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THE HOUSE OF ASSEMBLY SELECT COMMITTEE ON THE ROLE AND FUTURE VIABILITY OF TOTE TASMANIA MET IN COMMITTEE ROOM 1, PARLIAMENT HOUSE, HOBART ON MONDAY 17 OCTOBER 2011.

Mr MARTIN WALLACE, SECRETARY, DEPARTMENT OF TREASURY AND FINANCE AND **Mr DEREK INGLIS**, DIRECTOR, PROPERTY PROJECTS, DEPARTMENT OF TREASURY AND FINANCE WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Mr Booth) - Thank you for coming along, gentlemen. Have you received a booklet with regard to the process of committee?

Mr WALLACE - No.

Mr INGLIS - No.

CHAIR - I will reiterate a couple of the important points of the document. The committee hearing is a proceeding of the Parliament. This means that it receives the protection of parliamentary privilege, which is an important legal protection that allows individuals giving evidence to a parliamentary committee to speak with complete freedom without the fear of being sued or questioned in any court or place outside of Parliament. It applies to ensure that Parliament receives the very best information when conducting its inquiries. It is important to be aware that this protection is not accorded to statements which may be defamatory and which are repeated or referred to by you outside the confines of the parliamentary proceedings. It is a public hearing and members of the public and journalists may be present. This means your evidence may be reported. It is important that should you wish all or part of your evidence to be heard in private you must make this request and give an explanation prior to giving the relevant evidence.

Would you like to give a brief overview? We have received a letter from the Treasurer advising that you will be attending the hearing this morning. She also confirmed their agreement that this briefing be held in camera on the basis that it may contain commercially sensitive information, particularly in relation to the previous sale process undertaken in relation to TOTE Tasmania in 2009. No such agreement was made so I'm not sure where that came from, but that was contained within the letter. It was an assumption, I presume, on the Treasurer's part but there has been no such agreement, so if there are parts of your evidence that you feel should be in camera the committee is happy to consider that, but you will have to give us an explanation as to why it should be held in camera otherwise it will have to be held in public.

Mr WALLACE - We were requested by the committee to come along, but the letter didn't say what aspects of your terms of reference you wanted to discuss. I'm happy to answer any questions to the extent that the questions pertain to Treasury. I am happy to talk about a number of things. There are some things which are clearly commercially sensitive - things that relate, for example, to the sale process of two years ago, but most other things I would imagine are matters of fact.

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CHAIR - Why would the matters relating to the sale process of two years ago be commercial-in-confidence?

Mr WALLACE - Because of the agreements that we signed.

CHAIR - But that process has now fallen through, hasn't it?

Mr WALLACE - Yes, the process ended. It really depends on the nature of the question. I'm happy to make a judgment as I go. Because I wasn't involved at the time, I will probably defer to Derek.

CHAIR - What we might do, so that it's clear, if there are questions you feel you would like to go in camera to give answers to we will ringfence those questions and put them together and, if the committee is of a mind to go in camera for those, we will deal with them at that point in time. At what stage is the sale process at, if any?

Mr WALLACE - Whether or not TOTE is sold is a government decision. As the Treasurer indicated in Parliament, the Government doesn't want the TOTE sale act repealed because it wants to keep its options open in case it receives a favourable offer. There is a process which relates to the test, based on advice from the TOTE board, testing things about the operations of TOTE Tasmania - the commercial value of the business and those sorts of things. From Treasury's perspective, TOTE has been through a period where it's operating in an industry now which is characterised by intense price competition and increasing focus on more high-risk-type betting activities. From a Treasury perspective, issues are always about whether this business should be owned by government and where taxpayers' funds are potentially at risk. So whether the Government wishes to sell TOTE or not is something for it and we provide advice to the Government about the issues that TOTE faces and what is likely to happen in the future.

CHAIR - If I can just go back to the process itself, at what date did the process officially end of trying to sell TOTE?

Mr WALLACE - December 2009.

CHAIR - What happened in December 2009? What was the formal process for disengaging with the sale process?

Mr INGLIS - The then Treasurer issued a press release indicating that the sale process had finished without an acceptable offer for TOTE.

CHAIR - Was that transmitted to people who were interested in the purchase of TOTE at the time officially?

Mr INGLIS - Yes.

CHAIR - So there was an official notification that the process would no longer proceed?

Mr INGLIS - That is right, they were advised.

CHAIR - What was the form of that advice?

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Mr INGLIS - Probably it would have been through our financial adviser at the time.

CHAIR - Are you saying that you had advised them in writing?

Mr INGLIS - I do not recall that we advised the bidders in writing but they would have been advised by our financial adviser, Deloitte's, who managed the sale process for Treasury.

CHAIR - At that point in time was the sale process terminated absolutely or was the letter equivocal in that sense?

Mr INGLIS - That sale process was terminated.

CHAIR - Why would there have been a change from the commitment not to sell TOTE to a decision that the Government wanted to keep options open? Why would that be the case?

Mr WALLACE - That is a question for the Government.

CHAIR - Did they seek advice from Treasury?

Mr WALLACE - Treasury monitors the operations of all the government businesses, regularly and will provide regular advice to the shareholder ministers in relation to the performance of businesses. Clearly TOTE is now in an environment of very high level competition. The previous situation where each State government owned a TOTE and there was a monopoly on parimutuel wagering, as you know, has changed substantially. Only three Totes have remained in the ownership of State and Territory governments and all Totes have expanded their operations into beyond pari-wagering on racing into range of other betting products, particularly fixed-odds betting. That is inherently a much riskier business than parimutuel wagering.

Obviously, from Treasury's perspective we ask why government should be the operator of these gambling activities. To own an operation that is required to compete with private sector businesses is obviously something that we believe there is a limit to the extent to which that is appropriate, particularly in the future if TOTE needs capital. That capital will then come at the cost of other needs for company capital. Or if it is to become unprofitable, then potentially you call on government funds.

We do provide regular advice to the Government about all our businesses, including TOTE. So the Government is aware of the financial performance of TOTE over the last couple of years.

CHAIR - Has the government sought advice from you since December 2009 with regard to selling TOTE?

Mr WALLACE - We have provided options for TOTE based on advice that the TOTE Tasmania Board provided to us.

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CHAIR - So the TOTE Tasmania Board has provided to Treasury advice as to whether TOTE should be sold or not?

Mr WALLACE - Sorry, it was not quite like that. They provided advice to the Treasurer around August and based on that they would provide advice back to the Government as to its options.

Sorry, I was right the first time. The CEO of TOTE provided advice to Treasury.

CHAIR - To Treasury?

Mr WALLACE - Yes; independent advice that the TOTE board had received. As a result of that, Treasury has provided advice to shareholders about what actions there are. As the minister has said, it is important to keep options open to provide the flexibility in case the Government does decide to sell TOTE. As far as I am aware they haven't made any such decision.

CHAIR - So the board of TOTE sought some advice themselves or they provided advice to Treasury with regard to an option to sell?

Mr WALLACE - No, it was around the valuation of the business. They engaged specialist firms to develop financial models to look at TOTE's business and to look at it going forward.

CHAIR - Is it the view of the board of TOTE - and we may call them anyway - that the business should be sold?

Mr WALLACE - I am not aware of what their view is.

CHAIR - Right. So they got advice as to options but they didn't come to a conclusion themselves, to your knowledge?

Mr WALLACE - Yes. I do not recollect it having been there. It was really about the dynamics of the Australian racing industry, their segmented financial forecast, the operating environment and the risk for the business and preliminary findings of the corporate advisers about the implications of this, which talked about the options which included no possible sale, but I would have to check. I can take it on notice today. I can't remember them ever actually providing recommendations before; it was really about, 'Here's the advice we've got about the business'.

CHAIR - But that would be germane to whether or not Treasury would come to the conclusion that it will give advice to the Government to sell TOTE?

Mr WALLACE - The issue about whether government wishes to sell TOTE or not is a matter for government not Treasury.

CHAIR - No, but I said germane to advice that you might give government regarding that it would be inappropriate to sell and advise them to sell.

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Mr WALLACE - Our advice is what you would expect from Treasury. Basically we would look at something like this and say, 'Is this core government business? What sort of risk would be involved in a business in a highly competitive market that doesn't actually deliver any form of public service? What sort of risk is being taken on? Does that potentially impact on taxpayers and the budget?' What Treasury would say is that if, taking into account the risk of the business, someone came along and made an offer that was greater than the retention value, then our advice would be to sell it. We don't know whether there is any such offer at this stage. But our advice would be the same as any other Treasury department on that. You look at these things as to whether government ownership is appropriate, whether it is core business to government or not, whether they deliver a public benefit and whether or not it is perceived that it would be greater than the retention value because we don't want to be selling businesses for less than what the retention value is if they are providing profits, dividends and taxes.

CHAIR - Is there some assessment there? Obviously you have not had an offer on the table but you must have some understanding of its net present value. Is that higher than its retention value at the moment or less?

Mr WALLACE - What we have is some advice about what its retention value is.

CHAIR - In the previous process, in the pre-December offers, did you actually have any firm offers for the sale of TOTE?

Mr INGLIS - In December 2009?

CHAIR - Yes.

Mr INGLIS - There were four offers and none of them were acceptable in terms of risks that would have been left with the Government.

CHAIR - When you say 'risks for the Government' what do you mean by that?

Mr INGLIS - Some of the offers involved the Government retaining parts of the TOTE business and it wasn't part of the Government's sale objectives. The objective was to sell the full TOTE.

CHAIR - So you never got an offer that exceeded the net present value in a sense that it was a complete sale with all risks, liabilities and opportunities?

Mr INGLIS - Yes. We didn't get an offer that met the Cabinet's objectives which was to sell TOTE and get a good price for it.

CHAIR - Did that have to exceed the net present value? Was that part of the trouble?

Mr INGLIS - It had the same objective driving it, that the offer should be greater than the retention value.

CHAIR - I think you have alluded to this but specifically are there any offers at the moment on the table or is there any process at the moment there where offers have been made from the Government to sell TOTE?

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Mr WALLACE - There are no offers. What has happened is that we started with some unsolicited interest and so basically and given the advice of the TOTE board, we have put that unsolicited interest into a process to take that from general interest to is there a particular value that people would attribute to this? Is there a real interest in buying it? Out of that we may not get anything or we may get some tangible values but they may be, considering the last process, not acceptable, and the Government is not, obviously, going to make any decision about whether or not it wishes to sell TOTE. A whole number of things need to line up to make it worthwhile. I would assume TOTE as well as us would be receiving these statements of interest, particularly after the Victorian situation. We thought it would be best to put those into a sensible process so that they would be objectively tested.

CHAIR - Are you engaged in a formal process with any potential purchasers at the moment?

Mr WALLACE - The process is formal, and that was the whole point of it, so basically we are testing this interest through a formal process on a consistent set of assumptions, a consistent basis.

CHAIR - Have you signed a memorandum of understanding with any party?

Mr WALLACE - Not that I am aware of.

CHAIR - How would you describe the current sale process then in a formal sense?

Mr WALLACE - I wouldn't describe it as a sale process. The Government hasn't made a policy decision about whether to sell or not.

CHAIR - If the Government decided to sell it tomorrow, would you be then in formal negotiations with someone? Would you exchange a memorandum of understanding or subsequent heads of agreement?

Mr WALLACE - No, we wouldn't do it at that stage. Obviously from our point of view we want to have maximum flexibility. If there is a window of opportunity, given the dynamics of this market, we would want to be in a position to take that opportunity so obviously from our perspective repealing this piece of legislation wouldn't necessarily enable us to take that window of opportunity which could be quite small. With the process we are in there aren't any bids at this stage. We have gone through an evaluation process, we have set up a formal process for people to put expressions of interest in but, from my understanding of the process, there are no values yet but there will be because of our process -

CHAIR - When you say 'your understanding of the process', why would it be possible that what you are saying would be right?

Mr WALLACE - Because it has been run further down in Treasury and I speak with them from time to time. It has only just started really.

CHAIR - It has only just started?

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Mr WALLACE - Yes.

Mr INGLIS - We've received no formal valuations.

CHAIR - When you say it has only just started, run us through that. Have you started responding to unsolicited -

Mr WALLACE - The CEO of TOTE wrote to us. They also provided a copy of their report from their advising firm.

CHAIR - And that was 12 August, was it?

Mr WALLACE - Yes. That report basically said, 'Provide a comment on a range of things associated with the industry'. After some discussion and providing advice to the Treasurer, and particularly at the same time as this we started to get some interest, so it was from that where we put it in a formal process, but these formal processes take time to set up properly, with specialist financial advisers and legal advice. As Derek said, there are no offers and no indication from the Government that it will proceed even if it does get an offer. That's a government decision.

CHAIR - Do you have written advice from the Government of its intentions with regard to TOTE post December?

Mr WALLACE - Not that I'm aware of.

CHAIR - Any verbal instructions?

Mr WALLACE - I am not aware of that either.

CHAIR - So in December last year the Government announced that at some point in time they are not selling, that they were going to abandon the sale process?

Mr INGLIS - That was December 2009.

CHAIR - So something occurred between December 2009 and 12 August 2011, where somebody decided to start negotiating with people about something the Government had said was not for sale.

Mr WALLACE - No, sorry, that's not the correct interpretation. What has happened between those two times is that the industry has become even more competitive than it was before, more dynamic. The profitability of TOTE is reduced. I think the clarity around the licence in Victoria has led to at least one unsolicited expression of interest - without any value, I might add. People are basically sniffing around asking, 'Is the Government still interested in selling this business?'

CHAIR - What date was that?

Mr WALLACE - I can't remember. It's unsolicited phone calls and those sorts of things.

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CHAIR - The point I'm making, Mr Wallace, is that the Government made a clear statement in December 2009 that the business was not for sale but we now discover that a whole lot of things have been happening in the meantime, some of them quite proper.

Mr WALLACE - From my understanding, I thought what we talked about was two things. One was the advice from the TOTE board with accompanying reports and the other was the commencement of unsolicited interest, which was going, potentially, to different areas in government. We decided we would provide advice to the Treasurer that, given that, we think it should be put into some sensible process, some sort of formal process. So, what are these things and what are people talking about? The Government have provided no instruction to Treasury and they have been very clear about why they want keep options open. They have not made a decision about sale. I want to be absolutely clear about that so there is no misunderstanding.

CHAIR - You are saying that in December 2009 when the Government said the sale process was off, you would normally then abandon efforts to sell it? In 2009, you in fact said that you wrote to the accountants and told them it was no longer for sale?

Mr WALLACE - Yes, that is absolutely right.

CHAIR - Is that letter available to the committee? Can you provide it?

Mr INGLIS - This was verbal advice to Deloitte's who would have verbally advised the bidders.

CHAIR - So in 2009 the Government advised that the sale process was off, but at that point in time there had been very formal process engaging Deloitte's, who were negotiating with buyers, so you just picked up the phone and advised them orally that it was off? Or did you tell them that it was sort of off?

Mr INGLIS - No. We received advice from Deloitte on what the offers were. Those offers came with a recommendation from Deloitte and were put to the Government. Our recommendation was that the sale process not proceed.

CHAIR - Your recommendation process, because the price was not high enough, obviously?

Mr INGLIS - Yes.

CHAIR - So the sum of those were unsatisfactory, obviously. In 2009, the Government made an announcement that the sale process was off. We now know it was pursuant to your advice to the Government. But for some reason, at 12 August 2011 we discover that - pursuant, you say, to a report from TOTE - a sale process, informally, without an actual offer, was instituted again. So despite the Government saying that it is not going to be sold, somebody has decided to try to sell it.

Mr WALLACE - I explained before the process that we went through. We provided advice to the Treasurer about putting this into, given the financial performance of TOTE, some sort of process and the Treasurer has approved that.

CHAIR - So the Treasurer approved post August -

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Mr WALLACE - Yes, this process that we put in. But I have to stress that any decision to sell has not been made by the Government. I am certainly not aware of it.

CHAIR - But there has been advice from the Treasurer, which is effectively from the Government, to engage in a process to at least to determine its value and get it market ready. Is that correct? Would that be a fair comment?

Mr WALLACE - Yes, to determine its value and to see if this interest is concrete and what conditions are associated with this interest. Then, at the end of this process, basically you can advise back to government about the outcome of the process. Then they can make decisions about what they want to do.

CHAIR - Was that written advice from the Treasurer to establish a process?

Mr WALLACE - The Treasurer approved our recommendation. She would have written on the Treasury minute, 'Yes, okay, I approve your going ahead with this process.'

CHAIR - Can you provide to the committee that recommendation?

Mr WALLACE - Yes, I will take that on notice.

CHAIR - We would like to have the advice you gave to the Government with regard to the re-establishment of the process.

Mr WALLACE - It is not re-establishment of the sale process.

CHAIR - Whatever advice it was. I am finding it a bit difficult to understand exactly what it was.

Mr WALLACE - I understand that because you are not experienced in these processes. I want to make it clear, as I have before, that this is not a re-establishment of a previous process.

CHAIR - What I'm trying to get to, just to make it clear to you, Mr Wallace, is whether in fact there is a process to sell TOTE that has not been transparent. In December 2009 the process was abandoned and we now discover, on 12 August this year, that there is some form of process - and we're not sure what it is. You say it is an establishment of expressions of interest and determining net present value and all those sorts of things. The committee would like to look at that because it does seem odd that a government business enterprise that was not for sale in December 2009 is now going through a process of establishing value. Hypothetically, are you doing the same thing, say, for Hydro or other GBEs or is it only for this one that suddenly unsolicited offers have come through and a process is established?

Mr WALLACE - Sorry, was that a question or a statement?

CHAIR - It's a question. Is this the normal practice of Treasury, that you would get an unsolicited offer for a GBE and start establishing -

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Mr WALLACE - No.

