

1 the new bundle so that we know where it is all the time.

2 The new statement covers much of the same material
3 that has already been touched upon, but the new
4 statement expands somewhat on the topic of
5 Urban Development Limited, and as I follow
6 the statement -- I am looking here at page 3 -- on
7 page 3 of the statement under the heading of
8 "Urban Development Limited", you state that:

9 "Parcel 60000/151 is adjacent to parcels of land
10 which were offered to other Belongers."

11 Those Belongers being Quinton Hall, Earlson Robinson
12 and Samuel Been.

13 You use the expression "the Belonger group" for
14 them. You go on to say:

15 "The offer to me in respect of this parcel was made
16 in May 2004. I do not know the date when the offers
17 were made to the others. At the time the offer was
18 made, I intended to develop the property as
19 a condominium complex. I went about seeking loan
20 finance to do so."

21 When you were asked about this a few days ago,
22 I asked you whether you had taken up the CPL,
23 the conditional purchase lease, in 2004 to 2005 and you
24 told me that you had not. Is that still your evidence?

25 A. That is correct.

1 Q. If not taken within, I think, nine months, a conditional

2 purchase lease lapses, is that right?

3 A. Yes.

4 Q. But in fact one can still apply for a freehold grant of

5 the land, which I understand is what you did, is that

6 right?

7 A. Yes, you can re-apply for another conditional purchase

8 lease or freehold.

9 SIR ROBIN AULD: Your voice is very low. You can apply for

10 another conditional purchase lease or?

11 A. Or freehold, yes.

12 SIR ROBIN AULD: You have the option?

13 A. Yes.

14 MR MILNE: In any event, a conditional purchase lease may

15 have no bearing upon our concerns here, but it is

16 accepted that you did apply for the freehold grant.

17 A. Yes.

18 Q. You go on to say in your statement:

19 "At some time during the first half of 2005,

20 I together with the other Belongers were approached by

21 Tim Smith, a real estate agent with TCR Sothebys, on

22 behalf of a potential developer who was interested in

23 developing a hotel condo project at Northwest Point.

24 "Mr Smith was introduced to me by Mr Wilson and

25 Mr Smith explained that his client needed at least 20

1 acres for the project. I indicated to Mr Smith that
2 I might be interested in my land being part of the
3 proposed development. I told Mr Smith he should deal
4 with Mr Wilson who was my lawyer."

5 So the approach had been made to you essentially by
6 somebody who wanted to buy the freehold land?

7 A. Yes.

8 Q. You didn't own it but you had an option on it?

9 A. Yes.

10 Q. Can you remember when it was that you first applied for
11 that freehold option?

12 A. I received it in May 2004, so the application must have
13 gone sometime before then.

14 Q. How would you have made the application?

15 A. By the standard application form for Crown land.

16 Q. Is this the case: that it just so happened that you and
17 the other three had each applied for freehold land, in
18 three parcels, four parcels, which were all contingent
19 on one another, altogether?

20 A. I don't know at the time when the others made their
21 applications.

22 Q. Is it your evidence that you had applied for these
23 parcels before you were ever approached by Mr Smith?

24 A. That is correct.

25 Q. Are you able to tell me how it is that Mr Smith would

1 have known that the four of you had those four options?

2 Where would he have gone to find that information out?

3 A. I have no idea.

4 Q. Well, you, with respect, have some experience in

5 applying for parcels of land. You appear to be somebody

6 who is familiar with the workings of the government

7 because you have been a government minister now for many

8 years, approaching ten years. Are you sure you can't

9 tell us where this information would have come from?

10 A. I can't tell you how Mr Smith got his information. He

11 could have gotten it from any source. I don't know.

12 Q. Look at it this way, Minister, this is a business

13 environment, Turks & Caicos Islands, which is very

14 strong on confidentiality. This is a business

15 environment in which people form companies, owned by

16 companies, owned by companies, which makes it from

17 the point of view of the outsider, rather difficult to

18 find out who actually owns anything beneficially.

19 Now whether that is a good system or a bad system is

20 neither here nor there. But it appears to be

21 the prevailing culture.

22 We have been told by a number of witnesses that lots

23 of people buy houses in the name of companies because

24 they don't want to be liable.

25 The scenario that we have here though is this:

1 an overseas investor wishes to make a development on
2 the Turks & Caicos Islands, and in order to do so, he
3 manages, through his agent, to identify four separate
4 people, each of whom have made an application to
5 the government for four parcels that just happen to be
6 all four parcels together, and he manages, as it were,
7 to do a deal with all four of them together.

8 Now, that must have taken some research. What I am
9 asking you is, how could he have found that out if you
10 had each of you separately applied for a parcel and not
11 advertised the fact that you had each separately applied
12 for a parcel? Do you follow?

13 A. Again, I don't know how he will find it out. There are
14 various -- he could have gone to the Land Registry,
15 I mean to the Lands and Survey department and find out
16 who have conditional purchase leases on the parcels.

17 I am speculating. I don't know how he knows.

18 Q. Your conditional purchase lease we already know had
19 lapsed. You never took it up?

20 A. Right.

21 Q. You see, there is another explanation which is that you
22 may only have applied for these parcels once you had
23 been asked by Mr Smith on behalf of Mr Wex, "Can I be
24 provided with the parcels?"

25 We don't have your precise date as to when you first

1 were contacted by Mr Smith. And we don't have from you
2 a precise date as to when you first applied for freehold
3 title.

4 But you are asking us to take on trust that you had
5 applied for the freehold title before Mr Smith came to
6 you. Could it be that it was the other way round?

7 A. Absolutely not. As a matter of fact when I got that
8 offer from the government in May, I didn't even know
9 Mr Smith.

10 Q. When you got the offer of freehold land in May 2005, you
11 did not know of Mr Smith?

12 A. I know of Mr Smith then, but I said when I got
13 the original offer in May of 2004, I did not know
14 Mr Smith.

15 Q. No, sir, you got a conditional purchase lease offer in
16 May 2004?

17 A. Yes.

18 SIR ROBIN AULD: That is what he is referring to.

19 MR MILNE: Forgive me, we are talking about the freehold
20 here.

21 As I understand you, you never applied for the CPL
22 but you later applied for the freehold. Now, it is
23 the application for the freehold with which I am
24 concerned?

25 A. Yes.

1 Q. You can't tell me when you made that application for

2 the freehold, can you?

3 A. Sure, it must have been some time in 2005.

4 Q. You say it must have been "some time in", but you can't

5 give me a date?

6 A. No.

7 Q. I am not criticising, but you have no date for that and

8 you have no date for when you met Mr Wex, or Mr Smith on

9 behalf of Mr Wex, save that you have told us that

10 the first approach from Mr Smith was in the first half

11 of 2005?

12 A. Yes.

13 Q. Well, by May of 2005, there wasn't very much of the

14 first half of that year left, was there?

15 MR MISICK: I think I can perhaps help my learned friend.

16 I don't think there is any dispute that the application

17 for the freehold title was made after the introduction

18 to Mr Smith. I don't think there is any dispute about

19 that.

20 MR MILNE: Well, I am grateful for my learned friend's

21 indication of that, although I understood that

22 the minister was saying something quite different

23 a minute ago.

24 A. We were on a different page. I thought you were

25 referring to the first time I got an application, a CPL.

1 Q. No.

2 A. Okay.

3 Q. Fine. So you were approached, we now know then, by
4 Mr Smith, and as a result of that, I would suggest, you
5 applied for the freehold title?

6 A. Yes.

7 Q. Did the others do the same thing at the same time to the
8 best of your knowledge?

9 A. They may have.

10 Q. So Mr Smith approaches a group of Belongers; can you
11 tell me how he chose that group of Belongers? Do you
12 have any indication as to why he would come to you
13 rather than anybody else?

14 (10.45 am)

15 A. He was introduced to me by Mr Wilson.

16 SIR ROBIN AULD: I didn't hear that answer.

17 A. He was introduced to me by Mr Wilson.

18 SIR ROBIN AULD: By Mr Wilson?

19 A. Yes.

20 MR MILNE: So Mr Wilson directed him to you and to a number
21 of others?

22 A. Yes.

23 SIR ROBIN AULD: Just before we move on with this story and
24 Mr Smith, he was, you say in your statement at
25 paragraph 11 "at the time a real estate agent with TCI

1 Sothebys".

2 A. Yes.

3 SIR ROBIN AULD: In his dealings with you, was he acting as
4 an employee and a representative of Sothebys or on his
5 own account?

6 A. I am not sure.

7 SIR ROBIN AULD: Did you understand that Sothebys were
8 acting for you in the various arrangements that then had
9 to be made, or Mr Smith on his own?

10 A. Mr Smith on his own.

11 SIR ROBIN AULD: I don't think he was, was he, a real estate
12 agent with TCI Sothebys. Was he not an office manager
13 or an office administrator with them?

14 A. I am not sure. I believe he worked there.

15 SIR ROBIN AULD: Anyway, Mr Smith on his own account. Yes?

16 MR MILNE: I think in fact, sir, it is TCR.

17 SIR ROBIN AULD: I thought I was correcting a typo there.

18 MR MILNE: The documents I have seen have been TCR Sothebys.

19 I see a nod from my learned friend.

20 SIR ROBIN AULD: Thank you for correcting me. I will

21 recorrect the transcript. Yes.

22 MR MILNE: So Mr Smith approaches Mr Wilson. Mr Wilson

23 directs him on to you. He indicates that he wishes to

24 obtain packages of land, but of course Mr Smith is not

25 a Belonger and his principal, the developer, is not

1 a Belonger either. Therefore they cannot buy Crown
2 land, can they?
3 A. You are correct.
4 Q. Therefore they need Belongers to buy it for them. So
5 four Belongers are selected, of whom you are one. Yes?
6 A. Yes.
7 Q. The aim is you will buy the Crown land by taking up
8 a freehold option, or indeed four freehold options, and
9 you will sell it on to the overseas developer at
10 a profit. Yes?
11 A. Yes.
12 Q. It is called flipping. We have heard that expression?
13 A. Yes.
14 Q. Purchase and sale straight on. Of course you will get
15 a Belonger discount by virtue of being a Belonger, won't
16 you?
17 A. Yes.
18 Q. The total that is paid for this land between the four of
19 you, the four packages in due course, will be
20 1.367 million, I think, or 1.368 million, which is 50
21 per cent of what the government believes it is worth.
22 Yes?
23 A. Yes.
24 Q. So the government believes it is worth about 2.6,
25 2.7 million. The developer, whether through good advice

1 or bad advice, we can't say, is clearly of the view that
2 it is worth 7 million because that is what he is
3 prepared to pay or 6.8, I think is probably the closer
4 figure. So the developer is prepared to pay far more
5 for this.

6 Remind me, the Crown land policy is designed to
7 empower Belongers, isn't it?

8 A. That is right.

9 Q. And empowerment, we take to mean to give them a start in
10 life, to give them an opportunity where they might not
11 otherwise have one.

12 A. That is correct.

13 Q. To give them the opportunity to build a home or to start
14 a business. Is it your view that the Crown land policy
15 is there simply to enable people to get rich quick?

16 A. No.

17 Q. Anyway, you are going to take up your freehold option
18 and sell it on. Why then do you set up
19 Urban Development Limited?

20 A. Urban Development Limited was set up to facilitate
21 the development agreement.

22 Q. You are dropping your voice again.

23 Urban Development Limited was set up to facilitate
24 the development?

25 A. Yes.

1 Q. How was it going to facilitate the development?

2 A. As I understand it, the 20 acres were going to be used
3 to -- in fact still is -- to develop a hotel condominium
4 project and so a development agreement was necessary.

5 Q. You weren't going to develop it, were you?

6 A. No.

7 SIR ROBIN AULD: Did you say no or yes?

8 A. No.

9 MR MILNE: Urban Development Limited is set up as a company
10 but it never had a bank account, did it?

11 A. Not to my knowledge.

12 Q. Certainly that's what we have been told on your behalf
13 by Mr Wilson in the earlier letters, that there was no
14 bank account. Urban Development, as far as we can see,
15 therefore never had any employees or any capital. It
16 had no office of its own. It didn't own any heavy plant
17 or machinery. It didn't have, I think we put it this
18 way once before, it didn't own so much as a spade to
19 break the ground with. It was a legal entity but no
20 more than that. Would you agree that is correct?

21 A. Yes.

22 Q. Urban Development, to that extent, was a fiction, was it
23 not? Because Urban Development might have pretended
24 that it was going to develop a property but
25 Urban Development quite simply was not going to play any

1 part in it. Not whilst you were involved, was it?

2 A. Yes, the intention of Urban Development is to facilitate
3 the development agreement.

4 Q. That's a phrase you have used before, sir, but I don't
5 understand how it was going to facilitate it; please,
6 explain to me. What would it do that would facilitate
7 the agreement?

8 A. It has an agreement development now.

9 Q. We have a written document, in fact maybe we should go
10 to it now because we have two written documents. Within
11 your new bundle we have behind tab 1 a series of
12 documents which we are told is the Urban Development
13 file, and if you turn within that to a cover sheet at
14 page 23 --

15 SIR ROBIN AULD: Just pausing there for a moment. May we
16 know where these papers in the supplemental bundle have
17 come from?

18 MR MISICK: Mr Wilson, sir.

19 SIR ROBIN AULD: Mr Melbourne Wilson?

20 MR MISICK: Yes.

21 SIR ROBIN AULD: Thank you.

22 MR MILNE: The documents that we have there, starting at
23 page 23, appear to be, and they are headed up,
24 "Development Agreement Between the Crown and
25 the Government of the Turks & Caicos Islands and

1 Urban Development Limited". It is dated

2 7th February 2006.

3 It is a development agreement. We had seen
4 something like that before because in fact
5 the Commission was provided with a set of papers, which
6 included a development agreement.

7 MS MISSICK: Sir, we don't have those copies yet.

8 MR MISSICK: I am content for him to proceed. I believe it
9 is in Mr Hall's bundle. I will get them eventually, so
10 I am quite happy for him to proceed.

11 MR MILNE: The copies that were made in fact were handed to
12 Mr Fitzgerald, who may be blissfully unaware of the fact
13 that he has Ms Akierra Missick's documents.

14 Thank you very much. We are all reading from
15 the same document now. We will need two documents open
16 at the same time, sir.

17 You have the Urban Development agreement in
18 bundle 2, but if you have also bundle 1 open, I am going
19 to ask you to turn toward the back of bundle 1. These
20 are in fact the documents that have just been handed to
21 my learned friends. They begin at page 563. Do you
22 have that document?

23 A. Yes.

24 Q. There may be nothing odd about this and there may be
25 nothing suspicious, but it is a point that we need to

1 clarify. We appear to have two versions of the same
2 document. The reason I say that is that the document we
3 see at page 563 is almost identical to the one we have
4 in volume 2, page 23. They are both copies of the
5 development agreement. But the obvious difference is
6 that the dates vary by about seven weeks. The one that
7 we have been given this morning, or last night, is dated
8 7th February 2006. The version that had previously been
9 provided to the Commission, at page 563, is dated
10 30th March 2006.

11 Obviously sometimes agreements go through various
12 drafts. It may be that we have a later draft than this
13 one. Are you able to cast any light on it? Do you have
14 any personal knowledge of these differences?

15 A. No.

16 Q. The differences are a little difficult to tell because
17 we only had part of the 30th March document. Our
18 page 564 is in fact the ninth page of the draft
19 agreement.

20 In bundle 2, page 9 of the agreement is at page 30.
21 We can tell, if we compare page 30 in bundle 2 with
22 page 564 in bundle 1, although they are very similar, it
23 is clear that they are slightly out of sequence. They
24 begin with different numbers. So there have been
25 alterations. It is not merely the date that has

1 changed, do you follow me?

2 A. Yes.

3 Q. Although they cover roughly the same area, they both
4 deal with the issue of scholarships.

5 Now, the 7th February version anticipated that the
6 developer would contribute the sum of \$190,000 towards
7 the scholarships fund.

8 The 30th March-version has reduced that considerably
9 to some \$60,000. It is not really a central issue for
10 us here, but it is clear that somebody has set about
11 re-writing the numbers, and the final version is
12 different from the earlier version.

13 SIR ROBIN AULD: Just before I forget, who administered
14 the scholarships fund?

15 A. It was paid by the developer.

16 SIR ROBIN AULD: Say that again.

17 A. Who paid it?

18 SIR ROBIN AULD: Who administered the scholarships fund?

19 Who kept the fund? Who created the fund?

20 A. It is the company that gets the development agreement
21 with the government.

22 SIR ROBIN AULD: The company?

23 A. It would be Urban Development, the company that gets
24 the development agreement that is liable to pay the
25 scholarship.

1 SIR ROBIN AULD: So Urban Development was going to create
2 its own scholarships fund, is that it?

3 A. Yes, it is a part of the development agreement where
4 they would pay the government --

5 SIR ROBIN AULD: I just wanted to know who was running it.
6 Where is it in the full document, Mr Milne?

7 MR MISICK: I think you must be at cross-purposes. I don't
8 think it is the company that administers the fund. It
9 is a government-administered fund.

10 SIR ROBIN AULD: Can I have a look at the reference in the
11 document, please.

12 MR MILNE: In volume 2 we have the scholarships item at
13 page 30 and it is paragraph 3.3.

14 SIR ROBIN AULD: To the National Scholarship Fund. That is
15 an institution which is set up under whatever provisions
16 there were here for such a fund, is it?

17 MR MISICK: No, I am not the expert on it, but from what
18 I do know, I think the money goes directly into the
19 Treasury. It is called a scholarship fund but it is not
20 set up as a separate segregated account. It goes into
21 the government Treasury.

22 SIR ROBIN AULD: It goes into the general pool?

23 MR MISICK: Yes. I am told there are probably others here
24 who may be able to confirm that, but that is my
25 understanding of how it works.

1 SIR ROBIN AULD: It features in government documentation as
2 such, the National Scholarship Fund, does it? Somebody
3 keeps an account of what is in the fund although it goes
4 into the general pot?

5 MR MISICK: There should be. Whether or not in fact it does
6 but it should be, yes.

7 SIR ROBIN AULD: Who would then -- I suppose the minister of
8 health would be closest to that, wouldn't she?

9 A. Minister of education.

10 SIR ROBIN AULD: Thank you.

11 (11.00 am)

12 MR MILNE: Sir, I think it is a familiar provision for those
13 of us who come from the UK because planning applications
14 in the UK, and I suspect in other countries, frequently
15 require somebody who is developing a project to make
16 a contribution to the local community.

17 SIR ROBIN AULD: Very often to new roads around new discount
18 stores, things like that.

19 MR MILNE: The policy of the TCI government appears to be in
20 circumstances where there are developments, money should
21 go towards education which obviously is a laudable
22 purpose.

23 A. Yes.

24 Q. You, if I follow correctly, were not party to the
25 re-writing of this document.

1 A. No.

2 Q. But can we be clear, that at the time this was being
3 prepared, you were one of the four shareholders or at
4 least one of the four owners of Urban Development?

5 A. Yes.

6 Q. Are we to understand that you had delegated the drafting
7 of this to Mr Wilson?

8 A. We did, yes.

9 Q. You did. Did he consult with you at any stage?

10 A. I don't recall.

11 Q. He is signing or drafting documents on your behalf, and
12 these appear to be financial commitments that he is
13 entering into as to how much money you would pay to the
14 government. Surely you must have at least given him
15 outline instructions before he did that.

16 A. No, it was a straightforward development agreement,
17 I assume, and he handled all the -- all of the
18 negotiations.

19 Q. Was it the case that you never expected to have to pay
20 any of this money, so quite frankly, he could promise
21 the earth and it would make no difference, is that
22 the case? Did you ever pay any scholarship money, sir?

23 A. No.

24 Q. Did you ever pay the Belonger's discount back?

25 A. No.

1 Q. So this piece of paper actually doesn't appear to have

2 carried very much weight, would you agree?

3 Let's just look at the agreement for a minute.

4 SIR ROBIN AULD: Did you say anything to that?

5 A. No.

6 SIR ROBIN AULD: You don't agree?

7 A. Not really.

8 MR MILNE: You don't agree?

9 A. No.

10 MR MILNE: If I ask you why it was drafted, should I expect

11 that the answer will be that it was to facilitate

12 the agreement?

13 A. Yes.

14 Q. Since you have given that answer already, I shan't ask

15 you that question but I will ask you, if you would,

16 please, to look at page 28 of the bundle. That is

17 bundle 2.

18 This document says, and I am looking at

19 paragraph 3.1.1, where it sets out the obligations of

20 the developer:

21 "Within 30 days of the execution of this agreement,

22 at its own expense the developer shall arrange for

23 survey of an application for mutation of the property.

24 Such survey to be carried out by a surveyor previously

25 approved by the director of lands.

1 "Within 60 days of the execution of this agreement,
2 at its own expense the developer shall submit to the
3 physical planning board an application for outline
4 development permission in respect of the development."

5 3.1.2(b):

6 "Within 30 days of the receipt from the physical
7 planning board of the terms of reference for
8 the environmental impact assessment, the developer
9 shall, at its own expense, submit to the physical
10 planning board an application for detailed development
11 permission.

12 "3.1.2(c). The developer shall at its own expense
13 carry out a master development plan."

14 The paragraphs that follow require the developer to
15 carry out surveys, to deal with the environmental impact
16 assessment, to put in further detailed development
17 permissions.

18 It goes on and on and on.

19 Let me take this shortly, were any of these ever
20 done by Urban Development?

21 A. I believe that the outline planning has been approved
22 and paid for.

23 SIR ROBIN AULD: You believe which, the planning
24 application?

25 A. Yes.

1 SIR ROBIN AULD: Which one is that? 3.1.3?
2 A. Yes, 3.1.3.
3 MR MILNE: When was that done?
4 MR MISICK: Outline is 3.1.2, actually.
5 A. Yes, 3.1.2, it is outline planning. I believe that was
6 done.
7 Q. When was that done?
8 A. I am unable to give you a date.
9 SIR ROBIN AULD: Mine is 3.1.3, outline development
10 permission. It is planning permission, isn't it?
11 A. Yes. I understand from Mr Wilson that that is done.
12 SIR ROBIN AULD: That is actually not planning permission.
13 That is an environmental impact assessment which is not
14 the same thing --
15 A. Environmental impact, I believe is 3.1.2.
16 MR MISICK: If you see under 3.1.2(a), that is when he must
17 submit the application for outline development, and
18 3.1.3 is having obtained outline development permission,
19 he must then apply for detail.
20 SIR ROBIN AULD: Yes, thank you.
21 MR MILNE: Who did that on behalf of Urban Development?
22 A. I don't know. Mr Wilson would be better able to answer.
23 Q. Did you do anything at all in your role as part owner of
24 Urban Development?
25 A. Very little.

1 Q. Very little?

2 A. Yes.

3 Q. Can you remember what the very little was?

4 A. If any at all, I just -- Mr Wilson -- I trust Mr Wilson

5 and he dealt with the whole agreement.

6 Q. Because you sat in Cabinet, we have covered this

7 already, you tell us that when Urban Development arose,

8 you withdrew from the conversation but you knew that

9 the government was negotiating with Urban Development,

10 correct?

11 A. Yes.

12 Q. You knew that the government went to the trouble of

13 signing this agreement with Urban Development?

14 A. Yes.

15 Q. Did you believe the government was acting in good faith?

16 A. Yes.

17 Q. Was Urban Development acting in good faith?

18 A. Yes.

19 Q. Urban Development, however, was never going to develop

20 the project, was it? This was going to be sold on to

21 Mr Wex.

22 A. Yes.

23 Q. Did Mr Wex have any part in drafting this document to

24 the best of your knowledge?

25 A. I don't know.

1 Q. Mr Wex was represented by other lawyers, was he not?

2 A. I believe so, yes.

3 Q. A few days ago, you told us that your shares in

4 Urban Development were sold to Hugh O'Neil and

5 Finbar Dempsey who were Belongers. That was your

6 evidence, was it not?

7 A. It was, but I clarify that because I was speaking to

8 a companies search that you presented to me.

9 Q. With respect, sir, no. That was not what we were

10 speaking to. Let me remind you of what was said.

11 I asked you, and I am looking here at Day 13,

12 page 26 of the transcript. I asked you whether you sold

13 your shares in Urban Development Limited for \$1 million

14 to Blue Resort Development Limited, Mr Wex's company:

15 "Did you do that?"

16 You said:

17 "No."

18 Was that true?

19 A. That I said no? I am taking your word for it.

20 Q. You said no because that is on the transcript. Do you

21 now wish to alter that answer? Is it in fact yes, that

22 you did sell your shares to Mr Wex's company?

23 A. My shares were disposed of to -- I don't know if it is

24 Mr Wex's company, but I know my shares were disposed of.

25 Q. Your shares were sold to Mr Wex, were they not?

1 A. Okay.

2 Q. So that answer was misleading to that extent, would you
3 agree?

4 A. Yes.

5 Q. You went on to say, and I quote precise words, this is

6 page 27 of Day 13:

7 "As I understand it, Urban Development bought --

8 sold and it -- my shares were sold to or obtained by

9 Urban Development, which is now owned by two Belongers."

10 Sir Robin Auld questioned this:

11 "Two Belongers acquired your shares in

12 Urban Development, is that what you are saying?

13 "Answer: That is how I understand it, sir."

14 I asked you:

15 "Who are those Belongers?"

16 You say:

17 "Hugh McLean -- I'm just trying to think."

