

1    Wednesday, 4th February 2009

2      (10.35 am)

3                          MRS LILLIAN BOYCE (continued)

4                          Direct-examination by MR MILNE

5      SIR ROBIN AULD: Morning, everybody. I apologise for my

6      lateness.

7                  Yes, Mr Milne.

8      MR MILNE: May it please you, sir. Good morning, Mrs Boyce.

9      A. Good morning.

10     Q. When you gave evidence a few days ago, you will recall

11     that there were a number of questions put and there was

12     evidence given in relation to the issue of the money

13     received by your brother Earlson. Do you recall that?

14     A. Yes, I do.

15     Q. One or two answers that you gave that I would just like

16     to take you back to. You told the Commission, in

17     response to a question from Sir Robin, you were asked:

18                  "How old was your brother and what was his job at

19     the time?"

20                  This was on page 128 of the relevant day's evidence,

21     sir. Your answer was:

22                  "Earlson is probably 27 or so or older."

23                  Sir Robin asked:

24                  "And his job?"

25                  You said:

1 "2006, I don't recall what Earlson was doing."  
2 You went on to say:  
3 "I am sure he was working, he is always working."  
4 Mr Smith intervened:  
5 "Clarification, was he 26 then or 26 now?"  
6 You said you were not sure, but when Sir Robin  
7 suggested in his mid-20s, you agreed. Do you recall  
8 that?  
9 A. Yes, I do.  
10 Q. Sir Robin went on to ask you a couple of questions about  
11 the nature of his work:  
12 "Was he a man of means or was it a lowley paid job?"  
13 You described him as a very promising young man and  
14 when asked if he was still living at home, you said  
15 "yes". Sir Robin summarised it:  
16 "Mid-20s, still living at home?"  
17 And you said:  
18 "With my mother."  
19 A. Yes, in 2006 Earlson was still living at home with my  
20 mother, and during that time he may have lived with my  
21 sister, and at times we have efficiency at the  
22 Airport Inn Hotel, he would have lived there, and  
23 presently he is probably with his girlfriend but his  
24 room is still at Mom's house and he go there whenever he  
25 like and he use his bedroom. And about his age, I

1 honestly literally have to add up the rest of my sisters  
2 and brothers' age. That, I did not intend to mislead  
3 you on.

4 Q. The Commission has heard from people who know your  
5 brother who say he is in his late 30s, not in his  
6 mid-20s at all; would you be wrong by ten years or more?

7 A. I could have. Perhaps I just kept thinking about  
8 Earlson as my little brother. I did not mean to mislead  
9 you at all and I really don't see an issue in me messing  
10 up on his age.

11 Q. We have also been told that from about this time, he was  
12 renting a house in Long Bay in some houses known as  
13 the Boscoe Chand houses. Is that right as well?

14 A. From time to time, that is my sister's house, Bula who  
15 lives in New York and from time to time Earlson would  
16 have lived there. We are a close-knitted family and we  
17 live, or my brothers, especially Earlson, he move around  
18 as he wishes.

19 Q. You gave evidence to the effect that the money that he  
20 made was put into one of your company accounts and that  
21 some of it was spent on renovations of your mother's  
22 house.

23 A. Yes, I did.

24 Q. If you could turn within your bundle, please, towards  
25 the back of the bundle, there are some pages that have

1     been inserted at page 268 onwards.

2     Do you have that?

3    A. I am turning to it now. Yes, I do.

4    Q. That page 268 is a photograph. It is a photograph of

5     a house and the same house appears at 269, at 270 and

6     271, the top half of 271. Four photographs of the same

7     house?

8    SIR ROBIN AULD: Which house is this?

9    MR MILNE: I am going to ask Mrs Boyce that, sir. Do you

10    recognise the house?

11   A. Yes, it is my mother's house.

12   Q. The photographs that follow on from page 271, also sent

13    to the Commission, are of a larger, more substantial

14    house. Am I right in thinking that is your house?

15   A. It is.

16   Q. And you live in the Chalk Sound area?

17   A. Yes, I do.

18   Q. You see, the information that has reached the Commission

19    from two separate sources, as far as we are aware

20    independent of one another, is that there is no visible

21    work at all that has been done on your mother's house,

22    save perhaps the replacement of a few shingles after

23    Hurricane Ike. What work was done, you say, on your

24    mother's house?

25   A. I would love to be able to tell you what was done on my

1 mother's house. It must have been around 2006 when my  
2 sister Louanne, who is present here, mistakenly had  
3 an accident in our kitchen, in Mom's kitchen, and  
4 the interior of the house was not satisfactory to us.

5 It was during the time that Earlson had gotten the money  
6 and, yes, Earlson lived at home in 2006 literally  
7 permanently, and we renovated our Mom's house. We  
8 demolished it bit by bit. During that time she lived  
9 with me in Chalk Sound. She slept there every night  
10 while we demolished her house and rebuilt it.

11       Aware of these pictures being taken,  
12 Angela Tuckanini(?) from Five Cays has threatened right  
13 here, people in this audience told me that she would go  
14 and take pictures of my mother's house. She used to be  
15 one of my campaign managers and she threatened always to  
16 tell lies on me and she went and take these pictures, or  
17 she had them taken of my Mom's house. I was told  
18 yesterday that she handed it in. In fact she had asked  
19 Mr Sean Astwood to hand them in for her. He refused and  
20 she came, hand them into you. She took these pictures  
21 of my Mom's house, but not straying away, but I had to  
22 touch on her deceitfulness and wickedness and plain  
23 politics in this whole Commission of Inquiry and trying  
24 to tarnish people's reputation.

25       Now I want to return to, we demolished Mom's house,

1 we renovated. It used to be a wooden stockover home.  
2 We renovated to a block house. We have done changes and  
3 in fact we did the roof all over. We did everything  
4 possible in construction to remove the weak structure of  
5 the house after the fire, and because it was wooden,  
6 tile the floor, did a whole lot of good interior work to  
7 the house and properly furnished it. The picture, as  
8 you see it, it is a beautiful pink house, it is short of  
9 some landscaping, and that is what my Mom is working on  
10 in her past time and as for my house, would you like me  
11 to share about that now?

12 MR MILNE: We will take this a stage at a time, please,

13 Mrs Boyce.

14 A. Okay, thank you.

15 Q. So the information that has come to the Commission, that  
16 there has been no major renovation on your mother's  
17 house for the past five years, you would take issue with  
18 that?

19 A. Because it is definitely a lie.

20 Q. Do you have the receipts from all the building work that  
21 was done during this period on your mother's house?

22 A. I am sure that I can find a receipt, and lots of people  
23 in this community know that my Mom's house had  
24 an interior fire, and we demolished it and worked on it  
25 and bring it back to good -- something that we are proud

1 of.

2 Q. Forgive me, the question was simply can you provide

3 the receipts for the work that was done?

4 A. It was 2006.

5 Q. Yes.

6 A. I would have to go and look for those receipts and hope

7 that I find them. It is not -- it was not a reason why

8 I had to keep receipts from 2006 specifically for my

9 Mom's house.

10 Q. How much do you say you spent on the house?

11 A. I know that we spent over at least \$200,000 or over.

12 I never added it up because it was never important to

13 us, the amount of money we spent.

14 Q. I can indicate to you, since you have raised the name,

15 that the pictures that we received have not come from

16 Angela Tucker but we are not providing the name of the

17 person who did provide them at this stage.

18 (10.45 am)

19 A. Well, she is a very devious political person who always

20 tried to interfere with me since we used to be on

21 the same party.

22 Q. The pictures of your house show an extensive property.

23 It is -- I think your property is pink in fact, although

24 these are black and white copies.

25 A. Mmm hmm.

1 Q. We have been given to understand that around the period  
2 when this money was received by your brother, your house  
3 did undergo renovations, including the two-car garage,  
4 which we see, I think at photograph 273, page 273, and  
5 indeed the gazebo which is the final one of these  
6 photographs at 275. Was that at the same time?

7 A. It was not. You would tell from my declaration that my  
8 husband and I received a loan from Scotiabank for  
9 \$765,000 for the extension of our home. I can tell you  
10 when we did, we did in January 24th, on January 24th  
11 2006.

12 Q. The question is really did you spend any of the money  
13 that came from the Earlson deal on your home?

14 A. No, I did not.

15 Q. Did you spend any of that money on renovations for  
16 the Airport Inn?

17 A. No, I did not.

18 Q. That money, therefore, has presumably stayed with  
19 the bank?

20 A. Yes.

21 Q. It is still there now?

22 A. Yes, it is. \$600,000 of it.

23 Q. Are you aware that there is an issue as to whether or  
24 not Belonger discount should have been repaid to the  
25 government on that deal?



1 A. I am not aware. I understood some of Jeffrey's

2 testimony but I am not aware.

3 SIR ROBIN AULD: Who would the dispute be aired with?

4 Between whom is the dispute being aired? Does anybody

5 know? Do you know?

6 A. I didn't understand you, sir.

7 SIR ROBIN AULD: If there is a dispute, it needs two people,

8 and I want to know who. If we know, it ought to be put

9 who the dispute is between.

10 MR MILNE: If there is a dispute over the Belonger discount,

11 sir, it may be that the government will in due course

12 have to pursue Earlson Robinson for repayment of part or

13 parcel of the Belonger discount, which was due to be

14 repaid if the property, that is the Northwest Point

15 property, was forward -- sold on to a non-Belonger

16 party.

17 SIR ROBIN AULD: What you are putting is there is

18 a potential dispute.

19 MR MILNE: Yes.

20 SIR ROBIN AULD: Yes, I understand.

21 MR MILNE: Apart from that sale, you have declared a number

22 of interests in property and one of them, Mrs Boyce, was

23 in a property 60400/170 and 171. That was other

24 property in Chalk Sound.

25 A. Yes.

1 Q. That is not the same as your home, is it?

2 A. Did you say 107?

3 Q. 170 and 171?

4 A. 171. It is not the same.

5 Q. That was an application for, I think, a conditional

6 purchase lease as far back as July 2000, so before

7 the term of the present government, which you received

8 at an annual rent of \$3,792.50.

9 A. Yes.

10 Q. I think the idea was that that would be a residential

11 plot with a view to building a property on it?

12 A. Yes.

13 Q. The price that was quoted at the time for that is

14 essentially ten times the rent. It is \$37,925 for

15 purchase of the freehold, subject to completion of the

16 structure?

17 A. Yes.

18 Q. Was the structure in fact built on that property?

19 A. Yes, a structure was built on it.

20 Q. I think in 2005 you proposed to sell that property on to

21 two people, is that correct?

22 A. I don't know who -- if it is two persons. After

23 I purchased my present home from Mr Sean Penn, and after

24 I re-married, my husband and I did an extension. So

25 I knew that I could not afford both properties and

1 I wanted to sell the property but I did not proceed.

2 Q. That was a draft -- it was a draft contract for sale,

3 I think, drawn up to a company called

4 Paradise Properties and Development? Does that ring any

5 bells?

6 A. I would not know the details. I gave it to

7 Rex Messom(?) at Prestigious Properties and I did not

8 deal with it.

9 Q. Because we understand that in fact sums were paid to

10 the TCIG for the freehold, although the purchase by you

11 of the freehold was later reversed, do you recall that?

12 A. Yes, I do recall that because I changed my mind.

13 I realised I could not have sold the property so I did

14 not go along with it any longer.

15 Q. Why could you not sell it?

16 A. Because for residential property you need to own it for

17 ten years before you can sell it to a non-Belonger and

18 after I was told that it was a non-Belonger, I changed

19 my mind and I did not sell the property.

20 Q. So is it not the case that that property has been sold?

21 A. No.

22 Q. So you still own it?

23 A. Well, I have to pay the government before -- because

24 the monies were reversed, I would have to pay

25 the government in order to own it. It is now in

1 litigation. The gentleman would like to sue me because

2 I changed my mind.

3 SIR ROBIN AULD: Does that mean he is maintaining you

4 exchanged contracts?

5 A. I believe he is angry because I --

6 SIR ROBIN AULD: No, but is his claim based on an allegation

7 that you have exchanged contracts? That he has

8 a contract with you?

9 A. That he have it -- it must be with Rex Messom at

10 Prestigious Properties.

11 MR MILNE: You put it with Prestigious Properties to sell

12 it, and not surprisingly they went out and found

13 a purchaser, which was their purpose obviously?

14 A. Yes, they would have done that, and when I learned it

15 was a non-Belonger, I changed my mind.

16 Q. Did you say to Prestigious Properties: I can only sell

17 it to a Belonger.

18 A. Yes.

19 Q. What did you say when they came back with

20 a non-Belonger?

21 A. That I will not sell it, it doesn't matter whether he

22 sue me or not, I will not sell it because it is against

23 the law to sell to a non-Belonger.

24 Q. But he would only be able to sue you if a contract or

25 an agreement of some sort had been struck and then you

1 would have to go back on it?

2 A. And I did go back.

3 MR SMITH: I think somebody could --

4 SIR ROBIN AULD: Would you address me, please.

5 MR SMITH: I think he could sue somebody for any reason.

6 I think that is a hypothetical question.

7 SIR ROBIN AULD: There is no need for us to chase clouds

8 here. Either there was a contract exchanged or there

9 wasn't.

10 MR SMITH: I can say that is the dispute and that is

11 the reason for the suit. It is currently in litigation.

12 My firm represents Mrs Boyce and we are saying there is

13 no contract exchanged and they are saying there is.

14 SIR ROBIN AULD: That is exactly what I put to to Mrs Boyce

15 five minutes ago. Thank you for your help.

16 MR MILNE: There is no law which says you can't sell to

17 a non-Belonger, though, is there, Mrs Boyce?

18 A. The law says that you can sell to a non-Belonger, but

19 you must not benefit from the government's discount.

20 Q. So the effect would be you would have to pay

21 the Belonger discount back?

22 A. Yes.

23 Q. So why not simply sell it and pay the Belonger discount

24 back? Is there some reason blocking that?

25 A. Well, I have changed my mind, and my lawyers will advise

1 me how I can go along with that sale, if I decided to  
2 but what is -- what I feel good about today is when  
3 I realised that it was a non-Belonger, I changed my mind  
4 from selling the property.

5 Q. The evidence, going back to your brother's property is  
6 that -- certainly from the Honourable Jeffrey Hall --  
7 appears to be that that sale was to a non-Belonger.

8 What is your view of a sale under those circumstances?

9 A. I did not get involved or did I ever met or had meetings  
10 with Honourable Jeffrey Hall, my brother and those who  
11 were involved and so I do not know a lot of details  
12 other than what I heard during the Commission of  
13 Inquiry.

14 Q. It is just that the impression we are being given is  
15 this, that -- the expression "a small island" has been  
16 used. Everybody knows what is going on. Certainly  
17 the Premier seems to have known about this sale because  
18 he borrowed money from those who were involved in it.  
19 Everybody else seems to have been aware of it, but you  
20 seem, despite the fact that your brother was one of the  
21 parties, to be blissfully unaware of the nature of what  
22 was happening here, and that, despite the fact that you  
23 put the money into your company account afterwards.

24 A. I think he want to put it in context. I never said  
25 I did not know my brother was involved in the project.

1 I never said that. What I said is that I did not get  
2 involved in my brother and his friend's project or  
3 the details or their meetings. That is what I said.  
4 SIR ROBIN AULD: It is implicit in your answer that you  
5 seem -- it seemed to me -- that you did know.  
6 A. I knew of course but I did not know about their details.  
7 So I was just as shocked hearing some of the details of  
8 the testimony.  
9 MR MILNE: Your company rents property to the TCI  
10 government, doesn't it?  
11 A. Yes, sir.  
12 Q. You rent property to the National Kidney Foundation?  
13 A. Yes, sir.  
14 Q. You rent property to the tourist board?  
15 A. Yes, sir.  
16 Q. Do you think it is right and appropriate for government  
17 ministers to be getting any sort of preference when  
18 other government entities are looking for accommodation?  
19 MR SMITH: I object. There is no foundation that there was  
20 a preference shown to her in relation to this rental.  
21 I think before that question can be posed, Mr Milne  
22 needs to establish that there was some preferential  
23 treatment offered, gleaned by her in relation to those  
24 two rentals.  
25 SIR ROBIN AULD: Yes, I agree.

1 MR MILNE: Do you regard there as being any conflict of  
2 interest between your role as a government minister and  
3 your role as somebody who is making a profit from  
4 the government by renting property to it?

5 A. Can you please re-phrase that question because --

6 Q. I think the question is relatively simple but I will run  
7 over it in parts. You are a government minister. You  
8 are also a businesswoman. As a businesswoman you are  
9 making a profit from the government, clearly providing  
10 a service, but you are making a profit from renting  
11 property to the government. Do you not see that as  
12 being at least potentially a conflict of interest?

13 A. I would like to state for the record that during  
14 the time the Kidney Foundation rented, or enquired from  
15 my brother Philip that they wanted to rent some space at  
16 the Airport Plaza, during that time I was minister of  
17 education, not minister of health and not actively  
18 involved in my business, because Philip was managing it  
19 at the time.

20 Later on the ministry of health, not under my watch,  
21 took over the rent for the Kidney Foundation. I do not  
22 see how that can be conflicting, but as a minister  
23 I will never negotiate, or in the past when I was  
24 a minister, I would have never negotiated for  
25 government's business to rent spaces from



1 the Airport Inn.

2 Now the tourist board, again under the watch of my  
3 brother while he was managing, is a statutory body and  
4 as minister of education then I had no involvement in  
5 a statutory body renting from the Airport Plaza.

6 I believe you would have heard too that spaces are  
7 scarce in the Turks & Caicos. The Kidney Foundation, in  
8 my bundle and I am sure in yours, you would see  
9 the letter from the Kidney Foundation where they wrote  
10 saying that they were pleased with the location and they  
11 were pleased that my brother lived on property in case  
12 there are any mishaps, that he, as a handyman and  
13 a contractor, would have been able to assist them during  
14 that time. You do have that letter, sir.

15 (11.00 am)

16 MR MILNE: Yes, we have seen the letter.

17 I take that then as a no, you do not regard that as  
18 being in any way a conflict of interest?

19 A. I did say as a minister I would never negotiate for  
20 government's business because yes, it can be seen as  
21 a conflict of interest.

22 Q. I am not suggesting that these are instances where your  
23 ministry has rented property from you. But other  
24 ministries run by your colleagues in Cabinet, with whom  
25 you work closely, have effectively rented from you.

1 Albeit indirectly, albeit you are not there managing and  
2 that your brother is doing that role on your behalf, you  
3 would ultimately profit from this, would you not?

4 A. Yes.

5 Q. Another topic I would like to raise with you is this:

6 during the course of your time as government minister,  
7 you were in Cabinet when the issue of  
8 Southern Health Network arose for discussion, do you  
9 recall that?

10 A. Yes, I do.

11 Q. There were tenders put forward by two other companies,  
12 CMN and Trinity Air Ambulance, which were to be  
13 considered by Cabinet, do you recall that?

14 A. I think I know the story but I can't recall the paper.

15 Q. Let me give you it in a thumbnail sketch. CMN had been  
16 the third party negotiator for some time, I think a year  
17 or more.

18 A. Yes, I do.

19 Q. They put in a submission, a tender in 2006, asking to be  
20 effectively considered for the new contract that was  
21 going to be negotiated.

22 A second tender came in from Trinity Air Ambulance  
23 which is a Miami-based organisation. A formal process  
24 was followed through. Recommendation from the ministry  
25 of health, which falls under the Honourable Floyd Hall,

1 was that there be limited tendering. That is that  
2 essentially the Cabinet be invited to consider just  
3 the two tenders since both were regarded as having  
4 a good track record.

5 At some point those two tenders were effectively  
6 cast aside in favour of a third late arrival which is  
7 Southern Health Network.

8 Southern Health Network was approved and adopted by  
9 the Cabinet in place of, in preference to either of the  
10 other two tenders, although it had not been part of  
11 the original tender process. It had not been placed  
12 before the tender board when that issue was being  
13 discussed. The submissions placed before the Cabinet at  
14 the time by the Honourable Floyd Hall was that this was  
15 a good deal and it should be followed through.

16 At that time were you aware that the person behind  
17 Southern Health Network was Delroy Howell?

18 A. No, I was not.

19 Q. Were you aware that Delroy Howell and the Honourable  
20 Floyd Hall were connected by ties of friendship and to  
21 some extent ties of business?

22 A. I know they were friends, yes.

23 Q. Would you have regarded it as relevant to be told that  
24 Delroy Howell was behind Southern Health Network?

25 A. It should have been, yes.

1 SIR ROBIN AULD: Sorry?

2 A. If-- yes.

3 MR MILNE: Were you aware at the time that the submissions

4 were placed before Cabinet, and this was not in

5 the submission document, that Southern Health Network as

6 a company had existed about two weeks, but no more than

7 two weeks, and had in its own right no track record

8 whatsoever?

9 A. I was not aware.

10 Q. Was it your impression that Southern Health Network was

11 a long-established company with a good track record

12 behind it?

13 A. Yes.

14 Q. Do you recall that at some stage, around the time that

15 this was going on, you were approached by a lady who

16 knew you, a lady called Claudette Gibson?

17 A. Yes.

18 Q. Claudette Gibson, lest be there any doubt, is the same

19 person who is in fact, I think, a niece of the Premier?

20 A. Yes.

21 Q. And she had at one stage worked for

22 Trinity Air Ambulance. She was later persuaded to move

23 to Southern Health Network, and the Commission is aware

24 that she is presently in dispute with

25 Southern Health Network, that dispute having

1 subsequently arisen. Did you know those facts?

2 A. Later on, when I became the minister of health,  
3 Claudette told me of those issues. I did not know  
4 during the time of the Cabinet paper.

5 Q. At the time that she first approached you, she expressed  
6 concerns about the way that Southern Health Network had  
7 been selected, is that right?

8 A. No, she -- not how it could be selected.

9 Q. What do you say was the nature of her approach to you?

10 A. When she approached me, she was concerned about what  
11 type of shares that she had and I told her I could not  
12 be involved in what she was paid or not paid, and those  
13 were some of the first time I was learning that she was  
14 a partner with Southern Health Network.

15 Q. Do you remember using this expression:

16 "It is bigger than me, Claude."

17 A. I probably did because it was just so much stuff and  
18 rumours around Southern Health Network and Trinity and  
19 so many times I just tried not to be involved in it.

20 Q. What were the nature of the rumours?

21 A. Well in the ministry some of the staff, because again  
22 I was new to the ministry, and in the ministry I know  
23 that some of the staff did not want to use  
24 Southern Health Network. I just couldn't understand  
25 why, and then Claudette wanted to talk and I probably

1 had one meeting and tried not to have other meetings  
2 with her while I tried to understand what was happening.  
3 SIR ROBIN AULD: But you say "it is bigger than me"; you  
4 were the biggest bug there, weren't you, in that  
5 ministry? You were the boss.  
6 A. I was the boss in the ministry of health.  
7 SIR ROBIN AULD: So who was it or what was it that was  
8 bigger than you?  
9 A. Well, of course, the Director of health makes  
10 the majority of medical decisions and so you have had  
11 the Director of health present in the ministry and  
12 I told Claudette that she should speak with him.  
13 SIR ROBIN AULD: His name at that time was?  
14 A. Dr Rufus Ewing.  
15 SIR ROBIN AULD: You told her to speak to the Director?  
16 A. Yes.  
17 MR MILNE: You knew that the ministry was unhappy because it  
18 was felt that this was not a decision based upon merit  
19 but a decision based upon personal preference.  
20 A. No, I can't say that. I don't know that.  
21 Q. That has been the view, I suggest to you, of many people  
22 within the government for some time, that there is some  
23 sort of link that has not been declared.  
24 A. I have to admit to you that I really did not know a lot  
25 about the SHN contract and from the records you would

1 see that I, of course, yes, stayed away from it a lot of  
2 times because I continued to try to learn about it, to  
3 understand it. I would have spoken to Members at the AG  
4 chambers and trying to understand the contract, what was  
5 happening before I cast any type of blame or -- and so  
6 forth.

7 Q. You said you would have done; to whom did you speak at  
8 the AG's chambers?

9 A. I spoke with Rhondalee about the contract.

10 Q. Before the contract was signed?

11 A. I was not involved in the signing. I was still minister  
12 of education.

13 Q. When did you become minister of health?

14 A. Under new term, February 2007 it was, I think.

15 Q. So you took up your role after the new election?

16 A. As minister of health, yes.

17 Q. But prior to that, you had been a minister in Cabinet  
18 throughout the whole period, and you say "I try not to  
19 be involved in it", but surely that is what you are  
20 there for, to be involved? Maybe not in the minutiae of  
21 the contract, which is something that one would receive  
22 technical advice on from -- or perhaps Ms Rhondalee  
23 Braithwaite-Knowles, but whether this was a good thing  
24 or not would be central to your role in Cabinet surely?  
25 A. Surely, but I did say I was trying to understand

1 the contract. I had to first understand it and  
2 the record will show that I did meet with my staff from  
3 time to time to understand the contract and some of the  
4 disputes that were surrounding it.

