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## **TRANSCRIPT OF PROCEEDINGS**

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**THE HONOURABLE MARGARET WHITE AO, Commissioner**

**MR JC BELL QC, Counsel Assisting**

**MR T PINCUS, Counsel Assisting**

**IN THE MATTER OF THE COMMISSIONS OF INQUIRY ACT 1950**

**COMMISSIONS OF INQUIRY ORDER (No. 1) 2013**

**QUEENSLAND RACING COMMISSION OF INQUIRY**

**BRISBANE**

**11.00 AM, FRIDAY, 4 OCTOBER 2013**

**Continued from 3.10.13**

**DAY 13**

**WARNING:** The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

**THE COMMISSION RESUMED**

[11.00 am]

5 COMMISSIONER WHITE: Mr Bell.

MR BELL: Thank you, Commissioner. The next witness in the public hearing is Mr Andrew Fraser. May I call him now, please.

10 COMMISSIONER WHITE: Yes, Mr Bell.

**ANDREW PETER FRASER, AFFIRMED**

[11.01 am]

15 **EXAMINATION BY MR BELL**

MR BELL: Mr Fraser, your full name is Andrew Fraser?---Andrew Peter Fraser.

20 Andrew Peter Fraser. And, Mr Fraser, you have provided two statements on oath to the commission, the first sworn the 5<sup>th</sup> of August 2013, and the second was sworn on the 2<sup>nd</sup> of September 2013?---That's correct.

25 And from your statement I glean that you were Minister responsible for racing between the 13<sup>th</sup> of September 2006 and the 26<sup>th</sup> of March 2009?---That's correct.

30 In that time, from the 13<sup>th</sup> of September 2007 to the 26<sup>th</sup> of March 2009, that was in your role as treasurer because the Office of Liquor, Gaming and Racing came under treasury?---That's correct.

And after that time in 2009, racing – I should say the Office of Liquor, Gaming and Racing became part of DEEDI?---Correct.

35 Mr Fraser, would you mind looking at your statement, please - - -?---Sure.

- - - which is the first statement you provided to the commission. I'll get a copy for you now. I was going to ask you to go to paragraph 21, please?---Yes.

40 And importantly, in 21 your evidence is that commencing in the portfolio in September 2006, your understanding was that the racing industry had historically been club-centric model which significant – “with significant government involvement, including with respect to appointments to leadership positions. However, the industry was in transition away from that model to a more ‘industry-led’ model.” I just want to talk about that piece a little. Just if you don't  
45 mind going back up to the prior paragraph, please, paragraph 20. I have noted that what you've said in the last line of page 7 as part of paragraph 20 – you say, “Mr Bentley was essentially acting as an executive chairman in the case of

thoroughbred racing.” And you say about three lines down – you refer to “the active engagement of their board members”. I’m thinking from those passages your understanding was that the racing industry was transforming from that government-directed model to the industry-directed model?---Yes.

5

And in particular about that, during your period when you had association with the racing office because of your ministry, it seems as if Mr Bentley, for example, on Queensland Racing, remained as chairman throughout?---He did.

10 And, indeed, although some directors rotated off or did not win re-election, it seems that otherwise the board was very consistent?---It was during my time.

And in relation to harness, the harness control body, was the situation the same, or didn’t you have as much knowledge of it?---I think there was some change, but I’d –  
15 to be honest, I’d have to go and have a look at the documents, Mr Bell.

Okay. And greyhound?---I recall that there was a change in the chairmanship while I was greyhound – while I was the Minister responsible.

20 The commission knows that how the directors of Queensland Racing came about seems to have been from 2002 when there was a process undertaken for appointment to what was then the board, and they remained in place before your time as Minister in 2006 because of the acceptance as the control body for thoroughbreds having those directors on its board?---Yes.

25

You know what I mean?---Yes.

Okay. Now, in 2004, two people were appointed to the board of Queensland Racing, and I appreciate you weren’t involved at that time. One was Mr Andrews, who, it  
30 seems, was unsuccessful in attempt to get re-elected in 2009, but the other was Mr Bill Ludwig. Do you know Mr Bill Ludwig?---I do.

And do you know why he was on the board of Queensland Racing? And I say why in terms of your appreciation that it was an industry-led model?---I understood that  
35 his pre-appointment – his appointed predated my appointment, and that had gone through a process at that time, but I don’t have a first-hand knowledge of it.

Okay. That’s fine. But Mr Ludwig and others, not just Mr Ludwig – I’m asking you – if your appreciation was that the model that was being undertaken and continued  
40 during your time was industry-led, I’m thinking that that means that the directors have some representative capacity of the industry. Is that how you saw industry-led?---I think when I say industry-led, I mean that the industry had to take responsibility for its own decisions, and so that there may well be people on the board who didn’t have a specific background in the racing industry but who brought  
45 something to the table, and the same in general terms around the whole of the industry.

Yes. Well, “take responsibility for” must include responsibility for the board’s decisions. Is that what you mean? So industry would take responsibility for the board of its code’s decisions?---When I’m saying industry-led, that – I suppose I contrast it with a time when the Minister of the day might set the racing schedule, as  
5 opposed to a corporate entity with its own system taking responsibility for making those decisions.

Well, to be more precise in my question – it was loose. What I’m focusing upon – an important matter for the industry. If one is anticipating a different model from the  
10 government model or a government model which was historical to an industry-led model, my impression is that the industry would have some say in who were its leaders or representatives. Would you agree with that?---What I would say at that time was that, as I understood it – and this predates my time, and so I’d have to check it – was that there was industry representatives on a selection panel to select  
15 the two directors you’re talking about. But I don’t even think I was in the Parliament, let alone a Minister, at that time.

No. That’s right. But what happened was you were in the Parliament, indeed in cabinet, at a time when questions about who should be directors, who should  
20 be - - -?---Of course.

- - - the leaders of the industry when the amalgamation occurred in 2010 – and I’m asking you that and also asking for your help about the future of the industry?---Sure.

Because one of the big issues that the commission confronts is that at least some of the members of the control bodies, in particular one – Mr Bentley – advanced a proposition that the directors should not come from the industry, certainly not have an association with the clubs. You know what I mean. And it’s hard to see what you mean when you believed it was industry-led model, because you’re talking about the  
25 control of the industry. You’re not talking about who’s in it. So industry-led model means who’s running it, doesn’t it?---So – so the difference is that the industry would be making those – those decisions, not the government making the - - -?---  
30

Understood. Okay?--- - - - day-to-day decisions about operating the industry.  
35

So my questioning, then, is with respect to the word “industry”. And that must mean that you have in mind the industry having some say in who’s going to make the decisions?---Well, there’s a whole range of decisions. Are you just talking specifically about the selection of directors?  
40

Well, I’m talking about what you were talking about in paragraph 21. Let me read it to you specifically: “My understanding was that the racing industry had historically been a club-centric model with significant government involvement, including with respect to appointments to leadership positions. However, the industry was in  
45 transition away from that model to a more industry-led model.” You know what I mean by that. Could you help me with that?---I’m not entirely sure the point that you’re asking me to elaborate on.

Okay. Here's my point. I thought that the point you were making was historically the government would appoint the directors or the people on the board who would be controlling, say, for example, thoroughbreds?---I think I understand your point. No. I'm talking more about the – the long history that the – the Minister of the day, and what was sometimes colloquially referred to as the old Hinze days, might have tremendous say from the Minister's desk about any manner or sweep of things and moving to a model where the industry had the leadership position on that, that the operational decisions were a matter for industry. So I would no more set a race date, for instance, than I would pick the date for the Broncos to kick off the season for the NRL.

The – we've got to go to this, and I'll come back to it. But I'm taking it, then, that what you believed, certainly during your term as Minister responsible for racing, was that those companies that were the control bodies would make all decisions in relation to that control?---They certainly had responsibility for that, but they were regulated as well by Office of Racing.

Okay. Now, when the time came to determine who would be the people sitting on the board for the amalgamated body, did the government play a role in that?---It did. The proposition it put to industry was that it sought industry's agreement on both the structure and agreement on who would populate that body, and then anticipated that into the future that would change. So the – the ask of the government at that point was the people who could be on the board who'd be able to take responsibility for the breadth of the industry.

Well, you said then "industry involvement", meaning – I think you mean you wanted the view before the 1<sup>st</sup> of July 2010 of the industry as to who should be on it – on the board. Is that what you were meaning?---We certainly asked the leadership of the three codes to provide agreement and for them to stand up and be the nominees to take that forward.

Well, that's a different thing, is it not? That's like saying to, for example, Mr Bentley, "Will you be chairman? You're already chairman; would you be chairman?" "Yes, please"?---The government was asking all the codes to agree to that - - -

Yes?--- - - - and certainly, we anticipated that that would change into the future.

Well, let me tell you what I mean. Indeed, there was – and we'll come back to the detail in a minute, because I must take you there. Indeed, there was a meeting of three chairmen with the three CEOs, and one of the persons at that meeting – you weren't there; Mr Kelly from the Office of Racing was there – anticipated that there might be a problem, because if you had the chairman of the thoroughbred racing as chairman of the new body, there might be a bias in his decision-making. And he suggested an independent chairman, but he was howled down by Mr Bentley in the meeting. You know what I mean. And no support, it would seem, came from the government for a concept that might involve having the industry, a bit more widely

than Mr Bentley, for example, having a say in who should be on that board. That's what I'm getting at?---Sure. The government definitely saw that the seven people who would be directors would be obliged under the corporations law to act in the best interests of all three codes together and that without the agreement of the incumbent leadership of the three codes, the whole endeavour would never have taken the first step.

See, that sounds like a motherhood statement. Have you got any comment on that?---I'm not sure what you mean by that.

Well, motherhood means it's just a statement to make everybody feel good but it doesn't mean anything, and I'll tell you why I'm saying that. Indeed, what happened was five of the directors were from thoroughbreds and one each from the other two codes?---Yes.