18 You went on to say on page 28:

19 "I think the owners of Urban Development now, which

20 I have sold, it is a Belonger company owned by Hugh

21 O'Neil..."

22 Further on, on the same page:

23 "... the company that negotiated the development was

24 bought or sold or has been bought by Hugh O'Neil and

25 Finbar Dempsey, who are two Belongers."

1 That, sir, was not true, was it?

2 A. I am still being told that in fact it is a Belonger
3 company.

4 SIR ROBIN AULD: You say you are still being told?

5 A. Yes.

6 MR MILNE: Who are you being told that by?

7 A. Mr Wilson.

8 Q. Finbar Dempsey has written to the Commission, in short
9 and precise terms, to make it clear that he has no
10 knowledge of or involvement in or purchase of at any
11 stage these shares or anything to do with this company.
12 He has simply no role in it. The documentation, all
13 the documentation the Commission has seen bears out that
14 evidence. Hugh O'Neil was an attorney acting for
15 Mr Wex. You know that, sir, and I suggest that you are
16 as aware of it now as you were last week.

17 That is the truth, is it not? Mr O'Neil is simply
18 the attorney?

19 A. No, it is not, and that is why I clarified that in 17 of
20 my statement.

21 Q. Your concern, I would suggest, sir, is this: you are
22 anxious to paint Mr Wex's company as being a Belonger
23 company because it is worth \$1.38 million for you to do
24 that. Because if you sold on to a Belonger company,
25 there would be no obligation to re-pay the Belonger

1 discount. But you had negotiated with Mr Wex, through
2 his intermediary, but the evidence you have given us in
3 the clearest terms today is you sold to Mr Wex and you
4 knew you were selling to Mr Wex, who is not a Belonger.
5 Is that correct? Is that correct, sir?

6 A. I knew that I was disposing of my shares. I was told
7 that the company that owns it was still owned by
8 Belongers.

9 Q. You told us, paragraph 14 of the statement that you have
10 given is this, and I am looking at page 4 of the new
11 statement:

12 "Urban Development Limited was incorporated to give
13 effect to the transaction whereby the Belonger group
14 sold their interest in the various parcels of land to
15 Mr Wex. Each Belonger was to have an equal interest in
16 this company. Mr Wilson, who was then a partner at the
17 law firm of McLeans, acted for the Belonger group in the
18 transaction and Hugh O'Neil acted on behalf of Mr Wex."

19 You knew you were selling to an overseas developer.

20 A. Yes.

21 Q. You knew when you gave evidence last week that you were
22 selling to an overseas developer and as you said here,
23 Hugh O'Neil was his legal representative, no more than
24 that on the Islands. Hugh O'Neil is not a partner,
25 I would suggest, be that Belonger partner or otherwise.

1 He is simply the attorney. He is doing his job. That
2 is the truth, isn't it?
3 A. It could be the truth, but I was told that it was sold
4 off to a Belonger company.
5 SIR ROBIN AULD: I think it would help, instead of speaking
6 in that passive way, if you say you were told something,
7 say somebody, say who it is, told you each time,
8 otherwise I shall keep asking you: is that Mr Melbourne
9 Wilson.
10 A. Yes.
11 MR MILNE: So Mr Melbourne Wilson told you it was a Belonger
12 company. Did you ask who is the Belonger?
13 A. No.
14 Q. Why not?
15 (11.15 am)
16 A. I did not ask.
17 Q. Why not? It is very important, sir, isn't it? You are
18 a government minister. You were at the heart of this
19 government. You are familiar, I would suggest, with
20 the policy of this government. You know full well with
21 respect, Minister, that it makes a great difference
22 whether you sell to a Belonger or not and you don't ask?
23 Do you invite the Commission simply to accept that
24 that is as far as it went?
25 A. I invite the Commission to accept what I have given in

1 evidence in my statement.

2 Q. Well, the Commission is also taking into account what

3 you say in evidence now, since you are, I remind you,

4 sir, on oath.

5 A. I am.

6 SIR ROBIN AULD: You know the consequences of that?

7 A. Yes.

8 SIR ROBIN AULD: Taking the oath and the evidence that you

9 give in accordance with it?

10 A. Yes, I do.

11 MR MILNE: You knew from the outset that the developer,

12 the true developer would be the overseas developer. It

13 would be Mr Wex acting through his company which would

14 develop this property. Yes?

15 A. Yes.

16 Q. Urban Development was set up once you knew that Mr Wex

17 was on the scene. We have seen, and I need not trouble

18 the Commission with it again, Urban Development in fact

19 on the companies register never issued any shares.

20 We have been provided, since you changed attorneys,

21 with a file with documents that appear to reflect

22 the establishment, that is the Memorandum and Articles

23 of Association for Urban Development Limited.

24 We have a letter, a form at page 7, never shown to

25 us hitherto, which purports to show issuance of shares

1 to yourself, Mr Been, Mr Robinson, and Mr Hall, two
2 shares apiece after 16th August 2005.

3 We have also been shown a variety of documents,
4 including resolutions in relation to this and what
5 appear on the face of them to be share certificates.

6 Did you know you had a share certificate?

7 A. I know I had a share in Urban Development, but I never
8 kept these certificates or anything.

9 Q. Well, whether or not these documents are reliable, it is
10 quite clear that the Company Registry was never let in
11 on the secret that shares had been issued, because
12 whilst there was a company return done in 2007 which
13 seemingly made no mention of these, there was no company
14 return in 2008.

15 As far as the company records are concerned, no
16 shares were ever issued. Urban Development, I would
17 submit to you, sir, was a fiction from the outset and
18 I would suggest there was no negotiation in good faith
19 because you knew that Urban Development would never be
20 the developer. You knew that was true, didn't you?

21 A. Yes, I know Urban Development --

22 Q. Sorry I didn't hear that?

23 A. Yes, I know Urban Development was the company that
24 negotiated the development agreement.

25 Q. But it was negotiating to no end at all because it was

1 not representing Mr Wex, it only represented you and you
2 weren't going to do what it said in the agreement,
3 because Mr Wex would have to deal with that in due
4 course, wouldn't he?

5 A. Yes.

6 Q. So I would suggest Urban Development was from the start,
7 from the get-go, it was a con trick on the government,
8 to which you lent your name.

9 Is that a fair characterisation, sir?

10 A. It was a company to which I had a share that negotiated
11 a development agreement.

12 Q. And a company that made promises that it would never
13 keep and never intended to keep because it never
14 intended to develop the property, did it?

15 SIR ROBIN AULD: Just pause for a minute, are you going to
16 answer that question?

17 A. Sir?

18 SIR ROBIN AULD: Are you going to answer Mr Milne's question
19 which I interrupted, I am afraid. Better put it again.

20 I want to see if I can have the last few answers read
21 back if that is at all possible. Put your question
22 again, please, Mr Milne.

23 MR MILNE: I suggested to the minister that it was a company
24 that made promises it would never keep and it never
25 intended to keep, because it never intended to develop

1 the property, and I suggested to the minister that that
2 constituted a con trick on the government to which he
3 lent his name.

4 I am inviting his comment upon that.

5 A. All I can say that Urban Development was a company which
6 I had a share that developed -- that negotiated
7 the development agreement with the government and
8 subsequently passed on with the intentions of fulfilling
9 that agreement.

10 Q. Well, with respect, you know perfectly well, Minister,
11 what it is I am putting to you, and you are, I would
12 suggest, deliberately avoiding dealing with it. For
13 the avoidance of doubt, I am suggesting that you knew
14 when Urban Development was formed, you knew when this
15 agreement was drafted, you knew when this agreement was
16 signed that Urban Development would never do a stroke of
17 work to develop the property, because the shares would
18 be sold to Mr Wex and another company would do the work.

19 A. Yes.

20 Q. You were making promises on behalf of Urban Development
21 that you would never keep and you would never be held to
22 because you would dump Urban Development as soon as
23 the money reached your bank account.

24 SIR ROBIN AULD: Stop there. Do you agree with that or not?

25 You were making promises that you would never keep?

1 You.

2 A. Well, I don't agree with it. What I am sincerely saying

3 is that Urban Development, for which I was

4 a shareholder, negotiated a development agreement to

5 facilitate the development at Northwest Point and

6 subsequently it was sold on.

7 SIR ROBIN AULD: You are not dealing with the question. It

8 is no answer to questions about your own conduct to say

9 Urban Development Limited was formed to facilitate

10 the agreement.

11 The question is did you, in the course of this,

12 promise to do something that you had no intention of

13 doing? You personally. You were not going to be part

14 of any development, were you?

15 A. No. I subsequently sold it.

16 SIR ROBIN AULD: I am sorry?

17 A. I subsequently sold it.

18 SIR ROBIN AULD: Yes.

19 A. Yes.

20 MR MILNE: And you were always going to sell it?

21 A. Yes.

22 Q. Because that is the only reason you got it in the first

23 place, so that you could sell it. So why not simply get

24 the land and sell it? Why not?

25 A. Well, I did not, because it is a viable project.

- 1 Q. It is a viable project for somebody else, sir, but it is
2 not a viable project for you.
- 3 A. I agree.
- 4 Q. Because you are not a developer, with respect, you may
5 be many things but you are not a developer, are you?
- 6 A. You are correct.
- 7 SIR ROBIN AULD: Mr Milne, I think you have got your answer
8 in substance here.
- 9 MR MILNE: Why did you set up Alliance Realty Limited?
- 10 MR MISICK: That is a supposition that he set it up.
- 11 SIR ROBIN AULD: Well, did you set it up?
- 12 A. No, I did not.
- 13 SIR ROBIN AULD: Who did?
- 14 A. Mr Wilson did.
- 15 MR MILNE: Mr Wilson set up Alliance Realty Limited, yes?
- 16 A. Yes.
- 17 Q. Did he do so on your instructions?
- 18 A. No.
- 19 Q. So it was his idea?
- 20 A. Yes.
- 21 Q. And he invited you to be part of it?
- 22 A. Yes.
- 23 Q. And you became a director, yes?
- 24 A. I am not a director of Alliance Realty Limited.
- 25 Q. You are not a director?

1 A. No.

2 Q. He had told us you were, but he was wrong about that,

3 was he?

4 A. He was.

5 Q. You are a shareholder?

6 A. Yes.

7 Q. You have never been a director of

8 Alliance Realty Limited?

9 A. Not to my knowledge.

10 Q. Did you ever sign a document to become a director that

11 you can recall?

12 A. I don't recall.

13 Q. You don't recall that?

14 A. No.

15 Q. Did you ever ask Mr Wilson why he set up

16 Alliance Realty Limited, what was its purpose?

17 A. I believe that that was addressed. Later I was made to

18 understand that Alliance Realty Limited --

19 SIR ROBIN AULD: What are you looking at there?

20 A. I am looking at my statement. Under Alliance Realty at

21 19, the company was established by Mr Wilson, I was

22 invited to join the company.

23 Q. Would you please look at bundle 1, page 514, this being

24 your 2005 return to the Register of Interests. This

25 being the one where, under directorship, you had entered

1 Alliance Realty Limited as a remunerated directorship.

2 The actual form that was filled in by yourself, we
3 assume by yourself, certainly signed by yourself,
4 page 517, Alliance Realty Limited, is entered there and
5 signed on page 520.

6 So do you stand by your evidence that you were never
7 a director of Alliance Realty Limited?

8 A. Yes.

9 Q. Why did you tell the Register of Interests that you
10 were?

11 A. I noticed that I did for both Urban Development and
12 Alliance Realty Limited. That's clearly an error.

13 Q. Why did you declare that you were directors of two
14 companies that you were never a director of either?

15 A. It is clearly an error.

16 Q. Yes, but why did you make that error, sir? Why would
17 you think that you were a director of a company that you
18 were never a director of?

19 A. I had shares in it, and if there is anywhere in the form
20 where shares in a company, that is where it should have
21 been.

22 Q. Yes. There is a section for shares. If we turn over to
23 page 519, declarable shareholdings there, you only put
24 Urban Development Limited.

25 So you went to the trouble of writing in

1 Urban Development Limited for shareholding but you
2 didn't write Alliance Realty, although you now tell us
3 that you were a shareholder but you were not a director.

4 Why did you say that?

5 A. It is an error. I was never a director of

6 Alliance Realty.

7 Q. But this is an important document. It is a legal

8 requirement. You are a Minister of State and you are

9 required to make declarations and you can't remember

10 which companies you are directors of and which you are

11 not? You imagine you are a director when you are not?

12 How can that be the case? How can that be right, sir?

13 (11.30 am)

14 MR MISICK: The witness has said it was an error. I am not

15 sure he can take it any further.

16 SIR ROBIN AULD: He might want to reflect on his evidence

17 over the next short adjournment.

18 MR MILNE: Did Melbourne Wilson tell you you were

19 a director?

20 A. No, he never told me. The first time I saw he had me

21 down as director is when he made the submission to

22 the Commission.

23 Q. Right. It just happens that you had made exactly

24 the same error as Melbourne Wilson made when he told

25 the Commission that you were a director, so you both

1 made the same error at various different times but we
2 are being asked to believe this is simply a mix-up?
3 A. It is a mix up. I am not a director of
4 Alliance Realty Limited.
5 Q. You may not be now, sir --
6 A. I am not. Sorry?
7 Q. Back at the beginning, you clearly were labouring under
8 the misapprehension that you were a director. Mr Wilson
9 laboured under that same misapprehension a few months
10 ago when he wrote in on your behalf telling
11 the Commission that you were a director.
12 But that's just a mistake, is it? Just an error?
13 A. Must have been. I am not a director.
14 SIR ROBIN AULD: That is as far as I think you are going to
15 get with that.
16 MR MILNE: Probably is, sir.
17 What was the purpose, what did you understand was
18 going to be the purpose of Alliance Realty Limited?
19 A. It was expected to handle the sales of the condominium
20 units.
21 Q. Right. Which condominium units?
22 A. Sorry?
23 Q. Which ones?
24 A. The ones to be built on Northwest Point.
25 Q. Did you have an agreement that you would be

1 the marketing arm for Mr Wex's condominium development?

2 A. No. Not that I know of.

3 Q. So the last that we heard, Mr Wex had not even started

4 development. The 20-acre development site is likely to

5 take, with the best will in the world, a couple of years

6 to develop, isn't it?

7 A. Perhaps, yes.

8 Q. Obviously a realty company may wish to sell off-plan; it

9 may wish to put the project to the public and encourage

10 people to invest in advance. So you don't have to wait

11 until the paint is dry on the place before you start

12 selling.

13 You set up a company or you joined a company,

14 forgive me, which doesn't appear to have had any

15 agreement, any sort of contract, any sort of deal. Did

16 it ever have an office?

17 A. Not that I am aware of.

18 SIR ROBIN AULD: Could I just interpose here. Who decided

19 to incorporate Alliance Realty Limited? Who decided to

20 set it up?

21 A. Mr Wilson set it up.

22 SIR ROBIN AULD: Mr Wilson.

23 A. Yes.

24 SIR ROBIN AULD: It was his idea and he did it?

25 A. Yes, sir.

1 SIR ROBIN AULD: Thank you.

2 MR MILNE: Mr Wilson deals with all of the negotiations, if
3 we follow your evidence correctly.

4 A. Yes.

5 Q. Mr Wilson was the man who received \$6.8 million from
6 David Wex into the McLeans account. Were you aware of
7 that?

8 A. I later learned that, yes.

9 Q. Yes. Mr Wilson transferred that money to Temple Finance
10 for about one month and then directed that
11 Temple Finance issue shares -- the money -- forgive
12 me -- they issued cheques and that is why we have
13 Temple Finance cheques going to the three other
14 Belongers, each of them \$1 million. That is why
15 a further cheque goes to Mr Smith for half a million
16 dollars, which is his commission, and \$1.8 million goes
17 into Alliance Realty Limited. That money, I would
18 suggest, is your money and no doubt Mr Wilson's.

19 But of all the companies it could have gone into,
20 you chose to put it into Alliance Realty Limited. Why
21 was that?

22 A. I can't say why he choose to put it there, sir --

23 SIR ROBIN AULD: Why he put it there?

24 A. Yes, I can't say why he put it there, but I certainly
25 learned that out of the 1.8 million, that \$1 million he

1 was holding for me.

2 MR MILNE: Did you at any time contact the government or

3 have Mr Wilson contact the government and say:

4 Urban Development has sold to a Canadian developer.

5 A. No.

6 Q. Even if you were under the impression that this was

7 a Belonger company that you were selling to, should you

8 not have told the government: we have passed this to

9 another company but don't worry, it is a Belonger

10 company.

11 A. Perhaps I should have.

12 SIR ROBIN AULD: Is there no machinery for that? Is there

13 not a common form that whenever you transfer to another

14 Belonger, some notice of it is given to the government?

15 A. Not that I know of, sir, but I am speculating that when

16 the transfer of shares is done, that would have -- it

17 would have been cleared on the transfer of shares. I am

18 speculating because I really don't know anything about

19 this corporate stuff.

20 SIR ROBIN AULD: Presumably when you transfer to

21 a non-Belonger, there is an established system for

22 notifying the government.

23 A. Should be, yes.

24 SIR ROBIN AULD: You say there should be or there is, isn't

25 there?

1 A. I believe there is.

2 SIR ROBIN AULD: There would need to be so that

3 the government can get its money back.

4 A. Yes.

5 SIR ROBIN AULD: Is there a register of some sort in some

6 government department which shows that happening?

7 A. There should be.

8 SIR ROBIN AULD: So if we look for the register, we might

9 find lots of transactions to non-Belongers with

10 the government getting its money back, might we?

11 A. Sure, I am sure.

12 SIR ROBIN AULD: Where should we look for that?

13 A. At the Company Register and the Land Registry,

14 I suspect.

15 SIR ROBIN AULD: Thank you.

16 MR MISICK: If I can assist you, sir, I do not think there

17 is such a register, and I don't think there is a system

18 in place to monitor that.

19 SIR ROBIN AULD: That is why I asked the question.

20 MR MISICK: I do not think there is such a system.

21 SIR ROBIN AULD: So there is no system for policing

22 the Belongers' discount being properly laid out and

23 properly reclaimed where it is passed on?

24 MR MISICK: No, sir. There is no such system.

25 MR MILNE: Is it not the case that once the transaction had

1 gone through, there should have been a repayment of
2 the Belonger discount to the government?
3 A. Yes, if it was passed on to non-Belongers.
4 Q. But no effort was ever made to make that repayment?
5 A. Not on my part.
6 Q. As far as you were concerned, the person to whom your
7 interest was transferred was Mr Wex, yes?
8 A. I know Mr Wex is in it, but I am still told that --
9 SIR ROBIN AULD: Who told you?
10 A. Mr Wilson told me that it is transferred to a Belonger
11 company.
12 Q. Right. Your statement, paragraph 17 on page 4, I am
13 simply quoting from the words you use, sir:
14 "As far as I was concerned, the person to whom
15 the interest has been transferred to is Mr Wex."
16 A. Yes.
17 Q. There is in fact in this statement no reference to any
18 belief or understanding that it was a Belonger company.
19 So you should have paid the government together with
20 your colleagues \$1.38 million and you did not, is that
21 what it comes down to?
22 SIR ROBIN AULD: Take it in stages. You should have paid it
23 that money; do you agree with that or not?
24 A. If it is not transferred to a Belonger company, then,
25 yes.

1 SIR ROBIN AULD: Then did you repay it?

2 A. No.

3 MR MILNE: Do you intend to repay it?

4 A. If it is done correctly and it is not transferred to
5 a Belonger company, then perhaps I am obligated to pay
6 it.

7 Q. So do you intend to repay it?

8 A. If my interest was transferred to a Belonger company,
9 then I don't have to. If it is a non-Belonger company,
10 then I am obligated to pay it and I have to pay it.

11 Q. We have seen no evidence that it is a Belonger company.

12 A. Okay.

13 Q. You tell us that it is Mr Wex who is not a Belonger?

14 SIR ROBIN AULD: Mr Milne, I think we have pretty well
15 plumbed this mine as far as we can. Mr Melbourne Wilson
16 will be able to tell us all in due course.

17 MR MILNE: Sir, the only remaining aspect is in relation to
18 Alliance Realty. I have explored this and, Minister,
19 I am going to give you a last opportunity, but am I to
20 understand that you deny any knowledge of or any control
21 of Alliance Realty Limited?

22 A. I have shares in Alliance Realty Limited. I am not
23 a director of Alliance Realty Limited.

24 Q. I am going to suggest that the money that comes into
25 Alliance Realty Limited, 1.8 million, was followed by

1 other sums of money, in some cases quite large sums of
2 money. Were they further examples of your sales of
3 Crown land?

4 A. No.

5 Q. Never?

6 A. No.

7 Q. Where would the other money have come from? Would that
8 all be down to Mr Wilson?

9 A. Yes, sir.

10 Q. Nothing to do with you?

11 A. No.

12 SIR ROBIN AULD: I think possibly you ought to identify
13 the sums of money even if you are going to come back to
14 them with Mr Wilson, to the extent that you have not
15 already done so, Mr Milne.

16 MR MILNE: Sir, we have the --

17 SIR ROBIN AULD: Might we do that after the short break?

18 MR MILNE: Certainly, sir.

19 SIR ROBIN AULD: Five/ten minutes.

20 (11.42 am)

21 (A short break)

22 (11.53 am)

23 MR MILNE: Minister, before the break I had asked you

24 briefly about other payments into Alliance Realty.

25 For ease they are set out at the latter part of

1 volume 1, starting from page 538. We have scheduled
2 them over two pages.

3 SIR ROBIN AULD: Honourable Jeffrey Hall, credits to
4 Alliance Realty. These run from 23rd May 2006 to
5 3rd November 2008, totalling 4 million-odd, is that
6 right?

7 MR MILNE: That is correct, sir.

8 So that we can be clear about this,
9 Alliance Realty Limited, which we understand only had
10 one employee, briefly, that being Mr Smith, no office,
11 no other facilities, appears to have earned quite apart
12 from the 1.8 million that went in on day one, in excess
13 of very close to \$2.2 million further. Are we to
14 understand you know nothing of any of that?

15 A. I know nothing of that --

16 Q. You have told us you were a shareholder of
17 Alliance Realty Limited.

18 A. I am a shareholder.

19 Q. Therefore you would expect a dividend from
20 Alliance Realty Limited, no doubt?

21 A. Never received any dividend.

22 Q. You never received any dividend?

23 A. No.

24 Q. The 1.8 million is paid in on 23rd May 2006. A little
25 over a week later, on 2nd June 2006, this company

1 receives a further \$539,000. So more than half
2 a million.

3 There's then a bit of a gap because the next cheque
4 doesn't come in until September, but in the space of two
5 days, there is \$320,200, followed by a further \$100,000.

6 Another \$100,000 in October. In November there are
7 two payments of \$120,000 each and \$205,000 on
8 12th December.

9 So in the first six to seven months, \$3.4 million.

10 The other payments that come in, for the most part,
11 are relatively modest.

12 In 2007 there are payments in April for \$150,000,
13 August for \$102,000 and November for \$100,000.

14 But all the other payments in are generally in
15 the single thousands, 25,000 being the biggest. 2008,
16 things are getting quieter --

17 SIR ROBIN AULD: Before you pass on. There is a notation
18 against two of the 2007 credits attributing the credit
19 either on the instructions of or to Mr Melbourne Wilson.

20 MR MILNE: That is correct, sir.

21 SIR ROBIN AULD: So where he has been involved, there are
22 these two instances at any rate in that year where he is
23 identified as such but not otherwise.

24 MR MILNE: The notations that are put there only appear in
25 circumstances where the actual bank statement makes

1 reference and that is why they are recreated precisely
2 as they appear on the bank statement; one of them saying
3 Melbourn with the E missed off at the end but we assume
4 that, being a distinctive and an unusual name, to be
5 Mr Melbourne Wilson.

6 MS MISSICK: Sorry, sir, if my learned friend can let us
7 know who prepared this document, this is
8 the Commission's document?

9 MR MILNE: It is the Commission's document. It is derived
10 from the Alliance Realty Limited statements that have
11 previously been disclosed.

12 Just for completeness, sir, 2008, there are
13 a variety of further payments in, mostly in the small
14 single thousands, but over the course of the year,
15 \$111,000 and again on three occasions, Mr Wilson's name
16 crops up on the bank statements, presumably as a result
17 of bank transfers or something of that nature.

18 Obviously, other credits and debits will simply
19 refer to a cheque but will not necessarily indicate
20 the person.

21 All I am going to ask you, Minister, is simply this:
22 if you were a shareholder of this company, why did you
23 not inquire of Mr Wilson, who has been your adviser
24 throughout, how are my shares doing, how is the company
25 doing, is it making money?

1 Did you ever make such an enquiry?

2 A. No.

3 Q. So you become a shareholder and then effectively you
4 forget about it; is that what we are to understand?

5 A. Yes. I have assumed, so are the other two shareholders.

6 Q. With the large cheques that come in, it would appear to
7 us that they are similar in origin to the initial
8 cheque. I say that for this reason. If you take core
9 bundle 6 and you turn to the very final section,
10 section 10.

11 Do you have that?

12 A. Yes.

13 (12.00 pm)

14 Q. We see behind that a series of cheques which are
15 the cheques paid out by Temple Securities Limited, as we
16 now know on the direction of Mr Wilson. We will deal
17 with that when he comes to give evidence. If you turn
18 to the very back page, there is a further cheque from
19 Temple Securities. This is the cheque for \$320,200.

20 SIR ROBIN AULD: This was dated?

21 MR MILNE: This one is dated 9/4/2006 and the same -- that
22 in fact, sir, I take to be American notation because
23 that cheque is credited to the Alliance Realty Limited
24 account on 5th September. So that 9/4 is September 4th
25 2006 and it credits in exactly the same sum to

1 Alliance Realty Limited on 5th September 2006.

2 Is your evidence that you know nothing of this and
3 it is in no way connected to you?

4 A. Yes, it is.

5 Q. Mr Wilson will be the only person who can tell us what
6 it represents and where it came from?

7 A. Yes.

8 Q. I say in advance, forgive me if I do it through you,
9 Minister, but the Commission will and does invite
10 Mr Wilson, and I know his attorneys are present today,
11 to explain all of the other significant payments in to
12 this account.