5 Q. The disputes are ongoing to this day, of course. There  
6 are quite a number of disputes that have arisen from  
7 the Southern Health Network contract, are there not?

8 A. Yes.

9 Q. The TCI government is being sued by various parties for  
10 non-payment of fees?

11 A. I was not aware that the government was being sued.

12 Q. But at the time, the issue with which I am concerned  
13 here is not the technicalities or even, come to that,  
14 the finance but rather that this was a controversial  
15 choice which you knew to be a controversial choice. So  
16 were you trying to avoid being involved in that  
17 controversy?

18 A. No, I just wanted to understand so that I could make  
19 sensible decisions for the ministry and the people of  
20 the Turks & Caicos.

21 Q. Did you at any stage say: we should look at alternative  
22 tenders.

23 A. At many stages, yes, I did.

24 Q. Was that advice taken by your colleagues?

25 A. No, it did not.



1 Q. Where did you make those suggestions, in Cabinet or

2 outside Cabinet?

3 A. Outside Cabinet.

4 Q. To whom did you make the suggestion?

5 A. I did with the Premier most of all, and I have said it

6 generally before all of my colleagues, that we should

7 look at alternative services for our people.

8 Q. Of course the Deputy Premier would be the responsible

9 party. He was the one introducing

10 the Southern Health Network documentation in all

11 the Cabinet minutes that we have seen. He is the one

12 promoting it. Surely he would be the one you would turn

13 to and say: we must get alternative quotes to this; did

14 you say that to him?

15 A. Yes, I did.

16 Q. He disregarded that as well?

17 A. No, he did not. He wanted us to go ahead and look at

18 alternatives.

19 Q. That doesn't appear from the Cabinet minutes though.

20 The alternatives have been considered in July and indeed

21 in June of 2006, and it was those alternatives that we

22 now know that disappeared. They dropped out?

23 MR SMITH: The question Mr Milne posed seems to be at

24 a point in time after the decision was made. So I think

25 his question is -- new question is unfair. The question

1 he asked her was did she speak to anybody about it,  
2 about seeking alternatives, and this seems to be at  
3 a point in time when the decision was already made and  
4 there were some disputes. She said yes, she spoke with  
5 them outside Cabinet. The question is unfair in two  
6 terms: (1), it speaks about alternatives, that is before  
7 she got in the process; and secondly, it is unfair  
8 because she said she spoke to them outside Cabinet, so  
9 it would necessarily mean that there would be no Cabinet  
10 minutes reflecting those comments.

11 SIR ROBIN AULD: I understood, maybe I was wrong, that these  
12 were suggestions that the Honourable Lillian Boyce made  
13 while she was trying to understand the proposed  
14 contract, but I may be wrong. Clarify it, Mr Milne.

15 MR MILNE: I will do, sir.

16 Mrs Boyce, the history which we have documented is  
17 that the initial tenders were coming in in June and July  
18 of 2006. Those were the two tenders that were to be  
19 placed before Cabinet for consideration. However, in  
20 August of 2006, for the first time in the Cabinet  
21 minutes, we see a mention by the Deputy Premier  
22 effectively saying: we found a new provider, it is  
23 Southern Health Network, they are better, let's take  
24 them; and the Cabinet says, yes.

25 So certainly on the face of the Cabinet minutes, if

1 those were the only documents that we looked at, the two  
2 alternative tenders have disappeared.

3 A. I have not seen the other tenders.

4 Q. You have not seen the other tenders?

5 A. No.

6 Q. So did you never see any other tenders at all?

7 A. I have not. I was told of the other tenders. I have  
8 not seen the documents.

9 Q. When were you told of those other tenders? Were you  
10 told before or after Southern Health Network had been  
11 approved?

12 A. After.

13 Q. So only after the approval for the first time did you  
14 discover others had tendered and you had not been shown  
15 those tenders?

16 A. Yes, but I was not minister of health, so I can  
17 understand why I did not see those other tenders.  
18 I was not minister of health at that time.

19 (11.15 am)

20 Q. Was it your view that something as large as this and  
21 this is a very large project, it is a very large element  
22 of TCIG expenditure, you would no doubt agree, that  
23 something of that nature should have gone before Cabinet  
24 for approval, not simply rubber stamping  
25 a recommendation, but the Cabinet should have been given

1 the full picture to make the decision itself?

2 A. It should have, yes.

3 Q. When you spoke to Claudette Gibson, should we take it

4 that that was after Southern Health Network had been

5 approved in Cabinet?

6 A. In fact, it was long after, because then I was minister

7 of health when I spoke with her.

8 Southern Health Network was approved while I was

9 minister of education.

10 Q. We are left with the impression that Dr Rufus Ewing,

11 the director within that ministry, is a very powerful

12 individual?

13 A. Yes, he is.

14 Q. Why is he regarded as being particularly powerful?

15 A. We are proud of him as one of our few local doctors and

16 we rely on him heavily for his advice. So he is

17 regarded as very powerful.

18 Q. Should we glean from that that he is to some extent

19 the power behind the throne? He is the man who runs

20 the department?

21 A. Well, he would like to run everything, but with me he

22 could not.

23 SIR ROBIN AULD: Are you moving from that particular aspect?

24 MR MILNE: I am sir, yes.

25 SIR ROBIN AULD: You have spent a lot of time thinking about

1 this long ago, long before the Commission of Inquiry was  
2 appointed. What do you understand the basis for  
3 the change of mind to have been? What was the basis for  
4 that change of mind to Southern Health Network?

5 A. The basis were that when the minister -- the then  
6 minister of health, the Honourable Floyd, presented  
7 the paper, he was able to show us where the people of  
8 the Turks & Caicos Islands would have benefited from  
9 monitoring while they are away from home in the health  
10 institutions, and that we would have a great savings,  
11 discount on medical care, and that this company would  
12 have been able to pay in advance and so forth until  
13 the government get the payment to them.

14 We have had instances where our people were not  
15 given service in the United States if a bill -- if bills  
16 were not paid and so forth, and we were trying to avoid  
17 not only the embarrassment but to make sure that our  
18 people had proper health care. So the paper was very  
19 acceptable.

20 SIR ROBIN AULD: But it was a turn-about in a fortnight or  
21 so from two tenders to the introduction of a company  
22 which unbeknown to you had only been in existence for  
23 two weeks?

24 A. Unbeknown, sir.

25 SIR ROBIN AULD: If you had known the truth about that, what

1 do you think your reaction might have been to all  
2 the other blandishments of better care and cheaper  
3 delivery?  
4 A. If I had known, I would have staged an investigation to  
5 look into it and look at the history of other companies.  
6 I would not just run and accept it.  
7 SIR ROBIN AULD: Would you have included in that  
8 a comparative exercise between the other two tenders and  
9 this new proposal?  
10 A. Yes, sir, I would have.  
11 SIR ROBIN AULD: None of that happened for the reasons you  
12 have given?  
13 A. Yes. I was minister of education.  
14 MR MILNE: Mrs Boyce, you are no longer a minister.  
15 A. No, sir, I am not.  
16 Q. You were dismissed by the Premier a few weeks back?  
17 A. Yes, sir, I was.  
18 Q. You have made your views known on -- through the press  
19 as to the behaviour of the Premier?  
20 A. Yes, sir.  
21 Q. There was a letter, and you were not a signatory on this  
22 letter, but it was widely circulated in October of 2007.  
23 Do you recall that?  
24 A. If you give the date?  
25 Q. 18th October. We have included it for ease at page 276

1 towards the end of your bundle?

2 A. Yes, I am familiar with it.

3 MR FITZGERALD: We don't have the ex-minister's bundle.

4 (Document handed)

5 MR MILNE: Mrs Boyce, the first document, this is in your

6 bundle at page 276. It is a letter on the PNP headed

7 paper addressed to the Honourable Michael E Misick, it

8 is three pages long. The letter in fact was signed by

9 a number of party officials: the Chairman at the time,

10 Lloyd Stubbs, the Deputy Chairman, Dwayne Gardiner,

11 the Secretary General, Don-Hue Gardiner, together with

12 Sheba Monkoff Wilson who is a PR officer and Sean Penn,

13 the party whip, collectively described as the executive

14 Members.

15 It was cc'd at the time to the Deputy Premier.

16 However, this letter, we understand, subsequently

17 circulated. It has certainly been in the press. I am

18 sure at some stage you would have seen it, is that

19 right?

20 A. Yes, sir.

21 Q. Did it arise for discussion at any point, either in

22 Cabinet or pre-Cabinet?

23 A. Yes, sir, it did.

24 Q. Whilst your name was not attached to it, the criticisms

25 that are made in that are criticisms that to some degree

1 foreshadow the criticisms that you have made.

2 A. Yes, sir.

3 Q. Would you agree?

4 A. Yes, I do.

5 Q. So what is being said now is something that others have

6 said over perhaps a longer period of time.

7 A. Yes, sir.

8 Q. Back in October 2007, were you sympathetic to the views

9 that were being expressed in that letter?

10 A. No, sir.

11 Q. You were not?

12 A. No.

13 Q. Did you not think that they were justified at the time?

14 A. I thought that they were justified.

15 Q. You thought they were justified?

16 A. Yes.

17 Q. But you say that you were not sympathetic to the views,

18 you didn't agree with the views?

19 A. Not sympathetic to the Premier for sure.

20 SIR ROBIN AULD: Sorry --

21 A. I was not sympathetic to the Premier. I thought this

22 letter was correctly done and this is exactly the way we

23 feel as a party.

24 SIR ROBIN AULD: I am going to summarise this. I approved

25 of what was said in the letter.



1 A. I approved.

2 SIR ROBIN AULD: Thank you.

3 MR MILNE: The criticisms, just so we can be clear, were

4 the Premier's tendency to be absent from

5 the Turks & Caicos and spending a lot of time overseas;

6 criticism of the handling of the government information

7 services; the comment that the government appeared to be

8 side-tracked and the Cabinet's mandate had been lost;

9 criticisms at number 4 as to the financial position of

10 the government and that done in the light of rumours

11 about the country's purse, as the expression ran. There

12 were more specific criticisms about the people that

13 the Premier and First Lady chose to invite as guests of

14 the country and their behaviour.

15 The fact that the Premier spent very little time in

16 Grand Turk. The fact that the Premier and his

17 ministers, this appears to be a general criticism, of

18 course, not attending functions put on by government

19 ministries. Appointment of civil service to the PSC,

20 and there are names that are given there, where clearly

21 the PNP officials seem to dispute who should be

22 appointed to the public service commission, and

23 government contracts at number 9.

24 Number 10 was a rather more detailed criticism of

25 the Premier's personal life; and finally a plea at

1 number 11 for more frequent meetings at the House of  
2 Assembly to deal with outstanding bills.

3 House of Assembly, of course, now, we understand is  
4 prorogued for an extended period, is that right?

5 A. That is right and unfortunate.

6 Q. When these criticisms were being made, how did you add  
7 your voice to them?

8 A. I applaud the party executives who wrote this letter  
9 because this is how we felt as a party and as ministers,  
10 and we always took these issues up with the Premier.

11 But they fell on deaf ears.

12 Q. So you were raising these issues at that time?

13 A. Yes, that is exactly why the party was raising  
14 the issues also.

15 Q. Before that time?

16 A. During that time. It was after our second term.

17 The Premier was very good in the first term but in  
18 the second term these things started to happen and we  
19 took issue through them with the Premier and our party  
20 did also.

21 Q. What do you say changed after the last election?

22 A. I say that he, because of the large majority, I felt  
23 that the Premier knew that he did not have to really  
24 listen to any of us because he had enough of us to  
25 change when he wished. And it would be easily -- to

1 dismiss us if we made too much noise. I did not only  
2 criticise the Premier but spoke to him as a friend, as  
3 a leader. I spoke to him sometimes publicly before all  
4 of our Members and sometimes privately asking him to  
5 lead our country and to lead us properly and that I did  
6 not approve of his behaviour. I did it all the time.

7 Q. So you were content with his leadership and his  
8 behaviour during the first term?

9 A. Not all of it, but it -- certainly he worked hard at  
10 that time. No one is perfect. He worked hard during  
11 that time. There were some things that we did not like,  
12 but certainly the second term it was just outrageous.

13 SIR ROBIN AULD: Sorry?

14 A. It was outrageous, the second term.

15 MR MILNE: The criticisms in the letter go beyond, of  
16 course, the Premier in person. It refers to  
17 the Cabinet. It refers to our government ministers.  
18 Number 6: cabinet and the capital. The failure to spend  
19 time in Grand Turk. Paying for a house in Grand Turk  
20 which is not being used because no member of this  
21 administration, with perhaps the exception of the  
22 Deputy Premier, spends one night in the capital.

23 Is that a criticism of yourself that you would  
24 accept?

25 A. Yes.

1 Q. "Cabinet and ministries' public functions", number 7.

2 There is a general -- it is not specified -- but  
3 the Premier and his ministers are generally criticised  
4 for not attending functions put on by the various  
5 government ministries:

6 "The ministers should at the very least attend their  
7 own ministry's functions, and even further they should  
8 show support to their colleagues by attending their  
9 functions as well."

10 Is that a criticism of yourself that you would  
11 accept?

12 A. The public and I, and I would -- I am so pleased to be  
13 able to tell you that I attended all of my ministry's  
14 functions and most of the others.

15 I know that I can hold my head up high and say that  
16 I did but it definitely was a fair criticism overall of  
17 us as Cabinet ministers.

18 (11.30 am)

19 Q. A number of the criticisms clearly go back quite some  
20 way, though. The criticism as to his travel,  
21 the criticism in relation to his guests, criticism as  
22 regards government contracts. This letter was being  
23 written in 2007, late 2007. Necessarily, some of the  
24 criticisms have become amplified since then, but they  
25 appear to go back over several years. They clearly

1 reflect incidents which have been related to  
2 the Commission that fell full square within the first  
3 period of administration.

4 Would you accept that this really is a much wider  
5 period that we are talking about?

6 A. I can accept --

7 SIR ROBIN AULD: Pause, please.

8 MR SMITH: I rise because I don't see anything in this  
9 letter that would speak to any kind of time period as  
10 indicated by my learned friend.

11 SIR ROBIN AULD: Well, the Honourable Lillian Boyce was  
12 about to answer his question. Let's see what she made  
13 of it.

14 A. Mr Milne, I will tell you the truth that in 2007,  
15 October, when our party executives wrote this letter,  
16 our election was held in February 2007. I recalled that  
17 in 2007, this is when things got out of hand most. In  
18 2003 to 2006 the Premier and Cabinet, we did our best.  
19 We worked hard but we were not perfect like no human  
20 being, but in 2007, yes, we started to go down the wrong  
21 road.

22 MR MILNE: Following your resignation, there has been  
23 a press release and we have included it within  
24 the bundle. It is the following document. This is  
25 a document to which you attached your name.

1 SIR ROBIN AULD: Could we date it, please?

2 MR MILNE: There is no date on this, sir, and I was about to

3 ask the witness whether she can put a date on it, but we

4 believe it to be January of 2009. Is that correct?

5 A. Correct.

6 Q. It follows, as we understand it, a letter sent, and we

7 don't have a copy of the letter. The letter was simply

8 sent by a number of ministers to the Governor?

9 A. Yes, sir.

10 Q. If we follow this correctly, the letter was essentially

11 an indication of no confidence on the part of a number

12 of ministers communicated to the Governor, that being no

13 confidence in the Premier?

14 A. Yes, sir.

15 Q. Correct?

16 A. Correct.

17 Q. This press release is said to be issued on behalf of

18 seven elected Members. Yourself, together with

19 the Deputy Premier and the Honourable Karen Delancey,

20 the Honourable Amanda Misick, the Honourable Wayne

21 Garland, the Honourable Samuel Been and the Honourable

22 Greg Lightbourne.

23 The Deputy Premier was asked about this and he has

24 to some extent disassociated himself from it because he

25 felt that it was -- it did not reflect necessarily his

1 views on every aspect.

2 MR SMITH: I don't think that is a correct representation of

3 what the Deputy Premier said.

4 SIR ROBIN AULD: What do you suggest it was?

5 MR SMITH: He said it was one aspect of the letter --

6 SIR ROBIN AULD: Do you remember what it was? I can't.

7 MR SMITH: The trip to Paris over the weekend, over

8 the Christmas holidays, and he said for the most part he

9 agreed with the contents of the letter.

10 SIR ROBIN AULD: Mr Milne?

11 MR MILNE: That I thought was what I was describing, sir,

12 that he had disassociated himself from it in some

13 regards. If my learned friend is keen that we should

14 stress it is that one regard, than I am happy to go

15 along with it.

16 MR SMITH: I am keen.

17 SIR ROBIN AULD: Don't let be there any false issue over

18 this. His evidence was to the effect that broadly he

19 approved the letter.

20 MR SMITH: Yes.

21 SIR ROBIN AULD: Save for this one thing about a trip?

22 MR SMITH: Yes.

23 SIR ROBIN AULD: All right.

24 MR MILNE: The press release, may we take it that the people

25 named at the top are the same, or substantially the same

1 as the people who signed the letter to the Governor?

2 A. In addition to two other Members who signed the letter

3 to the Governor.

4 Q. So the letter to the Governor in fact was nine

5 signatures, but all of the seven we see here were

6 signatures to the Governor's letter?

7 A. Yes.

8 Q. Can you tell us who the others were who signed

9 the Governor's letter?

10 A. Honourable Royal Robinson and Honourable

11 Norman Saunders.

12 Q. Were they invited to add their name to this press

13 release?

14 A. They were not, no.

15 Q. Is there any particular reason for that?

16 A. They were beginning to back out at that time, so.

17 Q. In any event, they have not appended their names but you

18 have. Can we take it first of all that you stand by

19 what was said in this press release?

20 A. I do, sir.

21 Q. The initial part is a fairly scathing dispute with

22 the Premier following a statement that he made,

23 the Premier having said in public that:

24 "All ministers assured and recommitted themselves to

25 working diligently as a team for the betterment of you,



1 the people of the Turks & Caicos Islands. He went on to  
2 say that the government remains intact and that all  
3 ministers continue to work for you."

4 The issue that the press release takes is with  
5 the assertion that there is no rift within the Cabinet,  
6 and you describe that as being untrue, divisive and  
7 entirely disingenuous on the part of the Premier, is  
8 that correct? Is that your view?

9 A. It is my view, sir. That is why I am fired today.

10 Q. The Premier had asserted, and again the press release  
11 takes issue with this, that:

12 "Due to jealousy and greed, there are some who have  
13 plotted to stop our country's progress. There are  
14 enemies that are using us and turning us against each  
15 other, using the old age (sic age old) strategy of  
16 divide and conquer."

17 Who did you understand that the Premier was talking  
18 about when he made that assertion?

19 A. I am still puzzled because we are not the ones who are  
20 greedy or disingenuous or any of those statements apply  
21 to us. So I really still don't understand that  
22 statement, why he said it.

23 Q. Over the page --

24 SIR ROBIN AULD: Before we go over the page, you will be  
25 a little longer with this Mr Milne, won't you?

1 MR MILNE: A little longer, not much, sir.

2 SIR ROBIN AULD: I think we might break for five to ten  
3 minutes now.

4 (11.38 am)

5 (A short break)

6 (11.46 am)

7 SIR ROBIN AULD: Mr Milne.

8 MR MILNE: Mrs Boyce, we were dealing with the press release  
9 and if we could go to the second page of that, you will  
10 find that in the bundle at page 280.

11 Do you have that?

12 A. Yes, sir.

13 Q. It is the third paragraph down that I am going to deal  
14 with first. You say:

15 "Many of us within the government and within  
16 the Progressive National Party and indeed within  
17 the country at large have long been frustrated with  
18 the Premier's tabloid D list Hollywood style of  
19 leadership. We have watched in disbelief as  
20 the resources of our country have been squandered on  
21 an unsustainable, materialistically-oriented lifestyle.  
22 We have sat in stunned silence as our cautious  
23 [presumably "cautions"] and warnings have been rudely  
24 rebuffed, and we have lived each day in fear of being  
25 the next victim of the Premier's much touted appetite

1 for vengeance, had we been more outspoken."

2 Did you live in fear of his appetite for vengeance?

3 A. Do I now?

4 Q. Did you then?

5 A. Yes.

6 Q. Would it be fair to say that you had sat in stunned

7 silence?

8 A. Throughout? No.

9 Q. It is clear that that phrase has to be read in the

10 context of the sentence, "we have sat in stunned silence

11 as our cautions and warnings have been rudely rebuffed",

12 but was that your personal experience?

13 A. In stunned silence to the public but not within Cabinet

14 or within our party. We discussed and took these issues

15 up, I personally did with the Premier in Cabinet any

16 time that it was necessary and in our party, but not to

17 the public like we did when we issued this press

18 release.

19 Q. The paragraph that follows on --

20 SIR ROBIN AULD: Before you leave this paragraph, unless you

21 are coming back to it, Mr Milne?

22 MR MILNE: I may, sir, but if you wish to ask a question.

23 SIR ROBIN AULD: Yes. You say you lived in fear of the

24 Premier's appetite for vengeance.

25 A. Yes.

1 SIR ROBIN AULD: Tell us about that.

2 A. I will tell you that in pre-Cabinet, the Premier act so  
3 many times as if he was a dictator, but I definitely  
4 took him on all of the time, and there were many times  
5 I could have been fired because of my harshness or  
6 frankness with him about his behaviour and his attitude.  
7 There were many times when I challenged him also to fire  
8 me. There were times when in fact one time I actually  
9 passed him a letter of my intention to resign because  
10 I could no longer be a part of what the Premier saw as  
11 leadership of our country and I told him that all  
12 the times, so many times, I threatened to resign. He  
13 threatened me of course to fire me so many times. There  
14 were times, or one or two times when he called us in and  
15 he talk about: I heard that you all are trying to do  
16 a coup d'etat or to replace me, and so forth. Of course  
17 I was the ringleader all of the time and I would have  
18 told him: yes, we did and you should straighten out  
19 because we are not going to tolerate your behaviour.

20 There were many times, and so I can stand behind  
21 this statement while my other colleagues, some of them  
22 lived in fear and they realised I did too, because  
23 I wanted to see him gone. Instead of him having  
24 the first opportunity to fire me, I wanted to fire him  
25 because I was not the bad guy. I think he was.

1 MR MILNE: Which of your colleagues lived in fear?

2 A. Well, the way he would speak to some of them.

3 The Honourable Floyd Hall was just very loyal to  
4 the Premier, and there were times when the Premier took  
5 advantage or disadvantage of that because he knew that  
6 he was not loyal to Floyd but Floyd was so loyal to him,  
7 as he was to the country and so many times he would be  
8 misleading to Floyd.

9 Q. But you said that your colleagues lived in fear. Which  
10 of them do you think were in fear?

11 A. Well certainly not McAllister Hanchell, perhaps  
12 the others. It is easier to say who was not in fear.

13 Q. So McAllister Hanchell was not afraid, but the rest  
14 were? I don't wish to misquote you. It is quite  
15 important we are clear about this.

16 A. Well, I said that to say that from time to time, as  
17 a group, we would talk about the Premier's behaviour.  
18 Every last one of us would. Even Honourable Hanchell.  
19 Even though he would be the first one to side with  
20 the Premier, we would discuss him and then we would  
21 later on be summoned into a meeting because Honourable  
22 Hanchell would have run back and tell him before we get  
23 to him.

24 SIR ROBIN AULD: May we get back to the point of my  
25 question. Vengeance. What sort of vengeance were you

1 all in fear of? What were you frightened of?

2 A. The truth is we just did not want the Premier to be able

3 to remove those of us who were good for our country

4 before we were able to remove him.

5 SIR ROBIN AULD: So the vengeance you feared was removal

6 from office?

7 A. Because there just can't be anything else that

8 the Premier can hold over my head.

9 SIR ROBIN AULD: You answered Mr Milne's first question

10 about this: he asked you about -- in a general way which

11 could have referred to the present or the past, and you

12 emphasised that you lived in fear. What about now?

13 A. About now? I am not very comfortable now either.

14 SIR ROBIN AULD: Why is that?

15 A. Well, of course we do live in a small society, and there

16 are lots of rumours about threats being made by

17 the Premier.

18 SIR ROBIN AULD: Threats of what?

19 A. Well, he used words such as, "I will take down Floyd,

20 Lillian and Hayden if that's the last thing I do".

21 SIR ROBIN AULD: I will what?

22 A. "I will take down", whatever "take down" means,

23 "Hayden", my husband, "Floyd Hall and Lillian, if that's

24 the last thing I do". And he constantly made those

25 remarks.

