will be the usual structures of taxes and fees that go with the endorsements under the act but beyond that the entire suite of regulatory infrastructure that applies to all other gaming activities will then apply to the TOTE, or ultimately after the sale to a private operator of the TOTE. So we are moving from a regulatory framework in which the TOTE has been subject only to self-regulation to bring them under exactly the same regulatory model that applies to all other operators.

The legislation for the sale of the TOTE will be pretty familiar to you; it will just have the standard requirements that are necessary for us to get a business sold. And once we have the suite of legislation in place the plan is then to go through a very conventional sale process for the sale of the TOTE, pretty much along the lines of the one that we used for the sale of Hobart International Airport Proprietary Limited in the course of last year.
We have engaged some advisors to help us with this process. We have a financial advisor who initially we engaged to help us with some of the industry aspects of the restructuring. Their contract also provides for them to advise us in relation to the sale. We have engaged legal advisors and we have also engaged a probity adviser.

With that Mr Chairman, I am happy to hand over to the committee for any questions you would like to ask.

CHAIR - Don, I might ask the first question of you. Can you give any indication of when any of those particular pieces of legislation might come before the Parliament?

Mr CHALLEN - It is probably a matter best addressed to the Treasurer whom I understand will be with you later this afternoon.

CHAIR - Okay. When did Treasury start analysing this proposed sale? Can you recall that?

Mr CHALLEN - Yes. We first began work on options in relation to the restructuring and the sale on 7 May in 2008.

CHAIR - Okay. And a business case for the sale, has that been prepared?

Mr CHALLEN - A business case for the sale, no.

Mr WILKINSON - Don, if I might. You have said that Treasury began work on the restructuring and sale -

Mr CHALLEN - Options for.

Mr WILKINSON - Options for, yes, in May. Is that the same with all GBEs?

Mr CHALLEN - I do not understand the question.

Mr WILKINSON - What I am asking is do you always look at options in relation to all GBEs as to whether they should or should not be sold?

Mr CHALLEN - Always is probably putting it a little strong. Let us say that we have the government's business portfolio under regular review and there are various trigger points at times that occur like changes of government and changes of minister where we might have a fresh look at the government's business portfolio. But Treasury has been providing advice to Treasurers probably for more than a decade that we felt that the TOTE business was not one that any longer sat very well inside a government business portfolio. Our reviews of the government business portfolio would have had it in a category that had it available for sale if a government was of a mind to do that.

In this particular case we had a discussion with the Treasurer around 7 May which led to me internally commissioning some work that has ultimately grown in advice to government that has led to a decision that the Treasurer announced on 8 January 2009, as I recall. Which has ultimately led to these announcements.
Mr WILKINSON - At the start of December 2008, how far were you down the track of giving that final advice to the Treasurer to allow him to make a decision with obviously the rest of government to sell?

Mr CHALLEN - We were well advanced. We had provided a series of discussion papers to the Treasurer on what needed to be done to restructure the business and ultimately sell it; about how you would go about a sale if the government was of a mind to do that. We had provided advice to the Treasurer that if he so chose he could take to Cabinet to seek approval for the sale.

I emphasise that at that stage no decisions had been made.

Mr WILKINSON - Do you know when that went to Cabinet?

Mr CHALLEN - Yes, I do. The Treasurer approved the cabinet minute for transmission to Cabinet on 19 December. I am not authorised, Mr Chairman, to reveal the next piece of information but I have specific approval in this case. Cabinet approved the sale of the TOTE on 22 December, which is my birthday, Mr Chairman - very auspicious.

Mr WILKINSON - That is right, I will remember that. That has thrown me off what I was going to ask as a matter of fact. I will defer.

Mr GUTWEIN - So that we are clear, Mr Challen, prior to early December - in fact I know it was 4 December - in an upper House committee Mr Aird said that there was no intention to sell TOTE at that stage. In the lower House a couple of weeks earlier, on 20 November, Mr Cox spoke, on behalf of the Treasurer and Minister for Racing, and he said numerous times that TOTE is not for sale. Had the advice received by the Treasurer or by government prior to 20 November on the recommendation to sell TOTE, been received?

Mr CHALLEN - No.

Mr GUTWEIN - On what date was that received by government?

Mr CHALLEN - It would have been in a minute we provided to the Treasurer on 19 November.

Mr GUTWEIN - My question was, was the advice received before 20 November?

Mr CHALLEN - The day before, yes.

Mr GUTWEIN - So it was?

Mr CHALLEN - I do not know when it was received. It was signed by me and left the Treasury on 19 November. Often, these things take at least 24 hours to get to the Treasurer's office.

Mr WILKINSON - Don, the question I was going to ask concerned the restructuring and the selling. Did the TOTE have to be restructured or the racing legislation that we had before us towards the end of last year in relation to restructuring, did that have to take place for the sale?

Mr CHALLEN - Yes. The restructuring could take place without the sale, but you could not have sold that business in the form it was prior to that restructuring.
Mr WILKINSON - Was the restructuring partially done in order to allow it to be placed for sale?

Mr CHALLEN - The restructuring was done because it was a good thing to do. It was in the TOTE's interest and in the interests of the racing industry. One of the things the restructuring has done is to much improve the focus of the TOTE as a business and I think it has positioned us to put the funding of the racing industry on a much better and more secure, more certain footing going forward. All those things were a good idea, but you could not have sold the TOTE business without doing the restructuring. Decisions were made that government would proceed with the restructuring and bring the legislation that came to Parliament late last year forward a long time before any decisions were made in relation to the sale.

Mr WILKINSON - What I am wondering is, was the sale always part of the reasoning behind the restructure? I understand the argument that was used -

Mr CHALLEN - It depends in whose mind. In my mind, yes, because I was advising the Government to proceed with the sale all along. In the Government's mind you will have to ask the Treasurer because the Government considered the issues in sequence. It considered the advisability of proceeding with the restructuring and did not give the sale any particular attention. Then late last year, as you know, it turned to consideration of whether they would proceed with the sale. On 22 December Cabinet made a decision that they would and the Treasurer announced that publicly on 8 January.

Mrs RATTRAY-WAGNER - Mr Challen, can I take you back to February 2003 - and I know that is quite a way back. There is a document called 'Government Business Divestment' which states in a table that TOTE would be an unlikely candidate for a sale. Can you tell me what happened between 2003 until when you arrived at the decision that TOTE was a good thing to sell? I need to understand how things have changed quite significantly.

Mr CHALLEN - I would have to review that document and the circumstances of it, but it no doubt reflects the thinking of the time. It probably reflects the thinking of the minister and the Government of the day that they were not interested in selling the TOTE. We prepare assessments like that of the government business portfolio from time to time and they reflect the realities of government policy of the day.

For instance, if you saw a document like that today, you would not see the three electricity businesses listed in a column for sale because the government policy of today is definitely not to sell those businesses. One thing that changes is a willingness on the part of government to consider selling certain businesses and the other is changes in market conditions. In 2003 not as many Australian governments had sold their government-owned totalisator businesses as now have. It is just that circumstances change through time.

Mrs RATTRAY-WAGNER - It also states that the divestment of any business should not occur until a thorough due diligence process has been conducted. Do you consider that that has happened?

Mr CHALLEN - We have just about completed that. We are in the process of doing it at the moment.
Mrs RATTRAY-WAGNER - Is there no actual final due diligence material that we could look at at this point in time and say that is the right thing to do and so the sale should proceed?

Mr CHALLEN - With respect, I do not think you should look at that due diligence material ever. I think for that to get into your hands would seriously put at risk the price that we might get for that business. I would certainly counsel you not to ask for it.

Mr BOOTH - Chair, I was going to ask that the committee order the disclosure of all those documents, including the due diligence reports. In fact, I am somewhat concerned from what I have just heard that the decision to sell TOTE may have been made well before both Houses of the Parliament were advised. In order to get to the bottom of that, we are going to need to look at the contract regarding the restructure which is also advising the sale. Was that with Clayton Utz?

Mr CHALLEN - No, the advisers are Deloittes. Clayton Utz are our legal advisers. Mr Chairman, this committee summoned me to produce a wide range of documents, which I have with me.

CHAIR - Did you say you have these documents with you?

Mr CHALLEN - I have them in my briefcase. I am proposing to pass them to the committee, after I have made a statement in relation to the material, at a convenient time to your committee and the contract that Mr Booth is referring to is in that folder.

CHAIR - Would you like to make that statement now or Kim, have you finished your questioning?

Mr BOOTH - Certainly, either way, Chair, I am happy for Mr Challen to make that statement. I have not finished this line of questioning.

CHAIR - Okay. We will do that in camera when you give that.

Mr CHALLEN - It might be convenient to do this at a later stage of the hearing.

Mr GREEN - Yes, that is exactly right. I was going to say that they are going to do that in camera.

Mr BOOTH - What date was the contract about the restructuring and advising of the sale that was made with Deloittes? You did mention it before but I didn't get that.

Mr CHALLEN - The contract with Deloittes was signed on 11 December. They started work for us before that. They were advised on 24 November 2008, that they had won the mandate and they began work for us on that date but we did not sign the contract until 11 December 2008.

Mr BOOTH - But weren't they contracted to do the restructure advice?

Mr CHALLEN - Not to us.
Mr BOOTH - I made a note that you said you had a contract for advice with someone and I think you said it was Deloitte at the time - the same people to do with giving advice about the restructuring of the industry.

Mr CHALLEN - But they were only commissioned to start that work on 24 November.

Mr BOOTH - After the restructuring had been passed through Parliament.

Mr CHALLEN - No, the restructuring had not been passed through Parliament at that stage.

Mr BOOTH - November last year?

Mr CHALLEN - I don't think so.

Mr BOOTH - The industry restructure regulations went through on 23 November.

Mr CHALLEN - In any event, that is when they commenced -

Mr BOOTH - I am somewhat confused here. You contracted Deloitte to advise on an industry restructure, from what you have said -

Mr CHALLEN - No, not on the industry restructure, on the restructure of the TOTE.

Mr BOOTH - Did they give you advice about the restructure of the industry itself?

Mr CHALLEN - Not prior to that, no.

Mr BOOTH - At the date it went through the House, sometime at the end of November, you engaged with Deloitte to give you advice about how to sell TOTE?

Mr CHALLEN - We engaged with them to give us some advice in relation to restructuring TOTE. A second part of the contract goes on to give advice in relation to the sale, but in fact they have hardly done anything under the second part of that yet. Most of the work that has been done to date has been on the structure of the business, what you have to do to make sure it is a viable business going forward. They have been doing a due diligence exercise for us as part of that contract.

Mr BOOTH - Will you be tabling that contract and the documents?

Mr CHALLEN - Yes.

Mr GUTWEIN - I have two questions and one is in regard to due diligence. On 24 November you contracted Deloitte to look at the restructuring of TOTE, including the due diligence required for a sale?

Mr CHALLEN - Yes.

Mr GUTWEIN - That is one month almost to the day before Cabinet approved the sale of TOTE. Would that be normal to be as pre-emptive as that?

Mr CHALLEN - We needed the work done.
Mr GUTWEIN - Even if there wasn't going to be a sale?

Mr CHALLEN - You will see when you see the contract that it is structured in such a way that there are two distinct bodies of work - they are quite separate - and I don't have to proceed with the second body of the work - and I don't want to - if the Government did not proceed to approve the sale. I structured the contract in such a way that the restructuring of the TOTE business advice I could get and then I could get the adviser to go on and give me the advice in relation to the sale.

There is something I would like to add, Mr Chairman, but I don't want to say it in public. I can add it later, if you like. I will explain to you why I structured the contract that way.

CHAIR - I accept that advice. We'll keep that until later.

Mr GUTWEIN - The other question is in regard to the decision-making process of government. I think you were asked a question earlier about whether or not a business case had been prepared for the sale of TOTE and you said that it hadn't.

Mr CHALLEN - Yes.

Mr GUTWEIN - On what basis did you provide advice then to government that it should proceed with the sale if the business case wasn't prepared? On what basis would Cabinet have made a decision to proceed with the sale of TOTE if there wasn't a business case prepared?

Mr CHALLEN - I don't understand this interest in a business case. It is not normal to do a business case when you are going to sell something. It is next to impossible to do that until you know what you can get for selling it. The reality is that, as part of the sale process itself, the final step before you recommend to the Government that it proceeds to sell to the selected bidder, is that you provide advice that the outcome of the sale will produce a preferable outcome to maintaining ownership of the business. I don't understand the interest in a business case.

Mr GUTWEIN - Could you explain the basis of the advice because perhaps that included the information that might be included in the business case?

Mr CHALLEN - The advice was around whether a totalisator business was something that was a good thing to have in the government business portfolio. Our view is, and has been for some time, that there is no particular reason for a government to own a totalisator business. Why would you? We had some connections between our totalisator business and the funding of the racing industry that provided a bit of an attachment within some quarters inside the public sector intending to own the TOTE, but that was a bit of an oddity. When you take that away and replace it with something that provides better and more certain funding to the racing industry, you are then left with a business that has no particular reason for being within the government business portfolios, in the same category as the Printing Authority. Why would you own a printing authority?

Mr GUTWEIN - In regard to that advice and using the Printing Authority as an example, any business has, hopefully, a profit at the end of the year. It would
provide either dividend to government or tax equivalents. The TOTE, quite separate to the functions of the Printing Authority, provides a much greater benefit to Tasmania than what it simply declares in profits or the dividends to government or tax equivalents.

Mr CHALLEN - Does it? What benefit is that?

Mr GUTWEIN - The Chairman of Racing indicates that TOTE in the last 12 months has paid around $23 million to the Tasmanian racing industry and that would be a benefit to Tasmania, would it not?

Mr CHALLEN - If the racing industry gets the $23 million from somewhere else, there is no particular benefit from having the TOTE to the racing industry. The only benefit is that a racing industry needs a certain level of funding.

Mr GUTWEIN - Mr Challen, that goes to where my question was going, if I could finish. That advice to government and that provided advice as to how that sort of benefit to the Tasmanian racing industry might be protected under any sale.

Mr CHALLEN - Yes. What we have proposed and what I understand the Treasurer is proposing to do is to put in place a funding deed with the Tasmanian Racing Board in which the funding to the racing industry would come directly from the government budget. So the racing industry, instead of having an uncertain stream of income coming from the TOTE, subject to the vagaries of how the TOTE business performs, will have a certain stream of revenue like other things that are funded by the Government.

Mr GUTWEIN - Are the parameters of that deed in the document you are going to share with us or not?

Mr CHALLEN - No, they are not.

Mr GUTWEIN - Are you at liberty to share the parameters of Treasury's view in regard to that deed?

Mr CHALLEN - No, these are matters that are under policy discussion at the moment and that question is best put to the Treasurer.

Mr WILKINSON - I suppose one question could be, Don, was the advice received? Is it classed as ideological or philosophical advice or based on hard-nosed accounting and economic analysis?

Mr CHALLEN - It is definitely hard-nosed and it is definitely based on analysis. I do not think it is ideological or philosophical. But what businesses governments need to own are subject to a bit of fashion. Fifty years ago there were different views around about what were good things to be in government business portfolios and life is different now. Totalisator businesses were owned by probably all State and Territory governments in Australia up until a decade ago and now we are amongst the last to get rid of them. Likewise, 50 years ago I imagine every government had a construction business like our old department of construction and probably they all had government printers as well but now nobody does. You could say it is, in part, subject to a bit of fashion.

Mr WILKINSON - Why now? Is it because -
Mr CHALLEN - Sorry, if I may just finish that bit.

Mr WILKINSON - Yes.

Mr CHALLEN - Our view is that governments are not bright at being business owners and they are better off to confine their ownership of businesses to things that really need to be inside the government business portfolio.

Why now? We think this is a good time. The TOTE business has been performing well and there is no certainty that the business will continue to perform well. It is a very cut-throat, competitive business that it is operating in. So why wouldn't you exploit an opportunity to sell it when its value is probably at a relative high?

Mr BOOTH - Do you have a formal analysis of that or is that just a personal opinion?

Mr CHALLEN - It was a personal opinion based on, I confess, not huge expertise of the industry, but we have subsequently taken advice on that from expert industry advisers which confirms it.

Mr WILKINSON - Without sitting from outside in the upper House, Don, one could argue that the economy has been travelling well over the last x amount of years. Tasmania is still doing well, it would seem, as opposed to other States and certainly countries. But there are going to be difficulties with the budget as a result of GST and as a result of duties, payroll tax maybe, et cetera. Was the major reason for the sale in order to allow the Government to continue to fund things which they would not have otherwise have been able to fund if they do not sell the TOTE?

Mr CHALLEN - The decision was not directly made around particular budget pressures that existed at a point in time. But for a few years, the Government has been putting a particular priority on infrastructure spending, one I strongly support. The experience with the airport sale demonstrated the benefit that you can get from divesting yourself of a business that you do not really need to own in terms of having some money available to put into significant pieces of infrastructure - our irrigations schemes, our transport hub, road upgrades and the like. So selling a business that is ripe for sale is attractive when we can put the funds to good use, particularly on infrastructure.

If you hold the view, as I do, that the Government does not need to own this business, why would you keep it? Why wouldn't you put it into public infrastructure?

Mr BOOTH - It is not for the benefit of the industry that it is being sold, then? It is clearly to grab the cash and put it into something else?

Mr CHALLEN - I would not characterise it like that, Mr Booth. But no, it is not for the benefit of the industry, though I think that the industry will be better off as a result of these arrangements. It is an act of faith that the TOTE business is going to continue performing well. If I was a member of that industry I would be very happy to have my uncertain revenue stream tied to the fortunes of the TOTE replaced by a very certain and secure income stream coming directly from the Budget.
Mr **BOOTH** - I am intrigued in regard to what you said about the business case and your view that in fact it would not require a business case in this regard because you are simply selling the business on. I do not think I'm in conflict with what the Auditor-General's evidence was this morning that clearly you should have a business case prepared that takes into account all of the aspects, both social and economic, of the value of TOTE to the industry as a whole and that you would actually have to look at that. From a probity point of view that would be the appropriate thing to do. What have you got to say about that?

Mr **WILKINSON** - Certain evidence was in camera.

Mr **CHALLEN** - It doesn't matter; I do not know what he said so I cannot react to something I did not hear. Let me reiterate; I do not agree that it is necessary or appropriate to do a business case before you make a decision about whether you sell a business like this. You need to do what you would do in a business case at the final stage when you know what the market value of it is. How would we have done a business case for the airport sale, for instance. What price would you put on it to decide whether it was better sold or retained?

Mr **GUTWEIN** - That is ridiculous, Mr Challen. You must have had a bottom-line figure that a business case would support to say, 'Well, okay, if we do not get that price then we will not go to market'.

Mr **CHALLEN** - Indeed, but that is the retention value.

Mr **GUTWEIN** - So have you done a business case on that basis for the TOTE?

Mr **CHALLEN** - No, I have already answered that question. We have not done a business case for the sale of the TOTE. We will at the final stage before we recommend that the Government goes ahead and sells it. We will show them what the analysis looks like and compare the sale price that is available to the chosen bidder with the retention value of the business. If the sale price exceeds the retention value then we will recommend selling it and if it doesn't we won't.

Mr **GUTWEIN** - Then how can you justify the money that is obviously involved to this point in going through the process in engaging Deloitte's to look at his and do due diligence before taking it to the market to know whether or not? If indications early on through the process are that x can be achieved but you know that you need to get y to even make it worthwhile going forward, how do you put in place those sort of decision-making deal-breakers, if you like, that would stop you going right through to the end of a sales process where you actually get to a point where x price is achieved and you say, 'Well, gee, it has taken us six months but no, that is not going to do the job for us. I wish we had pulled out earlier'? That is a ridiculous proposition.

Mr **CHALLEN** - With respect, I do not think that any of my propositions are ridiculous.

Mr **GUTWEIN** - Well, I think that one was.

Mr **CHALLEN** - I do not think that it was and I take offence at being told my propositions are ridiculous. We have done some analysis on what the range of possible proceeds from a sale is and that analysis gives us a degree of confidence that the proceeds of the sale will exceed the retention value of the business. But that is not a business case; that is just a bit of analysis that gives
you some confidence that a recommendation to government that this business is suitable for sale is a good recommendation.

As I have said twice now, when we get to the end of this process we will have to give a recommendation to government on whether they proceed knowing then that the final bid price either exceeds or does not exceed the retention value. It is possible we will get all that way down the track and find that the offered sale price does not exceed the retention value, in which case we will say to the Government, 'Do not proceed'. I think that is a fairly unlikely outcome in view of the analysis that we have done and the advice that we have received from our expert advisers.

Mr HARRISS - I think it is important to keep developing this point as people are going because I was going to go down the business case path.

Mr BOOTH - Do you not think, Mr Challen, that there should be a social licence to sell something like this. The sale of a GBE that provides a lot of ephemeral benefits beyond just the raw dollars that come back into the Government needs to be considered, which is what the business case, one would have thought, should have assessed - the actual contribution that TOTE makes, not just revenue flows to the Government but industry support. A lot of that, from what we have heard, is ephemeral, intangible. It creates community, it maintains the culture of racing and it keeps the people that provide the product alive and sustained and so forth. There is a huge amount of concern out there in the different industry codes that TOTE's sale could destroy the culture of racing and the culture of their industries and associations, because that is the picture that has occurred since the tri-co-location and in fact even earlier than that. The people that provide the products are going to be losing their social activities and culture and microeconomic activities that flow from that big family of people involved in racing. Therefore, why is it that you seem only to have a focus on the actual dollars that flow to the Government, the retention value of TOTE based on dollars alone?

Mr CHALLEN - The operations of the TOTE provide two sorts of benefits. They provide a flow of funding that at the moment goes to the racing industry and they provide employment and payments to contractors and so on, so they have a place in the overall economy. It does not matter who owns the business; if the business is here and is operating then all those other benefits, other than the flow of funding to the racing industry, will continue. Government does not have to own it. Look at the airport. The Government does not own the airport anymore but planes still land, people park their cars, the shops sell goods, people at the airport are still employed.

Mr BOOTH - With respect, sure the airport has changed. They are now a business and you are paying twice as much to park your car than you used to so there has actually been, I would argue, quite a detriment to the average person who goes out to the airport. They might be able to get a better cup of coffee, perhaps, or something like that through privatisation but what about something as complex as an industry which has been based around something like TOTE for a fair while? What I am putting to you is that there are a lot of things that are difficult to actually assess, unless you analyse it with some sort of social impact study at least. You can do the economic stuff in terms of the value of the airport itself in terms of income streams to the Government, but the economic and social activity around TOTE at the moment and around the industry needs to be analysed to make sure that you are getting the full social licence to sell the business off
because it is a lot more than just the income stream. Unless you protect that and know what it is then it could have a detriment on the industry.

Mr CHALLEN - I just have to say I do not agree with you. Putting aside the benefit that the racing industry gets from funding - and we have an alternative way, a better way of doing that - apart from that, all of the benefits that you get socially or economically from the existence of the TOTE will continue with somebody else other than the Government owning it. I do not think there are ephemeral benefits. I think the culture of the industry and the way it relates to communities and so on comes from the racing industry and the funding that comes to the racing industry. It has nothing to do with the TOTE at all. The connection between the TOTE and the racing industry is just an accident of history.

Mr BEST - With the tracks, the ownership of the venues, who owns them?

Mr CHALLEN - Those bits that were previously owned by the TOTE, under the legislation that has already been passed by the Parliament, will go to the Tasmanian Racing Board. It has not actually happened yet. There is a transfer notice that is in the process of being sorted out so the mechanics of getting the old racing assets and liabilities that were with the TOTE into the hands of the Tasmanian Racing Board has not happened. As I understand, it is being worked on at the moment, but it will happen.

Mr BEST - At the moment, although I do not expect you to be able to answer this in detail, who owns the tracks? Are some owned by TOTE and some not?

Mr CHALLEN - Mr Best, I do not know in detail. I understand in concept that TOTE owned some of the infrastructure and some of the infrastructure was owned by racing clubs. Nothing will change, apart from the fact that those bits that were owned by the TOTE will become owned by the Tasmanian racing industry but beyond that, this is not my field.

Mr BEST - This might be commercial-in-confidence here, but is that part of the deed, looking after those facilities?

Mr CHALLEN - The deed is about funding. It is about how much money the industry is going to have for its recurrent funding and its capital works. The ownership of assets has already been dealt with in the legislation that Parliament passed last year and all that remains is just a little bit of mechanical stuff to move the assets from TOTE's books onto TRB's books. A rather simple thing in concept but a bit messy in practicality.

CHAIR - Members, I am aware that we have probably a considerable amount of work to do in camera and we are down to about 18 minutes or so to go for Mr Challen.

Mr HARRISS - Don, just going back to your comments about 7 May last year when you first started assessing options. You said something to the effect that you had a discussion with the Treasurer around that time about the possible sale. Who initiated that discussion?

Mr CHALLEN - That particular discussion I do not recall, Mr Harriss. There had been conversations going on around these issues since Mr Aird became Treasurer. He became Treasurer in March 2006, if I remember rightly, and I have been having conversations with him around the government business portfolio and around things like the airport and the Printing Authority and other
businesses since then. So there would have been a conversation that took place a couple of days before and you will see in this pile of information I am going to leave with you some e-mail exchanges with Mr Aird's office in which I was given authority to commence some work, and I commenced work. You will see e-mails from me to my staff asking them to do various things to get stuff under way.

Mr BOOTH - With regard to the TOTE at the moment, there is no dividend coming back to the Government, I believe, and it has not come back for a few years, is that correct?

Mr CHALLEN - We have arrangements for a special dividend in place that has been suspended. I would have to check, Mr Booth, I do not recall off the top of my head.

Mr BOOTH - Yes, I thought legislation went through that absolved them of a couple of years of non-payment and, in fact, the legislation was that no-one had to pay a dividend. I may be wrong but I thought that is what we passed.

Mr CHALLEN - It does not ring a bell but I would have to take the question on notice.

Mr BOOTH - But in terms of cash, you do not think there has been a dividend coming back and after years suspended or otherwise, a special dividend?

Mr CHALLEN - My understanding is, and I would have to check, but I do no think there has been any direct benefit to the budget from the operations of the TOTE for some time.

Mr BOOTH - So if it were to be sold, if that was the decision that it was sold, where would the extra fat come for the person who bought the business if they are already incapable of paying a dividend? Isn't that going to rack up the race day charges? They have to get an income stream somehow, so how are they going to do it?

Mr CHALLEN - They are not capable of paying a dividend to government because they are paying all of their income to the racing industry. They are still a very viable, profitable business. It is just that everything that comes out of the TOTE business ends up in the racing industry.

Mr BOOTH - As far as the public are concerned, we own TOTE and the budget is all out of the public purse. So let us say the net return at the moment might be going from TOTE to the racing industry. Are you saying, sell it and then transfer that obligation back to the budget, consolidated revenue?

Mr CHALLEN - Yes.

Mr BOOTH - So, somewhere, the person who is buying TOTE is going to want to make more than the current return to the industry otherwise they are not going to buy it, are they?

Mr CHALLEN - They, I expect, will look at the opportunities for growing the business with synergies with their existing businesses, all the usual things. People will see it as a desirable asset simply because it provides a good, steady return. There is an awful lot of superannuation money around at the moment just
desperately looking for good yield and secure businesses. So that is one of the reasons we think that is an attractive business to sell at the moment.

Mr BOOTH - But if that yield was available in that business, it ought to be coming into it now and flowing back to the racing industry.

Mr CHALLEN - But it is flowing to the racing industry, that is the point.

Mr BOOTH - If it is going to be of no net benefit then, other than allowing a privatised operator to bring in additional revenue -

Mr CHALLEN - The net benefit is, we are going to get the sale proceeds.

Mr BOOTH - But I think the detriment will be to the race day participants, the people that park their cars. All sorts of things are going to happen as a result of a privatised TOTE.

Mr CHALLEN - No, because those things depend on the funding of the racing industry and they have nothing to do with the TOTE.

Mr BOOTH - With respect, that is not correct. I am talking about in terms of the globalised pool of money, whether it be a public asset owned by TOTE or whether it be consolidated revenue. If there is a cost shift from the support of the racing industry, away from TOTE and back to consolidated revenue, unless we get that back as a benefit somehow through some taxation on TOTE turnover or something, I cannot see this isn't going to result in increased charges, like at the airport.

Mr CHALLEN - I find your thought process a bit obscure.

Mr BOOTH - I am sorry that you can't understand those complex issues.

CHAIR - We seem to be going around and around in circles here. At this stage we only have 15 minutes left. We need to move in camera. Therefore I would ask that people clear the room.
THE HONOURABLE MICHAEL AIRD, TREASURER, WAS CALLED AND EXAMINED.

CHAIR (Mr Hall) - Thank you for appearing before the committee, Michael. Obviously being a minister of the Crown, you do not have to be sworn in. At this stage I will invite you, Treasurer, to make a brief statement to the committee and then I will open it up for questions.

Mr AIRD - I think there are a number of issues in play at the one time and my view is that we have, on one hand, a racing industry and, on the other hand, a wagering industry and I have always had a view that I did not think it was a government function to run a wagering industry but it was a government function to support the racing industry. So from very early on in my time as Treasurer I had a view that I thought TOTE should be in a position where it could be divested at some stage. Obviously that takes in a lot of judgment and a lot of information in terms of understanding the markets and where we can go from there.

I think it is fair to say that over a period of time, initially, I did not think TOTE had enough value in it to be an asset which was suitable for divestment. I now believe the time is right and that is why we announced that we are prepared to divest TOTE.

Obviously there has been some concern about the racing industry and the funding model for that, and I think that is a legitimate concern for them and I am working with the Tasmanian Racing Board to put in place a funding model which should be in place for the duration of 20 years. There are two components for that funding model.

One would be in terms of capital expenditure and the other would be on the operational expenditure, and I have said that the racing industry will be no worse off than it is now in terms of its funding. We have not concluded our discussions about that but I believe we will be able to get to an agreed position. It is my intention to sign a deed with the Tasmanian Racing Board which will give allocations over a time frame. With the model that I am looking at the deed would endure for 20 years. There would be initial allocations for four or five years on a rolling basis and we would negotiate the sixth year within the second year, if you can understand the methodology. That would allow us plenty of time to understand how we would make those allocations and obviously that would have to be transferred by virtue of the Consolidated Fund.