The first major task was to formulate a plan for development of an infrastructure – upgrades for the three codes of racing. As soon as the plan was developed, the two minor codes, it seems, had no say in that development. It was already going to government – already going to you – including you – without them even knowing about it, and then it ends up in litigation. Both the minor codes take steps to litigate what had been decided, and they got no support from the government. You see what I mean. The problem – a problem with the idea of making a motherhood statement – “We won't have an independent chairman; we'll have Mr Bentley chairman, and the other four directors that have been on Thoroughbred since 2004,” in three or four cases – in three cases. It just makes it problematical, as it turned out?---Well, as I said, the government considered that those people who would be directors ultimately would have to act in the interests of the whole industry. And certainly when those issues came to pass, the government had a role in approving that plan.

The funny thing, you see, is you say “had to”, but when complaints arose how does a government enforce it? Because you see, what the government says on the one hand is, “This is a corporation. The directors vote on the way the business is run. We don't have any say in that.” In fact, that's exactly what happened, because you too received complaints and wrote back saying, “Don't ask us; that's a corporation.” You see what I mean?---Sure.

So I'm wondering what you were thinking – you particularly were thinking, as you were influential – what you were thinking in advancing the case for an industry-led model when they had no say – the industry had no say?---Well, I suppose what I'm talking about is that when we were in that change process, the three codes were represented and they were agreeing amongst themselves who they would be. So that was the industry involvement.

Okay. So I do understand that. You see, what that means is – I understand the sense of it. What that means is you would – the government assumed that the three chairmen, one from each code, and the three CEOs, one from each code, were representative of the industry's view about, for example, thoroughbreds having five

seats and the others having one?---We certainly took the views of all of the industry participants in that process.

5 The way I've said, but – that's the way it was done, was it? There was no going out to the public or to the industry and saying, "Well, what do you think," was there?---No. There wasn't.

10 In fact, it was kept – I can tell you if you want. There's lot of documents that tend to indicate that the Office of Racing was saying, "Don't go out and consult the industry. It's a bad idea," and that was Mr Bentley's line all the time, you see. He was saying, "Don't go to industry. They're all – it's all going to end up as it did historically, in vested interests voting for nothing all the time, unless it suited their club" – that sort of line. You know what I mean?---I suppose the thing I would add for context is my  
15 experience in local government amalgamations and that was, on occasions for government to achieve reforms, that's necessary. And certainly my own view was that after achievement of amalgamation that there was ripe for a move to change the directors of the board into the future. But it was seen as necessary to achieve the reforms.

20 See – and I hear you loud and clear – the problem seems to have been that what happened was that people – I'm using Mr Bentley a lot I know but that's only because he was chairman and that he, as you said in your statement, obviously was a strong and powerful influence. The problem seems to have been that Mr Bentley was first placed at the chair of the thoroughbred control body in 2002 and he didn't  
25 face any elections all the way through and it occurred when the government changed in 2012 that he was to resign. It's a long time, I'd suggest to you. Would you agree with that?---I do accept that.

30 Not only that – an important question for the commission. Looking at the history of racing there's something of real substance in what you say about it being – it should be led or we should try a model of having it led by the industry rather than the government. Because every time there's a government change there's a royal commission into it or a commission. There's a change of personnel, exactly what's happened just now and exactly what happened after the National Party government  
35 was removed. You know what I mean. It's not a good idea, one would think. Do you agree with that?---Not a good idea to have royal commissions?

No. Not a good idea to have the government linked with the people who are running the industry because as soon as the government changes they all change too?---Sure.  
40 And certainly at the time that this was being proposed it was my view that the best model into the future would be for an independent skills-based board.

45 Yes. The other question of interest to the commission, Mr Fraser, that I know that you were conscious of was that Mr Bentley was on the board of Tattersalls too?---Yes.

And there was a relationship between the two that was regulated by an agreement that you may have read about has come under question. But as the Race Fields Legislation issue arose that you mentioned in the statement, an issue seems to have arisen with the board of Queensland Racing and then Product Co about that relationship and who should be doing what, in money terms – significant money terms. And one proposition that I'd ask for your help with is the proposition that how could it ever work to have the chairman of the amalgamated body be a director of Tatts coming up 2014 when the most significant renegotiation of their relationship is about to happen. Do you know what I mean? That would make it difficult, don't you think?---I certainly saw that at the time, I think Mr Bentley advanced a proposition to be appointed til 2023 or some other time and the cabinet took a decision, not me alone, that we would endorse a term that aligned with the new product agreement. Because I certainly saw that for a reset in the industry.

Well, that would mean – see, that's my point. That would mean that the government saw it as sensible that Mr Bentley be on both boards for the renegotiation?---I'm not sure we turned our mind to that.

I beg your pardon?---I'm not sure we turned our mind to that.

No, okay that's fine. But looking back on it now it doesn't seem like a sensible thing because look, standing from the point of view of somebody trying to be independent and objective looking at sensible decision making going forward it looks like to have a chairman of the three codes of racing also be a chairman of Tattersalls when you've got a big negotiation coming, it just doesn't look right, does it?---Well, I'm not sure that, that was my decision alone.

No, no. I'm not blaming you. I'm asking you for help, you know. If you had taken it into account it would be a valid factor?---I certainly take your point. I suppose I can only reiterate mine that I thought that the opportunity for the industry to finally be free of its – the general malaise that you were talking about – was for a reset at the time. Where they could move past the argument of 19.2 per cent versus 18.7 per cent in the product agreement.

The incredible temptation in looking at the evidence over the relevant period for the commission, that is the 1<sup>st</sup> January 2007 until Mr Bentley and the other directors – until the election effectively – it's a bit longer than that – is that powerful people like him, like Mr Bentley, had a lot of sway with the government. And that's where the power really was that he held over the industry cos he had real power, it would seem. Do you accept that?---I don't accept that.

Okay. What about Mr Ludwig? Did he have any power with the government – your government, I mean? The government you were in, I should say?---I don't think it's any secret that Mr Ludwig had a significant role in the party but I think that's a different concept from power.



Could you explain that for me please? The difference I mean that you're making?---Mr Ludwig was not an elected member of the government.

5 Yes, I know that. In fact, one question that arises in my mind is having had him give evidence at the public hearings, why would anybody think that his background was good for racing? Him – there's other questions about other people but let's just focus on him for the moment?---I didn't have a role to play in Mr Ludwig's appointment.

10 No, I know you didn't but you did have a role in the fact that he stayed on for the amalgamated body in 2010?---Yes - - -

As one of the participants. I'm not blaming you. Don't get me wrong?---Sure. And as I said that was because the government wanted the industry's agreement.

15 And we're back to that – industry's agreement. Who do we mean – the three chairman, Bentley and Lette?---The three boards.

20 I see. Well, the three boards weren't there – the three chairmen were there. One was arguing for an independent – I'm just telling you this. You weren't there?---Sure.

25 But one was saying, "We should have an independent chairman here" and it was howled down by Mr Bentley. So that sort of got wiped off the chart. It makes it a bit difficult too, doesn't it, when you've got a powerful person who looks like he's got the ear of the Office of Racing, with racing. It's hard for anybody to do anything?---I find it hard to speculate on a meeting that I wasn't at.

30 Okay. Well, try this then? Mr Ludwig seems to have been on the board of thoroughbred racing and then the amalgamated board from 2004 to 2012 and during that time, at least from the commission's point of view, questions arose about his integrity. And you know what I'm talking about. And the difficulty with that and why I must take you through it is it doesn't look like anybody undertook any investigation about it. That's an unusual thing I would suggest to you?---Well, when it came to my attention I referred it, as I'm sure you've seen in material, off to the CMC and then I caused it to be - - -

35 And what did they say back to you?---Well, they replied to Mr Bradley who did that and they said that they didn't feel that they had jurisdiction.

40 Okay. What happened then?---And then Mr Bradley sought to refer it to ASIC.

What did they say?---They spent some months looking into the matter and they said that there were matters that were within their jurisdiction but chose not to pursue it and that there were matters outside of their jurisdiction.

45 Yeah, in fact they said, didn't they – we'll go to the document in a minute, I assure you. They said, didn't they, that, "we're not saying there hasn't been misconduct.

It's just not misconduct under the Corporations Act that we can deal with", in effect?---Yes.

5 And then nothing happened. Why would nothing happen with that man? Is there something about it – the fact that it was him?---No. I, at that time, received advice from the department which I had asked for that was supported with legal advice from Mr Dunphy which gave me my options and I, at the time, took a decision relying in particular on Mr Dunphy as a pre-eminent public lawyer in the State providing me with my options. And I would say that a benefit of being clear about it that, that  
10 advice was – my actions were in lock step with that advice and that was that I could quash the whole enterprise of extending the constitution on the basis of substantive grounds. That the procedural issue wasn't, if you like, bulletproof enough for me to rely on that. But I have to say it was a happy coincidence that by making that decision it was a clear repudiation to Mr Bentley and Mr Ludwig. I expected them to  
15 take it as much. I think the industry saw it as such and that subsequently was what I understood to be the case.

Well, in fact, what you say is part of the story. Let me tell you what I mean. Indeed, by happy coincidence, what your action did was create an end to the story such that  
20 Mr Ludwig's alleged misconduct got no airing. It was never aired, you see. That's the point that we must investigate in the commission, and why the government didn't play a role in making sure that happened. And one tends to conclude, unless there's some evidence or some help forthcoming, that that's because it was Mr Ludwig and he had political associations. That's what the community might think?---Well, I  
25 don't think that was Mr Ludwig's view, from what I was led to believe at the time.

Well, we don't care about his view?---Sure.

