

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 Deloitte. Clayton Utz are our legal advisers. Mr Chairman, this committee summonsed 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 Deloitte? You did mention it before but I didn't get that.

Mr CHALLEN - The contract with Deloitte 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 not 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.