CHAIR - It was clearly the Government's policy announced -

Mr WALLACE - It's not normal practice and it's not that such processes are going on. It's because of the peculiarities of this particular business, which is one which has had a substantial reduction in profitability, that potentially to compete in these private markets might need a significant amount of capital - we don't know. It's obviously a relatively risky operation and it's not core business. A couple of the things that basically were potential problems in the previous process have changed. I hope that answers the question.

CHAIR - Yes. Did any of this sort of activity occur between December 2009 and 12 August 2011?

Mr WALLACE - I don't recollect anything.

Mr INGLIS - I wasn't involved with any.

CHAIR - But you would have been materially involved in the sale process of TOTE?

Mr INGLIS - The December 2009 process?

CHAIR - Yes, and since then you say there hasn't been any but, if there were, you would be aware of it?

Mr WALLACE - Just to be clear here, because we didn't have a choice about the time - we are talking about this time - I wasn't involved. Derek was the project manager for the sale then but since that time he's been involved in a different branch of Treasury. What I explained to you was the process, what had happened since around early August.

CHAIR - Yes, I appreciate that. Do you currently have a project manager working on this? Who is in charge of that?

Mr WALLACE - Derek has been brought back from the Property Branch to manage the formal process.

Mr INGLIS - That's correct.

CHAIR - So you're now the project manager of a formal process to engage in potentially selling TOTE, or at least establishing a value and making a recommendation to government?

Mr WALLACE - Derek is back in this branch and he's managing the process that I have talked about.

CHAIR - What would you describe it as, Derek? How would you describe your role? Are you just establishing some vague parameters about a sale or are you soliciting firm offers - in other words, are you trying to sell it?

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Mr INGLIS - We've appointed advisers to manage the process for us. As Martin said, there have been unsolicited offers.

CHAIR - Who are the advisers you've appointed? Is it Deloitte's or someone?

Mr INGLIS - Investec and Clayton Utz.

CHAIR - Now we're starting to get somewhere. When were they appointed?

Mr INGLIS - At the beginning of September.

CHAIR - What's their brief?

Mr INGLIS - To examine the unsolicited offers that have been made, as well as to round up those into a process to investigate whether there is interest in TOTE, given that things have changed in the last two years.

CHAIR - So previously the process was that you advertised for expressions of interest, I understand, through Deloitte's and I think there were even advertisements placed by Deloitte's. Have there been advertisements placed under this process?

Mr INGLIS - No.

CHAIR - Is there an intention to do so?

Mr INGLIS - No.

CHAIR - So it is an under-the-carpet job?

Mr INGLIS - I would not describe it that way.

Mr WALLACE - It is not an under-the-carpet job. It is not the process that is happening at the moment; it is something that is a very common process around State governments. Essentially, the Government has not made a decision to sell - the Government in the previous process had made a decision that if they got the right price the TOTE was for sale and it put in place a public process around that. That is not the situation as I have described here.

CHAIR - No. The only difference seems to be that there is not a formal decision to sell, in writing, obviously. You cannot just by osmosis have decided that you would go and appoint advisers to sell the thing. You have appointed Investec to go through the process for you, so there must be a pretty strong indication from the Treasurer that the thing is to be sold, surely? Otherwise you are wasting Investec's time.

Mr WALLACE - I did explain before that out of this process may come nothing much, may come values with conditions that satisfy the requirement that is being offered for this business which is greater than the value of the Government's retaining it. At that stage, decisions get made. But the benefit of this process is that those offers are in a formal process so that they can be objectively assessed rather than through some other process

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in which I would probably say, yes, then that would raise a range of issues about the appropriateness of it.

CHAIR - But wouldn't you ordinarily, if you are trying to establish best value, advertise so that everybody was aware that the thing was on the market again rather than this under-the-carpet thing where nobody knows?

Mr WALLACE - No, that is not necessarily the case. In certain markets, that process will lead to a lower value and I can tell you that from personal experience. What happens is that potential competitors for TOTE can use these processes and the information available in them to undermine the sale or the value of the business.

CHAIR - I do not think I asked you to table the actual instructions that have been given, the engagement of Investec and Clayton Utz, but the committee would like that letter of engagement provided, please.

Finally, I would like to ask you again whether you have had any formal, written advice from the Government or the Treasurer to engage in this process? Or what is the formal understanding between the Treasurer and yourselves with regard to the sale?

Mr WALLACE - We can go back and check the facts on this. I will qualify that - what I am saying is subject to checking the facts. But my recollection is exactly as a described before which is, there had been advice from the CEO of TOTE Tasmania to Treasury on 12 August, based on the professional advice it had received and that advice talked about things like the dynamics of the industry, the financial forecasts of TOTE and their advisers provided some preliminary findings.

CHAIR - Can I ask you who those advisers were?

Mr WALLACE - One of the advisers was Investec and that is why we re-engaged them because they had current expertise. When we saw this information, we provided advice to the Treasurer. I can't remember what the advice actually said, or whether it was in writing or mentioned verbally, about the unsolicited interest.

CHAIR - Can you clarify that by providing that advice to the committee?

Mr WALLACE - Yes.

CHAIR - If it is oral, you will have some sort of minute on it, I presume.

Mr WALLACE - I cannot remember whether the question of the unsolicited interest or whether the advice we provided actually said what that was, but it is not particularly relevant because the issue was that we recommended testing the value in this process, and the Treasurer approved that advice. There is no written instruction from the Treasurer but I presume there is a minute from Treasury which basically has her approval on it, which is what normally happens. All she is doing is approving Treasury conducting a process.

CHAIR - Yes, and then we will be able to see whether that advice to Deloitte's and Investec is to go to the market and sell or whether it is just to get expressions of interest. Are you

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saying then that Investec provided advice to the TOTE board with regard to the appropriateness of retaining the TOTE?

Mr WALLACE - I honestly cannot remember what their advice to the TOTE board said but I remember that the report did talk about the industry. As you know, TOTE's profitability has declined significantly. It is much less this year than it was last year and certainly nowhere near what they had forecast. Investec are experts in these things and they looked at the dynamics of the industry. They looked at their financial forecasts and the operating climate in which they worked and the risk profile of the business. My recollection is they had some preliminary findings about what ought to happen. Basically we negotiated with TOTE and Investec to, once they provided that report, end their commission effectively with TOTE and for us to take this thing to the next step.

CHAIR - So you took the next step by appointing Investec, who advised to sell it, to sell it for you.

Mr WALLACE - I've answered the question.

CHAIR - We need to get that very clear because my recollection - and in fact I wrote it down - was that you have appointed a project manager. Those advisers were appointed in September, I think, and that was Investec and Clayton Utz. So the project manager said to sell it, correct?

Mr WALLACE - I've answered it before but I will answer it again. Whether or not TOTE gets sold is a decision by the Government. I am not aware, and certainly it has never been indicated to me, that a decision has been made about that. What Treasury did, as Treasury departments do, in the light of receiving this advice, together with the fact that there had been unsolicited interest which didn't include any values, basically Treasury recommended putting this into a more formal process to test this. So what value do people ascribe, what conditions would they -

CHAIR - Which was the project manager process that Mr Inglis talked about.

Mr WALLACE - It was the same process.

CHAIR - But you appointed outside project managers to handle this?

Mr WALLACE - No, sorry. Do you want me to explain it all again -

CHAIR - No, I would like you to listen to the question.

Mr WALLACE - Okay. You seem to be putting words into our mouths, with respect.

CHAIR - I am not going to put any words in your mouth, but Mr Inglis said a moment ago that a project manager had been appointed and advisers had been appointed, and that was Investec and Clayton Utz. That was in September.

Mr INGLIS - That is partly right. I am the project manager.

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CHAIR - Yes, you are the project manager, but you have appointed Investec and Clayton Utz to do the project for you.

Mr INGLIS - To provide advice to Treasury.

CHAIR - So they would be the ones who would drill down into all these unsolicited bids and seek other expressions of interest. Is that a fair comment?

Mr WALLACE - Yes.

CHAIR - I think we are in furious agreement then. The question that you seem to be concerned about was that Investec had also given advice to TOTE about the future of TOTE. They acted as a consultant -

Mr WALLACE - Sorry, I'm not concerned about it at all. I just can't remember what that advice said. I remember reading the report.

CHAIR - No, I didn't ask you what it said because you are going to provide that report to us. I am just trying to get absolutely clear that Investec provided advice to TOTE regarding the sale of TOTE.

Mr WALLACE - I don't know. As I was saying, I don't know whether it was about the sale. Based on the analysis they did, it could have been - something that should be looked at. How much was in the report, I can't remember.

CHAIR - The committee will see that report so we can draw our conclusion. It should presumably be quite clear in there and it is not really so much the content. I am just trying to get you to answer whether in fact Investec had provided advice to TOTE about what should happen with TOTE, whether they would sell it or keep it or whatever?

Mr WALLACE - I can't remember and I am happy to take the question on notice.

CHAIR - Mr Inglis might be able to answer.

Mr INGLIS - No. I have only recently rejoined this project.

CHAIR - Okay, but anyway the same company that provided advice to TOTE is now appointed by a project manager with Clayton Utz as advisers to the sale process.

Mr INGLIS - That is correct.

CHAIR - Is there the possibility that there could be a recommendation to sell TOTE before this committee reports to Parliament?

Mr WALLACE - What is the date of the reporting of the committee?

CHAIR - The reporting date we are going to seek is next March.

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Mr WALLACE - Any comment I make would be just an opinion rather than a factual statement. I don't really know. We don't know what is going to come out of this process, so I can't honestly answer it.

Mr INGLIS - My comment is the same. That is why we have appointed advisers to give us advice and we will see what they come up with.

CHAIR - When are you expecting their recommendation? Have you a date when they are supposed to deliver those recommendations?

Mr INGLIS - Mid-November.

CHAIR - And that would be coming back with some form of recommendation to sell or not sell and to whom?

Mr INGLIS - That is right.

CHAIR - Have they some firm expressions of interest now rather than just unsolicited? Perhaps you might tell us where the process is at.

Mr INGLIS - There are no bids at present. The advisers have had discussions with several parties.

CHAIR - The parties are aware that this is before a parliamentary committee at the moment?

Mr INGLIS - Probably not.

Mr WALLACE - Sorry, I'm not sure about that. We can check the answer. I think they probably are aware. I think they were aware of the debate in Parliament which led to the formation of the committee; it could be one of the things that pricked their interest. I don't know so I think we have to check the answer to that one.

CHAIR - Has there been any communication, either oral or written, from the Treasurer or from the Government in any way - a minister or anyone in government - that they should in fact not sell TOTE until this committee has finished its deliberations?

Mr WALLACE - I not aware. I can only talk from Treasury's perspective.

CHAIR - Has there been any instruction that they should hurry up and sell it before this committee determines its report?

Mr WALLACE - Again, I am not aware of that. I could go back and check the Treasury advice but I doubt whether we would put that sort of thing in advice.

CHAIR - Well, you would not put it in writing but it might be in -

Mr WALLACE - I can tell you that we have not provided verbal advice to that effect.

CHAIR - You have not been provided with that, is that what you are saying?

PUBLIC

Mr WALLACE - We have not provided verbal advice to the Government that we should get on with it before the committee -

CHAIR - No, I asked whether the Government has asked you to expedite the process because of the bill before -

Mr WALLACE - Not that I am aware of, no, but I can only talk from Treasury's perspective.

CHAIR - Just to make it clear, there is no advice that you are aware of, in any form, written or oral, that you should get on with the job of selling the TOTE or at least looking for expressions of interest and so forth?

Mr WALLACE - In my recollection of this, there has been no discussion about this committee. So the process that we have followed has not had any regard for this aspect which is something which is obviously a parliamentary process that may or may not eventually lead to the repealing of the legislation. From our perspective, it would be good not to repeal the act because if there was an opportunity here and the Government wanted to take it, then you could move quickly to take it and it is a changing, dynamic market.

CHAIR - It does seem a bit odd that you would have a parliamentary committee looking at whether or not to sell TOTE and that you would appoint, in the middle of that, in September, a project manager to sell it. That would have to be bordering on contempt of Parliament.

Mr WALLACE - Well, I am sorry, we did not even think about this committee when we were working with TOTE on their issues.

CHAIR - You would have been advised to attend this hearing well before September?

Mr WALLACE - One of the issues that we had was that it was relatively late notice. I think we received the letter at the beginning of the week before last. Basically, the people who probably have had more of a direct involvement in some of these aspects were not available and had other commitments. It would only have been in the last two weeks that I received a copy -

Mr INGLIS - About two weeks ago.

Mr WALLACE - Yes, two weeks.

CHAIR - But you were aware when you appointed the advisers that this committee was sitting, weren't you?

Mr WALLACE - Just the chair probably would have been aware of it. When did this get formed?

CHAIR - Some time ago. Is it possible for you to give an undertaking to the committee that you in fact do not go ahead with the recommendations to sell until this committee has reported?

PUBLIC

Mr WALLACE - We would basically provide advice, without fear or favour, as we always do in relation to things we have a view about. That is our role and governments need to take into account a range of other factors. I do not think it is appropriate that Treasury be giving that sort of undertaking because, from our point of view, at the end of the day, what we are worried about is risks to taxpayers.

CHAIR - For the record of *Hansard* and for your own edification, on 18 July the committee was formed.

Mr WALLACE - Yes, the process started after that.

CHAIR - Is there anything you'd like to add to what you have to said to make sure that you clarify any point you feel may have been misconstrued?

Mr WALLACE - I think there were bits that we felt may have been misinterpreted that I corrected as we went through. As I said, we came along here without knowing what things the committee wanted to ask us. We were prepared to talk about how the new funding arrangements were for the industry. The stakes are not connected to TOTE any more, which is good for the industry because it provides certainty and a level of funding that they would never have got under the previous arrangement.

Prior to 2009, as people would be aware, the racing industry was primarily funded internally by TOTE.

Short suspension.

CHAIR - For the record of *Hansard*, Mr Wallace is going to provide detail about the new funding model. There are some matters with regard to financial information concerning TOTE that haven't been publicly released yet which he will provide to the committee on the basis that it be in camera, and that will be provided electronically at a later date. Mr Wallace, would you like to continue?

Mr WALLACE - In years leading up to 2009 the racing industry had been primarily funded internally by TOTE and because TOTE's operating environment had become increasingly volatile due to rising competition in the market, especially through the increasing presence of corporate bookmakers, it was clear that continuing to fund the industry out of the profitability of TOTE would not provide the certainty that the industry needed. In that context, TOTE's racing and wagering functions were split on 1 January 2009. These reforms were designed to remove the industry's dependence on TOTE's financial performance and to allow TOTE to concentrate solely on its wagering activities in this extremely dynamic operating environment. It is clear from the information that I will provide in camera that the industry is much better off under the current arrangements.

CHAIR - With regard to that, you're saying that they are substantially better off with AB rather than the old TOTE model - and that's based on TOTE's published financials, up until this date?

Mr WALLACE - Yes, even using the 2010 financial year data, I think that's definitely the case and it would be more so the case with the 2011 results.

PUBLIC

CHAIR - What is the current recurrent funding model?

Mr WALLACE - There is a 20-year funding deed and the majority of Tasracing's revenue is set in that funding deed. The Government provides \$27 million per annum - indexation arrangements are described in the funding deed - and provides funding support for up to \$40 million worth of capital projects. That funding deed came in in January 2009 and has a 20-year life.

CHAIR - Martin, with regard to the fact that obviously the sale process was abandoned, was the assumption then that the industry would go back under the old arrangement, that TOTE would directly fund the industry, or is it that that has not occurred? Does the funding deed still exist?

Mr WALLACE - Sorry - and Derek can correct me if I'm wrong because he was involved at the time - my understanding was that at the time of selling TOTE it was recognised that TOTE's profits would be continually under pressure as a result of this highly competitive market that they have been in. What the industry needed was funding certainty, particularly around stakes money at least being maintained in real terms for the future, so that decision was made. Subsequently the sale of TOTE failed, it didn't go ahead, but the reasons the funding model was put in place hadn't changed - it wasn't affected by the sale process, as I understand it. I mentioned that two other States, for example, still have their Totes. One of them, I believe, has actually reduced their stake money this year because of declining profitability, so the view was that the industry should not be subject to these fluctuations in profitability. Certainly \$27 million per annum is provided to Tasracing, of which about \$21 million is stakes money maintained in real terms.

CHAIR - So the current funding deed didn't effectively extinguish itself when the TOTE sale process was concluded? The funding deed remains in place and TOTE as an entity will then just return its funds either internally or to consolidated revenue. Is that the way it works rather than going sideways to the industry?

Mr WALLACE - Yes, it doesn't go directly to the industry. It has a small profitability and it pays a licensing fee and has a tax arrangement with the Government. That is only about \$6 million, as I understand it, a year.

CHAIR - On the financials that you can talk about, the ones that have been published, what was the financial return in a gross sense from TOTE's activities last year to the government revenue streams?

Mr WALLACE - The licence is actually \$6 million per annum and then the Government would take a share of profits. Last year's profit was \$9.9 million. The tax bill is 30 per cent so that is \$3 million, so about \$12 million, which is less than half of what is provided under the funding deed. I would need to check those figures.

CHAIR - That is fair enough. So with the gross return that came to the Government one way or another would it be fair to say that you could extrapolate that as if TOTE had still remained in the old model and that there had not been a new funding deed that then the industry itself would have only been able to receive roughly \$12 million if that figure is right?

PUBLIC

Mr WALLACE - There is a range of extra little bits and pieces but it didn't amount to much so what the actual number is I am not quite sure. We would have to do a proper comparison of it but anybody could see from those numbers that it is substantially less.

CHAIR - That would be very useful if you could provide us with an apples with apples comparison, if you like, from what the industry would have received from TOTE if it had still been under the old model. What about capex, then? There was \$40 million capital expenditure provided under the new funding deed. Is that still in place and still available? I understand that Spreyton racecourse chewed up \$13.1 million. Was that \$13.1 million of the \$40 million capex?