30 We care about the fair view, the right view - - -?---Sure.

- - - of course, don't we?---So I certainly was very conscious – and the decision that I was making was going to be eminently challengeable from both sides of the equation, and therefore I took great care to ensure that I took advice on the matter, that I looked at the legal advice from Mr Dunphy, that I saw my options and made  
35 the decision based on that, fully expecting either – someone who disagreed with the decision, whatever it would be, would likely challenge it into the future, but I - - -

But that's not what - - -?---But I want to make the point, Mr Bell.

40 Yes?---I've obviously looked at that briefing in preparation for this, and it is fair to say that I think the public interest would have been served if advice had come from the Office of Racing providing further options.

45 Yes. Okay. Well, because you're sitting in the seat now, I've got to ask you questions - - -?---Sure.

- - - about your role, and I understand your point. The point, I think, that's important to investigate is the fact that you appropriately referred it to CMC, and you could not have, I fully understand, appreciated the breadth of its jurisdiction before you referred it, so that I see the motivation?---I understood that CMC - - -

5

Perfectly sensible?---- - - was contemplated in the Racing Act.

I beg your pardon?---I understood that the CMC's jurisdiction was contemplated in the Racing Act.

10

Yes. Okay. But anyway, they came back and gave a clear answer, and you may not have seen their letter, but their letter tended to suggest that the jurisdiction was with the Office of Racing under the Racing Act. But whether or not you saw it, I am sure you won't remember now. But the big point is then it goes to ASIC, and they say what I said to you before. And the solution that was the one that you took wasn't really Mr Dunphy's proposition. What he said to you was that you can't accept – his advice, his legal advice, was only about whether or not you could accept part of the proposal for change to the constitution and not all of it. He wasn't advising that there was no misconduct by Mr Ludwig or that you shouldn't have it investigated. He didn't entertain anything like that, did he?---Well, I certainly asked of the department for full advice and expected that, in receiving that advice from Mr Dunphy, that I was well advised.

15

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Well, Mr Dunphy, I can tell you, if you can read, doesn't talk about it at all. Okay? So we'll go and look at that. We've got to look at that together, but his advice was about the proposition and only the proposition: "Can I accept these directors having another five years without election but not accept another part of their proposition, and that is, get rid of the idea of having an independent person to shortlist the applicants for new directorship?" That was the question he addressed. What I'm interested in is just pushing this over here because that's all beautiful technical legal stuff that's not very interesting. The part I'm interested in investigating is the fact that you played a role in Mr Ludwig's alleged misconduct never getting investigated and him remaining on a board controlling the industry. You see what I mean?---Well, I can only repeat what I said, and that is that I asked of the department for what my options were. I think in the documents it shows that they provided me that advice early on, and I said that the investigation needed to take its course.

40

Nobody could understand better than me what you've said in your affidavit and what you've just said?---Sure.

I understand?---Yep.

You're a Minister. You've got a thousand things on. I don't - - -?---Sure.

45

- - - take away from that at all. But surely, as the person at the top, in respect of this question you must play some role?---It was my decision to make, and I recall that I'd been overseas for the two weeks prior on a Queensland treasury roadshow at the

5 height of the global financial crisis, that I landed one day and flew to Cairns the next for the regional Parliament and was handed a copy of the advice. I don't think I had a long time to consider it, and certainly I thought at the time I was acting, it was very good advice from Mr Dunphy, and in the course of the last couple of weeks, I've had to review that, and I would readily concede that in the end, the public interest would likely have been served if other advice was included in that briefing note to me that recommended a different course of action in addition.

10 Well, that's saying, Mr Fraser, that "As Minister for racing at that time, I hold the people below me fully responsible for not advising me." My question was different. It was about another thing. My question was about the man at the top, yes, who's busy. I totally recognise that?---Sure.

15 Appreciating what we had – and had been going on for some time – was assertions by people within the industry that Mr Ludwig had misconducted himself in the sense of denying them a vote, and what happened was when it went to the top, namely, to you, nothing happened about his misconduct. Forget about all the legal jargon and the constitution, but what about a man who's doing that sort of thing, denying people a vote? Pretty important, is it?---Well, I relied heavily on what you called the legal jargon. I was very conscious, in making my decision, that I was going to be kicking sand in their face and that it was very likely that it would be reviewed.

25 That's amazing, because that would look to some people in the public, I respectfully suggest to you, like you grabbed onto the legal reason to reject the proposition for the constitutional change, thereby sidestepping the real issue of integrity that had been the real issue of complaint that had come to you personally, that you'd been addressing with the help of the department?---I considered in this occasion that I was making a decision and I needed to be well advised legally.

30 Okay. Well, you're just batting me back. You're not really giving me an answer, I'm suggesting to you?---I can only give you –I can only give you what I said at the time.

35 Okay. So I take it now, then, from what you're saying, is having the time again, you reflect that it could have been done in a different way, such that Mr Ludwig's conduct was at least investigated, but that didn't happen at the time?---Certainly if - - -

40 That's how I'm taking your evidence. Is that right?---Certainly if the briefing to me had have included further options about what might likely to be able to be done, then I would like to think that I would have taken those options.

45 Okay. So let me just see if I can get this question right for you, then. The fact that the people below you did not put in the briefing paper "we haven't yet dealt with Mr Ludwig's alleged misconduct" is your reason for not dealing with Mr Ludwig's misconduct or at least asking somebody else to do it?---I thought in – what was before me was a brief that recommended a course of action.

So you're saying yes to me, aren't you?---Can you repeat the question?

5 Yes, I will. I'm understanding your answer to say, "Had there been different advice from the people below me as to what should happen, I would have done something differently, and it's because of the fact that it wasn't in there - - -"?---Yes.

"- - - to investigate Ludwig - - -"?---Yes.

10 "- - - I didn't do it." My question to you is all the time leading up to this, it was Ludwig's misconduct that was being brought into question – his integrity. Now, it's not different to see, even for a busy treasurer, which I totally respect – it's not difficult to see that there's tension about his integrity. Nothing to do with constitutional changes. Now, that's important to people in the community, is it not?---Sure, and so I took Mr Dunphy's advice to deal with that in - - -

15 Had nothing to do with it, Mr Fraser. It had nothing to do with it. I'll show you?---I took Mr Dunphy's advice on the process issue.

20 You can keep saying that, but that's not any answer to my question. Let me show you. Dunphy's advice had to do with the constitution and whether or not you could accept one of the two points they were asking for. You can keep saying it, but I'm going to conclude at the end you're not going to answer my question. My question is about integrity getting investigated. Now, was it because it was Mr Ludwig that you didn't want to investigate it?---No.

25 You're sure about that?---Positive.

Were you under any pressure not to investigate it?---No.

30 Mr Ludwig was an important man in the Labor party, was he?---He was.

35 And did that influence your judgment in any way?---I can't deny that that was certainly known to me at the time. Everyone knew that, but it didn't influence my decision. And, in fact, the ultimate I made – I was very careful to follow the letter of that advice, which you're saying I was not entitled to do - - -

No. I'm not saying that?---- - - because precisely it was Mr Ludwig.

40 Don't take me – I'm not saying that. I'm not saying you're not entitled to take the advice?---Yep.

I just thought when the – when somebody in your position who's been elected to that position - - -?---Sure.

45 - - - to be the Minister of racing and knows that there's a man who's on the board whose integrity has been brought into question by people in the industry who had a vote but didn't get it, I thought you would still have an antenna that would say, "Hey,

hold on. I sent it to CMC. They didn't have jurisdiction. I sent it ASIC. They said there's misconduct, but they didn't investigate it because it wasn't under the Act. I should do something about it." That's my point?---Sure, and I've conceded that if the briefing to me had have included those further options - - -

5

Okay. So you're back to just blaming the people below you. You're not going to take any responsibility?---I said before that I would have, if there was that advice, liked to think I acted on it. And ultimately, I accept your point.

10 Well, I don't know what you're accepting, really, because the advice has nothing to do with what I'm talking about. I've made that clear to you many times in this little discussion we've had?---I'm talking about the briefing note advice.

Yes. But I'm talking to you about the integrity investigation?---Sure.

15

Let's conclude it. And I'll take you to the detail, but let's conclude it. Are you saying to me about that integrity question you're blaming Bradley and the other people below you for not telling you to cause an investigation as to why you didn't do it, are you?---I'm not seeking to blame. I accept ultimately it was my decision.

20

Well, what are you doing? What are you doing? Are you going to take responsibility for it?---I accept ultimately it was my – I accept ultimately it was my decision.

25 Well, you see, it was. And why did you make that decision? When the man's integrity was in question, why not have it investigated, then? Tell me?---This is the point that I requested of the department. They gave me advice about what my options were and I followed it.

30 Okay. Righto. You don't need to say that again. Now, I can take you to the legislation and you – it's only fair that I do if you don't accept what I'm about to say. It seems that public confidence in those running the industry is one of the aims of the legislation, because it's wagering and betting on racing, and one can understand that as being a sensible approach. Do you agree with that?---Yes.

35

This question – like this question about integrity in the industry – when you've got somebody, whether it be Ludwig or anybody else, whose integrity is brought into question by people in the industry, you'd think that there's only one place that they can go. They can't go to ASIC because it's not about company; it's about integrity. You'd think that if it's something under the Racing Act, the Racing Minister might take note to direct people to sort of investigate it if it comes to their notice. You agree with that?---Yes.

40

45 Mr Carter wrote directly to you and asked you to look into this misconduct. The assertions were clear. Now, what happened was it got bunted back and no investigation happened. That's clear as it is?---As I recall, Mr Carter's letter – he asked me to send it to the CMC and ASIC.

Yes?---And that's precisely what happened.

5 Yes. And then you wrote back or somebody on your behalf wrote back and said, "Jurisdiction. Jurisdiction," and what happened then?---The department furnished me with advice about what my options were and I believed I followed it.

In fact, what he did was he wrote back and said, "Well, if they don't work, what about the police"?---Yes. He did.

10 And it went to the police and the police came back and said, "We've looked at it. There's not sufficient evidence"?---Yes.