13 A. Yes.

14 Q. Two or three short points, sir, that you may be able to
15 assist with.

16 We have heard evidence from the Honourable
17 Floyd Hall, the Deputy Premier, that the Premier pressed
18 him for a loan, required him to make a loan. And he
19 thought that you might have been present at the time.
20 Were you present when that conversation took place?

21 A. I was not present when that conversation took place, no.

22 Q. Do you remember the Premier asking other people for
23 loans in May 2006, around the time of the
24 Urban Development deal?

25 A. No.

1 Q. Did he ask you for money?

2 A. He did.

3 Q. He has recorded it, quite specifically, as "Jeffrey Hall
4 Alliance Realty". We don't in fact see the cheque
5 coming out of Alliance Realty that was for the specific
6 amount he said that was passed to him. But I want to be
7 clear about this: your evidence remains, I hope, tell me
8 if it doesn't, that Mr Wilson paid that out at your
9 request?

10 A. That is correct.

11 Q. So you have no knowledge of the Premier asking or
12 pressing anybody else for loans or payments of any sort?

13 A. I don't know.

14 Q. When did the Premier approach you?

15 A. It was in May.

16 Q. Right.

17 A. 2006.

18 Q. When was it though? Was it at a Cabinet meeting? Did
19 he ring you up privately? Did he come and see you in
20 your office?

21 A. I don't remember. I think it was -- we were in
22 a meeting in Grand Turk.

23 Q. You were in a meeting?

24 A. And he asked me, after a meeting in Grand Turk.

25 Q. After a meeting or in the meeting?

1 A. After a meeting.

2 Q. Who was present at the time that he asked you?

3 A. Just us.

4 Q. How did he know that you had come into this money? Were

5 you able to establish that? Did you tell him that --

6 SIR ROBIN AULD: What is your objection?

7 MR FITZGERALD: Sir, it is being assumed that there is some

8 connection between the two by my learned friend and he

9 has not laid the foundation for it.

10 SIR ROBIN AULD: Take it in stages, Mr Milne.

11 MR MILNE: Certainly.

12 Had you told him that you had come into money?

13 A. I don't recall if I do.

14 Q. Had you ever --

15 A. I may have.

16 Q. Had you ever loaned money to the Premier before?

17 A. No.

18 SIR ROBIN AULD: Did he indicate that he knew you had come

19 into money to you?

20 A. No. It is a very small island, everybody knows

21 everything. He know.

22 SIR ROBIN AULD: He knew?

23 A. He must have known.

24 SIR ROBIN AULD: What are you saying, he must have known or

25 he talked to you as if he did know?

1 A. I don't recall the conversation but he knew.

2 SIR ROBIN AULD: He knew, all right.

3 MR MILNE: Right. We know that he asked for loans from two

4 other Cabinet members, albeit each says that that was

5 because they had brothers who had come into money.

6 Those were your colleagues, Quinton Hall,

7 Earlson Robinson. Were you aware that he had gone to

8 your colleagues for money as well, albeit indirectly?

9 A. I later learned.

10 Q. You later learned. Did you say to him: why don't you

11 ask the others, they may be able to give you some as

12 well.

13 A. No.

14 Q. You didn't suggest that?

15 A. No.

16 Q. As we understand it, this money was paid to the Premier

17 within a matter of days of this deal being completed, is

18 that right?

19 A. Could have been.

20 Q. You told us that your credit card was paid on occasions

21 because you were abroad travelling. How often do you

22 travel in your job?

23 A. It is hard to say.

24 SIR ROBIN AULD: Your evidence was that you travelled a lot?

25 A. Yes.

- 1 SIR ROBIN AULD: That is why you needed to make these
2 arrangements?
- 3 A. Yes.
- 4 SIR ROBIN AULD: Why is it hard to say?
- 5 A. How often -- I thought he said as a result of my job.
- 6 MR MILNE: Let's take it rather more widely. In any given
7 year, approximately, how many times do you think you
8 leave the Islands and go abroad?
- 9 A. At least 12 times.
- 10 Q. So on average you probably go abroad at least once
11 a month?
- 12 A. Yes, sometimes.
- 13 SIR ROBIN AULD: That is just in the course of your job, is
14 it?
- 15 A. No, it is a mixture.
- 16 MR MILNE: For the most part do they tend to be long trips,
17 a couple of days, a week, two weeks?
- 18 A. They would be the most perhaps four or five days.
- 19 Q. At most --
- 20 A. Four days the most.
- 21 Q. Four days the most?
- 22 A. Yes.
- 23 Q. So you tend to not to take long breaks?
- 24 A. No.
- 25 Q. But quite a number of short breaks?

1 A. Yes.

2 Q. Why then, if you are only away for four or five days at
3 a time, would you need somebody else to be paying your
4 credit card? Usually one has several weeks to pay
5 a credit card bill once it arrives in.

6 A. Yes, that happened on some occasions.

7 Q. But why is it that you would have to have somebody else
8 pay it? You have told us it happened on occasions?

9 A. Yes.

10 Q. If you are only gone four or five days, if you don't
11 generally take long trips, what is the urgency? Why not
12 pay it before you go? Why not pay it when you get back?

13 A. Well, you pay it -- sometimes I pay before I go.
14 Sometimes I ask that it be paid on my behalf.

15 Q. Rhynie Campbell pays it for you, although he lives --

16 A. Several times.

17 Q. He lives in the USA quite a lot of the time, doesn't he?

18 A. Recently, yes.

19 Q. He is, as I understand it, a professional poker player,
20 and whilst there is a poker championship in the Turks &
21 Caicos Islands, one suspects that the nature of his
22 employment requires him to travel quite a lot.

23 A. He does.

24 Q. So in fact he is going to be away a lot of the time. So
25 you would have to --

- 1 A. We often travel altogether a lot of times also.
- 2 Q. You travel together?
- 3 A. On occasions.
- 4 Q. You are a keen poker player?
- 5 A. I like the game.
- 6 SIR ROBIN AULD: Is that the reason for some of your
- 7 travels, to play poker?
- 8 A. Yes.
- 9 SIR ROBIN AULD: Where do you go to play poker abroad?
- 10 A. Las Vegas.
- 11 SIR ROBIN AULD: Anywhere else?
- 12 A. No.
- 13 SIR ROBIN AULD: You would stay in Las Vegas for a few days
- 14 while you were playing there, is that the pattern?
- 15 A. Yes, sir. Not always poker. I gamble.
- 16 SIR ROBIN AULD: Sorry?
- 17 A. I gamble also. The table game, blackjack.
- 18 MR MILNE: One last topic, Minister. Caribbean Cruising.
- 19 A. Yes.
- 20 Q. Can you tell us about your involvement in that, please?
- 21 A. Well, I have no involvement in it, except that one of my
- 22 ministerial responsibilities is ports. I know
- 23 Caribbean Cruising is a company that runs ferry services
- 24 from Provo to North Caicos. They made an application to
- 25 Cabinet to secure a space at the newly-built

1 North Caicos port in order for them to move their
2 passengers from Providenciales to the port. Cabinet
3 considered the application and subsequently grant
4 approval for Caribbean Cruising, I believe it is to
5 lease a small portion of the port and develop it so that
6 they can move their passengers safely to --

7 SIR ROBIN AULD: So they can do what?

8 A. So they can move their passengers safely from
9 Providenciales to North Caicos.

10 MR MILNE: You have no financial interest at all in
11 Caribbean Cruising?

12 A. No, sir, I do not.

13 SIR ROBIN AULD: Or in any of the associated arrangements
14 that they have there?

15 A. No, sir, I do not.

16 SIR ROBIN AULD: Who runs the ferry to Providenciales?

17 A. Who runs it?

18 SIR ROBIN AULD: Yes. From the cruise port.

19 A. It is operated by Caribbean Cruises.

20 SIR ROBIN AULD: They operate it themselves, do they?

21 A. Yes.

22 MR MILNE: Who are the active minds behind Caribbean
23 Cruising, who are the directors.

24 A. I don't know, sir.

25 Q. Have you had any direct negotiation with the company?

1 A. No, sir.

2 Q. Your ministry deals with this?

3 A. Well, they submit an application to Cabinet, we sit on
4 it and then we will pass the agreement down to the AG's
5 chambers to, you know, (inaudible) the agreement.

6 MR MILNE: Thank you, sir, I have no further questions.

7 SIR ROBIN AULD: Mr Fitzgerald, it is you, I think, is it
8 not?

9 (12.15 pm)

10 Cross-examination by MR FITZGERALD

11 MR FITZGERALD: Three short matters, Mr Hall. The first is

12 this, Mr Hall, it is right that in May 2006 you made

13 a loan to the Premier of \$100,000?

14 A. That is correct.

15 Q. The circumstances as you have described them is he asked

16 you for a loan in May, is that right?

17 A. That is correct.

18 Q. Of course that was just after he had got married in

19 April and incurred considerable expenses with his

20 wedding, is that right?

21 A. I know he just got married, yes.

22 Q. You say that it was common knowledge that you would come

23 into this million dollars at that time?

24 A. Of course it was.

25 Q. It is common knowledge throughout?

- 1 A. Yes.
- 2 Q. Now you agreed to make that loan to him, is that right?
- 3 A. That is correct.
- 4 Q. And instructed your lawyer to make that payment to him?
- 5 A. That is correct.
- 6 Q. Is this right, that that was a personal loan made by you
- 7 as a friend to the Premier?
- 8 A. That is correct.
- 9 Q. There is nothing sinister about it, it is not part of
- 10 any special deal or anything of that sort?
- 11 A. No.
- 12 Q. Just a loan between friends?
- 13 A. Yes.
- 14 Q. Can I pass on from that then to just two short questions
- 15 about the PNP and its funds.
- 16 Firstly, can you confirm this: that the Premier did
- 17 receive a salary from the PNP even after he had become
- 18 the Premier. That is to say, a salary was paid to him?
- 19 A. Yes, as much as I know we had agreed to pay him
- 20 a salary.
- 21 Q. Can you recall that that was \$10,000 per month?
- 22 A. I believe it was.
- 23 Q. Payable by the PNP to him?
- 24 A. Yes.
- 25 Q. Just one final matter. In your paragraph 6 of your

1 statement, you refer to the fact that on occasions you

2 received cash payments drawn on the PNP?

3 A. Yes.

4 Q. That would be for expenses in either electioneering or

5 travelling?

6 A. Yes.

7 Q. Or giving money to your constituents, is that right?

8 A. For political purposes, yes.

9 Q. Is this right, that the Premier would on occasion draw

10 cash or have cash and give it to you for those purposes?

11 A. Yes.

12 Q. That is to say, he would make cash payments to you for

13 political purposes?

14 A. Yes.

15 Q. I think you have said that the sums were generally quite

16 modest sums, but was this something that happened quite

17 frequently?

18 A. No.

19 Q. But it did happen from time to time?

20 A. Yes.

21 MR FITZGERALD: Sir, those are the only matters.

22 SIR ROBIN AULD: Anybody else before Mr Misick?

23 MR SMITH: I just have a few questions.

24 Cross-examination by MR SMITH

25 MR SMITH: You indicated in response to Mr Fitzgerald that

1 the Premier was paid a salary, is that correct? Is that

2 your answer?

3 A. That is as I understand it.

4 Q. You are in agreement that you were not the Treasurer of

5 PNP?

6 A. No, I am not.

7 Q. Are we also in agreement that you were not aware that

8 whether or not after he was elected, if the salary

9 payments continued?

10 A. I would not know, I am not the Treasury.

11 Q. In relation to the loan, am I correct that you got your

12 payment about the same time as Mr Quinton Hall and

13 Mr Earls Robinson, is that correct?

14 A. Yes.

15 Q. We are in agreement that according to your testimony --

16 SIR ROBIN AULD: When you say "we", on whose behalf you are

17 putting that? You have two clients here.

18 MR SMITH: I am putting it on behalf of both my clients.

19 SIR ROBIN AULD: Thank you.

20 MR SMITH: Am I correct that according to your testimony, it

21 was common knowledge that these persons came into funds,

22 including yourself; is that correct?

23 A. Yes.

24 Q. I guess we could agree on that that the Premier would

25 have also known that Mr Hall and Mr Robinson came into

1 some funds, is that correct?

2 A. Yes.

3 Q. Whilst you can't recall whether you were present when
4 the Premier asked Mr Hall for the money, you later found
5 out that he did request of Mr Hall a loan, is that
6 correct?

7 A. Yes, I later learned.

8 Q. You found out prior to the hearings here at the
9 Commission, is that correct?

10 A. Yes, I believe so.

11 MR SMITH: I have no further questions.

12 SIR ROBIN AULD: Found out from whom? Who told you?

13 A. I don't recall who told me. I have heard it.

14 SIR ROBIN AULD: All right. Thank you.

15 Cross-examination by MR MISICK

16 MR MISICK: Mr Hall, I was not here on your first and second
17 days when you gave evidence, so I want to ask you a few
18 -- I see from the transcript that you were asked
19 a number of questions regarding your declaration of
20 interest.

21 A. Yes.

22 Q. I think we can be right upfront about this, that your
23 declarations of interest that you submitted to
24 the Registrar, between the period of 2003 and 2007, they
25 were not always adequate?

1 A. That is correct.

2 Q. You have been attending these hearings for quite a while

3 yourself, is that correct? Whilst others were giving

4 evidence.

5 A. That is correct.

6 Q. So you understand the purpose of the declaration?

7 A. I now do, yes.

8 Q. Is your understanding that it is to ensure that any

9 conflicts or perceived conflicts of interest are brought

10 to light?

11 A. Yes.

12 Q. You submitted a declaration in 2003 and in 2004, and if

13 you need me to refer you to these, by all means let me

14 know. But in the 2003 declarations and the 2004

15 declarations, you referred to two parcels of land that

16 you owned: one in Chalk Sound and the other in

17 Long Bay Hills?

18 A. Yes.

19 Q. Were they the only two parcels of land that you owned at

20 the time?

21 A. No.

22 Q. What other parcels of land did you own at the time?

23 A. I owned 2003/2004 --

24 SIR ROBIN AULD: Speak clearly, please.

25 A. 2003/2004, I owned a piece of property in the back of

1 Glass Shack but they were privately acquired.

2 MR MISICK: What was the reason you did not declare that?

3 A. Because I did not obtain them from the Crown.

4 Q. Do you understand that you were to declare all of your

5 properties?

6 A. Yes, I should have declared it.

7 Q. Now, you also declared two loans that you obtained, one

8 from FCIB and one from the Bank of Nova Scotia?

9 A. Yes.

10 Q. Did you have any other loans in the years 2003 and 2004?

11 A. No.

12 Q. In the space provided for directorships of companies,

13 you declared nothing.

14 A. Yes.

15 Q. I am talking about -- I am taking 2003 and 2004

16 together.

17 A. Yes.

18 Q. You declared nothing for those years?

19 A. Yes.

20 Q. Were you a director of any companies in 2003 and 2004?

21 A. No.

22 Q. In the space provided for gifts and sponsorship, you

23 again declared nothing.

24 A. Yes.

25 Q. Leaving aside political donations, which I will come to

1 in a minute, did you receive any gifts in the years 2003

2 and 2004?

3 A. No, not of those.

4 Q. You didn't declare any political contributions for those

5 years either?

6 A. I did not.

7 Q. Would you have received contributions in those years?

8 A. Yes.

9 Q. Why did you not declare them?

10 A. Carelessness, it was an error on my part. I regret it.

11 I should have declared it.

12 Q. Was it the custom at the time for members of the

13 legislature to declare interests to -- to declare

14 political donations?

15 A. It was not the custom. If you search through

16 the register, if you look back through the register, no

17 one actually declared it.

18 Q. In terms of conflicts of interest, did you have any in

19 2003 and 2004?

20 A. No, not that I am aware of.

21 Q. In relation to the assets that you disclosed or did not

22 disclose?

23 A. In the ones that I disclosed, no.

24 Q. The one you told us you did not disclose was

25 the property at the back of Glass Shack?

- 1 A. That is correct.
- 2 Q. Did that involve any conflict of interest?
- 3 A. No.
- 4 Q. In 2005 -- before I move on to 2005, in 2004 you
- 5 acquired two pieces of Crown land, is that correct?
- 6 A. Yes.
- 7 Q. In fact one was acquired by your wife in Leeward and
- 8 that was for a residential dwelling?
- 9 A. Yes. In Chalk Sound.
- 10 Q. Sorry, in Chalk Sound.
- 11 A. Yes.
- 12 Q. In fact you did declare that?
- 13 A. Yes.
- 14 Q. In 2004 that was also when you were first offered
- 15 the CPL, the conditional purchase lease in respect of
- 16 the Northwest Point property?
- 17 A. That is correct.
- 18 Q. You did not declare that, is that correct?
- 19 A. No.
- 20 Q. I will come back to that obviously. In 2006 you also
- 21 obtained a CPL in respect of your parcel of land in
- 22 Middle Caicos for the construction of an office complex,
- 23 is that correct?
- 24 A. Yes.
- 25 Q. Now, you have not disposed of that, have you?

1 A. No.

2 Q. While we are at it, your wife has not disposed of her

3 interest in the residential parcel in Chalk Sound

4 either, has she?

5 A. No.

6 SIR ROBIN AULD: You say this offer has not yet been taken

7 up. What happens, do you accept an offer when it's made

8 to you, or can you just sit on it for a period?

9 MR MISICK: I think the evidence was it is good for nine

10 months. So if -- the offer has lapsed and if you don't

11 take it up, you have to reapply.

12 SIR ROBIN AULD: That is 2006. This offer has not yet been

13 taken up. So what happens to that, then?

14 MR MISICK: Presumably, he would have to reapply, I assume.

15 A. Yes.

16 MR MISICK: If it is still available.

17 SIR ROBIN AULD: It has expired?

18 A. Yes.

19 MR MISICK: Then in 2007, you also were offered a CPL on

20 a parcel in the Bight?

21 A. Yes.

22 Q. That was also to develop an office complex?

23 A. That is correct.

24 Q. Have you done that? Have you done what you said you

25 were going to do with that parcel?

- 1 A. Yes.
- 2 Q. Can you tell us what is the stage at which
- 3 the development has reached?
- 4 A. It is perhaps about 75 per cent completed.
- 5 SIR ROBIN AULD: And drawing rents?
- 6 A. Part of it, sir, yes.
- 7 SIR ROBIN AULD: Since?
- 8 A. About a year.
- 9 SIR ROBIN AULD: Part of it.
- 10 A. Part of it.
- 11 SIR ROBIN AULD: So what rental have you received for about
- 12 a year? How much?
- 13 A. I am not sure. I can get the figures.
- 14 SIR ROBIN AULD: Roughly?
- 15 A. 6,000, maybe.
- 16 SIR ROBIN AULD: That is a total rental, is it?
- 17 A. Yes.
- 18 SIR ROBIN AULD: In the year. That is a pretty cheap rent,
- 19 isn't it?
- 20 A. \$6,000?
- 21 SIR ROBIN AULD: It is a pretty cheap rent, isn't it? Is it
- 22 a very small piece of office that you are renting?
- 23 A. No, \$6,000 per month.
- 24 SIR ROBIN AULD: Per month did you say?
- 25 A. Yes.

1 SIR ROBIN AULD: I misheard you.

2 MR MISICK: Then in 2008 you were offered a CPL on a parcel
3 in Leeward Going Through.

4 A. Yes.

5 Q. That parcel is next to your dwelling home?

6 A. That is correct.

7 Q. Can you explain why you applied for that parcel?

8 A. Exactly that. It is a piece of vacant land that is next
9 to my home and I wanted to get it for more space.

10 Q. Now, in your declaration to the Commission, you have
11 listed a number of other properties. Is it right that
12 all those other properties were acquired privately by
13 you or inherited by your wife?

14 A. That is correct, yes.

15 Q. Apart from the properties that we have just mentioned,
16 you have not acquired any other Crown land during
17 the course of your role as a minister and in fact as
18 a member of the legislative since 2003?

19 A. That is correct, apart from those.

20 Q. In respect of the years 2005 and 2006, it has been
21 pointed out to you that the two properties that you
22 declared in 2003 and 2004, they disappeared during those
23 two years?

24 A. Yes.

25 Q. Do you remember that?

- 1 A. Yes, after reviewing the declaration I have seen that.
- 2 Q. And they re-appear in 2007?
- 3 A. Yes.
- 4 Q. Now you understand that anyone reading the register may
- 5 get the impression during the years 2005 and 2006 that
- 6 you may have disposed of those properties.
- 7 A. Yes.
- 8 (12.30 pm)
- 9 Q. Was it your intention to give that impression?
- 10 A. No.
- 11 Q. To the extent that your declarations were inadequate,
- 12 was it your intention to mislead the Registrar?
- 13 A. No, it is not.
- 14 Q. Was it your intention to mislead the public?
- 15 A. No, it is not.
- 16 Q. In respect of the parcels of Crown land that you
- 17 acquired or were made offers on, did you at the relevant
- 18 time declare your interest?
- 19 A. Yes.
- 20 Q. In respect of any of these parcels of land, were your
- 21 Cabinet colleagues at any time in any doubt as to your
- 22 interest in the acquisition?
- 23 A. No.
- 24 Q. Does that include the property that was subsequently --
- 25 that is the subject of the Urban Development Limited

- 1 transaction?
- 2 A. Yes.
- 3 Q. Prior to getting an interest in
- 4 Urban Development Limited, were you ever a shareholder
- 5 of any company?
- 6 A. No.
- 7 Q. Were you ever a director of any company?
- 8 A. No.
- 9 Q. Did you ever own any of your assets in any company?
- 10 A. No.
- 11 Q. Had you ever given instructions to anyone to incorporate
- 12 any companies on your behalf?
- 13 A. No.
- 14 Q. Were you familiar with the way companies were
- 15 established?
- 16 A. No, I was not familiar with the way companies are
- 17 established.
- 18 Q. Were you familiar with the way companies operate?
- 19 A. No.
- 20 Q. In 2005/2004, that was when you were offered
- 21 the conditional purchase lease on one of the plots, one
- 22 of the parcels down at Northwest Point, with which we
- 23 are concerned about?
- 24 A. Yes.
- 25 Q. Was it your intention when you made the application for

- 1 that parcel of land to develop it yourself?
- 2 A. Yes.
- 3 Q. Prior to making your application, had you heard of
- 4 Mr Wex?
- 5 A. No.
- 6 Q. Prior to making that application, had you discussed any
- 7 disposition of that parcel of land with anyone?
- 8 A. No.
- 9 Q. You said you were not a developer?
- 10 A. No.
- 11 Q. But had you owned properties which was constructed on
- 12 your behalf before?
- 13 A. Yes.
- 14 Q. What sort of properties were they?
- 15 A. They were commercial properties where I have constructed
- 16 apartment rentals.
- 17 Q. Apartments for rent?
- 18 A. Yes.
- 19 SIR ROBIN AULD: Which was that?
- 20 MR MISICK: There were apartments for rent.
- 21 SIR ROBIN AULD: Yes but where? I had previously instructed
- 22 the construction of building of apartments to rent.
- 23 A. Yes.
- 24 SIR ROBIN AULD: Where were they?
- 25 A. In the Cheshire Hall area as well as Long Bay.

1 SIR ROBIN AULD: Forgive me, Mr Misick. You say you had
2 instructed the construction; was that on your own behalf
3 or on behalf of somebody else?
4 A. On my behalf.
5 SIR ROBIN AULD: Give me the address again please.
6 A. It is in Cheshire Hall and Richmond Hill, it is
7 the area, and Long Bay Hills.
8 MR MISICK: Just to complete the picture, you referred in
9 your statement to deriving rental income.
10 A. Yes.
11 Q. Is the rental income related to those companies?
12 A. Yes.
13 SIR ROBIN AULD: Are they among the properties that we have
14 looked at when we have been through the disclosure with
15 you this morning --
16 A. Yes.
17 SIR ROBIN AULD: -- Mr Misick?
18 MR MISICK: Yes.
19 Do you rent any of those properties to
20 the government?
21 A. No.
22 Q. Let's get right to the heart of Urban Development,
23 Mr Hall. Let's get right to the heart of the matter.
24 You sold your interest and we will come back to
25 the details now, but you sold your interest in that

1 property to Mr Wex in 2006, is that correct?

2 A. Yes.

3 Q. You acquired that interest under the land policy which

4 was intended to empower Belongers?

5 A. Yes.

6 Q. I believe it is right, and you could tell me if I am

7 wrong, is that it is not the intention of the policy for

8 Belongers to acquire Crown land, sell it at a profit and

9 pocket the money. That is not the rationale behind

10 the policy?

11 A. No, it is not.

12 Q. But I think it is -- you would agree, will you not, that

13 your transaction and that of the other Belongers who

14 sold the interest to Mr Wex, that was not the first time

15 this has occurred, is that correct?

16 A. That is correct.

17 Q. But you were a minister and you were -- you accept that

18 you should have in this case led by example?

19 A. I should have.

20 Q. And you didn't?

21 A. I did not.

22 Q. Prior to acquiring your interest in the property, did

23 you have any arrangement with the other Belongers to

24 acquire the adjacent properties?