Mr WALLACE - Yes.

CHAIR - So that has actually been deducted off the slate?

Mr WALLACE - Yes, the \$13 million comes out of the \$40 million in capital.

CHAIR - And there is \$27 million left.

Mr WALLACE - I don't know what else came out of the \$40 million.

Mr INGLIS - I'm not sure.

CHAIR - But that is the principle that applies anyway. So the capital expenditure occurring around the tracks, whatever it has been since the deed was put in place, whether it be at any of the tracks, has been deducted out of that \$40 million?

Mr WALLACE - Yes, that is correct.

Mr INGLIS - I think had TOTE been sold then the \$40 million would have been a capital grant, but because it wasn't sold there weren't any sale proceeds so the \$40 million is still being provided by the Government.

CHAIR - On a loan basis?

Mr INGLIS - On a loan basis.

CHAIR - Will all of those loans be on the same basis that the \$13.1 million to Spreyton was, that the interest would be borne by Treasury if the industry couldn't pay its own way?

Mr INGLIS - That is my understanding.

Mr WALLACE - That is what the funding deed says, as I understand it. Your condition was correct, that if the industry, under the funding deed, doesn't have the financial capacity then that interest is picked up.

CHAIR - So it is anticipated that because it is no longer a grant, because TOTE wasn't sold, then the industry itself will be liable for interest if it is ever profitable, otherwise it will be borne by Treasury?

PUBLIC

Mr WALLACE - That's my understanding.

Mr INGLIS - Mine, too.

Mr WALLACE - That was basically it, to point out that from 1 January 2009 we moved to this funding deed which provided a certain level of funding, including stakes money and the capital funds. There is no connection anymore between that and TOTE's financial performance. They are separate now.

CHAIR - Has Treasury done any modelling with regard to the long-term viability of the industry under the new funding model?

Mr WALLACE - Not that I know of, no.

CHAIR - So it is a bit of wish and prayer that you have adopted the funding model based on roughly what TOTE has been returning to the industry over previous years, which is where you came to the \$27 million, plus the \$40 million capex over the next 20 years?

Mr WALLACE - I am not quite sure how we got the \$27 million but the reality is that there are very few, if any, areas of government where you have a guaranteed, real-terms - maintenance of funding.

CHAIR - One of the things that concerns the industry and certainly concerns me is that TOTE was set up to support and be self-funding to the industry as an evergreen regenerating business model that would provide development funding and stakes money and so forth to keep the industry funded and independent from Treasury. Although TOTE was ultimately owned by the Government it was still seen as being owned by the industry, so by that separation decision to sell it they lost the capacity to fund their own future and potentially to make more money out of TOTE and generate a stronger industry. They have now fallen back to this 20-year funding deed which is set at a fixed amount with some sort of CPI adjustment over the next 20 years, but nothing beyond that. I am wondering whether there was any data or information or analysis done to come to that figure and why it would end in 20 years?

Mr INGLIS - The details of it are a bit hazy after a couple of years but it was looking at what sort of expenditures the TRB was incurring to run racing. So it had regard to that, plus product fees that Tasracing now earns on product used for wagering.

CHAIR - Was that in the form of some formal analysis that we could look at with regard to the justification for it and the presumptions that that modelling was based on?

Mr INGLIS - We would have to go back and have a look.

CHAIR - Could you provide that to the committee? Basically what we would be looking at is the modelling you did to justify why \$27 million over 20 years, plus \$40 million capex, was appropriate and what that would be able to deliver for the industry in the future. Is there a view in Treasury with regard to whether that funding model is adequate, whether it is going to work?

PUBLIC

Mr INGLIS - Tasracing is a State-owned company. It has a board; it is supposed to act commercially. I think, as Martin said, \$27 million indexed for 20 years is a pretty good deal plus product fees on top of that which, with marketing or whatever measures they take, could grow further.

Mr WALLACE - It is not their only source of funding, of course, because as well as this, as Derek said, they get their product fees and they presumably work hand-in-glove with the industry to build the attractiveness of the local product, which means higher product fees in the future.

CHAIR - Do you audit the performance of Tasracing? What is the relationship between Treasury and Tasracing and how do you relate in terms of oversight?

Mr WALLACE - It is basically the same relationship as with the other government businesses where you monitor their financial performance and you review their corporate plan.

CHAIR - You reviewed the corporate plans?

Mr WALLACE - Yes.

CHAIR - Do you review their performance? How do you review them? Does somebody in Treasury analyse them permanently?

Mr WALLACE - It depends on the nature of the business and how big they are. It is a regular formal process of reviewing the financial performance of each of the businesses. As a formal process, it has always been there, or for a very long time which is basically providing advice on the corporate plans to the ministers and then formal advice back to the businesses on our views about their corporate plans and their strategic directions et cetera.

CHAIR - Okay. Could we have a copy of them for the committee?

Mr WALLACE - I will take that question on notice again. Presumably we will get a letter?

CHAIR - Yes, I think that would be the easiest thing. Are there any other things you would like to raise with regard to that?

Mr WALLACE - No.

CHAIR - Thank you very much.

THE WITNESSES WITHDREW.

Mr NOEL SALTER, PRESIDENT, **Mr JOHN DEVEREUX**, CEO, **Mr STEVEN DEVEREUX**, TREASURER, TASMANIAN PACING CLUB; **Mr PHILLIP YOUNG**, PRESIDENT, LIGHT HARNESS TASMANIA AND VICE PRESIDENT, TASMANIAN PACING CLUB, **Mr MIKE JONES**, SECRETARY, LIGHT HARNESS TASMANIA, AND DIRECTOR, TASMANIAN PACING CLUB, AND **Mr ERIC JACOBSON**, EXECUTIVE MEMBER, LIGHT HARNESS TASMANIA, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Mr Booth) - Thank you, gentlemen, for coming along today. Did you receive a guide from the Clerk with regard to giving evidence today?

Mr SALTER - Yes.

CHAIR - I will reiterate some of the important points with regard to that document. A committee hearing is a proceeding of the Parliament. This means that it receives the protection of parliamentary privilege. This is an important legal protection that allows individuals giving evidence to a parliamentary committee to speak with complete freedom without the fear of being sued or questioned in any court or place outside of Parliament. It applies to ensure that Parliament receives the very best information when conducting its inquiries. It's important to be aware that this protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the confines of the parliamentary proceedings. Whatever you say to the committee has privilege but if you then go outside and do an interview or speak to someone about what you've said and if it happened to be defamatory in a normal sense you wouldn't have the protection of parliamentary privilege. It is a public hearing and members of the public and journalists may be present. This means that your evidence may be reported. It is important that should you wish all or part of your evidence to be heard in private you must make this request and give an explanation prior to giving the relevant evidence. Is everybody clear with that?

Mr STEVEN DEVEREUX - Yes.

CHAIR - This presentation is a joint presentation from the Tasmanian Pacing Club and Light Harness Tasmania. Would someone like to start?

Mr SALTER - We thank the committee for the opportunity to appear before this inquiry. I am joined today by John Devereux, the CEO of the Tasmanian Pacing Club; Steven Devereux, the Treasurer of the Tasmanian Pacing Club and committeeman; Phillip Young, Vice-President of the Tasmanian Pacing Club and the President of Light Harness Tasmania; Mike Jones, Secretary of Light Harness Tasmania and also a member of the committee of the Tasmanian Pacing Club; and Eric Jacobson, who is the Vice-President of Light Harness Tasmania. With the committee's indulgence, I would like to make an opening statement.

Today we wish to present an expanded submission that identifies a number of things that are highly questionable with regard to the operation and scrutiny of Tasracing. In our submission we have indicated that we may seek to go into camera on some details and seek guidance from the committee as to the protection witnesses have in putting forward contentious questions - and I think you've just answered that, Mr Chairman, in your

opening statement. Whilst it may be argued that our submission covers issues that appear not directly connected to the possible sale of TOTE, we contend that these issues are critical to the debate. Our reason for putting forward this view is that the industry was so badly misled in the lead-up to the creation of Tasracing on 1 January 2009 that the industry had no opportunity to debate the pros and cons of the possible sale of TOTE. The proposal to sell TOTE was proceeded with after the industry debate had been concluded. At no stage was the sale of TOTE considered as part of the debate, as that possibility was denied emphatically. Additionally, during the debate on the creation of Tasracing, issues such as changes to code funding were not considered. The make-up of the board is also at odds with the view put forward and accepted at the industry debates.

Finally, before moving to our formal presentation, we wish to address the committee on what we consider to be very concerning incidents. The CEO will table some papers that I will refer to. On 3 and 10 October anonymous documents were received in the mail and we wish to table these. Both documents have disturbing religious references. On 12 October, the CEO received a hand-delivered letter related to the rental of Tasmanian Pacing Club office space and we also table this. We have been in the office space referred to for the last six years under an agreement put in place as part of our agreement to move to Tattersalls Park. The Hobart Greyhound Racing Club and the Tasmanian Racing Club also occupy office space under similar arrangements yet neither received similar notices. In six years this issue has never been raised. When the 3 October document was received we were inclined to dismiss it. However putting these incidents together we believe there are very good reasons to suspect that it is a poorly disguised attempt to intimidate people who intended appearing here today.

CHAIR - Regarding those documents that you are seeking to table, are you saying that you fear that someone has attempted to intimidate you to prevent you giving evidence here today?

Mr SALTER - Yes.

CHAIR - That would be a criminal offence, if that were the case. Do you have evidence, beyond these letters, to indicate that?

Mr SALTER - No, we don't have evidence beyond these letters but, quite clearly, it seems very strange to us that these letters would turn up on the two preceding Mondays when we were scheduled to appear before this committee. The letter in relation to our tenure at Tattersalls Park has never been questioned before, but it has been questioned some four or five days before we were due to appear in front of this hearing. To us it seemed fairly strange that these particular letters would appear. The timing of them seems very strange to us.

Mr JOHN DEVEREAUX - With regard to the letter about the rental of property and the offices, that was hand delivered at about 3 p.m. last Wednesday. It was most peculiar for somebody from the staff of Tasracing to send one of the staff member's up to hand-deliver. It had to be hand delivered to me, which has never happened before. It seems quite peculiar to me. Incidentally, our office is 30 metres from Tasracing's office. The person who signed it had only been employed there for about a month. It strikes me that if he had some questions about the rent, the office space and so forth then he could

walk up the passageway and say, 'What are the arrangements here? I am trying to familiarise myself.' It is not as innocent as they would like it to appear.

CHAIR - So Tasracing, you are suggesting, might be trying to prevent you turning up at the committee to give evidence?

Mr JOHN DEVEREAUX - It has all the hallmarks of it.

CHAIR - How would you describe your relationship with Tasracing?

Mr SALTER - Strained.

CHAIR - Has Tasracing a view about the TPC's view on TOTE? Can you elaborate on what might be the cause of this strained relationship?

Mr SALTER - Quite clearly, Tasracing does not agree with the views of the TPC due to the way that the Tasracing is conducted, the way they go about doing their business and the way that they are funding the industry. I am referring only to harness racing there. They have a contrary view to what we have and we also have some views on the expenses incurred in running Tasracing, especially the salaries paid to senior executives. We have publicly espoused that we believe they are excessive and quite clearly Tasracing would not be too happy to hear us having negative views in public.

Mr JONES - As Noel mentioned, one of the issues we have had with Tasracing is trying to understand their management structure and the associated expenses with it. Martin Wallace, in his previous evidence to you, provided the fact that there is a \$27 million funding deed and somewhere between \$4 million and \$5 million - maybe - in race fields products, to give a total budget of around \$32 million. Of that, he also identified \$21 million which is paid out in prize money, so it is totally non-discretionary. Some \$21 million comes into them via the funding deed and \$21 million goes out as stake money. It does not take a lot of management of that particular item. They have somewhere between \$10 million and \$11 million then as, what you might call, a discretionary budget to manage.

In their last annual statement, they identified that the salaries and related costs of the executive management team and the fees for the directors of the board totalled \$1.001 million. Essentially they were managing a discretionary budget of \$11 million at a maximum - it might be a lower figure - and it takes them \$1 million to do so. They are some of the issues that they prefer not to be discussed.

CHAIR - With regard to our terms of reference, you consider that the current structure with Tasracing, as a result of the industry disaggregation and consequently the sale of TOTE, is now affecting the viability of the industry?

Mr JONES - Indeed. I think the issue is this. One of their primary tasks is to attract sponsorship and to create a sale of the Tasmanian racing product. Clearly, as far as harness racing is concerned they have not done that and yet they are still maintaining their administrative costs. I suspect what we are saying to them is that if you can't increase our revenue then please decrease your expenditure. It is a very simple business principle but it doesn't seem to apply to Tasracing.

CHAIR - Is this as a result of the creation of this edifice of Tasracing? Do you think it has made this situation arise? Prior to that were there big executive salaries being mopped up by part of the recurrent funding that comes through TOTE?

Mr JONES - There probably were but I guess what we have now is a duplication of that effect. We now have two CEOs where previously we had one. We now have two chief operating officers where previously we had one, and now two chief financial officers where we previously had one. It is this duplication effect within Tasracing and TOTE Tasmania. Now I am not intimately acquainted with TOTE Tasmania's organisational structure but it would appear that these people have a belief that their salaries should equate with managing a very large multinational corporation as opposed to a body that has been singularly unsuccessful in achieving its stated aims of selling our racing product internationally and interstate. I think that is one of the underlying problems. We believe that TOTE Tasmania is far better placed to take on some of those functions and help Tasracing reduce its expenditure by perhaps not having Tasracing.

CHAIR - Would it be the consolidated view of the TPC? Are you putting a view here on behalf of the groups that you represent then that in fact Tasracing should no longer exist as part of the racing industry?

Mr SALTER - Our view is that we consider that Tasracing is not operating in the best interests of the industry at the moment and that there ought to be serious consideration given to a restructure of the governance of the industry. Now whether that is for the industry to be governed under the old regime of TOTE or whether it is under the current regime or a combination of both, as Mike has indicated we believe considerable savings could be made in distributing some of the responsibilities of Tasracing at the moment in relation to stake money, programming et cetera, that could be quite easily done by TOTE Tasmania or Racing Services and reducing the operating costs of Tasracing considerably.

CHAIR - What elements of the current Tasracing structure do you feel are redundant or unnecessary or too costly?

Mr JONES - As we said before, with the issue of the \$21 million of stake money, TOTE Tasmania previously administered that and its distribution. It is simply maintaining a database of individuals who own horses, and trainers and drivers who receive their percentages from their winnings. It is very much an accounts-payable process. There is nothing too complex about it so one could assume that perhaps TOTE Tasmania could take on that role again. If we are looking at issues around programming of race meetings and the type of races then we say that can be done successfully through Racing Services Tasmania given that they administer the current nominations acceptance process for individual races.

If we look at issues such as asset management, in the past the clubs very successfully managed the day-to-day management and maintenance of their tracks and surrounds. The question of capital expenditure for the development of race courses was simply what has happened now - we put a business case up via our governing body to Treasury to fund that. There is not much left if you do that. What is there, the sale product? Frankly I think they would be far better concentrating on selling our product interstate rather than overseas because we must bear in mind that they have been there almost three years now

and so far I am unaware of any sale of our product overseas. When Gary Lottering worked within the TOTE Tasmania organisation, part of his role there was trying to sell our product overseas. I am aware that back in 2003 he was in China trying to sell our product. This process has been going on for some time.

The marketing and national representation of the various national racing bodies, could come under the control of the Director of Racing. There is a clear understanding that, apart from the sale of more product, there is not a real role there for Tasracing, in our opinion.

CHAIR - So effectively if they didn't exist it would be a \$1.1 million saving straight off the top?

Mr JONES - Straight off the top, yes, \$1.1 million and somewhere amongst the others - the \$6 million, or over \$10 million they have to manage - there are considerable savings there as well.

CHAIR - What happened? You are saying there is another \$10 million they have to manage beyond their salaries that are taken. What is happening to that money and how is that being wasted?

Mr JONES - That is basically moneys that are paid out to people employed on the various race tracks, on the training tracks. It is paid to their office staff, to their associated travel to places such as Paris and London.

CHAIR - Travel to Paris and London?

Mr JONES - Yes.

CHAIR - What would they be doing in Paris and London?

Mr JONES - They were there to convince the French authorities to purchase our racing product; and the same in London, to convince the British. I must say that it is remarkable that Europe only has what we call trotters. In Tasmania we have pacers - it is an expression of the gait of the horse - so why would they travel to Paris on behalf of the harness racing industry when there is no opportunity whatsoever. The French are not interested, they only have trotters, they do not have pacers. It is a question of saying, 'Why are you going there and what return are we going to get from our money?' So they are some of the expenditures that are related to that other \$10 million.

CHAIR - You are saying they are going to France, England and China trying to sell our product - is it the same in China that they don't want pacing there?

Mr JONES - Who would know.

CHAIR - For the record, to make it clear, neither France nor Britain have pacers, they do not run any pacing races, they are not interested in pacing.

Mr JONES - No.

Mr SALTER - France does not have pacing races. England does, but England is not a very highly viewed player in the harness industry around the world.

Mr JONES - What we call picnic races.

Mr SALTER - France certainly do not have pacing racing. They only take trotting racing and the reason for it was to do with putting hobbles on horses. The animal welfare people consider that to be inappropriate and that is why we only have trotting racing in France. Quite clearly they won't take pacing racing. Our product is not appropriate to sell to France.

CHAIR - So they don't broadcast it, they won't run it through their betting systems, there is no demand for it all?

Mr SALTER - None whatsoever.

CHAIR - Has any of this product been sold, to your knowledge, to either of those two countries?

Mr SALTER - No.

CHAIR - I understand China doesn't let people bet on horses, is that right?

Mr SALTER - That's correct.

CHAIR - Do you have an opinion on trying to sell product into China?