15 Still not investigated?---I supposed you'd have to ask the police what they did in that circumstance, but I know that that came back at about the 13<sup>th</sup> of February and I was not the Minister shortly thereafter.

20 What does that mean? You mean because in a couple of days you weren't going to be there, you're not responsible for it?---No, no. Not at all. I don't know whether that matter was subsequently taken up by the Office of Racing to the incoming Minister.

No. It's amazing. It's amazing. Nothing was – isn't that amazing?---Well, I don't have a knowledge of that.

25 Anyway, you do have a knowledge of this: when it came up for discussion in the end of 2009, and not that long afterwards – you talked about February just then – everybody who was in the government at that time voted, "Yes, please. Let's have Ludwig remain on the board for all three codes," without investigating that conduct. That's what happened?---That's a factual statement.

30

Yes. So you know, honestly, this is a question of integrity; it's not a question of politics. I really mean it. I'm just wondering why it was that such a man – or any man, whether it be Bentley or anybody else – it should be that the minister going forward, don't you think, should play a role in actually making the decision one way or the other about integrity questions. "Yes. Investigate that. You must do it," whoever it is?---Yes.

35

You agree with that as a model for government?---Yes.

40 Okay. So I know, Mr Fraser, your vast experience in government now, and I understand from your statement the time that you have been in the Minister role. During that time, it's clear that you must have appreciated directorships on public companies and that sort of thing. Looking back on it, we see that what happened was Mr Bentley and Mr Hanmer remained on the control body as chairman and deputy

45 chairman from 2002 to 2012, and Mr Ludwig came on in 2004 till 2012. None of them faced any elections during that time, and the reason they didn't was because they were able to rely upon the government. That's the long and the short of it. Do

you think that that approach is right for an industry-led industry?---I certainly think that into the future, that there is a very strong case for the directorships of the control body, amalgamated, to change into the future. Yes.

5 And one thing that Mr Dunphy did advise, or at least was in the briefing paper to you – and I’m sure that you have in your mind in researching for today – the constitution required an independent selection panel, in a sense, for replacement of directors over time. Is that the model you think might work going forward, so that we – so that the industry avoids each time there’s an election and a change of government, we have a  
10 change of the leaders of the racing industry? Is that the model you’d suggest, or is there another model you’d suggest?---I certainly think that there’s merit in that.

What else, Mr Fraser, might work? How do you avoid aligning the leadership of the industry with government?---I suppose it used to be my job to come up with those  
15 solutions, but unfortunately it’s not any more.

Okay. So have you got any thoughts now how the - - -?---I certainly – I certainly think that having independent selection panels and basing the criteria on the skills base is absolutely important.

20 And - - -?---I’ve seen that, certainly, in other sporting codes.

Yeah. The skills base – one thing that’s a little bit of a controversy is that – do they need to be people who are alert to the issues in the actual industry from the  
25 background?---I think that’s – you’ve got to have some directors who have that capacity, but I would also think that there is on occasion value in having people who are not from the industry - - -

30 Completely independent?--- - - - because they provide a – if you like, a disruptive influence.

Yes. Yeah. Well, it certainly seems like a lot of public companies, as you know, have independent directors - - -?---Yes.

35 - - - exactly as you’re suggesting, and that probably gives a balance to every decision. That might’ve advanced this amalgamated control body a little better, one would think, or might in the future, even?---Absolutely.

40 Yeah.

COMMISSIONER WHITE: Mr Fraser, does the intrusion of wagering and betting create an impediment to a more independent role for this body?---I’m sorry, Commissioner. What do you mean by intrusion?

45 The notion that the government, at least since the late 19<sup>th</sup> century, has regarded itself as the gatekeeper or the watcher to see that the punting public isn’t fleeced and therefore has assumed, as the decades have passed, a greater and greater role for



itself in protecting that particular area of the public interest. Do you – can you see that perhaps it would be appropriate to completely separate the two so that you don't really need to be involved at all in the commercial side, and keep the integrity functions – you know, the swabbing and the licensing of bookmakers and so on – quite separate?--I think there's a merit in that. My own long-term policy view is that the Federal Government should assume responsibility for regulation of all gambling, because of the rise of technology and the constitutional power that they have, and that is - - -

10 What – under the corporations power, would you think?---Under the old postal and telegraph power, I think, that - - -

That's interesting?---That's how they regulate the NBN, for instance. That because the – the dominant change is technology, and this is something that's now – you know, back in the day it was only ever about the racing industry. Now you can bet on first score at the footy and whether Dave Warner's going to get 100. That the regulation of all gaming should be conducted by the Commonwealth and that the regulatory matters should be done more appropriately at the state level, and that would provide, I think, an ability for overarching integrity in the betting systems.

20 I see. Well, you probably attended many ministerial conferences on – meetings on this topic generally when race fields legislation was first mooted. Was this the flavour that you got out of that?---That was always my view. I think it's fair to say the Commonwealth, certainly at the time, didn't want to take ownership of those matters, despite on many other occasions wanting to reach down into what states generally were responsible for. On this occasion the states were putting to the Commonwealth that they should. I think it's absolutely imperative that in the end the only way you can regulate the technology base of wagering and gambling across all sporting codes is for Commonwealth regulation.

30 And that really will then involve the question of how you redirect the revenue, presumably, because that's the source of revenue for the racing industry?---Precisely, and I think either the Productivity Commission or the ACCC has looked into this matter in the past. I think there's strong merit, from a policy point of view, in pursuing a nationalised model.

All right. Thank you?---Thank you for the opportunity to indulge in what used to be my job.

40 Well, it's a matter of enormous interest to me too, as to how reaches some kind of a resolution of – there are a lot of people at the bottom of the pile, not the glamour people at the top who rely upon a well-conducted industry for their livelihood. And by all accounts it's not a big livelihood for many people?---Of course.

45 And they don't want waste. Right. Thank you. Yes, Mr Bell? Sorry, we had that little discussion.

MR BELL: No, no. Thank you. Thank you. Mr Fraser, I was going to move, if you don't mind, for a moment to what was – what came to be known as the industry infrastructure plan?---Yes.

5 And in particular what I wanted to talk about a little was – we know that in late –  
coming toward late 2009, Mr Bentley was successful in his approach to government  
to share over a period some of the wagering revenue or the purpose of upgrading the  
infrastructure of the industry to obviously create further wagering revenue in the  
future – a sensible proposition. And what happened was that after that – that is in  
10 late 2009 after that was approved as an idea, as a scheme, it was necessary for I think  
the three codes to produce to government a plan. That was – what were the different  
projects, you know what I mean. And I just wanted to talk a little bit about that  
please. Would you be good enough to have a look at Mr Ken Smith's statement. I  
see Kenneth John Smith. Do you have it there?---I'm not sure.

15  
It's in folder number 6 please. And it's at divider 238. I think the proposal – just to  
give you the background – just to remind us both of the background was that the  
concept would be that over a period of four or five years have changed, a share of the  
wagering revenue would be put back into the scheme and with that money over those  
20 years it could fund the projects, so long as the projects were defined sufficiently for  
the government. And now, I was going to ask you to look at Mr Smith's statement at  
paragraph 39 please. I'll just let you read that for a second?---Yes.

25 Do you recall any meetings at about that time? That is, I think he's saying there 18  
August 2010, with those senior members of government et cetera – in relation to the  
plan?---In – in broad sweep.

30 Okay. And just looking at the personnel I see Mr Ludwig there again. Would – do  
you recall him playing a role in bringing government together with those members of  
the control bodies?---I'm sorry? In this meeting?

35 Would he – do you remember him, Mr Ludwig, playing a role in organising these  
meetings between government and the control body representatives?---And the  
thoroughbreds at the time?

Yeah?---Yes.

40 And in those meetings was he an influential person with government?---He was  
usually famously reticent.

Reticent?---Mm.

45 COMMISSIONER WHITE: You mean he was just there?---No. He – well, I think  
you've come to know Mr Bentley and Mr Ludwig over the last little while and Mr  
Bentley definitely took the lead and Mr Ludwig would - - -

MR BELL: Allowed him to take the lead?---Yes.

Okay. In any event - - -

5 COMMISSIONER WHITE: Can I just – before we – you get to your substantial questions, Mr Bell. It just occurred to me when I was reading about these meetings – that’s an extraordinary galaxy of stars to assemble for what is essentially, in government terms, a relatively small sum of money - at that stage \$80 million. And it got the premier, the deputy premier, the treasurer, the minister responsible for racing and a couple of – Mr Bentley and Mr Ludwig and some staff from the premier’s office. That can’t happen too often, surely?---No. The government  
10 generally had the trio of myself, the premier and Mr Lucas. We dealt with a lot of issues together.

15 All right. So you say that’s not unusual to be able to have that kind of pull?---There would have been – no, there was plenty of meetings that would have occurred with the three of us. The three of us were kind of batting order one, two and three I suppose. So we definitely met with a range of people all together.

Thank you.

20 MR BELL: And what about Mr Lawlor?---Oh sorry, I’m talking in general terms so – and with – if the matter was outside of one of our three portfolios, with the line minister, yeah.

25 He’d come too. I see. In any event, it seems as if, if one takes this affidavit at the – this statement at it’s face, there appears to have been a meeting at the premier’s officer on the 18<sup>th</sup> of August. It was about the strategic plan and personnel were there. Would you mind turning to 186 please?---Paragraph at 186?

30 It’s on – no, I’ll get it for you. It’s in folder number 5. It’s document at divider 186. And this seems to be the plan that was being promoted to government by Racing Queensland at about that time - - -

35 UNIDENTIFIED SPEAKER: Can we be a bit more specific because we’ve just been talking about a meeting on the 18<sup>th</sup> of October – I’m sorry, 18<sup>th</sup> of August. And we’re now looking at a document dated the 10<sup>th</sup> of September.