With the wagering issue, the principle is whether TOTE is part of core government business. If you say it is, obviously there is a difference of opinion about that. The other question is whether this is the right time? I have satisfied myself over a period that now is the right time and -

Mr BOOTH - How did you satisfy yourself of that?

Mr AIRD - A number of different things. Basically after observing what is occurring with wagering industries generally around Australia and what is happening in Victoria, I think we can extract optimum value out of TOTE now, considering that it has had a 30 per cent growth in turnover. In any divestment you have to in a data room show the data that will encourage someone to offer the optimum price. If you compare TOTE's revenue performance with that of similar wagering
operations you will see that they are out-performing them in terms of turnover and that -

Mr BOOTH - Have you advice as to that? Did you actually get formal advice or -

Mr AIRD - There is a range of areas of advice and one is my knowledge of those potential organisations that might be interested in this type of asset.

Mr BOOTH - Personal knowledge?

Mr AIRD - Yes, personal knowledge. In the end, this is a judgment call. We took some advice from Deloitte about the appetite of the market, the potential bidders and whether they had enough capital to actually buy it.

Mr BOOTH - So you actually sought advice from Deloitte as to whether you should sell or not?

Mr AIRD - I know there has been some discussion generally about it. Deloitte were engaged for two parts really. They were engaged in terms of the separation of the wagering from Racing Services and I also sought preliminary advice from them in terms of the market at the time, if you like, if I wanted to support the divestment. So Deloitte were engaged at that level and by the time that I had signed off on a cabinet submission on 19 December I had had advice in terms of that information from Deloitte.

Mr BOOTH - For the market appetite?

Mr AIRD - Yes.

Mr WILKINSON - When was that?

Mr AIRD - That was part of the cabinet submission.

Mr WILKINSON - What was the date?

Mr AIRD - In terms of?

Mr WILKINSON - One, when you asked for that advice from Deloitte and, two, when you got it?

Mr AIRD - I need to go back and check the actual dates, but I do know that I wanted commentary from Deloitte in preparing the cabinet submission, so it would have been probably around the 19th - I actually know that on 19th I had that information.

Mr WILKINSON - The 19th of?

Mr AIRD - December.

Mr BOOTH - Can you table any advice for us?

Mr AIRD - It is a cabinet submission.

Mr BOOTH - You can table that.

Mr AIRD - No, I cannot.
Mr BOOTH - We might have a different view on that.

CHAIR - Can you give the committee any indication on when the legislation might be tabled?

Mr AIRD - We are preparing basically three pieces of legislation. I had hoped today to give you a draft of the TOTE sale bill. It is still in draft form. I will give it to the committee when I am satisfied that it is a closer final draft than it is at the moment. There are bits that I am not satisfied actually give a true indication about what we intend to do and how we intend to divest that.

Mr GUTWEIN - I was wondering what part, if any, the Commonwealth's mid-year financial report might have played. It would have been released, I think from memory, in early November or thereabouts, and it showed that we would lose around $300 million over this year in the forward Estimates with GST funding.

Mr AIRD - No. Let me be very clear about this. The time frame for making a decision was not affected by our fiscal position. It is true that through a successful sale we will gather some capital and that would be put to good use but that would be a transparent process in any event, it will not be part of this budget. It will not be factored in.

Mr GUTWEIN - Mind you, the problems that we face are going to be more far reaching than this budget as you well know.

Mr AIRD - I think it is a legitimate question. I am not saying that it had a capacity to affect; it is not going to affect our operational balance in that sense. The allocation will be in terms of investing in asset and therefore it will not be affecting our current expenditure to that degree.

The methodology will be that it will probably come in into the operating balance and affect the income of that and it will go to the Consolidated Fund to the operating balance and then it would be allocated in a way that would be identified in the various accounts it would be put to and that would affect most probably the fiscal balance but not the operating balance per se.

In other words, it is a bit similar that in the budget sense some of the allocations to nation building and so on it can throw artificial surpluses that do not represent your underlying business and how we are actually operating and what the ongoing operating costs are. Those types of events, in terms of transfers, will come in and affect your operating surpluses. To be quite frank, I would not sell the airport now in the current atmosphere.

Mr BOOTH - The superannuants would probably sell it back to you.

Mr AIRD - I did not say that as a provocative statement, I am just using it as an example.

Mr BOOTH - They would be pretty happy to get their cash back because what you are saying is it is not worth what you got for it now.

Mr AIRD - No, well -

Mr BOOTH - That's the corollary of what you are saying.
Members interjecting.

CHAIR - Order.

Mr AIRD - In fairness, let me finish what I was intending to put forward to you. We sold that at the peak market, no doubt about that. That was a timing issue. I believe that now is the time to sell TOTE. I know there is a strong appetite. There may be some local appetite to be a bidder and I know there will be some national and there could be some international as well and that is what I want to ensure occurs because I want a good competitive process to ensure we extract the optimal value from it.

Mr GUTWEIN - We heard this morning from the greyhound industry.

Mr AIRD - I heard they were very complimentary.

Mr GUTWEIN - I think it would be worth watching television tonight. I don't think I need to explain - you'll catch up in about an hour-and-a-half about what they had to say.

Obviously, one of the key issues that we have is the racing industry and their concerns about being supported. You've mentioned that there'll be a mechanism and a deed. I don't think that was something that we discussed in camera; I think that is something we can talk about. We know from the annual report that somewhere between $20 million and $30 million was paid to the racing industry last year. In fact, I think the chairman says in his annual report that last year it was $23.5 million or something, in funding, that went to the racing industry. Will the deed reflect that type of amount?

Mr AIRD - Yes.

Mr GUTWEIN - The other question I have in regards to what you said about the rolling five years; I'm presuming that you get to year two, you renegotiate another five years which takes you through to six years so you're actually going to have 14 or 15 renegotiations of the deeds throughout the 20-year period?

Mr AIRD - That's the thing; you can have any variation of that if you like. If you go into four-year time frames, basically, we would be in the forward estimates, we think, in four-year terms but it could be five years. There's a bit of a mythology about the funding relationship now because everyone says that TOTE's a cash cow for the racing industry, but there's no guarantee of that. What we're saying is that we're prepared for a 20-year deed to wear any risk and we guarantee for the first time ever a 20-year funding model. I can give you an indication; I think that there should be an allocation of around $40 million capex. The Tasmanian Racing Board would then deal with the allocations from that; they would work out the priority.

Mr GUTWEIN - So, $40 million over the 20 years?

Mr AIRD - No. This would be dependent upon the sale. There are two ways to do it. You could just have a capital injection of $40 million straightaway and they could have the benefit of that or you could have a phased approach over the term of the original four-year allocation. I haven't determined the proper model because I haven't completed my discussions with the TRB. Basically, the racing service's
costs are, in totality, whatever the allocation of the different funds going in, round about $32 million. What I'd be prepared to do is to provide a guaranteed amount in the deed for x dollars and allow some avenue for the TRB to capture the sponsorship and the race field's revenue that is going to be generated in the future. That gives them a growth path for their own revenue but this underwrites the basic requirements that they have -

Mr GUTWEIN - And you've indexed that through?

Mr AIRD - Yes, we've indexed that through and we have thought about that a bit. We think, in terms of CPI, that we would try to get a fixed percentage to try to flatten out CPI variations. We are in interesting times -

Mr GUTWEIN - We are in interesting times.

Mr AIRD - And perhaps the best way to do that would be to settle on a percentage rather than just CPI so then they can plan with some certainty rather than just have the variations of CPI. We don't know when the Reserve Bank is going to come back and say CPI is important.

Mr GUTWEIN - And then it is back out of the bottle again.

Mr WILKINSON - We are jumping all over the shop, but we started off by asking about the time frames; is it fair to say that you received advice from Treasury that TOTE should have been sold or should be sold either 19 or 20 November of last year?

Mr AIRD - That would be about right. I think there was a brief that came through from Treasury around that time.

Mr WILKINSON - At that time, had there been any information that you'd seen from Deloitte or any other body suggesting that it should or shouldn't be sold?

Mr AIRD - Not that I can recall, no. In terms of making an assessment the annual report really highlights the financial performance of TOTE.

Mr WILKINSON - I can see over the last four years, from 2005 onwards, it has increased dramatically - well, not dramatically but certainly significantly and I can see it would be a good time to sell. But one could also argue the opposite, that it is a long-term one, and I suppose that is the argument.

Mr AIRD - Okay.

Mr WILKINSON - But in relation to 19 November or 20 November, there was advice that you were aware of at about that time that TOTE should be sold?

Mr AIRD - Yes. I have a time line that says 19 November, a minute to me with EEO, a cabinet minute for approval.

Mr WILKINSON - So was it at that stage that you would have spoken to others in relation to putting a proposal to Cabinet that it should be sold? Is that the way it goes?

Mr AIRD - When you say 'others'?
Mr WILKINSON - Other members of the Government maybe, or members of TOTE.

Mr AIRD - I did not canvass this very widely and you will notice here that even as late as 19 November when I got the original minute I did not approve it. I was satisfied that by that stage it should be sold but until then, until you sign off, it is not for sale. I was prepared then, as I am now, to back my judgment with the right information. I know that TOTE is a good business, I know there is an appetite for it and I also know that there are changes afoot within the industry that I think are going to be an interesting challenge, and I do not think government should be involved in that.

Mr GUTWEIN - In the wagering industry?

Mr AIRD - Yes, the wagering industry.

Mr WILKINSON - In relation to the restructuring of the industry which, as you know, occurred with final legislation around about November of last year, was part of the reasoning behind that that certainly it made it easier to sell, as you would be aware, and it makes it cleaner to be for sale, as you would be aware or should be aware?

Mr AIRD - As I started out by explaining, there are two parts here. It is true that they may have converged or crossed over at various stages but it was always my view as Minister for Racing that I wanted three distinct parts of TOTE - that is, the radio station, the wagering business and the racing business. In terms of being organised for divestment, that was a key decision in how we can separate those things. The other determinant was that it was always my intention to bring TOTE under the Gaming Commission and bring it under the Gaming Control Act, and we are going to do that in any event.

While the separation was never a motivation, I think you needed to have the separation in any event. To be quite frank with you, until you make a decision to divest you have not divested. I think the separation was important for good accountability and regulatory reasons. I think that indicates my belief that we needed to have the Gaming Control Act as a way of regulating the wagering business.

Mr WILKINSON - In relation to the knowledge now that you are wishing to sell, what is the difference between this year and last year? Some might well argue that with the GST down, as was stated by Peter, with stamp duties obviously going to be down, maybe payroll tax et cetera, there is going to be a hole in the budget and this is one way of filling that hole.

Mr AIRD - It does not actually, though.

Mr WILKINSON - It won't fill it completely. Does it fill it at all?

Mr AIRD - I will be quite frank with you. In relation to the operating costs, the ongoing recurrent, it does not fill the hole in terms of the pressure on the operating balance. It can assist in the allocations of capital works and infrastructure and so on - that is true - but it is not a direct fiscal mechanism, and that is why I was drawing the example. That, really, nearly is a coincidence. In my view, if I did not think there were a strong appetite and a strong competitive position relating to the sale, I would not be proceeding with it.
Mr WILKINSON - So you are saying the major difference now between January 2009 as opposed to January 2008 is the fact that you believe now is the right time as opposed to 2008, because there was still an increase in 2008, as you know? You could still argue the same questions that your view, and other people’s views perhaps in government, was that the Government should not be involved with a TOTE. It would just appear to be thoroughly coincidental that here we are, hard times, let’s sell.

Mr AIRD - That is very simplistic assessment.

Mr WILKINSON - Yes, it is. It is one that can be made though, is it not?

Mr AIRD - There are people around who will make these assessments, including politicians, and I understand they can make that judgment. If you look at the value in TOTE, you will see that the growth is there and the potential is there, and there are other aspects of the industry you have to put in international and national context.

Mr GUTWEIN - And the fact that we have a hole in the budget is just convenient timing.

CHAIR - Order.

Mr AIRD - But it is not going to go to the budget.

Mr GUTWEIN - But at the end of the day it is going to be able to be spent. It will become taxpayers' funds. Let us not muck about with it.

Mr AIRD - I agree with that.

Mr GUTWEIN - And I understand it will not hold up the operational problems that we have.

Mr AIRD - Of course. We believe that the results of the sale will be put to good use. In a political sense we will make judgments about that, the same way as you will or Mr Booth will say that it's a waste, or that we could do better with that, or whatever. I think that is a legitimate argument. I am quite happy to have that argument and we will have it.

Mr GUTWEIN - It is a reasonable debate.

CHAIR - Mr Wilkinson has the floor.

Mr WILKINSON - You can see the growth in TOTE over the last four years, and the last year especially. One could argue that in hard times betting increases - there is evidence to suggest that wagering increases - therefore the value could increase by January 2010, and if that is the case one could well argue why sell now. Why sell now when people wanting to purchase the TOTE may not have the same amount of money available now as they might have next year, or vice versa.

Mr AIRD - No, it could be worse.

Mr WILKINSON - You are saying it could be worse?
Mr AIRD - It could be worse. In assessing those types of opportunities and risks, my firm belief is that we will extract maximum value out of TOTE now.

Mr BOOTH - But you do not have any advice to that effect. It is a gut feeling.

Mr AIRD - No, we have advice, as I indicated, from Deloitte to say that the market is right for this.

Mr WILKINSON - That was going to be my last question. In relation to that, the only way you could make that decision, I want to suggest, is if you had independent professional advice to suggest yes, now is the time to sell, and are you saying that is what you got?

Mr AIRD - No, what I am saying is this: it is same judgment I made with the selling of the airport.

Mr BOOTH - So that was a gut feeling as well?

Mr AIRD - No. You know, you talk to people, you understand what's going on in the market. There are people involved in the industry, there are people involved in banks, there are people involved and -

Mr BOOTH - With respect, as the Treasurer, surely you'd actually seek broader counsel than the old mate at the pub, surely.

Mr AIRD - I did seek advice from Deloitte who gave preliminary advice to say the market was there.

Mr BOOTH - When was that?

Mr GUTWEIN - What date was that?

Mr AIRD - I've mentioned it before. That advice was incorporated in the cabinet submission that I signed on the 19th.

Mr BOOTH - But the advice was sought prior to that, obviously?

Mr AIRD - Yes.

Mr GREEN - With respect to some of the questions that were asked about the industry itself and the racing board, a lot of the discussion you've briefly answered a moment ago but the various codes, of course, are concerned about the proportion that they get from those funds. Is it then entirely up to the racing board and their ability to lobby through the racing board to achieve the best outcome for their particular code or is there some other mechanism that is being considered?

Mr AIRD - No-one was really satisfied with the old model. I believe that the new model allows for the best opportunity in the fact that all the codes have to meet with the board at various stages to put their view. Yes, it is up to the TRB to make their decision about how they allocate the resources. My job is to say, 'Here's $40 million cap ex. You make your judgments about how best to spend that'. I base that $40 million on a reasonable understanding about what are going to be the future developments in the racing -
Mr GREEN - That's capital expenditure but I'm talking about stakes money and -

Mr AIRD - Yes, and in turn the TRB will be making decisions about that and we will be ensuring that they won't be any worse off as they are -

Mr GREEN - But if the revenue were coming from TOTE, as it does now, the same position would exist; that is, that they would still make decisions about how that allocation goes.

Mr AIRD - Under the old model -

Mr GREEN - Yes.

Mr AIRD - TOTE would make those decisions.

Mr GREEN - So if it is never sold, if we don't get the right price for it and it's not sold?

Mr AIRD - Under the model now, we are saying that we can give greater security to the funding of the racing industry than ever before by signing a deed.

Mr GREEN - If a new entity buys it, it will be regulated?

Mr AIRD - We haven't quite determined the regime that will be in place in terms of taxation or licence fee and so on. We haven't determined that. To be quite frank, we need to get through this exercise we are talking about now but I am thinking about the model and obviously Parliament will have to consider that.

Mr GREEN - But the expectation is obviously that there are funds coming back to the Government as a result of their operation.

Mr AIRD - There will be some returns back to the Government, yes.

Mr GREEN - Yes. Some of the line of questions is that it is gone forever and that you don't get anything back at all.

Mr AIRD - No, what I am saying is that under the present arrangement with TOTE there's no guarantee of any of the funding. What I am actually providing is greater long-term security than they've ever had before. If you were relying on TOTE, you are relying on a wagering industry. I just make this point: the racing industry here contributes 6.5 per cent to the total TOTE turnover. That's why there needed to be a separation. This is a very serious wagering business and you can see where the growth factor is in its wagering business and really that's what we are trying to capture now, the value in that and put it to work for the Tasmanian people. That includes a very substantial commitment to the racing industry.

Mr BOOTH - There is something I do not understand here in your theory. You have this plum tree at the moment with TOTE which is at the moment looking after the industry, providing for the industry. It is like an internalised cash or income stream that is used by the industry to keep itself going. You are proposing to get rid of that plum tree, sell it to someone else. You are going to get the cash that you get out of that sale and you will put that back into some capital expenditure to improve some of the tracks and facilities that they need now but from that point on, once you have expended the value of TOTE which may or may not exceed that amount - we do not know what it is going to bring - you may have
the benefit of a bit more cash in consolidated revenue that has come back from the sale, surplus from the cap ex, Effectively, but from that point on that is no longer going to make a yield specifically that you could hypothecate across to the racing industry itself. Isn't that then going to shift the yearly cost back to consolidated revenue, which will be seen as a grab out of public cash to compete against the hospitals and schools and all of those sorts of things, and be subject to a more politicised outcome rather than the industry being seen to be self-supporting through the current ownership of TOTE as a GBE model?

Mr AIRD - Quite frankly with regard to TOTE, only 6.5 per cent of the industry is contributing to the revenue here. It is growing in other areas of wagering. Quite obviously we have over 10 years assiduously assisted the industry, and not without some criticism.

Mr BOOTH - That is the point I am making.

Mr AIRD - We are prepared to make a long-term commitment to the industry to satisfy their interests and other legitimate interests. They are a legitimate business and they are a generous stakeholder in providing that assistance. No, they will not be subject to the bidding of the Consolidated Fund because we will have a legally binding deed that will determine the level of funding. That will be the obligation that we will have to fulfil in terms of the Consolidated Fund.

Mr BOOTH - Just moving on; I realise we are going to run out of time and I cannot follow that any further so thank you.

In answer to a question I asked in the House yesterday, I think, you got back to me and said that Claytons was contracted on 6 January to prepare sale documentation. When did you start negotiations with Claytons to give them the brief that they could accept a contract on anyway?

Mr AIRD - I do not have that detail but it would have been some time prior to that. I can try to find it.

Mr BOOTH - Can you provide that for us?

Mr AIRD - Yes.

Mr BOOTH - The other point, just fairly quickly, in terms of the advice; we had that exchange previously in regard to whether or not you just got it from the old mate down at the pub. Are you saying that, basically, generally if you are going to sell a GBE, whoever the Treasurer is at the time and I suppose you cannot talk about other treasurers, you would be content to go on your personal understanding of the industry and gut feeling in talking to various people to confirm whether or not it is a good idea to sell it or not?

Mr AIRD - I was supported by Deloitte. They provided the advice.

Mr BOOTH - You said that was preliminary advice.

Mr AIRD - Deloitte are involved. We will continue an association with Deloitte.

Mr BOOTH - Will you provide that advice from Deloitte?
Mr AIRD - I am not going to be providing advice, and I do not mean any disrespect. This has been the subject of some discussion with people here. My responsibility, basically, is to ensure that I don't, and neither should anyone here, jeopardise any potential optimum sale; that is the obligation. I will give you the information that I can as long as we understand that I am not going to provide dollar figures or anything that could actually artificially influence the market. With regard to the first part of your question, I think my judgment in making the call has been pretty good in terms of the divestment of asset. Some people were sceptical about the value we would get from the airport. I was never ever sceptical and I am not sceptical here.

Mr BOOTH - You thought you would get $40 million according to the Age.

Mr AIRD - No, that is not right.

Mr BOOTH - The headline says '$40 million from airport expected' and you got $350 million so your judgment could be a fair way out.

Mr AIRD - That article is not right.

Mr GREEN - Obviously some members are going to want to ask some questions in camera.

CHAIR - Yes, they are. We are down to about 15 minutes or so left so I had Mr Gutwein's one last question.

Mr AIRD - Can I just say that I really want this to be pretty thorough. If you want to go beyond 15 minutes I am happy to cooperate with the committee. I want to make it clear. I can indicate to the committee I am happy to come back.

CHAIR - At the end of the day we will be fixing another time and place so we can finish it off.

Mr AIRD - Well, perhaps you want to give me some questions on notice, Mr Gutwein.

CHAIR - Today we have a priority to finish.

Mr GUTWEIN - Just so I am clear, I will just run you through some of the dates that we have. On 19 November there was advice provided by Treasury to you that we should proceed with the sale, is that right?

Mr AIRD - Yes.

Mr GUTWEIN - On 22 December Cabinet looked at that Treasury advice plus advice that was included in the Treasury minutes from Deloitte, is that correct?

Mr AIRD - There was an initial minute to me that I did not approve. Then there was a revised cabinet minute sent to me reflecting the changes that I required and that I signed on 19 December and I took it to Cabinet on 22 December.

Mr GUTWEIN - That included the advice from Deloitte?

Mr AIRD - Yes.

Mr GUTWEIN - Due diligence is under way now, is that right?
Mr AIRD - I will be quite frank - I will put everything on hold until we have continued this. I did not want to be seen to be presumptuous.

Mr BOOTH - We would never suggest that.

Mr GUTWEIN - I will remind you of that at some other stage.

Mr AIRD - When I am.

Mr GUTWEIN - Are Clayton Utz still preparing the sales documents?

Mr AIRD - Yes.

Mr GUTWEIN - So that is not presumptuous.

Mr AIRD - I do not know what information -

Mr GUTWEIN - No, that is all right.

Mr AIRD - but in fact there is no -

Mr GUTWEIN - I am just playing with you there.

Mr AIRD - I would prefer it if you did not play with me, Mr Gutwein.

Mr GUTWEIN - The question I do have is do you have a business case that supports the sale?

Mr AIRD - No, there is no such animal, to be quite frank. A multiplier and all those types of things come into play and people will make some judgments. Until you get this information to a data room and you know that there is some contestability and some serious bidders that is of concern, it is going to be the market that determines the business case. It is not something you put in the front window of a shop and say, 'Here it is, go buy it'.

Mr GUTWEIN - I would have thought, though, that to support a sale like this you would have a figure in mind, that you would be able to say, 'If that is achieved, we know that we can achieve our aims. If that figure is achieved we can support the racing industry, we can do the other things we want to do'. I would have thought as a matter of course that you would have had some understanding as to what that was before you would proceed to go to the point where you are going to throw it to the market.

Mr AIRD - Yes.

Mr GUTWEIN - So you have that figure. I am not going to ask you, I just want to know whether you have it.

Mr AIRD - Yes, I have a figure in my head here.

Mr GUTWEIN - In your head?

Mr AIRD - I am not going to put anywhere, any time, a figure. People can make judgments about figures and it would be a judgment call because you are trying
to anticipate. Some bidders will seek greater value than others because it will have facets of the operation of TOTE that they want to get hold of.

Mr GUTWEIN - With the greatest of respect, you have provided to the committee today some figures, that is, capital expenditure of $40 million. We know that there needs to be support to the racing industry on an annual basis and we know what's being currently provided. You don't need to be a genius to work out a present value of what lump sum you might require to be able to provide that support. So, in providing those details, you've actually probably provided sufficient information to anybody that actually wants to work through that and say, 'We can work out what the bottom-line figure is to the Tasmanian Government', with the greatest of respect.

Mr AIRD - That's okay; you don't have to say that - greatest respect. The fact is that I have to satisfy some interests here in terms of the racing industry; I have to provide some certainty and I am prepared to put those figures there to satisfy them. That means that when we put forward a deed, or whatever, of understanding, we wear the risk.

Mrs RATTRAY-WAGNER - I'd just like to get clear in my mind, Treasurer, why you couldn't have shared some of your thoughts about the sale of TOTE when you were doing the restructuring. What was so secretive that you needed not to share it with the industry and I guess also why you couldn't share it with the scrutiny committee back in early December?

Mr AIRD - Well, I hadn't determined that it was for sale.

Mrs RATTRAY-WAGNER - But if there had been some processes going on, could you not have said, 'We're doing some really light work on this'?

Mr AIRD - Well, that could have an effect upon a range of players, including the staff of TOTE. There are 300-odd employees in TOTE. When we made the announcement on the Thursday, having made the decision on the Monday, we put in a very serious communication strategy with the employees to make sure that they understood the nature of the process. Similarly, there are a whole range of things that you might consider or prepare for or get preliminary information on that you don't want to go on with. If Deloitte had come back and said, 'Hey, this is not going to work for you', I'd have to really consider that and ask why. I would have really quizzed them. But they didn't say that. Therefore, the issue of making a decision only occurred on 22 December and whatever thoughts or considerations that I may have might have ended up being nothing. It is only after you conclude the deliberations and thoughts about what is going on that you can make a decision.

Mr WILKINSON - People have stated, and stated in these hearings we've had today, that they were receiving assurances that TOTE wouldn't be sold pretty well up until the time that there was a sudden, as they call it, backflip. What's your comment about that?

Mr AIRD - If you look at all my statements about this, I've always said that I was casting my eye over assets and I'm sure you've gone back. I've always said that, as Treasurer, I am looking at assets and I'm looking at their core function to government and -

Mr GREEN - We've bought one - the power station.
Mr AIRD - Yes, well that's true; part of one. That aside, I have always been open about that and we've had discussions in the Legislative Council about it and I've said it in answers to questions; I've said it, in fact, in answer to the honourable member for Apsley.

Mr BOOTH - But didn't you specifically say that it's not going to be sold?

Mr AIRD - No.

Mr BOOTH - But you led people to believe before -

Mr AIRD - No.

Mr BOOTH - Well, certainly our House was led to believe that TOTE would not be sold.

Mr AIRD - No, I didn't.

Mr BOOTH - Well, what -

Mr AIRD - I know you've referred to things in the past, to the second reading speech that was made in terms of the separation. If you read that speech in the context of that bill, you will see that that is entirely consistent because we were saying that the separation of the wagering organisation, the racing services, was not about the sale, and it wasn't. People can make a judgment about does it help or not but I can tell you the motivation is not that. That separation would have occurred whether we proceeded with the sale or not.

Mr BOOTH - When you gave that assurance, when people asked you the because they wanted to know whether TOTE was sold, whether that was part of it, they felt deluded into supporting the industry restructure because they had the assurance that TOTE would not be sold. Have you not effectively misled those people, at least by omission, by not saying, 'Okay, you want to know if it is going to be sold. Today I have not made the decision but tomorrow I probably will because I have made up my mind that clearly I will.

Mr AIRD - You cannot say you probably will make a decision. You either make a decision or you don't. If you look at my statements they have always reflected that as Treasurer I was casting my eye over the assets, and I have said that quite consistently.

CHAIR - Okay, thank you. We have now cut ourselves very short of time so we will now move in camera. I would ask that everybody else vacate the room. Thank you very much for your attendance this afternoon.
Mr KEVIN THOMAS RING was called, made the statutory declaration and was examined.

CHAIR (Mr Hall) - Thank you, Kevin. Please focus just on the main term of reference, which is the proposed sale of TOTE by the Tasmanian Government, and just give your opinion, particularly coming from your perspective as representing jockeys and having been a jockey.

Mr RING - Our association has spoken in depth about this. In fact we had a meeting last week about the subject of the sale of TOTE. Our members are not against the sale of TOTE. What our members are worried about is whether the jockeys and racing will be looked after in the same way as previously, and whether the Government will have a declaration in place that will be binding even with changes of government and changes over the years so that the same percentage of money, if not more hopefully, will be given back to racing. That is the jockeys' biggest fear with what is happening.

CHAIR - Yes, future sustainability.

Mr RING - We have all been reading about the sale of TOTE and the fors and againsts in different articles and comments, but we have not heard a comment yet from the minister as to safeguards on racing, especially the financial aspects, and that is a concern. There are a lot of rumours as to who is buying et cetera, and until it is actually resolved we won't know who it is.

CHAIR - No, we have no idea.

Mr RING - It is just speculation at the moment. We hope it will result in the same situation as before, if not better, and wonder whether anything will be put in place to safeguard racing.

Mr HARRISS - Flowing from that then, Kevin, can I conclude that your association has not been engaged by the Government in any negotiation? You have said you have heard the Treasurer or the minister making comment, so is that a reasonable conclusion?

Mr RING - That is a reasonable conclusion.

Mr HARRISS - What is your feeling about that as an association?

Mr RING - As an association we like to think that we are fairly important in the whole scheme of racing in this State. We are a sub-branch of the Australian Jockeys Association as of last year. If our State association was not informed we would have liked our Australian Jockeys Association to have been informed. We think that this whole sale is very important to everyone and we feel we are a big part of that, and that the jockeys should be aware of what is happening. We have a small number of jockeys at the moment compared to previous years and if they are unsure as to how things are going I think we will lose more.
Mr HARRISS - Have they made an approach to the Government?

Mr RING - No, they have not made an approach.

Mr HARRISS - Yet the sale is on our doorstep. The Treasurer would, I presume, be desirous of having legislation in front of the Parliament fairly shortly. I suppose one could then argue that if your association, your jockeys, are not properly taken account of and the sale proceeds but you have no assurances before the sale, you would be a little concerned. Would you?

Mr RING - We have concerns. We have not made an approach, but thought as a courteous thing that the Government would have made an approach to us, even in writing.

CHAIR - Has there been nothing at all?

Mr RING - Nothing at all.

CHAIR - You have had no consultation.

Mr RING - No consultation. That is a concern to us. As I said, there has been no information as to the long-term stability of racing in this State financially.

Mr WILKINSON - Kevin, it seems to me from over the last couple of weeks asking a few questions around the place that people in your situation, not only the jockeys but other people in your situation, are saying you do not know whether it is a good thing or not as yet because you do not know what certainty there is going to be for the racing industry if TOTE is sold. Is that right?