Mr JOHN DEVEREUX - I think it's a flight of fantasy quite honestly. There was some publicity a while back where allegedly TOTE and Tasracing visited China and were talking about the part that Tasracing might play in that, and that was to sell some horses into China. Quite frankly, I've never heard such nonsense in my life. With the size of China, if a massive market opened in China for the sale of horses, well, as sure as we are sitting here having this hearing today, they're not going to be sourced out of Tasmania. The Arrowfield studs and those people probably have a budget bigger than the whole of Tasmania and they're not going to sit back and say, 'We'll let Tasmania breed a few horses and sell them to China'. I think with people wandering around the world, part of it is justifying what they did. In the early part of our submission today, we have talked about and we have an attachment 1 - it is a letter from Craig Coleman and Tony Murray that we received in 2008 inviting us to seminars to talk about the restructure of the industry. In that letter there was not one mention of the sale of TOTE. We went into all this allegedly having a debate about the restructure of the industry and in fact it was a gigantic lie that people told us. The day the document was signed - and it all started on 1 January if you look through there - there is a letter that we sent on 9 January to the Treasurer and Minister for Racing at the time, Michael Aird, saying, 'You'd better explain all this because we are a bit annoyed, to say the least, by the fact that we went through this debate. You wanted to set up a new structure and promised the world'. I have a copy of the statement he made on 11 November and I will read part of it:

'Mr Aird said there would be no changes to the present funding arrangements of the industry. "I can assure the industry there will be no

change to the present funding arrangements. The Government is committed to providing funding for the ongoing sustainability of the State racing industry." '

Three or four weeks after that he announced he was selling TOTE, and I think it's gone on from there. Once all that was done and we found out what a con trick it was these people had to somehow or other justify what they'd done. They have been doing that by trekking around the world making all these grandiose statements about selling our product and I think, as Mike Jones commented a few minutes ago, if they concentrated on maximising turnover in Australia we would be far better off financially, instead of having flights of fantasy around the world. Quite frankly, I think the China thing is just another furphy in this whole sorry saga.

Mr SALTER - I can give you another classic example of their trips overseas in relation to selling product. Within the last 12 months the CEO and the chairman of Tasracing visited Singapore and went to the Singapore Cup. The purpose of the trip, we are told, was to make contact with people in the Asian region and to set up relationships with them so that they could in future sell our product to people in the Asian area. The amazing thing about this was that two weeks before they went to the Singapore Cup there was an Asian racing conference, which was held in Sydney, where every jurisdiction in Asia attended but our Tasracing people found it necessary to go to the Singapore Cup to have these conversations. It appears to us that they were just having trips overseas with very little to gain.

CHAIR - Did this Singapore trip or connection with Singapore yield any dividends so far as the TPC is concerned? Did anything come out of it?

Mr SALTER - We've not been advised of any. Getting back to the China issue, to my knowledge there is no harness racing in China or regions of China, so I'm not sure they could even sell harness racing or our product there. John made the comment about selling horses into China in the future but if there's no harness racing in China I don't they would go into buying harness horses.

CHAIR - Were they talking about selling gallopers as well?

Mr SALTER - Quite clearly they were talking about selling gallopers. I wouldn't think that anyone in Australia would want to be selling harness horses out of Australia because it is quite clear from the evidence of a national breeding panel just released by Harness Racing Australia that we are going to have a severe shortage of stock to race in the harness industry in Australia in the near to medium future.

Mr JONES - If I could make one comment about the Singapore/Malaysia trip, Brian Spears, the Chairman of Tasracing, addressed an industry group meeting in Campbell Town some months ago and these questions were raised with him as to the current success or future or proposed success of this operation. He basically outlined that when they walked in there the people they wished to speak to over there were looking through the brown paper bag - which obviously contained the used bank notes. I suppose in certain cultures there are things like 'facilitation fees' that need to be addressed. Brian said, 'Quite frankly, given the nature of our organisation and the laws, both criminal and corporate, that govern the organisation, they can't indulge in that sort of behaviour', so if

they can't indulge in that sort of behaviour you would think that their success rate would be rather limited, so why do it in the first place?"

CHAIR - What about China, then? I guess you are not able to give evidence in regard to the ability of Tasracing to sell gallopers to China or sell product, but what about the pacing product into China?

Mr JONES - Who would really know? China now administers Hong Kong, one of the biggest racing centres in the world. If they want racing then they are going to beam the racing from Hong Kong into mainland China and I would suspect that if they are going to create a betting industry that is how they will do it; it seems so logical. They are not going to ignore Hong Kong racing and then come to Tasmania and say, 'Can we please broadcast yours and pay you to do it'. They own the product of one of the biggest racing precincts in the world.

CHAIR - Do you see any role for Tasracing to be involved in selling gallopers or pacers in any event? Do you see it as part of a role that Tasracing would provide? It does seem to me on first cut a bit odd that they would base their business model on selling horses.

Mr JOHN DEVEREUX - Why would they want to get involved in that? People in private enterprise breed horses and do it very well. I don't understand why you would want to get Tasracing involved in it. It is not even remotely their core business.

CHAIR - In terms of the Tasmanian Racing Club and the Light Harness Tasmania, where do you see their role if they remained? Do you think that would clearly be something they ought not be involved in? Are there other areas of duplication? Say, for argument sake, TOTE was sold, what role and responsibility would you see Tasracing as having?

Mr SALTER - In relation to selling horses, whether it be to China or anywhere else, quite clearly that would be a commercial activity that would preferably be handled by a livestock organisation, which basically happens now whether it is horses or any other type of animal export.

CHAIR - TOTE didn't have any role in selling bloodstock before.

Mr SALTER - No, they didn't. For them to be involved in the export of horses is fanciful.

Mr JONES - If TOTE Tasmania is sold, what is the future of Tasracing, given that they advertise themselves as a business, a corporate entity, indeed a State-owned company? I think it would be fair to say that there needs to be an assessment of their success or otherwise and that assessment will then guide the Government to say whether they should continue in the current format.

CHAIR - As a government-owned business, do you mean?

Mr JONES - Yes.

CHAIR - Are you suggesting that possibly some private enterprise organisation could take over?

Mr JONES - No. I am suggesting that the actual structure needs to be reviewed in size and in nature and then decide whether we need this so-called corporate structure to assist in the process of funding the industry.

CHAIR - So hypothetically if TOTE were sold then the Tasracing model might effectively be dissolved and put back into Racing Services, as you spoke about before?

Mr JONES - Or, as I said before, if you cannot increase your revenue, you have to reduce expenditure. One would assume there needs to be some governing body as a linkage between the industry and government, but then it is a question of how large a body, how it is structured and what it is going to cost the industry in real terms. I think that is the issue. Whether that is Tasracing in a reduced form or a different body altogether, that is a matter that needs to be clearly assessed. Obviously after that you ask whether Tasracing is still viable.

Mr JOHN DEVEREAUX - On page 5 of that submission we have suggested our recommended structure. The first point there assumes that TOTE is going to remain there. You asked earlier about the costs of Tasracing. Quite frankly, as well as duplicating all the top management, they have duplicated this financial arm that is there to do nothing more than pay out stake money. There is ample capacity within TOTE to do that. It is somebody sitting there at a desk processing these things. It does not need a separate arm from TOTE to do that. Programming race fields is already done by Racing Services and all the issues to do with that should be handed back to Racing Services.

If we go to asset management, in Victoria, for instance, take a club like Bendigo. Bendigo Harness Club manage their own track and all the assets there. If there is work to be done on the track, it is done by them. There is an amount of money paid to the club to be the manager of that asset.

CHAIR - Do you think they get better value that way?

Mr JOHN DEVEREAUX - By way of example, when we raced at the Showgrounds, which we did for a long time, the club managed the asset there and we did not have all these people that we have now, I can tell you. At Tattersalls Park at the moment a harness track there runs about 34 race meeting a year and probably 20 sets of trials; that is it. When we were at the showgrounds, 120-plus horses trained there every morning, seven days a week. That is 365 days a year, less the four or five days when the show was on.

CHAIR - So the one facility was both training and racing?

Mr JOHN DEVEREAUX - Training and racing, and it was totally managed by the club. We received a payment in a similar way to Bendigo now and we managed the asset and the whole thing. It was not just the track, it was the lights and all those things. With the issue of things like the lights at Tattersalls Park, clearly the whole place is not being managed properly. The lights they put up are inferior and every time they want to change one it costs about five times more than anybody else who has them because they put four lights up in the first place. There is a whole range of those things. All of that stuff in the past was done by the club - at a fraction of the cost now to do these things. It ought to be handed back to the clubs to be done in a similar way.

Then we go to such things as marketing, national representation and so forth. I found it very interesting in terms of marketing because recently Tasracing have employed a person to do marketing and sponsorship promotions and all the rest of it - at \$120 000 a year. They have just employed a person and we had some discussions with the person the other day. They told us it would be nice to work together but they didn't have any money in their budget. So they employ someone on \$120 000 a year and give them no money in their budget to do anything. That person replaced somebody who was previously doing all their media stuff et cetera. That has now been hived off and given out to a contractor. So the person is on \$120 000 a year and doing less work with no money. It beggars belief some of the things that are going on out there.

CHAIR - Just to make that clear, there is no budget for this person to be expending?

Mr JOHN DEVEREUX - That's what we were advised. When we had discussions about what could happen in terms of promoting our races, they could give us some assistance by maybe doing pamphlets and that sort of thing but they made it clear there was no money in the budget to do anything beyond that, so I don't really know what it's all about.

CHAIR - Given that the tri-code co-location was driven in a similar way to the disaggregation finally of the racing and the potential sale of TOTE, it was not done with industry support, what's your view of what's happened to the industry since you've moved from the showground over to big Elwick?

Mr JOHN DEVEREUX - There is no doubt that the facilities and comfort for the public is far better but, to be quite frank, we have an asset there that a lot of money was spent on and we fill it about twice a year. There were all sorts of wonderful ideas put forward about how we would have an asset that would be run on behalf of the industry and the three clubs that were there would get a dividend out of it. Well, that's disappeared without a trace, the same as a lot of other things. Going right back to the time we moved there and right through to this restructure, it has been a litany of people telling us all sorts of wonderful things are going to happen and nothing has occurred yet.

CHAIR - So where do you see the future lying for pacing in this State, if there's no change, in, say, two years' time, 10 years' time, 20 years' time?

Mr SALTER - If there's no change, given the funding model in place and the uncertainty in relation to the funding model, I cannot see that harness racing can go forward under the current structure. Since Tasracing has taken over, the percentage paid to harness racing has dropped some 3.4 per cent. For the last 40-odd years harness racing had received 30.4 per cent of the allocation of the total pool available to the industry. The latest allocation to harness racing for this particular racing year is 27 per cent. So, although Tasracing will tell you that it has increased stake money in real terms, quite clearly it has not done that. If this continues, I can't see how harness racing can go ahead. Our previous discussion was that the alleged selling of our product to overseas jurisdictions was going to bring in all these product fees that would increase the amount of money to be returned to the industry. That is not happening and our belief is that it can't happen. The potential for harness racing to increase its turnover nationally and internationally is very limited - Tasracing will tell you something different, I know, because they have tried to tell us something different - so under Tasracing's corporate plan, if we can't

increase our turnover, our share coming back to harness racing will continue to decrease. That can only mean one thing in the future and that is that it has to come out of stake money.

Mr JOHN DEVEREUX - In the last two years - and it got worse this year, regardless of what Tasracing want to say - there has been \$1 million in stake money taken out of harness racing. We were promised no-one would be worse off but it is a fact that there has been \$1 million taken out. There were two stake realignments over the last two years and with the most recent one you have probably seen some publicity where they reduced a race that has been a grand circuit race, the Tasmanian Cup, for 55 years and one of the leading races in the country, from a \$100 000 stake to \$40 000. Some of the things they have done under the guise of saying they are realigning stake money allegedly to reward people at the grassroots, as they refer to them. Quite frankly, that is just a load of nonsense. The people who are actually doing better out of that are the people who have a much greater interest in the industry and the big owners in the industry because the stakes have been redistributed in a way that those who are at the top of the pile now are more likely to pick up stake money and, quite frankly, it is one of the things that is a serious issue as far as we are concerned. We have people sitting on the board making these decisions and they have a serious interest in the industry and probably are profiting very nicely. Quite frankly, it is totally at odds with the situation when Tasracing was set up. There was a discussion and debate that went on at the time with all the industry involved. Originally the proposal was that nobody could sit on the board who had any interest whatsoever in racing.

Mr BROOKS - I have a question on the stake racing. If you are reducing the price of one major race and redistributing it into other races, how can that disadvantage the lower end?

Mr JOHN DEVEREUX - What they have done in the latest round of realignment has not been creating more races. When we got enough nominations on a race day to create an extra race that race was run for \$3 000 or referred to as a restricted race. The horses running in them are very likely to be or almost always are the least performed horses and it was a chance for some of those people right at the bottom to pick up some stake money. What they have done with this latest realignment is say instead of having those \$3 000 races, they are now going to put the money out of these big races that they have chopped back and make them all into full stake races which means that - and the people and I can tell you - with the people we are talking about, their horses never ever race the \$3 000 races but they will now and they now have access more likely to win that money than any 'grassroots' person that they keep referring to and, quite frankly, I think it is a redistribution to those at the top rather than those at the bottom. That is certainly the case and with the redistribution of the year before, I suspect that if the committee were to go to Tasracing and ask them to give figures on the owners who had collected the most money out of the extra races that would have been created and so forth, the list would be very interesting, to say the least.

Mr BROOKS - Thanks for that.

CHAIR - Thanks, Adam. Also, Adam, Mark Shelton has arrived now if you have to depart, but you are welcome to remain.

Mr BROOKS - Mr Chairman, I will need to depart but I will endeavour to get back as soon as possible.

CHAIR - That would be very good, thank you.

Just drilling down on that, what you are saying is that it appears that a conflict of interest has arisen because someone on the board of Tasracing has an interest in a large number of pacers. Is that correct?

Mr JOHN DEVEREUX - I have no doubt about that. It is correct.

CHAIR - What effect is that having? Are you saying that they are making decisions that might be favouring the horses of that individual owner?

Mr JOHN DEVEREUX - Looking at it from the outside looking in, quite frankly that appears to be the end result. Whether people sat down and said, 'I'm making a conscious decision to advantage myself or some of my friends', I don't know. I don't know whether people do that or not, but the fact remains that that is the situation. You have people there who are in that position and I don't think it's something that ought to happen.

CHAIR - Has that been raised with the board?

Mr JOHN DEVEREUX - This is one of the frustrations we have, and I think from our submission you can get that. In May last year - and I am not talking about May 2011; I am talking about May 2010 - the TPC, Light Harness Tasmania and New Norfolk, plus the Hobart Greyhound Racing Club met with the minister. A lot of these questions we are talking about now were raised with him at the time. He said to us, 'I'll get back to you on those concerns you've raised within a fortnight'. I sure wouldn't want to go hungry for a fortnight because we've never heard from him since. These are questions that we raised on that occasion - the propriety of the board and how appointments were made to the board.

CHAIR - What date was that?

Mr JOHN DEVEREUX - I think it was 26 May.

Mr JONES - To follow on from what John is referring to, George Souris is the racing minister in New South Wales and he is introducing legislation into Parliament in regard to the Racing New South Wales board. The nub of it is that you will not be eligible to be a member of that board if you have any direct or indirect pecuniary interest that is in conflict with the role of a director of the board. So it is very clear. You are required to disclose any direct or indirect pecuniary interest in any matter under consideration by the board and are prohibited from participation in the consideration of that matter.

CHAIR - So why would it be that someone with such a large interest would end up on the board of Tasracing?

Mr JONES - I do not know. This person is the harness racing representative and there may have been a perception that he would have a good understanding of harness racing. He probably does but there is also a perception there could be a bias there.

Mr JOHN DEVEREUX - I should follow through the point I made earlier. Initially when the industry was involved in the debate about setting up Tasracing, the original suggestion was very similar to what Mike just read out for the New South Wales proposal. At those discussions it was agreed by everyone that, if possible, you ought to have people that are representing a code and that have some idea of what was happening in that code. People agreed that it might be possible that you had somebody who might have one horse or an interest in one horse, but there was total opposition to people saying there should be people with a major interest on the board. In this instance we are talking about possibly the biggest horse owner in the State.

CHAIR - What sort of percentage? That would be just in pacing or in galloping as well?

Mr JOHN DEVEREUX - I don't know about the galloping side of it.

CHAIR - What percentage of the industry would be represented by that person on the board?

Mr JOHN DEVEREUX - I may be able to enlighten you on that because he was at a meeting during the last week where that person made a certain statement.

Mr SALTER - I attended the Breeders, Owners, Trainers and Reinspersons Association AGM. BOTRA is an organisation that has members statewide. I was invited by their chairman to attend their AGM and during that meeting the harness representative on the board stated that he was at the meeting as a member of BOTRA. It seems very strange to us that a board member would be a member of one of the organisations and he was at that AGM as a member and not as a representative of the board. I find that extraordinary. To answer your question in relation to representation, as far as we are concerned our representation on the board is very minimal because the harness representative on the board consults only with BOTRA and does not consult with other industry bodies - for example, Light Harness Tasmania - but quite clearly the legislation says that they must consult with all bodies in the industry.

Mr SHELTON - I have heard comments about the Tasracing board - bearing in mind your issue here - that they have not got enough information or skin in the game in that they are too removed. I guess I am talking about the rest of the board, then, as far as you guys go. Have you any comments along those lines about the rest of the board and the make-up of it and the way Tasracing is structured as far as board members go?