1 SIR ROBIN AULD: These are current threats of which you have

2 heard?

3 A. Yes.

4 MR MILNE: Has he made those remarks to you?

5 A. I took issue with him but he made them in the presence

6 of his staff and it got back to me. And to Floyd and to

7 Hayden.

8 SIR ROBIN AULD: Thank you.

9 MR MILNE: You stated in this document that government

10 finances are in total disarray. Do you still stand by

11 that.

12 A. I do stand by that.

13 Q. When you say total disarray, what precisely do you mean?

14 A. I mean that after the two hurricanes that our country

15 just went through, I mean that we had to cut back on

16 scholarships, we had to cut back on medical treatment

17 abroad, in some instances the government cannot pay all

18 of its bills and its obligations. I mean that we cut

19 back many things like social services where I worked and

20 my heart continued to ache for the victims of the

21 hurricane and the orphans and the PACE programme where

22 we literally had to make do with so many things or raise

23 money ourselves for it, while the Premier continued to

24 spend outrageously, and he did not cut his staff, but he

25 cut or together we collectively had to agree with

1 the Permanent Secretary of finance to cut all these  
2 important areas, but the Premier did not one day cut  
3 anything that he was enjoying.

4 So I see the finances of our country, yes, in total  
5 disarray because we can make more cuts or we can make  
6 more savings, we can have savings and we can -- people  
7 can still benefit, especially the hurricane victims in  
8 Grand Turk, South Caicos, Salt Cay and of course my  
9 constituency, Five Cays, that was totally left out.

10 Q. Also in that paragraph, there is reference to  
11 a chartered jet to Paris. When was it you said he had  
12 taken a jet to Paris?

13 A. It was just -- okay, it was rumoured. Of course we  
14 understood that he took a jet to Paris and we were angry  
15 about it and so we wanted the public to know about it.  
16 It was during the time that I served as Acting Premier  
17 during that week when he perhaps was on vacation.  
18 I could not find him for sure. I was Acting Premier and  
19 there were times when I tried to contact him and he just  
20 don't answer me.

21 Q. Which month was this?

22 A. This had to have been in January, because I got fired in  
23 January, right.

24 Q. Was it very shortly before you were --

25 A. Just before I was dismissed, yes.



1 Q. You say it is only a rumour but --

2 A. It was, well, we understood it from enough reliable  
3 sources that we definitely wanted to hold on to it  
4 because it seemed to have been true.

5 Q. Moving on from there, just a couple of pages --

6 SIR ROBIN AULD: Are you leaving that document?

7 (12.00 pm)

8 MR MILNE: I am not, sir, no. It is within the same  
9 document.

10 The page for the witness, though, will be page 282.

11 The second full paragraph on that page deals with  
12 the Premier, as it phrases it, engineering:

13 "He engineered a meeting of the national general  
14 council of the PNP. Following notice of our lack of  
15 confidence motion at the meeting he procured a decision  
16 that there will be a special convention of the party at  
17 the end of February at which the leadership of the party  
18 will be decided."

19 Is that still anticipated, that there will be  
20 a meeting at the end of this month?

21 A. It is, I believe, but we are not anticipating it because  
22 my group do not think that we want to compete against  
23 the Premier in his leadership run during that time.

24 MR FITZGERALD: Sir, we really are now getting into  
25 a situation which we were told strictly at the start we

1 would not get into. The Premier was stopped from making  
2 any political statement, from making any political  
3 comments. Now the leader of the coup -- attempted coup  
4 against him is being permitted to give a political  
5 speech, completely untrammelled. The plotting about  
6 when or whether there will be an attempt to remove him  
7 seems to me to be completely irrelevant, and in my  
8 respectful submission, is irrelevant to the issue of  
9 whether in the past elected officials, including this  
10 person, had been guilty of dishonesty and corruption.

11 So if this is to be opened up, just a general  
12 discussion about the future prospects of the Premier,  
13 then in my respectful submission it was completely  
14 unfair that the Premier was not allowed to comment on  
15 those matters, that they were not put to him by my  
16 learned friend and that this issue has now been opened  
17 up. It wasn't opened up with Mr Floyd Hall, and now, at  
18 this late stage, this witness is being permitted to give  
19 a political speech about the prospects of her and her  
20 group of dissenters against the Premier.

21 I do respectfully submit that this has gone beyond  
22 the terms of reference. I would invite your ruling on  
23 that, sir.

24 SIR ROBIN AULD: Mr Fitzgerald, I agree with you that it is  
25 approaching that stage at least. The interest that

1 I have in this goes to my second term of reference.  
2 I am not so much interested in the political rights and  
3 wrongs but in the mechanics of the government of this  
4 country and the prorogation affects that and what is to  
5 emerge from it.

6 If Mr Milne confines his questioning to those sort  
7 of political constitutional mechanics, I think it will  
8 would be helpful but I agree with you this mustn't be --  
9 become a platform for political speeches.

10 MR FITZGERALD: I am obliged.

11 MR MILNE: Sir, certainly it is not something that I would  
12 be inviting from the witness and I apologise if that is  
13 the effect of some of the questions.

14 I was simply going to seek clarification in fact in  
15 this paragraph as to what was meant by the following  
16 sentence, the assertion that:

17 "The party is controlled by the Premier and members  
18 of his family."

19 Which individuals do you mean by that?

20 A. The Premier is the leader. The Chairman is Don-Hue  
21 Gardiner, his nephew. This should be all of our  
22 political party. We all should have a voice in this  
23 party.

24 Q. Was it simply referring to the Premier and his nephew?

25 A. Yes, owners of their party.

1 Q. We were, of course, already aware that Don-Hue Gardiner  
2 was related to the Premier. We wished to clarify if  
3 other people were being included within that.

4 SIR ROBIN AULD: But that is an assertion that those two  
5 control the party, that is what you were subscribing to,  
6 was it?

7 A. Yes, sir.

8 MR MILNE: Sir, I am going to leave that document at the  
9 moment. There is one other document which I need to ask  
10 questions about. This is not presently in the bundle,  
11 but if it can be passed to the witness, Mr Smith and to  
12 yourself, sir. (Handed)

13 SIR ROBIN AULD: What about Mr Fitzgerald?

14 MR FITZGERALD: Is this something relevant to the Premier?

15 MR MILNE: It is not, sir.

16 Mrs Boyce, this is a similar matter to one that was  
17 raised with the Deputy Premier, which is this: that  
18 following requests by the Commission, the ministry of  
19 health and human services, I think in fact the ministry  
20 of natural resources provided a number of documents.

21 These documents are numbered. I am afraid  
22 the sequence at the bottom is nothing to do with  
23 the bundle. It comes from a different bundle  
24 altogether.

25 What we have are letters relating to requests that

1 you have made direct to the ministry of natural  
2 resources for individuals to be relocated.

3 A. Yes, sir.

4 Q. The letter on the front cover that you have there is  
5 dated 22nd September 2008. It is from your personal  
6 assistant at the time, Mrs Lynn Chase, going to  
7 Mrs Judith Campbell, who is the Permanent Secretary of  
8 the ministry of natural resources:

9 "Dear Mrs Campbell, the Honourable Boyce has asked  
10 me to forward you a list of names for persons who need  
11 to be relocated from the low land in Five Cays."

12 The list is attached to that.

13 Were you aware of that letter at the time?

14 A. Yes, I was.

15 Q. The list that we see has a series of names behind it.  
16 One of them, of course, is your brother.  
17 Earls Robinson?

18 A. Yes, I see the name.

19 Q. Why did you regard it as necessary to intervene through  
20 your personal assistant in the workings of the ministry  
21 of natural resources?

22 A. It was after the hurricane that we went through  
23 the Five Cays area and we had a surge during  
24 Hurricane Ike.

25 These are supposed to be names of people who live in

1 the low-lying area to be removed. What Lynn has done,  
2 and I notice now, that the subdivision that natural  
3 resources have provided for the people to be removed  
4 from the low lying, who were affected by the hurricane,  
5 also attach names of a few persons who could have  
6 benefited from residential property in the same  
7 location, and my brother Earlson and Lindsey Rigby and  
8 Clevey(?) Rigby, those people who were waiting for land  
9 and this subdivision had just come available. So --  
10 SIR ROBIN AULD: They didn't need relocating at all?  
11 A. They didn't need relocating. They just needed  
12 a residential piece of land, and I believe that is what  
13 Lynn did. Because I did not see her letter. I know  
14 that this is her work because I asked her to do so.  
15 Q. So there is no reference in here to emergency hurricane  
16 relocation. Clearly your brother wasn't living in  
17 Five Cays, was he, because you have told us he was  
18 living elsewhere?  
19 A. Right, but he was trying to build a house in Five Cays.  
20 So along with him and a few others, Lindsey Rigby who  
21 just moved back home, Lynn attached their names for  
22 the new subdivision that we had provided to remove  
23 people from the low lying, plus to issue parcels of land  
24 to others who were on a wait list who wanted a  
25 residential.

1 Q. You see, whilst this came after the hurricanes, your  
2 brother was building a house. He didn't need to be  
3 removed from Five Cays because he was living -- you have  
4 told us he has a room at your mother's house?

5 A. At some stage my brother will build a house and like  
6 I told you, he did not need to. This is the work of my  
7 personal assistant.

8 Q. So she has mixed up lists?

9 A. She mixed the list with the low-lying people and those  
10 people who were applying or agitating, asking from our  
11 office to help them to find property. Lynn would do  
12 that without my knowledge. At times you will notice  
13 that she wrote the letter because I gave her  
14 instructions to make a list of the persons we need to  
15 move from the low-lying areas in Five Cays after  
16 the storm. The government had just provided a new  
17 subdivision, and at the same time to provide land for  
18 those people on her waiting list.

19 Q. No doubt the low-lying land at Five Cays would have  
20 provided the basis. We don't know any of these names, I  
21 am afraid, in other contexts but why did your brother  
22 need any assistance? This was a man, as I understand  
23 it, who had benefited to the tune of \$1 million, even if  
24 he had loaned part of it out to you and part of it out  
25 to the Premier. He is not living down there. He

1 doesn't need to be relocated or removed anywhere, does  
2 he? He has a rented accommodation which you told us  
3 about earlier. He has room at your mother's house. So  
4 why would he need to be on any list going to the  
5 ministry of natural resources?

6 A. So, sir, at some point don't you think Earlsong will  
7 build a house? But Lynn included two different  
8 issues --

9 SIR ROBIN AULD: But where did she get the three names from?

10 What were you doing, submitting names to the ministry  
11 for natural resources for grant of land? It is nothing  
12 to do with you.

13 A. Well, Sir Robin, that is the case. Lynn submitted  
14 the list on my behalf and when I am not there, Lynn will  
15 meet with people. They will come into the ministry,  
16 from time to time, we are right downstairs from  
17 the natural resources office, and people will say that:  
18 I have been applying for a piece of land for ages, can  
19 you please help me. Lynn will make a list of those  
20 names, keep them and she will sometimes work with  
21 the Permanent Secretary to serve my constituents.

22 SIR ROBIN AULD: But this is a matter for decision by way of

23 allocation in the ordinary process that the Honourable  
24 McAllister Hanchell described to us.

25 This has to be considered and the competing merits



1 of different applications considered. Here you are  
2 saying your assistant plucked out these three names you  
3 had put to her and gave, by means you describe,  
4 effectively a direction to the ministry of natural  
5 resources to the Permanent Secretary to allocate land to  
6 them.

7 A. She did, sir, and I would have to admit to you that our  
8 office did help people to get land. What I did not know  
9 Lynn did was to combine the low-lying areas of people  
10 who we wanted to remove from the low-lying areas in  
11 Five Cays and other applicants for land and I will  
12 acknowledge that, yes, we, from time to time, have to  
13 help our constituents --

14 SIR ROBIN AULD: Why can't they go through the ordinary  
15 process by applying to the ministry concerned?

16 A. Sir, we would send them upstairs to do so, and sometimes  
17 the service delivery, or they feel that they were  
18 overlooked or not adhered to, and they would always come  
19 to my office. It is not something that I wanted to do  
20 or have my personal assistant to do, but we thought that  
21 we were serving our people by helping them.

22 SIR ROBIN AULD: But in addition you were bypassing  
23 the ordinary means of being considered for allocation of  
24 land, weren't you?

25 A. I didn't, because they would have had these applications

1 in advance. It just would have been a long period of  
2 time that they were not adhere to or they didn't hear  
3 back from the Permanent Secretary or the minister, and  
4 they were actually asking Lynn or myself, if it was me  
5 at that time. I will admit, of course, yes, that  
6 I serve my constituency in that way to agitate for land  
7 for them.

8 SIR ROBIN AULD: It was a way of bypassing the system for  
9 what you considered to be good reasons?

10 A. I thought I was helping. I could not issue the land but  
11 I could certainly agitate for them.

12 SIR ROBIN AULD: Was your brother allocated a piece of land  
13 as a result of that direction?

14 A. I don't think so. I don't know if he did or any of the  
15 other persons did, because the people in Five Cays are  
16 still in the low land, but I know that government -- we  
17 had approved a subdivision to remove these people and to  
18 give others who were on a wait list land in Five Cays.

19 Q. If we understand your evidence correctly, you are on one  
20 floor of this building, the ministry of natural  
21 resources is upstairs. Surely when people come knocking  
22 on your door, your ministry is already busy enough, is  
23 it not?

24 A. Very busy, and sometimes I would send them upstairs.

25 Q. Surely every time they should have been told: sorry,

1 this is the wrong door, ministry of natural resources is  
2 upstairs, they are the people who allocate lands. Not  
3 health and human services to do the job as an agency for  
4 the ministry of natural resources. With respect, it has  
5 got nothing to do with your department at all, has it?

6 (12.15 pm)

7 A. Nothing to do with it.

8 Q. So a few, I would suggest, lucky individuals who for  
9 some reason have approached the wrong government  
10 department have their applications boosted by a letter  
11 from a minister, yourself, or at least your personal  
12 assistant and they get a leg up. They get an advantage,  
13 not by going through the correct system but by actually  
14 going to the wrong door. That can't be fair, can it?

15 A. No, it can't be fair, but that just means --

16 Q. You lent yourself to that, I suggest. Why was that?

17 A. I am very, or used to be and will still continue to be  
18 very accessible to my constituents. I agree with you  
19 this is not a fair process. This is not the way it  
20 should be done. In the Turks & Caicos, I believe that  
21 most of us believe that we are to serve our  
22 constituencies in this manner. I could not issue  
23 the land. But I asked that the land be issued through  
24 my PA for people of my constituency.

25 Q. So does it come down to this: these are your

1 constituents and therefore you will intervene?

2 A. That is the truth, sir.

3 Q. If the system is unfair, then does it simply come down

4 to working an unfair system?

5 A. No, sir. I do not subscribe to unfair system.

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

7 Do you have any further questions, sir?

8 SIR ROBIN AULD: Thank you. Who is first?

9 Cross-examination by MR FITZGERALD

10 MR FITZGERALD: There is a document which is at bundle C,

11 page 60.

12 SIR ROBIN AULD: This is Premier C?

13 MR FITZGERALD: Premier C. It may be better if I show it to

14 the witness. It is the Premier's bundle C. It may be

15 easier if --

16 SIR ROBIN AULD: Has it got a page number?

17 MR FITZGERALD: Yes, page 60.

18 SIR ROBIN AULD: Perhaps you would just identify it for

19 the record.

20 MR FITZGERALD: Bundle C, page 60 is a cheque issued by

21 Lillian Boyce to the Belize Bank for \$100,000:

22 Mrs Boyce, I just want to clarify one or two matters

23 and then go on to deal with the press release.

24 SIR ROBIN AULD: The date of the cheque?

25 MR FITZGERALD: The date of the cheque is June 5th 2006.

1 SIR ROBIN AULD: It is for \$100,000.

2 MR FITZGERALD: Mrs Boyce, you have obviously seen that

3 cheque?

4 A. Yes, sir.

5 Q. Is this right, that was a cheque that you made out for

6 the benefit of the Premier on June 5th 2006?

7 A. Yes, sir.

8 Q. Is this right, there is no question of that being any

9 form of a kickback or any form of a payment in respect

10 of services or anything of that sort? That ♦100,000.

11 A. No, sir.

12 Q. Indeed, is this right, this is the loan that you

13 referred to him asking you for in June just after

14 the wedding had taken place? You remember you gave

15 evidence about him asking you for a loan, is that right?

16 A. That he asked me to ask my brother, yes for a loan.

17 Q. But the fact is you made the loan to him, didn't you?

18 You gave him ♦100,000 by way of a loan.

19 A. From my brother, yes, I did.

20 Q. You wrote the cheque, do you accept that?

21 A. Oh, yes, sir, it is my cheque.

22 Q. It is your signature and it says there, Lillian Boyce,

23 South Dock Road, Chalk Sound, Providenciales and it is

24 signed by you.

25 A. Yes.

1 SIR ROBIN AULD: You said he asked you to ask your brother  
2 for it, is that what you are saying?  
3 A. He asked me and I told him I had to ask my brother, sir.  
4 MR FITZGERALD: Then you wrote the cheque.  
5 A. Yes, sir.  
6 Q. You appreciate that the only issue here is whether this  
7 was him asking you for a loan and you making that loan  
8 to him personally or whether, as you say, it was  
9 the money came from your brother. But what the Premier  
10 said is that you made him this loan of \$100,000 after  
11 his wedding as a personal loan, do you accept that?  
12 A. No, sir, I don't.  
13 Q. So you accept you signed it?  
14 A. Yes, it is my cheque.  
15 Q. You accept it was for \$100,000?  
16 A. Yes.  
17 Q. You accept it was at the request of the Premier?  
18 A. Yes.  
19 Q. You accept it was a loan?  
20 A. Yes.  
21 Q. All you say is that the money, the 100,000 that you  
22 wrote out came from your brother?  
23 A. Yes.  
24 Q. I just have to put it to you that all it was was you  
25 making a personal loan to the Premier for \$100,000 at

1 a time that he had incurred the considerable expense of

2 his wedding, is that right?

3 A. I got the money from my brother and I loaned it to

4 the Premier.

5 Q. There was nothing sinister about this at all, was it?

6 It was just a loan?

7 A. No, sir, it was just a loan.

8 SIR ROBIN AULD: Mr Fitzgerald is placing emphasis on

9 the word "personal", that it was a personal loan from

10 you, however you obtained the money. Is that how you

11 saw it?

12 A. I saw it as a personal loan from literally my family

13 because that is the kind of discussion we had to go

14 through before lending the Premier the money.

15 MR FITZGERALD: Is this right, you were his colleague in

16 Cabinet at that time and you were his friend?

17 A. Yes, sir.

18 Q. There is just one other topic I want to deal with.

19 Again it may be that it is common ground. The issue of

20 the scholarships. You recall being asked about that by

21 my learned friend?

22 A. Yes, sir.

23 Q. If you look at volume 3 of the red bundles, at tab 5.

24 There is there a reference to a series of what are

25 described as instructions to the ministry of education

1 about scholarships. Page 8.

2 Do you see the eighth page in? It is rather small  
3 on the left. It says page 8 of 34. You are probably  
4 familiar with that document, are you?

5 A. Yes, I am.

6 Q. Is this right, that the Premier and yourself,  
7 the minister of education, we see from (iii) and then  
8 the Deputy Premier as we see towards the bottom of (ix),  
9 (x) and (xii), on occasions instructed the -- or made  
10 some form of formal request that scholarships be paid to  
11 particular students, to lists of students, is that  
12 right?

13 A. Yes, sir.

14 Q. When you gave your evidence on Day 13, you were asked by  
15 the Commissioner, I can just remind you of what you  
16 said. You were asked by him:

17 "The Premier ... said that the instructions  
18 attributed to him here were made by him on advice from  
19 your ministry."

20 You said:

21 "He is probably correct about some of it."

22 A. Yes.

23 Q. Is that right that someone had to authorise these  
24 scholarships if they had not gone through  
25 the scholarship committee?



1 A. Yes, sir, and I would like to explain to you that when  
2 I gave my evidence, I was correct then and I am still  
3 correct. The truth is that we from time to time,  
4 the Premier or the Deputy Premier or myself or other  
5 ministers, we relied also on section 8 of the education  
6 ordinance, that there were no subscribed or mandated or  
7 lawful body to whom should give scholarship.

8 The education advisory committee was set up to advise  
9 the minister. We practised, there was a practice that  
10 we would let them also advise us on scholarships. But  
11 we had to the best of our knowledge and through  
12 the ordinance the rights to issue scholarships.

13 Q. So it was perfectly lawful for you or the Deputy Premier  
14 or the Premier to give these instructions for  
15 scholarships to be paid? There was nothing unlawful  
16 about that at all?

17 A. There was nothing unlawful.

18 SIR ROBIN AULD: Before we go on further, somebody had  
19 better read me what section 8 of the ordinance says and  
20 you can ask me the question, whether it was perfectly  
21 lawful.

22 MR FITZGERALD: Can I just ask your understanding? Your  
23 understanding was that there was nothing unlawful?

24 A. My understanding.

25 SIR ROBIN AULD: I don't know what it says. Can you tell me

1 what it says?

2 MR FITZGERALD: No, sir, I can't. I am afraid the minister

3 has -- I understood that it just had to be authorised by

4 a minister and that the other procedure, the scholarship

5 grants committee was simply an administrative procedure.

6 SIR ROBIN AULD: So that is the effect of it.

7 MR FITZGERALD: Is that right, Mrs Boyce?

8 MR SMITH: It is a little different. What the ordinance

9 provides is for an educational advisory committee, and

10 I think the role expanded within that advisory committee

11 to include the award of scholarship, but there is no

12 legislation that mandates that that is the role of

13 the education advisory committee and they are the sole

14 persons responsible for the provision of scholarships.

15 SIR ROBIN AULD: So the Honourable Lillian Boyce and

16 Mr Fitzgerald adequately summarised effectively

17 the section.

18 MR FITZGERALD: I am obliged. So for a minister to give

19 a direction on the advice obviously of the education

20 ministry was perfectly legitimate in your understanding?

21 A. Yes, sir.

22 Q. It occurred particularly sometimes just before the term

23 was about to start. You needed to get a quick approval

24 before the academic term started for people to have

25 a scholarship?

1 A. Yes, sir.

2 Q. In this neither the Premier nor yourself nor

3 the Deputy Premier were acting in any way unlawfully or

4 improperly?

5 A. Not to my understanding.

6 Q. You agreed that when the Premier acted, he did act on

7 the advice given by the ministry or with discussions

8 with the ministry?

9 A. Yes, sir.

10 Q. I am obliged for that.

11 Can I move on from there. You have been asked by my

12 learned friend questions firstly about the letter that

13 was written on October 18th 2007 by a number of people.

14 They included, is this right, Don-Hue Gardiner, his

15 nephew?

16 A. Yes, sir.

17 Q. So you say that, as it were, the family mafia were in

18 control, but there is his nephew writing a critical

19 letter about him.

20 A. Yes, because things were really out of hand.

21 Q. Okay. You at that stage didn't associate yourself with

22 this letter, did you?

23 A. We were not included as ministers.

24 Q. You didn't sign --

25 A. I agreed with the letter. We were not included as

1 ministers to send this letter to the Premier.

2 Q. You have said that you agreed with the sentence in that  
3 letter, but is this right, you didn't resign or make any  
4 public statement at that stage at all?

5 A. In fact the letter was given to the Premier, but most of  
6 us ministers did not even know about the letter until it  
7 appeared online.

8 Q. Would you agree that the essential criticisms there,  
9 I am not saying they are not serious, are of excessive  
10 expenditure?

11 A. Yes.

12 Q. That is what it is about?

13 A. Yes, sir.

14 Q. Your criticisms, indeed, even in the press release, were  
15 of excessive expenditure?

16 A. Yes, sir.

17 Q. You regarded this excessive expenditure as unjustified,  
18 is that right?

19 A. Yes, sir.

20 Q. I am not going to go through all of that there, but  
21 there was just one reference to the fact that public  
22 knowledge that black Americans have been given the key  
23 to the city of Providenciales. Is this right, that  
24 there were a number of functions, tourist-type functions  
25 to which performers were invited? There was a music

1 festival, I think there was a film festival, those kinds  
2 of things?

3 A. Yes, sir.

4 Q. That is what the criticism is directed to, spending too  
5 much money in bringing foreign entertainers in?

6 A. Yes, sir.

7 Q. That is what we are talking about?

8 A. Yes.

9 Q. Would you accept that views can differ about that? One  
10 view is that it promotes tourism and boosts the profile  
11 of the Turks & Caicos, and the other view is we don't  
12 need to be spending this money on foreign celebrities.