Mr RING - That is right.

Mr WILKINSON - Am I right in saying that you are not really against it, it is only a lack of communication that leads you to not knowing whether to agree with it or not?

Mr RING - That is right. We are not against it because we can see that if handled right this could be good for racing in general in this State financially. We have always been of the view that, especially over the last 10 years, there has been a lack of race meetings in this State for our members. That is one of the reasons for the shortage of jockeys here. If there can be an input of more finances through the sale of TOTE then that would be good, but we do not know.

Mr WILKINSON - You obviously have plenty of experience in the industry. Have you any idea as to what has happened interstate where TOTEs have been sold, how their industries are going?

Mr RING - I think South Australia is a fairly good example. There are problems at the moment but they are only minor compared to what has happened over the last few years with the sale of racetracks et cetera. Their industry, from our association's point of view, has halted.

Mr WILKINSON - If - and I do not know yet because we are in the same position to some degree as you are - TOTE were to be sold, what would be a way of, in your opinion, ensuring that the industry would have the same if not better return than it has had over the last few years?
Mr RING - I am not an expert on it but I honestly think there should be a greater percentage of money returned to racing. I have always thought that. Racing is a very good industry for this State, financially for the Government. People from TOTE will tell you things are always being put in place to try to earn extra money for TOTE and the Government. I would like to see a little bit more put back in. We have great prize money for our big races but I would like to see the board put more money in over a 12-month period to create more money especially for our members, and also more race meetings.

Mr WILKINSON - It would seem to me that with any proposed sale the Government would need to ensure that whoever purchased TOTE would have to give some type of agreement in writing, in a contract, to say that they would be willing to put back into the industry a figure not less than whatever they decide is appropriate.

Mr RING - That is right. There has to be a guarantee as far as we are concerned and it has to be a binding guarantee that if there is a change of government and a change in the status quo then that money percentage-wise has to keep coming back in, if not more over the years. There has to be something in place.

Mr WILKINSON - Because you could say there is uncertainty if it is left with government to decide how much money you are to get. In hard economic times there is going to be an argument around the cabinet table, I suppose, or the treasury tables as to how much racing can get as opposed to health, education et cetera.

Mr RING - I would like to see something where the new racing board was able to have an input and have a binding contract. Not so much keeping government away from that aspect but have a binding contract with the Tasmanian Racing Board that will stay for years to come.

Mr GUTWEIN - Over what period of time, Kevin?

Mr RING - I would say a 20-year period. To me that would be fair. Then it can be readdressed in that period. Anything could happen in 20 years. It could be sold again. But there has to be something that is binding. I think a 20-year period would be very good.

Mr BOOTH - Kevin, are you concerned then in terms of long-term future stability and support of the industry that, by selling TOTE and leaving the stake money and support for the industry coming directly from government, politics will get in the road of industry during that 20 years? Guarantees are only worth the paper they are written on, as you know. Does that concern your industry? It certainly concerns me and people who have made submissions to me have stated that they do not want it to be taken out of TOTE because at the moment it is actually an industry that is self-supporting, whereas if it comes back then it is seen as a dividend from the public purse, that politics are getting in the way of the industry being sustainable.

Mr RING - My opinion is that politics have gotten in the way of racing for a fairly long time. I came to this State in 1989. Racing was going very well in the early 1990s. To me, over the last 10 years - or maybe a little bit longer - politics have gotten in the way of racing. Racing is a very large industry and it is a sport. Politics and sport do not really go hand in hand. It has been proven in other
Mr BOOTH - Just to clarify that, you do not have a concern either way, if TOTE was sold and then the Government put money into racing rather than TOTE putting money into racing as it does now, that then politics might get in the road of the future of that money coming directly from government to racing? At the moment it appears to be a bit more at arm's length.

Mr RING - I have a concern that it may get in the way. The Government gets their percentage out of racing and I think they should leave it at that. They should not interfere in the process of it, especially between TOTE and the racing board, as far as their percentage goes. The racing board - now different to how it used to be - controls all three codes. They should be allowed to handle them as they see it, with no interference. But they should be funded the same as it is at the moment, if not better over the period of years once TOTE is sold. These security things should be put into place to make sure it is. To me, over the 10 years racing has declined in this State. Some of our carnivals are quite big. The mainlanders love it, prize money-wise. But as for the general local racing population, it is declining as far as I am concerned. The chances of our jockeys earning a reasonable living - especially from our association's point of view - has declined with the declining numbers as well.

Mr BOOTH - You speak as though there is an inevitability of the TOTE being sold. Would you rather have the support coming from TOTE to the industry or from the public purse to the industry in the future?

Mr RING - I think the public purse would be a more concrete step rather than the sale of TOTE. That's not saying we are against it, we just think from the public purse. For what is put into the TOTE over the years percentage-wise I think it has been fairly good but from the top down it hasn't been handled in a way that look's after the industry's people.

Mr BOOTH - So if that distribution was handled properly, the TOTE model funding the industry and TOTE being owned by the Government as it is at the moment is better than TOTE being sold and the money coming from the public purse?

Mr RING - We don't know until something is put in place, until the minister tells us what is happening if it is sold, what guidelines will be put in place and what will be put in place to look after the people in the industry. At the moment we are only guessing.

Mr GUTWEIN - Your association is a sub-branch of the Australian Jockeys Association. What has been the situation in, say, South Australia or Victoria where it has been privatised? Has it been better for jockeys or worse? Could you explain why in either case?

Mr RING - Victoria has been terrific for jockeys. If I was 30 and still riding I wouldn't be here, I would be in Victoria where you have a chance to ride every day of the week. Even if you are a battling rider, you can ride on a Saturday at non-TAB meetings or on Mondays, Tuesdays - which is very average but you can pick up some rides. But, apart from that, you can make a good living riding barrier trials. Their fees are better, there are more of them. Even race riding, they are $160 a ride, whereas here we get $130 and they are riding them every day of the week if they can. In trials they are getting over $50 a ride and you could ride 10, 15,
maybe 20 trials at Cranbourne, for instance, and earn a week's wages just riding trials, plus you are riding track work. There is a young rider over there at the moment, Dean Larson, who battled here but he has done well over there, not through getting a lot of race rides or winners but making a good living. He now owns two houses and I think he's got a little business going as well, just from that. From a jockey's perspective, Victorian racing has been terrific.

CHAIR - It is more a function of economies of scale, Victoria being a bigger State rather than the way the organisation is?

Mr RING - Yes, numbers and population betting-wise, but it has been handled very well. Racing is still in a very good position financially. Then you go to South Australia -

CHAIR - You mentioned South Australia and I just want to follow up on that. You mentioned that is a bit of a dog's breakfast at the moment, but you also talk about tracks being sold off. That was a separate issue from what happened since the TOTE had been privatised there, was it?

Mr RING - Yes, it's a separate issue to what has been going on at the moment. For instance, David Hayes, one of the leading trainers in Australia, has scaled down his team at Lindsay Park in South Australia. He has even sent horses over to Western Australia to be trained because their racing is going well. He has scaled things down to the point where he is not training horses at Lindsay Park anymore. He does have runners in South Australia - and David Hayes is a very good businessman - but from that point of view he's even set up a place at Euroa in Victoria because he knows that's the place to be. Western Australia and Victoria are the places he wants to be; they are the places he knows he's going to earn the money.

CHAIR - The model Western Australia currently operates under is the model we have here in Tasmania.

Mr RING - It is, it is very similar. That was discussed last year at the forums for the new board.

CHAIR - So would you go down the track of saying, 'If it ain't broke, don't fix it', or not?

Mr RING - That is right, to be honest. This new board is new. They are feeling their way. But I think it will be very good in the long-term, but with the sale of TOTE, that is a different ball game.

Mrs RATTRAY-WAGNER - Kevin, you talked about the restructure from last year. What input did your organisation have in that restructure and also, would you mind telling the committee whether you asked the question whether the restructure had anything to do with the potential sale of TOTE and whether it would have made any difference to your support?

Mr RING - I asked the question a few times. Once was at one of those forums at Mowbray Racecourse and it was also asked by a member of the AWU because all our jockeys are members of the AWU. It was asked at the forum at Bellerive as well. I also asked at some meetings at the Thoroughbred Racing Council whether the TOTE was going to be sold and the answer was always no, and it was a very straight no. It is felt in the industry a bit that the new board was set
up so they could separate TOTE and the board because previously TOTE had a lot of input into the racing part of it, especially tracks and maintenance and things like that. Whether it is correct, the feeling was that the new board was set up to separate TOTE so that it then could be put on the market and sold.

Mrs RATTRAY-WAGNER - Would your association's support for the restructure have remained the same had you known that?

Mr RING - If we had known that there was to be a sale of TOTE we would have asked why it was being sold and we would have asked at the time whether there was a guarantee that the same set-up would be in place for the financial reasons for racing. We would not have been against it as long as it was known that everything would remain the same financially.

Mrs RATTRAY-WAGNER - In your opinion, is your industry disappointed at the fact that the Government and the minister have chosen not to take the industry and your association along for the ride in the sale?

Mr RING - Yes, we are. We would have liked to have known last year, and we would like to know now what guidelines will be in place as far as the racing the concerned.

Mr BOOTH - Kevin, how definite was this no when you asked the question a number of times? Was it an equivocal or an unequivocal no?

Mr RING - There was no thought put into it. It was straight off and done.

Mr BOOTH - Were you left with any impression that it was being considered or that there was a process in place?

Mr RING - We always thought it was going to happen. It was no surprise when we read at the start of this year that the TOTE was being sold. I think it was in the media within a week after the new board started. It was no surprise to us, let's put it that way.

Mr BOOTH - Basically you did not believe them when they told you no, then, or did you believe them when you asked them?

Mr RING - I do not think anyone believed it, to be honest. That is the opinion of a lot of people I have spoken to in racing. I don't think anyone believed them. You hear a lot of rumours, and especially in racing, but if it is said often enough you start to think it is true; and it was said plenty of times.

Mr GUTWEIN - Kevin, I want to bring you back to a point Mr Booth raised earlier in regard to the level of consultation. My understanding of what you said was that there had been no contact with the Jockeys' Association regarding the possible proposed sale of TOTE, nor have you been contacted since to provide input in regard to concerns or suggestions you might have about the proposed sale of TOTE. Is that correct?

Mr RING - The minister and the Government say they want to sell TOTE and that is fine, but we are disappointed that they did not let everyone know. They should do it officially in writing and give the reasons to the racing groups. As far as the running of racing is concerned, which has been put to me by the Racing Board, it is separate from the TOTE, especially now with the new board. It has been put
to me by the board that we cannot tell the Government that we don't think they should sell TOTE because that is the business of the Government. But it is also the business of the people that make a lot of money for the Government through racing as well; as far as we are concerned, racing depends on TOTE.

The TAB was set up as an agency years ago to fund racing, but it also helps fund a lot of capital programs as well for hospitals and things like that but it was also set up to make sure that racing survived. Therefore we think that we should have some say or be informed, at least, about what is happening.

**Mr WILKINSON** - Kevin, you were saying that you do not believe that racing is as good now as it was when you first arrived in 1989. Secondly, you say that you do not know whether it is a good idea, it would seem, to sell TOTE because you do not know what the price would be and what racing would get out of it, and that there is no certainty for you. And, as I understand it, you say that there has to be more improvement in racing, more race meets, more this, that and one thing and another as you have described over the last half-hour. How are we going to do that, we might ask, if there is not a change in the ways things are dealt with?

**Mr RING** - One of the things that has been discussed by trainers, jockeys and owners is that we do not need the big prize money for those cups, not as big anyway. Money can be evenly disbursed over the year, with more minor race meetings, say mid-week, and we used to have a fair amount of mid-weeks years ago.

The jockeys, trainers and owners would be quite happy for those mid-weeks to have less prize money than, say, a Sunday meeting. At least it gives everyone a chance to earn some money and make a decent living out of it. The money needs to be spread across the board more evenly, and not just for those January and February race meetings.

**Mr WILKINSON** - So whether TOTE is sold or not, your major concern is as you have just described?

**Mr RING** - Yes. It has been explained to us by TOTE and the board also that they want quality, and that is fine. These people in business are talking about quality, but you have to have quantity to get quality and we are not doing that with the number of race meetings we have. There are fewer owners coming into the racing and there are fewer horses about because of a lack of chances to earn a living and a reasonable amount of money. So they are either getting out of racing or going interstate.

**Mr WILKINSON** - You are saying, aren't you, that the bigger the base of the pyramid the higher it goes?

**Mr RING** - Yes. I can understand that they want quality but the quality that we are getting over that two-month period when we have so much prize money is all coming from the mainland. People will certainly bet on them and that is what TOTE are trying to do and I can understand that; people will bet on them a lot more because they know the horses. Fifteen years ago we had some very good horses in this State that were able to go to Melbourne and win cups and reasonable races and we have not had those horses for a number of years because of the decline in racing in this State, as far as I'm concerned.
Mr BOOTH - Kevin, from your understanding of the Treasurer's proposal to sell TOTE, do you think that it is being done for the good of the industry or for the good of Treasury?

Mr RING - I cannot answer that until I get more information, but as it stands from just sitting back and hearing and reading and different things, I think that it is for the good of Treasury at the moment.

Mr BEST - Just quickly, Mr Chair, I was a bit late this morning as it was a 5 a.m. start at Liffey Falls, so I am sorry. First of all Kevin, congratulations on all the work that you have done with workers compensation for jockeys and other gains. I am sure that other committee members would be aware of the fine work that you have done there for jockeys. If we were to dot some of the key recommendations that you are making about quantity, where do you think that could take the industry over the next 10 years?

Mr RING - I think we could end up with more jockeys here and more owners, but it will take time. In the first five years, say, over a 10-year period it is not going to improve a lot because people are going to be a bit dubious about investing here, but I think it will improve. There is a decline in jockey numbers across the board across Australia but I think the decline in this State is very low; we have a higher percentage than anywhere. I think with some of the suggestions I have put forward today that eventually we will have more owners, more horses, more jockeys and even more trainers - probably more professional trainers.

CHAIR - Kevin, our time has expired, unfortunately. Thank you very much. The information you have given to the committee has been very informative. We have about 12 witnesses today so we have to keep rocking along.

Mr RING - You'd better drink lots of water.

Laughter.

CHAIR - Thank you very much. We appreciate your coming in.

THE WITNESS WITHDREW.
Mr TERRY EDWARD CLARKE was called, made the statutory declaration and was examined.

CHAIR (Mr Hall) - Terry, you have been before parliamentary committees before and so you are aware of privilege and all those sorts of things.

Mr CLARKE - Yes.

CHAIR - Obviously you are aware of our terms of reference, which is to inquire into the sale of TOTE and whether that is a good thing, bad thing or whatever. What I would invite you to do is to give your evidence to the committee, make some opening statements if you like, and then give the committee a chance to ask questions, bearing in mind that we are on a very tight time frame of 30 minutes per witness.

Mr CLARKE - I will make some opening observations, Mr Chairman, and then I would like to deal with a number of issues which have been stimulated by this decision by Cabinet to sell TOTE Tasmania.

Up until December 2008 there were two States in Australia where the racing industry, in my opinion, was set to really develop and had a good base. Those industries were in Western Australia and Tasmania and both were operated by combined wagering and racing bodies. In the other States, where privatisation has occurred in one shape or form, they are all in some trouble regarding their future funding - and I will come back to that later.

It appears to me - and I am making observations at the moment - that this decision is driven by two issues. One is that there is some value in the TOTE now that was not there years ago, so let's jump in and grab it before it disappears, and the threat of expulsion from SuperTAB might well be the driving motivation there.

The other one is an ideology that governments should not own gambling businesses, and I would like to challenge that later as well. The solution is, 'Well, let's fix the racing industry up. We'll put them on a budget and they won't need to complain anymore because they've got a guaranteed income - but hang on, there was no mandate to do that'. If I take Mr Aird's evidence at face value, I don't claim to be the world's best mathematician, but that tells me that the citizens of Tasmania need to fund something over $900 million in the next 20 years. They were not asked whether they wanted to do that, so there has been no public interest test as to whether or not this is a good decision. That is in stark contrast to when the Labor Party came to power in 1998 when they had a mandate to merge racing and wagering.

The second issue is that the Tasmanian racing industry now, whether they like it or not, is exposed to sovereign risk. If we do not think sovereign risk is real for the industry we only have to look at Melbourne and what happened to Tabcorp and Tattersalls, who were encouraged into privatisation on the basis they would get back some $600 million for their licence fee if they were not reallocated the licence in 2012. But the Government there has come in and said, 'No, we are not honouring that pledge; you can take us to the courts if you do not agree'.
The second thing is that without the TOTE, this organisation that has been created, the Tasmanian Racing Board, will effectively be going to the market with one hand tied behind its back. It will have very little power or ability to win its way compared to now with the TOTE, and I'm talking nationally and globally. The other thing that should be worrying people if they're interested in public finance is what incentives will there be for the Tasmanian Racing Board - I don't care whether it's a State-owned company or GBE - where are the market forces that are going to drive efficiency, or is it just going to roll back up to the Government and get caught up in the negotiating for each annual budget?

They are my observations. I think there are issues of public finance principles that are being violated here. I don't understand how a submission can go through Cabinet without the consultation section being filled in, without the economic and social impact, without the licence fees for the new operator having been determined, or the period or the licence. Worse still, if we listen to Mr Aird's evidence, we're just negotiating the deal with the racing industry now, so how did the Government take a decision to sell the TOTE? Where or when was the economic or public benefit test done?

I will now address a few issues that come out of this which I think might be of interest to the committee. TOTE Tasmania effectively provides half of the economic stimulus. In 2005-06, that was estimated to be $74 million, so if you sell off the TOTE to some company that takes it out of this State, you're looking at effectively impacting half of the impact on GDP in this State. As I said, if you take the face value figures given in evidence, that suggests something like $900 million is going to be paid out of the coffers to run racing for the next 20 years.

By the way, the new owner won't have any real necessity to put money back into Tasmania because with the product fee regime, if the Tasmanian racing is not of a quality that fits the new owner's perspective as far as offering product to the wagering punters - and they are the ones who in the end will determine what the new owner bets on - then he has no obligation unless it's part of the deal to put product fees back into Tasmania. If it's part of the deal, then it's going to impact the price.

As to the relationship between TOTE and racing, Mr Challen, I note, said that his decision was a personal one, 'based on, I confess, not huge expertise of the industry' - so again, he got some experts to help him. I would like to ask the committee, what do Japan, France, Ireland, South Africa, Sweden, Norway, Hong Kong, Macau and Singapore have in common? Why is the British Government trying to sell its TOTE to the racing industry? The one thing in common globally with all the major racing industries is that it is one organisation. Racing and wagering is the supply and demand side of the equation.

When the Western Australian Government review was under way into the future administration of that industry, I met the chairman and he told me that the Tasmanian model was the best they had identified after a widespread review. That is what they implemented, apart from the fact that they put probity into the organisation, whereas we argued it was the public good and should be funded for the wider public benefit.

Mr WILKINSON - Terry, what year was that review, please? Can we be provided with a copy of it?
Mr CLARKE - I think Craig might be able to help with that; I don't have that with me here.

Subsequent to the WA decision, New Zealand went the same way, combining racing and wagering into one organisation. In contrast, the most recent example of the privatisation of the TAB in Australia was the sale of SA TAB. Not only did the government there have a massive early return on its purchase price, but it also lost taxation on $80 million of wagering that we got here at TOTE Tasmania. That's because the punters want to stay in the big pool, and the same thing is going to happen here if you move out of the SuperTAB pool. More importantly, it's brought South Australian racing to its knees because the relationship with UNiTAB has not delivered the amount of revenue and income that they need. I understand recently the tax rates have been adjusted to acknowledge that.

Mr Aird quotes that activities in Victoria are a factor in his decision to sell TOTE. From my work with the industry in that State, the racing industry is very unhappy about being prevented from bidding for the parimutuel licence post-2012, and I can tell you from contact within the Government that the industry has tried hard to convince the minister to change his mind and let them bid for the licence. Racing and wagering are inextricably linked; they are the supply and demand sides of the one industry. By separating the wagering from racing and selling off the TOTE, the industry's bargaining power will be significantly impacted, such that the Tasmanian Racing Board, in my opinion, will have little capacity to achieve the targets for selling this racing nationally and globally that Mr Coleman has announced as part of the justification for the split in the administration. It is a suboptimal outcome and the decision to do this in Tasmania is not going with the trend nationally or globally, it is actually going against it.

Indeed, I recently had a phone call from the managing director of one of the two major thoroughbred transport companies in Australia, and I quote him. He said:

'What is going on down there? Have people got rocks in their heads selling off the TOTE?'

The third issue is the impact of funding racing from consolidated revenue. At the time of the incorporation of TOTE Tasmania, an investment bank was engaged to define the options for an appropriate financial relationship between the industry, government and TOTE. The consultants were critical of the option of direct funding of racing, noting it would make the allocation of funds largely a recurrent political issue, based around lobbying and negotiations which would tie up resources that could be better used elsewhere, as there is no direct interactive economic relationship between the Government and the racing industry. The consultants considered it difficult to conceive that a proper incentive structure could be established in such circumstances. Even more importantly - and I see you have had the head of Treasury giving you evidence - in their 2003 Regulatory Impact Statement to the National Competition Commission, the following is what the Treasury said five years ago:

'Retention and exclusivity for TOTE Tasmania's parimutuel wagering activities is the best model for providing stable, long-term and reliable sources of funding for the racing industry. This view is because the interests of TOTE Tasmania and the racing industry are aligned. This nexus creates market incentives for both the
TOTE and the racing industry to maximise outcomes for both parties.

The TOTE has a direct interest in maximising funding for the racing industry to make it more appealing to the public as a betting product and likewise, the racing industry has an incentive to provide the appropriate racing product mix and quantity demanded by the public to maximise betting opportunities and therefore funding by the TOTE.’.

Again, quoting:

‘This market would not exist if the Government rather than TOTE funded the racing industry as it would no longer share the TOTE’s success.’.

I ask, what has changed the Treasury’s stated position? Has someone been leaned on?

Mr Challen claims the connection between the TOTE and the racing industry is just an accident of history. The connection between racing and the TAB was never an accident of history. It was because of the racing industry that governments established a TAB in all States.

In Victoria the industry claimed ownership rights over the TAB and this was tested in the High Court at the time of its privatisation with the case being based on the fact of the funding of the assets of the TAB from profits withheld from the industry.

In a debate over the TOTE Tasmania Bill 2000 the then Minister for Racing, Paul Lennon, said in his second reading debate response, quote:

‘We are enabling the industry to capitalise its assets for the first time in history, whilst at the same time continuing the government guarantee which underpins the industry now ... We are moving it to a State-owned company under this legislation, and on our way through, are recognising’ -

The Government is saying this -

‘what the High Court recognised during the sale of the Victorian TAB, that there is in fact some ownership right of the racing industry in the TAB. This legislation is better than what the Victorian racing industry gets in terms of its share of the profits of the privatised Tabcorp.

They get a profit. Here we are giving them earnings before interest, tax, depreciation and amortisation and that is quite unusual ... They get it off the top and that maximises the amount ... they get 25 per cent there ...’

It is worth noting the member of the Legislative Council responsible for taking this bill through the upper House was none other than Mr Aird. I believe therefore, and I want the committee to take this in, the industry should now argue that whatever the sale price is for TOTE Australia, 25
per cent of the proceeds should be provided to the TAB and this is in addition to the funds that the Treasurer has already identified he is prepared to give.

A minor issue in Mr Aird’s evidence was that he said that he needed to separate out the three assets of the TOTE; the radio station, the TOTE and the racing business. The radio station loses about $700,000 a year. There are probably two logical buyers - Radio Sport 927 and UNiTAB, if they are a buyer. Whichever way it goes, if that was a separate issue it would be a fire sale. That indicates a misunderstanding of the importance of the integrated nature of the industry; without that radio station some 40 per cent of the business would potentially be at risk. If it is going to be sold as a statewide radio network then you would simply undermine the value on that basis of the licence.

Another issue which Mr Aird raised, is there are changes within the industry that I think will be an interesting challenge and I do not think the Government should be involved in that. Any potential buyer would be well aware of what those issues are and would already have discounted the price. He knew that is was likely because a proportion of the business only exists because TOTE co-mingles its board with SuperTAB. That is what we lost. Also it is widespread industry knowledge that most of TOTE’s growth since 2007 has been attracted by rebates to punters to improve their returns and a potential buyer would clearly discount this business if it is not prepared to offer the same rebates.

The major characteristics of a successful TAB are strong local racing, access to a betting pool of more than $1 billion, a competitive taxation regime and position against other forms of gambling and state-of-the-art IT equipment and software. All this would suggest to me that, unless it is a strategic buy and that seems unlikely without the buyer having access to one of the three Australia pools, the buyer may seek to pay the purchase price over a period on an earn-out basis, no doubt frustrating the Government’s reinvestment plans; albeit, we do not know what assets they are going to put that money in and how it is going create more benefit than the existing arrangement.

The seventh issue is, another reason for selling a State-owned company is that it is not performing or could be perceived to perform better in the private sector. Since the establishment of the current arrangement, funding to racing has increased by more than 90 per cent and the organisation has never called on the Government to fund its operational activities. Because of its expertise and experience it has become the fastest-growing TAB in Australia.

In 1997, KPMG did a report for the Government and there were consultants who looked at the ACT about the same time. Both consulting groups could not see how the TAB could survive in the then turmoil in the market. It has, 12 years on and it is stronger than ever. I reject completely therefore, the ideologically-driven view that governments should not own TABs. Providing the racing wagering are operated together, and I am sure the Western Australian Government reached this view, the public benefits test will mean the overall social and economic benefits will outweigh the risks to the Government of the gambling business. If it is operated as an incorporated company, it is operated properly and ministers keep out of the day-to-day business, then they should have no reason to be concerned that is it going to come back and bite them.

CHAIR - Terry, I am aware that we are down to about 10 minutes, so if you can just encapsulate what you have to say.
Mr CLARKE - I can finish there, Mr Chairman. I do have another point to make later.

CHAIR - Yes, thank you. You gave us a multitude of information at 100 miles an hour, so we are probably still all absorbing that. That was good.

Mr CLARKE - I am happy to provide it to you as a paper, if you wish.

CHAIR - It is on *Hansard*. If you want to table that it would be handy.

Mr BEST - We have the picture; you are not happy.

Mr CLARKE - As a citizen I am a bit concerned when someone whacks $900 million on the budget and we were not asked, as people, whether or not we wanted that to happen. It is a very convenient way to say, 'Don't worry about the risk, I'll look after it.' I am sorry, I do not agree. As we saw with Tabcorp and Tattersalls, sovereign risk is just that, it is sovereign risk and it exists in western governments as it exists in any other form of government.

Mr BOOTH - Terry, in your previous role with TOTE, was the sale of TOTE ever discussed before, at any level?

Mr CLARKE - No, it was not.

Mr BOOTH - When did you first become aware of it?

Mr CLARKE - I will put it to you this way, since I left TOTE as far back as in January 2008, I asked if I was to roll up with the right amount of money to do a MBO, how would I go? I was told it would be well received.

Mr BOOTH - Who did you ask?

Mr CLARKE - I prefer not to comment.

Mr BOOTH - Not the Treasurer?

Mr CLARKE - No, it was not the Treasurer and I guess I have then picked up things through the press and I knew that despite the Treasurer saying on WIN Television, on 10 November, it was not on their mind, I know that at the Oaks on 6 November there was discussion in the committee room with the VRC. Amongst people who had been invited there was just the Treasury in the sale of the TOTE. Clearly, it was on people's minds before 10 November.

Mr BOOTH - They had been invited to assist.

Mr CLARKE - To assist the Treasury in the sale of TOTE.

Mr BOOTH - Who were those people?

Mr CLARKE - Again, I am happy to give you that name in camera.

Mr BOOTH - Perhaps the Chair or someone can ask that in camera in regard to that just to clarify it.

Mr WILKINSON - Will we take that opportunity at the end of this session?
CHAIR - If it is quick we can do that.

Mr BOOTH - Just to clarify, what you are saying at the moment is that the industry is supported okay through TOTE and that model could take it in the future, whereas it becomes then a political risk and an argument every year for funding and support of the industry.

Mr CLARKE - It goes further than that because not only is the industry caught up in the machinations of the budgets, you actually weaken the organisation that runs racing because it no longer goes to the table with the ability to talk across the full range of wagering. If you are going to try to sell Tasmanian wagering into Asia, for example, it would certainly assist if you had the TAB there who is buying product on the other side. That is an issue which I know is part of the process to justify the separation and selling of Tasmanian product into Asia. The fact is that up until 2014, 2016 Sky Channel control all the vision rights of Racing Tasmania. So anything you sell you are going to get half-rights for it anyhow. So you are going to have to sell a hell of a lot of product, for example, if you wanted to economically justify putting lights on at Mowbray.

Mr GUTWEIN - You mentioned right at the end of the presentation - and if I can just commend you on that, I thought that was very well presented - that ministers should keep their hands off the day-to-day running of the business. Implicit in that is that in the past that has not been the case?

Mr CLARKE - That is absolutely the case. TOTE and the racing industry reaches out so far into the community that in my experience - 10 years at the head of it - your are in daily conflict because people do not get enough money or this dog had not been listed - a whole range of issues that all of you are well aware of. They go to the minister and they lobby the minister. The minister's support staff think they better get involved. A classic case with the current arrangement with people here is with the hotel down in the Channel. There was clearly no economic case for putting a TAB in there and yet we have spent weeks and weeks arguing because someone in the minister's office had that view. This is not consistent with operating a State-owned company. If you set up a company, you set up the board. It operates under Corporations Law and, as far as government is concerned, it should restrict its input to the strategic plan and the policies. If you are going to go around trying to solve every minor complaint from the racing industry and the betting public then you are effectively, instead of walking away and saying that this is a matter for the TOTE to solve, getting involved needlessly. In those circumstances I can understand why you probably would want to get rid of it, get it off the book.