Mr JOHN DEVEREUX - I think there is certainly some justification in that. I would suggest that people at the management level haven't got too much skin in the game, if that is the way you could describe it, and I think that is one of the problems. For example, the CEO of Tasracing was employed as a racing manager on the TOTE from about 2001 or 2002 and then became the CEO of Tasracing but I don't think too many people could say they have ever sighted him at a race meeting or around a race track or that he would have much idea of what the industry was all about at all. I think that is a decided weakness in the whole scheme of things, and others there are the same. I think it would be possible to source people for the board who knew and had some idea of how the industry operates but were not necessarily big owners of horses. It is possible to do it. There are people who have been around the game for a while and have decided that they are no longer interested in owning a lot of horses and all that sort of thing. They are

the sort of people you might recruit to bring that sort of expertise to the table. My view of the whole thing is that it is morally wrong to have people who have such a huge interest. Regardless of whether the board requires skills or not I think you have to be very careful about people having huge interests and potentially can profit out of it.

Mr SALTER - If I could just make a comment in relation to the appointments to the board, in the consultation period when Tasracing was being set up we were told that the industry would have the opportunity to nominate suitable people to sit on the board to represent their particular codes. That, to my knowledge, has not happened. What has happened is that on both occasions when boards have been nominated and new members have been changed or been replaced on the board, these decisions have been made by the minister at the time. I know, for example, in harness racing that nominations were put forward for the board in relation to a harness representative and that those nominations were not even interviewed for the position even though they were guaranteed that they would be interviewed. Those nominees were not even interviewed and the minister selected people and made these decisions to put them on the board without virtually any consultation with the industry. Quite clearly that was not what was relayed to us in the make-up of the board in the original consultation period.

CHAIR - I recall that.

Mr SALTER - Of course that also leads me into the appointment of the CEO. We were told when Tasracing was set up that the position of CEO of Tasracing would be advertised within the first two months of Tasracing coming into existence. After some four months we were at an industry meeting with the chairman at the time, Don Abell, who then informed the meeting that the position had not been advertised but the board had appointed Gary Lottering as the CEO. The position was not even advertised, although in the consultation period we were guaranteed that the position would be advertised. They are the things that are very upsetting to the industry because they have gone back on what they have said they were going to do. The industry took them at their word and agreed to the restructure on the word of these people that these things would happen. Quite clearly these things haven't happened.

CHAIR - In whose interest do you think the Tasracing board acts?

Mr SALTER - It would appear to us that Tasracing is an entity unto itself. The attitude that we have found from some of the senior executives of Tasracing is, 'The money we are distributing to the industry is our money and we will say how you are going to spend it', but in fact it is money that is allocated to the racing industry by the Government. So, although they administer it, surely it is industry money and surely industry ought to have some input into how that money is being distributed throughout the industry. Unfortunately, Tasracing doesn't see it that way and its attitude is, 'No, we're going to distribute it this way. We're not going to consult with you on it and you can take it or leave it'.

Mr JONES - I will just follow up that point, Noel, if you wouldn't mind. Noel and John have referred on a number of occasions to meetings held at the Bellerive Cricket Ground to discuss the potential for the separation of Tasracing from TOTE. At that point it was stated clearly that no-one would be worse off in this process in respect of the allocation of stake money. That was one of the very important points that needed to be understood

by the industry and on the basis of that, the proposal received our support. In recent times Tasracing has decided, as Noel has informed you, that the respective percentages for each code will be changed. In our case it went from 30.4 per cent down to 27 per cent.

CHAIR - Are we talking about effectively the same thing as product fees?

Mr JONES - No, this is the allocation of stake money from the \$27 million funding deed. We went back to Tasracing and said, 'Excuse me, you gave us an undertaking at these public meetings that this would not occur' and the response was, 'No, we didn't. We have legal advice to say that as long as we don't decrease the overall allocation to the industry, we can change whatever we want to do within the three codes'. We challenged that and said, 'That might be legal advice but it certainly wasn't the spirit of the legislation' and they said, 'I'm sorry, but we have legal advice'. I sat in the cabinet room with Noel in this Parliament House with the Racing minister, Brian Speers, the Chairman, Gary Lottering, Damien Bones and Eliot Forbes, managers at Tasracing. We queried Gary about this and his response was, 'Yes, that's what we meant when we said it but somebody changed the legislation afterwards and I didn't know about it', and yet he allowed Don Abell, the then Chairman, to sign on the dotted line. This is the same man who doesn't what he is being paid, when questioned by the Legislative Council. We also have a product supply agreement that is signed off by Tasracing that states we will get our allocated amount, that it will not change from 2001, and yet, once again, we have legal advice to say that that doesn't count, that it is immaterial.

CHAIR - This is this document that you have tabled for the committee?

Mr JONES - Yes.

Mr JOHN DEVEREUX - We have some more information we can supply to you with regard to that. To give you the history, the original product supply agreement was signed back in 2002 and it was extended in 2006. It was due to expire on 5 March 2011. On 4 March we received an agreement signed by Damien Bones and we were asked to sign it, which we did. The agreement essentially said, 'We want to continue the product supply agreement until such time as we can settle the new one' - because it is with Sky Channel et cetera. We signed that and when we raised the question that the original deed says that the percentages paid to each code will remain the same as they were in 2001, we got a letter back initially saying that the agreement expired on 4 March. We wrote back to them and said, 'That's not right because we signed an extension of it'. They then came back to us and said, 'No, we've got legal advice that the agreement expired on 4 March'. There are a couple of things here - one is that we did sign a document that says all financial arrangements will remain the same, and it is fairly clear language to me. On top of that, I think you can't just have the good parts and not the bad parts, which is what they are trying to do, if we have all been proceeding with the product supply agreement in place and they have been using that to get product fees and everything else, right through until now, to suddenly say, 'Oh yes, but we only want the good parts of that, we don't want the bad ones'. There is a settlement of disputes procedure under that agreement and we have proceeded through that. Their advice to us now is that they have legal advice that says that they don't have to participate in that because as far as they're concerned, the agreement expired on 4 March.

CHAIR - 4 March - what year?

Mr JOHN DEVEREUX - This year.

Our view is that what they are trying to do is to force us to get into some legal battle which is going to cost us a fortune. Quite frankly, one of the things we were going to request later is that the committee ought to investigate that issue because it is quite a serious one as far as we are concerned. There is an agreement there. I do not know how you deal with people - mind you, as Mike said a moment ago with regard to discussions they had with Gary Lottering, he quite often says, 'Oh, somebody changed that, I didn't know about it'. It is not an uncommon occurrence with them, quite frankly.

CHAIR - So you are asking the committee to formally look at the product supply agreement -

Mr JOHN DEVEREUX - Yes, we are.

CHAIR - and the basis on which Tasracing purports to alter the funding deed and then in fact repudiates it altogether on the basis they claim it had expired already?

Mr JOHN DEVEREUX - Yes.

CHAIR - Okay, we will discuss that later and take that on board.

In that case, what would the status then be of your product by agreement or what product fees would you anticipate you would get as far as Tasracing is concerned if they are suggesting that it has expired? Are they just going to keep paying you the reduced amount, or nothing?

Mr JOHN DEVEREUX - They have been using our product as if the agreement was in place, which in fact as far as we are concerned it is. Again I say that what they want to do is take the good parts but not the bad. They want to be able to say, 'Okay the agreement says we can use your product to generate funds for the industry but regarding the clause in it about the split-up of the money we get between the three codes, we're going to ignore that because it just doesn't suit us'.

CHAIR - How much are they going to give you now?

Mr SALTER - Twenty-seven per cent.

Mr JOHN DEVEREUX - Twenty-seven per cent - 30.4 was the situation in 2001 so the difference over the last two years is a million dollars.

CHAIR - If they say it is expired, does that mean that they just want to keep paying you the 27 per cent?

Mr JOHN DEVEREUX - Essentially their view of the world is that they will pay us whatever they like, they just decide, and quite frankly the attitude of the chief operations officer out there when you go to meetings and want to discuss issues like this is usually, 'We're not talking about that'.

CHAIR - What effect does the \$7 million have on your club's viability?

Mr JOHN DEVEREUX - It is not necessarily on the club, it is on the industry. You are talking about \$1 million out of stake money for harness racing.

CHAIR - But doesn't that affect then the club because you don't have membership; people aren't going to engage in the industry if there is not sufficient money.

Mr JOHN DEVEREUX - The club funding is a different issue, and they have changed that dramatically as well. Quite frankly, we may have made a comment in our submission somewhere that it is not just this club but every club. With the club funding model, which they changed dramatically from when they took over when TOTE was here, there won't be a club that is financially viable within four or five years' time in this State.

CHAIR - Of any code?

Mr JOHN DEVEREUX - Of any code.

CHAIR - So what has to be done? Do you have a consolidated view on that at the moment, because that is a fairly strong statement you make that no club would be viable within four or five years under the current funding arrangements?

Mr JOHN DEVEREUX - In terms of harness racing and from clubs' point of view, we negotiated a deal with TOTE some 12 or 18 months before the changeover took place. It was based on an incentive for us to increase our statewide turnover and we got a percentage of that, so the more turnover we created the better off we were. That has been totally taken away and they are now saying, 'All we will give you is a percentage of what you get'. This incidentally does not come from Tasracing; it comes from TOTE. TOTE pay Tasracing an agency fee for every time they run a race meeting, so what Tasracing have said is, 'We'll pass that agency fee onto the club', but it is a very minimal amount of money compared to the previous one. Bear in mind that in the last 10 years under TOTE and the arrangements there were in the industry, the prevailing view was to say, 'You don't need to get people on course; it's all about turnover and all the rest of it'. We actually went down that track with TOTE and set a model in place where statewide turnover was what we were getting an income on. Now Tasracing have turned around and said, 'Get people on course and have big on-course turnover', so it is a total turnaround in the whole thing. The percentage is 2.6 per cent of on-course turnover and I can tell you it is not worth picking up the cheque.

Mr SHELTON - If that 2001 agreement was in place, you have suggested that if you could increase turnover then you get a bigger percentage or more of your share - you get more money in. In today's economic situation was there a buffer as far as going backwards was concerned? It is fine to drive the thing forward but given recent economic times and so forth was it a challenge if the economy went backwards and therefore was there a possibility of it going backwards?

Mr JOHN DEVEREUX - That was possible but it would have been overall for the whole industry because essentially that funding came from TOTE. They have now changed the model whereby it does not come from TOTE any more. There is this \$27 million that

allegedly is a wonderful thing, albeit that when we had the seminars the agreed position was that the industry needed \$36 million to actually operate. Then the board of Tasracing signed off on \$27 million without one word of consultation with the industry.

Mr SHELTON - I have heard those numbers mentioned previously.

Mr JOHN DEVEREUX - Yes, that's exactly the figure.

Mr SALTER - There is an interesting part about that, too. I challenged this at the BOTRA meeting last Wednesday and the harness representative on Tasracing was at the meeting. He challenged my assertions that the harness industry was worse off. He then produced a graph that had been produced by Tasracing. It had a blue line that said that this is the money available to the industry overall and then a pink line above that saying that in 2015 this is where we need to be and this is what the shortfall is, so they are even admitting that at the moment there is a shortfall.

CHAIR - With regard to the potential income stream that would have flowed had TOTE been retained under the old model, where would you have been today? I think you were here when Treasury gave their evidence, where would that have left you?

Mr SALTER - It is difficult to answer that because we are not really aware of the TOTE figures and where TOTE finished in the last couple of financial years.

Mr JONES - One of the issues, as Noel says, is that we do not have an awareness of what turnover is. In previous times this information was freely available and now it is not. Tasracing says, 'You don't need that information'. It's confidential for some reason. Regardless of the fact that we are the ones who generate turnover, we are not permitted to find out how much we are turning over. There is a total lack of transparency.

Mr JOHN DEVEREUX - Absolutely.

CHAIR - It is very interesting that you have said there might not be a viable club within five years. Do you still have concerns, or have they been resolved, with regard to the liability? I think the Director of Racing wrote to clubs some years ago and said that the clubs were liable for public liability insurance if a jockey, a rider or someone was killed or injured at a race meeting? Do you still have concerns about the club's liability with regard to that?

Mr JOHN DEVEREUX - There's a national insurance scheme that we are part of for anything that occurs on the race track.

CHAIR - So you have all now joined a national scheme for insurance?

Mr JOHN DEVEREUX - Harness racing has national insurance, but I can't speak for the other codes. It covers people provided they are on registered training tracks. I'm not sure how far that goes. Some of these trainers may be able to tell you how far it covers them when they're training on their own tracks.

Mr JACOBSON - I think it is about \$20 million.

Mr JOHN DEVEREUX - I think it is something like that. If you have your own track at home, it still covers you there.

Mr YOUNG - It covers you at home and on a registered track - at the present time.

CHAIR - There was some concern a few years ago about that.

The big part of our terms of reference is to do with the sale of TOTE. Do you have anything else you want to talk about before we move on to that?

Mr SALTER - One of the things that the Treasury gentlemen were speaking about was the funding deed. Chair, I think you questioned the repayment of the \$13 million-odd that had already been spent out of the \$40 million. It was stated by the CEO of Tasracing in parliamentary scrutiny hearings that Tasracing did not have the ability to repay and that, under the funding deed, if Tasracing didn't have the ability to repay the capital and the interest then it would be picked up by Treasury. I think that was confirmed by the gentlemen earlier in the day. There is another clause in the funding deed that says that the Treasury or Treasurer does have the ability to recall that money or require the industry to repay that in the future. So if there is a different government in place or whatever may happen in the political climate in the future, there is the possibility that the racing industry would be required to start paying that interest and capital or, worst case scenario, repay the whole loan. That would break the industry because they wouldn't have the capacity to pay.

CHAIR - So that capex would become a liability for the clubs making up each code?

Mr JONES - The only funding source that the repayment could come from would be the funding deed itself, the \$27 million plus CPI. Therefore, if a treasurer or a government said, 'I'm very sorry but we really have to invest in elective surgery and put that back on the agenda. We need your \$13 million now, therefore we will give you \$14 million next year'. That's the risk. What do you do? It's there in black and white.

Mr SALTER - There is a clause in the funding deed that allows any future government to do that.

Mr JOHN DEVEREUX - The Government didn't worry about even signing funding deeds before they spent it.

CHAIR - That's in regard to the Spreyton race track?

Mr JOHN DEVEREUX - Yes.

CHAIR - So you still have concerns about that, the risk to the industry is as a result of Spreyton?

Mr JOHN DEVEREUX - Yes, there are a couple of things with regard to the Spreyton deal. Noel has outlined the risks of the funding. One of the things that concerns us in terms of capital works is that in February this year we were advised that if there were capital works that needed to be done, people should put submissions in and put a business case in. Supposedly work was going to be done on the original track at Elwick, on the harness

track, and when the changeover took place there was supposed to be money there - \$6 million - and part of that was to do that work. Eventually the then Treasurer and minister got up on a stump at Mowbray and announced that he was going to spend that on lights at Mowbray. So that disappeared.

What we were asked this year was if there are capital works that you want done, put it in. We did put in a detailed submission, and we can provide you with all of the paperwork on this. Essentially we had no response. We sent a copy to the minister; the minister, after about two months, wrote back and said that he was advised by Tasracing that they're working with them on this - which is news to us because they had not even responded. We sent them a letter and said, 'What's happened?'. We then got a reply back from the chief operations officer to say, 'The business plan we put in didn't appear to meet their objectives in that any capital works expenditure had to generate funds for the industry'. We sent back a letter to him and said, 'You have spent money to build a race track at Spreyton and even though we have seen documentation where you employed your own independent financial people to have a look at that, who said you shouldn't build it, obviously you have made some decisions about that and they are based on some sort of business model. Could you give us a copy of the business model that went to Treasury so that we know what the parameters are and what we've got to meet?'. The answer we got back was, 'That's confidential, we're not giving you any of that information'.

Quite frankly, one of the things with regard to all of this that we are concerned about is that Treasury has guidelines that they know businesses have to meet in terms of projects and so forth and we have serious concerns whether they have complied with a lot of those guidelines in building this track. We are not opposed to building a track at Spreyton, or anywhere else, if it is justified and meets all of the guidelines but I think there is some serious doubt and there needs to be some questions posed to Tasracing and Treasury about what is contained in this business plan.

CHAIR - We know that it was unviable because they were advised that that was the case but do you know who made that decision ultimately to proceed? Was it the minister, was it Tasracing?

Mr JONES - I gather the Premier gave what she called a letter of comfort to Tascorp somewhere around November of last year basically saying, 'I agree to a loan of \$11 million' - I think it was - 'to be funded by you'. She referred to it in the last Estimates hearings as a letter of comfort.

CHAIR - That was under certain conditions; it was a conditional approval.

Mr JONES - I am not aware of that.

Mr SHELTON - The issue there was about commencement, wasn't it.

Mr JONES - Yes.

Mr SHELTON - The decision at that point in time had already been made and so the question is does anybody have any background on when the decision was made and who made it?

Mr JOHN DEVEREUX - I don't know but one of the things I do know is, if you read the transcript of 30 August of the Legislative Council committee that were looking into the finances of Tasracing, on the last few pages of that they go to the question about the deeds and when they were signed. At the end of it I think they came to the conclusion that nobody had given them a satisfactory answer about any of it. What they intended to do about that, I do not know, but certainly if you read the transcript of that you will see where they went into some detail and no evidence was provided by Tasracing as to when these deeds were signed. In fact it was just left sitting in the air again when I think they just agreed at that point to say, 'The hearing's finished because we're going round and round in circles'.

Mr SALTER - The evidence quite clearly is that the deed was signed on 17 April. There was no question about that and that is on the public record. But to answer Mr Shelton's query, quite clearly the decision to upgrade Spreyton was taken well before that because the work actually started, I believe, in late January.

CHAIR - Yes, but the point there of course is that you can make a decision to do something but you have no lawful authority to do it unless you have a funding deed in place, so it appears from what I can see that Tasracing proceeded or somebody proceeded to construct and spend \$13.1 million without lawful authority because there was no funding deed in place.

Mr SALTER - That is our belief, Mr Chairman.