25 A. No, I did not.

1 Q. I think you told us that you intended to develop
2 the property?
3 A. Yes.
4 Q. Did you try to find loan finance to do so?
5 A. Yes.
6 Q. Who did you approach?
7 A. Temple Mortgage.
8 Q. Did they indicate to you that they were willing to
9 consider granting you credit facilities to do so?
10 A. Yes.
11 Q. Had you in fact used Temple Mortgage as a financing
12 source before?
13 A. Yes.
14 Q. In fact I think if in the declarations, in
15 the submissions that were made to the Commission on your
16 behalf, you still show them as one of your creditors?
17 A. Yes.
18 Q. You have told us in an answer to a question to Mr Milne
19 and you said in your statement that you were introduced
20 to Mr Smith by Mr Wilson?
21 A. Yes.
22 Q. You indicated that you would be willing to have
23 the interest that you were offered included in
24 a development?
25 A. Yes.

1 Q. Now, when you spoke to Mr Smith, were you given
2 the impression that his client wanted to develop
3 the property?

4 A. Yes.

5 Q. The development that he was proposing, was that similar
6 to what you had in mind?

7 A. Yes.

8 Q. When you were first approached by Mr Smith, did he tell
9 you that he had spoken to the other Belongers?

10 A. No.

11 Q. When did you learn that he had spoken to them as well?

12 A. Shortly after I learned.

13 Q. How did you learn that?

14 A. Through Mr Wilson.

15 Q. Mr Wilson?

16 A. Yes.

17 Q. After you had spoken to Mr Smith, you referred him to
18 Mr Wilson as your lawyer?

19 A. I did.

20 Q. How long had you known Mr Wilson at this time?

21 A. Almost all of my life. At least -- really know him at
22 least 10/15 years.

23 Q. Was he your friend?

24 A. Yes.

25 Q. And your lawyer?

1 A. Yes.

2 Q. So what was the next thing you learned about the

3 proposal from Mr Smith's client?

4 A. Well, some weeks later, I learned from Mr Wilson that

5 Mr Smith's client, he was interested in buying the land,

6 and that each of the Belongers could net \$1 million.

7 Q. You learned at that stage that Mr Smith wanted to buy

8 the land?

9 A. Yes.

10 SIR ROBIN AULD: Mr Wilson told you this, is that right?

11 A. Yes.

12 MR MISICK: One of the reasons why we are here is because

13 you agreed to sell it to him for \$1 million?

14 A. Yes.

15 (12.45 pm)

16 Q. Was that the occasion on which you learned that the --

17 he was offering the same sum to the other Belongers?

18 A. Yes.

19 Q. Had you at this point sat down with any of the other

20 Belongers to discuss any joint development or joint

21 disposal of your respective interests?

22 A. Not at that point.

23 Q. So you communicated your desire to sell to Mr Wilson and

24 what was the next thing that happened?

25 A. Well, it was suggested to us that a company should be

1 set up.

2 Q. Whose suggestion was it?

3 A. Mr Wilson.

4 Q. Mr Wilson suggested that a company be set up?

5 A. Yes.

6 Q. Did he tell you why the company ought to be set up or

7 should be set up?

8 A. Yes, the company is to be set up to hold the land and to

9 negotiate a development agreement.

10 SIR ROBIN AULD: Hold the land and negotiate?

11 A. A development agreement.

12 SIR ROBIN AULD: Thank you.

13 MR MISICK: You didn't disagree with that?

14 A. No.

15 Q. Try and be as precise as you can, and I know Mr Milne

16 was trying to get the same information from you, did you

17 know what time that meeting -- the meeting -- first of

18 all the meeting with Mr Smith took place?

19 A. Yes.

20 Q. About what time did that meeting take place?

21 A. With Mr Smith?

22 Q. With Mr Smith, yes.

23 A. It would have been in early 2005.

24 Q. That is as precise as you can be?

25 A. Yes, I don't remember.

1 Q. At what stage, tell us if you can, you had agreed to
2 sell your land to Mr Wex, incorporate a company and
3 negotiate a development agreement. At what stage was
4 that? What time was that?

5 A. That would have been later on, perhaps in about maybe
6 June of 2005.

7 Q. About June of 2005. Did Mr Wilson ever explain to you
8 how the transaction would work?

9 A. No, not entirely. We just left it all to him.

10 Q. Sorry?

11 A. No, not entirely. I just left it all up to him to do.

12 Q. You said not entirely. What did he tell you about how
13 it would work? Tell us what he did tell you about how
14 it would work?

15 A. Basically Mr Wilson told us -- told me in fact that
16 I could get \$1 million for the land, which I agreed. In
17 order to get it all done, we need to form a company to
18 secure the land, hence Urban Development, and negotiate
19 a development agreement with the government, hence
20 the development agreement.

21 But I left it all up to him to do.

22 Q. That was all that he told you?

23 A. Yes.

24 SIR ROBIN AULD: So that it was Urban Development who were
25 going to negotiate with the government, was that your

1 understanding at that stage?

2 A. Yes.

3 MR MISICK: The name Urban Development, did that come from

4 you?

5 A. No.

6 Q. Do you know who it came from?

7 A. No.

8 Q. Did Mr Wilson tell you how much money Mr Wex was paying

9 for the acquisition of the land and the development

10 agreement?

11 A. No, not at that time. I learned later.

12 Q. He didn't tell you?

13 A. Not at the time, no.

14 Q. You said you learned later?

15 A. Yes.

16 Q. When did you learn?

17 A. I learned after all of the enquiries and then

18 the production of documents and things, I learned

19 exactly how much it was.

20 Q. During the course of this Commission?

21 A. Yes.

22 Q. In order for the transaction to have been completed, you

23 would have been required to sign various documents,

24 would you not?

25 A. Yes.

1 Q. Did you sign any documents?

2 A. Yes, I believe I did.

3 Q. Can you tell us what documents you signed?

4 A. I recall signing a document for the -- I think it was

5 a sales document.

6 Q. You signed the sale document. Is that the sale of your

7 interest?

8 A. Yes.

9 Q. In the property?

10 A. Yes.

11 Q. Any other documents, do you remember signing?

12 A. There was another document I signed, I believe it was

13 an indemnity document.

14 Q. An indemnity document?

15 A. Yes.

16 Q. Any other documents you remember signing?

17 A. No.

18 Q. Now, when you signed those documents, what did you think

19 you were signing? What was the purpose of those

20 documents?

21 A. I was asked my lawyer to sign them and I trust him so

22 I actually signed them. [sic]

23 Q. But what were you expecting the documents to achieve?

24 What did you think the documents were achieving?

25 A. The document that I signed for the sale, it was

1 a contract to dispose of my interests.

2 Q. It was a contract to dispose of your interests?

3 A. Yes.

4 Q. I think, again, let me be clear about it, as far as you

5 were concerned, you were disposing your interest to

6 Mr Wex?

7 A. Yes.

8 SIR ROBIN AULD: In your piece of land?

9 A. Yes.

10 MR MISICK: As to how the transaction would materialise,

11 were any explanations given to you at the time?

12 A. No.

13 Q. I am going to refer you to a document which you did sign

14 at page 10 of bundle 2. It is an indemnity, headed

15 "Indemnity". It is addressed to

16 Urban Development Limited. The date of this document is

17 April 11th. It is signed by all four Belongers. Do you

18 see that?

19 A. Yes.

20 Q. Tell us this, if you can remember, and if not I will

21 direct you to it, this document is dated April 11th

22 2006.

23 A. Yes.

24 Q. At that time, if you can tell us, who were the owners of

25 Urban Development?

1 A. April 2006 --

2 SIR ROBIN AULD: Sorry?

3 A. April 2006, it would have been the four of us.

4 MR MISICK: It would have been the four of you?

5 A. Yes.

6 Q. The letter is addressed to Hugh O'Neil -- sorry,

7 the indemnity is -- the address is "care of

8 Hugh O'Neil"?

9 A. Yes.

10 Q. So you were giving -- the four of you were giving

11 an indemnity to yourselves. Do you see that?

12 A. Yes.

13 Q. Can you tell us why you would be giving an indemnity to

14 yourself?

15 A. I can't. What I can say is that Mr Wilson brought this

16 document for us to sign, I don't recall him explaining

17 to -- explaining what it really is.

18 SIR ROBIN AULD: I think you had better read the material

19 words of it, Mr Misick.

20 MR MISICK: Yes, sir. It says this:

21 "In consideration of you accepting the changes in

22 procedures for the acquisition of the shares of

23 Urban Development Limited and your acceptance of the

24 conditions that have been attached to the transfers of

25 land from the Crown to Urban Development Limited, and

1 provided that there shall be no change in the ownership
2 and control of the shares of Urban Development Limited,
3 we the undersigned, all of whom have a direct financial
4 interest in the transaction, hereby jointly and
5 severally indemnify Urban Development Limited and
6 Blue Resort Development (TC) Limited against any
7 liability that may arise to the Crown or the government
8 of the Turks & Caicos Islands arising out of any
9 enforcement of all or part of a Belonger discount
10 applied to the sale by the Crown of the property."

11 A. Yes.

12 Q. You say this document -- before I ask you, what did you
13 understand this document was doing?

14 A. I did not understand then, I understand now.

15 Q. Did you have any understanding at the time why you were
16 signing this document?

17 A. No.

18 SIR ROBIN AULD: In a sentence it amounts to you, with your
19 three fellow shareholders, indemnifying the company of
20 which you are shareholders --

21 A. I now know.

22 SIR ROBIN AULD: -- in respect of any liability that might
23 arise if the Belonger discount had to be repaid to the
24 government.

25 A. I now know.

1 MR MISICK: Was that explained to you at the time?

2 A. No.

3 Q. When was the first time this document was explained to

4 you?

5 A. Yesterday.

6 Q. By whom?

7 A. By my lawyer, yourself.

8 Q. Then there is another document at page 12.

9 A. Yes.

10 Q. It is also an indemnity?

11 A. Yes.

12 Q. It is not addressed to anyone, but we will see

13 shortly --

14 SIR ROBIN AULD: We are going to spend a little time looking

15 at the next one, are we?

16 MR MISICK: Only very quickly.

17 SIR ROBIN AULD: Take your own time for a convenient break,

18 Mr Misick.

19 MR MISICK: Yes, thank you.

20 SIR ROBIN AULD: Choose your own time.

21 MR MISICK: I see, yes. Thank you, sir.

22 Can I just read the letter. It says:

23 "We the undersigned, Timothy Smith..."

24 He was the agent, right?

25 A. Yes.

1 Q. "... Earlson McDonald Robinson, Quinton Albert Hall,
2 Samuel Ernest Been and Jeffrey Hall..."
3 That is you?
4 A. Yes.
5 Q. "... of Providenciales, Turks & Caicos Islands, British
6 West Indies, on behalf of myself/ourselves, our heirs,
7 executors, administrators and assigns, in consideration
8 of the services provided by,
9 McLeans International Attorneys of
10 Temple Financial Centre, Leeward Highway ... in relation
11 to the procedure, services and sale of the land
12 comprised of parcel 6000/150, 152, 153 and 154,
13 Northwest Point [those are the parcels] ... hereby
14 jointly and severally indemnify McLeans International
15 Attorneys, its nominee, successors and assigns, its
16 directors, officers, servants and agents of any and from
17 all actions, cause of action, claims, debts, dues and
18 demands which may have arising out of the legal advice
19 and services provided in the acquisition, sales and
20 transfer of the said land..."
21 I think we can stop there. That is signed by
22 Timothy Smith, it is signed by Earl, by Quinton,
23 Samuel Been and by yourself?
24 A. Yes.
25 Q. Can you tell us what you understand this document to be

1 saying?

2 A. I now understand it to be saying that we have identified

3 McLeans from any actions or claims that may be brought

4 against them as a result of this transaction.

5 SIR ROBIN AULD: By McLeans, you meant in effect

6 Mr Melbourne Wilson who was then a partner of McLeans or

7 a member of the firm, wasn't he?

8 MR MISICK: He was a partner at the time, yes.

9 SIR ROBIN AULD: So you were indemnifying your own lawyer

10 who had given you the advice in case anything went

11 wrong, is that it?

12 A. It appears so, sir.

13 SIR ROBIN AULD: Mr Misick, you mentioned, when you

14 mentioned the name of Timothy Smith, you used the word

15 "the agent". Perhaps one of us --

16 MR MISICK: That is probably a generalisation on my part.

17 SIR ROBIN AULD: One of us ought to ask Mr Hall whose agent?

18 MR MISICK: Yes. I am quite happy --

19 SIR ROBIN AULD: Whose agent was Mr Smith in all this?

20 A. He was acting on behalf of the buyer.

21 SIR ROBIN AULD: On the buyer?

22 A. Yes.

23 SIR ROBIN AULD: It was from the buyer, Mr Wex, he was to

24 receive a commission?

25 A. Yes.

1 SIR ROBIN AULD: I see. He seems to be offering this

2 contribution to the indemnity in his personal capacity

3 and not seemingly on behalf of Mr Wex.

4 MR MISICK: Yes, that is correct.

5 SIR ROBIN AULD: Is that a convenient moment, Mr Misick?

6 MR MISICK: Yes, it is.

7 SIR ROBIN AULD: 2.05.

8 (1.03 pm)

9 (The short adjournment)

10 (2.05 pm)

11 SIR ROBIN AULD: Mr Milne.

12 MR MILNE: May it please you sir. Sir, the position is

13 that --

14 SIR ROBIN AULD: Just before the Honourable Lillian Boyce

15 leaves, you are about to be offered an apology at the

16 very least before you leave and out of courtesy I think

17 you are entitled to that. Mr Milne will tell you what

18 has happened.

19 MR MILNE: I do apologise to the Honourable Lillian Boyce on

20 behalf of the Commission. The timetable was thought to

21 be realistic but it has run longer than expected.

22 I make no criticism of anybody for it because

23 the elements with which we are dealing are important. I

24 am afraid realistically, if we kept the Honourable Boyce

25 waiting this afternoon, it would be a waste of her time

1 and we don't wish to waste it any further, but we hope
2 to start the remainder of her evidence first thing
3 tomorrow morning at 10.30.

4 The other witnesses who are available today,
5 obviously the Honourable Jeffrey Hall has to finish his
6 evidence at some point and Mr Earl Handfield will also
7 be giving evidence. I am going invite the Commission to
8 allow Mr Handfield to be interposed at this stage with
9 a view to finishing, I hope, by the mid-afternoon break
10 and then the Honourable Jeffrey Hall to finish his
11 evidence today. I will, if need be, invite
12 the Commission to sit as long as it takes today so that
13 we can release Mr Hall at the end of business.

14 SIR ROBIN AULD: Mrs Boyce, promises, promises, but I hope
15 we will be able to keep this one and that you will get
16 clear start tomorrow morning.

17 MR FITZGERALD: Sir, can I raise one matter in relation to
18 Mr Handfield. We have been provided with a statement
19 just about 20 minutes ago which contains some details
20 about the Premier's position, which had not hitherto
21 been stated. I have taken some instructions but -- sir,
22 I will do my best to deal with it, but it is possible,
23 depending on what he says, that I may have to ask for
24 more time or for him to be recalled at some stage.

25 SIR ROBIN AULD: I too have just been provided, but

1 I imagine the bulk of his evidence will be that which
2 was set out in the first instance in his letter which
3 has been before the Commission and in the press
4 statement. There may be other matters and if you are in
5 difficulty then we will try to accommodate you.

6 MR FITZGERALD: Thank you, sir.

7 SIR ROBIN AULD: Could Mr Earl Handfield come forward,
8 please.

9 MR EARL HANDFIELD (sworn)

10 Examination in chief by MR MILNE

11 MR MILNE: Mr Handfield, I understand that you have seen now
12 a statement that was prepared by upon other documents.

13 A. Yes, I have.

14 Q. Have you had an opportunity to read that and check that
15 it accurately reflects your recollection of events?

16 A. In most instances it did. On item 4, it does not
17 exactly speak the way I termed it with regards to --
18 I speak to the minister of planning and both the Premier
19 when responsible and for physical planning --

20 SIR ROBIN AULD: When you come to it in the story, make
21 the corrections.

22 A. I will do that when I get there because there is
23 a differentiation.

24 MR MILNE: What I am going to do, if you will forgive me, in
25 order to help save time is with some of the established

1 facts, I am going to lead, and I will -- stop me if you
2 think I am in any way misrepresenting what happened.

3 We understand that you have been Chairman of the
4 physical planning board up until very recently and that
5 you had served in total some five terms in that post?

6 Is that right?

7 A. That is correct.

8 SIR ROBIN AULD: How long is that in total?

9 A. It would be in total of five years, I would say.

10 MR MILNE: Each term being about a year.

11 A. Yes.

12 Q. Obviously reappointment throughout that period.

13 The purpose of the physical planning board, as we
14 understand it, is to impose a coherent policy on
15 the development of land within the islands?

16 A. That is correct.

17 Q. Essentially, if one can put it this way, to look at the
18 bigger picture. To try to make sure that developments
19 fit in with that policy.

20 A. Correct.

21 Q. The Commission is aware that as part of your duties,
22 the physical planning board met, I believe, in December
23 of last year to consider an application in relation to
24 the erection of a dock on Salt Cay?

25 A. That is correct.

1 Q. We have seen the minutes of that meeting, which no doubt
2 would have been checked for accuracy then or shortly
3 afterwards and signed as being an accurate record?

4 A. That is usually the procedure.

5 Q. Taking it shortly, following the advice that you
6 received from Mr Robinson, the Director of Planning, and
7 following a fairly lengthy meeting, I think it was in
8 the order of three hours, the decision of the physical
9 planning board on that occasion was to recommend that
10 the plan be rejected at least at that stage?

11 A. Correct.

12 Q. The Commission has also been informed that on Friday,
13 9th January this year, 2009, an instance occurred which
14 led in due course to a meeting being held that
15 afternoon. First of all, you have covered the events
16 that led up to that in a press conference that you gave
17 shortly before or at the time of your resignation. We
18 have seen a transcript of those comments. As far as you
19 were aware, what you said in that press conference, did
20 that accurately reflect your understanding of what had
21 happened?

22 A. That accurately reflects my understanding as it
23 happened.

24 Q. In the course of that press conference, what you said
25 was that at some stage during the day on Friday the 9th,

1 you had become aware that there had been a group called
2 together at the Premier's office?
3 A. Yes.
4 Q. Did you receive any communication from anybody before
5 that meeting took place?
6 A. Yes, I did.
7 Q. What form did that communication take?
8 A. I received communication by way of text messages
9 the evening prior.
10 Q. So Thursday --
11 A. Or it could be also during the day, but certainly
12 the evening prior.
13 Q. So Thursday the 8th, in the evening, is that right?
14 A. There was probably the 8th and the 9th. The text speaks
15 for itself. It is still in the phone.
16 SIR ROBIN AULD: 8th is a Thursday and 9th is a Friday.
17 A. I could not be definitive if the texts were on the 8th.
18 I know communications was between those two times.
19 MR MILNE: Do you have that telephone with you?
20 A. Yes, I do.
21 MR MILNE: You say the text message is still on the
22 telephone.
23 A. Yes, it is.
24 Q. Could you take that out, please. Thank you. Assuming
25 that you can look at the messages still, could you tell

1 us please what was the first message that you received
2 on that telephone? This is in relation to these matters
3 obviously.

4 A. Well, the first message -- I am assuming because
5 the message ran in concessions, I am just assuming this
6 first message to be the Premier. I don't know his
7 number but the message just simply say:

8 "This is Mike."

9 That message was --

10 SIR ROBIN AULD: Are you reading?

11 A. Yes.

12 SIR ROBIN AULD: "This is Mike."

13 What does he say then?

14 A. That is all it said. I need to get my glasses, trying
15 to fool myself there.

16 (2.15 pm)

17 SIR ROBIN AULD: I normally have a magnifying glass here but
18 I can't find it.

19 A. I am straight, okay. Now we can go through with this.

20 SIR ROBIN AULD: "This is Mike."

21 A. I want to go back to it, to be sure. Okay.

22 "This is Mike."

23 That message was 10.58 am, 9th January.

24 SIR ROBIN AULD: 9th January, 8.00 am.

25 MR MILNE: 10.58 am.

1 A. Yes. The next message -- I guess that was the last
2 message because the bottom -- I am reading down. So
3 apparently the first one would have been 10.57 from
4 the same number:
5 "I need to see you, man."
6 That is the end of that message.
7 The next message at 10.38 am --
8 SIR ROBIN AULD: We are going backwards here, are we not?
9 A. I have to do it from the bottom up.
10 SIR ROBIN AULD: Keep going, 9.38.
11 MR MILNE: 10.38.
12 A. You have to bear with me. I am not a big text fan. I
13 don't text that much. 10.30 from a number that I would
14 assume to be Mr Garnett's number --
15 SIR ROBIN AULD: Whose number?
16 A. Garnett Jolly. That says --
17 SIR ROBIN AULD: Who is he?
18 A. He is a board member.
19 SIR ROBIN AULD: Garnett Jolly.
20 A. Yes, that is at 10.30 am on Friday night. He just
21 say -- the question:
22 "You coming to this meeting?"
23 That's -- the number, I recognise it to be his
24 number. Then the next message is at 10.00 am on Friday.
25 It says:

1 "To all. Please be advised to attend a meeting at
2 the office of the Premier at Grace Bay at 10 am Friday
3 tomorrow to discuss planning matters. Only..."

4 It is misspelt, T-H-O-C-E, I think he means
5 T-H-O-S-E.

6 "Only [those] copied on this text is invited.
7 Please confirm receipt."

8 And it says "Minister Hanchell". That is the end of
9 the text that I received.

10 SIR ROBIN AULD: What are you saying, you have had four
11 messages, the first two appear to have been from
12 Mr Michael Misick.

13 A. I think Mike because the first message said Mike and
14 I cannot concur that the phone number is his number.
15 You need to find out.

16 SIR ROBIN AULD: That said:

17 "This is Mike."

18 Then you get another message, is this right, saying:

19 "I need to see you, man."

20 Who does that appear to come from?

21 MR MILNE: I think Mr Handfield said that was the same
22 number.

23 SIR ROBIN AULD: That is what I understood. I am trying to
24 make it clear.

25 MR MILNE: Subsequently said:

1 "This is Mike."
2 A. Yes, from the same number. The first one just said:
3 "This is Mike."
4 And the next one said:
5 "I need to see you, man."
6 SIR ROBIN AULD: Then from Mr Garnett Jolly:
7 "Are you coming to the meeting?"
8 Then from Mr Hanchell, inviting you to attend the
9 meeting.
10 A. Yes. Do you want me to read it all over again --
11 SIR ROBIN AULD: No, no.
12 MR MILNE: What we will ask you to do before you put it away
13 is simply this: would you please write on a piece of
14 paper the two telephone numbers that you say they came
15 from, so that we have a record of the numbers that those
16 calls came from. I am not asking you to read it out in
17 public because they obviously are personal telephone
18 numbers, but if you could write them down at some stage,
19 that would be very helpful.
20 A. I would appreciate it if you would let me go through
21 the process and then remind me to do that before
22 I leave, so we keep the process rolling.
23 MR MILNE: Yes. As far as those phone texts were concerned,
24 did you at any stage text back or telephone back or make
25 any enquiries as to why you were receiving these

1 summonses?

2 A. No, I did not because I had already been briefed as to

3 what was going on.

4 Q. Did there come a point that day when you actually spoke

5 to Mr Garnett Jolly? This is on the Friday?

6 A. Yes, I am with you.

7 Q. Did he ring you?

8 A. Yes, Mr Garnett Jolly rang me around 2.00 pm, I would

9 say. He probably rang me earlier part of the morning.

10 The text was earlier part of the morning, obviously.

11 Then he rang me at 2.00 am and I spoke to him directly.

12 Q. Again, we can probably take this quite shortly. Were

13 you made aware that there was at least a purported

14 meeting being held that afternoon of the physical

15 planning board?

16 A. Yes, by the time Mr Jolly called me I was aware.

17 Q. Was that essentially an invitation for you to

18 participate, an invitation that you declined?

19 A. Yes, it was. It was actually straightforward and his

20 words that coerced(?) me.

21 Q. Since that time, have you seen minutes of the gathering

22 that did take place?

23 A. I believe I might have caught sight of them.

24 Q. I am not obviously going to question you about a meeting

25 which you --

1 A. I was not there.

2 Q. -- you were not there for. That would be silly. Does
3 it come down to this: that your view, your assessment
4 based upon your experience was that this was an unlawful
5 meeting and therefore you were not prepared to be
6 associated with it and subsequent to that, you decided
7 to render your resignation to the Governor because of
8 your views as to what had gone on?

9 A. That is actually a clear interpretation of what
10 transpired.

11 Q. We are not here to debate the -- or to take evidence on
12 the lawfulness or not, but you clearly took the view
13 that it was not a lawful meeting, that it lay outside,
14 ultra vires, the powers that were granted to the Vice
15 Chair, as it turns out, of that board?

16 A. As I understand the law, yes.

17 Q. The Commission has seen those minutes. We have a copy
18 of those. I am not going to trouble you about that. We
19 saw that you, through your letters, Swann Trowbridge,
20 sent a letter to the Governor submitting your
21 resignation, and that I think on January 21st there was
22 a formal press conference and a press release which
23 again we have a copy of, which you explained your
24 reasons for your resignation?

25 A. Exactly.

1 SIR ROBIN AULD: Among other things, he sets out the history
2 of the matter giving rise to these text messages, and
3 the previous decisions of the board.