40 MR BELL: So I’ll just repeat my question. At about that time, do you recall this was the plan that was being advanced to government by Racing Queensland?---I recall a plan. I’ve looked at this document in the last couple of days. I don’t have a specific memory of this plan – of this document, that’s all.

45 Anyway, just to alert you to something that I want to ask you about. If you go to 57 – page 57 in the bottom right hand corner of the page please. The relevant part- - -?---My document only goes up to 51.

Does it? Just have a look – if you flick – it might be page 12 on yours, please. It’s headed projects funded from proposed sale of Albion Park?---Oh, yes.

Just have a look at that. The reason I'm showing it to you is that – do you recall that the plan involved a proposal to develop and sell Albion Park?---In its first iteration, yes.

5 And could you go to tab 239 please. I'm hoping to refresh your memory with these references from other people's statements- - -?---Sure.

Because I know how busy you were at the time. On sheet 7, you see under the heading other relevant meetings?---Yeah.

10

You see that? Other relevant meetings - - -

COMMISSIONER WHITE: Page 7 of the affidavit – it's paragraph 49, Mr Fraser?---Yeah.

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MR BELL: Yes. Just above that. Not other relevant matters; other relevant meetings – looking at the top of the page.

COMMISSIONER WHITE: Oh, I beg your pardon, Mr Bell.

20

WITNESS: Yeah.

MR BELL: Okay. Now, what seems to have occurred again is in paragraph 45, he's talking about a second meeting and then you see in 47 he speaks of another meeting that seems to have, at least on his recall, you present?---Mm mm.

25

“I also met with Bradley, the Minister for Racing, Minister Lawlor and the Treasurer on the 14<sup>th</sup> of September. That meeting dealt with two issues being; Treasury's position on providing a guarantee secured by a mortgage over Albion Park to a commercial lender and a separate matter regarding Tabcorp. I'm just interested in Albion Park.” Does that refresh your memory that there was discussions about the proposal for Albion Park?---Yes.

30

And it involved, I believe, the idea of developing it and then selling it off and by that sale funding other development on other parts of the infrastructure throughout Queensland. Do you remember that part?---I remember at the time that what was being proposed – that essentially the government would underwrite the sale, and we kicked that into touch pretty quickly.

35

Okay. But certainly the idea that at that early time was in concrete – and that was that Albion Park would not be available for harness and - - -?---I don't have a - - -

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- - - greyhound?---I don't have a specific recollection of the meeting.

Okay. Well, I'm telling you that at the start, what happened was Bentley and Ludwig – and others who came forward, but it was them at that first meeting – were promoting Albion Park be sold. That's the proposition, and that changed, that is, that

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it be sold changed. And do you recall becoming involved in that change, that is, taking off the table the sale of Albion Park?---I certainly have a recollection of there being discussions about it.

5 Okay. Let me show you Mr Smith's statement, again trying to refresh or hoping to refresh your memory?---Sure.

If you go to paragraph 47 please, Mr Fraser. I'll just let you read 47 and 48. I better let you read that so that you know what I'm talking about?---Yes.

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Mr Seymour: can you recall that he came to meetings with you and others, and he was against the idea of the sale of Albion, and he was critical of Mr Bentley's way of running things and critical of Mr Bentley's proposal to sell Albion because of the code that he was particularly interested in?---Yes.

15

You recall that. And do you recall that that developed to a point where the government – I should say you and the premier made a decision, or others in government made a decision that it was a good idea to take the sale of Albion off the table and change the plan?---Yes, we did.

20

And then the plan did change so that it was off the table to sell it?---Yes.

25 Okay. Now, how does it come about that the government has a say in the running of that part of the industry that's really in a corporate model?---Well, the funding was, of course, government funding, and there was a clear condition on that discussion at the start, when we originally conceived the scheme, that the government would have to approve the plan because the government had longstanding priorities, principally around Magic Millions.

30 Yes. That's all very well, but my point is that a powerful man – I'm going to assume that Mr Seymour was a powerful man, a successful man. He comes to government, not with Mr Bentley and others present, and says, "I don't like this," and it ends up – it goes off the table. Is that the way it works?---I think the driving factor in the background was the government wanted to see money invested in the broad sweep of the racing industry. We'd made the decision to provide the funds, and yet again, the ability to be able to see that investment take place was being mired in industry infighting.

35

40 Yes, yes. But - - ?---So there was a government imperative at the time, wanting to see that investment take place.

I understand the point. I suppose my point is that it's – I'm using this to try and look at the model - - ?---Sure.

45 - - - even though it was infrastructure – the model of an industry-led approach to leadership in the industry. However, a pressure group comes in and says, "We don't like that," and if they've got enough power with government, it doesn't happen. That

was the point of having the model, was it not?---I think what occurred there is that the government saw that issue as being an impediment to any activity taking place. And so relevant here was the broad background of the government's policy program to invest in capital works as a response to the global financial crisis. So on this and many other fronts, we were certainly keen to see the investment take place for broader economic reasons, and because of industry infighting, it simply wasn't taking place.

I think – are you saying, then, that because the government wanted to get the money out into the industry that it had earlier allocated for the industry, in terms of budget, anyway, it wanted to get moving, and therefore, because there was an impediment in infighting, it would hurdle that and make a decision not to go with the sale of Albion Park?---So on this, on LNG, for instance, on Echo Entertainment's proposals, on a whole range of issues, on our own government building program, the government's broad economic strategy was to try and see this investment take place to generate a level of activity in the Queensland economy, which had been smashed.

Yes. But I suppose just coming back – bringing back into focus the decision by government in relation to Albion Park, in trying to test that, it seems that because Mr Seymour had the ability to arrange a meeting with powerful people in government – and maybe not just your government; in the present government, the same – he gets an outcome even though you have the industry model, you see, because the fact that there was infighting about what should happen to Albion Park doesn't necessarily mean the money can't still come. You know what I mean? There's no reason to hold up because of that, but why dictate to the industry-led body what they should do?---Well, it was – it was public funds that were being provided to the industry, and the government had a whole series of priorities and wanted to be satisfied that in the end, the public interest was being served. I understand the point, the particular point you're making about - - -

Yes. That's the particular point I'm making?---- - - the industry model, but I'm asserting to you that the government's mind was, as all governments are, about the – the broader economic circumstances of what we were trying to achieve. To be honest, I don't think the intricacies of the operating model of racing were at the forefront of the government's thinking when it was responding to these matters.

I suppose just to - - ?---I was a treasurer, not a racing Minister.

No. I understand. Focusing right in on the point, then, the fact that there was a dispute over one place: why would that hold up the money going into Mackay and Cairns and the Gold Coast and so on?---Because the government had said that they wanted this to be a complete plan that the industry agreed to, that government would be in a position to sign off and then proceed, and because that wasn't occurring, our economic objective, and in particular the premier's view about the need to invest in Magic Millions, was drifting off, and the premier never appreciated drift.

Well, let's talk about that, because I suppose my point that deserves some questions to you is that while you were Minister for racing, people with less power would write to you and make a complaint about something and would just get batted off on the basis that "Look, it's a company that runs the industry now. Go and see ASIC or something." Do you want me to show you one or two, or you remember that stuff?---No, no. I understand. I understand the point you're making.

Anyway, my point is that, for example, on the Ludwig question again – let me use that – people in the industry came forward, but they don't look like they had enough power to get your ear, whereas Mr Seymour comes forward and he gets a massive move from the government?---I'd have to - - -

Do you know what I mean?---I'd have to say, Mr Bell, that you might be presuming too much of my relationship either with Mr Seymour or Mr Ludwig, but I understand the point that you're making about the industry model.

I did see, or the commission has seen, many letters going back not just from you but from the three Ministers for racing during the relevant period where they make statements like this. This was one that your letter made. I'll show it to you. It's at tab 20, if you want. "QRL is a company limited by guarantee and not an instrument of the Queensland government. Any issues of dispute between QRL and any other entity involved in the synthetic race track project are matters for the parties involved, not the government." That sort of thing. So, you know, one is drawn to test. It depends how much power you've got to what the government's response is going to be. You know what I mean?---I understand your point.

What do you think about that?---Perhaps it's a shortcoming in our system of government generally, and if the commission of inquiry is competent to overcome it, then I for one, as a democrat, will support it.

Well - - -

COMMISSIONER WHITE: I have to say that's probably about the best answer you'll get, Mr Bell - - -

MR BELL: There you go.

COMMISSIONER WHITE: - - - because lobbyists is what you're really perhaps – they're an underlying curse as far as many people are concerned, Mr Fraser?---It's the daily grist of politics, I suppose.

MR BELL: I suppose, in all seriousness for a second - - -?---Of course.

- - - because your view about the model going forward and the right thing for the industry is important to the commission, and in particular, it's important because the test was to see whether the corporate model would work. You know the present government have changed it to a board again. One thing that history shows that the

commission has been investigating is the long history of the industry just seems to be so politically driven all the time, and if one could find a model that would take that away, it would be good for everybody, good for business and good probably for the politicians too?---Undoubtedly.

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You know what I mean. And maybe it's - - -?---I wish you all the very best in that.

Well, maybe it's something you can't avoid because of the point I'm making here?---Sure.

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If you've got little people whinging they want government to do something – and they might have legitimate concerns. But even with the legislation as it is, that is, demanding that the Office of Racing oversight, the Minister oversight, nothing happens unless you're allowed enough voice. You know what I mean?---I certainly think that – I don't – I'm not aware of the detail of what the new government has done, but it seems to me that they've brought it back closer into government, which, to my mind, is only going to invite an exacerbation of these issues. I'd go back to the concept that a truly independent board by an independent – with a nominations committee, if you like. I'm familiar with the NRL model, and I think that that's a good model, where the directors are all independent, they rotate, they're selected by a nominations committee, and the continuing board – once they were first constituted, there's a rolling exit of directors. They can stand for reappointment, but they're reappointed by the continuing directors. And if you like, they almost become the – the trustees of the whole endeavour, which I think suits sporting codes. It ensures you can have the commercial acumen you need as well.