13 Would you accept that there are two views?

14 A. There are two views. But I do accept that we were  
15 spending too much money on foreign celebrities.

16 Q. But that is a question which no doubt you were perfectly  
17 free to voice your opinions on?

18 A. Yes, I am sure.

19 Q. I want to come on from there to the document that you do  
20 sign, which is the press release. Again, would you  
21 accept that essentially the criticisms there are  
22 criticisms of excessive expenditure by the Premier?

23 A. Yes, sir.

24 Q. I just want to take two matters. If you go to  
25 the second page in, to the third full paragraph down,

1 there is an allegation there that my learned friend took  
2 you to and that you commented on about the Premier  
3 seeing fit recently to charter a jet to Paris for  
4 a shopping trip with him and his mistress at the expense  
5 of the government and the people of the Turks & Caicos.

6 (12.30 pm)

7 A. Right.

8 Q. Did you check any of those facts before you signed that  
9 document?

10 A. Well, reliable sources said that it happened and it was  
11 so often happening --

12 Q. No did you check?

13 A. -- I did not have to check.

14 Q. Did you personally check any one of those facts before  
15 you signed that letter?

16 A. I personally know that the Premier was out of touch with  
17 me, out of reach. I was Acting Premier at that time.

18 Q. What was that time that -- you said it was January?

19 A. It was just before I got fired, so I certainly know --

20 Q. Was it January?

21 A. It must have been January.

22 Q. You see, you are being very specific about this. When  
23 was it in January?

24 A. I cannot --

25 Q. Give us a date if you are so --

1 A. I cannot recall the date. So that means it had to have  
2 been -- it was before I got fired. I was Acting at that  
3 time --

4 Q. But when were you Acting?

5 A. During the end of December.

6 Q. So you are now saying it is the end of December?

7 A. End of December leading up to January.

8 Q. What dates in December are you saying, after Christmas?

9 A. No because --

10 Q. So it is not January --

11 SIR ROBIN AULD: Let her finish.

12 A. That means it is in December, Mr Fitzgerald. It is in  
13 December, sometime in December because our fight started  
14 on the 15th.

15 MR FITZGERALD: Is this right, that when you signed that  
16 letter you didn't check anything about who paid for that  
17 trip or what that trip was about?

18 A. I didn't check who did, no.

19 Q. The plain fact is that there was a trip to France by  
20 the Premier in December at which he attended a tourist  
21 show promoting these islands, and he then had a business  
22 meeting in Paris. Can you -- do you dispute that?

23 SIR ROBIN AULD: She can't dispute it because she already  
24 said she doesn't know. She has heard from others.

25 A. Thank you, Sir Robin.

1 MR FITZGERALD: Now I am wondering whether if I jog her  
2 memory --

3 SIR ROBIN AULD: Perhaps you had better put the full  
4 circumstances: how did he go, for how long did he stay,  
5 dates he went and when he came back.

6 MR FITZGERALD: Sir, this allegation has just been put and  
7 I have sought to get some instructions. Is this right,  
8 that in December before Christmas the Premier made  
9 a trip to France --

10 SIR ROBIN AULD: In what?

11 MR FITZGERALD: On a commercial flight. He made  
12 a commercial flight to France for the purposes of  
13 attending a tourism show in Cannes and then a business  
14 meeting in Paris. Is that right?

15 A. I can't say that is right. The Premier doesn't tell me  
16 how he travel and sometimes where he goes.

17 Q. So you don't know anything about whether it's true or  
18 not that he chartered a jet?

19 A. Reliable sources told me, and it was something that  
20 I was accustomed to. I know that he would do things  
21 like that and I agree with it.

22 Q. So you are just prepared to sign it without checking it,  
23 because it is bad for the Premier and good for you?

24 A. It is not bad for the Premier. That is something that  
25 the Premier would always do.



1 Q. And indeed at this tourism show he was made an award, is

2 that right? Do you know that?

3 A. Again, the Premier did not see it fit to tell me.

4 Q. Did you say to him: look, I am about to make a very

5 serious allegation about you, I just want to check my

6 facts.

7 A. Well, if you recall, when the Premier came back

8 the Monday morning and came to Grand Turk, we were ready

9 to ask him to resign. So we were not about asking him

10 where and why did he just get in, and he got into

11 Grand Turk very late for Parliament.

12 Q. So you were not bothered to check your facts. You just

13 made the allegation?

14 A. Because I believe it was true.

15 SIR ROBIN AULD: Now, Mr Fitzgerald, just before I forget,

16 at some stage, no doubt you will provide the Commission

17 with full details of this journey when you have had

18 a chance to take instructions.

19 MR FITZGERALD: I think in fact the Commission had a letter

20 from the Premier around that time.

21 SIR ROBIN AULD: We have probably got it. Somebody had

22 better put in the forefront of my mind exactly what this

23 trip was.

24 MR FITZGERALD: Yes, we will get the Premier to put it in

25 his statement.

1       The second matter that you were taken to by my  
2       learned friend was about -- that you had lived each day  
3       in fear, and when you were asked about living in fear,  
4       you said your fear was of losing your job. Is that  
5       right?

6   A. I said that.

7   Q. You then were asked about whether you had any continuing  
8       fears now, and you said that you heard that he had  
9       issued a threat to take down Hayden, your husband,  
10      Floyd Hall and yourself, is that right?

11   A. Yes.

12   Q. That is just -- you just heard that, is that right?

13   A. Reliable sources.

14   Q. I see. This is the old reliable sources again, is it?

15   A. Yes.

16   Q. I have to put to you that he has never issued any such  
17      threat to take down Hayden, or yourself or Floyd Hall  
18      ever.

19   A. Well, you happened not to be there, sir.

20   Q. Well, you were not there either?

21   A. Reliable sources were there.

22   Q. I see. We are not going to be enlightened about  
23      reliable sources, are we?

24   A. Only if you want us to.

25   Q. Are you saying that you know this happened or just that

1 you have heard that it happened?

2 A. I know it happened and I would not put it past him.

3 SIR ROBIN AULD: The witness said she would give you

4 the reliable sources if you want them, whether in

5 confidence or openly, I do not know.

6 MR FITZGERALD: Are you prepared to give -- to provide

7 the sources through counsel?

8 MR SMITH: I would ask if that is going to be done, it is

9 done in confidence.

10 SIR ROBIN AULD: I am sorry?

11 MR SMITH: I would ask if that is going to be done, it is

12 done in confidence.

13 SIR ROBIN AULD: That is why I put the alternative.

14 MR FITZGERALD: You are prepared to disclose the names, are

15 you, to your counsel for him to disclose to us?

16 A. Yes, sir.

17 Q. But apart from those two allegations, one based on

18 hearsay and the other based on hearsay and not checked,

19 essentially what you are complaining about throughout

20 this document is excessive expenditure, is that right?

21 A. And everything else that is in the document, I stand by

22 it.

23 Q. Is this not right: that the truth of the matter is that

24 with the Commission coming up, you decided to take on

25 the Premier and you have decided at this stage that it

1 would be politically convenient to put the boot in as  
2 much as you can to the Premier, having sat there not  
3 raising anything of this before or resigning at any  
4 stage; that is what is happening here?

5 A. That is not true, and I would like to explain, during  
6 the Premier's testimony was some of the first time that  
7 I learned of some of the things that he did to our  
8 country and if I had known before, be it in 2003 or 2006  
9 or 2007, I would have done exactly what I did on  
10 December 15th, because when I and my -- our colleagues  
11 asked the Premier to resign, they were for lots of  
12 reasons but we have learned so many things after, we  
13 would have asked him long time to resign.

14 Q. You accept that you are now his political opponent?

15 A. I am?

16 Q. Yes. You are, well --

17 A. Mmm hmm.

18 Q. You accept you are his political opponent, you want him  
19 to be replaced and you want to continue --

20 A. -- I still do.

21 Q. -- and you want to continue in office, don't you?

22 A. I don't think the Premier is good for our country at  
23 this time and we still have good men and women in our  
24 party who can lead our country and I still would like  
25 him to be removed.

1 Q. I have to put it to you that you have been exaggerating  
2 in your most recent evidence because you are now in  
3 political opposition to him?

4 A. I don't -- I still a PNP. I don't see why I have to be  
5 in political opposition to him. I do not think  
6 the Premier can lead us. Our country need to gain its  
7 respect back. I am glad that this Commission of Inquiry  
8 came because our country could not continue to go down  
9 this road and the things that me and my colleagues  
10 learned, we are of course embarrassed that our country,  
11 that we sat with the Premier and we did not know  
12 the things that he was doing and I would like to see him  
13 resign. I would like the House to be convened.  
14 Reconvened.

15 Q. Sir, I have got the information about when we notified  
16 the Commission about his --

17 SIR ROBIN AULD: Are there any other questions?

18 MR FITZGERALD: No further questions, thank you.

19 SIR ROBIN AULD: To make it clear, you have got  
20 the information from Mr Smith of the names of the  
21 persons to whom Mrs Lillian Boyce referred as reliable  
22 sources?

23 MR FITZGERALD: No, I have not got those. This is just that  
24 we notified the Commission that he would be away in  
25 Europe from 8th to 12th December in a letter at the

1 time. That appears to be -- it is not January as this

2 witness said, it is actually 8th to 12th December.

3 SIR ROBIN AULD: Thank you. Attorney?

4 MS BROOKES: No.

5 SIR ROBIN AULD: Yes, Mr Smith.

6 MR SMITH: Thank you.

7 Cross-examination by MR SMITH

8 MR SMITH: You are still in the same party as the Premier?

9 A. Yes, sir.

10 Q. Still sit in the same side of the aisle in Parliament,

11 whenever that occurs again?

12 A. Yes, except that I will change seat to the back of

13 Mr Royal Robinson.

14 Q. Apart from the fact that you are the Chairman and

15 somewhat resolved in seeing the Premier resign, you are

16 not in opposition to him, are you?

17 A. No, sir.

18 Q. Let's examine that trip in December. At a point in time

19 when the Premier left you were -- you filled the role as

20 Acting Premier, is that correct?

21 A. Correct.

22 Q. At some point in time you learned that the Premier is

23 going to leave the country?

24 A. Yes, sir.

25 Q. Well, did the Premier come to you and tell you

1 the reasons why he is leaving the country?

2 A. No, sir.

3 Q. Did the Premier tell you anything at all about what you

4 heard today, that he is going for country's business?

5 A. No, sir.

6 Q. Not wanting to lead you, on the occasions when

7 the Premier leaves the country, are you always aware of

8 the reasons?

9 A. No, sir.

10 SIR ROBIN AULD: Or where he has gone?

11 A. Or where he is going.

12 SIR ROBIN AULD: You always know where he is going, do you?

13 A. I do not know where he is going.

14 SIR ROBIN AULD: So no reason and you do not know where he

15 is, yes?

16 A. Yes.

17 MR SMITH: You were shown a cheque by Mr Fitzgerald. Now,

18 we are clear that the cheque, the source of that funds

19 came from your brother, is that correct?

20 A. Yes, sir.

21 Q. And whether it is your brother loaned him or you loaned

22 him, you agree it came from the family sources?

23 A. Yes, sir.

24 Q. Could you explain why is it that the cheque is not made

25 out to the Premier, but it is made out to Belize Bank?

1 A. The Premier told me to make it out to the Belize Bank  
2 and take it to the manager, who was then  
3 Sandy Lightbourne.  
4 Q. And you did that?  
5 A. I did that.  
6 Q. Did he indicate to you the reason why he wanted  
7 the cheque to be made out to Belize Bank instead of him?  
8 A. No, he did not.  
9 Q. A question was posed to you in relation to threats.  
10 A. Yes, sir.  
11 Q. You said that you got those from reliable sources, is  
12 that correct?  
13 A. Yes, sir.  
14 Q. Did you take those threats seriously?  
15 A. Yes, sir, very seriously.  
16 Q. What, if anything, did you and your family do as  
17 a result of receiving those threats?  
18 A. We spoke to the police officer and my husband sent  
19 an email and made some -- to the Commission, sent  
20 an email.  
21 Q. So you didn't just brush those off?  
22 A. We did not, no, sir.  
23 SIR ROBIN AULD: They didn't do what?  
24 MR SMITH: Brush those threats off, she took them seriously.  
25 You said you turned them over -- you reported to the



1 police what you heard?

2 A. Yes, sir, I spoke to the police.

3 Q. As far as you know, can you tell us whether the police

4 are investigating that situation?

5 A. They are awaiting for a statement from me.

6 Q. Do you intend to provide that?

7 A. Yes, sir.

8 Q. A document was shown to you in relation to removal of

9 certain constituents from a low land area. What is

10 a low land area in Five Cays, what exactly is that?

11 A. That is living literally on the beach area, very near to

12 the water, and after we experienced the surge during

13 the hurricane, I wanted to see them moved to safe -- to

14 a safer area.

15 Q. So it was a situation of attempting to move them from

16 a dangerous situation to another situation?

17 A. Yes.

18 Q. A more safe situation?

19 A. Yes, a more safe, yes, situation.

20 Q. Are we agreed that your brother was not living in a low

21 land area?

22 A. He was not, no.

23 Q. You would understand the reason why the question is

24 posed as to why you did not allow your brother to go

25 through the normal process of the application for

1 the land. You agree with that?

2 A. I do agree, yes.

3 Q. You do understand that?

4 A. I understand and I wish that Lynn did not attach his

5 name to the subdivision. This is really the first time

6 that I paid attention to this. I really wish that she

7 had allowed him to go through the right process.

8 Q. On the issue of the rents, that was -- rental that was

9 done to the tourist board and

10 the National Kidney Foundation?

11 A. Yes.

12 (12.45 pm)

13 Q. Let's deal with them individually. As far as

14 the Kidney Foundation was concerned, was the rate that

15 they were paying for rent higher than the market rate?

16 A. No it was not.

17 Q. Could you give us an idea of the kind of space they were

18 renting?

19 A. They are renting three spaces together, a generator pad,

20 and we had to make provision for some mechanical space

21 because the dialysis machine needed some special

22 mechanical sewage plant and so forth. So we had to take

23 all of those into consideration.

24 Q. So they rented three areas?

25 A. Yes, three different space areas.

1 Q. What were they paying for rents for those three areas?

2 A. Together they are paying probably about \$2,000, that is

3 inclusive of the generator, all of the -- everything

4 that included per month.

5 Q. Were you the person who was responsible for negotiating

6 that lease?

7 A. No, sir.

8 Q. Were you the person responsible for fixing the rent?

9 A. No, sir.

10 Q. Did you disclose that fact to any of your submissions to

11 your Commission, that you were renting space to

12 the Kidney Foundation?

13 A. Yes, I did.

14 Q. Secondly, the tourist board, you indicate that they were

15 a statutory body?

16 A. Yes, sir.

17 Q. Were they paying above the market rate?

18 A. No, sir.

19 Q. Is there anything that prevents you as a businesswoman,

20 even though you are a Member of Parliament, from renting

21 offices to statutory bodies?

22 A. No, sir.

23 Q. On the issue of scholarships. At what point in time you

24 became minister of education?

25 A. In 2003.

1 Q. Would you agree with me that at the time when you came  
2 into the job as minister of education, was there or was  
3 there not a written scholarship policy?

4 A. Not -- there was not a written scholarship policy.

5 Q. Did you do anything in relation to that?

6 A. Yes, it was under my watch that I produced a scholarship  
7 policy for the Turks & Caicos. It is the first national  
8 scholarship policy.

9 Q. So you generated or commissioned a written scholarship  
10 policy, is that correct?

11 A. Yes, sir.

12 SIR ROBIN AULD: Do we have that? Do we have it in our  
13 papers?

14 MR MILNE: The scholarship policy is in one of the latter  
15 bundles, sir. I think probably volume 6.

16 SIR ROBIN AULD: Thank you. Can you identify it for us,  
17 Mr Smith? It is quite important to see what it says.

18 MR SMITH: I am not even sure what bundle it is. But I know  
19 it is there.

20 SIR ROBIN AULD: I don't see it in the index of 6 but it may  
21 be within another document. Is it referred to in the  
22 scholarships programme audit report?

23 There is a national scholarship policy in 2005. Is  
24 that it?

25 A. Yes, sir.

1 MR SMITH: Yes.

2 SIR ROBIN AULD: It is referred to on page 3 of

3 the scholarships programme audit report in red 3, behind

4 tab 5.

5 MR SMITH: If it is not in any of the bundles, I may have

6 thought it was, but I would be happy to have a copy

7 provided to the Commission.

8 SIR ROBIN AULD: Yes, I think we should know what it says.

9 MR SMITH: We can make arrangements for a copy to be made

10 available to the Commission.

11 SIR ROBIN AULD: Thank you.

12 MR SMITH: Will you agree with me that that scholarship

13 policy only went into effect in September 2006?

14 A. Yes, sir.

15 Q. Even though the actual document was drafted and ready in

16 September 2005, is that correct?

17 A. Correct.

18 Q. What was the procedure then, ma'am, prior to -- what was

19 the procedure in relation to scholarships prior to

20 the commencement of an implementation of a scholarship

21 policy?

22 A. That a board called the scholarship board, not mandated

23 but -- and ministers with the help of ministry of

24 education staff, would have issued scholarships.

25 Q. Correct me if I am wrong, there were two methods how

1 the scholarships could be issued: one through  
2 the advisory committee and one on recommendations from  
3 ministers, is that correct?  
4 A. Correct.  
5 SIR ROBIN AULD: Well, it is very unsatisfactory dealing  
6 with it in this way without the documentation. I am not  
7 criticising you but effectively you are asking this  
8 witness to interpret documents that are not before me.  
9 MR SMITH: I am not asking her about the document. I am  
10 asking her prior to the implementation of the document.  
11 I recognise that the document is not here.  
12 SIR ROBIN AULD: Yes. Well, what is the institutional basis  
13 for the question then? Were there no other governmental  
14 requirements before the policy?  
15 MR SMITH: That is my understanding.  
16 SIR ROBIN AULD: Is that right, there was nothing at all?  
17 A. There was a scholarship -- okay, it was the advisory --  
18 the education advisory committee, that is the law. But  
19 it did not have specific functions for the allocation of  
20 scholarship, but it served to advise the minister on all  
21 educational issues and that includes scholarship issues.  
22 SIR ROBIN AULD: This is pre-implementation of the national  
23 policy of 2005, is it?  
24 A. Yes, sir.  
25 SIR ROBIN AULD: Not necessarily you, Mr Smith, but I shall

1 obviously, if this is important, need to see the before  
2 and after legal position documented as far as it can be.  
3 MR SMITH: Do you have a copy of the scholarship policy with  
4 you?  
5 A. I am sorry, I did not bring it.  
6 SIR ROBIN AULD: Let's come back to it when we have laid our  
7 hands on --  
8 MR SMITH: Very well.  
9 Now, will you agree with me that immediately after  
10 the PNP came into power in 2003, there was issuance of  
11 lots of scholarships?  
12 A. Yes, sir.  
13 Q. You would agree with me also that a lot of those  
14 scholarships came directly from recommendations from  
15 various ministers and Members of Parliament, is that  
16 correct?  
17 A. Yes, sir.  
18 Q. Particular attention was drawn to the scholarship that  
19 was given to your daughter?  
20 A. Yes, sir.  
21 Q. Why is it that you decided not to have her scholarship  
22 gone through the election -- education advisory  
23 committee?  
24 A. I should have done that, sir. But it was done in  
25 a setting with all ministers and I was not particularly

1 the one who agitated for it but I should have allowed it  
2 to go through the advisory committee.

3 Q. At the time your daughter made an application, was she  
4 a graduate of high school?

5 A. Yes, sir.

6 Q. Was she accepted into university?

7 A. Yes, sir.

8 Q. To your mind was there any qualifications that a regular  
9 applicant would require that she did not have at the  
10 time you decided to award her the scholarship?

11 A. She was qualified for the scholarship.

12 Q. You said that she took up her scholarship and she is now  
13 three classes away from a Masters, is that correct?

14 A. Yes, sir.

15 Q. Having the power of hindsight, what problems do you see  
16 with the scholarship programme as it stands now, and  
17 what suggestions would you give to have its remedy?

18 A. Well, we have given -- during my time as minister of  
19 education, my staff and I start working on an amendment  
20 to the education ordinance to provide for a scholarship  
21 board so that the scholarship board would award  
22 scholarships and monitor them. However, we started that  
23 process even during my time -- that what is called  
24 a scholarship board but constitutionally the education  
25 advisory committee would monitor the students, their



1 grades, among the issuance of scholarships also.

2 That would be my recommendation, that the review  
3 continue and the amendment is made to the ordinance so  
4 that we will really set up a proper scholarship board.

5 Q. So if I understand you, your recommendation is to have  
6 a legally statutory scholarship board that has a sole  
7 discretion to award as well as monitor scholarships?

8 A. Yes, sir.

9 MR SMITH: I have nothing further.

10 SIR ROBIN AULD: Thank you, Mr Smith. That would be a good  
11 moment to break, I think. 2 o'clock.

12 (1.00 pm)

13 (The short adjournment)

14 (2.00 pm)

15 SIR ROBIN AULD: Yes, Mr Milne.

16 Re-direct by MR MILNE

17 MR MILNE: Mrs Boyce, I will be very short. There is just  
18 one issue that I need to deal with. In the questions  
19 that you have answered in response to your own counsel  
20 and indeed other counsel, your evidence if I understand  
21 correctly now is that you have learnt things in the last  
22 few weeks about your colleagues in Cabinet, particularly  
23 the Premier, that would have caused you to act  
24 differently had you known about them?

25 A. Yes, sir.

1 Q. Are we to take it, then, that you have sat with  
2 the Premier for five years in Cabinet and never  
3 appreciated that there are issues about his handling of  
4 the economy and the government?

5 A. The economy and the government, I understand some of  
6 those issues but I am talking about overall general  
7 issues that I learned that I was not aware of.

8 MR MILNE: I have nothing further, sir.

9 SIR ROBIN AULD: Mrs Boyce, I have just a couple of matters  
10 that I would like to ask you about.

11 We heard a good deal from the Honourable Floyd Hall  
12 about the system of PNP funds. Were you aware that  
13 there were two PNP bank accounts, one held at the  
14 First Caribbean International Bank and the other at the  
15 Belize Bank?

16 A. Yes, sir.

17 SIR ROBIN AULD: Did you know the way in which funds were  
18 disbursed from each of those accounts?

19 A. No, sir.

20 SIR ROBIN AULD: Did you know of the breadth of objects for  
21 which payments were made out of them?

22 A. No, sir, I did not.

23 SIR ROBIN AULD: What did you understand at the time  
24 the purpose of donations from or to either of those  
25 accounts was?

1 A. That they were for campaign purposes.

2 SIR ROBIN AULD: So that payment out of either for

3 personal -- clearly personal matters or wholly unrelated

4 matters are payments that you would not have expected?

5 A. No, sir.

6 SIR ROBIN AULD: And didn't know about or did?

7 A. I did not know about them.

8 SIR ROBIN AULD: Just a question, I hope you won't think

9 this is ending on a sour note, the criteria for

10 the award of scholarships before the national policy was

11 introduced and after it, did those criteria include

12 a financial threshold?

13 A. A financial threshold?

14 SIR ROBIN AULD: Yes, did you have to show that you lacked

15 sufficient means to go to a good school in, for example,

16 the States or in England and needed the money?

17 A. No, sir.

18 SIR ROBIN AULD: There was no financial criterion at all?

19 A. No, sir.

20 SIR ROBIN AULD: I ask you that because I just wondered why

21 it was that your daughter needed a scholarship, however

22 well she did. You were in a good way of living by then.

23 A. Yes, sir.

24 SIR ROBIN AULD: Did she need a scholarship?

25 A. Yes, sir.

1 SIR ROBIN AULD: Because you could not afford to pay for it  
2 yourself?  
3 A. I could not, sir.  
4 SIR ROBIN AULD: Thank you. Those are all my questions and  
5 all the questions unless anybody has any questions  
6 arising out of them. Thank you, Mrs Boyce, for your  
7 patience in coming back so often to give the evidence  
8 you have.  
9 SIR ROBIN AULD: Thank you.  
10 A. Thank you, Sir Robin.  
11 SIR ROBIN AULD: Mr Misick.  
12 MR MISICK: Yes, sir.  
13 SIR ROBIN AULD: What we have decided, subject to anything  
14 you have to tell me about your instructions, is to call  
15 next Mr Don-Hue Gardiner, which I think is not quite  
16 the order I gave you yesterday but if you have something  
17 you need to tell me about your own position, then do so  
18 now.  
19 MR MISICK: Yes. What I can tell you, sir, is both last  
20 night and this morning I raised the subject of  
21 the possibility of conflict between the position of  
22 Mr Hall and Mr Wilson with Mr Wilson on both of those  
23 occasions as well as before. I have been assured by  
24 Mr Wilson that there is no daylight between him and  
25 Mr Hall on any issue of any significance before this

1 Commission, so based on those assurances, I am prepared  
2 to continue. Of course if those assurances turn out to  
3 be otherwise, then I obviously will have to reconsider  
4 my position, but as things stand now I am told, and  
5 I have given him every opportunity to go elsewhere, but  
6 he has insisted that he doesn't wish to do so.