4 MR MILNE: I am about to come to that, sir.
5 That is something that the Commission would invite
6 a little more detail from you on. You touch upon this
7 in your statement. It is probably best that I not lead
8 you on this. But you said in the course of the press
9 conference and I quote, I can give you a copy if you
10 wish --

11 SIR ROBIN AULD: I think he should have copies of these.
12 Have you got a copy of your statement?

13 A. I am equipped.

14 SIR ROBIN AULD: I think you should have a copy of it and
15 a copy of the letter.

16 MR MILNE: I thought we had spare copies here. If I read
17 out this paragraph --

18 A. I believe I have it right here.

19 Q. You may have the same one. Is it headed "Press
20 Release"?

21 A. Yes.

22 MS MISSICK: Sir, if we may assist we have a spare.

23 SIR ROBIN AULD: The story is all in the two documents which
24 he is here to confirm. Do help if you can, Ms Missick.

25 MR MILNE: Mr Handfield, do you have a copy of the press

1 release?

2 A. I do.

3 Q. If I can take you to the first page of that, in

4 the course of the press release what you said was this:

5 "On several occasions over the last several years,

6 the minister for planning would call me into meetings at

7 which other ministers would have been present and

8 instruct me to call a meeting of the board to deal with

9 one development or another. In at least one such case,

10 the relevant developer was present at the meeting with

11 the ministers. I always felt uneasy with

12 the aforementioned actions by ministers and in later

13 consulting the physical planning ordinance, I have now

14 come to realise that in fact such actions are contrary

15 to law. In every case, immediately after meeting with

16 ministers, who would have given me instructions

17 regarding a particular development, I consulted with

18 the Director of Planning who was charged with advising

19 me on the facts about any particular application and

20 I guided the board towards making our decisions based on

21 those facts and in accordance with the physical planning

22 ordinance."

23 You used the expression in that document, sir,

24 "the minister of planning", which of course would have

25 been the title of the minister with whom you would have

1 had most direct contact.

2 We know that at present the minister of planning is
3 the Honourable McAllister Hanchell. During your time as
4 Chairman of the physical planning board, who were his
5 predecessors as minister of planning?

6 A. The Premier Michael Misick.

7 Q. So those are the two, the present Premier,
8 Michael Misick and the Honourable McAllister Hanchell
9 are two ministers with whom you have had dealings in
10 your professional capacity?

11 A. Correct.

12 Q. In the statement that you made, you qualified the number
13 of occasions. You say on at least two occasions.

14 Can you give us any more detail as to exactly what
15 happened on those occasions?

16 A. Well, I think most specifically the meeting which
17 actually would have caused me the most concern was that
18 the relevant developer was present at this meeting.
19 During the time I was actually being given instruction
20 and being very uncomfortable as the Chairman who have to
21 deliberate, having the developer present whilst I am in
22 a meeting with my ministers or people that I felt that
23 should have been a private matter.

24 Q. Forgive me, just so we can be specific. On this earlier
25 one where the developer was present, firstly which was

1 the minister on that occasion? Was it Mr Misick or

2 Mr Hanchell?

3 A. That would have to be Mr Misick because it would have

4 been that part of 2007 or early 2008. I don't have all

5 these dates down because I didn't have the time to

6 cross-reference my record. I just got all this stuff

7 today. I know Honourable Hanchell, tenure start

8 August 18th. So that meeting would have had to have

9 been the Premier.

10 SIR ROBIN AULD: Can you remember what development was under

11 discussion?

12 A. I believe the development, there was probably more than

13 one but in times like this, you try to get as much in as

14 possible.

15 The development as I remember was specifically

16 around extension to the new Nikki Beach hotel

17 development and high end resort, where it should be

18 centered right around, strategically around the yard

19 basin.

20 Q. What was the name of the developer who was present on

21 that occasion?

22 A. Mr Rodney Propps.

23 Q. Apart from yourself, the Honourable Michael Misick and

24 Mr Propps, was anybody else there at the time?

25 (2.30 pm)

1 A. If my recollection serves me right, the Honourable
2 McAllister Hanchell was there, Honourable Gilmore was
3 there, and architect from Mr Propps, I believe is
4 (inaudible). Those are the names I remember.

5 Q. I realise this will be at some distance of time now, but
6 can you remember the tenor of the conversation that took
7 place, what was being said to you?

8 A. As I said earlier, the discussions surrounded
9 the development and I was -- some of that for myself
10 being there was to fast-forward the application or to
11 move it through, and obviously as I said in one
12 statement, getting things through the planning system
13 has a process and I try -- it is my job to appease every
14 developer, every person, every individual, every local
15 person, but the application must go through the process,
16 and so I sit and I mostly listen, and then I would
17 confer with the director and see what the specific of it
18 is and if it could be moved out. Because for
19 development in some cases, as the Chairman of the
20 planning board, you want to do your best to move
21 development, because, you know, all of us work with
22 timelines, but obviously you want to be able to do
23 the job according to the law.

24 That is my position on this.

25 Q. I think it is important that we be clear about this.

1 From the conversation that you had, did you feel that
2 you were being asked to move things faster or did you
3 feel that you were being asked to reach a particular
4 conclusion?

5 A. To put it simply, I just felt that I was asked to speed
6 things up.

7 Q. So to accelerate something up the timetable rather than
8 to say yes when you might otherwise have said no; is
9 that a fair assessment?

10 A. Well, you got to realise you don't say no to your boss.
11 You walk away as a professional taking into account all
12 the high points of what could and can't be done, and you
13 go back to your office and you deliberate with
14 the people, your technicians, who in my case is
15 the director, and see what stands on the law; because at
16 the end of the day, everything that is done in planning
17 comes back to the Chairman and the director. Everybody
18 says it is the Chairman. Nobody says it is the Chairman
19 when it is good, but when there is something wrong, it
20 is the Chairman. So I always try to do it according to
21 the laws as they are. I didn't say I always get it
22 right.

23 Q. In the event what was the decision that was made on that
24 particular development?

25 A. Forgive me, I can't -- and I would not try to

1 definitely recall every aspect of what happens in
2 those meetings, because you are talking about documents
3 this big. I would leave it at saying, I believe at some
4 point the development was approved. I would not attempt
5 to try to be accurate in giving any information with
6 regards to that. Only because I am under oath, I would
7 talk about planning.

8 Q. Thank you. With the benefit of hindsight, you comment
9 in your press release that you believed some of the
10 meetings that you were drawn into were at least
11 potentially unlawful. Was that the view that you took
12 of that meeting?

13 A. I took a view of the meeting that they called as
14 unlawful, but I don't take a view of the meeting that
15 I called prior to that unlawful because I would have
16 followed the law.

17 Q. It is my fault, I am not perhaps making myself clear.
18 The meeting we were just discussing when you were called
19 in with the then minister of planning, Michael Misick
20 and Rodney Propps, that discussion that took place with
21 them, did you subsequently take a view as to the
22 lawfulness or otherwise of that, as it were, informal
23 meeting?

24 A. As human beings you have instinct and as professional
25 you know what is right and what's wrong. In that

1 particular case specifically what concerned me was that
2 I was sitting among ministers with a developer present
3 and the high point there was being asked to fast
4 forward.

5 Q. Quite simply, how did you feel when you were asked to
6 fast forward it?

7 A. I didn't have any particular feelings. I try to be in
8 control of my feelings.

9 Q. I am sure you did. It was simply what your reaction
10 would have been to it.

11 Other than that incident where you were called in by
12 the Honourable Michael Misick, did similar meetings,
13 similar, as it were, call-ins ever occur on other
14 occasions?

15 A. Well, as I mentioned too, and that is what I would speak
16 to, yes. I spoke about one. I will speak about one
17 other incident.

18 Q. Firstly, can you tell us as best you can roughly when
19 that other incident took place?

20 SIR ROBIN AULD: This is pre-Salt Cay, is it, Mr Milne?

21 MR MILNE: Pre-Salt Cay.

22 A. Pre-Salt Cay, because I know that is the big fish later
23 down the road. I think we are talking about what
24 I mentioned at the meeting.

25 That would have been sometime right at the end of

1 December or early January -- I am not specific with
2 these timelines. The only thing I know about that
3 meeting and the reason that is important to me because
4 from that meeting I saw a press release and coming out
5 of here we are being accused of being disgruntled as
6 a contractor. If you would let me I would -- you want
7 me to continue?

8 Q. I was going to come to that in a minute, because there
9 have been comments made which I am going to give you
10 the opportunity to deal with. I think in fairness you
11 must have that chance.

12 I am concerned for the moment, trying to keep things
13 in order as best we can. You have told us about one
14 previous occasion where you were called in by
15 the Premier and the developer was present. You said
16 there was -- your statement, you said at least two
17 occasions over the last several years you have been
18 called in, and you have felt, you know, you have been
19 put under pressure, I suppose. Is that --

20 A. That is accurate.

21 Q. Is that correct.

22 A. Yes.

23 Q. What I would invite you to do if you can is tell us when
24 the other occasion of those two occurred, if it was not
25 the Salt Cay one?

1 A. It was not the Salt Cay one and I was trying to say it
2 was around the end of 2007, early 2008, right around
3 that timeframe.

4 Q. Given that timeframe who would have been the minister of
5 planning at that time?

6 A. The minister would still be the Honourable Premier.

7 Q. On that occasion, can you recall the development that
8 was under discussion?

9 A. Well, this is where I am going to have to tell you
10 a story. I was called to that meeting with other
11 Cabinet members around and when I arrive the Premier
12 started to address me. He said -- started to talk about
13 the Dellis Cay project. First of all, he started to get
14 onto myself and the director for -- being smooth and
15 what have you and I tried to slow him down, but he did
16 mention something about Dellis Cay. At that point, and
17 let me be clear, that meeting never got finished about
18 whatever he called me for, because at that point I took
19 the liberty to -- I asked him to pause and let me
20 address him on another point, and I addressed him on
21 the point of the condo contractors as I represent
22 the local contractors as the president, and I laid out
23 some things with him which I thought was disgraceful and
24 wrong with the way things were being handled and
25 the local men were being handled.

1 At that meeting the Premier continued to walk in and
2 out. I would stop and he would say continue. He would
3 walk out and I will stop and then other ministers start
4 to walk out and I would stop, and it was a back and
5 forth thing until I felt that I got the point across,
6 and they never brought up the other issue and I was
7 excused.

8 Q. Other than those two, have there been any other
9 occasions when you have been asked to attend informal
10 meetings and been put under pressure in any way at all?

11 A. Sir, we are going back five years. My recollection and
12 memory just -- random access memory is not as fast as it
13 used to be. There is -- over five years a lot of things
14 happen. But for me to go back five years and try to
15 give you case stories, I don't want to lie and put
16 nobody in no bad light. I can speak about phone calls,
17 and there are numerous of them, but we speak about
18 the meetings.

19 Q. When you say phone calls, phone calls from ministers?

20 A. Yes, I mean on the constant phone calls come and some of
21 them I take kindly and some of them I do not, but it is
22 part of the job, I would say.

23 Q. Since you raise the issue of phone calls, what was it
24 about those phone calls that stuck in your mind? What
25 was it that --

1 A. Well, since you want to go to phone calls. The phone
2 calls started and that rings in my mind, it is around
3 the same Salt Cay dock issue and those phone calls would
4 have come from the Honourable McAllister on a constant
5 basis.

6 Q. What was the nature of what he was saying to you? What
7 were you being told over the phone by him?

8 SIR ROBIN AULD: Was this before or after the decision of
9 your board.

10 A. This is before the board. Quite simply trying to get me
11 to call a meeting, and I would always say that, in
12 the last incident, I had a meeting scheduled for
13 the 21st and I would deal with all matters at that
14 meeting.

15 SIR ROBIN AULD: He was urging you to bring forward
16 the planning board meeting to deal with the Salt Cay
17 dock, is that what you are saying?

18 A. That is what I remember.

19 MR MILNE: In the press release when you confirmed towards
20 the end of that document, I am here looking -- it is
21 the last but one page. You say that as a matter of your
22 own conscience, you no longer felt able to serve in
23 the capacity of Chairman of the physical planning board
24 under conditions where ministers are pressurising
25 members to hold meetings in contravention of the very

1 legislation under which the board's and the minister's
2 decisions must be taken.

3 Simply this, the decision you took to tender your
4 resignation, would we be right in thinking it was as
5 a result of not of just the one incident but
6 an accumulation of incidents?

7 A. I would like to say it is the one, because it is the one
8 that break the camel's back, but since there were
9 others, it is obviously on the record I spoke about,
10 I guess enough was enough at that point and I would also
11 highlight the nature and the way this meeting was --
12 some of the ways the ministers and people involved went
13 to raise a quorum --

14 SIR ROBIN AULD: Are we drifting into the Salt Cay meeting
15 now? If we are, let's get to it and deal with it in
16 an orderly way.

17 MR MILNE: To a large extent we have covered the Salt Cay
18 meeting.

19 SIR ROBIN AULD: What we have not covered is the board
20 meeting before it about the Salt Cay.

21 MR MILNE: The December board meeting?

22 SIR ROBIN AULD: Yes.

23 MR MILNE: When Salt Cay came up as a topic, you had
24 received, I think, recommendations from the Director of
25 Planning, Clyde Robinson.

1 A. Yes.

2 Q. At the time that the meeting took place, that was
3 obviously a quorate meeting; was it a fairly full
4 meeting?

5 A. Repeat the question.

6 Q. Was it a fairly full meeting? Was the board all there
7 on that occasion?

8 A. All the members? No, I don't think they were. I can
9 look from the minutes, though.

10 Q. The Commission had been told that also at that meeting
11 Mr Wesley Clerveaux was there.

12 A. Yes, he is not a board member. He is a member from
13 the government.

14 Q. I think -- is he the director of the DECR?

15 A. Or acting, I suppose. I don't know if he is confirmed,
16 but I know he act in that capacity.

17 Q. Therefore he is appearing ex officio, by virtue of his
18 position; he is there should there be any need for
19 advice from the DECR?

20 A. Yes.

21 Q. Environment and coastal research?

22 A. Yes.

23 Q. On the occasion of the December meeting, am I right in
24 thinking that he did not contribute any particular
25 views --

1 A. No, he did not.

2 Q. Am I right in thinking there was fairly full discussion
3 of the proposal that was being put forward?

4 A. Yes, at length.

5 Q. And again I am not going to trouble you with full
6 details of this but the recommendation that we have seen
7 from Clyde Robinson was that the proposal not be
8 recommended, that it not be endorsed because essentially
9 he felt the environmental impact assessment had not been
10 adequate and complete?

11 A. That is a fair assessment.

12 Q. Is that a fair summary?

13 A. Yes.

14 (2.45 pm)

15 SIR ROBIN AULD: Mr Milne, I have just been handed at my
16 request minutes of the meeting at which this was
17 considered and they are -- it took place on
18 17th December 2008.

19 MR MILNE: That is correct, sir, that is the meeting.

20 SIR ROBIN AULD: Do you, Mr Handfield, have a copy of the
21 minutes of the meeting?

22 A. Yes, I do.

23 SIR ROBIN AULD: Where the reference is made.

24 A. Yes, sir, I do.

25 SIR ROBIN AULD: All those who were present and all those

1 who were absent and what was said about the proposal and
2 what the decision was.

3 A. Yes.

4 MR MILNE: Sir, we have the minutes on record. With
5 respect, I think it is probably futile for us to simply,
6 as it were, retread them because --

7 SIR ROBIN AULD: I am not inviting retreading. I am just
8 inviting some precision in the way in which the witness
9 is able to give his evidence as to when, who was present
10 and what the decision was which led to the later events.

11 MR MILNE: Sir.

12 Ultimately the recommendation that came forward from
13 Mr Robinson for rejection was one which was adopted and
14 endorsed by the PPB, wasn't it?

15 A. Yes. But let me be very clear, and I believe this
16 minute here, with regards to Mr Robinson...

17 To be fair to the director in his absence, his
18 report states:

19 "The director advised the board that they may accept
20 or reject his advice on the matter."

21 But he gave -- the background is to help the board
22 make the decision one way or the other.

23 Q. I think probably the Commission is sufficiently familiar
24 with the process but lest there be any confusion,
25 the planning procedure is such that the physical

1 planning board will receive material, it will receive
2 advice from the Director of Planning, in this case,
3 Mr Robinson, and it will in the course of its
4 preparation accept input from other interested parties.
5 Obviously the developer will wish to make submissions
6 which will be considered. Environmental impact
7 assessments, if appropriate will have been done or
8 should have been done in advance, and the DECR obviously
9 has the option to provide an input should they have
10 a view one way or the other on a proposed development.
11 Is that a reasonable summary?
12 A. That is a reasonable assumption.
13 Q. You, I think we can reasonably conclude, do not regard
14 the physical planning board as a grand rubber stamp
15 simply to pass through what the Director of Planning
16 recommends. You may accept, you may reject or indeed
17 you may accept some and reject other aspects of the
18 recommendation?
19 A. Exactly. There are many things to consider.
20 Q. So the fact it is a rather grand title being Director of
21 Planning, but in fact whatever is recommended, in this
22 case recommended by Mr Robinson, is not merely waved
23 through but it is considered and debated at the time?
24 A. Exactly.
25 Q. The outcome, as I read it, of a physical planning board

1 decision is not that you say yes and it is done, or no
2 and it is not done, but rather you send forward your
3 recommendations to the minister of planning. If, for
4 any reason, the minister of planning is unhappy, if he
5 does not accept or agree with your recommendation, what
6 is the process that should be followed at that stage,
7 what should he do?

8 A. Well, to back you up a bit, once the board makes
9 a decision for the particular application and if
10 the application is approved, then everybody is happy.
11 But if it's refused, then the client has the right to
12 appeal to the minister of planning and the minister of
13 planning has the right and the powers to overturn
14 the board decision and approve it.

15 Q. So if I were a developer, I would put in an application
16 but for various reasons it is refused, the board
17 recommends refusal, I can still make a direct
18 approach --

19 A. To the minister within 28 days.

20 Q. So there is a time limit to it but I may write to the
21 minister, formally appealing the decision, inviting that
22 minister to reverse it or alter it in some way?

23 A. You put your case to the minister. If you convince him,
24 he has the power to override the board's decision.

25 Q. Although curiously what you seem to be telling us is

1 that in this case, the minister, who would have been
2 Minister Hanchell, would have had the potential power to
3 overrule your decision, to simply reject it and allow
4 an appeal, but instead tried to refer the matter or was
5 party to trying to refer the matter back to the board.

6 Is there any power, as you understand it, in a board to
7 go back and re-visit its own decisions? Go back and
8 start again?

9 A. Let me be very clear and say that -- I keep a copy of
10 the ordinance with me, but I don't have everything
11 memorised, and that is why in lieu of me reading,
12 I confer with that the director who is pretty versed on
13 this, but I think it is pretty fair to say that once
14 an application is refused, the client has the right to
15 appeal to the minister and the process from there is
16 the minister can overturn the board's decision and
17 approve it. So if you are referring to the meeting of
18 9th January, a whole lot of stuff was wrong with that in
19 my view.

20 Q. Does your board, the board that you are Chairman of, did
21 it have the power to go back, start again and
22 re-consider simply because it had changed its mind?

23 A. Well, I think in some cases we might have been asked to
24 do that, but I don't again know how -- what the legality
25 of something like that is.

1 SIR ROBIN AULD: This is a matter of law that we can --

2 A. Yes, it is a matter of law.

3 MR MILNE: What I was seeking was really Mr Handfield's

4 understanding of his position.

5 A. Pardon me?

6 SIR ROBIN AULD: He has said that he took the view it was

7 unlawful but he doesn't know whether it was right or

8 wrong.

9 MR MILNE: I take it no further than that.

10 SIR ROBIN AULD: Before we get to all that, I think we

11 should set the scene here. You have in front of you,

12 Mr Handfield, the minutes of the ordinary meeting of the

13 physical planning board on Wednesday,

14 17th December 2008.

15 A. I do, sir.

16 SIR ROBIN AULD: At which the planning board made its

17 decision to refuse?

18 A. Yes.

19 SIR ROBIN AULD: The item in those minutes which deals with

20 it is minute 1466/09, headed "Planning Applications

21 SA215 Turks & Caicos Islands Government". That is

22 a long paragraph. As Mr Milne observes, we don't need

23 to read all through it.

24 But it consists of a rehearsal, a recitation of

25 a number of adverse opinions expressed about

1 the proposal by the director, concluding with
2 the director's indication, as Mr Milne has just pointed
3 out a little earlier, that the decision was a matter for
4 the board, nevertheless?

5 A. Yes.

6 SIR ROBIN AULD: That is right, isn't it?

7 A. That is correct.

8 SIR ROBIN AULD: Then if we look at the last complete
9 paragraph in that minute which starts:

10 "The Chairman..."

11 We see how the board went about its decision to
12 refuse the application. I am going to read this and you
13 tell me whether it accords with your recollection of
14 what happened.

15 "The Chairman, after hearing all the advice, stated
16 that in his view is to refuse the planning application.
17 He expressed further concern with the arrogance in
18 wanting to place an industrial dock in the middle of the
19 town for eventual destruction of Salt Cay's heritage.

20 The Chairman indicated that the representative of
21 Salt Cay Devco Limited had indicated in a previous
22 meeting that he proposed to have the dock in
23 the southern portion of the island and it was
24 the government representatives who directed him to
25 relocate the proposed dock in the town centre."

1 Then it goes on:
2 "After serious deliberations on the subject planning
3 application and consideration of all reports and
4 documentation, the board decided to recommend a decision
5 of refusal of the subject planning application with
6 the current location proposed for the dock. The board
7 added that the previous location for the proposed dock
8 in the southern section of the island as stated in
9 the February 2008 study, one of the matters referred to
10 by the director, must be chosen for the dock.
11 The motion to refuse the subject planning application
12 was made by Member Otis Morris and seconded by Member
13 Willard Williams. All were in favour of the motion by
14 a show of hands."

15 Does that reflect your recollection?

16 A. That is a correct reflection of what happened.

17 SIR ROBIN AULD: It looks from that as if on the face of it,
18 the decision was made on purely planning grounds.

19 A. Always.

20 SIR ROBIN AULD: It was that then that led to the following
21 meeting about which we are going to hear more. Thank
22 you.

23 MR MILNE: The following meeting, obviously you were not
24 present at?

25 A. Pardon me?

1 Q. The following meeting which we have --

2 MR FITZGERALD: Sir, I wonder if I could have the minutes of
3 the 17th.

4 SIR ROBIN AULD: Yes, I think they should be -- I have just
5 asked for them and got them.

6 MR FITZGERALD: Both the 17th and the 9th, if I could.

7 MR MILNE: They should, I think, sir, have been added to
8 volume 6.

9 MR FITZGERALD: I am afraid I don't have them.

10 SIR ROBIN AULD: Mr Fitzgerald, I have been told you have
11 already been given it and you have lost it.

12 MR FITZGERALD: No. That might normally be an accusation
13 that would be well founded, but I think on this occasion
14 it was given to Mr Hanchell, but not to the Premier.

15 SIR ROBIN AULD: I have two sets of minutes here. Have
16 a look at them.

17 MR MILNE: Sir, can I invite anybody who has not yet done so
18 to place these at the very back of the red bundle, core
19 bundle 7.

20 SIR ROBIN AULD: Page?

21 MR MILNE: They are numbered sequentially so they would go
22 at the very back of that bundle.

23 The documents that should be in, I trust everybody
24 has the same here, will be the 586th ordinary meeting,
25 four pages; the 587th meeting, three pages.

1 SIR ROBIN AULD: Those two I should have just handed to you,
2 Mr Fitzgerald.

3 MR FITZGERALD: Yes, I have them. Thank you very much.

4 SIR ROBIN AULD: For point of reference too, we have
5 Mr Andrew Gee's(?) letter of 12th January, following on.

6 MR MILNE: Yes. That is a letter from his attorney Swann
7 Trowbridge McKnight, which is the letter of resignation
8 sent to the Governor on 12th January and the final
9 document is the press release in very similar terms
10 which we have already made reference to.

11 SIR ROBIN AULD: Now we are equipped.

12 MR MILNE: Sir, I don't propose, having dealt with
13 Mr Handfield's experience in relation to being asked to
14 attend the meeting, I don't propose to ask him in detail
15 about the meeting that took place in his absence. That
16 seems unreasonable, save he will no doubt be able to
17 confirm, having I think seen those minutes since then,
18 that it would appear that the decision of December was
19 reversed. The persons present on this occasion at the
20 actual meeting being Mr Everette Greene, Mr Otis Morris,
21 Mr Willard Williams, Mr Garnett Jolly and
22 Mr Colin Williams, each of them members of the board,
23 Mr Everette Greene being the Vice Chairman who had not
24 been present in December. Mr Jolly and Mr Williams had
25 not been present in December either.

1 That is Mr Colin Williams.

2 SIR ROBIN AULD: You got those minutes at some stage,

3 Mr Handfield? Or were informed about them?

4 A. They might have been sent to me due to the fact that

5 I was to attend the meeting on the 21st --

6 SIR ROBIN AULD: When you heard about them you were livid.

7 A. But I don't have them in my possession.

8 MR MILNE: Sir, for completeness, two members were present

9 at both meetings, that is Mr Otis Morris and

10 Mr Willard Williams, and the record as it stands appears

11 to suggest that Mr Wesley Clerveaux was also present,

12 having said nothing on the December occasion, spoke in

13 favour of the revision that took place in January,

14 although he had not raised that on the first of those

15 two meetings. This meeting, we can tell from

16 the timings provided, appears to have lasted from 4.26

17 to 4.50, a total of 24 minutes from beginning to end.

18 SIR ROBIN AULD: Thank you.

19 (3.00 pm)

20 MR MILNE: Thank you, Mr Handfield I have no further

21 questions at this stage, sir.