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Yes. One's got to be so careful. The reason I say that is looking as closely as an inquiry does – and that's not what the public does every day, because they're not paid to do it – looking as closely as the inquiry does, when you look at the constitutions you can see if there's a spin on the ball coming from somebody powerful within, and if you look at the constitution as a lawyer you can see how it always works back that they maintain power. You know what I mean. And in this – in the constitution of Queensland Racing, the way it was promoted to government and sold to government in 2006, the final selection of those who would, from a shortlist, become directors, was that panel was to be chaired by the present chairman, Mr Bentley. You see? Rather than an independent person – that just doesn't work, because you can see that his influence, if he's a powerful man – and you need a powerful man in there – he's always going to be calling who's going to be next on the board with him. So to get on there, it's – you've got to be yes, a vote yes in favour, haven't you?---I'm not sure I played a role in the approval of the constitution - - -

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No. You didn't. You didn't in 2006, but certainly it was worse in 2010 because in 2010 the only members of that company were the board. So in asking the question – the commission asks the question well, who were they answerable to? And when somebody from the public complains, saying, "Please, Minister, help," they get the letter back, "No. This is a company. Go and talk to somebody else," and normally



in a corporation we all know that you're answerable to the shareholder and if you don't perform you're gone, but here we have people who never faced elections, like politicians do, and so on. So that's my point. Okay. I wanted to ask you about whether you knew about what appears at tab 115, please. We were talking earlier  
5 about how the government wanted to hear from the three chairs of the three codes about amalgamation, and did not wish to proceed until all three agreed. And if you look at this document, it's a minute that was prepared by Mr Bentley in relation to the minute – the meeting which did occur exactly as you anticipated. And you see there the three chairs as present and otherwise noted as in attendance are Mr Kelly  
10 and Ms Perrett from the Office of Racing, but also the three CEOs of each code. The important point is what happened was at that meeting – if you look down about seven paragraphs, you see a paragraph commencing, "Mr Kelly told the meeting". Have you got that one?---Yes.

15 "...told the meeting that the government was not prepared to release a substantial funding package to the industry unless it was assured that there was adequate and stable industry governance and the funds would be invested commercially to sustain the industry." This all sounds very sensible, but just trying to think how the personnel sitting at the meeting were thinking, it might have been heard as, "You get  
20 no money unless you vote yes." And I'll show you what I mean. If you go over the page, please, to constitutional discussion, you see the third paragraph: "Mr Lette also canvassed the proposition that the new control body should have an independent chairman," and then have a look two down: "Mr Bentley advised that the notion of seeking an independent chairman from outside the industry is a ridiculous  
25 proposition." And then he says, "The racing industry, of necessity, is an animal of its own creation and to the effect that the chairman must be an – must have an in-depth knowledge of the racing industry." I don't know whether you'd accept that either; would you?---The last point?

30 The point that Mr Bentley makes that it's a ridiculous proposition for the reasons he states, that you must have an in-depth knowledge of the industry?---I would not describe it as ridiculous.

35 And the point I wanted to take you to is if you turn over to page 4 – looking at the top you'll see page numbers. The way that the consent was achieved from the two minor codes, it would seem at least from this document, was an indication that all would be rosy for their plans about infrastructure for their two codes. Have you heard of this in your research for coming along and giving evidence today, that this is a point?---I've seen this document.

40 Okay. So you see that that seems to be the case, doesn't it - - -?---Yes.

- - - in there, that a commitment was given, and one can understand that they're much more likely to vote yes to the amalgamation if they've got that assurance.  
45 What happened was – can you recall that, indeed, the chairman of Harness Racing, who became a board of Racing Queensland, eventually came to you, I think, about

the fact that she was about to be squashed because the plan had come out? She hadn't seen it before and the plan did not - - -?---The chair of Harness, you said?

Beg your pardon?---The chair of Harness, you said?

5

COMMISSIONER WHITE: Greyhounds.

MR BELL: I'm sorry – Chair of Greyhound?---Oh, all right.

10 Yeah. Ms Watson - - -?---Yes.

- - - I'm referring to. Do you remember the letter I'm talking about in your research?---No. I don't.

15 Okay. I better show it to you. I'll just get that for you. Sorry, Mr Fraser. Won't be a second. It's at 188, please. Could I show you 127, first, please. I'm sorry to do that, Mr Fraser. I think I was showing you a meeting that occurred in December of the year before this letter, so this is a few weeks later?---Yes.

20 On the 7<sup>th</sup> of January she has been asked for her consent to the amalgamation by the government, and she writes this letter – request of the Office of Racing to you, and in particular she adds the words in the second line “providing the safeguards”. Now, I appreciate that nothing could be further from your mind what they were. Do you recall addressing that ever, as to what somebody had agreed to as a safeguard?---I  
25 don't.

Okay. In any event, what happened, I can tell you, is that the safeguard she was referring to and Harness were referring to were the ones in the minutes - - -?---Sure.

30 - - - we looked at before. And then if you then go to 188, please, Mr Fraser, you'll see at 188 a letter she writes. And I said it was to you. It wasn't. It was to – CCed to the Minister for Racing at that time, Mr Lawlor, and to Mr Kelly. And what happened was she was about to – she was facing a situation where the safeguards she thought she had for the area at Logan for greyhound racing and a share of the value  
35 of Albion was going to be put into it. She had that assurance, she thought, and when Mr Bentley revealed his plan – I say that because none of the board other than Mr Ludwig seem to have known about it. This woman certainly didn't. If you look at this letter on the 30<sup>th</sup> of October, the last – in the first paragraph, the last two lines:  
40 “This document was prepared with no input,” in reference to the plan, and then she says at the foot of the page – you see that she had no problem with the plan, but because she was going to be a one vote for her code, it was valueless to agree unless she had that assurance. Did that ever come to your consciousness, that this is what was unfolding with the amalgamated body?---I remember that the version of the plan that came from the control body didn't have the Logan facility in.  
45

And the fact that when it was revealed, there was stakeholder unrest?---I remember subsequently, in the broadest of terms, but it's fair to say at this time I was in the

middle of the privatisation program of QR National in particular and frankly, Mr Bell, that nearly took me out.

5 Okay. Well, I better not bother you with that. I want to take you then to something that – when you were freer. I promised before that I would, so I will. I wanted to show you this, because it's quite important to understand what happened. Could Mr Fraser see tab 34, please. I think from, hearing you give evidence so far, Mr Fraser, you've done some reading in preparation for giving evidence today?---Some of it.

10 So I'm hoping we can - - -?---There's – I've been given thousands of pages to - - -

Yeah. I know you have?--- - - - to provide waiver of privilege on, so I'm not going to profess to be an aficionado of all that you have before you.

15 Okay. We talked a little about how it was that Queensland Racing was seeking the approval of the Minister, as it turned out, for changes to the constitution in 2008. And the thrust of the changes were a further – what they called initial term for the present directors, and also to delete the idea of the necessity of having an independent person be involved in the selection of a shortlist of the new directors for  
20 the applicants. That was the thrust of the changes. And if I ask you, please, to look at this briefing note. This is a briefing note, 18 July 2008, and you see the purpose of it was to provide advice to the treasurer in relation to proposed amendments that I've referred to. Have you seen this one before, just getting ready?---I – I've seen this. I'm not sure if this is a document that ever came to me, though.

25 No. Okay. In preparing to give evidence, have you had a look at this document? Can you remember?---I think there were a number of iterations around this.

30 Yeah?---I'm not sure if – this one in particular.

The point is, I think, that I wanted to make to you is you see that at least the issues that were at hand were – under Background – as I said, to extend the initial term of the directors from three to six years and change the process for the appointment of directors. And the substantial part of that, which you see down at the foot of the  
35 page, is the independent recruitment consultant requirement in the constitution was proposed to be removed. And there has been an argument advanced that, that was unnecessary and wrong because what was happening was each time an election came up those who wanted to get elected had to be – had to endear themselves to people in the industry such as clubs and so on. In any event, what happened was after that – if  
40 I take you to 33, please. It seems that what happened was there was a meeting arranged for you with Mr Bentley in relation to these issues. And I gathered that from this note and if you look over a few pages you'll see that it seems that it was your personal secretary who was involved in the arrangements?---Mm mm.

45 And one presumes that the topic was the topic of the briefing note and that was the changes to the constitution that Mr Bentley was looking to achieve. And then if I ask

you to go to 36 please. These briefing notes like the ones I just showed you – do they come to your vision? Do you actually see them like that?---That page?

5 Yeah, like that page?---If, on the top the treasurer box was ticked. Oh sorry, if in the copy to section there was my name then generally they did.

Okay?---But on occasions they did – there was not a generally hard and fast rule.

10 No. Well, I must show you something that may be outside what you did get to try and get to the point- - -?----Okay.

15 - - - of what I'm doing. So the next is that - I said, do you mind turning to 36. I think you've got it. And if you go over the back?---That was what I was talking about on 36.

Oh that's the one- - -?---So when you asked that question it's the – I was looking at the document with the handwriting on it.

20 I see?---Your questions was about a different document?

Yes, it was?---Sorry.

25 So you don't get this document with the handwriting or do you?---That was my answer that if it says, "copy to Treasurer or AF", then I generally did. But on occasions these would be passed by me.

30 I see. Okay. Yes, I went to this – I went to this part for a different question. I wanted to show you the letter that went to you which is over the page please?---Okay.

It seems to be repeated, the first page, but if you go to the third page of this part you see 12 August 2008; a letter addressed to you from Queensland Racing?---Yes.