CHAIR - The committee will now move in camera for a couple of minutes. Would you switch off any recording devices. We will not be long and then Mr Craig Coleman will be the next witness.
Mr CRAIG COLEMAN WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Hall) - Mr Coleman, you are aware of the privilege issues that run as you have given evidence before. For the benefit of members of the gallery and the committee, Mr Coleman may wish to give some evidence in camera as well, but we will start off in open committee. Craig, I would ask you to make an opening statement, if you would, please.

Mr COLEMAN - First of all, I would like to thank the committee for the opportunity to appear before you today and to provide some comments.

Understandably there has been a great deal of interest in the sale of TOTE Tasmania within the Tasmanian racing industry. As I perceive it, the concern is about the continuity of funding, and certainly they were remarks that were echoed this morning by Kevin Ring in his presentation from the industry, and I think that is an entirely valid concern. The Tasmanian racing industry for the past 10 years has received a substantial increase in funding and, as Terry Clarke, the previous witness, indicated, that increase has been in the order of 90 per cent over that time. The profits that are generated by TOTE Tasmania and paid to the racing industry - this is my position - are a distribution of government funds. The Government owns the business, it was set up by the Government and it has chosen, as it did when it formed the company in 1999 and then formed the State-owned company in 2001, to distribute all its profits to the Tasmanian racing industry. So what we are actually getting in the Tasmanian racing industry is government funds.

The Tasmanian racing industry, in addition to the government funds, is provided with considerable other concessions in the form of dividend holidays. I know that has been of considerable debate in other committees and forums within the Parliament. It gets money from Betfair and direct capital injections from the Government, the most recent being the $22.6 million that was paid to the industry in 2002. Operational funding for racing from TOTE Tasmania alone this year is $23.8 million. The Tasmanian industry has seen the success of TOTE Tasmania in recent years and is understandably nervous about its future funding and the impact if TOTE Tasmania is sold. I consider this a strong vote of confidence in the management of TOTE Tasmania and for that I would like to acknowledge the fine work of the board and the management team of TOTE Tasmania. I suppose, in many respects, this probably makes it the right time now to sell the company.

Funding from TOTE Tasmania is but one form of investment in the Tasmanian racing industry. Many Tasmanians invest in the industry through ownership of horses, dogs and, more importantly, through investment in properties dedicated to breeding and training of horses and dogs. For some the investment is motivated by passion for the industry; however, it is important that an appropriate economic return must be considered for those individuals. In my view, the certainty of future funding by government, either through TOTE Tasmania or directly, is an important key element in encouraging that ongoing private sector investment in the racing industry. In this regard, I note the Minister for Racing has already committed the Government to a long-term funding deed, and he spoke of that when he appeared before the committee a couple of weeks ago. That funding deed, as I understand it, will be for 20 years and has agreed
amounts of funding with the Tasmanian Racing Board, which accords exactly with the requirements of Mr Ring this morning.

As I understand it, the industry has been guaranteed a level of funding independent of the commercial operations of TOTE Tasmania, and that is a very important point I'll come back to in a moment. This resolves many of the concerns expressed about what private ownership of TOTE Tasmania may mean to the local industry, and I will touch on some of those concerns as they were referred to by Mr Clarke in his evidence, particularly on the sale of the South Australian TAB. The committee received evidence on the first day of the hearing that the sale of the South Australian TAB was a significant cause of the decline of the racing industry in that State. By way of contrast to TOTE Tasmania, when SA TAB was sold it was returning a loss to the operator. It was virtually stripped of all its profits by the Government of the time. Indeed, following the sale, turnover decreased further, and Mr Clarke referred to that in his evidence this morning. Funding for racing in South Australia is directly - and I emphasise 'directly' - related to the turnover of the TAB in that State, so as the turnover increases or decreases so too does the funding for racing in that State.

I can fully understand that the racing industry would be concerned if the Government was to implement a funding model similar to that model in South Australia, but this is not what the Government is proposing. I understand that the Government is proposing to enter into a long-term deed with the Tasmanian racing industry, which would provide a level of certainty of funding independent of and separate to the turnover of TOTE Tasmania. I encourage that approach because at least the industry will have some form of certainty about its funding model.

I would also like to address some of the comments that were made at the committee on the first day of hearings. The former chairman of the Tasmanian Greyhound Racing Council, Mr Bullock, raised two issues of concerns to him and his former council with respect to the guaranteed levels of funding for the greyhound code. The second matter was in respect to the potential sale of TOTE Tasmania during the industry consultation. Again, that matter was referred to by Mr Ring this morning, so I will address those two points.

It has been asserted that TOTE Tasmania advised the greyhound council that it would increase the level of funding for that code received from funding from Betfair in excess of $5 million; however, TOTE Tasmania did not formalise its commitment in writing. I have here in evidence copies of several letters which passed between the code council and Mr Bullock and TOTE Tasmania which refer specifically to that guarantee. Mr Bullock further asserted that in written documents handed out during industry forums, and in particular the industry forum at Campbell Town, there was a commitment that TOTE would never be sold. On this point I will read from the document - and there is a copy of this document incorporated in the papers that I've handed the committee this morning.

The comment was made that as TOTE Tasmania is not on the market, therefore there is no provision in the proposed legislation dealing with any hypothetical future sale. That falls well short of saying that TOTE will not be sold. Indeed, on a number of occasions during the consultation process, when asked about this question, I expanded my comments to say that the Tasmanian racing industry could never be guaranteed that the TOTE would not be sold. This Government, or indeed any future Labor or Liberal governments, may well decide to sell TOTE
Tasmania, so there's no guarantee in future. To rely on an organisation for the bulk of your funding appears to me to be madness. You need to broaden your income base so that the industry has a good and sustainable future well beyond the single-point sensitivity of TOTE Tasmania. I made that point quite clear at a number of those forums.

I also want to make comment as to why I was so motivated to see the implementation of the industry restructure which was approved by the Parliament last year. There are several papers here which refer to the documented process that we went through there, including board papers from the TOTE Tasmania board when the formation of the Tasmanian Racing Board was first raised and pursued in July and August 2003, almost some six years ago now. So this has been on the agenda for the company for several years and was first raised in public forums in 2004, but didn't proceed at that time for a number of reasons.

I again raised the prospects with the TOTE board in July 2008, and the process of the formation of the Tasmanian Racing Board as a governance model started in July 2008, well before any consideration of the sale of TOTE Tasmania was on the agenda. I, along with a number of other executives, developed that model within the company, and we were firmly of the view that we needed a model which took a one-industry approach to promoting the industry in Tasmania, and wasn't caught up in the fracturing of the three codes competing for their own individual positions, which was the case previously.

There are a number of people within the industry and I received lots of comments through the process. Indeed, I received a copy of a survey done for the greyhound code where 57 per cent of the constituents expressed a vote of no confidence in the old code structure. They were the motivations for me to take forward the industry restructure, it had nothing to do with the sale. Indeed, I would have said that TOTE Tasmania could have been sold regardless of whether the restructure occurred.

As the Minister for Racing indicated last week - and referred to by Mr Clarke this morning - we have restructured the company into three entities: a media entity, a racing entity and a wagering entity; not ostensibly to sell, but because of the efficiencies of running the business in that way. Any one of those entities could have been hived off from the business and could have proceeded forward without the other two. That is all I would like to say about that at this time, but I may have a further comment on that later, Mr Chairman. In conclusion, in my view, the restructuring of the Tasmanian racing industry has nothing to do with the sale of TOTE Tasmania.

CHAIR - Okay. Any questions?

Mr BOOTH - When did you first become aware that the Government was interested in selling TOTE?

Mr COLEMAN - I have made no secret over the last four or five years that I have had an interest in seeing the TOTE pass into private ownership. I have raised those observations with a number of people, including the Government, over that time. So when did I first have those discussions with the Government? Maybe three, four or five years ago.

Mr BOOTH - So with this current proposal to sell, when did you start discussing with the Government the prospect of its being sold? Not from your position in the
past that you thought it was a good idea, but with the Government specifically to do with selling it?

Mr COLEMAN - The first discussions I would have had on the possibility for sale would have been in May or June 2008.

Mr BOOTH - What form did those discussions take?

Mr COLEMAN - 'Is it worth considering?' - it was no more than that. Of course I was very keen on the notion of it being worth considering.

Mr BOOTH - In your mind, when did you believe the Government would proceed or was seriously considering the sale?

Mr COLEMAN - I really had not formed a view on that. There needed to be some consideration about the appropriate process. There needed to be advice on that and ultimately it is not for me to sell the TOTE, it is for the Government to sell it. I am part of what gets sold but they make those decisions.

Mr BOOTH - Was it in your understanding that it would be sold back in October last year, for example, or prior to that, prior to November last year?

Mr COLEMAN - That it would be sold, no, it was not my understanding. My knowledge of it being sold would have come in late December.

Mr BOOTH - How were you advised of that?

Mr COLEMAN - I was advised that it had been to Cabinet and that Cabinet had considered the sale of TOTE.

Mr BOOTH - Did you know it was going to Cabinet?

Mr COLEMAN - No.

Mr WILKINSON - Was there an increase in activity? Proposed sales do not drag along at snail's pace. If there is to be a sale or a decision to sell there is a bit more activity just prior to that happening. What I am suggesting is that you would have noticed that increase in activity, in terms of discussions with you, looking at business plans et cetera.

Mr COLEMAN - No, there were none of those discussions.

Mr WILKINSON - None with you?

Mr COLEMAN - None with me.

Mr WILKINSON - And you were not aware of any?

Mr COLEMAN - I was not aware of any, no.

Mr BOOTH - Were you shocked when you heard that it was going to be sold?

Mr COLEMAN - Pleasantly surprised or pleased.
Mr WILKINSON - I am not in government so I do not know, Craig, but I have been involved in private enterprise for a number of years and the Legislative Council for a number of years. People know what is going on around them. Are you saying that this was so cloak and dagger that you did not have any idea as to what was going on around you?

Mr COLEMAN - No, it is not fair to say that. In response to the question, did I know that TOTE was going to be sold? No, I did not know that TOTE was going to be sold until December. Was I aware of any consideration of the potential value of the TOTE over that time? The answer is yes, I was. Was I directly involved in any activity? No.

Mr WILKINSON - You were not aware that that activity was increasing. Can I take that to be -

Mr COLEMAN - I do not know that that is a fair characterisation of what actually occurred.

Mr WILKINSON - That is what I am trying to find out, you see?

Mr COLEMAN - My understanding is consultants, Deloitte, were engaged to give advice on the structure of the company under the Gaming Control Act and they were subsequently engaged to give advice on whether it was appropriate to sell the company. If that is an increase in activity, I was aware of that.

Mr BOOTH - Did they approach TOTE at all in regard to that then? Deloitte were engaged to consider selling the TOTE off, so surely they must have approached TOTE and discussed the business operation, model and the finances of it - what you owned, what you didn’t?

Mr COLEMAN - All of those discussions occurred subsequent to the announcement of the sale of TOTE.

Mr GUTWEIN - Mr Coleman, are you telling us that the Cabinet made a decision to sell TOTE without there being any direct involvement by yourself, the CEO of TOTE, in regards to the value that might be ascribed to that asset should it go to sale?

Mr COLEMAN - I think we need to be clear on the decision the Government has made. The decision is the Government has an intention or a desire to sell TOTE given the right circumstances. Those circumstances have yet to be identified and finalised, so saying that TOTE is on the market today is wrong, it is not. Indeed, one of the key processes that needs to be dealt with is the passage of legislation through both Houses of Parliament and a price will need to be achieved which satisfies the Treasurer and the Government in particular. To say it will be sold, there are a lot of things -

Mr GUTWEIN - I said the decision had been made to sell TOTE by Cabinet which I think was certainly how the decision by Cabinet was portrayed; that the Government had decided that they would sell the TOTE. It seems a little strange that as CEO you were not involved in providing any advice to either Deloittes or to Government about the potential value of TOTE prior to Cabinet making that decision.
Mr COLEMAN - If we are going to get into some of those questions I would rather answer them -

CHAIR - Any further questions? If not, we will have a short time in camera again.
Ms ROBYN LOUISE WHISHAW WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Hall) - Thank you very much for coming along. What I might do is just read a couple of lines on parliamentary privilege, Robyn, because you may not have given evidence to a parliamentary committee before.

Ms WHISHAW - No, I have not.

CHAIR - Basically what it says is that everything you say to this committee today is protected by parliamentary privilege. This is to allow you to speak freely. However, once you have left the committee room, I must advise you not to specifically discuss your written or verbal evidence with anybody until the committee has made its report to the Parliament. You are free to speak generally about the issue to anyone, but please do not refer specifically to anyone about the evidence you give the committee until the report has been published. Our main term of reference is the proposed sale of TOTE by the Government of Tasmania, so I will let you make some remarks.

Ms WHISHAW - Firstly I would like to introduce myself. For those of you who don't know me, most of you, my name is Robyn Whishaw. I am a manager and part-owner of Tasmania's oldest and largest stud, Armidale, at Carrick in northern Tasmania. I have been involved in breeding and racing horses for over 30 years. My children, the eldest of whom is now home working full-time in the business, are fourth-generation farmers and third-generation horse-breeders. Our business currently employs six full-time staff, with 12 part-time staff during our busier times of year. We also provide a large amount of work for an equine vet, two farriers, two transport companies, a chaff supplier, a fencing contractor, a hay-making contractor and an irrigation company, as well as numerous others.

I would like to make the following points regarding the proposed sale of TOTE, and also ask you the following questions. How do we know just what we are being asked to comment on when the Government has not consulted with our industry at all about this proposed sale and, furthermore, has not given any indication at all of how the sale will work and how the industry will be funded? Amazingly, they did not even consult the TOTE chairman, Craig Coleman, on the sale of TOTE. How can Premier Bartlett possibly claim to have an open, transparent and accountable government?

In December 2007 Mr Michael Aird released a study showing the importance of the racing industry to Tasmania's economy, and I have a copy here. It found that the industry generates more than $74.1 million output for the economy, directly employs over 2,500 people, and many more indirectly and part-time. A study done in 2000 by the Australian Racing Board - and I also have a copy of that - had that figure at nearly 5,000 in Tasmania being full-time employed. It also generates a total construction contribution of over $73 million. It is a most valuable industry for Tasmania and one that has shown significant growth trends in recent years.

TOTE turnover was up substantially last year, from $387 million to $498 million in just 12 months, a growth rate of 30 per cent. The racing industry is labour-intensive and provides employment for a subset of people with unique labour
skills who may struggle to find work elsewhere. Over 50 per cent of those employed are from rural areas. The employment levels have continued to grow as the industry grows, and the industry largely has not been dependent on government subsidies.

It is very important to note that TOTE was formed to fund the racing industry, to maximise return to stakeholders, and to free the Government from having to fund racing. TOTE was developed to make sure the industry and all the stakeholders were able to progress and reinvest in the future of building a better industry, and this has been very successful. Consider that England, with its wonderful racing, steeped in tradition, bets over twice as much in dollars as Australia, yet it races for less than a third of the prize money. Why? Because Australia has had the best betting and funding system in the world, and that is TOTE. Remember that. Australian racing is the envy of many overseas countries, certainly the envy of the English.

Sadly, other States that have sold their TOTE to private enterprise are starting to suffer. You only have to talk to the administrators in New South Wales, Victoria and South Australia to hear of their grave concerns for the future funding of racing, yet both Western Australia and the ACT, who still have government-owned TOTES, are booming. Has our Government taken the time to look at Western Australia and how their TOTE works to see if their model would be appropriate for Tasmania? In fact, Mr Clarke said earlier that Western Australia based their model on Tasmania with a few changes. It is working brilliantly.

What options has our Government explored? If they have explored any options they certainly have not told us. It is difficult not to be cynical about the timing of the announcement of the sale. Just as the Government has totally changed the structure of the administration of racing, taking it away from TOTE and the race clubs and has formed a new Government-appointed board, it announces suddenly the time is right for TOTE to be sold, right when racing's voice has been disbanded and the new Government board has barely had time to meet. We can be certain the new board members are not going to question the Government's timing in the sale of TOTE now, are they?

I do not doubt that private enterprise would run TOTE more efficiently. But private enterprise will have an obligation to shareholders to maximise their returns. Where will the profit go? It is most likely that an interstate buyer, or an overseas buyer indeed, would be interested in buying our TOTE. They therefore will take the profits out of the State. This will in turn have an enormous negative impact on the State's economy. The way it is at the moment, the profit from TOTE goes back into the State, is spent in the State on building the industry, on employment, and tourism and all the other things that the industry generates. I am asking you if an outsider buys it, where will the profits go and how will this affect our economy? Has the Government done a study on this? It would be nice to see if it had. Remember why TOTE was set up in the first place: to fund the industry.

Aren't we - those that have invested long, hard hours and financial commitment to the racing industry over many years and for my family over three generations - the shareholders of TOTE? For as we work hard to grow our industry and employ more and generate more money, so TOTE too has profited and grown. This in turn has kept the growth spiral onwards and upwards. What I would like to know is how our Government is going to offer protection to our industry and to the livelihoods of all those people and families who have worked so hard to build
a viable racing and breeding industry in Tasmania. Without that huge effort and financial commitment by so many the Government would have no TOTE to sell.

It is rather sad to think that we have been so successful in building such a vibrant industry and TOTE that our Government has now forgotten the fundamental reason it was developed in the first place and can only see the dollars it can get from the income of selling it. I think it is important to consider that we must also be aware that governments cannot promise things in perpetuity. Mr Aird may well talk about 20-year promises. I am sorry, but that is all it is: it is only talk. Besides, for me, 20 years is nothing. My youngest son, who aspires to come back to the stud and assist in running the business, will only be in his 30s in 20 years' time. Mr Aird most likely will be long gone but my children will be in their 30s. Twenty years is not long enough, I am sorry.

I challenge our Government to provide a funding model that is not static, that can grow as racing grows as TOTE has done; a model that is sensitive to the needs of the industry and can guarantee us a strong, growing and progressive industry into the future; an industry that can continue to be a major economic and social contributor to our wonderful State of Tasmania. They need to provide us with a model that is better than TOTE. I believe that the racing industry would prefer to stay in the commercial world rather than be dependent on a government for future funding. That is what will happen if TOTE is sold: the Government will have to fund it. I have done the maths and I was alarmed to hear Mr Clarke say that that is the equivalent of $900 million over 20 years.

Finally, I would like to strongly recommend that this committee make a recommendation that the sale of TOTE be put on hold until a proper transparent inquiry can be held to allow thorough investigation of the pros and the cons, and most importantly to allow for public input from those who rely on the industry for their livelihood and income. Thank you.

CHAIR - Thank you, Robyn. I understand the passion you have for the industry and how long you have been in it. You made some very good points. I put a question to you hypothetically, in response to a statement towards the end of your deliberation that you would rather see the racing industry take their chance with the commercial world rather than having a funding model, and you were rather sceptical about the 20-year time line. What happens if there are other commercial pressures which really impact upon TOTE, and they couldn't deliver what they've been delivering in the past? Would it not be better then hypothetically - I am being the devil's advocate here - to have a funding model which delivers some certainty, even though it's for only 20 years?

Ms WHISHAW - I can see your point, yes. I think TOTE has performed well, and it's properly managed - and I would say that the management has been good; you only have to look at the growth of TOTE. In fact, someone was saying there has been 90 per cent growth over 10 years, is that right? It has grown enormously. Obviously, we face a lot of challenges with gambling, and someone like Mr Clarke or Mr Coleman would be in a much better position than I to understand the complexities of those. But from talking to the people in the industry and being reliant on the industry myself, I would think we would rather compete in the marketplace than rely on a government which ostensibly is also competing in the marketplace to get its funds to supply the industry.

I would much prefer that, I would prefer to compete in the marketplace as we have. I think TOTE can continue to grow with good management, and we
obviously need to look to Asia for markets, but we have the right personnel to do that. Also, it will force our industry to continue to upgrade and be competitive.

Mr BOOTH - Thanks for the evidence; it is pretty unequivocal that what you're saying is that you don't want it sold. You are representing Armidale Stud, but do you have a broader connection, do you think that what you're saying is broadly what your industry wants?

Ms WHISHAW - I talk to a lot of people in the industry, obviously, through my clients. This is something that a lot of people in the industry are very alarmed about. Certainly the way it's been done has been very alarming because there's been no consultation at all, and yet we have a government saying they are going to. Why wouldn't you go to the industry, why wouldn't you go to the Chairman of the TOTE and asked him about it? It seems farcical that he wasn't asked, but I am not a politician. Talking to the people that I talk to, and I wrote an article in the Examiner which was published on Launceston Cup day and I had a number of calls regarding that; people are very concerned.

CHAIR - That article certainly raised some interest. Soapbox, I think it was called, wasn't it?

Ms WHISHAW - Yes. I am sorry, people don't trust the Government in that we know a government's promise will only last as long as that government is in, and then it can be changed. The industry feels that it has experienced good growth over the years that TOTE's been formed; it has made good progress, so why change? States that have changed are in trouble. In the States and the countries sticking with this model, racing is very sound and growing. All right, when the economy is tough it will not grow as quickly, that is life. We will go through a tough time now, but I think when times are good, if people put in the hard work then we have had the growth and that's exactly what TOTE has done.

I think the general feeling that I get from grassroots - and I certainly can't speak for the whole industry - is that they're very alarmed, that the Government cannot come up with a model which can't be changed, can't be taken away from us, that can cope with growth - and I can't see how they can come up with a model that's flexible enough, but I'm not that smart so perhaps they can - as TOTE has. As we've grown, TOTE's grown, they feed off one another. Can they come up with a model like that?

CHAIR - Following what you were saying, for instance you were going on a line there, I understand the recent yearling sales were less than satisfactory.

Ms WHISHAW - Disastrous. We certainly expected they would be down.

CHAIR - Obviously an economic downturn comes into play there as well. What percentage do you think can be attributed to the uncertainty around the sale? Some trainers have said to me it was all to do with that.

Ms WHISHAW - We'd all have to guess at exactly what it was to do with. We certainly expected a downturn based on other sales figures around Australia. You would have expected a 25 per cent to 30 per cent downturn. I think there's certainly a lot of uncertainty in the industry and unrest about this sudden proposal. One minute TOTE is not for sale and the next minute it is for sale. One minute we have a say in our industry, the next minute there is a new
government-appointed board who are not going to stand up and fight against this because they have been appointed by the Government.

We feel that no-one is representing us. Who have we to speak out? The industry feels very uncertain but there is no way that you could guess how that influenced the sales. I think that it was a negative impact but of what amount I do not know.

Mr BOOTH - Why do you think the Treasurer is selling it then?

Ms WHISHAW - I would like to look inside his head and be able to answer that. It would appear on the surface for someone naive and ignorant like myself that perhaps he is a little bit short of funds. If he looked at it long term and what it is going to take to fund the industry over the next 20 years, $900 million is a lot of money and that probably does not even allow for growth. I am sure that it would not be based on the 30 per cent growth we have had in the last year or the 90 per cent growth we have had in the last 10 years. I think that figure is probably just what we are at now, plus the CPI index.

Mr BOOTH - Would you have accepted effectively the assurances prior to the announcement that it was for sale, but in fact it was not for sale?

Ms WHISHAW - Yes. Why should we do otherwise? The question was repeatedly asked. I must admit, though, being a bit of a cynic, that as soon they started to separate TOTE from the administration of racing a lot of us in the industry were saying that the next thing they would be saying is that TOTE was for sale. I was talking about it with a vet back in October; we were joking about it, saying we would hear TOTE was for sale.

Mr BOOTH - Do you feel that the industry has been misled by the Government?

Ms WHISHAW - Definitely. And I do not think the industry trusts the Government at all, if, face to face, they cannot answer you honestly.

Mr GUTWEIN - So absolutely no contact with the industry throughout last year?

Ms WHISHAW - None whatsoever that I know of. I am only a State's leading breeder; why would they ask me?

Mr GUTWEIN - You have also been quite prominent in your public statements on this and in Letters to the Editor as well.

Ms WHISHAW - Well, if I don't, who else is going to?

Mr GUTWEIN - Have you have been contacted after making those public statements?

Ms WHISHAW - Yes, I have and perhaps I might need to say something in camera regarding that. I have been contacted by a lot of the industry too.

Mr GUTWEIN - Just before we go in camera, are you aware of any other contact being made with anyone else in the industry or any formal process being put in place because obviously it appears over the last month to six weeks a lot of concerns have been raised, a lot of people out there are raising issues. Are you
aware of any formal process that has been put in place by government or any other body to actually begin to engage?

**Ms WHISHAW** - This is the only formal process that I know of where some public have been asked to comment. I imagine I was asked to comment because I made a noise. Many people have stopped me in the street and rung me up. Some have written to me and e-mailed me to say good on you for being brave enough to speak out; we need someone to speak out for the industry because we have no-one now because they have just disbanded our voice.

**Mrs RATTRAY-WAGNER** - Robyn, obviously the new structure has taken away what you perceive as your voice, but do you still as an industry stakeholder meet on a regular basis?

**Ms WHISHAW** - No, not as a group. We have been trying to. Since this has happened I have been trying to form a group of stakeholders so that we can have a voice so that when issues like this happen someone, an elected person, can speak for the industry. It is very hard, the Government has just disbanded it, the new board only came into being on 1 January and then this is thrown on us, so it takes a little bit of time.

We are in the process of trying to get a body together because we feel that the new racing board, being all government appointees - I am not saying that they do not have the interest of racing at heart because I think that they will have - they cannot be seen as going against government policy otherwise they will be asked to move on down the road and someone else will fill the seat.

**Mrs RATTRAY-WAGNER** - Thank you.

**CHAIR** - We will go in camera. We will be short.
Mr KEVIN NEILSON WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Hall) - Kevin, are you au fait with parliamentary privilege and all that sort of thing?

Mr NEILSON - I have read the documents. I think I am fairly familiar with it.

CHAIR - Okay, I will not go through it again.

Kevin, thank you very much for appearing. You are the manager of the Tasmanian Racing Board - or TRB - therefore I will invite you to make a statement if you would like and then open up the proceedings for members to ask some questions. Thank you.

Mr NEILSON - I need to clarify my position. I am not the manager of the Tasmanian Racing Board.

CHAIR - Aren't you? That is what is said on the running sheet.

Mr NEILSON - No, I am the Manager of Harness with the Tasmanian Racing Board.

CHAIR - Okay, thank you.

Mr NEILSON - The original request for me to appear before this committee was in my capacity as CEO of Harness Racing Tasmania. As a result of the legislative change Harness Racing Tasmania ceased to exist from 1 January 2009 and the roles and responsibilities simply were taken over by the Tasmania Racing Board. My current position, as I said, is Manager of Harness with the TRB. When I was asked to appear before the committee I reviewed the minutes of Harness Racing Tasmania board meetings for any indication of the position of HRT concerning the possible sale of TOTE Tasmania.

As the racing restructure consultation leading to the abolition of the co-councils and the formation of TRB was announced in August 2008, I checked the minutes from then to 1 January 2009, and there was no reference to any HRT position on the sale of TOTE Tasmania. That is not a surprise because the sale was announced on 9 January, after Harness Racing Tasmania ceased to exist. During the racing restructure consultation I do recall some individuals making aside comments such as, 'This looks as if it may be set up for sale', but those comments were sort of there one moment and gone the next. At least one HRT council member made a similar comment and said it was just a one-liner. So I suppose, in conclusion, HRT has never had a position on the sale of TOTE Tasmania as the notification of that sale was made after the entity ceased to exist.

CHAIR - Thanks, Kevin. Questions from the committee to Kevin?

Mr GUTWEIN - Do you have a position on the sale of TOTE Tasmania?

Mr NEILSON - Do I personally, Peter?

Mr GUTWEIN - Yes.
Mr NEILSON - No, I do not. The reason for that is that in my current role as Manager of Harness I am concerned about the day-to-day running of harness racing in the Tasmanian racing industry. I know that the Tasmanian Racing Board is working with the minister at the moment to put in place a funding model for the future. I am leaving the Tasmanian Racing Board to do their job while I go ahead with my job, so I do not have a personal position on the sale of TOTE Tasmania. I do not understand the reasons it is being put up for sale. I have not researched them. I genuinely do not have a position on it.

Mrs RATTRAY-WAGNER - What about your industry, though? Do you think there is any position generally from people you know and speak with, other than the people who have said, 'This could well be a set-up for a sale' prior to the restructure?

Mr NEILSON - There is a two-part answer to that. I am aware that there is an entity that has got together and canvassed clubs and put a petition forward objecting to the sale of TOTE Tasmania. I have not seen that bit of paper. I do not know what the wording is.

The second part of that answer is that I am sure that what the industry wants is security of funding. The minister has given an undertaking that he would look at a 20-year plan in regard to the funding of the racing industry. The racing industry has had secure funding in the past. If you go back to about 2000 when TOTE Tasmania came in and the legislation required that $x$ number of units were paid back to the racing industry to sustain that industry.

In fact, TOTE exceeded that by a long way in the subsequent years from 2000 to 2008. They initially were sole provider of funding for racing. As we went through the early 2000s, entities such as AAMI, Wrest Point Casino and other sponsors came on board and provided a minimal amount of funding for racing - a very important amount but minimal. Then, of course, with 2006 the licensing of Betfair came in and, as such, funding flowed to the racing industry from Betfair. That is about 25-28 per cent of our funding. So the climate is changing in regard to where funding for racing comes from but TOTE still provides an enormous amount of funding. Into the future, I think the industry just wants surety as to the funding into the future and I do not think they care where it comes from, as long as it is secure.

Mr GUTWEIN - Kevin, whilst you might not have a personal opinion about the sale of TOTE, obviously the outcome of the sale is very important for harness racing. If the outcome was not as good as it currently is, would the sale of TOTE be a good thing?

Mr NEILSON - It is a hypothetical question.

Mr GUTWEIN - I can understand your reasons for not wanting to have a personal position in this room, but in the position that you hold, obviously the outcome of any sale is going to have a direct and material impact on harness racing in Tasmania in some way. Either it is going to be better for the industry, it is going to be the same or it might be worse. From what you understand of what is going forward, is the sale going to be better or worse for the industry, and if it were to be worse but perhaps better for the other codes, would you be supporting it?
Mr NEILSON - First of all, I have confidence in the Government in regard to how they have handled racing in the last eight to 10 years. They have put us on a very high pedestal, comparatively speaking, as far as stake money is concerned, and especially the support that they have given harness breeding through their funding and also through TOTE Tasmania has been sensational. I obviously would not condone anything which reduced the funding to racing into the future. It is a hypothetical question, but if TOTE was sold and the funding went down, in hindsight, obviously I would not support it.