7 SIR ROBIN AULD: Thank you. It may or may not help you to  
8 have a bit of time between now and calling him.  
9 I suppose the best thing I can say is we may reach him  
10 today, if you don't mind being held in suspense for  
11 a good deal of the afternoon.

12 MR MISICK: Yes, I understand the reason for that sir.

13 SIR ROBIN AULD: Perhaps Mr Don-Hue Gardiner could come  
14 forward.

15 MR DON-HUE GARDINER (sworn)

16 Direct-examination by MR MILNE

17 MR MILNE: Mr Gardiner, as we have heard your full name,  
18 I think Ricardo Don-Hue Gardiner but you are known as  
19 Don-Hue?

20 A. Yes, that is right.

21 Q. You are an appointed Member of the House of Assembly,  
22 appointed by the PNP?

23 A. Appointed by the Governor acting in accordance with the  
24 advice of the Premier.

25 Q. You are a PNP member?

- 1 A. I am -- I am not sure I know what you mean.
- 2 Q. You are a member of the PNP?
- 3 A. I am a member of the PNP, yes, card-carrying member.
- 4 Q. I don't think it is controversial, sir, but as we
- 5 understand it, you were formerly the Secretary General
- 6 of that party?
- 7 A. Yes.
- 8 Q. You are now the Chairman, is that right?
- 9 A. Yes.
- 10 Q. How long have you been Chairman?
- 11 A. Since about August of last year.
- 12 Q. Since August of 2008. How long before that had you been
- 13 Secretary General?
- 14 A. It would have been about early or so 2000, I believe.
- 15 Q. So in fact you held the post for approaching eight
- 16 years?
- 17 A. Yes.
- 18 Q. We have heard the expression, "trustees of the party".
- 19 Being Secretary General, does that make you a trustee of
- 20 the party?
- 21 A. No.
- 22 Q. Presumably being Chairman does, though?
- 23 A. No.
- 24 Q. What is a trustee of the party then?
- 25 A. A trustee of the party is a person whom the national

1 congress of the party would elect at yearly or -- yearly  
2 intervals or so to be trustees.

3 Q. The PNP, does it have an annual convention?  
4 A. No.

5 Q. Does it have annual meetings of any sort?  
6 A. No.

7 Q. What sort of meetings does it have?  
8 A. The party has a congress every three years.

9 Q. What does a congress consist of?  
10 A. The congress consists of all of the officers of the  
11 party, all elected -- all Members of Parliament on  
12 the party's side, all caretakers of constituencies,  
13 constituency council chairpersons and three delegates  
14 from each constituency.

15 Q. Does the PNP have general membership for ordinary  
16 members of the public?  
17 A. There is provision for that.

18 Q. Is there much take-up on that?  
19 A. There are many people who identify themselves as PNP,  
20 but there is not any -- there is not much persons who,  
21 what I would call card-carrying members of the party.

22 Q. To be a card-carrying member of the party, is there some  
23 annual subscription?  
24 A. There is provision for that, yes.

25 Q. Are you able to tell us how many card-carrying members

- 1 there are of the PNP at this stage?
- 2 A. I would not be able to say.
- 3 Q. You are the Chairman of the party.
- 4 A. I refer you to the answer I gave you some moments ago.
- 5 Q. I beg your pardon, sir?
- 6 A. I refer you to the answer I gave some moments ago.
- 7 You asked that question before. I said yes, I am. It
- 8 is the same answer.
- 9 Q. So you are not able to tell us how many people there are
- 10 in your party, is that right?
- 11 A. I am not able to tell you how many persons are members
- 12 of the party.
- 13 SIR ROBIN AULD: Give us a rough idea.
- 14 A. A couple of hundred.
- 15 Q. Do you receive an income from the PNP?
- 16 A. No.
- 17 Q. Have you ever received an income from the PNP?
- 18 A. No.
- 19 Q. Any salary?
- 20 A. No.
- 21 Q. Any sort of candidate stipend?
- 22 A. No.
- 23 Q. Never paid for anything?
- 24 A. I have never.
- 25 Q. And that would include expenses, you have not received



1 expenses of any sort?

2 A. I have -- to the best of my knowledge, no.

3 Q. How many people do receive salaries from the PNP?

4 A. The party, I believe, had okayed payment of salaries for

5 the Chairman, the leader and I believe the deputy

6 leader. The party has also okayed a salary for what is

7 termed the assistant to the Secretary General, sometimes

8 referred to as the Secretary of the party.

9 SIR ROBIN AULD: You say the party had okayed. What are

10 the mechanics of that? Who in the party had okayed?

11 A. I believe it would have been the national executive

12 committee.

13 MR MILNE: Fine. Who is on the national executive

14 committee?

15 A. The national executive committee is made up of

16 the officers of the party and three Members of

17 Parliament who represent -- three Members of Parliament

18 that represent the party in Parliament.

19 Q. Would you have been one of the officers at the time

20 the salaries were approved?

21 A. Yes, I believe so.

22 Q. What was the level of salary that was approved for

23 the leader of the party?

24 A. I do not remember.

25 Q. What about the deputy leader?

- 1 A. I do not remember.
- 2 Q. Or indeed the chair?
- 3 A. The Chairman was to receive a salary of, I believe, 60K
- 4 a year.
- 5 Q. You are chair now. Do you get 60K a year?
- 6 A. Not as Chairman of the party.
- 7 SIR ROBIN AULD: You seemed to qualify your answer there in
- 8 some way.
- 9 A. I receive no monies from the party.
- 10 MR MILNE: So that salary, is it simply that you choose not
- 11 to draw it or does the party not offer it any more?
- 12 A. I have not -- I have taken the position that I will not
- 13 seek to draw on it.
- 14 Q. But the salary would be available, should you wish to?
- 15 A. Yes, the authorisation still stands.
- 16 Q. To the best of your knowledge, do the Premier and
- 17 the Deputy Premier, the leader and the deputy leader
- 18 I should say, draw their salaries?
- 19 A. I do not know.
- 20 Q. Who would know that?
- 21 A. They would.
- 22 Q. I am sure they would. Who would know within the party?
- 23 A. I would expect that the persons who would have been
- 24 Chairman before me would have.
- 25 Q. Is that Mr Lloyd Stubbs?

1 A. Yes.

2 SIR ROBIN AULD: Somebody in the party pays them the money.

3     Somebody knows. Who is it?

4 A. I don't know.

5 SIR ROBIN AULD: You don't even know the officer within

6     the party who is responsible for paying the stipends?

7 A. I have never made any salary payments to anyone.

8 SIR ROBIN AULD: I didn't ask you that. As Secretary

9     General of some years and now Chairman, are you saying

10    you don't know who the officer in your party, who is

11    responsible for paying such stipends as there were to

12    the Chairman and others?

13 A. I believe it would be the person who would be

14    signatories to the account.

15 SIR ROBIN AULD: Who is that?

16 A. It would be the party Treasurer.

17 SIR ROBIN AULD: That is Mr Floyd Hall.

18 A. Yes.

19     The assistant Secretary General, sometimes referred

20    to as the secretary of the party, the leader. Those are

21    the persons that would actually undertake that kind of

22    work.

23 SIR ROBIN AULD: Forgive me, I ought to know the difference

24    between the Chairman and -- the leader is the Premier,

25    is it?

1 A. Yes.

2 MR MILNE: Where does the money come from to pay  
3 the salaries?

4 A. The monies would come from contributions from  
5 the public.

6 (2.15 pm)

7 Q. If there is something in the order of 200 members, how  
8 much do the members pay to be members of the PNP?

9 A. Members, there is a nominal sum, I do not remember what  
10 it is. However, we find that members do not generally  
11 make those payments.

12 Q. So when you say nominal sum, are we talking in terms of  
13 \$10, \$20, \$50, something of that nature?

14 A. Yes, I believe it is a very small yearly sum.

15 Q. So not sufficient to generate funds for salaries?

16 A. Yes, that would be my belief.

17 Q. But then contributions come in?

18 A. Yes.

19 Q. Did you ever receive any contributions paid directly to  
20 you?

21 A. No, I don't recall receiving any contributions to me.

22 Q. Have you ever had political donations made to you?

23 A. I do not recall receiving any political donations to me.

24 Q. It is the sort of thing, would you agree, that one might  
25 remember if large sums were paid directly to you in

1 person?

2 A. Yes, yes.

3 Q. You were aware, I would suggest, that the PNP operates  
4 two bank accounts, is that correct?

5 A. I am not aware how many accounts the party would have.

6 Q. Were you aware that there was an account with  
7 the First Caribbean International Bank?

8 A. I am -- I do not remember where the -- I know that the  
9 party had an account. I can't tell you exactly where it  
10 was.

11 Q. We have heard evidence from the Deputy Premier that  
12 there was an account with  
13 the First Caribbean International Bank, which appears to  
14 be one of the main operating, perhaps the main operating  
15 account for the party, from which contributions -- from  
16 which expenses were made essentially. You were unaware  
17 of that?

18 A. I know that the party had an account. I can't tell you  
19 exactly which bank it was at.

20 Q. We learnt from the Deputy Premier that there was  
21 a second, indeed second and third account, but two  
22 accounts operating in tandem with the Belize Bank, which  
23 ran up an overdraft and which resulted in a loan account  
24 being the second of those two they put in place. Were  
25 you aware of that account?

1 A. No.

2 Q. When did you first become aware of that account?

3 A. In about November or December of last year.

4 Q. How did you learn of it?

5 A. I had a conversation with someone who had -- who

6 mentioned it to me.

7 Q. Can you remember who it was who mentioned it to you?

8 A. Yes.

9 Q. Who was it?

10 A. It would have been the party member for North Caicos

11 West.

12 Q. Does that party member have a name?

13 A. Yes.

14 Q. Who is it, please?

15 A. Royal Robinson.

16 Q. So Royal Robinson told you of the Belize Bank account,

17 and that was the first that you knew of it, although you

18 had been party Chairman by then for a couple of months

19 or most?

20 A. Yes.

21 Q. Did he tell you the state of that account?

22 A. No.

23 Q. When did you learn that it was a million and a half

24 overdrawn?

25 MR SMITH: Objection, I don't think there is any testimony

1 that he learned it was a million and a half overdrawn.

2 SIR ROBIN AULD: Did you learn that it was one and a half

3 million overdrawn?

4 A. No, I don't have a clue --

5 SIR ROBIN AULD: Did you learn that it was overdrawn?

6 A. No, I didn't know it was overdrawn.

7 MR MILNE: Have you followed the testimony that has been

8 going on in public here?

9 A. No, I have not.

10 MR MILNE: You have not read any of the reports on the

11 Commission?

12 A. I have not, no.

13 MR MILNE: Because it was discussed in some detail. You

14 might be aware of that. Now you learn for the first

15 time today that your party's second account is a million

16 and a half overdrawn?

17 A. If that is the case, yes.

18 Q. Does that give you cause for concern?

19 A. It would not.

20 Q. No?

21 A. No.

22 Q. Why not?

23 A. Because if it is overdrawn -- well, it would give me

24 cause for concern, depending on how the authorisation

25 for the overdraft was arrived at. Not knowing that,

1 I guess then -- I guess that I would be concerned.

2 SIR ROBIN AULD: If you didn't know about it and you now do,  
3 and you don't know how it came about, you would be  
4 concerned, wouldn't you?

5 A. That is what I said.

6 SIR ROBIN AULD: You must be sitting there concerned to know  
7 about this.

8 MR MILNE: Well, the overdraft came about, I think we can  
9 take a stab in the dark on this one, because somebody  
10 spent more money than they had. Does that give you  
11 cause for concern?

12 A. Yes, it would.

13 Q. Right. Did you ever consider that as Chairman of the  
14 party, you should have been let in on the secret  
15 a little sooner?

16 A. As Chairman of the party I would have hoped that --  
17 I would have hoped that I would have been.

18 Q. Right.

19 A. But not knowing when the overdraft was made, I don't  
20 know whether the Chairman at the time would have been  
21 aware.

22 Q. When you took over from your predecessor, he didn't  
23 mention anything about that to you, obviously?

24 A. No.

25 Q. Although you were Secretary General throughout



1 the entire period that it came into being, the money was  
2 spent, again, nobody saw fit to tell you anything about  
3 it, is that your evidence?  
4 A. Yes.  
5 Q. Do you personally have any links with the Belize Bank?  
6 A. No.  
7 Q. Do you have any knowledge of links between your party  
8 and the Belize Bank?  
9 A. Do I have any?  
10 Q. Do you have any knowledge of links between your party  
11 and the Belize Bank?  
12 A. Other than what we discussed just now, no.  
13 Q. Other than a business account with an overdraft  
14 facility. The evidence that the Commission has received  
15 discloses that in 2006 there was a PNP meeting, I think  
16 a general meeting. Would that have been one of the  
17 congress meetings that you were talking about?  
18 A. In 2006 we would have had a congress, yes.  
19 Q. These are the congress meetings that are held once every  
20 three years. So that -- presumably the next one due  
21 later this year?  
22 A. No.  
23 Q. No?  
24 A. No.  
25 Q. What are we missing? Has there been another one since

1 then?

2 A. Yes, there has been another one since then.

3 Q. When was that?

4 A. There would have been one, I believe, in 2007 and

5 another one in 2008.

6 Q. So rather than every three years, they have been held

7 annually for the last three years. Is that right?

8 A. Yes.

9 Q. On the occasions of those meetings, has there been any

10 sort of financial presentation to the party as to

11 the current state of the accounts?

12 A. There was -- I did not attend the meeting in 2006.

13 SIR ROBIN AULD: Was there an agenda for it?

14 A. I was not involved in the meeting at all.

15 SIR ROBIN AULD: Was there an agenda prepared for

16 the meeting?

17 A. I did not prepare an agenda for a meeting.

18 SIR ROBIN AULD: Did you not see an agenda for the meeting?

19 A. I did not see an agenda for the meeting.

20 MR MILNE: What about the 2007 meeting? Did you attend that

21 one, first of all?

22 A. Yes.

23 Q. Was there any sort of financial presentation in 2007?

24 A. No.

25 Q. No?

1 A. No, there was not.

2 SIR ROBIN AULD: Was there any minutes of the 2006 meeting?

3 A. I have not seen any minutes of the 2006 meeting.

4 MR MILNE: Is it conventional for meetings to be minuted?

5 A. It is conventional that decisions would be noted.

6 Q. Would it not be conventional for any financial

7 commitments to be discussed by the party, so that

8 the party could have an input into the direction

9 the party was going to take?

10 A. At times there were, at times there were not. I have

11 been around, involved in the party since about 2000, and

12 during that time there have been occasions when that has

13 happened.

14 Q. Is this right, there were no financial discussions at

15 all in 2007? Let's turn to the congress meeting in

16 2008. Did that take place before or after you were

17 appointed as chair?

18 A. That would -- it would have been at that meeting that

19 I was chosen to be Chairman.

20 Q. Was that by way of internal election?

21 A. Yes, it is by way of election.

22 Q. That would have been August 2008 as you have told us.

23 At that meeting when you became chair, again, was there

24 any financial discussion at all?

25 A. No. There was none.

1 Q. So is money never discussed at these meetings? We seem  
2 to have had one which you were not present at, two  
3 subsequent meetings where there was no discussion at  
4 all. Is money just never raised as a topic,  
5 fundraising, disbursal of money, matters of that sort?

6 A. We have had discussions at some meetings dealing with  
7 finances and at others there wasn't any.

8 SIR ROBIN AULD: Do you not at least have a Treasurer's  
9 report?

10 A. The Treasurer has made reports. The last two meetings  
11 that I would have attended, there was not a report made.

12 SIR ROBIN AULD: And does the Treasurer report to any other  
13 meeting of any other sort of the party ever on the state  
14 of its finances?

15 A. The Treasurer would, from time to time, report to the  
16 NEC as to what is what.

17 SIR ROBIN AULD: In writing?

18 A. I don't recall it ever being in writing.

19 (2.30 pm)

20 MR MILNE: You have been present on a number of occasions  
21 when the Treasurer has reported back to the NEC?

22 A. Yes.

23 Q. Over what period of time are we talking here? Over  
24 the entire period of your role as Secretary General?

25 A. During the time that I have been Secretary General, it

1 would have happened a handful of times.

2 Q. Obviously the account we have been told about would not

3 have been in existence at the very beginning of your

4 period as Secretary General. But at none of the

5 subsequent meetings has anybody ever mentioned

6 the Belize Bank account to you? Is that correct?

7 A. I became aware of the account at Belize Bank at the time

8 that I told you earlier that I did.

9 Q. So not until November or December of 2008?

10 A. Yes.

11 Q. Let's move to a slightly different topic. As

12 an appointed Member of the House of Assembly, you

13 obviously work with your colleagues in the House of

14 Assembly. Am I right in thinking that although you are

15 not elected, you play a similar role to them within

16 the House of Assembly; you simply don't have

17 a constituency that you would have to service in the way

18 that they would?

19 A. I caucus with them.

20 Q. You caucus with them. No doubt you would have meetings

21 from time to time with the ministers within the PNP

22 caucus?

23 A. There would be meetings at which they would have been in

24 attendance.

25 Q. Apart from attending the various House of Assembly

1 meetings, what other roles have you found yourself

2 undertaking as an appointed Member?

3 A. As an appointed Member, other than attending meetings,

4 I would have been involved in assisting the drafting of

5 legislation. I would have been involved in -- I have

6 asked questions. I contribute to debates on the floor

7 of the House. As a Member of the House, I am entitled,

8 if I so desire, to be a member of the local branch of

9 the Commonwealth Parliamentary Association. Through

10 that I would have travelled abroad on

11 Commonwealth Parliamentary Association business.

12 I would at times attend caucus meetings where bills

13 or other matters pertaining to the role of a legislature

14 would have been discussed and I would have had an input

15 on certain bills.

16 Q. You have a bundle in front of you which is a bundle of

17 disclosure, which has been provided to the Commission.

18 If you would open that, please, sir. Look first of

19 all at page 3.

20 A. Yes.

21 Q. That, I think, is a form of disclosure. This is

22 the form that you were asked to fill out,

23 the declaration which is required for

24 the Registration of Interests Ordinance which we touched

25 on before.

1 This particular one, 15th October 2008. So we can  
2 be clear, what period does this cover?  
3 A. This would have covered the period since I made my --  
4 since I handed in my declaration some time in,  
5 I believe, January/February, March of last year up to  
6 the date that it was handed -- that it was actually  
7 drawn up.  
8 Q. So is this the one that was done in response to  
9 the Commission's request?  
10 A. Yes, this is the form that was done in response to the  
11 Commission's request.  
12 Q. Because this is, in fairness, fairly full. It provides  
13 details of employment for office and you specify then,  
14 apart from being an appointed MP, that you are what is  
15 termed the change manager for the immigration  
16 department, and indeed general counsel to Turks Limited  
17 because you are qualified, I believe, in the law, is  
18 that right?  
19 A. That is right.  
20 Q. You also declare under financial sponsorship and gifts,  
21 I think travel, which was paid for to CPA branches.  
22 Commonwealth Parliamentary Association, which you  
23 touched on a few minutes ago; and of course overseas  
24 visits really falls into much the same category here.  
25 You make declarations in parcels of land. Two companies

1 which we will come back in a couple of minutes' time and  
2 liabilities that you hold with three financial  
3 institutions.

4 A. Yes.

5 Q. Before that, if we turn to page 9, is this your previous  
6 declaration made to the Register of Interests?  
7 Registrar of Interests?

8 SIR ROBIN AULD: That is his register of the returns, isn't  
9 it? For the return.

10 A. Pardon?

11 SIR ROBIN AULD: This is the Registrar's return, record,  
12 rather, of your return.

13 A. Yes.

14 MR MILNE: The only reason I ask, and this may be an error  
15 on the part of the Registrar, it is rendered -- it was  
16 submitted to us. It is rendered as Gardiner Richardson  
17 D. Is your full name in fact Richardson or is  
18 it Ricardo?

19 A. It is not Richardson.

20 Q. So that is an error, but because the details that we see  
21 appear to reflect your subsequent declaration, we assume  
22 the rest of this is correct.

23 I am not suggesting for a minute you would have got  
24 your name wrong but it appears that it has been wrongly  
25 rendered in the register?



1 A. Yes, I can assure you that I spelt it correctly.

2 Q. I am sure you did, sir, but the directorships you  
3 declare again the two companies, your employment or  
4 office laid out there, trade or profession, attorney at  
5 law; and you declare your financial sponsorship, salary  
6 from TCI government, government allowances as a Member  
7 of Parliament. Over the page you make reference to the  
8 CPA conference. A little less detail as regards land  
9 but you do refer to two lots at Cherokee Road in  
10 Providenciales and one lot in North Caicos and  
11 shareholdings effectively the same as the directorships.  
12 The two companies, the Caicos Group Limited and  
13 February 7th 2006 Limited.

14 Is that right?

15 A. That is right.

16 Q. If we take just a few minutes to deal with the issue of  
17 your income. You effectively received salary obviously  
18 as an appointed member of the House of Assembly, yes?

19 A. Yes.

20 Q. That -- sir, I am working, if it assists, from  
21 the letter provided at page 8 in the bundle. It may  
22 help the witness if he also turns to that.

23 You received a salary as a Member of Parliament?

24 A. Yes.

25 Q. You receive a separate salary in your role as -- are you

1 director of change management?

2 A. Change manager, yes.

3 Q. You receive a further salary from the private company,  
4 Turks Limited, and you refer to odd jobs that you do for  
5 individuals which may have generated some money?

6 A. Yes.

7 Q. I simply ask you this: when you were nominated by  
8 the Premier to be appointed as a Member, and we have  
9 that, if I can turn to it if need be, but you wrote  
10 a formal letter to the Governor, as was the requirement,  
11 and, sir, for the record, this is found at page 115.

12 But, Mr Gardiner, there is no criticism here at all, you  
13 made a declaration to him of the various interests that  
14 you had, your shareholdings in the company Caicos  
15 Group Limited and you stated that you were  
16 the immigration change manager. So it was all made  
17 quite clear should that be a conflict. Did you feel at  
18 any stage that it might be or there was the potential  
19 for conflict between your role as immigration change  
20 manager and your role as appointed Member?

21 A. Actually, initially I did.

22 Q. In a sense by being change manager, would it be fair to  
23 say that you were part of the civil service, part of the  
24 machinery of government?

25 A. No, that would not be a fair statement.

1 Q. You don't regard the job as that?

2 A. No.

3 Q. What is your role as change manager? What exactly are  
4 you required to do?

5 A. I was appointed change manager by Jim Postin, I believe  
6 it was at the time. ^name.

7 My role was to assist with the drafting of a new  
8 immigration legislation, some new policy directives and  
9 other matters dealing with immigration, bringing in  
10 a new immigration regime generally. I was also tasked  
11 initially with assisting in clearing the, what was  
12 considered at the time to be a backlog of applications  
13 by persons which were made over a period of time up to  
14 that point. The government, in accepting a report on  
15 immigration, had undertaken, or had agreed, I guess is  
16 perhaps the best way of saying it, to implement some of  
17 those recommendations, and one of those would have been  
18 the regularisation of long-term residents and so I was  
19 initially tasked with assisting in that.

20 Q. If you turn very briefly to page 121, we have there a  
21 list of payments. In fact every payment is exactly the  
22 same and it is the sum that you received, we understand,  
23 in your role as change manager. Is that correct?

24 A. That is correct.

25 Q. From there, we can see that you paid by cheque because

1 the cheque numbers are cited. It goes back as far as  
2 13th December 2004. Is that when you undertook that  
3 work for the first time?  
4 A. Yes.  
5 Q. This is a complete list? The list we have runs through  
6 to December?  
7 A. Yes.  
8 Q. The list runs through to December 2008. Obviously there  
9 has to be some cut-off point, but do you still hold that  
10 role now, do you still hold that post?  
11 A. I do.  
12 Q. In fact, as change manager, it has been, rather than a  
13 short-term contract, it is quite a long-term position?  
14 A. It has been a short-term contract and long-term  
15 position? Is that what you are asking?  
16 Q. No, rather than a one-year or a two-year contract, it  
17 appears to have run for several years now?  
18 A. Yes.  
19 Q. And therefore is the work still ongoing?  
20 A. The work is still ongoing. There is a -- I have  
21 actually completed a number of policy initiatives that  
22 have been handed to ministers. I have completed a draft  
23 of an immigration bill. I have completed -- for  
24 the first year or so, I believe, of this, the work was  
25 largely in assisting with the clearing of the -- with

1 the regularisation programme that the government had

2 undertaken.