22 SIR ROBIN AULD: Mr Fitzgerald, are you...?

23 MR FITZGERALD: Sir I will not be able, without taking

24 instructions, to conclude my cross-examination. If it

25 would assist you, sir, I could at least commence and try

1 and clarify one or two matters.

2 SIR ROBIN AULD: Mr Handfield, I know, has difficulties.

3 What particular aspect of his evidence is causing you

4 the need to take further instructions?

5 MR FITZGERALD: It is really the reference to the meeting --

6 basically if I can put it this way, Mr Handfield started

7 off by talking about being given instructions to call

8 special meetings. He then referred in his evidence to

9 a particular meeting with a Mr Rodney Propps present and

10 he has now referred to a further meeting.

11 SIR ROBIN AULD: So it is the two earlier meetings, two

12 pre-Salt Cay meetings.

13 MR FITZGERALD: Yes. I think I have some instructions in

14 relation -- I think we are probably talking about

15 the same incident, the Rodney Propps meetings. I have

16 some instructions on that but I have not on other

17 matters. Can I just do the best I can --

18 SIR ROBIN AULD: Do you have a junior here?

19 MR FITZGERALD: Well, I have --

20 SIR ROBIN AULD: Who can make a phone call and talk to

21 Mr Misick if he is available and get instructions while

22 you are dealing with the Rodney Propps meeting and

23 the Salt Cay meetings?

24 MR FITZGERALD: My learned friend Mr Glinton can probably --

25 SIR ROBIN AULD: Perhaps he can have a shot at it and get

1 instructions on that.

2 MR FITZGERALD: Sir, I will do the best I can.

3 Cross-examination by MR FITZGERALD

4 SIR ROBIN AULD: You can carry on with what you are prepared
5 to deal with.

6 MR FITZGERALD: Mr Handfield, just so we can get the law
7 a little bit straight. Is this right --

8 SIR ROBIN AULD: Just before Mr Glinton leaves, does he have
9 a copy of Mr Handfield's witness statement?

10 MR FITZGERALD: I do not think that will do any good because
11 he has now departed from that with his new evidence.

12 SIR ROBIN AULD: But does he have at least the reference to
13 on at least two previous occasions? Is this the first
14 you have seen of this witness statement just a short
15 while ago?

16 MR FITZGERALD: We saw it about 20 minutes before we came
17 in.

18 SIR ROBIN AULD: Then I think Mr Glinton should have a copy,
19 so he can at least put to Mr Misick paragraphs 4, 5 and
20 6 of that witness statement.

21 MR FITZGERALD: I think we may be able to assist on one of
22 them.

23 Mr Handfield, you accept, I think, is this right,
24 that the section 5 of the Planning Act -- do you have
25 a copy of the Planning Act?

1 A. Planning Act?

2 Q. Yes, of the Physical Planning Act. Do you have
3 the physical planning ordinance?

4 I am just really going to ask you a few questions
5 about the overall procedure so that we are --

6 A. What page are you on?

7 Q. It is page 13 of the ordinance, section 5. Do you see
8 there that under section 5:

9 "A meeting of the board shall be convened by the
10 Chairman or in his absence by the Vice Chairman."

11 That is right. Then if you look on a little bit
12 further:

13 "Provided further the Governor may direct
14 the secretary that a meeting shall be convened and
15 the secretary within 14 days of such direction shall
16 convene a meeting accordingly."

17 You see that?

18 A. Yes, I am on that page.

19 Q. Is this the position: that there are normally regular
20 meetings of the physical planning board at regular
21 intervals?

22 A. It has not happened so.

23 Q. I see. Do you want to look on to section 7 then:

24 "The board shall meet at such times and places as it
25 shall nominate and the minister shall approve."

1 Have you nominated times and places where you will
2 meet?
3 A. Yes, I have.
4 Q. You have?
5 A. Yes.
6 Q. Is that every month?
7 A. Well, yes, the secretary would confer with me and
8 I would make the decision based on the type of meeting
9 or the crowd, if they are having guests, come to do
10 the presentation where we need a larger room and that is
11 all. Usually it would be in the planning conference
12 room.
13 Q. Do you meet at regular intervals of a month?
14 A. Yes.
15 Q. That is nominated by you and approved by the minister?
16 It has to be approved by the minister. The minister has
17 to approve your plan, doesn't he?
18 A. Well, that is not the way it is done --
19 Q. Would you accept that what the law says is that you
20 nominate, we will meet at monthly intervals; and
21 the minister can say: no, that is not good enough, let's
22 have two-weekly intervals. That is what the law says?
23 SIR ROBIN AULD: This bears on the thrust of this man's
24 evidence, does it?
25 MR FITZGERALD: It does, yes.

1 SIR ROBIN AULD: That he made -- the board made a decision
2 one way and then a meeting was convened lawfully or
3 unlawfully at which it was reversed, seemingly at the
4 pressure of a minister?
5 MR FITZGERALD: Sir --
6 SIR ROBIN AULD: Does it matter how often they meet?
7 MR FITZGERALD: It does. It relates to the first instance,
8 sir, because the reference to the Nikki Beach
9 discussions --
10 SIR ROBIN AULD: We are on Nikki Beach, are we?
11 MR FITZGERALD: It is a necessary foundation.
12 Do you accept that there are regular meetings and
13 then there are special meetings?
14 A. Yes, there is regular meeting and that would be called
15 extraordinary meetings.
16 Q. So there is a regular meeting about once a month, is
17 that right?
18 A. Once a month.
19 Q. Then a developer can always ask for a special meeting?
20 A. Yes.
21 Q. Usually you try to accommodate the developer, because it
22 might require them to present their case and explain
23 the plan to you?
24 A. Yes.
25 Q. So we have provision both in the law and in practice for

1 you to have regular meetings and then special meetings?

2 A. Yes.

3 Q. A special meeting can be called for by the developer

4 just writing to you saying: can I have a special

5 meeting.

6 A. Well, in cases that has happened.

7 SIR ROBIN AULD: Mr Handfield, not your fault, Mr Fitzgerald

8 is asking you questions from the left and the court

9 reporters are taking down your evidence from the right.

10 Spread yourself between the two of them and then we will

11 be sure to get what you say.

12 MR FITZGERALD: There are the regular meetings about once a

13 month, is that right?

14 A. Yes.

15 Q. At the request of a developer, if there is a special

16 need for it, you can hold a special meeting?

17 A. Yes, we have special meetings.

18 Q. I think you do hold those special meetings if

19 a developer says to you: look, I need to have a special

20 meeting to explain something to you.

21 A. Yes.

22 Q. It is right that you in a normal case reach a decision

23 on a normal development case and that decision is

24 subject to appeal to the minister?

25 A. Yes, the process is that -- correct.

1 Q. However, if it is a government application, there is
2 a special procedure, if you would like to look at
3 section 43. You will find it on page 35. Do you see
4 section 43?

5 A. Yes.

6 Q. In a case where any development by the government or by
7 any statutory authority is proposed, the procedure shall
8 be similar, save that the board shall not give
9 a decision, shall consider the proposal and make
10 recommendations, all right? All they do is make
11 a recommendation?

12 A. Exactly.

13 Q. Now, just so that we understand each other, do you
14 accept that the exercise that was being gone through on
15 17th December was to make a recommendation on
16 a government application to build a dock?

17 SIR ROBIN AULD: That is blindingly obvious from the minute
18 that we read, Mr Fitzgerald.

19 MR FITZGERALD: Sir it is important because --

20 SIR ROBIN AULD: I know what the position is or should know.

21 If it is a matter of law you can direct it to me.

22 MR FITZGERALD: Sir, can I just, because we had a lot of

23 talk about decisions being made, and in fact that is

24 an incorrect --

25 SIR ROBIN AULD: That is why I read the minute which spoke

1 in terms of a recommendation.

2 MR FITZGERALD: I am very obliged, sir, but can I just

3 understand whether this -- did you realise that all you

4 could do was make a recommendation?

5 A. I believe that is what the minute says.

6 Q. When it says at the end:

7 "The motion to refuse the subject planning

8 application was made and seconded."

9 Do you accept that you had no power to refuse

10 the application?

11 A. It also said "recommend" --

12 Q. Do you accept that you had no power to refuse --

13 SIR ROBIN AULD: I accept that, Mr Fitzgerald. I accept

14 that. It doesn't matter whether he accepts it as

15 a matter of law.

16 MR FITZGERALD: Sir, except that that affects the legality

17 of what followed thereafter. If there was no power --

18 SIR ROBIN AULD: Then you can make submissions to me about

19 that.

20 A. But the minute says here that the board recommend

21 a decision of a refusal. It is a difference.

22 Q. Do you accept that all you were doing there was making

23 a recommendation?

24 A. It says that.

25 SIR ROBIN AULD: It is what it says, Mr Fitzgerald, in bold

1 letters.

2 A. In the minutes.

3 MR FITZGERALD: Sir, it then says in equally bold letters

4 the refusal --

5 A. I mean, I don't --

6 Q. Did you understand what you were doing?

7 A. Of course.

8 Q. I see, and what you were doing was not making

9 a decision --

10 A. I was not making a decision.

11 Q. Thank you.

12 A. And that is why the minister had a right or the client

13 had a right to an appeal to the minister.

14 Q. No, it is not an appeal.

15 A. That is the law matter, sir.

16 Q. It may be a law matter, but do you accept that all you

17 could do was make a recommendation which the minister

18 could then decide whether to accept or not to accept?

19 A. Exactly.

20 Q. It was not a question of you making a decision and it

21 being appealed, was it?

22 A. It was a decision, a recommendation for refusal.

23 Q. No, it was not. It was a recommendation which could

24 either be accepted or rejected. That is all. Do you

25 accept that?

1 A. I accept that.

2 Q. Thank you.

3 I will come back to the question of the decision you
4 purported to make on that occasion. But can we deal
5 with this: you have said that there were two occasions
6 that gave you concern before this, all right?

7 A. Yes.

8 Q. One of them that you have now dealt with is an occasion
9 involving a meeting with Mr Rodney Propps?

10 A. Yes.

11 Q. Is that right?

12 A. That is correct.

13 Q. Can I just understand your evidence: is your evidence
14 that at the end of it, what you got was you are saying
15 a message of "hurry things up"?

16 A. Basically, yes.

17 Q. You didn't -- you are not saying that you were
18 instructed to call some special meeting?

19 A. I did not say that.

20 Q. You didn't say that. You see you did say that in your
21 statement to the public. So that is wrong, is it?

22 A. Well, sir, I said pressure -- I know what I said to the
23 public, I said pressure, and to me if you tell me hurry
24 up, that is pressure.

25 Q. You said:

1 "On several occasions the minister instructed me to
2 call a meeting of the board."

3 Do you accept that that was wrong, to say you were
4 instructed to call a special meeting of the board?

5 A. Well, when I am in a meeting and a minister says: I want
6 you to get this meeting, move this thing forward; that
7 is an instruction. It can be seen as hurry.

8 Q. You were never given an instruction to call the meeting
9 of the board, were you?

10 A. Sir, my evidence is there.

11 Q. Your evidence is inconsistent with what you said in your
12 press release, so I am trying to clarify it.

13 SIR ROBIN AULD: Is it? How else would he hurry it up if he
14 has a cycle of ordinary meetings without calling a
15 special meeting?

16 MR FITZGERALD: Sir, I would respectfully ask you to permit
17 me, because this is an issue where he has made
18 a statement about being given an instruction. In fact
19 there was a meeting which was going to take place in any
20 event and there was -- my clear instructions are no
21 instruction was given because there was going to be
22 a meeting.

23 SIR ROBIN AULD: Then lay the foundation for that.

24 MR FITZGERALD: I was seeking to do that, sir.

25 SIR ROBIN AULD: If he was saying: I am sticking to

1 the cycle; and he was being told to speed up by calling
2 a special meeting to break the cycle, then it is
3 understandable, but if there was an ordinary meeting
4 next week, then not.

5 MR FITZGERALD: You were not given any instruction to call

6 any special meeting, were you?

7 A. Sir, I probably was. If I am told to hurry it up and
8 there is not a scheduled meeting, you are asking me for
9 an extraordinary meeting.

10 Q. Can I just put this: there was in fact in that case
11 already outlined approval, is that right?

12 A. I cannot go back to all of the specifics as to what
13 outline was done or was not.

14 Q. Can you remember this incident at all?

15 A. Yes, I can remember parts of it, yes.

16 Q. Let's see what you can remember.

17 Do you remember that there was a meeting,
18 an informal meeting at the Nikki Beach hotel?

19 A. Yes.

20 Q. So that is where it took place. Was it sometime in 2008
21 before August of 2008?

22 A. I am not sure of the dates, sir. I can say some time
23 early in 2008 and I probably am correct.

24 Q. I will have to put it to you that it was some time in
25 2008, obviously before the Premier resigned -- ceased to

1 be the minister of planning?

2 A. Yes, it was before, yes.

3 Q. Is this right, that that was an informal meeting in

4 which you were invited to meet with Mr Rodney Propps and

5 the architect of the Nikki Beach extension, is that

6 right?

7 (3.15 pm)

8 A. I was invited to meet with the minister. I met

9 Mr Rodney Propps at the meeting.

10 Q. Was the architect there too? I think you have said he

11 was?

12 A. The architect was there too.

13 Q. I think also a member of your board was there, is that

14 right?

15 A. I don't recall a member of the board being there.

16 Q. Mr Jolly was there, was he?

17 A. Garnett Jolly?

18 Q. Can you assist?

19 A. Are you saying Garnett Jolly was there?

20 Q. Yes, I am putting that to you.

21 A. You are saying he is there. I do not recall he was

22 there. The names I mentioned are the names I recall.

23 Q. Is this right, that that meeting was so that the

24 architect could explain the proposal for a new type of

25 construction for the hotel? That is to say a different

1 way of making the hotel?

2 A. That came up in the meeting. But that was not

3 the purpose of the meeting being called.

4 Q. I don't know whether you can help us with this, is this

5 right, that the Nikki Beach development, there had

6 already been already outline approval for an extra hotel

7 to be built, is that right?

8 A. I believe that might be correct.

9 Q. So there had already been outline approval. There was

10 about to be a decision on what was called detailed

11 approval, is that right?

12 A. Well, sir, you seem to have the reading from the facts.

13 I am trying to pull the facts from memory.

14 Q. I am just trying to test your memory because you have

15 made some specific statements.

16 A. I made the statement in good conscience. I might be --

17 you can't --

18 Q. You made a very specific allegation which is denied and

19 your specific allegation which is denied was that you

20 were instructed to call a meeting of the board. I am

21 putting to you that you were not instructed to call

22 a meeting of the board at all.

23 A. And I am putting it to you that if I said I was

24 instructed to call the meeting of the board, I was.

25 Q. Well, yes, but you see you say that in your press

1 statement, but when you gave evidence today, you said
2 that there was just a general impression of get things
3 speeded up. Which was it? A specific instruction or
4 a general impression?

5 A. Sir, if you say to me speed things up, it is the same as
6 saying to me: have an actual meeting.

7 Q. There was a meeting coming up in any event?

8 A. As I said, sir, you were looking at the record.

9 Q. Do you accept there was going to be a meeting in any
10 event?

11 A. There is always a meeting coming up every month. There
12 is always a meeting coming up every month, sir.

13 Q. And the minister wasn't saying have a special meeting at
14 all --

15 MR SWANN: Sir, I am not sure where we are going with this.

16 It seems to be going in circles.

17 SIR ROBIN AULD: I have given up for the moment, I am
18 afraid.

19 MR FITZGERALD: With great respect, sir --

20 SIR ROBIN AULD: If we don't know the cycle of the meetings
21 and where in the cycle of the monthly meetings this was,
22 the point that you are making can't bite.

23 MR FITZGERALD: Sir, with great respect, we have been given
24 an allegation which is -- starts off as an instruction
25 to call a special meeting, which descends into a vague

1 suggestion of speeding things up. I must be entitled,
2 given that this is being relied on, to probe which of
3 the two it is. The minister's instructions are clear.
4 He never gave an instruction to hold a special meeting.
5 SIR ROBIN AULD: Just listen. You have heard what
6 Mr Fitzgerald has said. Can you help him any more on
7 this?
8 A. Not much.
9 MR FITZGERALD: Is the truth that you really can't remember
10 much about this at all?
11 A. Sir, I am not going to try to let you pin me down to say
12 what I can and can't remember.
13 Q. Can you remember what was said at all?
14 A. I said what was said already.
15 Q. What was said? Just name me one thing -- specific thing
16 you say was said? One specific thing, give us.
17 A. I said I was called at a meeting at the Nikki Beach.
18 I was given instruction to call a meeting. Okay?
19 Q. That is your evidence now, is it?
20 A. Well, that is my evidence all along.
21 Q. I am sorry --
22 A. If you read pressure, how would you take pressure?
23 Hurry up?
24 Q. Just so that it is absolutely clear, I have to put it to
25 you that all that meeting consisted of was

1 an opportunity for the architect to explain to you
2 the new form of construction material that he wanted to
3 use, and that was all that occurred?

4 A. Sir, and I put it to you that you are being hired to do
5 a job and given instructions --

6 SIR ROBIN AULD: Mr Handfield, just help Mr Fitzgerald at
7 least to this extent: was that discussed at the meeting,
8 the hiring of an architect to do a particular job. Did
9 that arise in the course of this conversation, whatever
10 else was said? Do you remember?

11 A. Yes, if we are talking about -- if he is trying to ask
12 me if at that meeting I was asked to convene
13 a meeting -- some of the things being discussed at the
14 meeting, but obviously when I am calling a meeting, like
15 that in cases, I am called to give the specific of
16 meeting and the reason why they want a special meeting
17 or to move it forward.

18 SIR ROBIN AULD: Can you help Mr Fitzgerald to this extent:
19 at the meeting, whatever else you said, was there some
20 discussion about the instruction of a particular
21 architect to do a particular part of the job? Did that
22 feature in the discussion as well?

23 A. Yes. There was an architect at the meeting, and there
24 was a discussion of a special product to be used which
25 was not in our system of doing.

1 SIR ROBIN AULD: Mr Fitzgerald, I apologise for being
2 grumpy, but you will be able to make all these
3 submissions to me in due course about the quality of
4 this evidence, and I don't really think there is a lot
5 of point in putting the same matter over and over again
6 and your instructions. I think you have got as far as
7 you are going to get on this point with Mr Handfield.

8 MR FITZGERALD: Mr Handfield, just so there is no
9 misunderstanding, I have put to you there was no
10 pressure put on you by the Premier at all at that
11 meeting.

12 A. Sir, and I do not submit to your submission.

13 MR FITZGERALD: That he never said anything about speeding
14 things up; he merely wanted to give the developers'
15 architect an opportunity to explain the proposal for
16 a new type of construction; do you accept that?

17 A. No.

18 Q. Did you take any notes of this meeting?

19 A. Sir --

20 Q. Did you take any notes?

21 A. I didn't take any notes. When I go into a meeting, at
22 the very least I walk away with the gist of what I was
23 there for.

24 Q. Did you write any notes after that meeting?

25 A. I didn't write any notes after the meeting. I had

1 a meeting with the director and gave him a briefing of
2 what the meeting was about.

3 Q. Can you remember when you next held a meeting?

4 A. No, sir, not -- I am not -- like I said, I would need to
5 bring a bag that big to be able to transport the files
6 and see what transpired in the chronological order.

7 Q. One final thing: I have to put it to you that the normal
8 meeting just took place in the normal way after that,
9 and there was no interference with it whatsoever?

10 A. Sir, again, if you did your research, I am not going to
11 debate you on that. You were saying the normal meeting
12 happened?

13 Q. Yes.

14 A. Of course it did.

15 Q. So the normal meeting took place after that in
16 the normal way, is that right?

17 A. All meetings is -- we schedule monthly meetings and
18 every meeting that I would attend was a normal one.

19 Q. There was no special meeting?

20 A. I am not here to say I called a special meeting or
21 I didn't. I am -- what I said was that I was asked to.
22 And the way -- the documents I lay out sums it up.

23 Q. The second meeting that you have talked about,
24 the earlier meeting involving the Premier, was in 2007,
25 you thought.

1 SIR ROBIN AULD: Shall we deal with that after the short

2 break, Mr Fitzgerald?

3 MR FITZGERALD: Yes, sir.

4 (3.23 pm)

5 (A short break)

6 (3.31 pm)

7 SIR ROBIN AULD: Yes, Mr Fitzgerald.

8 MR FITZGERALD: Thank you very much, sir. Just two further

9 matters, Mr Handfield. You referred to another

10 incident. I just want to understand it. It was

11 the incident where you talked to members of the Cabinet

12 and the Premier about your problems -- was it

13 West Caicos where you had contractors?

14 A. I talked, but the problem with the contractors

15 association in the country, West Caicos was one of

16 the areas of concern.

17 Q. Right. So that was the main subject of discussion, is

18 that right? Your concerns that your employment, your

19 contract to provide employment there was being altered

20 or interfered with by the contractors?

21 A. If you followed my previous submission, you would

22 understand that I said that when I was called into

23 the meeting, I was immediately addressed by the Premier

24 who started to discuss planning matters. I immediately

25 gave the indication that I had a matter prior to that,

1 he kept on moving, and he got as far as saying something
2 about the Dellis Cay matter. That is as far as that
3 went, because I at that time got control of the
4 conversation to explain to him about the urgency of
5 dealing with our local contractors, and I told him I was
6 addressing him as the president of the contractors'
7 association.

8 Q. You are not saying that at this meeting you were given
9 any instructions on any meetings?

10 A. No, at that meeting --

11 Q. Or any instructions at all?

12 A. It never got that far, no.

13 Q. Indeed, you are not saying that the minister of
14 development shouldn't talk to you about development?

15 A. No, no.

16 Q. That was perfectly all right to do, to have a general
17 discussion about development would be perfectly
18 appropriate, wouldn't it?

19 A. Yes.

20 Q. What I am suggesting to you is there was never any
21 discussion at any of these meetings of anything other
22 than development and understanding the nature of the
23 development?

24 A. Sir, I have answered your previous question, and I don't
25 intend to sum both of them up. I am answering

1 the question on the table --

2 Q. Is this right, that at that meeting it was mainly taken
3 up with you complaining about your own employment
4 contracts and what had happened with that. You had
5 a business, didn't you?

6 A. I have a business and I dealt with that issue of
7 construction, because they don't want to hear much more
8 after I laid it all out about what I felt was grossly
9 wrong that was happening in the country with our local
10 contractors. That is where that meeting ended.

11 Q. Now, the Salt Cay, you accept that you didn't know --
12 you yourself don't know what happened at this meeting on
13 9th January?

14 A. No.

15 Q. You were not there?

16 A. I was not there and I would not try to speak to what is
17 there.

18 Q. I appreciate that and I am grateful for that. Is this
19 right, that the background really was the debate was
20 about the government plan to have a government dock
21 built, is that right?

22 A. Yes.

23 Q. The question was whether the location should be on
24 the north side or the south side?

25 A. Yes.

1 Q. Some people thought it should be on the north side,
2 where I think the White House is located, is that right?

3 A. Yes.

4 Q. Some people thought it should be the south side where in
5 fact there is a diving site?

6 A. You know, I get this in my report but I can't concur.

7 Q. But the whole debate out of which this arose was not
8 a question of whether there should be a dock or not.
9 Everybody agreed there should be a dock, isn't that
10 right?

11 A. I can't speak for everybody, sir.

12 Q. But everybody thought there should be a government dock?

13 A. I could say that there was an application in front of
14 the board for a dock, and it was my position as Chairman
15 to try to move that dock forward, and in this case where
16 there was controversy about where it should be, make
17 recommendation for it to be in another location.

18 Q. The problem about locating it on the south side, which
19 was the only alternative to being next to the White
20 House, was that it would have interfered with a diving
21 site, is that right?

22 A. I heard those arguments but you know.

23 Q. There was a view taken by the environmental officer that
24 that would be a bad idea because it would interfere with
25 the diving site, is that right? To have it on the south

1 side would interfere with the diving site.

2 A. Yes, well, I must be frank and tell you there has been
3 several back and forth with what is right and what is
4 wrong for that dock. I don't want to get pinned down in
5 saying that this is what it was, but if you go to our
6 minutes of our previous meeting, we can get more detail.

7 Q. But is this right, that it was not the developer's
8 proposal, it was the government's proposal: we want
9 a dock for the people of the island?

10 A. Yes, the plan came in front of us as a dock for
11 the government, yes.

12 Q. As such, you accept that your power was simply to make
13 a recommendation, not to make a decision?

14 A. Yes.

15 Q. Of course the minister would have been free, in any
16 event, to say: thank you very much for your
17 recommendation, but I don't accept it; it is going to go
18 ahead on the north side rather than the south side.

19 A. Yes, that is his power. But there are procedures for
20 it.

21 SIR ROBIN AULD: Has Mr Glinton had an opportunity to take
22 any instructions?

23 MR FITZGERALD: Is this right, that you and the Premier
24 would have conversations about planning matters and
25 other matters generally? You were on the phone to each

1 other frequently.

2 A. No.

3 Q. Not at all?

4 A. No, I would not say frequently.

5 Q. Did you go to his house ever and talk to him?

6 A. I went to his house on a couple of occasions, but it was

7 not about planning.

8 Q. But you would discuss matters generally, matters with

9 the Premier on a number of occasions?

10 A. No, I have been far away from the Premier a number of

11 years.

12 Q. You have been far away from the Premier a number of

13 years?

14 A. Yes, when I meet with him, I meet with him in

15 an official capacity.

16 Q. You were reappointed every year, is that right?

17 A. Except one, yes.

18 Q. Were you upset the year you were not reappointed?

19 A. Not at all. I am a businessman. I got --

20 MR FITZGERALD: Sir, I think that is as far as I can take it

21 with this witness.