Mr GUTWEIN - Fair enough.

Mr NEILSON - But there is a lot of hypothetical in that.

Mr BOOTH - Just following on from Peter's question, are you concerned then that the funding at the moment effectively is being taken out of the political domain to a fair degree, because TOTE exists as a racing entity that funds its stakes and so forth, whereas if it was transferred back directly from consolidated revenue to support the stakes that a strong political argument would occur each Budget as to what the public would see as the public purse paying for the racing industry, and therefore be subject to the whims of whatever was in - the political pressure?

Mr NEILSON - I think no matter whether it is health, education or racing, it is always at the whim of the Government at the time in regard to the support for it.

Mr BOOTH - Yes, but that is the point I am making at the moment. If you are queuing up for a hospital bed, you are not necessarily going to look at what money TOTE puts back to support stakes, whereas if it is a direct Treasury contribution from consolidated revenue, budgetary and portionary, that goes to support that industry, then you are competing, aren't you, more directly? That is the point I am making.

Mr NEILSON - Yes, let us get this clear. The current funding is through until the end of this financial year. With the restructure, the funding that the code councils have been transferred across to the Tasmanian Racing Board and the funding is secure until 30 June. As I mentioned before, I know at the moment that the TAB's main priority in the past two month has been to work with the minister to get a funding model up and going, and I believe that process is almost complete now. Again, I refer to the statement that Mr Aird made to this committee at the first sitting when he said he was looking for long-term surety, and I had noticed the figure of 20 years was mentioned. Does that answer the question?

Mr BOOTH - Well, you have answered it how you want to. The question I was really concerned about was whether, in fact, from an industry point of view you would have more security if you funded through the yield from the racing industry itself, which is effectively and directly hypothecated, if you like, back into the industry rather than Treasury having to grab for cash, selling off the TOTE and putting that into consolidated revenue, and then hooking up a deal that gives you 20 years of certainty in the sense that it becomes a political issue if you get funding. That is the point that I am making.

Mr NEILSON - In regard to the funding from TOTE Tasmania, or an entity like TOTE Tasmania, their performance has been outstanding in the last couple of years. We all know the figures, so I will not go through those again. Who knows what
will happen with regard to the racing industry in Tasmania, or worldwide what will happen with betting and so on? It is really a hypothetical, again. As I said, I want a funding model that is guaranteed, whether from the racing industry itself or from consolidated revenue through the government budget each year. To me it does not particularly matter and I do not know which one is better at the moment but I have a lot of faith in what the Government has done in the last eight to 10 years.

Mr BOOTH - Do you think the industry should have a plebiscite with all three codes to decide whether TOTE should be sold?

Mr NEILSON - My answer to that would be, provided all the information is given to them about why the sale of TOTE is proceeding, yes. But I do not think a plebiscite is much good unless people have all the information in regard to why the sale has been put up and so on.

Mr BOOTH - Do you know why it is being sold?

Mr NEILSON - No, I do not.

Mr BOOTH - The Government should be transparent about why it wants to sell it?

Mr NEILSON - I do not know what the processes have been with other entities that have been sold, like the Hydro and so on. I do not know what the process is in regard to how much information is given out.

Mr GUTWEIN - We tried with the Hydro. I think Tony Rundle would be appalled.

Mr NEILSON - Sorry, had the wrong one there.

Mr GUTWEIN - How are your members reacting at the moment? One of the concerns that I am hearing from the industry more broadly than we have heard to date and Robyn Whishaw, concerns the lack of consultations concerning them. Do you believe that former members of Harness Racing Tasmania, as they exist now, are concerned about the sale? If so, what could be done?

Mr NEILSON - I understand that you are interviewing one of those former members this afternoon, Tony Jeffries. Tony would be able to give you a straight-from-the-horse's-mouth answer to that, I would suggest. The industry wants security of funding into the future. That is my summary of what the industry thinks about it.

Mr BOOTH - In regard to that, when the pokie licence was given out and a lot of betting money went into pokies there was a lot of concern at the time that that money should have been hypothecated straight back into the industry. It did not happen to the detriment of the industry. I did not support that contention myself. Do we not have a similar situation where the business that supports the industry at the moment by being set up over the years partially through government support but effectively through industry self-generation is now to be plundered by the Treasury, but unless there is absolute guarantee, there is 100 per cent hypothecation, then you might end up in the same situation as when the pokies were set up which stripped away a lot of the gambling money?

Mr NEILSON - When the pokies were set up there was a concern in regard to the lack of funding coming back to racing, but time has shown that the Betfair model
and also the performance of TOTE Tasmania, I believe, well and truly made up for any perceived shortfall.

Mr BOOTH - There was $200-odd million lost on pokies. There are a couple of hundred million coming out of the gambling pools for poker machines. It is a fair bit when you consider the $23 million that goes back to TOTE from the State.

Mr NEILSON - I answer that question on the basis of the stake money available to participants in Tasmania. While we would all like it to be higher, it stacks up very well compared with other States in Australia and that is the base on which I say it has turned out pretty well.

CHAIR - Kevin, thank you very much for your time.

THE WITNESS WTHDREW.
Mr PHILIP GEOFFREY SWINTON WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Hall) - I invite you to give some evidence or make an opening statement and then let the committee ask you some questions.

Mr SWINTON - First, my position is Secretary of the Devonport Racing Club and also President of Thoroughbred Breeders Tasmania. In those two capacities I have a strong interest in the sale of TOTE Tasmania.

CHAIR - You are a mixed grill.

Mr SWINTON - I suppose so. Both organisations are looking for a good future for thoroughbred racing in the State. I will make a statement from each of those entities. First, the Devonport Racing Club has enjoyed a very good association with TOTE Tasmania and has handed over staffing responsibilities and so forth to them over the last three or four years. We have seen a lot improvements to the track and, having seen Launceston come on line, we are looking for more improvements for that racecourse moving into the future and for racing on the north-west coast.

As far as thoroughbred breeders are concerned, once again we have enjoyed a very good relationship with TOTE Tasmania. TOTE is a wonderful supporter of the thoroughbred yearling sales, which have gone from strength to strength over the last few years with the advent of Magic Millions coming on board. We owe a lot to TOTE for high average prices for a lot of breeding studs. Robyn spoke to you earlier, she runs one of the largest studs in the State, along with Graeme McCulloch, ourselves and Bowthorpe. We have all seen a lot of improvement in the breeding side of things and we are all investing quite heavily in the industry. Obviously when the sale of TOTE Tasmania was first mooted in early January, we were all seeking some long-term surety as to the future in which we were going. Both organisations, the Devonport Racing Club and Thoroughbred Breeders Tasmania were, I suppose, taking a position of opposition to the sale of TOTE simply because we did not have information as to a long-term funding model.

We are not saying it is necessarily a bad thing, but until we are given that sort of information it is difficult for us to make a positive comment towards it. The sale of TOTE to private hands could be a great thing for the racing industry in Tasmania. As we all know a private operator tends to run that type of business more efficiently. However, we would need to see a long-term funding model before we could support it.

Mr BOOTH - Philip, you mentioned that it could deliver potentially better outcomes if it was run by private enterprise, but are some of those efficiencies and things that the industry would then lose as a result of it no longer being a government business intangible? After all, a government business is seen to be a public facility which does, by its very nature, have to deliver certain other benefits that are non commercial directly.

Mr SWINTON - Yes, that is very true, Kim. I suppose one of the things with TOTE at the moment being a government business is that it is quite easy for us to justify
the fact that TOTE is putting in $27 million or whatever it is to racing because you can say that has been generated by TOTE Tasmania.

Having spoken to the Treasurer who said, eventually the money is coming out of one big pool anyway, it does not matter which organisation is generating that money. But obviously it is a far easier model for everybody to relate to if they know that is where it is coming from, it is funding racing. We have had some great increases in stakes and so forth in the past. If that is no longer there we will be competing with every other entity in the State money out of the consolidated revenue. It is going to be far more difficult to justify, I would have thought, than the model we have at the moment. But, once again, if it is run very efficiently and generates more turnover then it could be a positive in the industry if there is a funding model in place that the industry benefits from.

Mr BOOTH - Where do you see those efficiency gains occurring? That is where I was saying in terms of the intangibles that are provided.

Mr SWINTON - TOTE Tasmania is probably entering a difficult phase at the moment where they have lots of legislation issues with other States that they need to deal with. I know that they have been very proactive overseas and that is a big growth area. Depending on who was to buy the business they would need to find some niche markets, but that is not my area of expertise.

Mr BEST - Thank you very much for your contribution today. We heard earlier from representative jockeys of their view about quality being important but also quantity. I am just interested in your view. Could that be solved with more funding so that there could be more events? Maybe I could simplify the question by simply asking what would be the key features that you would be looking for in a funding-model agreement?

TOTE Tasmania and Magic Millions going forward with a very successful sale has brought a lot of new people into the industry, which in turn has helped the local economy. It has brought a larger pool of horses coming through. From a thoroughbred perspective, there have been insufficient races for those horses to compete in. I know that there is a view in some quarters that we need to get quality instead of quantity and there are various ways to do that. We are doing some work at the moment on some modelling for that. Going from approximately 68 to 78 race meetings per year would probably satisfy the demand and supply issues we have at the moment. Whilst that would require some extra funding, we believe that there are other areas that we could get funding from - some of the larger races and so forth. No matter which funding model we look at, we have to constantly be increasing our stakes pool because, whilst I heard Mr Neilson say earlier we have done very well in comparison with Victoria and New South Wales in their country racing, we have to keep growing because otherwise we will stagnate and fall behind. The industry is very vibrant at the moment and we need to continue that.

Mr BEST - Is there a set percentage? Is it CPI? How do you work out how the increments need to keep adjusting?

Mr SWINTON - The benchmark that we have been working on is Country Racing Victoria. We were about 85 per cent of their stakes money and I believe that we are about 100 per cent of it at the moment. We are getting interest now from Victoria with people bringing horses over here or trainers relocating from Victoria, and that is all a good thing for our industry. We need that positive vibe
to continue. An issue that we have had just recently is that unfortunately our sales this year were 41 per cent down in late February, just before the Launceston Cup. Obviously the economic climate has contributed to that but also I think the uncertainty in the local industry with the announcement of the sale of TOTE without any model as to where we are moving in the future has probably caused some of our local buyers and trainers to be a little apprehensive this year and to stand back to see where the industry is going.

Mr BEST - When you said 'pool of horses coming through' you were talking Tasmanian, is that right?

Mr SWINTON - Yes.

Mr BEST - When we are talking about the funding model, what are you proposing there? Are you suggesting that the funding model needs to be worked out and decided upon well in advance of any proposed sale of TOTE?

Mr SWINTON - It would certainly be very difficult to go backwards from what we have at the moment. Once again, as I said, if it goes into private hands it becomes more profitable. It could be a huge winner for the State, it really could, as long as we have some surety from the industry that some of that money will be going back into the industry to benefit in the long term.

CHAIR - Philip, you talked about, and I think we may have had some prior evidence that there need to be more race meetings in the State. There was always a bit of a contrary view that we have a very small pool of jockeys here and that some horses have gone to the knackery in the last few months. I think you were painting a bit more of a positive picture, saying that there are trainers coming in and wanting to train horses here.

Mr SWINTON - That is right, yes.

CHAIR - In a general overview of the racing industry, are more race meetings required within the State at this stage? Is that something that you would support?

Mr SWINTON - Yes, they are. I have spoken to Don Abell in regard to this. Whilst he did not know which way it would be he said to come forward with the proof. We are actually working on some modelling at the moment that shows that that is in fact the case.

CHAIR - The other thing you talked about was the performance of TOTE and how they had performed quite well in the last few years. Given the very competitive commercial environment that they operate in and there may be external forces which may impact in the future upon their viability and therefore that would deliver less return to the Tasmanian people and obviously to the racing industry, is that a concern, you being within the industry? I know that's a bit of a hypothetical. Is that something you would be concerned about, you would prefer to have a guaranteed funding model from consolidated revenue rather than from TOTE itself?

Mr SWINTON - It is a hypothetical question, but I suppose you can only go back on their performance over the last few years, which has been very strong. You would hope that in any competitive environment, which hasn't no doubt been the
case over the last few years, they have performed very well. So as an industry, we would hope that would continue to happen.

**CHAIR** - So you are not aware of any things that might be looming on the horizon in terms of pressures that may diminish their performance?

**Mr SWINTON** - Certainly race fields legislation, which you are probably well aware of, which means we need to buy our product and sell our product well. I believe they have done very well, especially with their Internet side of the business with looking at opportunities outside of Australia, and so forth, so the industry I think would be very positive in all their aspects in respect to TOTE Tasmania.

**Mrs RATTRAY-WAGNER** - Just following on from the Chair's line of questioning, there obviously was evidence earlier today from a person saying that too few get too much, and the stakes are not evenly spread. Obviously the Hobart and Launceston cups are examples of that, and then there's not enough for the smaller race meetings. Do you support that theory?

**Mr SWINTON** - It's an interesting idea. Certainly leading up to the thoroughbred sales this year, first, second and third in the majority of our larger races all went out of the State, so that was a negative for the State. However, if we have a horse good enough, we will take it to the mainland and try to win their prize money, don't worry about that. It's quite difficult for us to limit the opportunities of mainland competitors to come over here. It's a good thing when they come over here because hopefully it raises standards that we need to have in Tasmania, but I think there's probably a balance. I think at the moment maybe we do have some of our races a little too high, and some of that money could be directed to minor races. I don't think it would make a lot of difference if we were to take a percentage off most of those larger races; it wouldn't affect the horses who came over, it wouldn't affect our fields, but it certainly would help the local industry here 52 weeks a year.

**Mrs RATTRAY-WAGNER** - That was the message that I was getting out in the public as well. You said your particular organisation is working with the minister to look at a funding model. Has that happened only since the announcement's been made for the proposal to sell TOTE?

**Mr SWINTON** - No, it was Mr Neilson who said that; we haven't been working with the minister on that at the moment. We've had meetings as a group with Don Abell, and we are developing a plan at the moment to send to the racing board that will show that the facts and figures as to why we need more race meetings.

**Mrs RATTRAY-WAGNER** - You haven't had any direct conversations or meetings with the minister in regard to -

**Mr SWINTON** - Not formally, no.

**Mrs RATTRAY-WAGNER** - What about informally?

**Mr SWINTON** - Yes, I have spoken to him informally about it.

**Mr BOOTH** - I am intrigued just in regard to your comments that if TOTE was sold into private enterprise then it would do a lot better, there is more potential. Given that it is a government business enterprise supposed to work on a corporate
model, implicit in that, then, is that TOTE isn’t performing to capacity or there’s some undetermined or undisclosed capacity that they should be going into. What are those areas, or is that just a generalisation?

Mr SWINTON - It is only a generalisation, I think that probably comes just from dealing with businesspeople in general. I suppose if you’re out there in the private sector then you could probably run a little bit leaner and meaner. As far as the industry is concerned, I suppose we are very pleased with the way that TOTE has performed, but for it to go to private enterprise then there may be other opportunities that come with that.

Mr BOOTH - Correct me if I’m wrong, but I’m assuming that would mean that if it went better, the Government would have to have some sort of taxation model in place to take some of the funding back out of that increased pool or better performance, that business, that would somehow then be redistributed back to the industry.

Mr SWINTON - Certainly it’s difficult for us to comment on it at the moment because we haven’t seen any funding model at all.

Mr BOOTH - So at this point of time, where you are sitting, is it a fair assumption that the decision to sell TOTE is in fact a Treasury-driven imperative as a grab for cash rather than for the good of the industry? Or do you think it is taken for the good of the industry?

Mr SWINTON - I thought the timing of it was interesting in that on 11 November there was an announcement that there was a new era in racing and the board was selected and announced on 28 December and then the sale was announced on 8 January. That seemed probably to a lot of people that it was something that had been considered beforehand. I suppose it is hard to know. I mean, we have not been told the reasons for TOTE’s sale, so any answer to that would only be a guess.

We have spoken a lot about ongoing funding with stakes, but another really important issue to look at is infrastructure. Whilst Launceston has just had a major track upgrade and it is an unfortunate situation that we have Launceston, Devonport, Brighton and Hobart all probably needing new tracks all at the one time, another very important thing to look at as we move forward is where that infrastructure money is going to come from.

Mr BOOTH - Just one question in regard to the funding model in the future which you are looking at if the TOTE was sold. Doesn’t it concern you that you would be queuing up for money, even if it was a long-term commitment? I mean, there is no such long-term commitment with football, for example, or pogo-stick riding or any other activity that occurs. Doesn’t that then put the industry at risk of the whims of politics each budgetary session, and it becomes an election issue?

Mr SWINTON - It certainly does.

Mr BOOTH - I have been very critical of the Government in the past in terms of their prioritisation of funding streams to the racing industry when you have issues with health and education and road infrastructure, all sorts of things, and that is an argument that has been perennial, it keeps coming up, whereas at the moment with the TOTE funding the industry directly you do not have that white noise coming across each budget. Nobody looks at it and says racing is getting all this
money because it is actually seen to be a self-generating thing which to me, from the industry perspective, is much more desirable. Is that a fair comment?

Mr SWINTON - It is a fair comment, yes. From my dealings with people in other States, I sit on the board of Thoroughbred Breeders Australia and there are a number of studs that have been looking at opportunities in Tasmania and I think they are probably sitting back now and waiting to see what happens before making any commitment, but certainly the industry is seen as being very vibrant down here at the moment and I would hate to see that go backwards.

CHAIR - Thank you very much, Philip, for your presentation. We will no doubt talk again.

Mr SWINTON - We will, thank you.

THE WITNESS WITHDREW.
Mr GRAEME JOHN RUSSELL was called, made the statutory declaration and was examined.

CHAIR (Mr Hall) - Mr Russell, we invite you to introduce yourself and make a statement and then we will ask you some questions.

Mr RUSSELL - My name is Graeme Russell, I am Vice-Chairman of the Devonport Racing Club and an ex-committee member of the Thoroughbred Racing Council which, as you aware, no longer exists. So I am here to represent the racing club of Devonport and see where everything goes.

CHAIR - We have given our terms of reference, the proposed sale of TOTE. Do you have an opinion or has the club formed an opinion as to whether it is a good or bad thing?

Mr RUSSELL - I have not really formed an opinion and, I guess, listening to a lot of the others as well - because we have not had a lot of information on the conditions of sale of the TOTE and all the other things that are going on - it is really a 'not knowing' situation as yet. We have spoken at our committee meetings and it all comes out the same - 'Give us some information on why it is going to be sold and what the conditions will be when it is sold'.

CHAIR - Has it created some anxiety within the club?

Mr RUSSELL - I think it has because even a lot of our committee members have backed off on buying horses at the yearling sales. I settled for one. I do not have a race horse at the moment because I have just held back because I am not sure -

CHAIR - You might be saving money.

Laughter.

Mr RUSSELL - Or making money. Until the decision has been made to either sell or not to sell, and with the new racing council as well, nobody really knows what is happening in the industry.

CHAIR - So I suppose the sooner that Parliament make a decision in that respect so we know which way we are going, it could be an advantage to the industry.

Mr RUSSELL - That is exactly right.

Mrs RATTRAY-WAGNER - Graeme, in your mind, had this proposed sale been held off, say, for 12 months while the new racing structure is bedded down, so to speak, do you believe that would have been more beneficial and your part of the industry may have had more time to digest what was going to happen?

Mr RUSSELL - I think it probably would have been a good idea to move the industry forward a little slower than it is. It seems that everything is trying to happen right at the one time and when you talk to a lot of the trainers and owners they all ask the same question, 'What the hell is happening at TOTE? What's going on with the industry?'. There are a lot of 'don't knows' at the moment.
Mr BOOTH - Drilling down on what you said in regard to buying horses at the sale, for example, you said you no longer have any horses yourself. Had the sale not been announced, would you have proceeded in the same environment as pre the announcement and bought horses?

Mr RUSSELL - I probably would have. If I went to the sale I probably would have bought two but I decided not to go because I am a bit of a sucker when I go to an auction - I seem to put my hand up.

Laughter.

Mr RUSSELL - So, yes, I possibly would have looked at buying, but just at the moment the industry is in a little bit of an unsure situation so I thought maybe I would just hold off for 12 months.

Mr BOOTH - So is it a reasonable thing to extrapolate from that then that the industry is concerned that the sale or privatisation of TOTE might be detrimental to the industry?

Mr RUSSELL - I do not know. This is going back to what I said a while ago, but I think it is just that the industry does not know. I think if the industry was told that the conditions of sale would be that the money would go straight back into the racing industry it would be different. If we have to sit and look at our money for racing coming out of consolidated revenue, maybe there is going to be a lot of public reaction out there that we are taking money away from hospitals and education and all the rest of it, whereas now, you still read in the media that we still have a few problems like that, but at least now we know that the money for racing is coming from racing.

Mr BOOTH - So do you see a need to sell to privatise TOTE under the current arrangements? Is there any reason that you see why it ought to be sold?

Mr RUSSELL - Not particularly, unless of course the conditions and whatever comes out of the sale make a big improvement to our racing industry. If we can get more race meetings and improve the balloting system - and the only way I believe we can improve that is by having more race meetings - I believe the sale would be a good idea, but the timing of it is probably not just quite right.

Mr BOOTH - From where you sit in the industry, and given the positions that you hold and have held, there has been a lot of white noise about the potential for a sale, which was denied; in fact it was unequivocally stated that it wasn't going to be sold. Were you shocked when you heard that it was going to be sold?

Mr RUSSELL - I was actually, because we were told at, I think it was our last or second-last Thoroughbred Racing Council meeting, that there was no intention of TOTE being sold.

Mr BOOTH - When was that?

Mr RUSSELL - That was probably a month before the Tasmanian Racing Board took over. Whether it was a quick decision after that or not, it's -

Mr BOOTH - Do you feel you were misled in regard to this?

Mr RUSSELL - Probably a little, yes, but by whom we don't quite know.
Mr BOOTH - Do you think that the industry should have a plebiscite on the sale, all codes, an industry-wide plebiscite in terms of whether the industry accepts it should be sold or not?

Mr RUSSELL - I don't think you could do that until, as I say, the information gets out and things are a little more transparent about how it's being sold, maybe who the contenders are for buying, and that sort of thing.

Mr GUTWEIN - How much capital might be required to bring some of the other racetracks up to scratch, so to speak? We've heard this morning that money has been spent in recent years, on Launceston for example, but Devonport particularly?

Mr RUSSELL - I reckon for Devonport we'd be looking at $12 million to $15 million to bring it up to scratch. I probably believe Launceston is a fantastic track now with the new StrathAyr. We're looking at some prospects at the moment so that when the board comes to us and tells us they're going to spend a heap of money at Devonport, we can say, 'This is what we'd like' or 'This is not what we'd like', instead of being able to say, 'Oh, we don't know'. We are looking at a StrathAyr against the other tracks like Geelong has, the synthetic tracks. We are getting some information together as a club for that.

Mr GUTWEIN - Over what sort of time frame do you think that upgrade would occur, or is it important that something is done with Devonport relatively quickly?

Mr RUSSELL - I think it's very important that in the next two or three years something's done at Devonport. We found a problem last year when Launceston was closed, and the racing industry really struggled to have enough because our track's not up to scratch enough to race through the winter. We had two or three meetings cancelled, so more horses get balloted out, owners get frustrated and trainers are crabby. Yes, it becomes very important, I think, that we have the three tracks up and running.

Mr BOOTH - Are you concerned that there might be a strategy for a two-track model in Tasmania?

Mr RUSSELL - I don't believe so. A lot of people talk about that, but I don't believe it's possible that you could run Tasmanian racing on two tracks. I think it's important that if we had to have two tracks we'd never survive.

Mr BEST - Pretty much from my reading of what you're saying is that your view in relation to the sale of TOTE really would be dependent upon what might be the situation in the funding model. If you could see that, then you could actually probably give the committee a firm view either way, couldn't you?

Mr RUSSELL - For sure, yes. As I said before, it could be a wonderful thing for racing, but it's probably like a motor car that no-one's ever seen.

Mr BEST - In that, there are some matters that have been raised about things that people would like to see in a funding model. Do you have anything other than what's been said today, or would you like to enforce some of the things that may have been said today?
Mr RUSSELL - Not really, no. I think from what I've heard from two or three speakers today, everyone's is of virtually the same opinion. We need some transparency and to find out what the reasons are and what the conditions of sale are, then we can sit down and make a fair assessment.

Mrs RATTRAY-WAGNER - Graeme, it was said previously today that for your particular part of the racing industry to grow and have more opportunity for the horses to race, so from your perspective do you believe that Devonport needs to be upgraded for that to happen?

Mr RUSSELL - Definitely.

Mrs RATTRAY-WAGNER - In your mind, does there need to be a commitment for that $12 million to $15 million to be committed before that next part could well and truly take place.

Mr RUSSELL - Yes, definitely. I do not believe there has been money spent on Devonport in a major upgrade for probably 15 to 20 years. I am not sure. The track at the moment requires really heavy maintenance all the time just to keep it up and running so that we can race on it.

Mrs RATTRAY-WAGNER - That is at the level that you already race at. That is not being able to extend out those opportunities for racing people?

Mr RUSSELL - That is right.

Mrs RATTRAY-WAGNER - To get equal coverage across the State, Devonport would need that $12 million to $15 million, in your mind?

Mr RUSSELL - In my mind, I am sure it would, yes.

Mrs RATTRAY-WAGNER - Are you supported by the rest of your organisation on this issue?

Mr RUSSELL - Yes. It was stated by TOTE before all this happened that they were verbally guaranteeing that Devonport would be the next upgrade. But now this is all happening it all up in the air again.

Mrs RATTRAY-WAGNER - Ahead of Launceston lights?

Mr RUSSELL - No, Launceston lights would be going ahead and the next major restructure would be Devonport.

Mr BOOTH - In terms of the politics, you make it clear that, if it were to be funded out of consolidated revenue, how would you feel going out and competing against football, health, education and so forth for an annual support for stakes and so forth?

Mr RUSSELL - I guess it would make it much harder, wouldn't it? You are also competing against football, hospitals, health and all the rest of it, but you are also competing against the public because of the look of it, more than anything. Even though maybe the money is going into Consolidated Revenue and then coming out and going into racing.

Mr BEST - Your money would be going into it.
Mr RUSSELL - Yes, but it probably does not look quite as good if it is coming straight from racing back into racing.

CHAIR - Graeme, thank you very much for your evidence. We appreciate your coming down and wish you all the best. Have a safe trip back.

Mr RUSSELL - Thank you.

THE WITNESS WITHDREW.
Mr **WALTER McSHANE** was called, made the statutory declaration and was examined.

**CHAIR** (Mr Hall) - You are aware of the issues that surround privilege and that sort of thing?

**Mr McSHANE** - Yes.

**CHAIR** - You are au fait with that?

**Mr McSHANE** - Yes.

**CHAIR** - You do not need me to explain those to you?

**Mr McSHANE** - No.

**CHAIR** - Thank you very much for coming along. You know what our term of reference is. I will just read that to you again - we propose to inquire into the proposed sale of TOTE by the Government of Tasmania and any other matters incidental. I would invite you to make an opening statement if you like and then we will ask you some questions.

**Mr McSHANE** - Paul Lennon did a great job when he designated a lot of money to the racing industry because it is a very important industry, as racing is all over Australia. He engendered a lot of confidence in racing when he put as much money aside as he did - albeit much of that money was misspent - not his fault, he cannot do everything. A lot of that money was misdirected and had it been given to the racing industry it would have been spent ever so much better, but that is not the way it all happened.

I consider racing very much as a confident sport and business. From my point of view it is a business and a sport. What has happened since Mr Aird took over and misled us has destroyed one heck of a lot of confidence right throughout the industry from the breeders to the owners to the trainers and perhaps jockeys because we cannot get jockeys to stay in this State.

We are in a shocking situation where we are flying jockeys in every Sunday to ride horses, then on a Monday we go looking for people to train our horses for the other six days of the week. People are not here and they won't come and stay here because our industry is a little bit too small. We have asked for more racing to make it more viable for all of us but this has not happened, the money was not available.

We were pretty comfortable with TOTE and our spin-off from TOTE to keep the industry in a reasonably sound situation. We thought we knew where we were going. We were promised by Paul Lennon that we would be looked after and that all the legislation was in place to maintain the racing industry and when the word came out that the racing industry and TOTE were to be split we were pretty quick to work out why. I was in the room when we put the question to Mr Aird as to whether that was going to be the case, no less than three times in one session. He denied it thrice, and there was no cock there to crow after he said it.

**Mr GUTWEIN** - When was that?
Mr McSHANE - I cannot tell you the date. It was in his rooms in the Executive Building.

Mr GUTWEIN - Can you give an indication of which month?

Mr McSHANE - I have a shocking memory. I have had a lot of falls off horses and my short-term memory is non-existent. Someone else that you will possibly have in this room today could tell you; it was in the spring.

Mr BOOTH - Well before the racing restructure bill went before the House.

Mr McSHANE - Yes it was. The writing was on the wall and when we put it to him directly he denied it three times at least so we thought maybe it was not going to happen. We read in the press that he said it was not happening, it was not happening until he signed the sale, or the whatever it was - the bill for the future sale of it. And that is when it happened, he said.

But it happened nine months before that when took the racing administration out of the hands of TOTE, or he put it in train. Confidence went and, as we have seen in the yearling sales a couple of weeks ago, it was not the economic recession that caused the fall in prices, it was not that, because Tasmania is rather a small industry but we need x number of horses to run our racing industry.

It seemed that we had too many horses because we did not have enough races for the horses that we had bred here so when it came to the sales we were expecting a little bit of a downturn but not to the extent that it happened. Now we have a glut of horses, we have service fees and studs that are going to feel a huge impact and it has been caused by indecision and by lack of confidence. The confidence has gone because we do not know where our funding is coming from.