35 Okay. And just looking at the first paragraph, "I write to you in connection with the post constitutional changes that were put to the members" et cetera. And it would seem that the application was being made to you in accordance with what was required to approve the changes. And you can remember that issue arising. And what happened, if I can ask you to look here at the page you didn't apparently see – the handwritten one – are you able to interpret these like I'm trying to do – it looks like Lachlan Smith on the 14<sup>th</sup> of August was seeking from Mr Kelly to provide a  
40 briefing by the 28<sup>th</sup> of August in relation to the question of should these be approved?---Sure.

45 Okay. And then, please go to 38. If you turn over to the next page after the writing – I assure you we'll come back to the writing. And then there's a letter addressed to you and I believe this is a letter of complaint I've referred to from Mr Carter. Do you have that over the page dated 19 August?---Yeah, yeah.

Yeah. And in the second last paragraph of it, “Finally, Minister, I would urge you to initiate independent inquiry into matters relating to the 6<sup>th</sup> August meeting and that such inquiry be undertaken not by the racing division but preferably by CMC or ASIC since the matters of concern comprehend the statutory jurisdiction of one or the other.” And if you go back to the first page, what seems to have occurred on the 21<sup>st</sup> is that Mr Kelly was being directed to undertake an investigation, presumably into the allegations about Mr Ludwig’s conduct and other conduct that had been contained in the letter. But there was another letter too from Clarke and Kann – can you recall that one in your research? What it was about was the same thing, the same topic. But Mr – with Clark and Kann, the firm of solicitors were purporting to act on behalf of the eight members of the committee that was established under the legislation. And then there was another letter right at the back from Mr Peoples, who is a member of that committee, also making a complaint to you. Anyway, as I said, do you – it does appear doesn’t it, that Mr Smith was directing Mr Kelly to undertake an investigation?---Mm.

And the due date for it was the 11<sup>th</sup> of September?---If you say it was, yes.

That’s what - - -

COMMISSIONER WHITE: Up at the top, Mr Fraser?---Oh, yeah. That was generally a kind of three or four week rule.

MR BELL: Now, what happens is, if you turn over to the next document at 39, please, instead of doing exactly that, the next day – I should point something out to you. In the handwritten one you were just looking at, what it says is “Please commence investigation of the allegations made by Mr Carter and Clarke and Kann, Mr Peoples, as discussed”?---Yes.

So I’m inferring that Mr Smith had discussed it with Mr Kelly and said, “You’ve got to do an investigation.” Then on the Saturday, the 22<sup>nd</sup>, Mr Kelly’s office, through Ms Perrett, seems to produce this briefing dated the 22<sup>nd</sup>, and what it does in paragraph 11, for example – it’s addressing the first request to provide a briefing about whether the constitutional matter of amendment should be approved or not. And in paragraph 11: “In reviewing the proposed amendments to the constitution, the only integrity-related issue that has been identified is the proposal regarding the removal of the independent recruitment consultant.” It just seems very odd, doesn’t it, a day after being told about serious allegations about people, that that’s said. Do you agree with that?---I certainly considered the briefing note to be inadequate, and that’s why I sent it back.

But you would – wouldn’t it concern you, looking now at it, that the day after receiving the complaints, serious complaints, and a direction to investigate the complaints, it looks like he’s preparing a briefing note for you, not dealing with them but dealing with the constitutional questions?---And that’s precisely why I sent it back with the note that I did.

But it's funny, because the way you dealt with it is exactly the way he was promoting it here. I'll show you. Sort of sidestepping the real issue. You know what I mean?---I understand what you're putting to me. I don't agree with you.

5 Okay. And look at the last paragraph of his briefing note: "Decision. Your decision must be either to ratify or not ratify the proposed amendments. There is no power for you to modify the resolution passed by QRL by ratifying only part of the resolution." That's precisely the advice Mr Dunphy gave you that you were referring to before, and it's really nothing to do with the point that I'm interested in. You see what I  
10 mean?---I think we're going back to the same point, and I - - -

We are. We are?---I took Mr Dunphy's advice to be about (1) the substance of the constitution and (2) the process, and he said the way to kill the whole enterprise is to rely on the substance. So I made that decision to extinguish the whole enterprise.

15 We'll go to Mr Dunphy's advice?---Sure.

But to kill the whole thing, you think Dunphy was advising how to kill off the integrity questions?---No, no, no. To stop the constitutional changes.

20 Yes. So – yes. So if you don't mind going over to 39, which is backwards, please. I think I showed you that briefing paper, yes. And then the next one is over at 40, and this is an article that came to your notice, clearly enough – I can tell you why I say clearly enough – on the Saturday, and it was in relation to Mr Ludwig. And the  
25 Courier-Mail were pursuing Mr Carter's complaints, in a sense, and suggesting that there was going to be an inquiry into such an important person. Do you remember that?---I do.

30 And then what you said, if you turn over to the second page – at least you're recorded as saying that you said last night that you'd not contacted CMC and you'd just read the article?---Can I make two points about that?

35 Yes, please. Yes?---One is the Courier-Mail generally goes to bed quite early on a Friday, so last night is probably some licence, but far be it for me as a failed politician to pass judgment on journalists; secondly, that what I said at the time was the exact state of play. The matter had been brought to my attention that day, and I provided it to Mr Bradley because Mr Bradley as the CEO had an obligation under the CMC Act to refer matters of official misconduct. And so that was where the matter left. During the day, as I recall it, subsequently the Courier-Mail contacted  
40 us, likely because Mr Carter provided his letter to them.

45 And what happened was, if you go to the next folder, which is 41, you issue a media release on that Saturday confirming that you're referring the complaints to the CMC, I think. You've read that before, have you?---Yep.

Okay. And that's right, I think, isn't it? And then if you go over to the next one, 42, you'll see that Mr Bradley does exactly as directed, referring it to CMC. Have you got that on 42?---Yep.

5 And then 43. On the Monday, Mr Needham from CMC comes back and responds to him on – dated the 25<sup>th</sup>, received, it would seem, the 27<sup>th</sup>, looking at the stamp on the top. Do you recall this letter coming to your attention?---I certainly recall the substance of the matter.

10 I'm particularly interested in the last two paragraphs. In the third line in the second-last paragraph: "I also note that there are provisions under the Racing Act for the chief executive to investigate the suitability of a control body to continue to manage its code of racing." That's a relevant point to the Minister, isn't it? Do you recall seeing that and thinking about it?---I recall that immediately from here it went  
15 off to ASIC, which I think is also mentioned in the same paragraph, but as I've already conceded to you, Mr Bell – that if the chief executive had have prepared such an investigation or such advice to me, then that undoubtedly, in light of the last two weeks, would likely have been to the benefit of the public interest.

20 Okay. So in any event, I'm getting no answer. You don't remember seeing that provision?---I'm not prepared to – to swear to you today that I – that I saw that. But I remember the substance of the issue.

25 Okay. Go to 51, please, of the bundle. Did the letter from ASIC responding to the reference that your department had given it in relation to Mr Carter and the other complaints come to your attention?---It did.

Okay. And this is the one that came to your attention? This letter, I mean?---Yes.

30 Okay. In particular, you probably know, but if you go down to – three-quarters of the way down the second page. The part that's important here is – you see in the last paragraph under the heading ASIC's Decision? "ASIC's decision not to commence a formal investigation should not be interpreted as a conclusion," blah blah. You've read that?---Yes.

35 And the next paragraph: "In responding more specifically to the issues raised in the correspondence received by the Treasurer, I note that it is not the role of ASIC to provide legal advice either generally or to particular parties." So at that stage, you'd agree, I think, looking at it carefully now, nothing had happened about Carter's  
40 questions in terms of real investigation?---I certainly saw that ASIC had taken a long time to come to that conclusion, unlike the CMC, and that they obviously considered the merits or otherwise of what they were doing. And as I recall the situation, I was provided with this letter with the briefing note upon my return into the country.

45 It's a little hard on ASIC because I think that they did do some investigations, whereas CMC just judged they didn't have any jurisdiction, but - - ?---I think ASIC decided that there were policy reasons, as opposed to jurisdictional reasons.

Yes. So I'll take you to the briefing note at 53, please. That's the one you're talking about, is it?---It appears so, yes.

5 Just let me ask you. If you go to paragraph 6 of it, the Office of Racing was advancing the proposition that the only issue of concern was the removal of the independent recruitment consultant from the constitution. Is that a position that you accepted?---Reading it now, I don't think it's a valid proposition for them to have put forward.

10 Could you tell me why that is, please?---Well, the whole issue of the process was what I saw as – that I was considering at that point in time.

I'm not understanding you, I'm sorry?---So I think this comes back to the fundamental tension between what I took to be following advice and what you're saying I should have done. So it's clearly the case that they advanced a recommendation a month or so before, whenever it was, and I rejected that, saying that this needs to be – the investigation process needs to be undertaken. They come back to me with fulsome advice, including the advice from Mr Dunphy about what my options are, and I believed I followed it.

20 Yes. So what were you were saying about paragraph 6, because I thought the thrust of this, and thinking about your final - - -?---Sure.

25 - - - statement about this, was that this was the point of rejection, because of the recruitment agency amendment?---Yes.

That's why you decided not to approve the amendments, is it?---I fully expected that my decision was going to be challenged.

30 Well, that might be so, but is that the reason that you rejected the proposition for amendments to the constitution – because of the removal of the recruitment agency?---As I said to you, that was the legal reason that I was given to be able to do that. But I knew at the time that it would be a repudiation to Mr Ludwig and to Mr Bentley, and that the industry would see it as that, and that certainly would happen. They made their displeasure patently obvious.

40 Well, I think I'm understanding you, but isn't it really the case that as a matter of substance, you were telling the public that it was because the proposal was to remove the independent recruitment consultant requirement that you were rejecting the changes to the constitution?---That was the lawful basis. Mr Dunphy's advice said you can't rely on the process issue; you can rely on the substantial issue, and so I took the clean shot.