3 Q. In addition to that, you have been employed by

4 Turks Limited?

5 A. Yes.

6 Q. I think within that role you first started with them, we

7 have your contract at page 185 within the bundle.

8 194. Is this your initial contract?

9 A. No, that is not it at all. It is at 207.

10 (2.45 pm)

11 Q. Yes, we have two different contracts here. This one

12 dated 25th October at page 208.

13 A. Yes.

14 Q. This is from 25th October 2006, and you were employed,

15 and although it is within the small text, essentially

16 this was on a two-year contract, is that right?

17 A. Yes.

18 Q. The agreed sum which we see towards the bottom of

19 page 210 was a salary of \$40,000 per annum?

20 A. Yes.

21 Q. Which in fact was to reflect, I think, a maximum of

22 25 hours a week. So it was, I suppose one could term it

23 part time, but it was not going to require you to work

24 a full week?

25 A. Yes.

1 Q. Therefore presumably it was anticipated that you take on

2 other work if need be?

3 A. Yes.

4 Q. That contract from October 2006 to run two years, but in

5 fact in August 2008, I think you negotiated, it must

6 have been a renewed contract. Is that the one that we

7 see from page 194 onwards?

8 A. It is.

9 Q. Your initial contract had been with Turks Limited?

10 A. Yes.

11 Q. This contract, however, in fact the contract is with

12 Dellis Construction Limited?

13 A. Yes.

14 Q. Notwithstanding that change of name, is this essentially

15 the same job extended, albeit under a different

16 corporate umbrella?

17 A. Yes.

18 Q. This one, I think, lifted the 25 hour cap on your duties

19 and this was essentially to devote yourself full-time to

20 Turks Limited or to Dellis Construction at least, is

21 that right?

22 A. More or less but not necessarily so. At clause 6.1 of

23 the draft there is a clause enabling other work.

24 Q. So other work, yes. Other work is not excluded but your

25 capacity, which we see at page 196, is to be chief legal

1 counsel, yes?

2 A. Yes.

3 Q. The duration again we see at 197 to be two years. At  
4 paragraph 5.3 on page 197:

5 "Unless otherwise permitted by the board or  
6 prevented by incapacity and subject to clause 10 [which  
7 follows] the executive [by which they mean you] shall  
8 devote his full time attention and abilities to  
9 the business of the company and such group companies for  
10 whom he is required to perform services."

11 Then that is qualified by paragraph 6, which says  
12 that you would be able to work and engage in other  
13 business and trade, professional occupation during  
14 the employment:

15 "... including his work in service of the Parliament  
16 and government of the Turks & Caicos Islands."

17 So clearly they were anticipating that you would not  
18 have to give up your political role or your government  
19 role?

20 A. Yes.

21 Q. In order to continue with this. That clearly -- it is  
22 not likely to be a standard clause. It has clearly been  
23 drafted with a view to your individual circumstances.

24 The change that came about there, though, was that  
25 your salary trebled with that new contract?

1 A. Yes.

2 Q. It was clearly a great deal more generous. Was there  
3 any particular reason why that happened at that point?

4 A. Yes, in about June or so of last year, I had indicated  
5 to government that I was considering moving on.  
6 I thought that lots of the stuff that I was meant to do,  
7 I had actually drafted -- completed the draft at a time  
8 it had been approved by ministers, and I thought that  
9 generally it was not moving quickly enough. I wanted to  
10 then move on and do other things and so I secured that  
11 position and had indicated my willingness to move on.  
12 So that is when that happened.

13 Q. So we can be clear about this, when you say you had  
14 indicated this to government, so that is in respect of  
15 your role as change manager?

16 A. Yes.

17 Q. You were contemplating essentially relinquishing that  
18 role?

19 A. Yes.

20 Q. How did that enable you to get three times the salary at  
21 Dellis Construction that you had been -- compared to  
22 what you had been previously receiving from  
23 Turks Limited?

24 A. Well, it was contemplated that I would -- basically my  
25 hours would -- at Dellis, would have changed from my



1 hours at Turks. And so I guess that is the reasoning  
2 behind the change in salary, going from a part-time more  
3 or less employee to a full-time employee; and at that  
4 time, I believe I had been in practice for about, or  
5 I had been -- I had close to 13 years PQE, and that  
6 seemed to be a reasonable sum.

7 Q. 13 years, when you say PQE, by that I take you to mean  
8 post-qualification experience?

9 A. Yes.

10 Q. Clearly as one becomes more senior, more experienced,  
11 one hopes and expects to get more salary to reflect  
12 the quality of the service that you are providing.

13 But that is a fairly dramatic leap, is it not?

14 A. It is.

15 Q. Treble the salary?

16 A. It is, but it is not an unusual amount for someone in  
17 that position on this island.

18 Q. Did the nature of your work that you had been doing for  
19 Turks Limited change when your official employer became  
20 Dellis Construction Limited?

21 A. Yes.

22 Q. How did it change?

23 A. When I started at Dellis, they were beginning their  
24 mobilisation on the island. I was involved in drafting  
25 a number of service agreements, employment agreements

1 and pretty much any other thing that may come up of  
2 a legal nature, in-house for the company.

3 SIR ROBIN AULD: This was in relation to the proposed island  
4 that was to be constructed, was it?

5 A. No.

6 SIR ROBIN AULD: I thought you said island.

7 A. Yes, it is in relation to construction of a resort on  
8 an island.

9 SIR ROBIN AULD: This is the --

10 A. On a natural island.

11 MR MILNE: This is Dellis Cay?

12 A. Yes, it is.

13 Q. Which is, as we understand it, under construction now,  
14 part way there, but clearly work is still ongoing?

15 A. Yes, work is ongoing.

16 Q. Did you work closely with Dr Cem Kinay?

17 A. No.

18 Q. Did you have much contact with him?

19 A. No, I wouldn't say I had much contact with him.

20 Q. Where were you based when you were working, were you on  
21 Dellis Cay or Providenciales?

22 A. I was on Providenciales.

23 Q. Were you working from the offices of the company or were  
24 you using your own accommodation?

25 A. I worked from their offices.

1 Q. Just dealing with the question of income. If we look at  
2 your letter and here we are going back to the very  
3 beginning of the bundle. I think it is page 8. You  
4 disclosed to the Commission that at least up until  
5 August of 2008, you were receiving in round sums about  
6 \$3,000 a month?

7 A. About 3K, yes.

8 Q. As an MP?

9 A. As an MP, yes, my salary would have been about \$2,500  
10 a month and my allowance as a Member of Parliament would  
11 have been about \$500 a month.

12 SIR ROBIN AULD: Let's identify for the record, this letter  
13 is undated but was received by the Commission on  
14 26th November of last year.

15 MR MILNE: Yes, that is correct, sir. You do provide,  
16 I think, in fact some pay slips. But we see some of  
17 those further on in the bundle and these are around  
18 page 116 onwards.

19 A. Yes.

20 Q. Although they appear to be considerably more. We will  
21 come back to those in a minute. At the period, at  
22 the time I think you were, as you say, earning 3,000,  
23 perhaps slightly more than \$3,000 a month. Is that  
24 right?

25 SIR ROBIN AULD: Not at the time of this letter. And not in

1 August either.

2 A. As an MP my salary has never been more than --

3 SIR ROBIN AULD: As an MP that is true.

4 A. Has never been more than 3,000. My salary has never

5 been more than 2,500. With the allowance, that would

6 have taken it to 3,000.

7 SIR ROBIN AULD: I was going to ask you about the allowance.

8 Where does the allowance come into that figure? You say

9 my salary as a Member of Parliament.

10 A. Yes, I had actually -- it all comes in one cheque.

11 I see it as salary. But there is -- they make

12 a distinction.

13 SIR ROBIN AULD: How much of that is salary and how much is

14 allowance?

15 A. 500 would be allowance and 2.5K would be salary.

16 MR SMITH: It is all spelt out at page 116. There is

17 actually a payslip at 116 that breaks it down.

18 SIR ROBIN AULD: Thank you very much.

19 MR MILNE: I think the figures, if we look at 116, it may

20 help if you want to turn to that, sir.

21 A. I have it.

22 Q. I think what is slightly confusing, because

23 the colouring of the document means it is slightly

24 obscured, but the column on the right-hand side is in

25 fact year to date. So it gives the cumulative totals.

1 But the central column gives member's allowance \$500,  
2 member's salary, 2,500. Total earnings \$3,000 and of  
3 course there is national insurance, NIS employee  
4 contributions which are deducted from that.

5 A. Yes.

6 Q. In total it means you earn slightly more than \$2,900  
7 a month. That was the case throughout your period of  
8 appointment and certainly up to November last year?

9 A. Yes.

10 Q. As change manager you are receiving \$7,500 a month.

11 A. Yes.

12 Q. Up until August of last year, as we have said before,  
13 you received a generous new package. You were only  
14 receiving \$3,333 each month from Turks Limited?

15 A. Yes.

16 Q. So in total, if we were to put those together, it is  
17 actually \$13,833 a month?

18 A. Yes.

19 Q. The reason I ask is this: you had, and you have declared  
20 to us, a number of liabilities as a result of loans  
21 taken out, and you have declared those to us as follows;  
22 that you have borrowed against two packages of land and  
23 you have two substantial loans, one for 1.1 million?

24 A. No.

25 Q. For development purposes?

1 A. No, that is not so.

2 Q. Not so?

3 A. No.

4 Q. What is that, then?

5 A. The loan, which is a mortgage from FCIB on my house.

6 Q. Yes?

7 A. The amount that has been authorised is, I believe, about

8 600K, of which just over 500K would have been drawn.

9 Q. Right.

10 Is that the item at the top of page 8 that you have

11 mentioned? You say 600K. There is a loan mentioned

12 there of \$585,000.

13 Actually, let me take you back, because I think it

14 may be that I have read from the wrong column, for which

15 I apologise, since this is my error.

16 Two parcels, one is 60703-158, which you bought for

17 \$40,000.

18 A. I think that may have been an error.

19 Q. The 40,000?

20 A. Yes. The sum would have been -- would be reflected,

21 I believe, somewhere else in the folder.

22 SIR ROBIN AULD: What should that figure be?

23 A. The amount -- if you give me half a minute I should be

24 able to find it. It would have been 12K. That was

25 a mistake on my part and I apologise for it.

1 (3.00 pm)

2 MR MILNE: Thank you for the clarification on that.

3 I think the confusion, and this is my fault and  
4 again I apologise for this, is that if we look at the  
5 top of page 8, you deal with a property there. I think  
6 at some point, you said the property had gone up in  
7 value and it may be that 1.1 is what you now thought it  
8 was worth?

9 A. Yes.

10 Q. That is probably neither here nor there. You had drawn  
11 a loan against this of some \$585,000 from  
12 the First Caribbean International Bank?

13 A. Yes.

14 Q. You have declared quite clearly there that the monthly  
15 repayment to service that loan ran to 5,853?

16 A. It is actually less than that.

17 Q. Is it significantly less?

18 A. It is about \$700 or so less.

19 Q. In the next paragraph down, you mention with a separate  
20 parcel of land, this is 60703/155, you had taken a loan  
21 with Meridian Mortgage Limited, which was secured on the  
22 property. That loan was paid off, and I think that that  
23 was costing in the order of \$3,000 a month?

24 A. No. What I said was that the loan with Meridian was for  
25 about 100K, that I was -- that there was a mechanism for

1 the loan payment at the end, that I was in the process  
2 of -- that I was contemplating refinancing it, at which  
3 point the refinance repayments would have been in  
4 the region of about 3K per month.

5 Q. I was going to ask you what -- it is not an expression  
6 that I am familiar with, a balloon repayment loan?

7 A. That is -- nothing is due until the pay-out date and at  
8 that stage it is all due.

9 Q. So it all falls due at one go?

10 A. Yes.

11 Q. So in fact were you making any repayments on that loan  
12 to the point of refinancing?

13 A. I was not.

14 Q. So therefore you are not having to meet that each month?

15 A. No.

16 Q. So other than that, you had, I think, a \$900 a month  
17 repayment on your car loan and a further \$2,000 a month  
18 being repaid to, is it PPC?

19 A. Yes.

20 Q. Which was a credit card bill that was accruing?

21 A. No. It was as a result of a disputed electricity bill.

22 Q. Quite a big electricity bill, I think?

23 A. Yes, very big.

24 Q. Some 14,000 dispute?

25 A. Yes.



1 Q. But is that now being paid off?

2 A. It is actually being paid off and -- it is actually

3 being paid off and there is probably going to be some

4 litigation initiated on my part concerning it.

5 Q. In round figures, would this be right, between the loan

6 that was being paid to the FCIB, disregarding the one

7 that is presently in abeyance and may be refinanced,

8 that would have been costing about \$5,000 a month? And

9 between the car loan and PPC, almost 3,000 further, so

10 about \$8,000 a month in repayments?

11 A. Yes.

12 Q. If we turn to the very last page of the bundle, you

13 provided the Commission with your credit card bills

14 covering a period from December 2005 through to

15 March 2008.

16 The schedule there, it is a simple schedule but it

17 simply extracts from those cards, and the page numbers

18 are given, should anybody wish to check individual

19 items.

20 SIR ROBIN AULD: What are we going to call this, Gardiner

21 credit card payments, is it?

22 MR MILNE: "RD Gardiner Credit Card Payments" is the heading

23 at the top, sir.

24 Just for clarity you see the words at the top, end

25 986 and end 362?

- 1 A. Yes.
- 2 Q. The impression one gains is that it was a single credit  
3 card account but the card number changed?
- 4 A. Yes, the card expired and a new one is issued.
- 5 Q. When they are reissued they are issued with a new  
6 number?
- 7 A. Yes.
- 8 Q. So there is no great significance in that. The old one  
9 lapses, the new one takes over?
- 10 A. Yes.
- 11 Q. But the total incurred on that card over the period, and  
12 this is some 28 months, was \$122,000.
- 13 A. That --
- 14 Q. Which -- sorry?
- 15 A. Yes, that is what is here.
- 16 Q. That, compared to many we have seen, is not  
17 a particularly high level of expenditure, but it does  
18 amount to, if one averages it over the period, and one  
19 can see there are some months heavier than others, but  
20 it does work out at about \$4,385 per calendar month.
- 21 A. On average.
- 22 Q. On average?
- 23 A. Yes.
- 24 Q. Over the same period. Up until August of last year,  
25 when your salary went up, you were receiving around

1 13,833 per calendar month. But it would appear from  
2 a quick tally that you were -- you were expending \$8,000  
3 in repayments on loans and close on -- on average over  
4 \$4,000 each month on credit card repayments. So there  
5 wouldn't have been a great deal left to live on. Would  
6 that be a fair assessment?

7 A. From the face of it, yes.

8 Q. Credit card obviously may to some extent be paying  
9 living expenses, and one accepts that, but your income  
10 is not lavish at that point. It was not in very large  
11 scale?

12 A. No, I would agree.

13 Q. You identified for us the different elements of your  
14 income. At that stage --

15 A. Sorry, go ahead.

16 Q. I beg your pardon, you wanted to add something. Sorry,  
17 sir, did you want to comment upon this?

18 A. No.

19 Q. Two companies which you make reference to, one is Caicos  
20 Group Limited, the other is a curious name. It is  
21 a date, in fact, you adopted as a name of a company,  
22 February 7th 2006 Limited.

23 First of all, with either of those companies, which  
24 you declare as having shares in and a directorship, were  
25 they generating any income for you?

1 A. The Caicos group would have.

2 Q. What sort of income would that have generated?

3 A. I received certain sums over a period of about two, two

4 and a half years from them.

5 Q. What is the nature of the work that company does?

6 A. That company is involved in the development of certain

7 properties.

8 Q. Where are those properties?

9 A. They are in Providenciales at Northwest Point area.

10 Q. Who else is involved in the company with you, with

11 the other shareholders?

12 A. The shareholders would be -- the shareholders in the

13 company are myself.

14 Q. Yes?

15 A. Don Gardiner, Charles Palmer, Stanley Lightbourne and

16 Chal Misick.

17 Q. Chal Misick we have obviously heard evidence from.

18 Chal Misick, what is your family relationship to him?

19 A. He is my uncle. I am his nephew.

20 Q. He is a shareholder, so are you. Mr Lightbourne,

21 Stanley Lightbourne, is he related or is he just

22 a business partner?

23 A. He is not related.

24 Q. Don Gardiner is a name that we have heard before. We

25 understand Mr Gardiner at various times has served on

1 the tourist board, if it is the same Don Gardiner?

2 A. Yes it is.

3 Q. And he has at various times also been put forward as

4 a potential developer. This is a development, is this

5 something that you decided to enter into with him?

6 A. Yes.

7 Q. This is to develop a parcel of land at Northwest Point?

8 A. Yes.

9 Q. The aim being to build a resort, hotel, what is it

10 planned --

11 A. Yes, a resort.

12 Q. We know from the company record which you have provided

13 at page 181 of the bundle, this is a company set up in

14 May of 2004?

15 A. Yes.

16 Q. It would appear that you were at least initially a named

17 director, although you have relinquished your

18 directorship, according to the company search, is that

19 right?

20 A. That is right.

21 Q. But you remain a shareholder with the other gentlemen

22 you have mentioned?

23 A. Yes.

24 Q. The company record on page 182 indicates essentially it

25 is a straight five-way split with each partner having

1 an equal portion of the shares?

2 A. Yes.

3 Q. But you step out of the directorship in March 2006. Was

4 there a particular reason for that?

5 A. I pretty much decided that I -- that as far as that was

6 concerned, my hands were full. I would not have been

7 able to attend meetings as regular as I perhaps ought,

8 and with my other involvement, it would probably be best

9 that I not take on that added responsibility.

10 SIR ROBIN AULD: Just so that I can follow the string here,

11 we have gone on to the subject of Caicos Group when we

12 were looking at your earnings, and you said that you had

13 earned money from this company in addition to that which

14 had been mentioned.

15 Has it started generating profits?

16 A. No.

17 SIR ROBIN AULD: So where did the money come from?

18 A. Well, some time, I believe, in 2004 or 2005, I am not

19 sure of the exact time, I was in a conversation with

20 Mr Lightbourne and he had intimated to me that he and

21 someone else were involved in the -- had submitted

22 a proposal for the development that the acreage

23 involved, he considered may not have been able to -- he

24 may not have been able to justify it or he, for some

25 reason he felt that, somewhat -- for some reason or

1 other he invited me to be a part of the outfit. I said  
2 to him that it is something that I would be agreeable  
3 to, and when he thought that he was ready, he should  
4 give me a call. Sometime later he did give me a call,  
5 and I sat with him and it was at that time that I agreed  
6 to be involved in the outfit.

7 SIR ROBIN AULD: This is a continuing involvement?

8 A. Yes.

9 SIR ROBIN AULD: What is the outfit?

10 A. It is the development of a resort at Northwest Point.

11 SIR ROBIN AULD: Another one or --

12 A. No, the same one we are talking about.

13 SIR ROBIN AULD: But that has still not begun to generate  
14 any money.

15 A. No.

16 SIR ROBIN AULD: So what we started to do was to see how on  
17 earth you managed to fund these credit card payments,  
18 and you had to look for some other income from somewhere  
19 because of the exercise Mr Milne took you through,  
20 showing how great your monthly outgoings were.

21 Where does the money come in?

22 A. Basically during the time you will see reflected in  
23 that, I was in the process of actually building my  
24 house, and when I would make a draw, or a drawdown on  
25 funds to do a particular aspect of it, it may have

1 involved, for example purchasing equipment or supplies  
2 abroad. For example you would see that -- I can't  
3 pinpoint to anyone in particular. You would see that  
4 I would have, in March of 2006 thereabouts, there is  
5 an amount of, I believe it is 15 -- about 16K.

6 That would have been paid, I believe, to Lowes Homes  
7 Supplies in Florida for the purchase of cabinetry. That  
8 would have been a direct draw from my loan proceeds.

9 SIR ROBIN AULD: So this is nothing to do with Caicos; this  
10 is something to do with you are drawing down on your  
11 loan for the house.

12 A. Yes.

13 SIR ROBIN AULD: That is one instance where you say you can  
14 explain that credit card payment. The money came from  
15 that drawdown on the loan. Is that what you are saying?

16 (3.15 pm)

17 A. Yes, that money -- monies would have come from that,  
18 monies would have -- sometimes if, for example, I am  
19 travelling to the US or someplace else, I may be asked  
20 to purchase something for someone and they would put  
21 the monies on my card, I would purchase it and send it  
22 back or bring it back with me when I return.

23 Or persons may say to me: well, I want to buy  
24 something on television that they have seen advertised  
25 on television, and they may not have had a credit card



1 and I may have allowed them to use it for that. Those  
2 are not significant events but some of that monies would  
3 have come from that.

4 If you were to go back to the question that  
5 the gentleman over there was asking, about  
6 the Caicos Group --

7 SIR ROBIN AULD: You led him to the Caicos Group. What he  
8 wants to know is how on earth you managed to fund these  
9 payments for credit card when you clearly didn't have,  
10 on the face of what you have said so far, the income  
11 when put against your loans to meet these bills. Where  
12 did the money come from? That is what he is after.

13 A. Okay.

14 SIR ROBIN AULD: We have been through your credit card and  
15 many of them are for consumables in America or Miami and  
16 so on.

17 A. Yes.

18 SIR ROBIN AULD: Where you clearly spent a lot of money  
19 whilst there not on bringing things back at all. That  
20 is what he wants to know. We might look at it, shall  
21 we, after five/ten minutes break.

22 A. Yes.

23 (3.17 pm)

24 (A short break)

25 (3.23 pm)

1 SIR ROBIN AULD: Mr Milne.

2 MR MILNE: May it please you, sir. Mr Gardiner, before we  
3 took the short break we were dealing with the issue of  
4 the Caicos Group Limited and can I take you just back to  
5 the company search at page 181 again.

6 A. Before you get to that, if I may, because I think if  
7 I am allowed to offer an explanation that we could  
8 perhaps cut through a lot of it.

9 Q. Please do. What is it you wish to say?

10 A. What I wish to say is that I was asked about  
11 the Caicos Group. I started giving a background to my  
12 involvement and then the questioning changed. If I am  
13 allowed to continue, then I would like to actually give  
14 an explanation of my involvement in the Caicos Group and  
15 the funding that actually came from it.

16 The Caicos Group was involved or is involved in  
17 the development of a project at Northwest Point in  
18 Provo. The parties are the persons that I mentioned  
19 earlier. Initially the Caicos Group was meant to own  
20 a certain percentage of a joint venture company. As  
21 a result of the -- and the properties that  
22 the Caicos Group, which is made up of all Belongers,  
23 the property that that company was putting forward in  
24 the joint venture would have been where the interest of  
25 the Caicos Group in that development would have come

1 from.

2 At some stage along the way, the directors of the

3 Caicos Group and the joint venture company --

4 SIR ROBIN AULD: What was the joint venture company called?

5 A. I believe it was called Caicos Investments or

6 Caicos Resorts Investments Limited.

7 They approached a lending institution abroad,

8 I don't remember the name of it right now, for

9 financing. That --

10 MR SMITH: I can help. The name is Credit Suisse.

11 A. That company -- that lending institution decided that

12 they wanted all of the participants to contribute a sum

13 of money certain into the account -- into

14 the development, which the participants in

15 the Caicos Group could not come up with. So what was

16 agreed instead was that, instead of owning the shares in

17 the joint venture company, the Caicos Group will then

18 own -- would enter into an agreement, an equity

19 agreement with Caicos Resorts Investments.

20 As a result of that, it was agreed that the value of

21 the participation should change, and so it was at that

22 stage that the Caicos Group agreed that they would --

23 that what they would do is that they would take out some

24 of the equity in the company that they had actually

25 initially paid in, which would have amounted to about

1 \$2 million.

2 There were five members involved in the  
3 Caicos Group, about \$2 million over a period of about  
4 two and a half years. That would have resulted in in  
5 a sum to me of about 400K over the two and a half years.

6 That is the purpose of and what Caicos Group is  
7 doing.

8 SIR ROBIN AULD: Do we see those payments in the documents  
9 you produced?

10 A. Yes.

11 SIR ROBIN AULD: Where will we find them?

12 A. At page 183.

13 SIR ROBIN AULD: Do these figure either in your returns or  
14 on the account that you had given to the Commission in  
15 your letter of November?

16 A. They are not in my returns and they were not in my  
17 letter to you of November.

18 SIR ROBIN AULD: Why was that?

19 A. The returns ask for the name of any company in which  
20 I was a director that I received any monies from, and  
21 erroneously I did put the Caicos Group. At the time  
22 I was not a director. The company asked -- the returns  
23 also asked for any company in which I was a shareholder  
24 that I received any monies from, and so I put  
25 the Caicos Group in that -- as far as that is concerned.