We are told by the man that denied it thrice, to believe him, he will make sure that we are funded. We cannot believe that, nobody in their right mind could believe that anymore. Whether we are going to be correctly funded or not we do not know.

We already have the problem in the industry that we do not have enough racing, and we have a shortage of personnel. I have 15 horses in work at the moment. On Monday morning I had no riders. A couple did not turn up and the rider that I had been using is back in Melbourne riding track work over there for somebody who won't give him rides during the week.

They want to live in Melbourne, they want to live in the big smoke; they will not come and live in Tasmania because we are a backwater to them but they do not mind coming on Sunday and taking our money and going back to Melbourne, but we do not have a big enough industry here for them to want to be here.

With the lack of confidence we have with the sale of TOTE, should it happen, we feel in a very precarious situation.

CHAIR - Even prior to this mooted sale of TOTE these issues existed under the existing regime, then? There were not enough race meetings and there was a lack of personnel in terms of jockeys and everything else even before this?
Mr McSHANE - These were pre-existing issues. We were hoping for an improvement. We have been fighting to get the two big cups put back where they should be.

CHAIR - To reduce the prize money and then spread that more equitably.

Mr McSHANE - Spread it throughout the industry, put on more race meetings. We have worked out that by bringing the two cups back to $300,000 and $250,000 instead of $400,000 and $300,000, we could put on another four race meetings. That would help quite a bit.

CHAIR - Would they still attract quality fields even if you reduced both of them?

Mr McSHANE - Oh, yes. We have a meeting next Tuesday and one on Wednesday. We have 213 horses nominated, and that's in two days. Then there's another race meeting the following Sunday which will attract probably another 110 or 120 nominations. Quite a few of those horses will be balloted out because some of them are concentrated too much in the maiden and the lower grades. There is quite a big number of horses here, but if we are not on Sky Channel they don't want us. Our local administration are not keen to spread money around midweek if we're not on Sky Channel. That's where we're left, with a huge glut of horses to be balloted out, a breeding industry that's hit the wall. A lot of horses went home to the studs after the sale, and they'll be more or less given away; people will be trying to give them away to trainers so that they cut their own costs back because it's costing them to take them home when they expected to sell them.

CHAIR - So there is not a shortage of horses, that's not an issue?

Mr McSHANE - No, it's the personnel. We're not training our own personnel here anymore. They're going to Melbourne.

CHAIR - Are you concerned in terms of future funding and capex for the courses, capital works? Is that another issue? We know Launceston has been done.

Mr McSHANE - There was a lot of money spent at Elwick, in one silly place: the grandstand that's used once a year. Yet our tracks that people all over Australia see on Sky Channel every week are in a shocking condition and they are quite stupid because one of them is so narrow that you can only have 10 horses running on it. A spit of rain and you have all sorts of problems and biases where horses tear up the outside fence, or into the inside fence or somewhere, and people over Australia look at it and say, 'What the ... are you doing out there, why are they out there, and why are they in there, why are they all crowding in there?' It's because the track is just not good enough. All the money was spent on the grandstand which is empty on race day, and nothing was spent where it should have been spent on the tracks, where the horses are and where the betting was done that gives the TOTE its funding.

CHAIR - Could you argue that perhaps a new privatised entity might have done that better than what's been done in the past?

Mr McSHANE - Yes - if only they'd listened, but I am afraid they would not listen. TOTE was given a job that they had no expertise in whatsoever. None. They spent the money exactly how they felt like spending it.
CHAIR - That's turning the argument around a bit, isn't it, if you had the devil's advocate and the funding was secure? I know Mr Booth raised the issues of competing against health, and all those sorts of issues, and that is a real problem as well.

Mr McSHANE - That was a problem at the time, no doubt, but the funding was there. The way it was spent was another issue.

Mr BOOTH - To clarify this, are you saying that you hold the current minister responsible to a large degree for the collapse of the yearling sales?

Mr McSHANE - To quite a big extent, yes. The confidence of the industry went straight down when he said that he was not selling TOTE and then he did a backflip and said, yes, he was. Then he told us to believe him. No-one could or would believe him after that and so where the funding was coming from has been a question in everyone's mind ever since. Confidence has gone rock bottom again.

Mr BOOTH - Do you think the industry would like a new minister in that regard to restore some sort of confidence?

Mr McSHANE - If TOTE was left as our benefactor, I am quite sure that confidence would be restored.

Mr BOOTH - If TOTE remained in public hands?

Mr McSHANE - If it remained in the hands of -

Mr BOOTH - As a GBE, yes, under the Government.

Mr McSHANE - Yes.

Mr BOOTH - To get this straight, with regard to the long-term future of the industry, your view is that you prefer TOTE not to be sold but to be managed, setting aside the management issues with TOTE, but you would prefer the TOTE to remain in Government ownership rather than being sold.

Mr McSHANE - Correct. The change in administration will possibly be quite okay. That will not be a big issue. It is just about in place and ready to work but the funding is the problem that everybody feels is dangerous. We are in a precarious position with no-one telling us where funding is coming from.

Mr BOOTH - If the TOTE was sold and the Treasurer says - and you have said that you cannot believe him, but setting that aside - a funding model was set up with some capital expenditure and so forth, would you still be concerned that you were competing with health, education and so forth every year in a budget rather than it coming straight across from TOTE? Is that fair to say?

Mr McSHANE - That is quite fair to say, yes. I do not know that Treasury is all that rapt in the racing industry, even though they should be. I do not know that they are all that keen because there are a heck of a lot of votes coming from other directions.
Mr BOOTH - Do you see the danger you spoke about in terms of funding as being that it would then become a political issue rather than it just being within the industry?

Mr McSHANE - Yes, and a lot of those politics would not be conducive to the person in racing because there is a lot more weight thrown to education and health. People perceive racing to be a sport of the rich but it is not. It is an industry for people across the board and it employs one heck of a lot of people.

Mr BOOTH - Yes, it is a huge engine-driver of the economy, there is no doubt about that.

Mr McSHANE - Yes, I am in all its areas; the feed business, the breeding business and the training business. I know how many people are dependent on it.

Mr BEST - If you had a good funding model and, say, there was some arrangement and whatever the outcome was that there was a move towards more events, an expanded amount of money being invested and some surety with some agreement as to what the funding model would be, what would your thoughts be about that? Would you not be interested in that, rather than have it stay as it is?

Mr McSHANE - At this point we have had no funding model put to us. We have no idea what is in Mr Aird's mind except that there will be an amount of money coming from Treasury. We have had Mr Challen look at us before and he is not all that keen on racing. Should it be Treasury's decision as to what sort of money would be given to racing, we would be very scared of that situation. But if a model, as you say, was put to us with some surety -

Mr BEST - Yes, I think that is probably a bit of a reserve aim in a sense that if you had an organisation that was keen and very dependent on having a successful racing industry in Tasmania, you would have to have a good funding agreement, otherwise people are just not going to put horses into races and things like that. We will see the things that you are talking about continue while this hiatus exists. So there would have to be some common interest at some stage.

Mr McSHANE - Yes, if we could see it -

Mr BEST - That is right; it needs to be seen.

Mr McSHANE - and we could restore some confidence then we would sit a little bit more comfortably, but at the moment there is no comfort at all. There are people who would have gone to those yearling sales and bought another yearling who did not go - and refused to go - because there is not enough racing and their horses were being balloted out. We have Mr Aird's - well, we will not call it a lie but there is no other word for it; you cannot say one thing and then completely reverse it. It is just not on.

Mr HARRISS - Walter, I think a common thread coming from most industry participants is that, as Brenton has just visited, if there was the notion of a guaranteed funding model, then the industry might be relaxed about things. I hear what you are saying about lack of trust and so on in the current Racing minister, but it occurs to me - and I have discussed it with Kim and Peter as the day has gone on - that if the racing minister was to produce a model which had a perpetual fund flowing to the industry, and I am thinking particularly of when the Trust Bank was sold and there was an amount of money hived off, untouched by
Treasury, which generates interest every year, and the interest from that capital fund goes to community funding untampered with by the Government of the day - you would not be subject to the whims of the Government of the day - it occurs to me that if they get a sufficiently high price for TOTE the Government could say that they are immediately going to put a capital fund into a special account which generates a perpetual revenue stream straight to the industry, with no politics involves in it, how would that appeal to you?

Mr McSHANE - That appeals to me no end.

Mr BEST - But you need to see that, don't you? And that is the problem you have at the moment.

Mr McSHANE - Yes, that is right.

Mr BEST - You are saying there is nothing to see, is there?

Mr McSHANE - It has to be more than written.

Mr BEST - You have to see that. I do appreciate that.

Mr HARRISS - It could be, as the Trust Bank sale process was, built into the legislation. Once it is in there no governments in the future can do anything about it unless they come back to the Parliament to tamper with it. So if the Racing minister is not keen to build in such a process to this legislation when he introduces it to the Parliament, and if the sale of TOTE is a reasonable proposition, but if the guaranteed revenues for him is what is necessary to the industry and the Parliament amends the Treasurer's legislation, too bad for him if he does not accept it.

Mr McSHANE - That is the sort of thing we need put before the racing industry right now - without question.

Mr HARRISS - That is the clear common thread that is coming from the majority of people who presented to us, that the funding stream needs to be guaranteed and you need to be able to trust what you are being told.

CHAIR - Clearly that is something that, as representatives of yourselves, the Parliament will have to make a decision on one way or the other, given certain information we may get from the Treasury.

Mr HARRISS - We might ask the Treasurer this afternoon why he has not produced a model such as that. Is it too simple? We will ask him this afternoon.

Mr McSHANE - To be in racing you must realise that everybody trusts everybody to a degree, until it comes to race day, when tactics and competition are very, very strong. When we walk away from the racecourse we still all trust one another. Owners trust the trainers and trainers try to trust the jockeys as much as they possibly can -

Laughter

Mr McSHANE - and we go home and lick our wounds or count our few bucks, whatever we can do, and get ready for the next week.
CHAIR - It is a bit like farming, isn't it?

Mr McSHANE - Yes, exactly the same.

Mr BOOTH - Put a jockey on your cow.

Mr McSHANE - I reckon farmers are the best owners any trainer can have because they are used to relying on rainfall and markets and everything else to survive, and that is what we do in racing. We have to rely on the whole game for our dollar, so confidence is what we need and if we can have confidence in our funding structure I am sure we can pick ourselves up and go ahead.

Mr BOOTH - Had it not occurred that the Treasurer suddenly woke up one morning and announced it was going to be sold, did you have confidence prior to that that the TOTE model was delivering reasonable returns, apart from the way it was being run internally, with the income stream coming back in terms of stake money and so on?

Mr McSHANE - Yes, we felt pretty confident. We felt that TOTE was ours. We know it isn't but we felt that TOTE was ours and we were supplying the product and were getting some of that return back to the industry. It was a good union.

Mr BOOTH - So there is no way that you could say that the decision to sell TOTE had anything to do with the industry deciding it should be sold?

Mr McSHANE - No, none whatsoever.

Mrs RATTRAY-WAGNER - Mr McShane, thank you for your honest and frank assessment. I am interested to know what would be your view - and I appreciate what Mr Harriss has said about a secure funding model - but do you feel that a secure funding model would assist you and the industry in the infrastructure requirements that are obviously required, because the tracks are not up to complete standard. Launceston is fine but I hear that Devonport needs upgrading and there were some issues with Tattersalls Park as well out at Elwick, so do you feel that that secure funding model would be enough to secure your support for the sale of TOTE without some sort of firm commitment from the government of the day about future funding for infrastructure?

Mr McSHANE - Well, I would feel that would have to be written into the agreement because it is integral that there must be capital works taken on every year to keep all the courses and training tracks et cetera up to standard. That would need to be built in as well.

Mrs RATTRAY-WAGNER - So there would need to be some consultation and discussion with industry stakeholders about what they see would be required into the future. Would that be a fair assessment?

Mr McSHANE - That is fair, and I think the new racing board that has been set up would be quite capable of producing those sorts of figures to go along with stake money.

Mr BEST - It was put to us that Country Racing Victoria has a formula based on funding and that we were at 100 per cent same formula for funding here?

Mr McSHANE - Yes, we were.
Mr BEST - Do you agree with that model?

Mr McSHANE - Yes, I think that is our standard for Tasmania. I will just put one little thing to you. The southern club wanted the Hobart Cup to be $500 000 - that is what they want next - which is quite stupid. At $400 000 the Hobart Cup was a group 3 race, yet at $300 000 the Adelaide Cup is group 2. Can you work that out? I can't.

Mr BEST - No. Why do you think?

McSHANE - Why are we $400 000 for a start? We shouldn't be because we are just - there is a term but I won't use it.

Mr BEST - But you do not have a theory on that?

Mrs RATTRAY-WAGNER - Too few are getting too much.

Mr McSHANE - No, we are above ourselves; we are above our own population and our standard, so we are inviting Melbourne to come over here and take it and I realise we need Melbourne horses to come here and lift our cup profile, and they do, but it has become a little bit too much that they come and take all the prize money out of the State. How can we as an industry benefit from that? When all that money is gone, what are we going to spend on getting better horses; where do we get them from? There is no money here, it has all gone, the big money is gone, and we are left to buy cheap horse because we cannot afford dear ones. We are told to go out and get better horses so we can compete, but what are we going to buy them with? If we do not have a vibrant industry here, where does the money come from?

CHAIR - Thank you very much, Walter, that was very good. We appreciate your coming. You obvious have had a diverse range of interests within the industry over a long time so we appreciate the benefit of your knowledge. Thank you very much.

Mr McSHANE - Thank you.

THE WITNESS WITHDREW.
Mr **TONY JEFFRIES** was called, made the statutory declaration and was examined.

**CHAIR** (Mr Hall) - Thank you very much for coming down, Tony. Are you aware of privileges and restrictions on reporting, and all that sort of stuff?

**Mr JEFFRIES** - Yes. I shouldn't open my mouth outside the inquiry if there's anything of controversy.

**CHAIR** - Yes; basically you're covered by privilege here, but outside you're not. So the bottom line is don't refer specifically to anyone about the evidence you give to the committee until the report has been published.

**Mr JEFFRIES** - No, I'm pretty calm, pretty cool.

**CHAIR** - Thanks, Tony. What I would invite you to do is to make a statement if you would like, particularly related to our terms of reference on the sale of TOTE.

**Mr JEFFRIES** - I have a written submission which I will read, and if there are questions as we go, fine; if not, I can answer the questions after. I will just give a bit of background to myself. My name is Tony Jeffries, and I have been involved in the harness racing industry for over 40 years as a breeder and owner. I have held the following positions in the administration of harness racing at different times. I have been the secretary-treasurer of the North West Light Harness Association; I have been president of the Ulverstone Pacing Club; secretary, treasurer and president of the Burnie Harness Racing Club; and a member of the Tasmanian Harness Racing Council, which was recently disbanded after the TRB was brought to bear. I also currently am a member of the North West Light Harness Association, a member of the Devonport Harness Racing Club, a member of the Burnie Harness Racing Club, a member of the Tasmanian Breeders, Owners, Trainers and Reinspersons Association and also a member of the Launceston Pacing Club.

**CHAIR** - Is that it?

*Laughter.*

**Mr JEFFRIES** - And I have recently retired from Westpac Banking Corporation after 40 years' service, with the past 25 years involved in commercial and business banking as a manager.

I now want to talk about the sale of TOTE Tasmania. As I understand it, TOTE was originally set up some 40 or 50 years ago for the benefit of racing in Tasmania. Some gentlemen by the name of Bruce Freeland, Dick Bertram and Doug Martin were the early committee members who lobbied the industry to convince them that TOTE would be a long-term winner for the whole industry, which it has been. Last year, TOTE contributed some $30 million or thereabouts to cover stakes and infrastructure for all codes.

TOTE Tasmania is a company whose shares are held by the Treasurer and the Minister for Racing in trust for the Crown - and, hopefully, the racing industry. The constitution of the company is a schedule to the TOTE Tasmania Act and can only be amended by a special resolution passed by both Houses of Parliament. TOTE Tasmania is operating as a successful business and is
charged with promoting the development of the racing and breeding industry, and promoting Tasmanian racing and wagering on it.

Why would you sell an asset that generates $30 million for the racing industry? I would suggest that last May, when Treasury became aware of the global financial crisis about to arrive, Mr Don Challen looked in the cupboard to see what would generate substantial cash to help balance the Budget, and there was TOTE Tasmania. Challen, who is a numbers man, has given no thought to the industry participants or their families, or the 2700 people directly employed and the many others indirectly employed. He has gone to the minister and said, 'The TOTE has to go', and the minister and his advisers have misled the industry on the pending sale and also actually misled the Parliament of Tasmania, especially the upper House.

I go back to the question: why would you sell a major asset which generates $30 million per year, funding the racing industry without any call on consolidated revenue? At the moment TOTE covers the cost. Why would you sell it when we are experiencing the biggest global financial crisis in the past 50 years? Why would you sell anything that is worth a lot of money at this stage? Why would you sell when the expected price - and there have been many mentioned or bandied about - is virtually a fire sale price, from the figures that I have heard. At this time, would we not be better to hold onto TOTE Tasmania until the markets settle down and we have better times?

The minister has failed to produce a business plan for the sale of TOTE. How will the industry be funded going forward? Will the Minister for Racing have to go to Treasury along with Health, Housing and Education for funding? Where will racing fit in those priorities? Where will racing be next year when the recession sets in and the money is tight and hospital patients are in the streets? They are having a few problems in Launceston.

What long-term guarantees will the racing industry have? There is talk of a 20-year funding program being set up; I think the minister mentioned that. What happens when money is tight; what happens with a change of government? How can the industry and its participants plan for the future if something is not set in concrete? What will happen to participants' families, who are looking to set up their children for a future in the racing industry? Do they stay in Tasmania or do they go somewhere else?

Barry Rattray is a prime example. He has four young fellows, one of them representing the Australian harness racing industry driving in Onslow, I think - it is overseas - but what will those kids of participants now do in the future? Why would you sell a business that generates $30 million per year to cover the costs of racing to then have to take your cap in hand to Treasury for your funding in the future? Where are the guarantees? Who will cover the costs of upgrades and maintenance of all tracks, facilities, grandstands et cetera? We have a current situation today where the following facilities are in need of upgrade or maintenance basically now. One of them, Brenton, is Spreyton racecourse's thoroughbred track, where major works are required to bring it up to date.

Mr BEST - Yes, $12 million to $15 million.

Mr JEFFRIES - At the Devonport harness racing track the lights are 30 years old now, unreliable and need to be replaced. Light towers are under investigation as to safety, and the grandstand needs a major upgrade. I understand the Brighton
training complex is in urgent need of upgrade and maintenance. I am also aware that part of the complex is constructed on land not even owned by TOTE Tasmania, so I am pretty sure there are a few problems there. As to the Hobart harness racing track, even though we spent $16 million there recently or even more, I understand that the top and bottom corners are in need of major works due to the camber being out of kilter.

These four items need many millions to bring them up to date or up to standard. Who will pay for this? I understand the Tasmanian Racing Board, in the legislation, can borrow money. That is very handy, but if they have to borrow money, who is going to pay it back or how are we going to pay it back?

I think you may have this. A recent article in the Examiner newspaper dated 17 March by one of Australia's most experienced racing administrators has urged that we look at what has happened upon the sale of TOTEs in other States.

CHAIR - Yes, we have that.

Mr JEFFRIES - We need to do some research to ensure Tasmania does not end up like South Australia after their foray into selling their TOTE. They are on the bones of their knees and selling assets to try to maintain their industry. If we finish up dependent on the Government of the day to cover our annual operating revenue we could be going back to the 1970s and racing for $1 000 per race, the breeding industry could be devastated and 2 700 employees looking elsewhere for jobs. Why would you sell a business that generated $30 million per year without touching consolidated revenue and put us in a position where we rely on Treasury at each budget to fund the racing industry? I would implore this committee to look very closely at this sale; short-term gain for long-term pain.

This industry employs 2 700 people directly and many others indirectly. I suggest that the TOTE be left alone and allowed to get on with its charter promoting the development of the racing and breeding industry, and promoting Tasmanian racing. I am sorry I have repeated myself several times throughout this, but remember this industry employs 2 700 people directly, and many indirectly, is funded by TOTE Tasmania and generates $30 million per annum. Why sell and then rely on funding from consolidated revenue which is under pressure, the most pressure it has seen in 50 years.

I also have - and I think Mr Gutwein might have a copy of this - the racing industry representation. This was to the Legislative Council on 27 February. The greyhound racing industry, thoroughbred racing industry, harness racing industry, and so on all signed this particular piece of paper suggesting that we totally oppose the sale of TOTE. If that's not officially in, I would like to present it. I think that you have a copy of this, an appropriate reference from Ms Whishaw.

CHAIR - Yes, we have that one as well.

Mr JEFFRIES - I suppose that is my concern. The minister does not have or has not mentioned a business plan, he hasn't mentioned a funding plan. I think from May last year they've said, 'TOTE is about the best thing we have to sell, we have no debt on it. Let's put it to the market and let's see how we go'. I have heard figures bandied about, and you guys would have heard most likely from $100 million to -
CHAIR - Yes, I think that's something we'll leave alone.

Mr JEFFRIES - I am seriously saying that we really should not sell the TOTE unless we have complete guarantees. I don't know what guarantees we can put in place. In the last 20 years we have had an election every four years, I think, there's going to be one soon. Various different things are happening, we need to build some hospitals, and all sorts of things. How can the minister guarantee the same funding we've been getting with annual increments, and so forth?

CHAIR - Thanks very much for that presentation, Tony. Obviously you asked us a lot of questions that we can't answer; we don't know because we're not the Government. If the Treasurer or the racing minister came up with a set of guarantees, if you like, that might persuade this committee or the Parliament, and we think it's in the best interests of the industry, how would you feel about that?

Mr JEFFRIES - I think that the industry and the guys I have been speaking to, and the people I am involved with, and so on, are fearful. If we are given a guarantee and gets rid of the TOTE, there are also other areas that rely on consolidated revenue for funding and where may racing sit in the pecking order? I know Don Challen doesn't think about racing, in fact I am led to believe that he is suggesting no more racing in Tasmania, we'll just bet on Melbourne and Sydney and elsewhere.

I just fear that even if they do give us guarantees and so on, how will they ensure that for the next four or five elections that will be $50 million which will increase by CPI each year, and so on, and all the way through, when a change of government can throw it out? I don't know. Obviously we need to obtain from Treasury, from the minister, an idea of what his plans are. What is he going to do?

Mr GUTWEIN - Tony, I do not want to put words in your mouth but is the first step that needs to be taken in all this that information needs to be provided? Is it as simple as that? The sense that I get is that you are in exactly the same situation as I am and other members on this committee are to a large degree. That is, currently there is no detail in the public arena in regards to what was being proposed and how the racing industry may benefit. It is obviously very difficult for the racing industry to say, 'Yes, that will be very good for us' or 'No, it would be very bad for us'.

Mr JEFFRIES - That would be a start. I think the minister and the Treasury have to come clean and put us in the picture. It could well be that TOTE Tasmania have discovered that Sky Channel is going to abandon them and that their foray into South-East Asia and other things that were sold to us at the original TRB set-up may have fallen in a hole. It may well be that we have to get as much money for the TOTE as quickly as possible. I do not know, but no-one is coming forward to tell us why.

Mr GUTWEIN - Following that through, has there been any approach to any of the clubs - you are involved in a multitude of them - or organisations by anyone from government or anyone in a position to provide some information on this situation?

Mr JEFFRIES - As far as I understand, no. Back when the TRB was being instigated and so forth the legislation went to the upper House first on Christmas Eve, I
think. People like myself were grasping to get a hold of the legislation to have a look at it, we were trying to interrupt members of the Legislative Council when they were debating it. That was brought on very quickly. We said, ‘This has all been set up for the sale of TOTE’. ‘No, definitely not’. Since the announcement of the sale of TOTE, that has been it. If it were not for, I suppose, people contacting other people and so forth this committee may not have existed. There might not have been the opportunity here to put our case or to try to understand or find out why we are selling the TOTE. What is the benefit for the racing industry?

Mr BOOTH - Are you saying, Tony, that you were informed that TOTE was not going to be sold?

Mr JEFFRIES - That was put, I think, in the first few days after it came out, that the board was going to be rehashed. I know in Harness Racing we had problems where, I think at one stage the minister appointed a member for the council without even going to the people to get a vote and so forth. That may be part of our fault because we did not nominate anyone. There were a few things going on there. The whole idea in having the Tasmanian Racing Board was to clean that up. Lo and behold, when you think back it was to set the TOTE up for sale.

Mr BOOTH - Do you think that you were misled?

Mr JEFFRIES - I am very sure that we were misled. Why? It was asked in the Parliament and the minister denied that the TOTE was for sale. He told the Parliament - or his representative did; I think it may have been Mr Cox.

Mr BOOTH - Now that the councils no longer exist, how would you get a plebiscite if the members of the industry - as we have heard evidence from yourself - have not been involved in any consultation, there has been no information released, there is no business plan but you would have to look at it if it were provided? How would you, in your view, be able to make a satisfactory response to the industry if such information was provided? Or is that not possible?

Mr JEFFRIES - When the TRB was set up we had forums and so forth. I am very sure that, if something was put on the table and we could see where we were going and so forth, the industry would consult and talk with one another - all three codes - and go forth from there. The minister would need to put a very good case to the industry based on the fact that we are in a global financial crisis. I do not know but I assume that the Government is suffering fairly substantially from a lack of money, GST receipts et cetera are all going to be down the drain and next year TOTE might be sold and we would have to go to the Government and ask for money to maintain our industry. South Australia, New South Wales and Victoria are currently having major discussions about where their future funding will be coming from, and I have already mentioned that South Australia is in diabolical strife. If we sell the TOTE we are going to rely on consolidated revenue and then we are going to be saying we need hospitals, we have an ageing community and we need to look after education and so on and so forth. It is a big fear.

Mr BOOTH - With you experience in the commercial banking field that you spoke of, and the Treasurer has said that they are talking about a 20-year model, what sort of dollars would this involve? Thirty million dollars today in 20 years’ time would be what? What do you anticipate you would be wanting?
Mr JEFFRIES - I'm not positively sure about $30 million, but I think that there was $27 million in stake money, there was a lot of infrastructure and they covered the cost of that. Say, $30 million plus. What is inflation now - 4 per cent? Over a 20-year period you would be talking $40 million times 20, which equals $800 million.

Mr BOOTH - But if you got $30 million support in 20 years' time that would be -

Mr JEFFRIES - TOTE are currently trading very well. We have been led to believe that they are branching off into South-East Asia, that they have all these markets that may be coming on line. TOTE could be generating for the racing industry $100 million to $200 million. We are talking billions of gambling dollars in South-East Asia where they are looking at the moment.

It would be marvellous. If someone can buy the TOTE for a fire-sale price and they continue to go down the track that they are it would be a great windfall for someone.

Mr BOOTH - Irrespective of what TOTE can generate and if someone is going to buy it, they are not going to buy it to lose money, they are going to buy it to generate money and income. We have heard in evidence that it is going to penetrate the Asian market and generate more returns et cetera, but in terms of the support today, is it fair to say the industry at the moment is fairly happy with TOTE providing the support for the industry for the stakes and so forth?

Mr JEFFRIES - At this stage stake money is good. Mind you, the other States are catching up on us pretty quickly so there is definitely a need for some minor adjustments to stake money, I think some increases. But at the moment it is going along fairly well.

Mr BOOTH - So if TOTE's business model improved over the years you would expect more money would flow to the industry and so it would be a symbiotic sort of relationship.

Mr JEFFRIES - Absolutely.

Mr BOOTH - Were there to be a sale of TOTE then the support package that would have to replace that, looking 20 years down the track, you would not be looking at $30 million in 20 years' time, you would be looking at more like $200 million?

Mr JEFFRIES - Definitely not. Ball park figures. You can throw as many figures around as you like but $100 million would not be unrealistic.

Mr BOOTH - In other words, if it was a funding model that locked you into an annual thing of $30 million for the next 20 years, in 20 years' time you would just be bankrupt.

Mr JEFFRIES - There would definitely have to be the rises and falls and so on. You talk about CPI and those things; you all know about that and they would have to be put in there. I do not know how you can predict 20 years out but if you are only going to be in government for the next 12 months we can bandy around as many figures as you like.
Mr BOOTH - Setting aside the fortunes of governments and the fact then that you would have political pressure every year on the budget to get your funding, if there was a model put in place that in fact took it away from the political pressure, and I am not entirely sure how you would do that, but were you able to set up a structure that was exempt from political machinations every budget, that model would have to guarantee -

Mr JEFFRIES - It would be preferable and you have to use your commonsense a bit here also. Down the track what is going to be more important? We have an ageing population, we have pressures on our hospitals already, we have different aspects of education being brought along now which are going to cost money, all these things affect the budget situation. Racing it depends entirely on -

Mr BOOTH - To keep it level pegging now there would have to be a substantial increase in dollar terms.

Mr JEFFRIES - If they come up with a 20-year plan that can be put in concrete that cannot be affected by a change of government, that cannot be affected by the fact that we need a new hospital here and we need to do something with the LGH and so on and so forth, then definitely industry, I would consider, would be keen to look at it.

Mr BOOTH - It would have to meet at least today's level of support in 20 years' time.

Mr JEFFRIES - We are talking about infrastructure as well. I mean, in 20 years' time the infrastructure could be falling down. You need to continually upgrade your infrastructure and you continually need to maintain it as well.

The facilities at Hobart need to be upgraded to a certain degree, and I mentioned the harness racing track. I don't know about Spreyton and Devonport harness racing. There is some talk of a try situation there. Who knows? It could cost $50 million to build something like that so there are plenty of things that need to be addressed now as well as in the future.

Mr BOOTH - If the codes were able to have more interaction with TOTE in terms of the outcomes to the industry, is the TOTE model the preferred one over the years?

Mr JEFFRIES - TOTE has been good to racing. Every relationship has its ups and downs and so forth but at this stage I think we are on a winner.

Mr BOOTH - Are there other more ephemeral things than just stake money that are important to maintain TOTE, to maintain the culture of racing, for example?