Mr JOHN DEVEREUX - There is also the question that I raised before about the Treasury guidelines and so forth in calling for tenders and so forth for these things. Out of left field suddenly at the eleventh hour we ended up with a totally new surface. I understand there are only five or six tracks in the world with this surface and it may be the best thing ever, I don't know, but it seemed to be that that is a question that needs a bit of investigation, as to how it all came about, when were tenders called for all this stuff and how were they dealt with, and I suspect that they weren't done.

CHAIR - Obviously I think the point here is that your interest in this is that this has a material effect on the way that the \$40 million capex is spent around the State?

Mr JOHN DEVEREUX - Absolutely, and can I just say that the way we see it linked is that if TOTE is sold the industry is left with a debt. My view - and I think probably most of the people here would support it; and I am not suggesting we return to a model totally funded by TOTE - is that given the circumstances that they put us in and saying that if TOTE was sold, there was going to be a \$40 million grant there for capital expenditure, TOTE should be the organisation that is now charged with repaying the loans for this capital expenditure. It should not be the industry being put at risk over what was done by the Government and TOTE and all of the machinations that went on in late 2008 and then at the start of 2009 when they not only shifted the goalposts I think they stole them.

CHAIR - The \$40 million capex is presumably a one-off and last major grant that the industry is likely to get into the future so I presume it would be your contention that that ought to be spent properly. Presumably it would be fair to say that there would be one-third each to each code, would that be right?

Mr SALTER - Yes, you would think that would be the case, Mr Chairman, but unfortunately that is not the case and at the last open industry forum that I attended with Mr Young I asked the chief racing officer that very question of what percentage of capital expenditure is being spent on the thoroughbred code compared with the harness and greyhound codes and he refused to answer the question. He said, 'We're not going to talk about that and it's not relevant to our discussions here'. I can't see how it wasn't relevant at an open industry forum, to be quite honest, but that is their attitude, that they don't need to advise the industry of those sorts of details.

CHAIR - If we assumed hypothetically that the \$40 million was going to be divided three ways then the pacing industry has had it, hasn't it? You have had \$13.1 million and multiply that by three and you have \$39.3 million and there is nothing left there.

Mr SALTER - Thoroughbred industry.

CHAIR - No, sorry, thoroughbreds. It was just a slip of the tongue really. I was wondering why you were all looking so shocked.

Laughter.

Mr SALTER - But, quite clearly, Mr Chairman, that is not the intention because it is quite clear and Tasracing have made it quite clear on plenty of occasions that they want to put lights on Elwick so that they can have thoroughbred racing beamed all around the place and this chasing rainbows overseas and all the rest of it, but to put lights on at Elwick and of course there is the question of upgrading the thoroughbred track at the same time - they can't just put lights up, they have to upgrade the track and all the rest of it - it cost \$7 million, I believe, to put lights on Mowbray. The upgrade of the thoroughbred track would probably be up to \$10 million, so you have \$17 million there and \$13.1 million of that already spent, so there is \$30 million of your \$40 million gone already on thoroughbreds. They are not going to appropriate this \$40 million across the three codes. They are going to spend it where they see fit.

CHAIR - Let's say the \$40 million pot was empty and you got \$6 million to do some works that you put hand up for at Elwick, where do you see the industry over the next 18-19 years of the funding deed? If all the capex is gone, how are you going to repair the tracks and upgrade the infrastructure?

Mr JONES - It would be cap in hand to Treasury or it comes out of the funding deed itself.

CHAIR - You have said that you needed \$36 million to run the industry; was that including capex?

Mr SALTER - Yes, it was. When the head of TOTE and the Director of Racing Services came to the industry and we had some meetings - the southern one was held at Bellerive - they explained at the time their rationale for the \$36 million. That would fund stake money, the administration of the industry and ongoing capital expenditure. We are in a situation now where they have signed off on \$27 million and the \$9 million between that and what we are getting is not leaving anything for capital expenditure, given their administrative costs on top of that.

Mr SHELTON - You mentioned earlier that you'd had a request into the minister. As far as the capex request goes, how much was that?

Mr JOHN DEVEREUX - There were two or three options. The top amount was probably only \$2.5-3 million and the bottom maybe \$1 million.

Mr SHELTON - From my background in rural Tasmania there are the smaller clubs - Carrick, Scottsdale, New Norfolk and so - and you mentioned the viability of smaller clubs and indeed all clubs but where do you see these smaller clubs ending up? Elwick and so on are substantial and I imagine would have some critical pull for capex spending in the future, whereas the smaller clubs are going to struggle. What sort of infrastructure needs do they have?

Mr YOUNG - Mike and I went along to New Norfolk and I represented New Norfolk through the light harness body. We spoke about this to Tasracing and last year New Norfolk took it upon themselves to race one meeting out of their three at Tattersalls Park. They found it to be very good because of the timing of programming and they were looking forward to making it one major day for the club. We asked Tasracing if they would be able to look at their funding money for restricted racing of \$3 000 into finals into any part of the State. They were willing to go to Launceston, Hobart or wherever to run those races and they were looking forward to that way of making money to be viable to hold that club together. New Norfolk doesn't get any money at all for track maintenance. I think the council may help or they raise it in their own ways.

Mr JONES - I think you can safely say that you'd give New Norfolk about five years under the current club funding model and then they won't be in existence.

CHAIR - The same for Carrick.

Mr YOUNG - Carrick gets funded, in a maintenance way, by Tasracing.

Mr JOHN DEVEREUX - There's money put in there from Tasracing. Burnie is probably the council, I assume, isn't it?

Mr YOUNG - Council.

Mr JOHN DEVEREUX - St Marys, I assume, is the council and Scottsdale the same.

Mr YOUNG - Westbury is for training, not for anything else. It's a chook raffle down at the local hotel of a Friday night.

Mr SHELTON - That's right.

Mr SALTER - I think one of the important points here is that Tasracing keep telling us that we need to increase turnover; that is their big point all the time. Now the country clubs don't race on Sky Channel so there are only two alternatives. One is to have the country club stay in existence but run their race meetings at a track where Sky Channel is currently broadcast from. But there is another alternative that Tasracing appears to be very reluctant to look at and that is to run Sky Channel out of their current premises.

Three or four years ago it was impossible because of links and bearers costs et cetera in

setting them up. That is not the case anymore with wireless technology. We've had discussions with people in this area and they say quite clearly that with wireless technology now you could run Sky meetings out of Burnie or New Norfolk if you wanted to. So quite clearly there is an advantage to the industry in turnover by running on Sky. There is no benefit to the industry - not one dollar - by running non-Sky meetings that are not being broadcast. If those 11 or 12 meetings at moment that are not on Sky - the country club meetings - were broadcast on Sky then you would maybe increase your turnover for the industry by some \$5 million or \$6 million, which would be a major increase to harness turnover.

CHAIR - That's if Sky put them on.

Mr SALTER - Yes, but the indications are that Sky would put them on because we now have Sky 1 and Sky 2. The indications are that they are looking for product and these clubs, while they predominantly race in the summer time, there is no reason why they couldn't race in the twilight period in summer time so they don't have to have lights on their tracks et cetera. In fact Burnie and Carrick do run some of their meetings in the twilight now, so it is a possibility. Unfortunately Tasracing, whenever you raise this subject with them, don't see it that way.

CHAIR - I might ask you to provide copies of correspondence with regard to the issues surrounding Spreyton and also with regard to your application for maintenance works - capital works and expenditure - and other documentation.

I would like to talk about TOTE now. You heard what Treasury had to say. What is your view with regard to the sale or otherwise of TOTE?

Mr JOHN DEVEREUX - I was very interested in the discussion and the points brought out because I was advised - and I won't say who the person was or where this information came from - two months ago that the Government wanted to delay the hearings of this committee for as long as possible because they believed they could sell TOTE before this committee ever finished its work. I sat and listened very interestedly today and it was totally confirmed in my mind that that story was true. I think it came out very clearly.

I can't see how they're going to sell TOTE for any reasonable amount of money now. It isn't the least bit attractive to anyone. I couldn't see how anyone is going to come along with a heap of money, so you're probably going to give away an asset in terms of future funding, some top-ups, funding for the industry and so forth. Bear in mind that in the original submission we put in, people seemed to want to forget the fact that TOTE came about because the racing industry was the catalyst for setting it up to fund the industry. To put it bluntly, people were not going behind the grandstand fixing races because the only way they could survive in the industry was betting on their horses and betting with bookmakers and the idea was that by setting up TOTE you create an income stream for the industry where stake money is reasonable and people do not need to try to fix races and the public can punt on it with a very large degree of certainty that everything is fair and aboveboard. In selling TOTE now, I cannot see what the advantages are for the industry or the State, to be honest with you.

Mr JONES - Without having access to the figures around TOTE's viability it is very hard to comment but I think that if you take the role of TOTE and the role of Tasracing and say,

'Is there an opportunity?', I hate to harp on it but with Tasracing it is either increased revenue or reduced expenditure. Is there an opportunity to enhance the role of TOTE Tasmania and bring back more administrative functions to it and basically reduce the role of Tasracing? Tasracing seems to be a more viable administrative organisation than what we currently have. I think there is an opportunity there by not selling TOTE to once again take back some functions and expand its role as opposed to making it a sole-wagering organisation. There could be a hybrid of TOTE and some functions of Tasracing. I think that is another option that would preclude the sale of TOTE Tasmania from the Light Harness Tasmania perspective.

CHAIR - Do you see the sale of TOTE - at the moment, were the Government to proceed with what you are asserting that you have heard, that there is some desire that they wanted to sell it before the committee reported - as a detriment or a threat to your industry?

Mr JONES - Once again, there seems to be an environment of lack of transparency. If somebody can convince us, on facts and figures on the table, that that is the right way to go, fair enough, I am wrong, you are right. All I get now when I talk to them is, 'No, Mike, you're wrong'. They give me numbers that say, 'Look how well we're doing, we've gone from \$80 million-odd to \$94 million in five years in turnover'. I say, 'Yes, but look at the number of races you run. You're now running a third as many as you were running five years before. So in actual fact your turnover per race has dropped by about \$11 000 a race'. But, 'No, Mike, you're wrong. We're only interested in meeting turnover. We're not interested in per race'.

This is the issue. If you can show me the figures, well and good, I will say I am wrong, but we do not get to see any figures. That is one of the issues about answering your question and I suspect if someone is not prepared to show you the figures, there is probably a reason for that.

Mr SALTER - I concur with what Mike is saying. I also believe that we need to retain TOTE at this stage because there is no surety around the funding deed. We have no surety in relation to product fees coming in from the industry. What we were told when it was originally set up in relation to what income, on top of the \$27 million, may be coming to the industry in relation to overseas product fees, et cetera, has not materialised and there is no evidence that it is going to materialise in the future. So you could have a situation where the funding of the industry is basically stagnant. If that is the case, quite clearly the industry would see the TOTE as the alternative.

As I said, we are not privy to where the TOTE is financially and what sort of profits are flowing from the TOTE and whether that will be enough to fund the industry in the future, going back to the old model. However, as Mike said, maybe a hybrid of both, the current Tasracing and some funding from TOTE too, may be the way to sustain the industry into the future. As I have said earlier, I do not think that the industry can be funded under the current model in real terms moving forward because of the lack of product fees that may or may not come into the industry.

John's point about the TOTE being set up to fund the industry in the first place was quite relevant. The majority of the industry participants out there see it that way and they believe that we ought to still be funded by TOTE when they see what is happening. As

Mike said, unless we can be convinced some way that the industry is going to be sustainable under the current set-up, I do not think anyone in the industry would feel that the TOTE should be sold.

I think the other interesting part of it, and we have dealt with it earlier in our talks, is the cost of running Tasracing. Quite clearly, the cost of running Tasracing now compared with what it cost to run the racing side of the industry when it was under the banner of TOTE is quite different. The cost of running Tasracing compared with the two is extremely more than what it was.

So we need somehow to be able to restructure our industry so that we do not have this huge overhead. At the moment, with \$32 million available to the industry and only some \$21.5 million going to stake money, if you do the maths on it, some 34 cents in every dollar is going to the administration of the industry and only 66 cents in every dollar is going into stake money.

With some investigations that I have done interstate in recent times, when I was at a Harness Racing Australia meeting, there are no other jurisdictions in Australia that I can identify where the percentages of administration are so high or stake money returned to the industry is so low. Quite clearly, our administration is costing us too much and we need to restructure the industry somehow. Mike has put forward some theories in relation to stakes payment, program et cetera, that can be removed to reduce this overhead in the industry. I think that is a major reason that we have been opposed to the selling of the TOTE.

CHAIR - What about funding into the future? You have 18 years to go of \$32 million plus CPI? What about then? What about plan B? Do you have any thoughts as an industry as to what you are going to do when the funding deed expires?

Mr JOHN DEVEREAUX - All I can say is that I am glad I will not be here.

Laughter.

Mr JOHN DEVEREAUX - Regarding the end of 20 years, I fear for what is going to happen and if it is still here, if it is just going to be left in limbo.

CHAIR - Do you think that if TOTE were still the funding body then that would not be an issue? I am after your comment.

Mr SALTER - We would hope not.

Mr YOUNG - I have just finished an article and it dates back to 1974. Tasmanian harness racing participants, all three codes, celebrated the work done by many people lobbying to get TOTE going. The heading of this article is 'Industries now will be able to go forward with the introduction of a TOTE organisation run by the Government'. That was back in 1974. The people in those days pushed their backsides hard to make sure that we had TOTE to fund our industries, the three codes, right throughout and they thought it was going to be forever. When you said the next 18 years after that, those blokes thought it was there for life. I agree with what John just said. I do not think we will be around.

CHAIR - You might want to provide a copy of that for the committee.

Mr YOUNG - Yes.

Mr JONES - TOTE is probably best placed or they have a greater incentive to increase turnover and revenue to the industry given that they are the ones out in the field doing it. They are the ones who are trying to grab the big punters to create a better product. They are the ones that are saying now that you can flexibet on quadrellas as opposed to the past when you could only bet on dollar units. They have the greatest incentive to increase the turnover and hopefully increase revenue to the industry. It appears to me that the same incentive is not there for Tasracing.

CHAIR - Because it's a government deed the money just flows like custard?

Mr YOUNG - Yes.

Mr JACOBSON - I have been in the industry for 50-odd years and my living for 30 years has been as a full-time horse trader. Tasracing has put us on Sunday night, the worst day of the week, no-one has any money. We start at 5.30 p.m. or sometimes 5.45 p.m. and finish about 9.10 p.m. and wherever you go, and it doesn't matter whether you go to the mainland, by 7.30 p.m. all the pubs and clubs are closed. Last Sunday night I was on the Gold Coast at the casino watching my own horse race and everything was closed. I had to ask the girl in the sports bar at the casino if she could leave the TV on so that I could watch the race. These people are running Tasracing but if they were running their own business they would be broke. If they worked for private enterprise they would be sacked. How can you make money on a Sunday night? No-one has any money; everything is closed. This is the stupid part about it. They tell us to up our revenue but how can you?

Mr SALTER - Can I just go back to your question on the sale of TOTE? The wagering market has changed considerably in the last three years, and no doubt Mr Clarke would be able to verify that, with corporates, Betfair and the like. I guess in 18 years time, even if TOTE was still financing the industry it is pretty hard to predict where that's going to be the future. I know that at the moment at a national level for harness racing they are looking to have Federal legislation enacted concerning these corporates that are siphoning wagering off the industry at the moment with very little return. That process is going forward but it is going to take a long time to get through Federal Parliament et cetera. It is very hard to determine where it's going to be in another 18 years time.

John has issued you with a paper from a public meeting a couple of weeks go and on that there was motion and a list of issues with dot points that we would ask the committee to look into. We would be asking that the committee investigate the dot points in its deliberations. You two learned gentlemen were at that meeting and you probably got the feeling of the industry in relation to these points, so I would ask the committee to look into that. We would welcome the opportunity to come back in the future if you have any further questions.

CHAIR - I will just remind you again that what you have said in here today is completely protected by parliamentary privilege but you have to be aware that this privilege does not attach to comments that you might make to anyone outside this place. We will have a

look at the matter with regard to attempts to intimidate you and prevent you giving evidence to this committee. As chair I take that extremely seriously. The committee will discuss what action we take on that, but we may refer that to the police or the Speaker. Thank you very much for coming along.

THE WITNESSES WITHDREW.

Mr TERRY CLARKE, FORMER CEO TOTE TASMANIA, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Booth) - Terry, you have been provided with this document with regard to committee hearings and you are familiar with them with regard to privilege but I will just run you past that to advise you that this is a proceeding of Parliament and any evidence that you give before this committee is protected by privilege so you can, and we expect you to be, completely frank and truthful about everything that you say without fear or favour but that protection is not accorded to you if you leave the room and then make the same statements. It is for the sake of the parliamentary process but not necessarily for public broadcast all over the media that may be present and transmitted, and members of the public will hear it as well.

Mr CLARKE - Thank you. I did prepare a paper which you may wish to go through in due course but I will broadly cover the issues in it.

CHAIR - Thank you, Terry, for that written submission that you have provided but the only thing in terms of *Hansard* is that people reading it will be able to access this as part of the evidence but if they are reading the transcript of the hearing today then they will not read in here some of the things you have said so if there are matters in here that you would like to discuss with the committee rather than referring us to this document, if you articulate them that will get them into the oral evidence, if you like.

Mr CLARKE - Yes, thank you. Just by way of background, I have been involved with the industry and particularly thoroughbreds going back to about 1972 and more particularly from 1987 onwards I have been involved one way or another with the administrative side of the racing industry and, as you probably know, from 1997 on I had the privilege of running it. I am also well into a doctoral thesis on the economic impact on the thoroughbred industry in particular.

CHAIR - Did you say you are writing one, Terry?