22 SIR ROBIN AULD: Are you sure you have had sufficient time

23 to take all the instructions you want to put questions

24 to Mr Handfield?

25 MR FITZGERALD: Well, the short answer is no, there may be

1 something else. It may be we can deal with it in
2 a further statement, sir. It may be that the witness --
3 SIR ROBIN AULD: That might be the sensible way forward.
4 MR FITZGERALD: Sir, I will obviously consider it. I have
5 not yet had detailed instructions about phone messages
6 but obviously --
7 SIR ROBIN AULD: If anything arises, you can interrogate
8 Mr Handfield in other ways.
9 MR FITZGERALD: Yes. Mr Handfield, I look forward to
10 resuming the communication but --
11 A. You do. I don't.
12 MR FITZGERALD: But sir, I have no further questions.
13 SIR ROBIN AULD: Mr Misick.
14 Cross-examination by MR MISICK
15 MR MISICK: Mr Handfield, you grew up in Bottle Creek,
16 North Caicos, right.
17 A. That is correct.
18 Q. The same place that Mike grew up?
19 A. That is correct.
20 Q. In fact you and Mike are family?
21 A. Yes, that is correct.
22 Q. And you have always had until recently a pretty good
23 relationship?
24 A. That is correct.
25 Q. In fact it was Mike who recommended you for

1 the position, put you forward for the position as

2 Chairman of the physical planning board?

3 A. No, that is not correct.

4 Q. That is not correct?

5 A. No, he offered me a different position, and I said: no,

6 I would serve in a capacity as Chairman or immigration

7 because I felt like I had a contribution to make. That

8 is how it happened.

9 Q. At any rate, you were first appointed five years ago?

10 A. It is a little more than five years ago because I had

11 one year that I was off.

12 Q. Every time your term of office expired, you were

13 reappointed?

14 A. Yes, in most cases, yes, except one.

15 Q. Except for one when you said you were away?

16 A. I was not away. Another member was appointed.

17 Q. Anyway, so you were -- you had five separate

18 appointments?

19 A. Yes, that is correct.

20 Q. Presumably you accepted those consecutive appointments

21 because you felt happy to continue to serve?

22 A. Yes, I like serving in the capacity I did. I felt I was

23 making progress.

24 Q. You didn't feel like you were under any pressure then

25 when you were accepting the appointments, were you? You

1 were not under any pressure to accept those
2 appointments, were you?
3 A. No, I was not under no pressure to accept
4 the appointments, no.
5 Q. Before the appointments -- when you were offered
6 the appointment, how did that come to you? How was that
7 communicated to you?
8 A. Through the Gazette by the way of the planning
9 department.
10 Q. Did anyone speak to you and ask you if you would like to
11 be a member or continue to be a member?
12 A. No.
13 Q. You didn't get a call from the Governor asking you if
14 you want to serve, did you?
15 A. No.
16 Q. As you understand it, appointments are made to
17 the physical planning board and other board by way of --
18 the decision is made by the Cabinet, is that correct?
19 You understood that?
20 A. I believe that is correct.
21 Q. You said in your statement that, and I am paraphrasing,
22 you felt pressured and because of that you wanted to --
23 you felt that you could no longer continue to serve. Is
24 that a fair summary of what you -- of what you said?
25 A. Yes. Especially at the meeting on 9th January.

1 Q. Before you resigned or communicated your resignation,
2 did you call up the Premier and say: listen, Mike, you
3 know I don't feel happy about this, this is not the way
4 I think things ought to go? Did you have any
5 communications with the Premier?

6 A. No, because he had stopped taking my calls a long time
7 ago. I just --

8 Q. He had stopped taking your calls. How long ago was
9 that?

10 A. Quite some time.

11 Q. How long ago?

12 A. I would say many years.

13 (3.45 pm)

14 Q. So you used to be friendly and then you ceased to be
15 friendly, is that it?

16 A. I didn't put it that way. I said he used to be friendly
17 and then he got busy. He is the Premier. He has a
18 whole different relationship. I accepted that.

19 Q. Did you attempt to call Mr Hanchell, who was at this
20 time the minister for planning, and say to him: look, I
21 feel like I am being pressured; I am not happy about it;
22 you need to change your approach about these things.
23 Did you try to communicate that to him?

24 A. No.

25 Q. Instead you went to see a lawyer?

1 A. Well, I figured if I am going to resign from
2 the physical planning board in the climate that is going
3 right now --
4 Q. I see, what climate were you talking about?
5 A. The climate that we are sitting in.
6 Q. I see, so because there was a Commission of Inquiry you
7 thought you should go and see a lawyer?
8 A. Sir, I saw a lawyer because if I am going to resign
9 the physical planning board, I should get a lawyer to
10 make that statement to the government.
11 Q. Could you not simply have written a letter saying to
12 the Governor saying: I hereby resign as Chairman of the
13 physical planning board? You are a pretty sensible
14 person. You are a businessman. You could have written
15 that yourself?
16 A. I could have done that, but I paid my lawyer to write my
17 letters.
18 Q. When did you first consult with lawyers to resign?
19 A. Pardon me?
20 Q. When did you first consult your lawyer?
21 A. I contacted my lawyer at about 7.30 on 10th January,
22 prior to me leaving the country, and that is another
23 high point of bringing him involved because I was going
24 to resign, get my (inaudible) and I was leaving
25 the country.

1 SIR ROBIN AULD: That is 7.30 am or pm?

2 A. That is am.

3 MR MISICK: You asked your lawyer to hold the resignation --

4 sorry, you asked -- I am sorry. In your resignation to

5 the Governor, you asked the Governor to keep your

6 resignation confidential.

7 A. Yes, that is correct.

8 Q. And not to release it?

9 A. Until --

10 Q. -- the next meeting.

11 A. Yes, and the reason for that is that I worked with

12 the board for many years. Some of those guys was with

13 me for two years and the department was there for my

14 duration. I thought it was the proper protocol for

15 the members of the board and the department to be

16 the first to hear, other than the Governor, of my

17 resignation and then it goes by way of press. That was

18 my wishes. However, because of whatever reason,

19 the Governor saw fit to make it known to this --

20 SIR ROBIN AULD: That is what you said in the last sentence

21 of your letter, wasn't it?

22 A. I am not looking at the letter but I know what I said

23 from the heart.

24 MR MISICK: The same date that you resigned, you went and

25 gave a press statement on television with your lawyer.

1 A. Not the same day, sir. I was out of the country,

2 remember.

3 Q. The day when your resignation became effective?

4 A. No, I was out of the country, remember. I left here

5 January 10th and arrived January 19th and my press

6 release was January 21st.

7 MR MISICK: That was the same day your resignation became

8 effective.

9 A. That was --

10 Q. That is when you announced it to the board?

11 A. Exactly. That fell in line with what my wishes was.

12 Q. Why did you feel it necessary to make a press statement

13 to say you are resigning from the physical planning

14 board?

15 A. It was because I served the public for five years and

16 these people call on me, on daily basis to answer

17 questions, to solve problems, and I feel that the right

18 thing to do. I am a part of the public. I was their

19 Chairman for five years. And for me to just up and

20 resign, I thought at the very least it would be

21 disrespecting the public that looked up to me and

22 supported me as Chairman, so I felt that was right to go

23 to the press and formally announce my resignation and

24 give some indication as to how I done for.

25 Q. I would suggest you were making a political statement.

1 A. No comments.

2 Q. Do you agree or disagree?

3 A. I am not going to dignify --

4 Q. Do you agree or disagree?

5 A. I don't have to disagree or agree, do I?

6 Q. Well, I am asking you.

7 A. Not at this time, sir.

8 Q. Not at this time. But you will be making one soon, is

9 that it?

10 A. No, I didn't say that either. If you read my press

11 release very carefully, I think my press release

12 clarifies that. As a Turks & Caicos Islander, I was

13 serving the people, every one, and that is all I have to

14 say.

15 Q. Let's see the last thing you said in your press

16 statement.

17 A. That is what I said. Go ahead.

18 Q. "I have not been fired. Further, I further intend to

19 continue to participate in the political affairs of

20 the country as I see fit."

21 So I suggest to you that this was a political

22 statement you were making.

23 A. You can read it and everybody have different

24 interpretations on what they read. I am not going to

25 hold that against you.

1 Q. Thank you, I appreciate that.

2 Now, the text message you received from Mr -- you

3 said you received a text message from Mr Hanchell?

4 A. Yes.

5 Q. Are you able to tell us from the text message who were

6 the other recipients of the text message?

7 A. Who he send -- the messages to?

8 Q. Yes.

9 A. I can only say who -- he sent it to me.

10 Q. That is what I am asking you.

11 A. No, I could not speak to who he sent it to. It would

12 indicate that he sent it to others, based on the way he

13 closed out on it.

14 Q. But you don't know who those others would be?

15 A. No, I don't.

16 Q. Did you return his call?

17 A. Pardon me?

18 Q. Did you try to speak to him after you received his text

19 message?

20 A. Actually, I didn't receive his text message, I think,

21 until some time later but I don't text.

22 Q. But you knew it was his number?

23 A. When I saw the number, I knew it was his number.

24 Q. You knew it was -- the minister to whom you were

25 responsible?

1 A. Yes, once I ascertained that it was his number.

2 Q. Did you try to reach him, to call him?

3 A. No, I didn't try to call him.

4 Q. You just ignored him?

5 A. I didn't say I ignored him. I just didn't call.

6 Q. So you never attended the physical planning board

7 meeting on the 9th, did you?

8 A. No, I did not.

9 Q. You did not attend the meeting that was held at the

10 Premier's office?

11 A. No, I did not.

12 Q. The day before either, is that correct?

13 A. No, I did not.

14 Q. You don't know who called what meeting? You do not know

15 who called the meeting at the Premier's office?

16 A. I --

17 Q. You know who called the meeting?

18 A. I know there is a meeting called but I know -- I was

19 told the ministers called the meeting --

20 Q. Do you know who called the meeting?

21 SIR ROBIN AULD: Are you asking him to say only of his own

22 knowledge or --

23 MR MISICK: Yes.

24 SIR ROBIN AULD: But he is entitled to give hearsay evidence

25 and everybody else has.

1 MR MISICK: I do understand that. But I am -- I want to

2 know --

3 A. I can't definitively know who called the meeting,

4 because I was not there.

5 SIR ROBIN AULD: Somebody else will ask him who told him.

6 MR MISICK: Yes.

7 SIR ROBIN AULD: If it matters.

8 MR MISICK: Only as to accuracy. Did another board member

9 try to reach you?

10 A. Yes.

11 Q. Did you, after you had spoken to that board member, try

12 to reach Mr Hanchell?

13 A. No.

14 Q. If I could ask you this, the meeting that was called on

15 the 10th, sorry, the 9th, that is Friday the 9th, did

16 you -- do you know who called that meeting?

17 A. Well, from documents that I received, it suggests that

18 the deputy called that meeting, it would appear that the

19 deputy.

20 Q. He chaired the meeting?

21 A. Yes, well, called the meeting, chaired the meeting.

22 Q. Do you regard those as the same thing?

23 A. The one who calls it, he chairs it.

24 Q. Now, I suggest to you that Mr Hanchell has never

25 pressured you to call any meeting of the physical

1 planning board.

2 A. Well, sir, it depends on what angle you are coming from.

3 Okay. But from where I am coming from, when ministers

4 converge at a particular place after texting members to

5 attend this meeting and where it is already clear that

6 they want to discuss an application which was refused to

7 be approved, I don't know how you see it but I say that

8 is --

9 Q. Can you tell us: what did the text message say, the text

10 message that you received from Mr Hanchell; did that say

11 anything about convening a board meeting?

12 A. Yes, it did, planning meeting. Yes, it did and it is

13 still here.

14 SIR ROBIN AULD: I think it was Garnett Jolly said:

15 "You coming to the meeting?"

16 Then somebody said:

17 "I need to see you, man."

18 Then the last message was:

19 "Please be advised to attend a meeting at the

20 Premier's office tomorrow morning."

21 MR MISICK: "to attend a meeting at the Premier's office".

22 Yes. So he was not asking you to call a meeting of the

23 physical planning board, was he? He was asking you to

24 attend a meeting at the Premier's office.

25 A. Well, sir, if you put the cart in front of the horse,

1 you see one thing. In this case there was a meeting, so
2 one can just conclude what the meeting was about.
3 Q. I see, so you were making an assumption that the meeting
4 was to be called to put pressure on you to call
5 a meeting, is that it?
6 A. But sir, I got information that or pressure in the room
7 that it was. Okay? So ... I understand what you are
8 saying, but it is what it is.
9 Q. I suggest to you that at no time did Mr Hanchell
10 communicate to you in any terms which you could have
11 construed as being pressure on you from Mr Hanchell to
12 hold a meeting?
13 A. Well, you put it that way. I would read the text
14 message and the rest of the stuff that followed and say
15 different.
16 Q. I suggest to you that the meeting that you said that
17 took place with -- at Nikki Beach, Mr Hanchell was not
18 there?
19 A. I can ascertain that he was there.
20 Q. You are saying he was there?
21 A. He was there.
22 Q. I put it to you that he was not.
23 A. Okay, then that is your word against mine.
24 Q. You are a contractor, are you not?
25 A. Yes, I am.

1 Q. You have been a contractor for a number of years, is
2 that correct?
3 A. That is correct.
4 (4.00 pm)
5 Q. Where did you get your contract labour from?
6 A. Different places.
7 Q. Different places?
8 A. Yes. I heard a rumour that I had Filipinos in
9 West Caicos, but that is incorrect.
10 SIR ROBIN AULD: I didn't catch that answer. Could you
11 repeat it, please.
12 A. I said I heard a rumour coming out of this room by way
13 of the transcript that I had Filipinos working in
14 West Caicos, and I am telling him it is incorrect.
15 I have labourers, yes.
16 Q. Where do you get them from?
17 A. The bulk of my labour were mixed. Haitians, Dominicans
18 and Colombians and locals. Obviously the locals --
19 Q. How many foreigners, foreign workers?
20 A. Did I have in total?
21 Q. That you have now?
22 A. Now? Practically none.
23 Q. How many did you have in around the end of 2007?
24 A. Round the end of 2007?
25 Q. Early 2008.

- 1 A. Bare minimum, down to about 12 or whatever.
- 2 SIR ROBIN AULD: Did you say 12?
- 3 A. Yes, round about 12, 14. You know. Construction
- 4 fluctuates. You have got something to do, you bring on
- 5 a guy. You fall off, you let a guy go.
- 6 MR MISICK: Was there a time when you had about 200?
- 7 A. No, never.
- 8 Q. Never?
- 9 A. Never, never.
- 10 Q. What is the maximum amount you ever had?
- 11 A. The maximum amount I had in West Caicos was 27.
- 12 Q. Where were they from?
- 13 A. They were from Dominican Republic, Haiti and Colombia.
- 14 Q. You were a subcontractor to Projitech at the time?
- 15 A. At the time, correct.
- 16 Q. Projitech lost that job at some stage?
- 17 A. At some stage they did, yes.
- 18 Q. You went with Projitech, you lost your subcontract as
- 19 well?
- 20 A. I don't understand when you say I went with --
- 21 SIR ROBIN AULD: Could you spell that for me?
- 22 MR MISICK: P-R-O-J-T-E-C.
- 23 A. P-R-O-J-E-T-E-C-H.
- 24 SIR ROBIN AULD: They are a firm of contractors, are they?
- 25 MR MISICK: Yes, contractors and project managers?

1 A. Yes.

2 Q. When did that happen?

3 A. When did what happen?

4 Q. When did Projitech cease to be the contractor for
5 the West Caicos project?

6 A. September 30th 2007.

7 Q. You lost your subcontract as well, did you not?

8 A. Yes, most of it. I shuffled some of my guys around and
9 some of them I let go.

10 Q. After you lost that subcontract, you made an appeal to
11 the government, did you not?

12 A. I made an appeal to the government on behalf of the
13 contract association. I was trying to talk to these
14 guys long before the fat gone in the fire to say to them
15 that we need a government to try to look out for our
16 local contractors. As presidents of the contract
17 association, it was my job to foster that.

18 So I had one meeting with Mr Hall who guaranteed
19 me --

20 Q. Which Hall?

21 A. Mr Floyd Hall. That the boys would be working. Then
22 later on when the arguments start and the Premier was on
23 television, I saw him saying, he said on television that
24 all of the workers who are employed on West Caicos would
25 retain their jobs. So I sort of banked on that, that

1 that would happen. But as things progressed, obviously
2 we know the story, it didn't happen like that.
3 Q. So you lost your subcontract and you didn't get the job
4 to continue on West Caicos?
5 SIR ROBIN AULD: What contract did you say?
6 MR MISICK: Subcontract. You lost your subcontract.
7 A. Yes, but let me tell you, when you are ready to come to
8 me, you come to me, I have got something to tell you.
9 MR MISICK: I am not coming just yet.
10 A. Okay, let me know.
11 Q. So whatever the Premier said on television didn't
12 happen?
13 A. Well, look around you.
14 Q. You were not happy with that, were you?
15 A. Sir, I put it to you --
16 Q. Would you answer the question, please. Were you happy
17 or were you not?
18 A. I answered the question, I was not. But let me put it
19 to you, if they bring 400 Chinese lawyers in here and
20 take your job, would you be happy?
21 MR MISICK: I don't know.
22 A. Okay. That's good. At least you're a sport about it.
23 Q. I suggest it was around about that time --
24 A. Absolutely, yes. The question I want -- the humour got
25 in the way.

1 SIR ROBIN AULD: You must not ask Mr Misick questions.

2 I know it is tempting. Mr Misick, you want to finish

3 this line of questioning. I am not hurrying you, but

4 I know what point you are going to. It is the one you

5 finished off in the re-examination of Mr Hanchell.

6 I think in fairness you should put it as I am sure you

7 are going to.

8 MR MISICK: I am about to. It was around about that time

9 that the relationship between you and the Premier and

10 the other members of the government collapsed?

11 A. No. Absolutely not.

12 Q. I suggest --

13 A. Me and the government have never had a problem. Because

14 the government is made up of many members. And I didn't

15 say I have a problem with nobody.

16 Q. I suggest to you that you became disgruntled?

17 A. Disgruntled for what?

18 Q. Because you lost your subcontract.

19 A. Man, come on, you lose work (inaudible) wouldn't you be

20 disgruntled? But that is nothing to do with my

21 professional career in another capacity.

22 Q. I suggest that that is why you embarked on this highly

23 publicised resignation, going to the trouble of getting

24 a lawyer, having a press conference and putting forward

25 and making a political statement.

1 A. Everybody can have a press conference, once they can get
2 the press in the room and they have something to say.

3 MR MISICK: Thank you, sir. Those are the only questions.

4 SIR ROBIN AULD: I take you have no questions, Mr Smith.

5 MR SMITH: Take it correct.

6 SIR ROBIN AULD: Mr Wendall Swann, I see you sitting there.
7 Are you seeking to ask any questions?

8 MR SWANN: Yes, sir.

9 SIR ROBIN AULD: I think before you do, you should explain
10 to me on what basis. As you know, under the Commission
11 of Inquiry Ordinance, representation of people before
12 the Inquiry is only permitted where they are said to be
13 the subject of, implicated in or concerned with the
14 subject of the Inquiry. Is it your application that
15 Mr Handfield is concerned with the subject of
16 the Inquiry?

17 MR SWANN: I wouldn't put it --

18 SIR ROBIN AULD: You would not want to say he is implicated
19 in, would you, or the subject of it?

20 MR SWANN: No, he is not. But since he has given evidence,
21 I think it is only fair that I would be allowed to ask
22 him a few questions to clarify a number --

23 SIR ROBIN AULD: That alone is not enough, but I think
24 probably whatever meaning there is in this provision, it
25 is right enough to say you can say he is a person who is

1 concerned in a subject in the Inquiry in his capacity as
2 a witness. On that basis you are entitled to ask
3 questions.

4 MR SWANN: Thank you, sir.

5 Cross-examination by MR SWANN

6 MR SWANN: Mr Handfield, your evidence is that you had been
7 appointed on several occasions as Chairman of
8 the physical planning board?

9 A. That is correct.

10 Q. When you were appointed for the very first time, did
11 the minister sit with you and explain what your job
12 would be?

13 A. No.

14 Q. Did anybody sit with you and explain what your job would
15 be?

16 A. Never.

17 Q. Did anybody explain at any of the subsequent
18 appointments?

19 A. No.

20 Q. There was evidence given of a meeting with the minister
21 at which Mr Rodney Propps was present. Was that
22 a planning meeting?

23 A. It was not --

24 Q. Was that a meeting of the planning board?

25 A. No, it was not.

1 Q. It was suggested that that meeting, the purpose of that
2 meeting was to explain to you some new method of
3 building construction. Now, as between the Chairman of
4 the physical planning board and the Director of
5 Planning, who would you say would be more appropriate to
6 listen to such a presentation?

7 A. I would say the engineer, planning engineer.

8 SIR ROBIN AULD: This was about a new process, was it?

9 MR SWANN: That is what was suggested by Mr Fitzgerald, sir.

10 SIR ROBIN AULD: I may have got it wrong but I thought
11 the witness spoke of the instruction of a surveyor for
12 some special type of job. Maybe it is much the same
13 thing.

14 MR SWANN: I understood that he said the purpose of the
15 meeting was for the architect to explain to Mr Handfield
16 some new method of construction.

17 Would you classify yourself as an engineer?

18 A. No, I am not an engineer.

19 Q. So would you say then that the architect, the developer,
20 would have been better served had they made that
21 presentation to someone other than yourself?

22 A. Yes.

23 Q. There was an issue of an application to erect a dock in
24 Salt Cay. Was that application submitted in isolation
25 as a government application, or was it submitted with

1 other -- as a part of another application?

2 A. I cannot remember the specifics of the application,
3 because if my memory serves me correct, when it was
4 tabled, it was not in a usual bundle. It was tabled
5 with just the recommendations and so there was not a lot
6 of information that I would normally get from
7 the regular print.

8 So I don't have much more information, other than
9 knowing it was a government dock. There is a lot of
10 other rumours surrounding it. I am not going to get
11 into that.

12 Q. You gave evidence that you received text messages. Can
13 you say precisely when you found out that those messages
14 were on your phone? What time of day did you find that
15 out?

16 A. Those text messages mostly came --

17 Q. I don't want to know when they came. I want to know
18 when you found that out?

19 A. When I found that out, it was some time on the day
20 because like I said, I don't do texts.

21 SIR ROBIN AULD: You say some time on the day. On the day
22 that they were sent?

23 A. And on the day's end. I didn't know they were there
24 because I am not a person that --

25 MR SWANN: When you say the day's end, give us a time.

1 A. I didn't know it until much later in the evening, after

2 I hear about texts being sent and all that.

3 Q. There was some suggestion that you are only here today

4 because you are disgruntled over not having a contract

5 on West Caicos. I know you have dealt with that on

6 several occasions but is that why you are here?

7 A. Absolutely not.

8 MR SWANN: Thank you, sir.

9 SIR ROBIN AULD: Thank you Mr Swann. Mr Milne.

10 MR MILNE: I have no further questions, sir, unless you have

11 any questions which you wish to put to Mr Handfield.

12 SIR ROBIN AULD: Mr Handfield, thank you very much for

13 attending today to give evidence.

14 A. I just would beg your indulgence, Sir Robin, to make one

15 small comment to this audience and our people --

16 SIR ROBIN AULD: Well, you had better just give me a hint of

17 what it is about. Only a couple of words now.

18 A. Just a couple of words. The easiest way for evil to

19 prevail is for a good man to do nothing.

20 SIR ROBIN AULD: All right. That will do. Thank you very

21 much. Thank you for attending to give evidence.

22 Can we make some headway with Mr Jeffrey Hall?

23 MR MILNE: I hope so, sir. I would be inviting

24 the Commission to take the rest of Mr Hall's evidence

25 this afternoon, if at all possible.

1 SIR ROBIN AULD: It would be more than a quarter of an hour,

2 won't it?

3 MR MILNE: It may be in the circumstances appropriate if

4 a short break was taken at this point.

5 SIR ROBIN AULD: We will take a five/ten-minute break, no

6 longer and then continue with Mr Hall's evidence, we

7 hope, until the end.

8 (4.15 pm)

9 (A short break)

10 (4.22 pm)

11 HONOURABLE MINISTER JEFFREY HALL (recalled)

12 Cross-examination by Mr Misick (continued)

13 SIR ROBIN AULD: Yes, Mr Milne. I think we are ready.

14 MR MILNE: It is Mr Misick, I think, sir, who is now picking

15 up.

16 MR MISICK: I am ready when you are, yes.

17 Mr Hall, I think just before lunch we were looking

18 at bundle 2, your bundle 2.

19 A. Yes.

20 Q. We had just gone through a document which is a form of

21 indemnity from the four Belongers who are the law firm

22 that was acting for you, do you remember that?

23 A. Yes.

24 Q. Now, do you know of any reasons why you should be giving

25 an indemnity in favour of your lawyers?