45 Yeah. Well, I'm taking that as the Minister responsible, that you were saying, "The reason I'm doing it is because they're removing the requirement for the Northern – the independent recruitment"?---That was the lawful reason and, as I said earlier, it



had, if you like, the – the side effect that the whole attempt to change the constitution was going to be finished.

5 You know, you saying that, Mr Fraser, makes me think poorly about what you were doing. You were saying one thing but doing another; is that what you're saying?---No. I say it's a happy circumstance that I was able to – in a perfect world, the legal advice to me would've said the process issue means he can kill it, and I would've liked to have taken that advice. What I had before me – and you're a lawyer, Mr Bell – was legal advice about how I could achieve a means, and Mr  
10 Dunphy was someone who I had tremendous regard for, and it was quite deliberate to seek external device. I had what I thought before me was a clean shot, and I took it.

15 You know, I just worked out the problem with what you were doing, now that I'm standing here and you're telling me that. What you were doing was taking the legal reason to reject the proposal by Queensland Racing. That's right, isn't it?---Yes.

Indeed, what Mr Carter was raising was something that would impact upon the future of the control body operating with integrity, wasn't it?---He was - - -

20 That's right, isn't it, Mr Fraser?---He was vehemently opposed to the whole constitution. Yes.

25 Well, just think about my question, because we'll go around in circles like politicians do. We've got to get precise. What I'm saying to you is the reason you gave for rejecting the proposal for a change was in relation to the removal out of the constitution of the independent recruitment agent?---Yes.

30 What Mr Carter was concerned about was more than that – a different question. His proposition, at least, entailed the concern that the people on the control body did not have integrity going forward, because Mr Ludwig had done something wrong and Mr Bentley had supported him. You see what I mean?---I took Mr Carter's opposition to be to the whole constitutional change, and I thought I was - - -

35 Don't think so, Mr Fraser. It was more than that, wasn't it?---He was - - -

40 Don't you accept that it was more than that, that he was complaining - - -?---Yeah. He included that issue, but Mr Carter was implacably imposed to the whole constitution, and I saw the opportunity to – this is an action that I'm taking by myself, that I was able to end the whole constitutional process.

Well, yes, but in fact - - -?---I suppose, Mr Bell - - -

- - - I think you were intending to end something else too, weren't you?---No.

45 That's what you're saying to me?---Mr Bell, when you said that – you seemed to imply that my reliance on legal advice was something that I shouldn't do. I thought my obligation was to act lawfully as a Minister.

Let's look at the legal advice, and it's at the back of this briefing note. But I'd like you, in doing it – go to paragraph 8 of the briefing note and we'll come to the legal advice. "On the 25<sup>th</sup> of August" – this is what the briefing note says to you – "the CMC indicated that it had assessed the matter and would not be reviewing it, as these  
5 were matters more properly in the jurisdiction of ASIC." And then the briefing note says in 9 then ASIC assesses and no breaches of the Corporation Act had been identified, therefore no formal investigation will be undertaken. So that's clear. And then paragraph 10 refers to the legal advice which is attached. Okay. Let's have a look at it, please. Clayton Utz – and as you rightly say, it's Mr Dunphy – and if we  
10 look at the executive summary under 1 on the second page, it's talking about – in (a) – your – the discretion you had whether to ratify the proposed amendments or not. That's clear enough, isn't it?---Yes.

(b): "We consider the Minister's decision whether it is to ratify or not the proposed  
15 amendments to the constitution will be open to review under part 3 of the Judicial Review Act." Well, that's nothing; that just means it's subject to appeal, which it always is. If it's - - -?---I certainly didn't consider it to be nothing. I was completely alive to the fact that that was a very high risk in this circumstance.

20 Okay. My point is in talking about – in Mr Dunphy saying that, did you understand him to be saying, "Be cautious about this, because on the review somebody might suggest that you were taking into account Mr Ludwig not being investigated about integrity"?---I took it to be that whatever decision I made, yea or nay, that somebody would be unhappy with that and I needed to make sure that I followed, very  
25 carefully, Mr Dunphy's advice.

Well, you see the funny thing about that – I'm asking you to comment – the amazing thing about that is – unhappy about it – yes. A powerful man in the Labor party on one hand and Mr Bentley, yes, but other people who value integrity on the other.  
30 That's a funny balance?---Well, I saw that Mr Carter or Mr Bentley - - -

Not Mr Carter. Forget about Carter; I'm talking about integrity generally?---Well, I certainly wasn't.

35 Talking about integrity, because there was the whole committee that didn't get its vote. They were complaining. We had Mr Peoples and we had Carter. Yes?---I understand your point, Mr Bell, and I took that Mr Dunphy's advice included that as what I'm calling the process issue here, and that the process grounds wasn't enough for me to rely on. You're saying to me that I wasn't entitled or I'm using this advice  
40 in an incorrect way.

No. Not incorrect?---I'm – I'm merely saying to you I was completely alive to all of this. I thought that my decision would be challenged one way or another, and therefore I followed the advice.  
45

Let me show you in his advice the part you may be referring to – on page 7, please. Page 7, the last two lines: "Section 76(1) of the Racing Act relevantly provides that

a question at a meeting of the QCRC is to be decided by a majority of the votes of the members present at the meeting,” and then he deals with that proposition over the page and what’s in the legislation. You see that?---Yes.

5 And there’s nowhere here – and maybe you’re not saying it – there’s nowhere in here, is there, where he deals with the proposition of whether or not Mr Ludwig did the wrong thing or not?---Well, I took that to be his advice under 3.3.

10 Okay. Let’s have a look at that. “Legal effect of non-compliance” – is that what you’re talking about?---Yes.

15 So what that means is you’re taking it that Mr Dunphy’s saying it doesn’t matter that he had no integrity, because as – it had no legal consequence anyway. Is that what you’re saying?---I’m saying that Mr Dunphy said that the procedural issues that they – that was in question was not enough for me to reject the constitution, which was what I was searching for.

20 I’ll tell you what he said. You see in the – he refers to it in the last paragraph on page 9. Section 132(2) is about procedural irregularity. That’s what he was talking about, and what he was saying was that the fact that there were 14 votes one way and one the other – one of the 14 might have been invalid. That’s still 13-1. Who cares? That’s what he was talking about, and that’s all about the validity of the vote in relation to the amendments. That’s not about integrity?---I’m – I know you’re asking me the same question and I’m going to give you the same answer, because my state of mind was that this advice gave me my options around the issue of the substance and the issue of process. I was able to rely on the issue of substance and I took the clean shot.

30 You know, Mr Fraser, I’ll be straight with you. Normally, I can understand what people are saying. I think you’re saying to me, aren’t you, “I wanted to get rid of this integrity question involving Mr Ludwig as well, and this legal way was a good way of killing it off.” Is that what you’re saying?---No. I wanted to – I did not support their constitution and I thought that their – that this advice allowed it – allowed me to get rid of the whole enterprise.

35 Yeah. And when you say “whole enterprise”, could you define that for me, please?---Their quest for constitutional change.

40 Okay. But – now, what about his integrity? What were you going to do about that?---I considered that that was what was encapsulated in the procedural matters here.

45 So you’re bringing that back in again. I thought - - -?---I – I can only give you what I considered.

I think it sounds like a politician's answer; I'll be straight with you. You're not really addressing my question?---Well, I think you're giving me legal questions, so that's - - -

5 Okay. It's not, really. It's just trying to be a layman – give you a straight question - - -?---Sure.

- - - that I think the community would like to know the answer to, and that is  
10 nowhere did the complaint about Mr Ludwig's integrity get answered or investigated, and you were at the top. You knew it was a complaint about that, and you were taking some other reason to kill it off. That's what it sounds like. I didn't think you would say that?---No. I saw that an issue had been raised both in substance and in process, and I was entitled to act on the substance.

15 COMMISSIONER WHITE: I think, with respect, Mr Bell - - -

MR BELL: Yep.

20 COMMISSIONER WHITE: - - - that's probably the last word on that topic.

MR BELL: Yes.

25 Mr Fraser, sitting there now where you do having had the experience as Minister of Racing for some time, do you have any other recommendations to the commission in relation to improvements that could be made for corporate governance going forward?---I'm not sure that I have them right off the bat, but I'd – I'd be certainly happy to take that on notice.

30 COMMISSIONER WHITE: A supplementary statement, Mr Fraser, can address any of the issues, of course, that have been raised by Mr Bell - - -?---Sure.

- - - even an essay on future racing would be received?---Well, being a racing minister always brought me such joy, so I'm happy to take up your invitation.

35 MR BELL: Yes. Thank you.

COMMISSIONER WHITE: Yes. Thank you. Mr Burns.

40 MR BURNS: No. We'll do it by supplementary statement if there is anything, Commissioner. Thank you.

COMMISSIONER WHITE: Yes. Yes. Thank you.

45 It's not – the offer isn't made frivolously, Mr Fraser - - -?---No, no. I - - -

- - - because I discerned in your principal statement that at the time, if that was reflecting what you were thinking at the time, but certainly by now with your – you

have reflected on the issue and you may have a contribution to make?---Thank you, Commissioner.

Thank you for your attendance here today.

5

**WITNESS EXCUSED**

**[12.53 pm]**

10 COMMISSIONER WHITE: Mr Bell, do you have any - - -

MR BELL: Nothing further.

15 COMMISSIONER WHITE: - - - matters that you wish to raise generally in the public hearing?

MR BELL: Commissioner, I think it's public knowledge now that the commission will next sit in public hearings not next week but the week after and of course, we'll commence as normal in that week on the Monday morning.

20

COMMISSIONER WHITE: At 10 o'clock.

MR BELL: At 10 o'clock, please.

25 COMMISSIONER WHITE: Yes. Thank you. Would you be kind enough to adjourn, please, until then.

30 **MATTER ADJOURNED at 12.54 pm UNTIL MONDAY, 14 OCTOBER 2013**