Mr JEFFRIES - Exactly. Some people might say it only employs 2 700, we could do without it, but the community involved in racing in the country areas and those sorts of places is a sort of folklore. You have families who have been involved in the racing industry for years, be it all three codes and so forth, and some of those are looking to the future to establish a future in racing and so forth.

If we do not have a solid, concrete model going forward there are a lot of people that would be affected. The older people who are involved can manage but the youngsters coming through - trainers, owners, drivers, jockeys, and we have a shortage of jockeys - would want to ensure that they have a future.
Mr BOOTH - A TOTE model with some change. I am not saying it is perfect as it is but basically a TOTE model.

Mr JEFFRIES - TOTE has been supporting racing for the last number of years and they have been able to improve the product. They have different things coming on board now - first four and first six, there are different betting entities and betting types coming on board that will help keep them solvent. I go back to the fact that the possibilities with South-East Asia and those places are phenomenal.

One thing I have not mentioned in the whole of this is Betfair. Betfair have come into the racing game as well and they have put some funds in so the relationship there should be fostered as well.

CHAIR - I am just being the Devil's advocate here. I think you mentioned before that whilst TOTE have done a very good job they are in a very competitive environment.

Mr JEFFRIES - Absolutely.

CHAIR - There may be some issues out there that you and I do not know about and -

Mr JEFFRIES - Absolutely. Wouldn't it be lovely to know, Greg, that we have hit a great big bump, we have a problem or this has not worked out or this won't work out or our computer systems are out of date and we have to spend millions and millions of dollars. If that were the case, fine, but no-one has come forward with any of this information. They may well have done a good job. We had the equine influenza last year and they were able to get through that, recover, increase their turnover and increase their income so I think TOTE is not doing too bad.

CHAIR - Are there any further questions from the committee?

Mr BEST - I think Tony has put it pretty well. Obviously there are some matters we are going to have to follow up later this afternoon.

Mr JEFFRIES - There is so much concern out in the community and I know the racing industry involves gambling and can be construed by many of the do-gooders as an evil thing. It is not evil - it employs 2,700 people and the industry needs to know from the Government what they are at.

CHAIR - Thank you very much, Tony.

Mr JEFFRIES - Thank you very much for the time.

CHAIR - It's a pleasure; you have a long and broad interest in the industry.

Mr JEFFRIES - Exactly, and I think we need to know that if this is for a short-term gain because there's a big black hole and so on, why sell it at a bad time? Keep it for 12 months and see where we go.

Mr BOOTH - So in your view, the decision that has been announced isn't necessarily for the good of the industry.
Mr JEFFRIES - As we understand it, definitely not but, as I said, there may be a massive statement this afternoon from Treasury that may put us in the picture.

Mr BOOTH - Do you know anyone who's been consulted in the industry about the sale of TOTE?

Mr JEFFRIES - Not as far as I know, but, as I said, I don't know about thoroughbreds or greyhounds. I'm pretty sure from the greyhound man that there hasn't been much consultation there. I mean, TOTE was originally set up for the benefit of racing, but the bean counters have said, 'Gee whiz, look at this! We've got no debt on this business, it's going well, things are looking good. What can we get for this?'

Mr BOOTH - Do you think that depoliticises the whole deal as well, the fact that TOTE's there generating its own income? Is that valuable for the racing industry?

Mr JEFFRIES - As I said, don't throw the baby out with the bathwater because we will go from an industry or an asset that's generating income to service that particular industry. If we sell that, okay, we might get $1 billion or $2 billion, who knows, but that will be gone into consolidated revenue, and then we'll be going cap in hand to Treasury saying, 'We're the racing industry and we need our money this year. How are we going to go?'. They will say, 'Oh, look mate, we've got hospitals, we've got education, we've got all sort of things that need money. You fellows are sort of down here, so we can only do so much'. Why sell an asset at this very stage, when the global financial crisis is still coming? I'd say Mr Challen is an intelligent man, and he has picked it up back in May and said, 'We need to be prepared to cover the shortfall and so forth'. Why sell something at a fire sale price that can generate this sort of income going forward, when maybe in 12 or 18 months or two years it could be worth twice as much?

CHAIR - Okay, thanks very much, Tony. Have a safe trip.

Mr JEFFRIES - Thanks a lot. I'll have my ear to the ABC news at about five o'clock tonight.

THE WITNESS WITHDREW.
MR ROBERT BIFFIN AND MR NEIL HERBERT WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Mr Hall) - Welcome, Mr Biffin and Mr Herbert and thank you for coming along. You both understand the rules of parliamentary privilege and are au fait with all that. I do not know how you are going to do your presentation but if you would like to make an opening statement with particular reference to the sale of TOTE and then we will allow the committee members to ask questions. We have only a 30-minute time slot so it must be fairly short.

Mr HERBERT - We were advised TOTE Tasmania was not on the market and therefore there was no provision in the new Tasmanian Racing Board legislation dealing with any future sale, hypothetically or otherwise. We want to know whether there was any stakeholder input. On 8 January we received a letter from the Treasurer, the Honourable Michael Aird, advising of the Government's intention to sell TOTE. The letter stated, 'This will improve TOTE's competitiveness'. We cannot see how that can be when it has had a negative impact on all the other States.

Under the new proposal of the Tasmanian Racing Board, the Director of Racing, the Racing Appeals Board and the Integrity Assurance Board will all be funded from the State Budget. It also stated, and I quote, 'I can guarantee that the Tasmanian racing industry will not be worse off with these arrangements'. Shouldn't the guarantee state that we would be better off? The letter also states that the proceeds of the sale will be reinvested into other State assets. I point out that the privatisation of the TAB in South Australia has been a disaster and that State now has unfunded capital works and low prize money. It beggars belief how the minister can guarantee future funding arrangements from future governments. With changes to social and economic circumstances we would be competing with all other submissions to Treasury including health, hospitals, schools, housing et cetera.

May I remind the committee that the TRB legislation was passed with no business plan, no cost-benefit study, no funding formulas for prize money or maintenance, and at the moment I think the new Tasmanian Racing Board is in negotiation with the Government for funding. To me, you have sold the farm and now you are trying to negotiate some cattle back onto it.

There are questions that I believe should be answered. There has been no study on the impact of racing. Will the new owner want input into the time slots in allocating Sky Channel when product goes overseas? Will the current number of TOTE outlets remain? Will Tasmania benefit in racing funding tied to growth in turnover globally? New owners may not care, as 94 per cent of turnover is generated from products outside the State now; their interest may only be in obtaining a licence. Also, the Betfair agreement is due for renewal in 2011. Will they still be in Tasmania? As it is half-owned by the Packer Group, they may wish to move it to Sydney or overseas, and they are not liable to put in $5 million a year if that happens. Also the current Sky Channel arrangements end in 2012. At this stage, we pay them to take our products.
So in summary, if a sale is pursued then the industry needs concrete arrangement, specific clarification, transparency, integrity protection for stake money tied to growth and capital expenditure with long-term sustainability, not words, which is all these things are at the moment.

Mr BIFFIN - I know under the present model that levels of funding are not guaranteed, but I thought I read somewhere that this would provide surety of income. I am not quite sure what that means, but that is a concern. I guess with the minister’s commitment or statement that the racing industry will not be worse off, we need to make sure that that actually is carried out and the racing industry is not worse off. I am not sure how we do that. What does the term ‘worse off’ mean? Does ‘worse off’ allow for reasonable growth? Who decides what ‘worse off’ is? These are things I do not understand. The statement was also made that the sale of TOTE would provide opportunities to increase funding to the Tasmanian racing industry. I would like to see what those opportunities are, how significant they are and the time lines for when they would be introduced. The funding model would have been mentioned by everybody who has come in and we would like to see a funding model which details how we will not be worse off, how we will grow and how we will maintain confidence in the industry.

There are a lot of participants in the industry who have put a huge amount of money into infrastructure, just to mention one Alwyn Shaw. How do we guarantee these people that they can have a five or 10-year plan and continue to spend the millions of dollars they are currently investing? That relates to a lot of the participants. There is a huge amount of money tied up. At the moment there is a lot of concern about future funding and whether it is worthwhile staying in the industry and they should continue to commit funds. This all seems to be taking place during the latest restructure transition period for the Tasmanian Racing Board, although I am not sure that they even know what they are doing at this stage.

It seems to me there is unreasonable rush to get this through. The timing to me is very surprising. I would have thought that the Tasmanian Racing Board would have been giving advice to the industry but I do not know whether they can or cannot. But they certainly are not in a position to do that at the moment and there is no-one advising the racing industry on the ramifications of this whole thing. There are a lot of questions being asked. There is a lot of negativity. A lot of people are frightened. They are worried about their future and they want to see more concrete information.

CHAIR - Thank you very much.

Mr GUTWEIN - You raised a number of issues. We heard from a witness earlier today that the current concern in the industry had contributed to the very poor result at the yearling sales. Would that be your view as well? I think it was suggested that nationally sales were down 15-25 per cent but in Tasmania we took a 41 per cent fall. I am wondering whether or not that negativity in the industry played any part in that and what you view might be on that.

Mr BIFFIN - I think that it may be one of many things that may have formed a part. I do not think that it was necessarily the biggest part. It would depend on who you were speaking to and which part of the industry they belong to. Certainly that would have been in the mix of things as it was a national trend. We are linked to the national economy and apparently a planeload of buyers never made it to
Tasmania. There were quite a few different things and that could have been part of it.

Mr Gutwein - Following on from that in regard to time frame, there is legislation to go before Parliament and the Government has to provide information on a range of matters. How critical is it of the industry or the bodies that you represent that the Government provides information in a timely fashion and how long would the industry stand for the current status quo to remain that is no information before it before it starts to have a very detrimental effect on the industry? How soon do you need to know what is going on?

Mr Herbert - Obviously as soon as possible. With the introduction of legislation we need the information as quickly as we can possibly get it. As you say, the negativity at the moment is because of unknown quantities which I stress from everything that we have seen you could say are words. There is nothing that is concrete evidence about whatever will happen, or may happen, with the exception of the minister saying that we will not be disadvantaged. Unfortunately I do not think it is good enough to evaluate anything in that light.

As far as we were concerned, the TOTE was established to provide funding to this industry. If you sell it without any of this information, we do not know and nobody knows where that could end up in three years' time. We could be sitting around this table and going to turn the key in the front door and then we all go home. You cannot expect the studs to look at investing when they do not know where they are going and the industry in general. It has probably been said that the industry employs around 3,000 people. You take that on board. There is a lot of negativity in the industry full stop. I do not know where you would want to invest. I just made reference to a new owner hypothetically with the board room in Sydney or Hong Kong or wherever. They are obligated as directors to make as much profit for their new organisation so they may decide in two years' time to close all the TOTE outlets as a business risk. There are a lot of people - I do not know how many outlets there are, probably 70 or 80 in Tasmania - and those people would be unemployed.

Mr Biffin - We are not saying that the sale of TOTE is a bad thing. We do not have the information to have an opinion, I think. Is one of the reasons the fact that the Government is looking for money to pay off other debts or to source other projects? What came first?

Chair - We cannot answer some of those questions because we are not the Government.

Mr Herbert - They are the questions being asked of us.

Chair - Of course, yes. I realised that.

Mr Booth - From an industry point of view, can either of you give us a single reason it would be a good thing to sell TOTE? Given that you did not know it was going to happen, was it something that you were thinking in your own minds, 'Gee, they should sell TOTE. That would be good for the industry.'?

Mr Biffin - From my personal opinion, I think TOTE has been motoring along beautifully in the last couple of years. Turnover has been increasing. I must give credit to the new CEO, Craig Coleman. Everything was positive and it seemed that turnover was up, they were on top of things and competing very
well against the other States and TOTE companies. From my personal point of view I was surprised. But I do not have the information. I do not know whether it is good or bad. We just desperately want information.

Mr BOOTH - Does it sound satisfactory for a racing minister to be so disengaged from the industry that it appears that there is no trust in what they are saying?

Mr HERBERT - Because of the boutique nature of Tasmania, as I said earlier, TOTE was established as a funding stream for that situation. It is an obvious situation that if that goes offshore or to anywhere, there are board rooms which have to be satisfied. It is as I mentioned with Betfair. The contract that they had here for five years to put in $5 million a year will be finished in 2011. They could pick that up and put it in England. They have their licence now so they could put it in any State of Australia. When they could not they used Tasmania to get the licence.

Mr BOOTH - I want to drill down a bit on that because it is something that has been troubling me but you are the first person who has raised it in the committee. The problem is that it may be that somebody may purchase TOTE simply to get the licence. What implications do you think that may have in terms of the future of all racing codes in Tasmania were somebody to purchase it for the licence? Where do you see that could lead potentially?

Mr HERBERT - I am flying a kite at the moment but by the same token if they have a licence to operate TABs or TOTE or whatever they wish to call it, the thing that I am nervous about, because of our boutique nature, is do they have then the effort of putting our product globally and saying to Sky Channel and to this industry here, "For us to make money and everything else we want you to race on Monday from 6 o'clock until 10 o'clock in the morning."? That is a hypothetical, I know. But where is our control? We have absolutely no control over it whatsoever.

Mr BOOTH - Could it lead potentially to a sort of teletrack-type situation or maybe them buying product off others around the world?

Mr HERBERT - I think, being realistic, that will probably halfway happen anyway, because to go global you have to race at certain times. We actually support our industry going global to generate income.

Mr BOOTH - I do not know the answer to this so I am in the dark with regards to what one could do with that licence, but is it possible hypothetically for a person, a company or an organisation to purchase TOTE, therefore purchase a licence and then simply decide to take the product from wherever they want?

Mr HERBERT - They could go to the Northern Territory and set up to bet on racing as such everywhere but they would make commercial decision on whether it was worth it.

Mr BOOTH - So what you are saying then in answer to that - and it is hypothetical - is that potentially they could have no Tasmanian product if they wanted to?

Mr HERBERT - At a board level they could make that decision quite easily.

Mr BOOTH - They would make those decisions in the interests of the company.

Mr HERBERT - Of their shareholders, that's right.
Mr BOOTH - So there would no longer be any imperative for a new owner to do anything in terms of making sure there were plenty of races happening in Tasmania then? That is your view?

Mr HERBERT - Yes, as I said earlier, I find it very difficult to know how a government of the day can guarantee what will happen to a government in 10 year's time.

Mr BOOTH - Absolutely. You cannot rule from the grave, so to speak, if you are not the government.

Mr HERBERT - That is right.

Mr BOOTH - My concern is that apart from the effect on the culture of racing it actually puts the funding of racing into a political domain so that each year you have to go with your begging bowl.

Mr BIFFIN - Exactly, and that is one of our big concerns.

Mr HERBERT - That is our big concern.

Mr BOOTH - Further to that, from what you have said and if the licence was sold and somebody decided that they could make more money out of camel racing than running races here, it could ultimately mean that the industry could collapse in terms of the racing industry because the people who provide the product would be here but they no longer have anywhere to put their product. Is that a reasonable assumption?

Mr BIFFIN - Well, that should not happen because isn't the minister guaranteeing that the industry won't be worse off?

Mr BOOTH - But do you believe him?

Mr BIFFIN - Well, we do not want to say we disbelieve him but we want to see the cold, hard facts. If the purchaser is successful in operating what he has purchased or if he is not, my understanding is that it will not affect the money that will go to the racing industry because we will be negotiating separately from that, so we will not know whether it is successful or not so really it shouldn't have any effect on the funding of the Tasmanian racing industry, but that is where I have trouble understanding that too.

Mr HERBERT - I have trouble in understanding exactly what you said. If we get into that situation the industry would be with everybody else in negotiating State budgets and all sorts of situations.

Mr BOOTH - And even if the money went into the industry, if the people who owned the licence decided not to put it through SuperTAB or some other system, where would your stakes come from?

Mr BIFFIN - The minister.

Mr BOOTH - He would just provide the -

Mr BIFFIN - Well, that is all we can understand at this stage.
Mr BOOTH - So were a sale to be considered by the industry it would be something you would need to see in the legislation that said that an owner of that licence would have to support product provided by the Tasmanian racing industry to the level it is now at least or presumably growing. Would that be a reasonable summation?

Mr HERBERT - We would want that, and growing. The fact is that if you stand still you go backwards in any situation, so we are looking at a growth where we may accept some of our races going tele-track, hypothetically, to generate income as we have to move to that thing.

The only reason I raised the licence situation was that there could be corporations that are looking at a licence, and I don't want to go back to Betfair but they came here so they could get a licence and they have got into Australia now, so they could move that offshore here tomorrow morning and we'd get nothing, so that is why I raised the licence. If an international company in Europe sought the licence and then after three or four years' time looked at the returns sitting around the boardroom, they could say, 'We don't need this'.

Mr BOOTH - To support the industry that you are talking about in terms of racing, even if it were tele-track, you would want that to be here, not camel racing in the Northern Territory.

Mr HERBERT - Oh yes, of course.

Mr GUTWEIN - On one hand a 20-year deed in regard to providing surety of funding for the racing industry moving forward has been talked about, so that is obviously something that you guys would definitely require information on, but then in regard to any new purchaser, as part of one of the conditions of sale would it be important that a certain amount of Tasmanian racing product was always going to be a part of what they were doing?

Mr HERBERT - Yes.

Mr GUTWEIN - You would be looking for that sort of guarantee.

Mr HERBERT - We would be looking for something in that light, and I don't know how you tie that in because the more conditions, for want of a better word, that you put into the contracts, hypothetically I would suggest that the more it would bring the price down.

Mr GUTWEIN - Well, it normally would.

Mr HERBERT - Yes, and if you try to tie into all these guarantees that they have to take Tasmanian product and they have to do this and that, one would assume that the price would come down. That might still suit them if they just want the licence.

Mr GUTWEIN - You gentleman obviously know a lot more about racing than I do and hesitate to say it, but a number of other people on this committee as well. Are there any threats that you can see on the horizon to TOTE as it currently operates at the moment? You have both said that TOTE has been doing wonderfully well the last couple of years and that has certainly been echoed by other participants in the industry. Are there any threats that you can see to
Mr HERBERT - Without looking at the international thing, as Robert and I and the industry have said, we have been very happy with the progress and where TOTE has been heading. We had really been looking forward to going international, globally and so forth, until it raised its ugly head that we might be selling it. We were really looking forward to moving forward the industry and TOTE, to be quite truthful.

Mr BIFFIN - I would have thought the product would have been something that would have concerned them.

Mr GUTWEIN - Is that Sky Channel?

Mr BIFFIN - Yes, it is. The Sky Channel coverage would have been the main problem on their minds but they seem to be reasonably confident that they could come out the other side of that pretty positively.

Mr GUTWEIN - How much sway does Sky Channel have in regard to the timing of your race day events? How much of the dog do they wag, so to speak?

Mr HERBERT - Well, it is a large slice at the moment; that is why TVN, which was New South Wales and Victoria, started their own. The fact is that we all need to get our product locally, interstate and overseas, so we need Sky Channel. Obviously they have a very big input into it and they are looking for 24-hour, seven-day-a-week operations so they can put it around the world. So, yes.

Mr BIFFIN - At the moment we have a binding contract but that only has a few years to go and then they will be -

Mr HERBERT - To 2012.

Mr BIFFIN - looking at us very closely because it is a commercial decision on their behalf so they will be looking where best to position us to maximise their turnover.

Mr GUTWEIN - I am trying to get an understanding. Post-2012, how realistic or unrealistic is it that Sky Channel might put a proposition to Tasmanian racing? You said before that it might be a 6 a.m. Monday morning start because you need to meet the needs of some other international market. What sort of chance is there of that actually occurring?

Mr BIFFIN - There'd be a fair chance, I would think.

Mr HERBERT - I reckon there'd be a very good chance.

Mr BIFFIN - They would want us to go off Sunday racing to some sort of mid-week racing.

Mr GUTWEIN - And even sometimes during the night, to fall in line with the time frames?

Mr HERBERT - It could be, which is probably not a bad time frame if at night we are to go to places like Singapore and into Asia, and maybe even to North America.
on those time frames. But what we were saying there was that it would depend on who acquired it and whether they had the clout to go to Sky and say, ‘We can make millions more if we race in the 6 to 10 a.m. time slot on a Monday morning’. I do not know where we stand to negotiate in that situation.

Mr BOOTH - Even if you were to consider a 20-year deal, setting aside that I am not entirely sure how you would even do that or if you would get a plebiscite of your industry, but hypothetically, if this deal came down the line, what then? Does it concern you that if a 20-year deal were made, what happens in year 21?

Mr BIFFIN - Twenty years is not a lot of time.

Mr HERBERT - Twenty years is not a lot of time. Betfair was great - five years - but that is up and there is nothing stopping them taking their bat and ball and going anywhere in the world now they have their licence.

Mr BIFFIN - Personally, I find 20 years a disappointing period.

Mr HERBERT - Because we are trying to build.

Mr BIFFIN - We are talking about a massive industry and you are giving them 20 years, so the panic will start to set in after seven or eight years and then you have 10 years of people losing confidence and getting out of the industry because they need surety.

CHAIR - Thank you, gentlemen, for your input. I wish you a safe journey back up the highway.

THE WITNESSES WITHDREW.
Mr GEOFFREY ALLAN HARPER was called, made the statutory declaration and was examined.

CHAIR (Mr Hall) - I invite you to make a statement to the committee on where you see things with regard to our term of reference - that is the sale of TOTE - and then members will ask you some questions.

Mr HARPER - I am Chairman of the Tasmanian Racing Club. I have also acted for and owned a company which made a bid to buy TOTE Tasmania some two years' ago. I am also a part of the consortium, which includes the Tasmanian Racing Club, which is putting forward that it would like to make an offer to buy TOTE Tasmania, if it is for sale. There is a number of issues which I am across but I believe I can give a fairly broadbased and informed opinion as to why I think that TOTE Tasmania, under the current circumstances, should not be sold.

CHAIR - As long as we do not get into figures concerning commercial confidentiality.

Mr HARPER - I will quote figures which have been gleaned out of TOTE annual reports and one out of a Merrill Lynch annual report which probably does not carry much weight since they have just had a $10 billion bailout and $15 billion loss in three months. If these are the people that have been quoted around the place there is probably not a lot of credibility floating around. The consultation with respect to dividing TOTE in the industry was an absolute sham. We arrived with Global Value Management at Bellerive. I talked to the minister's representative at the time who said, 'The legislation has already been drafted. This is just window-dressing'. I left about three-quarters of the way through. It was an absolute waste of time. If this is what it is about it -

Mr HARRISS - When was that, Geoff?

Mr HARPER - On 26 September, with Global Value Management. I sat next to the representative of the minister at the table and said, 'Do you have the legislation prepared?' He was very reticent about saying it. I persevered with the point and he said, 'The draft legislation has been prepared'.

Mr GUTWEIN - That was for the restructuring of the industry?

Mr HARPER - That is for the restructured industry and the separation of TOTE Tasmania from the racing industry. In real terms was there consultation? In my opinion, no. The confusing issues for all in the racing industry are, what are the terms and conditions of the sale? Does the TOTE merely manage the industry on behalf of the Government? I would like to put forward in the papers which I will leave today the statutory declaration from the Honourable Michael Hodgman which makes the point that Totalisator started it all in about 1890 and has historically been there over a number of years. The Government was approached to manage the totalisator industry on behalf of the Government. They were never given ownership of it, never indeed contributed any capital to start off the industry. There is an argument to ask, who owns TOTE Tasmania?

CHAIR - Are you saying you would like to table that statutory declaration?

Mr HARPER - Yes, I would. Thank you. The confusing issue for the industry is, what are the terms of sale? Second, what level of licence fee does the
Government propose to charge, if any? The minister's statement to this committee in the first instance is known to the Tasmanian Racing Club. What is currently for sale? The current date to provide this is totally insufficient to allow any decision on what is for sale, the revenue to be charged and what is required. Their contact point was Mr David Willingly, a partner at Deloitte Corporate Finance and I requested information on the sale. I rang him, e-mailed and got an immediate response. The close of expressions of interest was for the 16 January. When I contacted him since then, apart from the fact that he does not return his e-mails or his phone calls now, I was told that there would be no information available until the end of March; the Government did not know whether it was selling.

Mr BOOTH - Can I just clarify that. Are you saying that you received information by 16 January and that was the close of expressions of interest?

Mr HARPER - In the Merrill Lynch papers here there is a description of Tattersalls and Tabcorp wishing to buy TOTE and it says expressions of interest close on 19 January 2009.

Mr BOOTH - Was the announcement to sell was made publicly on 6 January?

Mr HARPER - Yes, on 6 January. Through the racing club, having contacted Deloitte to ask what was for sale I was told they would not know what was for sale until the end of March, as the Government had not decided.

Mr BOOTH - That is extraordinary.

Mr HARPER - It is unbelievable.

Mr BOOTH - So you had two weeks and you had to read an ad in the paper and technically that would have been the only means to find out. It was only because you sought out Deloitte that you knew when they were closing, or was there an ad in the paper?

Mr HARPER - This popped up on a Merrill Lynch web site and that is when we were told the expressions of interest were closing. According to this, 'the Government of Tasmania has announced their intention to sell TT in a competitive bidding process by 30 June 2009 and expressions of interest are due on Friday 16 January.'

Mr BOOTH - What date was that? Is there a publication date?

Mr HARPER - It's dated 22 January 2009.

Mr GUTWEIN - Just for clarification, what document is that?

Mr HARPER - It is a Merrill Lynch proposal which relates to TOTE Tassie being for sale and it goes through the likely buyers for TOTE Tasmania and what their current interests would be judging by the current level of capital purchases within the industry, for example Tabcorp is involved in the redevelopment of the casino in Brisbane, so they might not have the capital to bid for it.

I want to make the point that clearly it said, there are two logical options to sell TOTE Tasmania. I would say that the Tasmanian Racing Club and the entities it is dealing with would be the third, but it really boils down to there being really
only one entity in the market place that would be interested, Tattersalls. That is the conclusion that they come back with.

CHAIR - Would you be able to table that document, Geoff?

Mr HARPER - I am certainly happy to leave a copy and table that document, yes. I do not need to quote from that so I will leave that with you now.

In the divesting by TOTE of the racing assets and its assets within the balance sheet which would be the leases on the Tasmanian Racing Club and others, it has now put itself in the situation of being a trading company. It does not particularly own any assets apart from intellectual property, leasing and some property which it has no asset holding on. It may hold other small parcels but then you go to the balance sheet and there is nothing significant there. Anyone buying it is buying a trading company based on the licences which it currently has. I think it is important to understand that.

What has not been accounted for is if it is sold to an interstate company, what would they be looking for? If you sell TOTE on its 2006 turnover figures and you are only selling it based on turnover with no asset input, it is worth somewhere between $800 000 and $1.3 million. We have a certified valuation from a licensed valuer. As I said, we looked to buy the company at that stage. If you are buying TOTE licences only, without any capital infrastructure that goes with it, that is about the price.

Mr BOOTH - What date is that?

Mr HARPER - That is the 2006 valuation and it was valued on 22 December 2006 by Horton International accountants. Unfortunately because of the information within that I am not prepared to divulge it but I am happy to discuss any access to figures.

Mr BOOTH - What prompted you to get a valuation in 2006? Was it to put in a bid to buy it or was there some process happening there?

Mr HARPER - We had excellent relationships with Racing Victoria at the time and it was about the Betfair time as well. Racing Victoria had come back and said that if TOTE Tasmania was for sale they recognised that Tabcorp in Victoria's licence was coming up in 2011. What they did not have was a vehicle to run a TAB wagering business out of. The integration of Racing Victoria and Racing Tasmania and having the TOTE licence that they could utilise to begin with would be advantageous to the Victorian industry and the Tasmanian industry. With that they linked to us a certain number of guarantees, which have been made public previously, that it would be advantageous to go down that path as far as prize money, capital investment and continuity were concerned.

They have certainly continued on since then with apprentice training and others while giving those things FOC back to the Tasmanian racing industry as well. The potential of having only a retail company to asset strip the services on the ground and just leave Tasmania bare of any TAB is an absolute realism.

The lower the tax regime the more the economic value of TOTE Tasmania is, but then industry becomes reliant on State budget allocation. The value and determination of the economic net worth of TOTE is dependent upon the customer mix. These are not old figures but they are fairly close to the mark.
Twenty people provide approximately 40 per cent of TOTE turnover and 60 per cent of that is electronic in nature and will ultimately stay with current TAB pool destination.

When you look at the balance of dividends paid throughout Australia, the market is so sophisticated and so computerised that people are able to transfer money around on each race they want to bet on to get the best results on punting throughout Australia. You may find a horse in, say, Queensland paying $6 on the TOTE and it is paying $3 in Victoria. You will find by the end of the jump of the race it is still paying $3 in Victoria but it is paying $4, $3.50. These people know how much money to put on and what is required to get it down and still make a commensurate return on where it is.

You are talking about a very sophisticated market. If we are looking at potential purchasers of TOTE you have to be able to punt into a new pool. As an example, if Tattersalls were interested in buying it they still have to be able to punt in the Victorian pool but the Victorian pool is not going to let them punt into that and not let them have that outlet.

You have to be in a position to ensure that the current levels of turnover, the percentages of money coming out of Tasmania, are allocated evenly across the distribution pools. You will not get that by getting any other purchaser apart from Tabcorp.

The problem with Tabcorp is sitting back knowing that if it does nothing in 2011 it is going to get all that money anyway. Forty per cent of the local turnover, which is bulk punters, has to go into that pool because it is the only way they get a dividend. You have 60 per cent of punters sitting out there who contribute very little to the bottom line and yet if the professional punter moves out and punts in Victoria, 60 per cent of the punters are going to be carrying 100 per cent of the overheads.

There is real concern there for the genuine buyers in the marketplace for TOTE. When you sit back and listen to the history of what has been said, there are clearly only two players in the Australian marketplace capable of fitting TOTE into their pool. One is Tabcorp and the other is UNiTAB.