Mr CLARKE - Yes, of the new product fee regime which exists in Australian racing now, and I will refer to that as we go forward. I feel that I am fairly well placed to take a good unbiased view of what I see happening to the Tasmanian racing industry and in particular I have addressed your term of reference (b) which requires discussion of the industry and what is required for a modern and viable racing industry.

I am, by again my involvement in the thoroughbred industry, probably biased more towards that industry but it is the main driver of wagering so I am concerned about its long-term future and also that of harness. I suspect that both of them are heading towards a cottage industry status, whereas greyhounds will probably survive, given the nature of the product and where it runs in the time slots and so forth, which I will discuss in a few minutes.

My starting point is that we have to take a holistic view of what is happening in the racing industry and we must look at the market condition forces that face the players in the industry now going forward. We can use the typical industry evaluation techniques, and these people, to have a look at what is happening. Having done that, we must specify

a business model that is appropriate to the new competitive arena, noting as with music, retail banking, insurance, the value chain of all these industries has been deconstructed by forces which have developed and now impact on the racing industry. In particular, for the thoroughbreds, for example, the demise of the so-called gentlemen's agreement under which States such as Tasmania and other States have imported more than they could export, were able, through their monopoly position at their TABs to enjoy their significant funding arrangement to the point where I suspect, in the long run, rationalisation in the industry which is already underway is going to hit hard. In that context, therefore, we should be looking at how can Tasmania preserve a position in this particular marketplace with these forces coming through that will deconstruct industry value or already have?

It is interesting, I follow on from a club perspective, and what has happened is that the clubs have been deconstructed out for value change in favour of the power shifting towards centralised administrations, such as the one you are viewing and more particularly the new media companies who are well placed to exploit the use of wagering information.

In this new business model, gone forever are the legal barriers which prevented people from advertising in the local market. Gone are the motley powers of the State-owned entities that were created here in 1975, which was referred to in the previous evidence. Technology has swept over all this and enabled people to look at racing from a global perspective. The next wave of impact on this industry will be the process of globalisation, which has already commenced. When that happens there will be a stratification of the product and, again, Tasmania has to be in a position with a business model not to be swept aside and become as it is now, particularly with thoroughbreds, just a filler product.

If you're going to compete in the market, there are two ways you can do it. You can do it on price or on differentiation. If you're going to do it on differentiation, this requires that you have a quality product delivered in a timeslot where your customers demand that product and you must have consistency of the product. Sadly, Tasmania does not have the right business model to exploit this particular opportunity in the market on differentiation. It will be forced, in my opinion, to compete on price. If that's the case, generally speaking, if you look at airlines and other industries that compete on price, often it's a race to the bottom. By contrast, we had the business model that currently exists in France, and I saw the president of French gallop, which sits below the parimutuel urbane, which is the TAB in France, telling us on the night of the Arc de Triomphe how prize money in France has increased by 50 per cent in the last 10 years. In fact, they have now surpassed the home of thoroughbred racing - that is, the United Kingdom - and now we find the UK, which is operating on the model which the Productivity Commission has embraced for Australia, which is a percentage of gross profits by way of charging a product fee, are now wanting to throw that model out at stakeholder level and replace it with some form of licensing arrangement. This model - the combined TAB racing model, which we have had here from 2000 onwards - also exists in the prime racing countries of Hong Kong and Singapore, albeit in those countries they prevent access to the market by the licensing regimes to ensure that the base of operators doesn't disperse the available funds over too wide a base. Other countries - Sweden, South Africa - have this particular model. We were first in Australasia and I well remember the chairman of the committee looking into the future

administrative structure for Western Australia coming to see us at the end of his world review of the opportunities for administering racing and wagering and saying that we have the best model here. They subsequently followed that, with some changes. I know the probity side is slightly different over there.

CHAIR - Is that the pre-disaggregated model?

Mr CLARKE - Yes. This is the model that was created when TOTE Tasmania was incorporated back in 2000. The New Zealand racing board has gone down this path as well. We shouldn't confuse criticism of those models at the moment because of their profitability. In all structures if you get your profitability right then you succeed and if you're going through a process of change your profitability may fall. So there may be people who say, 'That business model hasn't worked in South Africa or New Zealand' but that is more an issue of the product on offer and the strategy that is being followed. I would argue that it remains the best model - and I will develop that a little more as I go through.

In broad terms the current model can be criticised on three grounds. Tasracing, the peak body, is now in a mendicant position relative to the budget. We all know what the pressures are there in terms of any potential growth in what the Parliament can afford to provide. It has the wrong financial objective. To allow an incorporated body to operate in the marketplace on basically a financial objective which requires it only to cover its cash charges and to incorporate that body seems to me to be quite unusual. Because it doesn't have to cover its non-capped charges, one presumes that at the stroke of a pen one could order the financial result to suit one's purpose. Regarding the assets that are now being built, someone has to make an administrative decision about their life, contribution and economic benefit in any particular year. I must say, I am surprised that this organisation can be given a going-concern rating by the Auditor-General. I cannot understand how that can be when the company cannot turn a profit.

Leaving that aside - and that is an issue which I cover in the document on the accounting issues because I do not think they are taking into account the fact that someone else is providing an economic benefit by servicing their loans and the loan repayment; that should be reflected in the top line and the bottom line - obviously those assets have to be depreciated - more importantly, if you are a stakeholder in the industry, what good does it do to see your peak body forecasting out to 2015? In my paper I have relied on the evidence given to the Legislative Council, I think it was back in June, when they tabled these projections to 2015-16 which showed a continuing loss on the bottom line in more conventional accounting practices of up to 2.9 years. I see this, in a cultural sense, has a debilitating effect on the people who work there and clearly, if people such as my predecessors in this evidence in this committee cannot see at least breaking even commercially, then it does not offer much incentive that they are going to benefit.

The big problem with the model is that even on their own figures there is no real increase in stakes money forecast out to 2015-16, and we will deal with that in a few minutes.

Ultimately, wagering operators now, because we have gone through the changes I talked about earlier, have to buy product and that means that they are not going to buy a product that is not going to maximise their profits. Most of TABs now are in private hands. If the product quality declines, if your field sizes, for example, fall below 10, if it is on the

wrong time slot, if it is put where the wagering customer does not have discretionary income, which is usually pay Thursday, Friday, Saturday, Sunday, then one could ask why would the holder of the TOTE Tasmania licence even bother to bet on Tasmanian racing? It is currently less than 2 per cent of their business, why wouldn't you just kill it off?

CHAIR - It becomes almost like a self-fulfilling prophecy that you wipe yourself out, effectively.

Mr CLARKE - Yes. We are in a new marketplace now. You have to sell something and, as I said earlier, you can either compete on price or you can compete on differentiation and differentiation requires quality, proper timing, a regular, consistent product. Then we have TOTE Tasmania. We have Tasracing sucking money out of the budget and bearing in mind it is greater than the \$27 million because you have to look at the opportunity cost of the \$40 million that is going to be put into their assets and not being serviced. It is impossible, I can put to you, to return a commercial return on building a racetrack; it simply does not happen. Unless you are prepared to charge user-pay facilities, then it really is not a community asset. Regarding the \$40 million, I assume there are other assets in the community that could require an investment like that - hospitals and education and so forth.

CHAIR - Can we digress there slightly, and I do not want to put you off your stride there. We were just talking about the ability to maintain these assets into the future. The Spreyton racetrack is an interesting example at the moment. Do you have any comments to make about that development?

Mr CLARKE - Yes, I have.

CHAIR - Have you covered that later on or do you want to talk about it?

Mr CLARKE - No, I will talk about it specifically now. In this day and age, it is possible to build a conventional grass track that drains as well as the StrathAyr tracks or the artificial tracks. If you want evidence, they have them at the Flemington track which was recently redeveloped in the time frame that we are talking about here and the Caulfield track. Both of them can withstand heavy rainfall because we know so much more about the technology of building these tracks. To me, if you go to StrathAyr, which is what we have in Launceston, great, but it is like buying a Calais when you could have done with a Commodore.

The problem with the artificial tracks such as the one at Devonport is that no-one has built one that has lasted for the equivalent of a grass track which has a life span of around 15 years. Geelong, which probably has a good track now, has been replaced within a couple of years. This is its second go. Sandringham built an artificial track and then Proright Australia had to go over and help them and they have now pulled that out and gone back to racing on dirt. With the English track field sizes are falling. These tracks produce different characteristics for the horses so some people will not race their horses on them. In the first couple of years, yes. It would be terrible if someone was complaining now about the state of the Devonport track. My view would be to look in two to three years' time when it has had a bit of wear and tear on it and see whether or not it will survive or whether it has to be replaced. I can give you a case in point here in

Tasmania where under my period in TOTE we built an eviscerate track at Brighton and it lasted a couple of years. It got sand in it and the profile changed and it has now been covered up with sand. You have to be very careful about putting all your eggs in one basket. I hope I'm wrong but it is not now to worry about it, it is two to three years down the track. In these time horizons, with only \$40 million, if someone has to pull that track up in four or five years' time and replace it - I think it cost \$9 million or \$10 million - that money won't be there.

CHAIR - What would the driving forces have been to have come to a decision which, from what you have said, doesn't seem to be rational?

Mr CLARKE - To be frank, a lot of what happens in the industry is driven from the grassroots. If people lobby hard enough and long enough in the right areas, people will listen to them and say, 'Okay, we'll give you your way and we'll go with this track'. That's what happened in Launceston and that is what I suspect happened at Devonport. I recall discussing it with their proprietor with regard to the StrathAyr track in Launceston, 'Why can't you answer the question as to why the Flemington and Victorian Racing Club built a grass track and not a StrathAyr track?', and he couldn't answer it. I suspect that it reflects the power of the people lobbying and people responding to the lobbying.

CHAIR - Pork-barrelling maybe?

Mr CLARKE - Yes.

We have Tasracing now - and we've heard some of the issues today regarding that - and TOTE Tasmania and now we have a State owning a gambling company. It has no link with its racing industry and, as the predecessors have told you, the TABs started in 1960 and were creatures of the racing industry bringing governments around to understand that funding through these sources would be a major driver of racing and hence the economic activity and so forth. We don't have that anymore. What we do have is the public owning a gambling company. We have just seen it blow \$4 million out the door by buying into a bookmaker who went broke. If you listen to the liquidator - and I have covered it in my paper - it was trading insolvent on the bottom line before that investment and they were represented on the board. That is not a risk that the public of Tasmania should be required to take. Parimutuel wagering by contrast is a safe form of gambling because the take-out is removed before you go back to the customer with the dividend. That is not the case in bookmaking. In bookmaking you are taking on the customer and sooner or later bookmakers lose and only the strongest of them will survive. Betting exchanges also have a good model because they take a commission off match bets, so they're not putting capital at risk. The company now has publicly stated that its objective is to sell gambling products in Vietnam and China. I suspect that that's not what the public of Tasmania would expect of a government business enterprise. We have the worst of both worlds.

CHAIR - Are you qualified to make a comment about Vietnam and China in terms of the viability of selling in those markets?

Mr CLARKE - I don't know anything about Vietnam but I can say, with respect to China, that I was involved with the attempt to build a race track on the eastern coast. We went to the site. A contact of mine who had a relationship with the then Premier's son rang me

to say, you can forget about ever conducting parimutuel wagering in China because it is not acceptable under the Communist Manifesto. The type of gambling that you would get in China will be lottery-type tickets where, if you get the winner you go around the corner and you can have a fridge or a TV -

CHAIR - Yes, a couple of chooks or something.

Mr CLARKE - Yes. I do not know what other gambling products they are trying to sell up there but I suspect that there is not a lot of money in them. There certainly won't be parimutuel wagering. I cannot foreshadow that the Communist Party is suddenly going to change to permit gambling. In any case, if the Chinese want to gamble it has kept Macau and Hong Kong open which already have highly developed racing industries. I suspect the China lifeline, if you like, is a bit of a myth. I have been waiting for 20 to 25 years for the breeding side to open up and, as I say in the paper, if it does, there is no way Tasmania could supply the horses anyway. You need 1 200 to conduct a regular race meeting and you need to supply 400 horses a year to replace them. We are producing around 300 foals a year and that is declining. So we are a long way from being able to service that market.

In the paper I have basically covered what are the features of a modern racing industry and why should Parliament be concerned about the state of the Tasmanian industry, what is the role of the TAB in the future of the Tasmanian racing industry, the funding problem under the current Tasracing model, what is in the public interest and TOTE's capacity, if it were linked in some way in the future, to take up the funding of racing again.

The five specific conclusions I reach are: to guarantee in the very long term - and I note your question earlier to the previous people, what is going to happen after 20 years? - there has to be a parimutuel operator that will offer wagering on all Tasmanian racing events. The licence that is currently held by TOTE Tasmania is quite valuable because in a digital world, it does not matter where you are located, it is whether you have access to the new media, television and so forth. So it does not matter, you could operate out of here globally but not bet on Tasmanian racing. To ensure all Tasmanian racing through a locally licensed program can continue to operate and be pooled into a significant sized pool of at least \$1 billion a year because it is not much good a wagering operator offering wagering on your business, because it has to go into a large pool and the minimum to survive on its own would be \$1 billion.

CHAIR - That pool would be a Tasmanian pool?

Mr CLARKE - It needs to be a pool that involves the mainland, yes. At the moment they pool into the Victorian pool or New South Wales or if they are going to go stand-alone, they have to get up to \$1 billion to survive. The other reason for keeping the licence here was to ensure the continuation of the significant input to the State's economy of the business conducted through TOTE Tasmania which generates some 60 per cent of the combined impact of the Tasmanian racing industry in terms of gross domestic product. The wagering side of it is a major contributor to the impact on the economy.

To provide a business relationship that will allow one body to negotiate both sides of the demand and supply of the Tasmanian wagering and racing with domestic and

international wagering operators to maximise the level of product being paid for wagering in the Tasmanian racing product. Important in that is maintaining the radio network because some 40 per cent of wagering business is driven by the availability of the racing on a radio outlet. It is not just talking about selling TOTE Tasmania, there is also a network of radio stations which lose about, I am not sure what the wage figures are, but around \$500 000 which currently gets absorbed by TOTE Tasmania. So if the TOTE licence went, who takes the radio stations over? Certainly Tasracing has no capacity to fund that sort of loss.

I say this is vital - and previous people touched on this. When you go into the international market, you are really in a much more powerful position if you are on a reciprocal basis. If you can buy some product and sell some product, you have a better chance than bureaucracy running around trying to sell its product when it has no capacity and does not even have a home pool. Who is going to pool it if you sell it to Singapore or Macau? Three years into this organisation structure, I am not aware of any public announcement that one contract has been signed and which pool it is going into. As I said earlier, the new wave of impact on a racing industry is the globalisation of the wagering pools. Technology has now been developed, and if you look at any night racing that is on the Sky Channel now out of France, South Africa and Great Britain, they are very, very small to negligible pools and the reason for that is they are not pooling into the Australian pool. Once that happens, and that is rapidly developing, then you are going to get a stratification of the product. They are only going to buy the product that is going to return the best opportunity. If you are not in a major pool then, by definition, you are out.

We need to create a business model that will allow the combined entity to resume a direct funding relationship with the racing industry, to restore the capacity to improve the funding of stakes money and through this, the quality of the racing product to protect the income stream.

At the moment I suspect we are seeing, with the cuts to the prize money for the major races, an attempt to save yourself to glory, and this does not last very long after you run out of savings. What's your next trick? Sooner or later you have to grow the top line, you cannot save yourself to success.

Finally, as a citizen, I think we need to remove the exposure of the public of Tasmania to the funding of an entire racing industry and the risk of owning a gambling company, and do it in a way that places the onus for survival of the industry in the State within its own hands. At the end of the day, if effectively the market has been privatised, if you like, then racing should survive or fall on its ability to produce a product that someone wants to buy. I suspect the impact of the product fee regime that has been endorsed by the Productivity Commission, although it is currently before the courts as to which model, whether they go to percentage of turnover or we stay with gross revenue, is going to be massive rationalisation unless you have a relevant product that someone wants to buy, and the story doesn't look too good. They are my opening comments.

CHAIR - They are very well presented and very well thought out. Your submission has a lot of meat on the bones for the committee to consider.

What you are saying is that the TOTE, before disaggregation, was a good working model that would provide a sustainable long-term viable future for all codes of racing in the future?

Mr CLARKE - Yes. In fact in my view, had it been allowed to continue, I believe we could have gone past South Australia, which was struggling at the time, and still is, with prize money. We are particularly talking about thoroughbreds. We are now faced with a situation where the benchmark racing programs are in provincial Victoria and country Victoria are now going past us and we are stuck with a model that says you are not going to get any real increase for the next four to five years. In the meantime, as I say in the document, somewhere between 39 per cent and 52 per cent of the cost of training horses and dogs is taken up by wages. There is no way in the world that the wages in Australia are going to stay with no increase in real terms. That would be to defy history.

We had a model, and as I say in the introduction, for better or worse - and I am not here to defend the policies of the then Government - the idea was to bring the industry together and put it on its own assets, rationalise those assets, rationalise the administration, create new carnivals - which we did, the Tasmanian Southern Racing Carnival, putting money into the harness and greyhound equivalent carnivals - to drive sport tourism. Sport tourism is being driven by the AFL games - we are going the opposite way, we are deconstructing carnivals and anecdotally people will tell you that whereas people were coming down here when the carnival was run over a weekend, that is no longer happening. As the prize money falls, the quality of horses coming to those carnivals will fall in harness and thoroughbreds; as the quality of those falls so does the status in terms of black tie and therefore the breeding industry suffers.

In 2007, 13 per cent of the contribution of the State economy was coming from tourism that had been generated.

CHAIR - It was generated by racing?

Mr CLARKE - Yes.

CHAIR - Is it 13 per cent of the State economy or 13 per cent of the tourism?

Mr CLARKE - It is 13 per cent of the contribution of the racing industry to GDP coming from tourism.

CHAIR - I see.