1 SIR ROBIN AULD: You didn't reveal this flow of monies that  
2 you are now describing?

3 A. At no time, I don't think, at any time I was asked.

4 SIR ROBIN AULD: You didn't think you needed to disclose  
5 this source of income which you derived for two and  
6 a half years? Let's have a look at it then at page 183.  
7 Just give us an instance of this. What is this we are  
8 looking at?

9 A. This is a printout, I assume, of the account activity in  
10 respect of the Caicos Group.

11 (3.30 pm)

12 SIR ROBIN AULD: This, you say, shows a series of drawdowns  
13 of the equity that you -- between the five of you  
14 acquired on the disposal of the interests you had in  
15 Caicos?

16 A. Yes, this represents that.

17 SIR ROBIN AULD: When did we get this? When did we get this  
18 information?

19 MR MILNE: This came the other day with the most recent  
20 disclosure. I think the precise date is on --  
21 29th January.

22 SIR ROBIN AULD: 29th January, we received this. Well, we  
23 shall have to look at it and investigate it.

24 MR MILNE: Allow me to go back, please, Mr Gardiner. Just  
25 a couple of steps. As I follow your evidence you were

1 saying that you were approached by Mr Lightbourne to

2 play a part in this company in the Caicos Group.

3 A. Yes.

4 Q. And therefore had it been formed at that stage?

5 A. Yes.

6 Q. So it had been formed, you were invited to join in and

7 you agreed to participate?

8 A. Yes.

9 Q. Can you say when it was that that invite was first

10 extended to you?

11 A. It would have been, I think, some time in 2004,

12 mid-2004, thereabouts, I am not sure of the date.

13 Q. You see what we find slightly strange about that, if you

14 look at page 181, is this, the company is formed on

15 24th May 2004. You can see that from the registered

16 date. The article, that is the first lodging of

17 documents, 22nd May, so a couple of days before?

18 A. Yes.

19 Q. Indeed you are the first person who is listed as

20 a company-related person on that date, 22nd May 2004,

21 about halfway down that page.

22 A. Yes.

23 Q. Moreover, you are the person who becomes the first

24 director on 24th May 2004, because the directors are

25 listed. All the other directors only enter the picture

1 in March 2006. You are a director alone from May 2004  
2 until March 2006. You drop out of the picture because  
3 you resign your directorship and the other four men only  
4 become directors then in March 2006.

5 Do you see?

6 A. Yes.

7 Q. If we couple that, over the page, with the shareholding,  
8 again, you initially are the only shareholder because  
9 you acquire your shares on 24th May 2004.

10 A. Yes.

11 Q. Leeward Ventures Limited is said to have acquired shares  
12 in --

13 A. That is an error.

14 Q. That has got to be wrong, hasn't it?

15 A. Yes.

16 Q. 01/03/03 is before the company ever existed, so that  
17 cannot be right?

18 A. Yes.

19 Q. I would suggest that what is likely is that Leeward  
20 Ventures Limited comes in when the other three do,  
21 03/03/06, so March 2006.

22 It would appear that you are the first director, you  
23 are the first shareholder and you remain so for nearly  
24 two years and then the others join you, rather than you  
25 joining them. Which is right?

1 A. The way you said it is the way it is, save that -- let  
2 me explain it this way.  
3 I incorporated the company in 2004 for the purpose  
4 of doing something else that I was considering at the  
5 time. As it turned out, I decided not to and when I was  
6 approached and we finally were able to settle on  
7 matters, the company is one that I had on the shelf, so  
8 to speak. When I was -- when I became involved in  
9 the venture, I went, took it down --  
10 SIR ROBIN AULD: That is another venture, not the original  
11 venture?  
12 A. Yes.  
13 MR SMITH: No, no, no.  
14 A. No.  
15 MR SMITH: I think he is saying --  
16 SIR ROBIN AULD: Who is giving evidence here?  
17 MR SMITH: I am just trying to clarify.  
18 SIR ROBIN AULD: Let him clarify. I am trying to follow  
19 him. That is all I am trying to do. You incorporated  
20 Caicos Group. It did nothing for a couple of years.  
21 Did it have any equity, any capital?  
22 A. No, it was nothing. It was just a company on the shelf.  
23 When I was asked to be involved in the project --  
24 SIR ROBIN AULD: Which project?  
25 A. The project at Northwest Point. I then went and



1 activated it, took it off the shelf and issued  
2 the shareholdings because at that stage I believe I had  
3 a shareholding in it and what I simply did was to -- we  
4 agreed that everyone would have an equal shareholding.  
5 So I just issued the shares in that respect.

6 SIR ROBIN AULD: Was there some money floating around in  
7 this project? Did somebody have something which was  
8 worth selling? What happened, other than incorporation  
9 and drawing up of documents? Where did the money come  
10 from out of the project for which you were able to make  
11 drawings as you described?

12 A. No, as I said earlier, the Caicos Group had  
13 an arrangement. We were entering into a joint venture  
14 agreement with a company called  
15 Caicos Resorts Investments, the Caicos Group, being  
16 a company owned by Belongers, had approached  
17 the government for the grant of certain properties.  
18 Those properties, when they came to the Caicos Group at  
19 some stage, or being put or transferred to  
20 Caicos Resorts Investments, I believe it is called, at  
21 that stage the Caicos Group was meant to have certain  
22 shareholdings in Caicos Resorts Investments. At the  
23 time when the financing was being sought, one of the  
24 conditions that they wanted was that all of the  
25 participants --

1 SIR ROBIN AULD: I have got that. I just want to know where  
2 the money came from, that is all, from which you were  
3 able to make these draw downs.

4 A. Yes. What happened was that at some stage when they  
5 suggested, when they gave their condition that there  
6 needs to -- monies paid in by the participants,  
7 the Caicos Group decided at that stage that -- well, not  
8 being able to come up with the monies, that they would  
9 divest themselves of a certain amount of the equity so  
10 as to --

11 SIR ROBIN AULD: What was the equity?

12 A. The equity would have been the participation in  
13 the properties that the development was being built on.

14 SIR ROBIN AULD: So you acquired an interest -- a financial  
15 interest by becoming part of the joint venture, although  
16 you didn't stay with it?

17 A. We asked --

18 SIR ROBIN AULD: You had something to sell?

19 A. We are still with it.

20 MR MILNE: Sir, can we try and clarify this. You used  
21 the off-the-shelf company and you say the others join  
22 you in about March of 2006, the idea being that your  
23 company, jointly with another company,  
24 Caicos Resort Investments, I think you said, would get  
25 a parcel of land and develop it; the difference being

1 that your company, the group of you, do not have any  
2 substantial sums of money to put into it.

3 Is that right?

4 A. That is not entirely right. No. What I said was that  
5 Caicos Resorts Investments, which is the participants in  
6 that outfit and Mr Lightbourne, as I understand it, had  
7 approached the government with a proposal to develop  
8 certain properties at Northwest Point.

9 At some stage Mr Lightbourne invited myself and as  
10 I believe the other persons named in the Caicos Group to  
11 participate, or because of the equity of the property  
12 involved, he thought that he would invite persons to  
13 become part of the venture.

14 Q. Right.

15 A. It was at that stage that we became involved.

16 Q. What, with respect, were you bringing to this deal?

17 What was it that you were offering other than the fact  
18 that you were all Belongers? Was that your selling  
19 point?

20 A. No. This would have been at a time when --  
21 the government policy, as I understand it, is that  
22 properties belonging to the government would not be  
23 alienated unless there were Belonger involvement in the  
24 project.

25 Q. We have come across this before. Belonger partners are

1 required for certain projects to get off the ground,  
2 yes?  
3 A. For projects involving any government properties.  
4 Q. The other company that you referred to,  
5 Caicos Resorts Investments, is that a Belonger company  
6 as we --  
7 A. No.  
8 Q. Those are non-Belongers, those are overseas investors?  
9 A. Yes.  
10 Q. Your company, Caicos Group Limited, are to be their  
11 partners, are to be the other part of a joint venture,  
12 yes?  
13 A. Yes.  
14 Q. An approach is made to Credit Suisse to get some money  
15 to get this venture off the ground. But Credit Suisse  
16 say they will only lend if your company put up some  
17 money or the participants in your company put up some  
18 money and that was the sticking point.  
19 A. Yes.  
20 Q. At this point we have Caicos Group Limited, which is  
21 yourself and your colleagues;  
22 Caicos Resorts Investments, do they have any money? Are  
23 they substantial investors?  
24 A. Caicos Resorts Investments?  
25 Q. Yes.

1 A. I don't know that they are substantial investments.  
2 I believe the principal in it have done other  
3 developments on island.  
4 Q. May we know who the principal in it is, behind  
5 Caicos Resorts Investments?  
6 A. Yes. The principal is a gentleman called Patrick Ellis.  
7 Q. Is he US, Canada, British?  
8 A. I think he may be a UK citizen.  
9 Q. Is this essentially his company or is it his company  
10 together with others?  
11 A. It is, as I understand it, his.  
12 Q. So the project is underway. We know from the letter you  
13 wrote to the Governor, I am looking at page 115, that on  
14 18th February 2007 you said to the Governor, His  
15 Excellency Richard Tauwhare at the time, paragraph 1:  
16 "I am a shareholder in and director and secretary of  
17 the Caicos Group Limited."  
18 There is an obvious error there because you had  
19 ceased to be a director but leave that aside. You had  
20 previously been a director:  
21 "Said company is a party to a contract with  
22 government for the conditional purchase lease of  
23 60000/234 which is northwest and north-central  
24 Providenciales."  
25 Northwest Point area?

1 A. Yes.

2 Q. So is this the parcel of land in effect?

3 A. Yes.

4 Q. Although you are obtaining this, in fact it is not

5 declared there, there is a further investor behind you,

6 which is an overseas investor through

7 Caicos Resorts Investments?

8 A. Yes.

9 Q. Nothing unlawful with that, as we understand. What

10 I don't understand is this, up to that point, what money

11 had you or your colleagues put into

12 the Caicos Group Limited? What funds had you or any of

13 you invested?

14 (3.45 pm)

15 A. There were no funds invested at that point.

16 Q. So the sole value here of the Caicos Group Limited is

17 the fact that you were in negotiation with a view to

18 a conditional purchase lease and indeed in 2007, when

19 the letter is written, it is a contract for

20 the conditional purchase lease. It would appear from

21 this that at this point there is no lease as such. You

22 go on in the letter and say:

23 "The Caicos Group Limited is also party with

24 the government to a development agreement or is in the

25 process of negotiating a development agreement for

1 the development of the said property referenced in  
2 the paragraph above."

3 So it is still early days, by the sound of things?

4 A. Yes.

5 Q. The agreement is not finalised, it is not a done deal,

6 but work has been done on it?

7 A. Yes.

8 Q. You said before the short break that you somehow

9 released some equity, but I am sorry, I am at a loss to

10 understand what equity there is to release from

11 the Caicos Group Limited. Did you sell part of the

12 Caicos Group to somebody else?

13 A. No, what happened is that the Caicos Group, their

14 interest in the property, as I said initially,

15 the property was meant to be at some stage transferred

16 to Caicos Resorts Investments.

17 That property would have been the equity that

18 the Caicos Resorts would have put into the --

19 the Caicos Group would have put into Caicos Resorts.

20 That is what --

21 SIR ROBIN AULD: We are going back and back all the time.

22 The question is where was the money to enable you to

23 make payments towards your credit card debts that we can

24 see on page 319? At the moment there is no equity that

25 we have been able to identify to generate those

1 payments. Where is the money coming from? That is what  
2 we want to know. Going back and telling the story over  
3 and over again doesn't help.

4 MR MILNE: Let's put this a different way, Mr Gardiner, who  
5 paid you the money?

6 A. The monies came from Caicos Resorts Investments,  
7 I believe.

8 Q. So you sold your option or the value of your option to  
9 Patrick Ellis or his company, he gave you some money in  
10 return presumably for some promise on the -- your  
11 position on the conditional purchase lease? Yes?

12 Sir, let me make it clear, the evidence you have  
13 given, the evidence as we have understood it, correct me  
14 if I am misrepresenting this, it is your company's value  
15 lies very simply in the fact that you are a group of  
16 Belongers. So you have access to Crown land by virtue  
17 of that Belongership. Patrick Ellis, by virtue of being  
18 from overseas, does not. Correct?

19 A. Yes.

20 Q. You are going to go into joint business with him. Your  
21 company, his company, let's get together, develop  
22 a property?

23 A. Yes.

24 Q. You can't come up with any money?

25 A. And he can't come up with the land.



1 Q. And he can't come up with the land, so does it come down

2 to this: you sold him your interest in the land.

3 A. He bit of the interest, yes.

4 SIR ROBIN AULD: Did you? What interest from the land were

5 you selling him? Where is the contract to illustrate

6 that? It is a nice conjecture on the part of Mr Milne,

7 but that is all it is at the moment because we don't

8 know.

9 What did you have to sell and who paid you for it

10 and how, to generate meeting some of these credit card

11 bills?

12 A. The interest that we were able to have is that based on

13 the government policy at the time, which was that if you

14 were not a Belonger --

15 SIR ROBIN AULD: I am familiar with the policy.

16 A. That being the case, an application was made for

17 certain -- to develop --

18 SIR ROBIN AULD: Who made an application?

19 A. At the time that I became involved, as I understand it,

20 it had been made already.

21 MR MILNE: By whom?

22 SIR ROBIN AULD: Before your incorporation of the company?

23 A. No, the company was incorporated in 2004 before this

24 venture came up. So the date that the company was

25 incorporated is not relevant.

1 SIR ROBIN AULD: Who made the application? You told us

2 the company had no equity in anything, had no money.

3 Who made the application?

4 A. As I understand it, it was -- the proposal would have

5 been put in by Ellis and Lightbourne.

6 SIR ROBIN AULD: Patrick Ellis, when? Post or pre your

7 incorporation of the Caicos Group?

8 A. I do not know, I would --

9 SIR ROBIN AULD: What has this got to do with your equity in

10 the Caicos Group? That is none of your equity at all if

11 he made an application on behalf of Caicos Resorts.

12 Come on, Mr Gardiner, you have got to -- if you have

13 not got the money to generate these payments from the

14 Caicos Group, where did you get it from?

15 A. That is where the monies came from.

16 SIR ROBIN AULD: You have not explained how yet. It didn't

17 just appear like Topsy. It had to be earned by somebody

18 for something. So where did it come from?

19 A. It would have come from Caicos Resorts Investments.

20 MR MILNE: So are we to understand that you sold to

21 Caicos Resorts Investments an interest, some interest

22 that you had in a conditional purchase lease?

23 SIR ROBIN AULD: That is not what he said because he said it

24 was Caicos Resorts Investments who made the application,

25 not Caicos Group.

1 A. As I understand it, when I came on board in the project,  
2 not in the company because the company was incorporated  
3 by me at some time before I became involved in the  
4 project, Ellis and Lightbourne had submitted a proposal  
5 to the government for certain properties.

6 MR MILNE: We understand that, sir. I am going to pause you  
7 there one minute. I do so with an apology because I am  
8 cutting across you to some degree.

9 Sir, the next witness was due to be Mr Wilson and  
10 I am afraid we have a little way to go still with  
11 Mr Gardiner. I can't see us realistically reaching  
12 Mr Wilson. I would be reluctant to keep him hanging  
13 around.

14 SIR ROBIN AULD: I don't think it would be fair to keep him  
15 waiting any longer. I am sorry, Mr Misick, to let you  
16 know so late in the afternoon. We hoped to get at least  
17 half an hour with him, but he will follow on tomorrow if  
18 it is convenient to him as soon as possible.

19 MR MISICK: Thank you, sir. I appreciate that indication,  
20 Mr Milne.

21 MR MILNE: Mr Gardiner, we understand, because we have seen  
22 this many times, the whole idea of the Belonger partner,  
23 the application for a conditional purchase lease and  
24 matters of that sort. What you have told us is that  
25 a joint application is being made by Mr Ellis,

1 the overseas investor, Mr Lightbourne, your partner. So  
2 there is a Belonger and a non-Belonger applying jointly  
3 for this particular conditional purchase lease on  
4 the parcel in Northwest Point.

5 The question I have simply is this: if they are  
6 applying jointly, what equity does the Caicos Group  
7 have. It has nothing, surely? It has no call over this  
8 property because it has been applied for by the Belonger  
9 and the non-Belonger together.

10 A. Except at some stage, myself and the other persons were  
11 invited or asked by Mr Lightbourne to be involved.

12 Q. I accept that. I understand what you are saying. Are  
13 you saying that you had effectively part of  
14 Mr Lightbourne's share in this, you split that share  
15 amongst the group of you?

16 A. Yes.

17 Q. So it would appear that Mr Lightbourne started out with  
18 50 per cent, Mr Ellis with 50 per cent interest in this.  
19 They were doing it jointly. But Mr Lightbourne's share  
20 is split down now amongst five of you, so there is five  
21 lots of 10 but Mr Ellis still has the 50 per cent, is  
22 that right? Is that a fair assessment of the project?

23 A. The project, I assume, I have not -- I don't know, would  
24 have cost the substantial sum of monies. So  
25 the participation or the interest of Mr Lightbourne and

1 by extension the Caicos Group would have been less than  
2 50 per cent. Because the only thing that  
3 Mr Lightbourne, ie the Caicos Group brought, was  
4 the ability to get the property.

5 Q. So why then should Mr Ellis, having gone into this  
6 application with Mr Lightbourne, start paying out money  
7 to him or indeed to you as Mr Lightbourne's new partner,  
8 for your interest? Because he has already got  
9 an interest in it. What does he need yours for?

10 A. Because he needed -- the Caicos Resorts Investments  
11 needed to raise the funding to undertake  
12 the development.

13 The Caicos Group was not able to come up with  
14 the monies that the institution required. So out of the  
15 value of the property that the Caicos Group agreed to  
16 take a smaller interest in the development at the end of  
17 the day, and to be paid out at some -- at that stage.

18 Q. But the policy was such that Caicos Group would have to  
19 remain 50 per cent, because 50 per cent Belongership was  
20 required. How can you reduce it below that without  
21 actually invalidating the very reason that you are there  
22 in the first place, which is to be a 50 per cent  
23 partner, if you are selling your partnership to  
24 a majority shareholder?

25 A. I never understood that there needed to be a 50 per cent

1 interest.

2 Q. What percentage interest did you think there had to be?

3 A. As I understood it, there is a requirement that there is

4 a Belonger participation.

5 Q. Just some Belonger participation?

6 A. Yes.

7 Q. No matter how small?

8 A. That is how I understood it.

9 Q. So I come back to the earlier question, what were you

10 bringing to the party? If the application was made

11 already, then why should he want to buy you out? With

12 respect you are contributing nothing here. You are

13 taking money out of the deal but you are not putting

14 anything in because you have not got any money to put in

15 it, do you follow me?

16 MR SMITH: What is the question?

17 MR MILNE: What are they bringing to it?

18 SIR ROBIN AULD: He is asking him a question which remains

19 to be answered and will need to be answered at some

20 stage.

21 A. What was brought is the property. That is what was

22 brought.

23 MR MILNE: It is not your property. It is government

24 property. You are in a position to make an application

25 for a conditional purchase lease, but that application

1 has already been made. You don't own the property, do  
2 you? You only have a lease over it. In fact you  
3 actually don't have a lease over it, because the lease  
4 has been applied for by Mr Ellis and Mr Lightbourne  
5 jointly.

6 A. And Mr Lightbourne who is a Belonger, whatever his  
7 interest is, decided that he would want to have further  
8 Belonger participation and so he invited me and  
9 the other persons to be involved.

10 Q. So he invites further Belonger participation but then  
11 you jointly effectively sell that Belonger participation  
12 share to the non-Belonger. Is that what we should  
13 understand?

14 A. As I understand it, the Caicos Group has an interest  
15 still in the Caicos Resorts Investments.

16 Q. What percentage share is that?

17 A. I believe it is 10.

18 SIR ROBIN AULD: On all this depends the payments that we  
19 can see on, or some of them at any rate, on page 319 in  
20 the bundle.

21 I think, Mr Milne, we are going round the houses on  
22 this. Mr Don-Hue Gardiner and Mr Smith perhaps ought to  
23 take some time to see how it is they can meet that  
24 schedule. This is only one contribution to it and so  
25 far it is a very poor one.

1 MR SMITH: I don't understand, sir.

2 SIR ROBIN AULD: It is perfectly plain, Mr Smith. There is

3 a schedule here of credit card payments made by your

4 client at the moment which can't be justified on

5 the earnings that he declared and is declaring today.

6 MR SMITH: I think his testimony is pretty clear.

7 SIR ROBIN AULD: His testimony is certainly not clear.

8 (4.00 pm)

9 MR SMITH: His testimony is -- and if I am wrong please

10 correct me -- his testimony is that some of the proceeds

11 from the credit card --

12 SIR ROBIN AULD: I am not asking you to repeat his

13 testimony. I am telling you that his testimony is not

14 clear. It does not explain how he came to generate

15 funds to pay off some of these credit card bills. That

16 is what we are talking about.

17 MR SMITH: Is the Commission saying that it does not accept

18 his testimony?

19 SIR ROBIN AULD: I am saying at the moment --

20 MR SMITH: Can you give me a chance to at least finish --

21 SIR ROBIN AULD: -- it is not clear.

22 MR SMITH: -- a sentence.

23 SIR ROBIN AULD: Mr Smith, will you forgive me, it is not

24 clear to me how those funds have been generated. You

25 have an opportunity to do that in relation to a schedule



1     which was only provided to the Commission a couple of  
2     days ago.

3     MR SMITH: There are reasons why it was not provided.  
4     The Commission is well aware of that --

5     SIR ROBIN AULD: You need to do some homework with your --

6     MR SMITH: -- because we made an objection to producing it.  
7     SIR ROBIN AULD: You did and it was a bad one.

8     MR SMITH: In an attempt to make sure that I am answering  
9     what the Commission is requiring, I am trying to  
10    ascertain whether or not the Commission is saying that  
11    they do not accept --

12    SIR ROBIN AULD: I didn't say that. I said I don't know. I  
13    am not satisfied --

14    MR SMITH: You don't know what I am saying because you  
15    haven't given me a chance to finish my statement.

16    SIR ROBIN AULD: Say what you want to say.

17    MR SMITH: Thanks. I am saying that the Commission is  
18    saying that they are not accepting the testimony of my  
19    client that he has paid this 400,000.

20    SIR ROBIN AULD: I did not say that. I said I am not  
21    satisfied at the moment as to where the money came to  
22    pay some of these credit card bills.

23    MR SMITH: Very well.

24    SIR ROBIN AULD: He still has an opportunity to do that. He  
25    can do it tomorrow if he wishes, he can do it by

1 properly documented written submission if he wishes, but

2 it is for him to explain. Only he knows.

3 MR SMITH: We will do that.

4 MR MILNE: So, Mr Gardiner, if we go to page 183, which is

5 a schedule of monies.

6 This is essentially a printout from the bank

7 account. Would you agree?

8 A. Yes.

9 Q. The credits to the bank account, there are in total five

10 credits that we see, this schedule covering a period

11 from March 2006 through until January of 2008.

12 A. Yes.

13 Q. The schedule shows, as I say, five payments in.

14 Half a million dollars deposited on 31st March 2006;

15 a similar sum deposited on 11th December 2006; a further

16 \$100,000 on 23rd January 2007; 500,000 again on

17 16th March 2007; 500,000, 14th January 2008. Each of

18 those payments, are they payments by Mr Ellis?

19 A. Yes, they are payments by Caicos Resorts Investments.

20 Q. Caicos Resorts Investments puts in total \$2.1 million

21 into this account?

22 A. It should have been \$2 million. I don't know what

23 the 100 is.

24 Q. Okay. It is clear, if one looks in the debits column,

25 that a series of drawdowns take place from that account

1 of fairly substantial sums. After the money is put in,

2 it is drawn out again, yes?

3 A. Yes.

4 Q. You and your colleagues entered into an agreement, you

5 tell us, whereby they -- essentially you have told us

6 they started using the shell company which you had --

7 A. Yes.

8 Q. -- lying spare. The shell company was going to be used

9 for the purposes of this. They only became directors

10 and shareholders in March of 2006, yes?

11 A. Yes.

12 Q. So the problem that gave rise to these payments must

13 have been there from the very beginning, from day one,

14 because the first payment is hitting the account by

15 the end of that month, by the end of March, isn't it?

16 A. The first payment, yes, is made on 31st March.

17 Q. Is there some reason why subsequent payments are spread

18 over the following year and a half, nearly two years?