Why would Tabcorp do anything? And they have tried it before and the information is provided, they tried to move Tasmania out of their pool, which automatically gives them 40 per cent of TOTE's major turnover having to be punt into their pool because they are the only ones that hold enough money to do anything with, So Tabcorp can sit back and do nothing - they will get 40 per cent of Tasmania's business in 2011 and they will get that on the bulk users' benefit. When you are servicing 20 to 30 people and providing 40 per cent of the turnover it has to be a great business acumen. If Tabcorp happen to want to buy here they would, in my opinion, buy, take the 40 per cent and cut the other 60 per cent loose. The other 60 per cent is either going to make phone calls to them to get into their business or they are going to drop off the punting market. That is the problem I see with the current marketplace situation at the moment.

The contracts with Tasmania come up, I believe, in about the year 2011, whether the contract for TOTE is to remain with Tabcorp comes up at that stage. That is, incidentally, about the time that the Sky contracts and the product supply agreements with the Tasmanian racing industry come into negotiation again. So
there is some real sort of note there to be had whether or not these things are going to be fulfilled.

Tabcorp have already made it known - they said they did not want Tasmania in the pool and fortunately for Tasmania we have a contract which allows us to stay - I think it is to 2011, which has certainly been a real advantage. Otherwise we would finish up like other TABs of South Australia, Northern Territory and Western Australia, having to move off into a smaller market.

Tasmania is the victim by TOTE of its own success. Tasmania has done particularly well in getting professional punters here and working the system legally really well and I think they are to be commended for that. Where does the Tasmanian racing industry go in its value? If you sell TOTE off you have to lose intrinsically half its value or half its net worth. If the figures being quoted around, figures that are quoted in that report - maybe $115 million, maybe it is worth $120 million - if you have to pay a royalty back to the Tasmanian racing industry commensurate with its current needs it is probably about $1 million - $1.5 million.

But in relation to the payments required by the racing industry, you are looking to sell a $300 million to $400 million investment to get the returns that TOTE is currently getting out of that. When you look through the numbers of what TOTE’s efficiency is - and these are numbers which were provided by our accountants on the basis of a valuation we have had done - TOTE Tasmania’s collection of revenue is 10 times less efficient than the Victorian industry’s.

I have raised the issue previously at the meeting in Campbell Town about the need for TOTE to go through the self-examination process with external people to make sure that we are getting the best value for dollar. That has never been looked at and never been followed through but you can’t get away from the numbers that are in the paperwork. The numbers say that TOTE is inefficient and should be looked at and whether it is a new management structure - I think some of the people on the management team are outstanding but there are inherent systems in place which may not be in the best interests of racing.

The idea of offering a 20-year deed back to industry on funding, when you look at that in depth the first four years' funding is guaranteed, the next four years you are in the mix with health and all the other industries within the State. But again, if TOTE is paying industry in excess of $20 million a year in output, for a 10 per cent return on asset you are talking $200 million, so TOTE has to be valued at $350 million to $400 million and if they get $350 million to $400 million there is some sort of relativity to say - and I would be one saying it - sell.

But to look at amounts less than $250 million it is just laughable, it really is in the light of return on investment. Commercially it would not be a good proposition to sell TOTE unless you are in the $300 million to $450 million range. With only one potential bidder in the marketplace that is all you have to go on because if TOTE Tasmania goes the way it is currently going and is sold to, let us say, UNITAB, then the turnover or the money that UNITAB is getting to punt back into Victorian Tabcorp is not going to exist so they are not going to have the same sized pools around for local punters to invest in to get similar returns, so automatically those punters have to get out of the UNITAB pool and get into the Victorian pool and that is where the strength and the weight of the money is. That is where we really sit with it.
In my opinion, there is not a lot to be offered by the sale. Also too, and I think this is really important, the minister made a statement to the committee that he believes he can negotiate a satisfactory outcome on capital and prize money with the new Tasmanian Racing Board. This is the board that he recommended to Cabinet; he signed the appointment papers for it. Isn't that the ultimate conflict of interest? He is asking a board that he has appointed himself to tick off a 20-year funding deal for the racing industry, which in real terms is only four years because after four years you go back to renegotiating what is the current budget structure within Tasmania.

I think if you do the numbers on TOTE it clearly demonstrates that the worst position we could be in is to sell to TOTE for less than $350 million-$400 million. If you sell it for that there is some relativity of saying it is a good purchase, but to do anything else, the income that is currently being derived from TOTE does not warrant selling it for less, and I believe when you only have one player in the marketplace capable of wanting to buy it, that is it. Paul said it would be nice to get an overseas person in to buy it, but to me there is no reality there. There is no Asian company, no British company, there is no-one out there - or North American companies as well - that would be interested in buying it. The marketplace, according to the documentation which I tendered, clearly says that that is an Australian-based marketplace with either Tattersalls or Tabcorp.

Mr BOOTH - Setting aside its value, in terms of the best interests of the racing industry in Tasmania for all codes, do you think it is in the best interests of the industry to sell TOTE and therefore fall victim to your own current funding arguments and accept whatever deal they try to stitch up for 20 years, or is it in the best interests in the industry to keep TOTE as a funding stream going sideways back into the industry?

Mr HARPER - I think there is only clearly one answer to that. It would be absolute lunacy to sell TOTE Tasmania when you have a negotiation coming up with a major corporation such as Tabcorp in the year 2011. Tabcorp have already indicated that they want Tasmania out of the pool. That would be absolutely catastrophic for the Tasmanian racing industry. The Tasmanian Government, through TOTE, is the only body that can negotiate with Tabcorp on a level playing field. I would not want any other entity in Australia, whether it be UNiTAB in New South Wales or whatever, trying to negotiate Tasmanian racing staying in a large pool such as Tabcorp, which is the only pool to be in. It has the best racing, the best quality of money flying in and out of there, and the best-managed dollar - a dollar spent is a dollar rewarded. It is by far the best way to go.

There is no reason to want to go anywhere but the Tasmanian Government and TOTE Tasmania, in my opinion, are the only ones who can guarantee that we will stay in. I would rather be sitting in front of the High Court with the Tasmania Government and TOTE Tasmania in front of a united racing industry arguing that we should be back in the pool and that it is a State rights issue of discrimination against a smaller State, than selling the place off, because if you sell it off you walk away from it.

Mr BEST - Mr Harper, you mentioned that you had some discussions about your interest in purchasing TOTE.

Mr HARPER - Yes, that is right.
Mr BEST - When would that have been? When did you first become interested, so to speak?

Mr HARPER - In 2006. We then approached Michael Aird and we also approached the Premier, Paul Lennon, at the time about our interest in it and were told categorically that TOTE was not for sale.

Mr BEST - Can I just ask or is it commercial-in-confidence - I do not want to put you in a bad position and we can go in camera if you like - what has been your interest in purchasing TOTE? It is okay if you do not want to answer.

Mr HARPER - No, no, I am more than happy to say. I have been involved in the racing industry for 40 years. I have done very well in my own business interests and I have had so much enjoyment out of racing that I believe there is a lot more that business and the business community can give back. The contacts I have made through racing have been excellent, both in my business and others. The interest in buying TOTE Tasmania was purely on behalf of the industry, because at the end of the day, you have a locked-in supply of money at 4 per cent and you have the ability to take out the Tabcorps and the UNITABs of the world, who are 10 per cent returners to their shareholders; they have a large 'other expenses'. Tasmanian racing, managed under an efficient TOTE structure, should be able to return 10 per cent to 15 per cent more money to the racing industry and possibly 5 per cent to 10 per cent into government revenue than any industry owned by UNITAB, Tabcorp or any private enterprise.

Mr BEST - Yes. We did hear from some witnesses about other key matters that they thought would be important in the overall context of some sort of a funding agreement, if one were to exist. We heard also that the formula being used in Country Racing Victoria has been a funding formula. I am just interested in your views about that. Do you see that as a good funding model to base something upon? Would you like to make other comments about what could be constituted as good funding models that we could consider?

Mr HARPER - I do not think Tasmania has the maturity and I do not know why they have not because the question has been asked several times. Tasmania has a unique business model and that business around Saturday and Sunday racing and other feature race days tying into a national and an international grid.

We have never done a business plan which is for the betterment of the racing industry. We know that certain races have better prize money and TAB turnover is better on some race meetings than others, it is better at different times. There is an array of things that should be put in place. It will never be done if TOTE Tasmania sits out there - this is not a criticism of TOTE - and the new racing board sits here. The new racing board is trying to program races that can be contrary to the best interests of the TAB. The TAB structure with the racing industry under it was the best, most efficient corporate entity that Tasmania has had in my 25 years managing racing. That is not to say it was perfect -

Mr BEST - No.

Mr HARPER - There is a lot of improvements on both sides, the racing industry and others.

Mr BEST - What do you think the best structure would be? You could say that one, or do you have a better one in mind?
Mr HARPER - The best structure I believe we could go to is one where TOTE took control of the racing industry again but there was greater representation and maturity on the racing board that represented racing Tasmania interests, not the sectionalised clubs or anything like that. The corporate law in Australia has now changed so much and I am sure we have all served on certain boards where people say, 'Directors on the other board I sit on have told me to vote for this'. That has been illegal in Australia for the last 10 or 15 years, and yet it still goes on in every lower board you sit on. TOTE Tasmania's board should be able to rise above that level and introduce a system of punting and turnover, feature races and governance within the Tasmanian racing industry which would be an absolute role model and advantage.

Why would it be? First, because it would be efficient. People at the club level give their time free of charge so there is a saving there. Second, TOTE Tasmania would not be paying 10 to 15 per cent, other taxes to shareholders and living or dying on the stock exchange. At the end of the day, TOTE was established to provide the racing industry with funding; it was not to provide the Government with the whim of being able to sell it when they felt like it. It was a revenue stream. What is the problem here? The revenue stream has become too good and people are looking at us and saying we are short of money for here, we are short of money for there. We are not attuned to paying out a direct share of taxes on where we are going, but we have a business where - these figures might not be accurate - about $20 million a year roughly gets paid out in the way of stake money and prize money, and $10 million or $15 million is being taken out in capital investment within the industry.

Based on the current TOTE turnover, and that turnover has improved exponentially from where it was, this is a great business giving a great return both to the State and to the racing industry. If someone comes up and says, 'We are able to get a return on that and sell it off so we are going to finish up with a yield of 15 to 20 per cent so therefore it makes sense out of - let's say - selling it for $100 million, we can pay the racing industry $20 million a year and another $15 million in capital investment'. What you are saying is the first year, as I read these papers, we are looking to pay $35 million out of the $100 million the Government collects and four years down the track the racing industry is going to be negotiating with the new racing board and the racing board with the Government saying, 'We need more funds'. They are saying they have decided to build the new hospital on a greenfields site and they need the funds for that. It is going to be a drip-fed industry.

At the end of the day, if you want Tasmania to prosper there have to be businesses that do well and employ people. I think if you look at the racing industry it is the best employer of the unemployable people within Tasmania and it is a real grassroots movement which interlinks society, from corporates right down to stable hands and others. I think a successful racing industry, as they have anywhere else, is a real underpinning of society and where it is going.

Mr BOOTH - Do you see the sale of TOTE being detrimental to the long-term interests of the racing industry?

Mr HARPER - If the sale of TOTE achieves the $400 million to $500 million being mooted, I would seriously say it is probably not a bad deal.

Mr BOOTH - But how would you see that supporting the industry in the future?
Mr HARPER - If TOTE were to be sold, and there is an argument about who actually owns TOTE anyway, for $500 million I would want to be sitting down with government saying, ‘We do not have a deed for 20 years, we actually have a contract or a contractual deed for 20 years which details the funding and the progression of funding out of the $500 million grant which we have given back to government’. TOTE can generate around $35 million to $40 million on the $450 million turnover, which was the last turnover I saw, so they have to be generating somewhere about $35 million to $40 million.

I want to go back because you raise a good point there. I asked the honourable Michael Hodgman to ask the question in Parliament two years ago along the line of how much the State Government raised out the TAB in the 1990s by way of revenue to go to consolidated revenue. In the years, I think 1992-98, the State Government collected $92 million in funding out of TOTE and out of the racing industry that went directly to consolidated revenue.

The point I ask and raised before is, there needs to be an inquiry into the running of TOTE and the cost in how it is managed to ensure that what we are selling is actually what we believe is in the balance sheet. As I said earlier if the ratio was 10 times less efficient than Tabcorp, and there is certainly a scale of economy there, then we are possibly selling something whose economic value we really don’t know.

Mr BOOTH - It could be worth a lot more than it appears at the moment.

Mr HARPER - Absolutely. To round it up, if $30 million is coming out of TOTE to go to the racing industry, a $300 million investment at 10 per cent is a great return in the market place at the moment. To buy an investment that returns $30 million, what is it really worth? To sell it for anything less than $450 million to $500 million is just throwing money away.

Mr BOOTH - Moving on from that, the question is, what in 20 years’ time? If you have a deal, and we have talked about the vagaries of different political machinations as to funding streams even in the last 20 years, but even if you have a watertight contract, what then?

Mr HARPER - From what I understand of the ministers statement to the committee, it is not that. He has clearly stated that the funding will be locked in place for four or six years and at the end of the fourth year we are going to sit down and renegotiate or negotiate what the level of funding would be. From the industry’s position in the first six years you know where you are. At the end of the fourth year you will be told in the seventh year what you will get. That puts you back into the level of where the State Government is and what its budgetary requirements are.

Mr GUTWEIN - We will need to get that clarified and we have Mr Aird coming in. I must admit my understanding was that rolling five-year contracts would be negotiated on an annual basis so that you would have surety moving forward on a five-year basis. I would need to look at that but that was my understanding of it to be fair to him. That would meant that in your second year you were actually negotiating out to your sixth year and then third year and so on.

Mr HARPER - The seventh - continually.
Mr GUTWEIN - But by doing it that way you roll across election periods.

Mr HARPER - To me it does not matter if it rolls over election periods or not, it is only as good as the contract that is actually put in place and quite frankly I think we have no confidence. If you look back at the abalone industry and see how the deeds changed from what the original deed was, it is alright to talk about short-term contracts, but when you are talking about things in the long term society changes, everything changes so much, you would not want to be locked into something like that.

CHAIR - Geoff, unfortunately we have gone over time. Thank you very much for your valuable input today.

THE WITNESS WITHDRAW.
THE HONOURABLE MICHAEL AIRD, MINISTER FOR RACING, WAS RECALLED AND FURTHER EXAMINED.

CHAIR (Mr Hall) - We will start this last segment. It has been a long day and we have the most important player of the lot, the honourable Treasurer. Welcome, Treasurer. We will have a short session in open committee, and then we'll move into closed, if that's okay with you. Is there anything you'd like to say just to start off with?

Mr AIRD - Mr Chairman, there appear to be three threshold questions that the committee is considering, but you may correct me. The questions appear to be: do you believe there is good reason to divest TOTE from public ownership; do you believe the processes that were undertaken to achieve that decision which I took, along with the Government, were appropriate in the circumstances; and does this allow for security of funding, a sustainable funding model of some sort into the future?

Obviously, I have answered the first question; that's why I am here. In answer to the second question, I am satisfied, given all the circumstances, all the stakeholders including the employees, principally, that I've handled the process appropriately and have engaged in proper process, but the committee may make a different judgment because I understand there has been some evidence put forward in committee which has been a bit critical, surprise, surprise.

CHAIR - You got off pretty lightly today.

Mr AIRD - No-one defamed me? I am not going to defame myself, but I just hope there's some restraint amongst members here.

Then you get to the other question of how you satisfy the racing industry's funding model. I put forward a model before. I have a slight variation to that model in that I would proceed with the deed whether or not we had a sale of TOTE. The advantage of a deed is that it does give security. There is no funding model in Australia now that actually provides security to the racing industry; there are models that have provided a level of assistance to the racing industry over a period of time but there is no guarantee per se. A deed overcomes some of the concerns about the vagaries of political interference and, depending on the terms and conditions of the deed, would get to, I think, a reasonable position of security for the racing industry and allow for proper management of the racing industry that I think is essential.

That is the proposition that I would bring to the table. A deed would be signed with the Tasmanian Racing Board which would secure funding for the racing industry. I have indicated before the committee and publicly that the industry should not be worse off or disadvantaged from the present funding arrangements, therefore there would be some level of indexation. The only part of the deed which would have a condition precedent would be the capital injection into the racing industry, but that would have to be subject to the sale.

Other than that, in terms of what exists now, we could ensure that the deed could be sustained whether or not there was a sale of TOTE. That is a variation really to the proposition I put before; I remember having a discussion with the committee in terms of linking the sale to a deed. I believe under any particular
situation you'd be able to have a deed which would sustain the long-term interests of the racing industry.

CHAIR - Thank you. Are there any questions of the Treasurer on those points he has made?

Mr GUTWEIN - I was wondering how far down we can drill or whether we wait until we go in camera. Just in regard to a couple of things I think you said last time and certainly clarified something that was discussed this afternoon, still on the rolling five-year basis?

Mr AIRD - That was the initial proposition, and if there was a variation of that which led to a similar outcome but didn't lead to a huge distortion. I think we have to understand that the racing industry actually contributes to a turnover of about 6.5 per cent. That is understood in terms of the wagering industry. The racing industry has some claim to the benefits of the sale of TOTE probably beyond that 6.5 per cent, but nonetheless I think we can work out a model that is a long-term sustainable guarantee model of the deed. That is not subject to any political interference once it's signed. A deed can be varied by a consent of parties, of course, and I think that would be the most secure.

To be quite frank with the committee, I have looked for a way where I could provide the greatest level of security under the provisions, and the most secure model in terms of the legal position of a deed is, I think, the most secure way and legal way of supplying security and sustainability to the racing industry.

Mr BOOTH - Minister, you said that you've engaged in proper process in regard to this. Who did you consult with in the industry before you decided to announce the sale of TOTE?

Mr AIRD - As I explained before, my position is that while they are the beneficiaries of a wagering industry and their interests need to be satisfied with the process, if I had gone through that process I would have caused a lot of instability within TOTE and there are about 300 employees to be considered. I had to satisfy myself that we could get value out of the sale of TOTE and ask whether it was necessary for it to be in State hands, and whether we could provide some security back to the racing industry. I believe I can do those things and I am satisfied in terms of my decision making that I have engaged in a proper process.

Mr BOOTH - Who did you consult with then? We have not had a single person from the industry who has expressed any confidence in you whatsoever, and none of them had been consulted. You are talking about an industry, but I cannot quite reconcile proper process with not consulting with anyone. But setting that aside -

Mr AIRD - Let us not set it aside. What we are selling is a wagering industry. We are selling a wagering business, not a racing business. The interest of the racing industry is to secure funding - bottom line. I understand that. I think that we will be able to do that and satisfy the industry. Those who have been critical of the process are concerned about their future. I understand that.

Mr BOOTH - Who did you consult with?

Mr AIRD - We went through this last time. I am not going to do that again.
Mr BOOTH - With respect, I am asking you a question. It is not up to you to say you are not going to deal with anything in here if somebody wants to ask a question.

Mr AIRD - I do not want to waste the committee's time.

CHAIR - We went through those questions last time. The Treasurer gave the answers with regard to stakeholders. A lot of them have criticised the process, others have said it depends on what the Treasurer comes up with.

Mr BOOTH - In regard then to the deed, you said that you will prepare a deed whether you sell TOTE or not. When did you decide that you will prepare a deed?

Mr AIRD - I had discussed with the committee before that I thought a deed would be an estimate of securing funding for the industry.

Mr BOOTH - Yes, but when did you decide that you would do that? You discussed it with the committee before that you would prepare a deed to guarantee the future of the industry on the sale of TOTE.

Mr AIRD - I do not have a date in my head so I cannot answer that.

Mr BOOTH - It is just that you said that you think you should have a deed whether we sell TOTE or not.

Mr AIRD - That is right. Before I was saying that it would be a condition precedent in terms of the sale. I reflected upon the conversation I had with the committee. I said to the committee then that I would go away and think of the attitudes put forward by the committee. I have done that and I think by creating the opportunity for a deed to be signed, whether TOTE is sold or not, handles the issue of security or whatever.

Mr BOOTH - Is that something on which you have come to a conclusion since you appeared before the committee the first time?

Mr AIRD - I have firmed in my view that that is the best way of securing a long-term, sustainable funding model for the industry. That was following on from the committee's deliberations.

Mr GUTWEIN - On another matter, although there are a number of issues I want to drill down on the deed so I do not want to get away from that, but we will do that in camera. Today we heard an interesting criticism of the way that you and the Government have handled it and that the recent yearling sales, which I understand around the country were down by between 18 and 25 per cent but in Tasmania took a 41 per cent hit. Criticism has been raised today that the uncertainty in regards to the TOTE sale had an impact and exacerbated the situation, making it worse in Tasmania than it was in the other States. Would you accept that as a valid criticism? Importantly it appears from every witness that we have heard today that everybody is concerned about the lack of information that is available to them. What process will you be undertaking to ensure that the industry is informed to remove any perception of uncertainty in regards to going forward?
**Mr AIRD** - There are a couple of questions. One, I could be held responsible for a lot of things but I do not think the downturn in yearling sales can be directly attributable to that. It is more to do with the broader economic climate that we are in rather than any decision made by the Government. That is my observation. No-one has ever raised that issue with me before other than -

**Mr GUTWEIN** - As I say, it was raised in a couple of -

**Mr AIRD** - If it was raised here, that is fine but I think it is stretching things to attribute this to me or the Government's decision. There has been a drop in sales around the country. Everyone knows about that in terms of the returns that people are getting from their stock. I think the variation is more to do with the market than any influence that we brought to bear by this decision on the market. In answer to the other part of the question, what I would tend to do is to produce two pieces of legislation, one to the amend the Gaming Control Act and the other a TOTE sale act and, at the same time, I would table the deed.

**Mrs RATTRAY-WAGNER** - Minister, you indicated that you thought that the process was appropriate leading up to the announcement of the sale and you highlighted the fact that you were concerned about unrest with the 300 TOTE employees. Can I put it to you that the 2 700 people within the racing industry are probably as concerned about their future? Do you acknowledge that they are just as important?

**Mr AIRD** - In terms of legitimate stakeholders to this they are a legitimate stakeholder in the racing industry. What we are divesting here is a wagering industry and my interest is to ensure that the general community can benefit from the assets that are held, not just the racing industry, this is a broader view. This is a view that I have about the community not just the racing industry. This sale has the potential to benefit every Tasmanian not just the racing industry. The racing industry is not the only stakeholder in terms of the value that we could extract from the sale of TOTE. I expect that we would be able to invest in other assets which will benefit the whole community.


No-one has been more supportive of the industry than I have and this Government. In fact, when we came into government the industry was on its knees and we have managed to build and sustain it. You think of the resistance we had with Betfair.

**Mrs RATTRAY-WAGNER** - Praise has been given today to the former Premier.

**Mr AIRD** - That is fine. I do not mind where it goes but it has to be acknowledged that we have built up the industry. We do not intend to do anything that is going to negatively affect it.

**Mrs RATTRAY-WAGNER** - Moving on, and I am probably fortunate that I am not making the decisions that you are making I had not thought about the process I would take but I think that I would probably have engaged some more consultative means. That is my view. We have heard an opinion today that any conditions attached to the sale of TOTE to secure funding for the industry, may diminish the value of TOTE. Do you agree that that could be the case?

**Mr AIRD** - It depends what the conditions are. I do not know. Most sales have conditions on them and some of those conditions can affect the sale depending
on the nature of the conditions. There could be a range of conditions, and some of them may affect the value.

Mrs RATTRAY-WAGNER - Have you thought about what some of those conditions may be?

Mr AIRD - Yes, I have thought about some of them but I have not concluded any of them yet.

Mrs RATTRAY-WAGNER - But they may diminish the price or they may not.

Mr AIRD - Some of them may be worthwhile in terms of the overall benefit to the Tasmanian community and the industry generally. We will be making a judgment about that in terms of what we say will be conditions precedent if we get Parliamentary approval to sell. Obviously we will go through other stages to work out what other conditions we want to impose.

Mr BEST - I have some key feedback from some things put to the committee in relation to any funding model you might be thinking about being to continue to attract new people into the industry, the pool of horses coming through. They wanted to go from 68 to 78 races a year. I do not know how achievable some of that is. There is also a view that I think they want to canvass and that is how the stakes might eventuate between the two larger cups of the year and how that could be shared across with more race meetings? I do not know how achievable that is, but that is some of the feedback. From what I have gauged in evidence here, people seem fairly comfortable with the formula that has been used from the Country Racing Victoria but there could be some special circumstances with those two cups et cetera.

One of the big issues has been what might be included in some arrangement regarding infrastructure. I am from Devonport and I have heard of some upgrading needs in the Devonport area of $12 million to $15 million.

Mr AIRD - That is true, I acknowledge that.

I have views about the capital expenditure that needs to be invested into various racetracks around Tasmania. I think Spreyton does need to be upgraded. Whether it needs to be an all-weather track or a synthetic track I do not know; that is why we have a racing board to deal with that.

I am not here to micro-manage, in fact this highlights the issue that we have put a Tasmanian racing board in place. The intention is that it will become a State-owned company, that it will determine the outcomes of the racing industry and that racing people will take control of racing. They will be determining the level of capital that they wish to put into various racetracks around Tasmania.

My responsibility is to ensure that there is a level of capexl available to the board, that there will be an injection of an amount that needs to go to the board and I am prepared to do that at the conclusion of the sale. I cannot find the amount of capital to invest in that from the circumstance we are in at the moment so, in answer to your question, those decisions will be made.

In terms of race meetings, already we have announced with TOTE that there are lights going in at the TOTE racing centre and Launceston will create more meetings, probably around about 11 more, which will open up another part of the
market for us. There are other aspects that I think can create avenues for us to fill niche markets in terms of racing but a simple answer to your question is that most of those decisions should be made by the Tasmanian Racing Board. The discussion here is about how we put the resources to the Tasmanian Racing Board so it can make those decisions.

Mr BEST - Just finally on that, from what I have picked up there have been people who have been pretty aggressive and heated about the situation -

Mrs RATTRAY-WAGNER - Did you find that?

Mr BEST - Just slightly.

When you start drilling down with this in discussion, mostly it is around the context of what the funding agreement might be, I suspect, and how that works out.

Mr AIRD - I think that is right.

Mr BEST - I realise there are two separate issues at stake.

Mr AIRD - I understand that and I am keen to address that issue.

Mr BOOTH - Just to be clear for the committee, Treasurer, you are not selling the racing business, you are selling the wagering business -

Mr AIRD - That is correct.

Mr BOOTH - and you are doing it for the benefit of the whole of the State, not just the racing industry?

Mr AIRD - That is correct.

Mr BOOTH - Implicit in that then is that the racing industry would be better off retaining TOTE?

Mr AIRD - No.

Mr BOOTH - How can it be that this is better for the Tasmanian population?

Mr AIRD - One does not negate the other.

Mr BOOTH - How is that?

Mr AIRD - It does not negate it. I am putting forward a model that guarantees them a future in terms of funding. In terms of long-term sustainability they will be out of the political hurly-burly, they will not have to do any lobbying, they will not have to anything other than get about their business running the racing industry the way they want to do it.

Mr BOOTH - So they will be better off?

Mr AIRD - In my view they will be a lot better off. They will be better off than any other funding model anywhere else in Australia.
Mr BOOTH - How will the Tasmanian community be better off than any other? You cannot have it both ways.

Mr AIRD - Of course you can, because the amount we will get from the sale will be able to benefit Tasmania so we can invest in other assets.

Mr BOOTH - The overall sale price will give you enough money to do both you say? So the wagering business in itself will be worth a lot of money?

Mr AIRD - I am not going to be drawn into price or -

Mr BOOTH - No, I am not asking for the price.

Mr AIRD - Obviously if I did not think I could do all that I would not be putting it on the market, would I?

Mr BOOTH - So why didn't you tender out the pokie licence? I mean, if it is a wagering -

Mr BEST - Mr Chairman, relevance.

Mr BOOTH - No, that is a reasonable question. If the pokie licence in fact was not for the benefit of the community, and that money was got by selling the licence, why is it that this wagering business has to be sold off but the pokie licence was given away?

Mr AIRD - It is two totally different -

Mr BOOTH - They are both wagering businesses, aren't they?

Mr AIRD - They are different types of businesses. There are a lot of reasons for renewing a deed - I don't know if you want me to keep on going with this but I am happy to - there are a lot of advantages in having a deed. In fact there is another committee investigating this matter so I don't know if it is entirely reasonable to go into this. The Public Accounts Committee is looking at this, isn't it?

Mr BOOTH - I do not know.

Mr AIRD - As far as I know they are.

Mr BOOTH - You do not want to answer this.

Mr AIRD - No, in any event there can be real advantages in ensuring that you have a strong industry. The fact that you do not have competitive pressure in terms of a deed can lead to advantages to the operator and to the community generally. We are addressing that issue and I will make a further announcement about that tomorrow.

Mr BOOTH - Could you not then extrapolate that to say that the racing industry would have been better off maintaining the TOTE for what it was set up for in the first place, which was to support the racing industry and therefore be able to not have to go to that auction every year for funding through consolidated revenue?

Mr AIRD - The TOTE's business is a wagering business. It has changed dramatically as a business. Only 6.5 per cent of its revenue is generated out of Tasmanian
racing activity. TOTE has been built up as a large business by virtue of the activities of TOTE as a wagering business, not as a racing services business.

Mr BOOTH - Are you saying TOTE was not set up to look after the racing industry?

Mr AIRD - What I am saying is the nature of the business has changed dramatically and the benefits to the industry have changed dramatically. Under the model we are putting forward they will still have access to sponsorship money at racefields. There was no such thing as racefields before, no such thing; there is a new stream of resources going to the racing board that they would never have had before. We now have Betfair, and they get the benefit of that, so the whole nature of wagering has changed in Tasmania and indeed in Australia.

Mr BOOTH - How would you propose they would be funded beyond the 20 years then?

Mr AIRD - Twenty years seems to me a reasonable threshold. You can put aspects into the deed if you wanted to work out renegotiation renewal clauses. There are ways of doing that if you wanted to.

Mr BOOTH - Is that contemplated?

Mr AIRD - I think there has to be some provision, and I think 20 years is reasonable. Whether you have a renewal period at, say, year 15 or year 10 and then beyond that, the next 10 years, I do not know, but we will certainly be addressing that issue.

CHAIR - If there are no further questions, thank you very much for your attendance. We will move to camera, Treasurer.