1 A. No.

2 SIR ROBIN AULD: Can we just have the page reference?

3 MR MISICK: It is 12 of the small bundle 2.

4 SIR ROBIN AULD: Thank you.

5 MR MISICK: I want you to have a look in this bundle at

6 page 43 and you will see that is the transfer of

7 the land that is signed by the Governor in favour of

8 Urban Development Limited. Do you have that?

9 A. Yes.

10 Q. At paragraph 2 it says:

11 "In transferring this property at the consideration
12 mentioned above [that is the \$1.367 million] the Crown
13 has allowed the transferee a discount of \$1.368 million
14 called the discounted value and the transferee hereby
15 covenants with the Crown to pay to the Crown immediately
16 the discounted sum if within the period of ten years
17 from the date hereof (a) less than 51 per cent of the
18 shares of the transferee are owned or controlled by a
19 'Belonger' (as that expression is defined in
20 the Immigration Ordinance 1992 or any amending
21 legislation) or Belongers or (b) the discounted sum
22 pro-rated in the amount of property transferred, if
23 there is a transfer by way of sale or otherwise of the
24 property to any person who is not a Belonger."

25 You would understand that when the Governor signed

1 this document, he was under the assumption that
2 Urban Development Limited was controlled by Belongers.
3 That is the only way you could interpret that provision;
4 do you agree with that?
5 A. Yes.
6 Q. The document is signed by the Governor on 2nd May 2006
7 and it is also signed -- the common seal of
8 Urban Development Limited. They are a director and
9 the director's secretary. Do you see that?
10 A. Page?
11 Q. Page 50.
12 A. Yes.
13 Q. Are any of those signatures your signatures?
14 A. No.
15 Q. On behalf of Urban Development Limited?
16 A. No.
17 Q. Do you know whose signatures they are?
18 A. No, I do not, no.
19 SIR ROBIN AULD: Will you be asking, forgive me, Mr Misick,
20 Mr Melbourne Wilson the same question?
21 MR MISICK: Yes.
22 SIR ROBIN AULD: Yes. Thank you.
23 MR MISICK: Do you, before I move on to that, recognise --
24 you have already said you don't know whose signature it
25 is, right?

1 A. No.

2 Q. Thank you. The next document in this folder is page 22.

3 If you can have a look at that. This is the resolution

4 of Urban Development Limited by which the transfer of

5 the shares in Urban Development Limited from the four of

6 you, the four Belongers, are being transferred to

7 Blue Resort Developments TCI Limited?

8 A. Yes.

9 Q. Do you accept that?

10 A. Yes.

11 Q. That is signed by Temple Directors Limited and then

12 there's a signature at the bottom.

13 SIR ROBIN AULD: This is 13th April?

14 MR MISICK: Yes, sir.

15 SIR ROBIN AULD: 2006.

16 MR MISICK: 2006, yes. This is -- just so that we put it in

17 context -- a few weeks before the government is signing

18 the transfer of the land to Urban Development.

19 A. Yes.

20 (4.30 pm)

21 Q. Whose signature is that?

22 A. I don't know whose signature.

23 Q. You don't recognise that signature. It is not yours?

24 A. No.

25 Q. This may be a long question but I hope you can bear with

1 me when I put it to you. Do you understand that if you
2 were to read the transfer signed by the Governor,
3 the resolution that we just referred to on 13th April
4 and the two forms of indemnity that we looked at before
5 lunch, someone reading all of those documents and not
6 knowing the background might conclude that someone had
7 given consideration to putting together a scheme whereby
8 the land would be transferred to Urban Development at
9 half the price, ie half the value, and the government
10 might not get the benefit of the discount, even though
11 the land ended up in the hands of a non-Belonger.
12 I said it was a long question. I hope you understand
13 it.

14 Can you understand why someone reading the documents
15 could come to that conclusion?

16 A. Yes.

17 Q. Were you part of that scheme?

18 A. No.

19 Q. Did you give any instructions to Mr Wilson to structure
20 the arrangements in this way?

21 A. No.

22 Q. Did he tell you that was how the arrangement was to be
23 structured?

24 A. No.

25 Q. While we are in this bundle, just one other document, if

1 I can take you to it. It is at page 57. This is
2 the contract that you signed in favour of David Wex.
3 You see the contract starts at page 57 and you signed it
4 at page 60. That is your signature, is it not?
5 A. Yes.
6 Q. Who witnessed your signature? Do you recognise
7 the witness to your signature?
8 A. It looks like that of Melbourne Wilson.
9 Q. Now we can turn back to the front of the document,
10 page 1.
11 A. Yes.
12 Q. You will see that the purchase price is shown as
13 2,144,000. That is at page 57 at paragraph 2?
14 SIR ROBIN AULD: That is where we were.
15 MR MISICK: We looked at that, and then we looked at the
16 signatures. You told us in your evidence that you were
17 told that you would be getting the sum of US \$1 million
18 net.
19 A. Yes.
20 Q. Is that correct?
21 A. Yes.
22 Q. Were you told why the purchase price for your lot was
23 2,144,000?
24 A. Yes, it was explained to me by Mr Wilson that
25 the additional \$1.144 million were going towards fees

1 such as government fees and legal fees as well as

2 commission.

3 SIR ROBIN AULD: The additional 1.144 million?

4 A. Yes.

5 SIR ROBIN AULD: Government fees, legal fees and commission?

6 A. Yes.

7 SIR ROBIN AULD: This was all on your share or was this

8 going to be split between the four of you, the initial

9 figure? Perhaps I should leave it to you.

10 MR MISICK: That was in your contract?

11 A. Yes.

12 Q. In the case of Mr Samuel Been's contract you will see

13 that sum was the same?

14 SIR ROBIN AULD: Same thing.

15 MR MISICK: Same thing. For your reference that is at red

16 bundle 5, tab 24.

17 I believe, in the case of the other two, the sums

18 were larger than \$1 million but not as high as

19 the 2.144. They were 1.3. Again, I expect that

20 Mr Wilson might be able to shed further light on this.

21 You were asked questions about the development

22 agreement and can you tell me this, whose idea it was to

23 have a development agreement?

24 A. Mr Wilson suggested that we take out a development

25 agreement.

1 Q. Tell me this if you know, was that a requirement of
2 Mr Wex?
3 A. I believe it was.
4 Q. You think it was a requirement of Mr Wex?
5 A. Yes.
6 Q. So he wanted not only to have the land but also
7 the benefit of the development agreement?
8 A. Yes.
9 Q. The development agreement -- and there are two versions
10 of it, but I think it matters not which one we look at,
11 if we look at the one at page 24 in bundle 2. Without
12 going through the specific paragraph numbers, there were
13 certain obligations to obtain development permissions
14 and so forth, yes?
15 A. Yes.
16 Q. From your knowledge and experience as a minister, are
17 those normal obligations?
18 A. Yes.
19 Q. Again, from your knowledge and experience as a minister,
20 those obligations are honoured more in the breach than
21 in the observance?
22 A. Yes.
23 Q. If you turn to page 32, still on this development
24 agreement, there is a provision for termination?
25 A. Yes.

1 Q. At clause 7.1:

2 "This agreement may be terminated forthwith by
3 the government giving written notice to the developer to
4 that effect if the developer fails to: (a) Apply for
5 detailed development permission in respect of any phase
6 of the development within the time and period specified
7 in this agreement (b) Commence construction of any phase
8 of the development within the specified time (c)
9 Complete construction of any phase of the development
10 within the specified time."

11 Then (d):

12 "Restore the development company to the register of
13 companies after it has been struck off of the register
14 and has remained so struck off for 12 months."

15 I suppose it is more a issue of submissions for me
16 but the question I am going to put to Mr Hall is this,
17 there is a remedy available to the government for breach
18 of this agreement, is there not?

19 A. There is.

20 SIR ROBIN AULD: If you are still around as a corporate

21 51 per cent Belonger developer.

22 MR MISICK: I would say whoever is the owner of the company.

23 The agreement is in favour of the company.

24 You received a sum of \$1 million when
25 the transaction was completed, is that correct?

1 A. That is correct.

2 Q. And that was what you were told you would get?

3 A. Yes.

4 Q. Did you get any more than the \$1 million?

5 A. No.

6 Q. Now, in paragraph 12 of your statement, you say this:

7 "I am informed by Mr Wilson that the \$7 million was
8 paid to Temple Securities Limited in escrow and
9 disbursed by Temple Securities Limited on
10 the instructions of Mr Wex as follows ..."

11 Then you set out the various sums. Turks & Caicos
12 Islands government got 1.5 million. That was half of
13 the discounted value of the land. Quinton Hall got
14 \$1 million. Earl Robinson got \$1 million, Samuel Been
15 got \$1 million, Alliance Realty Limited got 1.8 million,
16 Tim Smith got 500,000 and legal fees were paid to
17 McLean. You don't know how much that was.

18 Then at paragraph 13 --

19 SIR ROBIN AULD: What is left over after we get to legal
20 fees there? What do those sums add up to before we get
21 to Mr Wilson's legal fees?

22 MR MISICK: I think probably -- arithmetic is not my --

23 SIR ROBIN AULD: 7 million is it?

24 MS MISSICK: 6.8.

25 SIR ROBIN AULD: So there is 1 million left over for

1 Mr Melbourne? 6.18 did you say?

2 MR MISICK: 6.8. So extrapolation one could assume that

3 McLean got 200,000. But I am obviously not able to

4 affirm that number.

5 SIR ROBIN AULD: There is something wrong there somewhere,

6 isn't there? I suppose the odd 800 into

7 Alliance Realty Limited.

8 (4.45 pm)

9 MR MISICK: The 1.8 million does not include the fees to

10 McLeans.

11 SIR ROBIN AULD: No doubt Mr Wilson will explain all this to

12 us.

13 MR MISICK: Probably he will come with a calculator. There

14 is something wrong with the arithmetic.

15 SIR ROBIN AULD: Certainly looks like it either way.

16 MR MISICK: We will try and sort that out overnight if we

17 can. Either we will have to find some more money or ...

18 Then he says:

19 "I am informed by Mr Wilson that the sum of

20 1,809,104.91 that was paid to Alliance Realty Limited,

21 \$1 million represented the proceeds of sale of my

22 interest and the balance represented commissions due to

23 Mr Smith and Mr Wilson."

24 A. That is correct.

25 Q. That is what you were told?

1 A. Yes.

2 Q. You are on your oath, are you certain that you received

3 no more than \$1 million?

4 A. I am certain.

5 Q. You are certain about that?

6 SIR ROBIN AULD: On that basis, Mr Smith, who was the agent

7 for Mr Wex, was getting his percentage out of this

8 figure as well?

9 MR MISICK: It looks like he was getting it both ways.

10 SIR ROBIN AULD: Yes, he certainly was.

11 MR MISICK: I believe the evidence or at least from what

12 I understand the evidence of Mr Wilson will be, is that

13 he got over \$1 million.

14 So that we are precise about the instructions you

15 gave to Mr Wilson, when he told you that the transaction

16 was completed and you were now the beneficiary of

17 \$1 million, what did you tell him?

18 A. I asked him to hold the money for me.

19 Q. You asked him to hold the money for you?

20 A. Yes.

21 Q. Did you tell him which account he was to hold it in?

22 A. No.

23 Q. Did he tell you which account he was putting the money

24 in?

25 A. No.

1 Q. Now, if we can turn to the black bundle in front of you.

2 It is at page 538. That is the black bundle in front of

3 you, bundle 1.

4 A. Yes.

5 Q. You see at the top of that page, on 23 May --

6 SIR ROBIN AULD: Let's just identify the document. It is

7 credits to Alliance Realty Limited from Jeffrey Hall?

8 MR MISICK: That is correct, sir. You will see at the top

9 of that page is the \$1,809,104.91 going into

10 the accounts.

11 A. Yes.

12 Q. Then you will see that there were various other credits

13 going into that account?

14 A. Yes.

15 Q. Any of those other credits represents money belonging to

16 you?

17 A. No.

18 Q. Apart from the \$1 million that you told Mr Wilson to

19 hold for you, did you ever give him any instructions to

20 hold any other monies for you?

21 A. No.

22 Q. Sticking with Alliance Realty Limited, were you ever

23 a signatory on that bank account?

24 A. No.

25 Q. It was suggested quite emphatically that you were

1 a director of Alliance Realty Limited, were you ever

2 a director of Alliance Realty Limited?

3 A. No.

4 Q. I think it may have been suggested to you that you are

5 the guiding light behind Alliance Realty Limited, is

6 that the case?

7 A. No, it is not.

8 Q. When did you first know that the \$1 million, to which

9 you were entitled, were paid into

10 Alliance Realty Limited?

11 A. Only since these hearings.

12 Q. Since the commencement of these hearings?

13 A. Yes.

14 Q. Now, if you turn to page 215 in the same bundle, there

15 are the bank statements for Alliance Realty Limited.

16 You see at the top of the page the \$1.8 million coming

17 in. This is the first money coming into this account,

18 do you see that?

19 A. Yes.

20 Q. I believe you refer to two debits that follow shortly

21 thereafter, both for the acquisition of a car, one

22 a Hummer and the other one is a Cadillac. Sorry,

23 a Maroon Honda. Did you see those two entries?

24 A. Yes.

25 Q. Did you buy any cars around that time? Are any of these

1 cars your cars? Any of these payments made by you for
2 cars?

3 A. No, but there is the Maroon Honda that I have asked
4 Mr Wilson to purchase on my behalf, that is mine.

5 Q. Which one is that? The Maroon Honda?

6 A. No, not the Maroon Honda. During that time I have asked
7 him to purchase a vehicle for me and that is a Honda
8 van. I don't know if it is reflected here.

9 Q. Did you get the Honda van?

10 A. Yes, I did.

11 Q. And a Hummer, do you own a Hummer?

12 A. No, I don't.

13 Q. Did you have any dealings with Chal Misick in relation
14 to Urban Development Limited?

15 A. No.

16 Q. Or indeed in relation to Alliance Realty Limited?

17 A. No.

18 SIR ROBIN AULD: Chal Misick not involved in all this?

19 A. No, sir.

20 MR MISICK: There was in the documentation a reference to
21 Windsor Nominees, which I believe has a similar name to
22 a company that -- one of Chal's nominee companies but
23 I believe they are separate. Hopefully Mr Wilson will
24 be able to confirm that.

25 Just to wrap up this part of my examination and

1 I have not got much further to go, sir, if you are
2 wondering. When you acquired your interest in
3 the parcel of land at Northwest Point, did you agree to
4 pay any of your ministerial colleagues any commission or
5 other payments --

6 A. No.

7 Q. -- for them to allow you to have it?

8 A. No.

9 Q. During the latter part of last year there were various
10 communications between the Commission and Mr Wilson on
11 your behalf?

12 A. Yes.

13 Q. Those communications were directed at the Commission
14 obtaining disclosure in relation to your various
15 interests?

16 A. Yes.

17 Q. Is that correct?

18 A. Yes.

19 Q. Could you tell us, how did you go about providing
20 the information which the Commission sought from you?

21 A. All of the information that I had in terms of property
22 that I have gotten leased from the Crown and my bank
23 statements and my credit card statements, I gave them to
24 Mr Wilson to forward onward. I left up to him
25 completely the matter with Urban Development as well as

1 Alliance Realty Limited, as I rely on him to supply

2 those information.

3 Q. Did you have any of the documentation relating to any of

4 those companies in your possession?

5 A. No.

6 Q. Did you give any instructions to Mr Wilson to be

7 selective in the information he provided to the

8 Commission?

9 A. No.

10 SIR ROBIN AULD: To be what?

11 MR MISICK: To be selective.

12 In relation to --

13 SIR ROBIN AULD: This is in reverse, but no doubt Mr Hall

14 will in due course waive any client/solicitor privilege.

15 MR MISICK: He stated that in his statement.

16 SIR ROBIN AULD: It would be quite interesting to know from

17 him, just while we are there, what Mr Wilson's reaction

18 to him was about all this. Did he gulp when he knew

19 that he had to hand everything over, or did he say what

20 he was or was not going to hand over or what?

21 MR MISICK: I am happy that you should put that to him.

22 SIR ROBIN AULD: When you left this with Mr Wilson, did he

23 say: I have got something to tell you, Mr Hall, I should

24 have told you before and this is not going to be easy;

25 or anything like that?

1 A. No.

2 SIR ROBIN AULD: He didn't gulp when you left it all with

3 him to --

4 A. No.

5 SIR ROBIN AULD: No sign of concern?

6 A. No, sir.

7 (5.00 pm)

8 MR MISICK: When the transaction was completed, and I think

9 we can -- we know that was in May 2006, were you given

10 a bible or a closing bundle of documents which related

11 to the transaction?

12 A. No, I was never given anything.

13 Q. You were never given anything?

14 A. No.

15 Q. In relation to the documents that are in this bundle,

16 disclosure bundle 2, that is the small bundle there,

17 when did you get those documents?

18 A. Maybe two days ago.

19 SIR ROBIN AULD: That was after you had withdrawn your

20 instructions to Mr Wilson.

21 A. Yes.

22 SIR ROBIN AULD: And Mr Misick had been instructed.

23 A. Yes.

24 MR MISICK: I think I may have put this to you already but

25 just in case I have not, did you ever intend -- I will

1 put it very bluntly, Mr Hall -- did you ever intend to
2 defraud the government of the Belonger discount that the
3 government was entitled to when your interest and those
4 of the other Belongers were transferred to Mr Wex, who
5 is a non-Belonger?

6 A. While it would appear so, but I can say that I never
7 intended to defraud the government out of its -- out of
8 any monies.

9 SIR ROBIN AULD: Of what?

10 A. Out of any monies.

11 MR MISICK: During the time that you were a member -- before

12 I get to that, did you flip any other properties which
13 you acquired from the Crown?

14 A. No.

15 Q. During the period that you were a member of the House of
16 Assembly?

17 A. No.

18 Q. Have you received the proceeds or any part of the
19 proceeds of any sale of Crown land during the time that
20 you were a member?

21 A. No.

22 Q. Have you been offered any bribe by anyone to exercise or
23 to refrain from exercising your duties as a minister in
24 a particular way?

25 A. No.

1 Q. Have you taken any bribes from anyone?
2 A. No.
3 Q. Have you said anything to anyone which might be taken as
4 you being in the expectation that a bribe should come to
5 you.
6 A. No.
7 Q. You told us you were not involved in Caribbean Cruisin;
8 you have no interest in Caribbean Cruisin?
9 A. No.
10 MR MISICK: Thank you, sir, I think that is all
11 the questions I have.
12 SIR ROBIN AULD: Mr Smith?
13 MR SMITH: I already posed mine.
14 SIR ROBIN AULD: Mr Milne.
15 Re-examination by MR MILNE
16 SIR ROBIN AULD: I forgot to ask you, Mr Fitzgerald. You
17 have been and gone.
18 MR FITZGERALD: I have, yes.
19 MR MILNE: Minister, two short points. The first is a point
20 that was raised with you earlier and I just need to
21 clarify it. You will recall that I asked you why it
22 would be, if you were never a director of
23 Alliance Realty Limited, that you would have declared it
24 on your form to the Register of Interests and you told
25 me that that was an error. Do you recall?

1 A. Yes.

2 Q. It is of course the same error that Mr Wilson made when
3 he originally wrote to the Commission on your behalf,
4 saying that you were a director of
5 Alliance Realty Limited?

6 A. Yes.

7 Q. You recall that. I need to make clear, I think I may
8 have suggested that you declared it to the Register of
9 Interests once. In fact you made the same declaration
10 to the Register of Interests twice. If you come with
11 me, please, to page 517 in the large bundle.

12 SIR ROBIN AULD: This is your bundle 1.

13 MR MILNE: Bundle 1. That is where you declared it in 2005.
14 If we turn on to page 524, that is where you declared it
15 in 2006. So would you agree you seem to have made
16 the same error twice, two years running.

17 A. Yes.

18 Q. So you must have been fairly convinced in your own mind
19 that you were a director of this company, at least in
20 2005 and in 2006, would you agree?

21 A. No, I knew that I had shares in it. I was never
22 a director of it.

23 Q. But in each case you filled in Alliance Realty, not in
24 the box for shares because it is not mentioned there;
25 you filled it in the box for directorship.

1 A. Yes.

2 Q. Do you have any additional explanation you wish to offer
3 the Commission?

4 A. You are correct. It should have been in the box for
5 shares.

6 Q. We will leave that. The other topic, I hope reasonably
7 short, is this: you were offered the freehold parcel
8 upon a property at 60000/151, yes?

9 Do you recall that?

10 A. Yes.

11 Q. That offer was made to you by the ministry of natural
12 resources and that is at page 264 in that same bundle.

13 If we just turn to that, we see page 264. This is
14 a letter that is dated 19th July 2005, "Application for
15 Freehold Title", parcel 60000/151.

16 Yes?

17 A. Yes.

18 Q. Over the page we see the Land Register. It is correct,
19 isn't it, that parcels of land from time to time will
20 change number?

21 A. Yes.

22 Q. Certainly in July of 2005 this parcel had been
23 identified as 60000/151. I just refer to it as 151.

24 A. Yes.

25 Q. In fact if we look at the Land Register towards the top

1 right-hand corner, we can see that previously it had
2 a different number, 60000/137 was the original parcel,
3 yes?
4 A. Page 265?
5 Q. This is page 265. Towards the top right-hand corner.
6 A. Yes.
7 Q. What I am going to suggest is you go to the very, very
8 back of the bundle, the very back, the last four pages
9 which are pages 571, 572 and 573 and 574. The only
10 reason I do that is because we photocopied it slightly
11 larger, it is slightly easier to read. These are four
12 extracts. These are in fact the four registered
13 parcels, 150, 151, 152 and 153. Yes?
14 A. Yes.
15 Q. These are the four parcels, at least theoretically are
16 in the hands of yourself and your three colleagues.
17 Yes?
18 A. Yes.
19 Q. In each case we see that they were derived from a parcel
20 60000/137. Yes?
21 A. Yes.
22 Q. So parcel 137 originally was presumably much bigger and
23 was split down, subdivided?
24 A. Yes.
25 Q. So if we were to go through the history, we might find

1 this land cropping up as 137 but we now know it is 151,

2 152, 153?

3 A. Yes.

4 Q. Let's go back to bundle 2 that you served upon us this

5 weekend. Let's look at page 57. Mr Misick referred to

6 this as a contract. In fact this is an offer to

7 purchase, is the official title. On the final page of

8 this document, which is page 60, we can see that it is

9 dated 7th June 2005. Do you have that?

10 It is on page 60. It gives us the precise date.

11 A. Yes.

12 Q. So this is in fact, this offer to purchase is about

13 a month before the actual formal offer that you get for

14 parcel 151. Correct?

15 A. Yes.

16 Q. Let's look at this document a little more closely at the

17 top. The offer that is covered by this is between

18 the purchaser. The purchaser is Mr David Wex.

19 The purchaser hereby offers to purchase the combination

20 and subdivision of parcels 60000/76, 78, 80, 96, part

21 lot 13.

22 This document relates to a totally different parcel

23 of land. This is a totally different offer to purchase.

24 Is this another deal that you were doing with

25 David Wex?

1 A. No.

2 Q. Because it is not 137, is it? And it is not 151, 152 or

3 any of those.

4 A. Yes, you are absolutely correct.

5 Q. So did this offer go anywhere?

6 A. As I understand it, this offer -- this was signed for

7 the same offer, 151.

8 Q. But it doesn't say the same offer, does it?

9 A. I realise it doesn't.

10 Q. It lists a whole range of other parcels which you are

11 offering to sell to Mr Wex. We have never heard of

12 these and you have never declared them with respect,

13 sir. So if we go off and check on these parcels, are we

14 going to find that there was a transaction?

15 A. No.

16 Q. You are sure about that?

17 A. Positive.

18 Q. I think we will, with respect, sir, do that check in any

19 event.

20 A. Yes.

21 Q. I suggest to you that this tends to point to

22 a completely different contract with the same man, and

23 this tends to suggest that you were indeed seeking to

24 sell other Crown land.

25 MR MISICK: We will do the same check as well.

1 A. No.

2 MR MILNE: You say that that is not the case?

3 A. It is not.

4 MR MILNE: Thank you, sir. I have no further questions.

5 SIR ROBIN AULD: It will be a race to the registry and other

6 places.

7 MR MISICK: Unless he is right, I am sure there is

8 an explanation. We will get to the bottom of it.

9 MR MILNE: We look forward to hearing the explanation, sir.

10 SIR ROBIN AULD: Those are all your questions for the moment

11 anyway, depending on what emerges from your last few

12 questions. Mr Hall, I am grateful to you for coming

13 back so often and staying so late to complete your

14 evidence.

15 A. Thank you.

16 (5.15 pm)

17 SIR ROBIN AULD: It looks as if we shall be able to start at

18 10.30 with the evidence of the Honourable Lillian Boyce

19 tomorrow followed by Mr Melbourne Wilson, and not before

20 2.00 pm the Honourable Don-Hue Gardiner.

21 MR MILNE: Can I ask, sir, in the case of the Honourable

22 Jeffrey Hall, could he please leave the bundles there

23 because we will need them tomorrow, I am afraid, for

24 Mr Wilson and we will be covering very much the same

25 ground. As I understand it, with the same counsel.

1 I think Mr Misick also represents Mr Wilson.

2 MR MISICK: I say I do. I have suggested to him on one
3 previous occasion that he should consider getting other
4 counsel and I intend to put that suggestion to him again
5 tonight.

6 SIR ROBIN AULD: I have been wondering as the afternoon wore
7 on, Mr Misick.

8 MR MISICK: Yes, I put that to him on at least two occasions
9 before, and I will suggest that to him again tonight.

10 I think he should, but he has insisted that --

11 SIR ROBIN AULD: I did not put it to you. I would have put
12 it to you earlier, only I assumed that you knew what he
13 was going to say and it was not likely to cause you any
14 trouble.

15 MR MISICK: That is what he has told me, but I obviously
16 need to make sure that he is still of that mind.

17 SIR ROBIN AULD: 10.30 tomorrow.

18 (5.17 pm)

19 (The court adjourned until 10.30 am
20 on Wednesday, 4th February 2009)

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