Mr CLARKE - And I know that you may get people suggesting two things. One is that the model doesn't work and they will find an example that it doesn't and that is why I argue it is more to do with the strategy and the product that the people are offering rather than a failure in the model itself. The second thing which I cover in there is that I don't think TOTE Tasmania could resume that position of funding now even if we wanted it to because, and I have only got public accounts available to me, its gross margin has dropped by 15 per cent and its commissions have gone up something like 29 per cent I think now of the cost of the racing income so they are rapidly increasing their business by offering rebates and by commissioning on the other side, and that has been successful but they didn't get to the billion dollars. They are stuck in the situation where they are not

big enough to go on their own but I believe it would depend on the amount of business that would be lost if that strategy changed. Provided it didn't fall by more than about a third I suspect that you could reconstruct the situation where they can take over. As I say, there may have to be a holiday on the licence fee for a year or two.

CHAIR - Are you saying that there could be a reaggregation there back to the old model?

Mr CLARKE - I don't know that it necessarily has to be a merged entity. The current arrangement under the new licence in Victoria is more of a joint venture between racing and the Tabcorp holdings to provide the direct link but it doesn't necessarily have to be that. Personally I would prefer a model where it isn't reunited and then you get the advantage of removing the duplication of marketing, finance and all of the other things that people have referred to today but I don't think it is absolutely vital. The advantage of it is to try to get it from sucking funds out of the budget and trying to get it back to where it survives on the quality of the product it produces.

CHAIR - Do you think you could do that potentially by redirecting the \$27 million a year back through TOTE less what TOTE, say, will generate itself to get TOTE viable again?

Mr CLARKE - So you are saying that the Parliament would put the \$27 million in?

CHAIR - I am just wondering, if Parliament were of a mind to reaggregate it and it could but we still have a lot of work to do on this, of course, but it is very interesting what you are saying and you were saying earlier that you felt that it would be difficult to reconstruct TOTE to make it viable again and then you went on to say that you felt that you could if you did certain things so I was just suggesting that perhaps one way might be to take that \$27 million that is provided over the 20-year funding deed and put that back through TOTE minus of course what TOTE currently generates itself and puts back in theoretically.

Mr CLARKE - I think that is the way you would have to go. What I am saying is that on their published accounts, and they only have 2009-10 out, their current capacity to fund the industry in terms of the model that existed at the time of being disaggregated doesn't exist because the top line is 15 per cent less and they have doubled almost to 29 per cent, I think it is, their commission, plus they are paying a \$6.5 million licence fee, so when you put all that together the bottom line produces about a \$9 million pre-tax profit. You can't turn 9 into 27 overnight but you could progressively, in my opinion, bring the 27 down as the new relationship comes up.

CHAIR - As you said, the \$6 million licence fee -

Mr CLARKE - Yes, you might give a holiday on that and forgo dividends and progressively get the budget commitment down, the industry commitment up and get it off the budget. Regarding the \$40 million, prior to this model being broken up we had been provided with something like \$22 million to build new assets around the State, primarily at Elwick. In my opinion, had it been left where it is we would have been able to put that either into an equity injection or it could have been converted to loans and they could have been repaid over a period. Further, the only subsidy that we were getting in 2007 was that we didn't pay a licence fee and that was primarily because we were able to keep ourselves from going under the Gaming Control Act and we weren't paying any taxes. In my

opinion, the model that was created would have had the financial capacity to pick up those costs over time and to treat the \$22 million as either a loan if the Government didn't want to convert it and leave it as equity.

I think it is important that the TOTE licence doesn't get sold. It is called a white-labelled licence which means that it is accepted by major wagering operators around the world; it is not a caravan bookmaker where you're not going to get your money back. It is quite valuable but if it is sold, it is only doing less than 2 per cent of its business on the local product somewhere along within the 20 years, and if you look at the New South Wales licence, for example, the New South Wales TAB has two licence criteria. First of all there is a 99-year licence which obviously is not going to be sold in anyone's life span; the second one is a competitive licence that could be brought in to compete with that the New South Wales TAB could be issued if a government was of a mind to do so.

Once your licence is sold then what obligation has the new licence holder eventually to say, 'I'm not going to take any of that product. The quality is so poor, the amount of wagering is so poor, I don't want to deal with it because you're left with nothing'?

CHAIR - In any event, even if it was sold with the condition that they take the product for a period of time, at some point in time that requirement will no longer exist.

Mr CLARKE - That is right, and not only that, they are going to discount price they pay you because you're asking them to carry a non-performing product as well as the loss on the radio station if you leave that with them.

CHAIR - Do you see then that if TOTE was reaggregated effectively in some form or other and went back to the old model, it could generate more than 2 per cent of its value from local product by improving the local product? At the end of the day that is the essence; the Tasmanian racing industry is not so much about creating TOTE that can generate a profit by selling 98 per cent of its product coming from overseas or from betting on flies running up the wall or something like that, it is actually about maintaining and promoting the Tasmanian industry.

Mr CLARKE - Answering in the negative, at the moment there is no hope of the quality of the product improving, and you have seen that already. I understand that a thoroughbred yearling sale is coming up in 2012. Last year they had more than 300 entries and this year they are down to 150 which means every yearling presented will be accepted, even though it might have crooked legs or whatever but, more importantly, it means that as the quality falls, the involvement of Magic Millions fly, and I can tell you from my involvement in bringing them here that Gerry Harvey didn't want to come to Tasmania. He now owns the company outright. The only reason he came originally was John Singleton's connection with Colin Fitzpatrick in the north and intense lobbying. That is why they came here. If they can't make a decent return out of it, they are not going to stay here and once they go, that is the end of professional companies selling your product. It is also the end of your contacts into Asia so if you want to sell into Asia, Magic Millions is the best company to deal with.

Also they have changed the breeding incentive scheme. For one reason or another we are out of the Victorian scheme which means we are going to have a low-level Tasmanian scheme so for someone like myself who breeds horses you won't sell a horse through a

Victorian trainer with a Tasmanian breeding scheme logo on it. They want the Victorian Voda Scheme, that is what they race for because it is a lot of money.

This will mean that breeders might have to breed more to the mainland standards to keep their product qualified and at worst, this sale will just become a clearing house for a low-level return.

We talk about going to China. The going rate for a yearling in Asia in the market - first of all it has to be a reasonably healthy product - is only \$6 000, and that is 37 per cent below the cost of production without the service fee. We are going into another area, relevant to your question, quality falls but it is worse because the breeding industry suffers. When we look at the figures of 2007, the two areas that economists identified for us for growth in the Tasmanian racing industry were tourism and the breeding industry. The multiplier effect is something like two jobs for every extra job created in the operational side of the industry. If you cannot improve the stakes money above maintaining it at real terms, then it is going to be very difficult for a wagering body to have a product that is of a quality of any substance to sell competitively in a market where it is going to be up against French and English racing. If you go to night racing, that is going to be what you are competing with. Once those countries pool their bets - we pool our bets into their pools, and they are massive pools in France - someone looks at the Tasmanian product, then that is the danger you face, that they will all bet with the French.

I answered the question negatively because if you don't do something about the product's quality and if you don't provide the funding capacity to improve it, not just maintain it - it is like saying to someone, 'Come to work for me and I'm never going to give you a pay rise for the next 20 years'. If you are earning \$50 000 a year now in real terms, you just have to hope that your cost of living doesn't go up more than the CPI. It does in racing because -

CHAIR - You cannot grow the business.

Mr CLARKE - No. Depending on which code you are looking at, 50 per cent of their cost of training is in wages.

CHAIR - Why do you think the decision was made to disaggregate and sell TOTE - they are two ostensibly separate events - what do you know about the background of the disaggregation and the subsequent sale of TOTE?

Mr CLARKE - I think some people got pretty enthusiastic about the model that was set up which was primarily to try to win market share out of Asia with high-volume customers.

CHAIR - That is like the corporate bookmaker-type.

Mr CLARKE - No, the corporate bookmaker is a separate market. I think they probably went after that market as well, which upset most of the racing industry because the corporates were laying off into the same pool and getting a premium for doing so. I suspect some outside consultant probably sat down and multiplied the price earnings ratio and came up with a figure and said, 'We can probably get \$300 million or \$400 million

for this company. Let's shift it off the books'. 'What will do with racing?' 'Oh well, we'll put them on the budget and guarantee they'll never be any worse off'.

I can tell you internally that at the time in 2006, our value as management was worth \$35 million to \$50 million. If I was a buyer on NBO, we wouldn't have offered \$35 million to \$50 million. Someone asked, 'What do you need to buy it?' and I said, 'Come up with \$100 million and you'll probably get it' but I think they thought they were going to get \$200 million to \$300 million-plus and -

CHAIR - The figure was touted a lot higher than that at one stage.

Mr CLARKE - The problem with working those figures out is that unless it stays in the supertab, you have to value it on what happens if you get kicked out of the major pool and what I am saying is that if they gave up the current strategy now, would they lose more than about a third of their business? On my rough figures, if it didn't fall below about \$500 million then I think the model you are talking about could work; it depends how much of that business is price sensitive, and the volume punters are price sensitive - the normal run of the mill punters are not price sensitive. I think Treasury got stars in their eyes and thought, 'Let's shift this off the books'.

CHAIR - So it is all about a grab for cash effectively?

Mr CLARKE - That's my opinion, yes. It certainly wasn't strategic, put it that way. How could it be strategic? What you have done is put a whole industry on the budget. Now how many industries do you know are on the budget for their total existence?. Can you think of one?

CHAIR - It is the thing that has always worried me and I know a lot of people in industry that they have to go to Treasury effectively every year and compete with health and education and everything else for the money that ostensibly they would have got if they had left the model alone.

Mr SHELTON - This is a question to you, Terry, as far as the rest of Australia, the mainland States are concerned, compared to what we do here. The rest of them are on, as you have mentioned, a -

Mr CLARKE - Every other State, except the Northern Territory which has a very modest racing industry, has either a direct link, or like the West Australian model, is combined with the racing industry.

Mr SHELTON - To the betting?

Mr CLARKE - I do not know of any other jurisdiction, apart from the Northern Territory which has a couple of tracks, Darwin and Alice Springs and a few that run once a year, possibly in the globe that has this arrangement. It is just crazy. The public of Tasmania are not required to fund. All industries have problems. They go through periods, as you have seen with forestry. That is why I say don't set criticism of the model per se because that industry is having a rough time. I notice, for example, the New Zealand one is probably not tracking as well as it might. The model is still the best model, in my

opinion. It offers the best chance of the people who were sitting here before, the stakeholders, getting on and producing the product that the public want to buy.

Having said that, it was mentioned to you to cut the main race for harness racing to \$40 000 this year has taken away the incentive for anyone from the mainland. To cut the Hobart Cup to \$220 000 and to run races for \$70 000 to \$100 000 down here is not going to bring down the thoroughbred calibre because they race for \$70 000 to \$100 000 every Saturday in Melbourne. They are not going to come down here and as the quality of those races fall and they lose their black tie status then even those who would come to get black tie for their fillies are not going to come here. If they do not come the sponsors will not come. I can tell you that the sponsorship of AAMI of the Hobart and Launceston cups is about the crowd that can be generated on the day. It has been deconstructed. The carnival is now spread all over the place and is being moved around to the point where what is the purpose of sponsoring something that does not meet your marketing objectives?

CHAIR - So the stars in Treasury's eyes: did they arise after the disaggregation or did they arise before disaggregation?

Mr CLARKE - I wasn't there so I can only say that probably before. As I said, you have to detach the racing industry from the wagering body otherwise you cannot put any value on it and once you free that up then you get access to and you incorporate a pretty good pool of funds coming through from the top line.

CHAIR - So that was contrived. Do you have a view whether the disaggregation of the industry was based entirely around being able to separate the functions of TOTE off then sell the wagering side off therefore generate some income to Treasury, or was it to do with better governance, as they said at the time?

Mr CLARKE - I believe it was the former. In terms of governance I think you have heard this morning commentary about the governance of the industry. One of the issues you face when you run racing - and this is why I mentioned earlier about the construction of the value chain - traditionally the racing industries grew up around the clubs and the clubs were the people who put on the show and to an extent the TABs came along and provided the prize money. With the breakdown of all the barriers to entry and with pretty much communication and transport et cetera, a lot of those clubs disappeared by the way. I think in the 1950s there were about 55 clubs in Tasmania and now we are down to 15 of which only nine race regularly. This is going to happen even further and like any industry, it has gravitated to a central body to run it. You will always get criticism that the central body is not doing it properly or they do not like hearing no, and so yes, there may have been criticism of the governance of TOTE Tasmania prior to disaggregation because it was doing things which probably did not satisfy some of the people in the clubs and the clubs made a noise about that and so one way or another, criticism.

Mr SHELTON - As we have heard this morning, that has not disappeared.

Mr CLARKE - No, and that is one of the issues. It is a bit like, as I say, the music industry and the banking industry, the power and the daily change has shifted but you have still got to produce enough cash flow coming back from the people who sell or make the

product to produce a good solid product at the end of the day. The world we face is that there is going to be further rationalisation. As I said way back the start, unless you have a good product you are going to get rationalised out of it and become irrelevant. I suspect - as I say, I was not there - that the reasons were driven by the opportunity to fix two problems, with the main one being to sell it and take the money.

Mr SHELTON - Terry, I have heard the comments that were made here this morning about linking the racing industry back with TOTE, but of course the racing industry would not be aware of your information that if you were connected to TOTE at the moment the input or the transfer of dollars would not actually be there and they would still be in a very difficult position right at this very moment because of where TOTE is as well.

Mr CLARKE - The business model that existed in 2006-07 has changed and that is because people were interested in grabbing a quick ready-market share in an arena where under the pooling rules you were not allowed to discount or rebate, but eventually those TABs like New South Wales and Victoria and Queensland were rebating. They have come around to the understanding that if you have a volume customer then it is not inappropriate to give some recognition to that customer's business giving you consistent volume. As I look at the published accounts today, I agree with what you are saying. You could not just say we are going to go from \$27 million, put it all back together as though it did not happen in 2007. No, I agree with the Chairman. You would look at phasing it in over a period of time with the objective of eventually removing it from the budget completely. Governments always have the opportunity, even in those circumstances, to provide assistance to industries if they want to but there should be some quid pro quo for that in terms of some benefit to the community, whether it be more employment, or exports, and so forth. I think one of the sad things that came out of this is that first of all, clubs I suspect under the new governance arrangements post disaggregation got to the point where they were allowed to convince Tasracing to disaggregate the Summer Carnival, for example, and moving on to Thursday night. There was no business case for those lights to be put on up there at Mowbray. That was responding to so-called filling a gap to sell the product to Asia. But they have had the lights for three years. I look at these figures. As you will see in my paper, I just don't believe that on a going rate for overseas sales of 3 per cent, that is all you are getting. That is the world standard - not 10, not 15 but 3 - and under the current arrangement with Sky Channel, which is now in a position where the Productivity Commission has asked the ACCC to look at it, owned by a wagering business but controlling the vision rights for pretty well the entire racing industry, it takes 50 per cent. So if you go to Singapore and get them to take your racing, leaving aside the fact that you need a deep pool, they take half of what you get. So if you look at these figures, they have to sell \$135 million worth of turnover by 2015-16. This year they have to sell \$40 million. I am not aware they are selling any. They may be, but I am not aware of it. If you believe they are going to get 10 per cent product fee for domestic, that means they are going to sell more overseas than domestic. That is great as long as the pools are so deep that that punter overseas says, 'I've got to be into this'. I do not believe that. If you look at this cash flow. Tasracing has been put into this position, those people who run it, and then criticised for running it the way they do. They have no choice. They have been given a model. It is a leaking boat and sooner or later it is going to founder, it is going to go under. Regarding the base that was built, a study that I had done in 2007 suggested in excess of 5 000 people, full-time equivalent positions, most of it in the regional areas. We are probably going to shed more jobs than forestry but we do not get anything on the

front page about that. Those figures that I have suggest that between 1985 and 2007 that number grew by 33 per cent, probably most it in the period from 1999-2000 onwards.

In 1998 the industry was a basket case. It was getting \$9.8 million a year stakes money and really it was going nowhere, and the same stories you are hearing now from this side of the table were going. That is why the Government then created the committee I sat on with Kent and David Peters to look at whether there was a better model, which led to the aggregation. From where I sit in the industry one of the disappointing aspects was that the last thing we were to look at was the breeding industry and we were about to start on how we can drive the growth of the breeding industry because it probably offers a better multiplier than the wagering side of the business. It is rural based, semi skilled.

CHAIR - It would be a bit hard to see how TOTE, or Tasracing, could be involved in selling horses.

Mr CLARKE - They wouldn't be but like any administration, they could create the environment in which the industry would prosper. No, they do not get involved. That is why you had the Magic Millions here. You produce the product; they find the market. We sit a lower market of four million people and it is only nine hours to bring a horse to a stud in Tasmania, which is quicker than going to the valley. What we should have been doing is pursuing the major studs, the Arrowfields, the Darleys, the Kilmores, and these sort of people to come here and we could identify a property and start a trickle-down effect to the local product so that eventually you could drag the product up. That to a certain extent is driven by the stakes money in a race pool. A lot of people come into racing not to make a profit but they do like to get a reasonable coverage of their costs. That is why people will often tell you that stakes money is the main driver in the racing industry. People go out and try to get a return on their investment through what they race for.

CHAIR - Are you done, Terry?

Mr CLARKE - Yes, it is all in the paper there and I have tried to identify the major issues.

CHAIR - I think you have done a very good job and I encourage you to have a look at the transcript when it comes out. If there is anything you want to provide to the committee, please feel free to do so.

I will just remind about the privilege aspects. You are well aware of those matters but just do not go out and repeat what you have said necessarily to the media. Just refer them to what you have said in here.

Mr CLARKE - I am aware of those issues.

CHAIR - I appreciate very much your frankness. Thanks very much.

THE WITNESS WITHDREW.