19 A. Because leading up to that point, up to that point,

20 the property would have constituted an investment of

21 the Caicos Group into the joint venture, and it was

22 during that period that the negotiations were going on

23 between Ellis and Lightbourne with government, and also

24 with whomever the financiers would have been. It was

25 sometime around that period, as I understand it, that

1 the situation regarding the financing changed, and once  
2 that situation changed, then, the decision was made that  
3 instead of the full participation that we had -- that  
4 was initially contemplated that there would be  
5 realisation of certain sums to the Caicos Group.

6 Q. Basically you were able to draw money out of this?

7 A. Yes.

8 Q. The deal hadn't been done but you were able to get your  
9 profits out ahead of time?

10 A. Yes.

11 Q. So all of you were making good money out of this deal on  
12 the premise that there would be a conditional purchase  
13 lease and development agreement?

14 A. I do not know when the conditional purchase lease was  
15 done.

16 Q. You knew because you wrote to the Governor that it was  
17 still in the process of being negotiated in February of  
18 2007,. As you agreed with me a few minutes ago it was  
19 not a done deal, it was still in the process of being  
20 negotiated.

21 A. Yes, the Caicos Group was in the process of negotiating  
22 the development agreement.

23 Q. But even before that had been done, even before that  
24 February letter was sent, you and your colleagues had  
25 already benefited at least to the tune of \$1 million

1 because two lump sums had been paid into an account and

2 then drawings taken from it. No?

3 A. That is how it appears, yes.

4 Q. So you had your money upfront effectively, ahead of any

5 development agreement, the earth hadn't even been

6 broken, nobody had done any work in actually building

7 the first building, had they?

8 A. As far as I am concerned, there would have been some

9 work done in preparing drawings and everything else.

10 I was not involved in it at that level.

11 Q. Was your group involved in it at that level? Was

12 anybody amongst your group actually participating in the

13 development?

14 A. Yes.

15 Q. Who was that?

16 A. Sandy Lightbourne was on the Board of Directors of

17 the -- of that joint venture company.

18 Q. From your point of view, you are, with respect,

19 a businessman. You have commitments elsewhere. You are

20 working for Turks Limited. You are in due course to

21 become an appointed Member of the House of Assembly.

22 You are a change manager for the government working in

23 immigration. So you are not a man with time on your

24 hands, one suspects. You have got commitments and you

25 are busy. So what are you bringing to this deal

1 personally? What is it that you contribute?

2 MR SMITH: That question has been asked ad infinitum.

3 SIR ROBIN AULD: It will continue to be asked until we get

4 a satisfactory --

5 MR SMITH: I think he has answered. Maybe the answer is not

6 satisfactory to the Commission, but he has answered, and

7 I don't see the purpose of asking him the same question

8 over and over.

9 MR MILNE: Sir, the question, with respect, that I have

10 asked in the past was what the group brought to the

11 deal. What I am now asking is what Mr Gardiner

12 personally was contributing to the process.

13 A. I did not have any involvement in, on a day-to-day

14 basis, in the project or in the Caicos Group.

15 Q. So aside from simply receiving the funds, you were not

16 putting anything in personally?

17 MR SMITH: He just answered that.

18 A. I didn't put anything in personally.

19 MR MILNE: Let's be clear about this: this is, would you not

20 agree, quite a lot of money for not doing anything;

21 there is \$1 million being split between five of you.

22 A. Yes, it is 100,000, \$200,000 to me, yes.

23 Q. We see cheques coming out. Indeed, we see cheques going

24 into your bank account. If we turn to page 285 of your

25 bank account, we see there a credit for 95 --

1 A. 285?

2 Q. I beg your pardon, the numbering is --

3 SIR ROBIN AULD: This is the bank account with whom?

4 Which bank?

5 MR MILNE: This is a bank account, I believe, with the

6 First Caribbean International Bank.

7 SIR ROBIN AULD: We are talking of a period of what?

8 MR MILNE: This particular payment, sir, was

9 13th December 2006. It is in fact 286. There is

10 a credit, 12th December 2006, for \$97,000.

11 A. Yes.

12 Q. That is the same \$97,000, I would hazard, that comes out

13 of the Caicos Group Limited account?

14 A. Yes.

15 Q. In the middle of that page.

16 A. Yes.

17 Q. Subsequently there are payments out of the Caicos Group

18 account of \$100,000. One of those is 15th December,

19 the next one, 23rd January. Do either of those go to

20 you?

21 A. Um.

22 Q. Let me see if I can assist to this extent: I am not

23 saying it is necessarily the same, but on page 279 of

24 your bank statements, you certainly receive \$100,000.

25 That payment in is recorded as 15th January, so it does

1 not quite tally with either of those but it is around

2 that period.

3 A. Yes.

4 Q. So one of those may be to you as well?

5 A. There is a -- there was a payment into the Caicos Group

6 of 500K on about 11th December and shortly thereafter,

7 there was a cheque for 97K that was deposited into my

8 account. Then there was another cheque of about 500K

9 that came through on 20th March 2007.

10 Q. There is a credit to the account of 500,000 on

11 16th March, but shortly before that, 23rd January 2007,

12 \$100,000 is debited from the Caicos Group, that being

13 a cheque, one suspects, and on 15th January at page 279,

14 you had been credited to the tune of \$100,000. It is

15 not quite the same but --

16 A. On 279 you said?

17 Q. Page 279. Do you have that?

18 A. Yes.

19 Q. So that is another \$100,000. 23rd March 2007 on

20 the Caicos Group, there is a debit of \$80,000. Yes?

21 A. Yes.

22 Q. If we look at page 294 of your accounts?

23 A. Yes.

24 Q. The numbering -- had a slight glitch with the numbering.

25 There is a further credit, page 294, \$80,000,



1 22nd March.

2 A. Yes.

3 Q. Again, that appears to be a cheque drawn off that  
4 account?

5 A. Yes.

6 Q. So a quick tally, that is \$277,000 that you had in  
7 the space of a couple of months, three months?

8 A. Well, I would have to inquire as to -- I would have to  
9 inquire as to that.

10 Q. Let me put it a different way: those monies clearly went  
11 into your account because we see the credits?

12 A. Yes.

13 Q. It is clear from what you are telling us that the money  
14 that is put into this bank account for the Caicos Group  
15 is being divided up; are we to understand that  
16 the monies drawn on the Caicos Group Limited were being  
17 spent in some way on the development, or were they  
18 simply being drawn off for individual use by  
19 the participants?

20 A. They would have been drawn for individual use by  
21 the participants.

22 (4.15 pm)

23 Q. It is all essentially a division of profits. This is  
24 not a business account. It is not paying staff, it is  
25 not paying overheads or anything of that nature. It is

1 simply division of profits between the group of you?

2 A. Yes.

3 Q. Well, whilst we are on the subject of money, and since

4 we've been looking at bank statements, just two other

5 points: there are a number of credits to your account

6 which don't reflect salary because we can see quite

7 clearly salary?

8 A. Yes.

9 Q. But if we turn to the bank account pages, I am going to

10 ask you to look, please, if you would also -- it should

11 be page 300. It is 301.

12 A. Yes.

13 Q. It is a payment in there of in total \$110,100?

14 A. Yes.

15 Q. 4th May. Now, that does not reflect any payment out of

16 the Caicos Group account?

17 A. Yes.

18 Q. That payment goes into your account on 4th May 2007. On

19 10th September 2007, and this should be page 265 --

20 indeed it is -- there is a further payment into your

21 account of \$150,000 --

22 A. Which page is that?

23 Q. This is page 265. In fact, it would appear that what

24 has happened here is the money is being paid in. For

25 some reason the credit was reversed but then it was

1 credited again. So we have what looks to be the same  
2 cheque put in, debited, and then immediately put through  
3 the system once more. So there is a credit for  
4 \$150,000?

5 A. Yes.

6 Q. Again, that does not in any way appear to reflect  
7 payments out of the Caicos Group. Those two further  
8 payments, which are more than a quarter of a million  
9 dollars, from where would they have come?

10 A. In my letter to you, that you referred to earlier,  
11 I believe, it spoke of, I think it spoke of  
12 miscellaneous work or something of the sort, odd jobs or  
13 something --

14 SIR ROBIN AULD: I think you mentioned something like \$300  
15 or something.

16 MR MILNE: It was \$30,000.

17 A. Yes. What would have happened is this, let's take  
18 page 265, there is the amount of 150K that is deposited  
19 into the account. On the same day or shortly  
20 thereafter, there is an amount of 140K that left  
21 the account.

22 This -- at the time, I was undertaking some work for  
23 an individual who -- the cheque was drawn on the FCIB,  
24 and for whatever reason, they wanted or needed the funds  
25 right that day. So what I would have done, with

1 the instructions on -- on the instructions of consent is  
2 to deposit into a FCIB account and take it out and make  
3 payments to them.

4 SIR ROBIN AULD: Who were these people? These people who  
5 gave you these odd jobs?

6 A. Basically I would do work for family members and friends  
7 who knew that I did legal work.

8 SIR ROBIN AULD: These particular payments to which Mr Milne  
9 has referred, who were the people who gave you odd jobs  
10 to produce those sums?

11 A. I am happy to say, save that I am keen not to breach any  
12 privilege that I may have --

13 SIR ROBIN AULD: What privilege are you claiming?

14 A. Legal professional privilege.

15 SIR ROBIN AULD: These were clients?

16 A. Yes.

17 SIR ROBIN AULD: And these were odd jobs that you had done  
18 for them in the course of your work as an attorney?

19 A. Yes.

20 SIR ROBIN AULD: Will you ask them if they will waive their  
21 privilege?

22 A. I could do.

23 SIR ROBIN AULD: Yes, you should do, shouldn't you?

24 A. I could do.

25 SIR ROBIN AULD: This is your explanation of odd jobs which

1 brought in \$30,000-odd in your last letter to the  
2 Commission.

3 MR MILNE: Sir, might we establish whether these odd jobs  
4 were in fact legal work?

5 SIR ROBIN AULD: Yes.

6 A. Yes.

7 MR MILNE: In a professional capacity?

8 A. Yes.

9 Q. It will be my submission, sir, that legal professional  
10 privilege, whilst attaching to a number of things, does  
11 not attach to the identity of clients, the names of the  
12 person for whom work is being done, and I would ask  
13 Mr Gardiner to name that person in relation to this  
14 matter: the payment and transfer of money of 150,000, if  
15 that is one of the odd jobs, to name that person now.

16 SIR ROBIN AULD: Mr Smith?

17 MR SMITH: Yes, I think in addition to legal professional  
18 privileges, it has a confidentiality issue. What my  
19 client is basically saying is that these persons, these  
20 monies, the \$140,000, was his client's money. He at  
21 this point wouldn't necessarily want to reveal --

22 SIR ROBIN AULD: That is no basis for refusing to answer  
23 a question. Legal professional privilege is, but as we  
24 have already identified in previous issues raised before  
25 the Commission, the identity of the client is not.

1 MR SMITH: What I propose to do -- what you did on the last  
2 occasion is that I speak to my client and we can give  
3 you the name of the person --

4 SIR ROBIN AULD: No, there is no need for it, thank you. He  
5 should answer the question.

6 MR SMITH: Very well.

7 MR MILNE: To put this in context, sir, this appears to be  
8 your office account. This is not a client account.

9 A. It is not a client account, no.

10 Q. So why was it you were paying in \$150,000 and then  
11 drawing out \$140,000?

12 A. Because the client account that I had is at  
13 the TCI Bank. The individual required the monies at  
14 that time and with his -- upon his instructions and his  
15 consent, it was deposited into that account, because  
16 otherwise it would have taken about three days to go  
17 through the banking system. It was a cheque drawn on  
18 this particular bank.

19 Q. So the cheque you paid in was drawn on the  
20 First Caribbean International Bank?

21 A. Yes.

22 Q. You immediately drew another cheque out. If there was  
23 a cheque for a purpose, why did it need to pass through  
24 your account? Why did it require you to pay it in and  
25 draw another cheque? Why did the client simply not

1 write the cheque to whoever it was going to?

2 A. No, the cheque came from one entity.

3 Q. Right.

4 A. Payable to me.

5 Q. Right.

6 A. At all times it belonged -- the proceeds of the cheque

7 belonged to the client.

8 Q. Right.

9 A. So when they wrote me the cheque, the cheque was

10 deposited into that account and later on, or that same

11 day, moved out, given to the client.

12 Q. We can see that. Let's take it a stage at a time. Can

13 you tell us, please, who paid that cheque to you?

14 A. This cheque would have been paid to me by Chalmers & Co.

15 Q. So Chalmers & Co, the firm we have already heard much

16 about, paid you a cheque for \$150,000. To whom do you

17 then write a cheque for \$140,000?

18 A. The cheque would have been written for 140K to Llewellyn

19 Basden.

20 Q. B-A-S-D-E-N. Mr Basden would have received that other

21 cheque from you?

22 A. Yes.

23 Q. I come back to the question which I think maybe becomes

24 more relevant now, why would it be that Chalmers & Co

25 would need to pass the money through your account rather

1 than simply writing a cheque direct to Mr Basden for  
2 the sum that he required?

3 A. That is the custom here when dealing in transactions.

4 Q. What is the custom sorry?

5 A. I acted for him.

6 Q. You acted for whom?

7 A. Mr Basden in a matter that Chalmers was on the other  
8 side of. At the closing the funds came through, came to  
9 me.

10 Q. What was the transaction that was involved in it?

11 A. It involved, I believe, a share transfer agreement that  
12 dealt with certain properties.

13 SIR ROBIN AULD: You were not performing any legal services  
14 for Mr Chalmers Misick, were you?

15 A. No, I was performing legal services on behalf of Mr  
16 Basden.

17 SIR ROBIN AULD: Where did legal professional privilege ever  
18 enter into this?

19 MR SMITH: He is performing for Mr Basden.

20 SIR ROBIN AULD: Mr Smith, will you let the witness give  
21 the evidence and not yourself.

22 MR SMITH: There is a certain amount of cynicism that has  
23 been shown by the Commission to my client's answers.

24 SIR ROBIN AULD: Are you surprised?

25 MR SMITH: Pardon?



1 SIR ROBIN AULD: Are you surprised?

2 MR SMITH: I can comment on it but I am surprised on that --

3 SIR ROBIN AULD: Well, you have commented.

4 MR SMITH: And I think, since we are doing an investigation

5 basically, the cynicism that has been shown seems to me

6 that the Commission has already reached a conclusion as

7 to my client's evidence and everything without even the

8 full detail of his evidence. I think in this regard

9 the Commission should at least pretend to show some

10 impartiality.

11 SIR ROBIN AULD: These are documents provided to the

12 Commission two days ago, deliberately kept late until

13 the very last minute.

14 MR SMITH: They were not deliberately kept late.

15 SIR ROBIN AULD: And we have been given an account this

16 afternoon which defies comprehension --

17 MR SMITH: They weren't deliberately kept late and it is

18 disingenuous for you to say that.

19 SIR ROBIN AULD: Please stop talking across me. I am happy

20 to have them explained to me but so far they have not

21 been.

22 MR SMITH: We promise to do that but it was not deliberately

23 late. As the Commission well knows, there was

24 a challenge made here and basically we exercise our

25 right to challenge it.

1 After it was challenged, I immediately turned them  
2 over, immediately in court. So to say it was  
3 deliberately late, you are basically saying that we had  
4 no right to exercise our challenge. Whether it is a bad  
5 challenge or a good challenge, it is our right that we  
6 had and we exercised it. As soon as the court ruled  
7 against us, immediately I turned over the documents, so  
8 the implication that the Commission has given, it seems  
9 in part that it was something that was hidden for no  
10 reason at all.

11 SIR ROBIN AULD: It was hidden for no reason at all.

12 MR SMITH: I disagree with that.

13 SIR ROBIN AULD: Would you please sit down.

14 MR MILNE: Sir, it is now 4.30. I would invite the  
15 Commission to sit a little longer, but it may be  
16 appropriate, if we go for an hour and a quarter, to give  
17 a short break.

18 SIR ROBIN AULD: We will take a five/ten-minute break and  
19 sit on if that is convenient.

20 MR MILNE: Thank you very much.

21 (4.30 pm)

22 (A short break)

23 (4.35 pm)

24 SIR ROBIN AULD: Yes Mr Milne.

25 MR MILNE: May it please you, sir. Mr Gardiner, dealing

1 with that contract, the work that you described a few  
2 minutes ago where you said you received 150,000 from  
3 Chalmers & Co, and passed 140,000 to Llewellyn Basden,  
4 the balance of \$10,000, was that your payment, your  
5 commission?

6 A. There would have been a -- there would have been  
7 a payment to me. I don't remember what the exact figure  
8 was, and over a -- over some time the balance would have  
9 been paid to him. The balance would have been paid to  
10 him.

11 Q. That figure that you refer to of 150,000, that obviously  
12 reminded you of the deal?

13 A. Yes.

14 Q. Clearly a large amount of money to pass through your  
15 account?

16 A. Yes.

17 Q. Would you keep records on that?

18 A. Yes.

19 Q. Where would that be?

20 A. The file would be at my home.

21 Q. Would you have issued an invoice to Mr Basden for  
22 the \$10,000?

23 A. I may have. I may not have. It would not have been for  
24 10K. I would have -- I believe over a period of time,  
25 I would have in the ensuing days, I would have given him

1 certain sums from the balance and whatever my payment  
2 was would have been left.

3 Q. Why would you have given him sums from the balance? Why  
4 not simply settle the whole amount in one go?

5 A. For whatever reason he didn't -- those were  
6 the instructions that I had.

7 Q. Would you be able to identify the parcel of land that  
8 this related to?

9 A. Yes.

10 Q. Do you recall it now?

11 A. I do not know.

12 Q. Could you please identify it and inform the Commission  
13 in due course what that parcel of land is?

14 A. Certainly.

15 SIR ROBIN AULD: In due course means in the next two days.

16 MR MILNE: Whilst we are dealing with large lump sums, this  
17 one we looked at a minute ago, page 301, this was  
18 the credit to your account of \$110,000.

19 A. Yes.

20 Q. 110,100 is the precise figure?

21 A. Yes.

22 Q. That is not paid out, that is paid in and remains there  
23 on the face of it. So it is not a case of you receiving  
24 funds for another and forwarding them. For what did you  
25 receive that? Because that does not appear to be

1 reflected in the Caicos Group debits?

2 A. No, that would have been on a sale involving some

3 properties belonging to a gentleman called

4 Arnold Gardiner.

5 Q. Arnold Gardiner?

6 A. Yes.

7 Q. What was your role in that?

8 A. I acted on his behalf.

9 Q. You received fees of that amount?

10 A. No, no, no, no. I received -- I don't remember what the

11 fee would have been, but the monies would have gone to

12 him, would have gone to him over a period of time.

13 SIR ROBIN AULD: But on what basis were you being paid for

14 your involvement in this property? What did you do?

15 A. I acted for him on the sale. I believe I would have --

16 SIR ROBIN AULD: As a lawyer?

17 A. Yes.

18 SIR ROBIN AULD: So what was your fee?

19 A. I believe my fee would have been 3 or so K. I don't

20 know.

21 SIR ROBIN AULD: Can we see where this money passes on and

22 out as we did on the previous occasion?

23 A. Yes. I believe there is an amount of 68K or so that

24 went out.

25 MR MILNE: Is that page 303?

1 A. Yes.

2 Q. \$68,263.50 is deducted, that being on 30th May?

3 A. Yes.

4 Q. Nearly four weeks later?

5 SIR ROBIN AULD: That is 300,000 short.

6 MR MILNE: No, it was 110,000 goes in, sir, and 68,000 comes

7 out, which is about 50,000 short.

8 SIR ROBIN AULD: Sorry, yes.

9 MR MILNE: 42,000, I beg your pardon.

10 SIR ROBIN AULD: So what is that about?

11 A. Bear with me a second. I don't recall it particularly.

12 I shall need to have a look at the file again and see

13 what exactly happened. I don't remember it in that

14 finer detail.

15 MR MILNE: Can you assist us with this: as an attorney you

16 have a client account?

17 A. Yes.

18 Q. But these are funds coming and going from your office

19 account?

20 A. Yes.

21 Q. Which is essentially your money. An office account is

22 used for the payment of expenses, payment of

23 attorney's --

24 A. Yes, I am familiar with that. What I say is that --

25 what I said earlier is that on occasions when monies

1 were paid into this account that were strictly speaking  
2 monies for clients, those would have been done with  
3 the consent and approval and instruction of whomever  
4 the client was.

5 SIR ROBIN AULD: He would say: put this in your private  
6 account; would he?

7 A. He would say: I need a cheque almost immediately; and in  
8 order for it to -- if the cheque was going to  
9 a different bank, I would make the deposit -- if  
10 the cheque is coming from a different bank, I would make  
11 the deposit there.

12 MR MILNE: This bank account at which we are looking, which  
13 is the office account, the RD Gardiner & Co office  
14 account, it is described as, we are looking at, can we  
15 be clear, which bank is this with?

16 A. First Caribbean International Bank.

17 Q. Where is your --

18 A. TCI Bank.

19 Q. TCI Bank for your client account?

20 A. Yes.

21 (4.45 pm)

22 Q. Why not put both of them in  
23 the First Caribbean International Bank? You are clearly  
24 going into the First Caribbean. You clearly find  
25 the First Caribbean to be more amenable to the work that

1 you have to do. Why not simply open  
2 a First Caribbean International Bank client account so  
3 that you don't need to use your office account? It  
4 would have been the work of a few minutes with a  
5 sympathetic bank manager.

6 A. Yes, it would have.

7 Q. Why not do it?

8 A. I didn't do it, I don't have any ...

9 Q. With items such as that last one, which was the payment  
10 of that gentleman's, Arnold Gardiner's money in, it goes  
11 into your office account. It stays there for a month.  
12 You then pay out 68,000 of the 110. On the face of it,  
13 it would be impossible to say where the rest of the  
14 money went, wouldn't it, because there is no obvious  
15 cheque for 42,000 around this period that would  
16 represent the balance?

17 A. Yes.

18 Q. So the money goes in and mixes with your own money,  
19 which you obviously spend, as you are entitled to, for  
20 your own purposes.

21 Surely the safeguards that are written into  
22 an office account have been completely undermined?

23 A. Yes.

24 Q. Even if there were a rush, as you have indicated to us  
25 as regards the other transaction, that is



1 the transaction involving Chalmers & Co,  
2 Llewellyn Basden, there is no rush here because this  
3 sits there for a month. There must have been plenty of  
4 time to transfer the full amount to the TCIB to equip  
5 your client account and deal with it in the proper  
6 fashion. Would there not?

7 A. Yes, I agree.

8 Q. Let's look at another one, please. It is a further  
9 payment in. We have this at page 238. This is another  
10 credit to your account. Another credit of \$80,000.  
11 Again, it does not appear to have any bearing on  
12 the Caicos Group. At this page, which reflects  
13 the period of late February, seemingly 2006 to 2007, it  
14 is the period with which we are concerned here -- I beg  
15 your pardon, no, it is February 2008. I am out by  
16 a year.

17 We see in fact that there is what is termed a local  
18 draft, that is \$80,000 plus \$10.20 debited on  
19 25th February. The following day, \$80,000 is credited  
20 to the account. That is tagged on the bank statement as  
21 being FCIB draft. Can you tell us what that transaction  
22 represented?

23 A. Just one second. (Pause)

24 I believe that was a draft for -- that was -- that  
25 would have been paid to Miller Simons O'Sullivan.

1 The correct amount was another sum and the correct  
2 amount was 90,000. On that same day, I believe  
3 the draft for 90,000 went out.

4 I believe that was the -- that was -- at the 25th  
5 there is a draft that comes out for 80,000. On the  
6 26th, that draft was re-deposited and a draft for 90,000  
7 taken on that same day.

8 Q. Where do we find that?

9 A. We find that on page 238 and 239.

10 Q. So there is a deduction the following day of 90,000 and  
11 \$10?

12 A. Yes.

13 Q. What was the transaction that that represented?

14 A. It was -- I believe it was in reference to a property  
15 that Arnold Gardiner had sold or had purchased, I don't  
16 remember. But I remember the local draft going to  
17 Miller Simons O'Sullivan. I would need to look at that  
18 again.

19 Q. So this again is an Arnold Gardiner transaction?

20 A. Yes.

21 Q. And again done through your office account?

22 A. Yes.

23 SIR ROBIN AULD: Where is your fee for the work you did in  
24 respect of this transaction? What was it?

25 A. The fee, I believe, would have been -- I don't know,

1 I would have to look at it. I don't remember. I can

2 have a look at that. I don't remember.

3 Q. Sir, we have come a long way from the starting point,

4 which of course was Caicos Group Limited.

5 Caicos Group Limited has contributed to your

6 personal profits to a very large extent. We identified

7 a couple of hundred thousand dollars. We have been over

8 your involvement with it.

9 But lest there be any doubt, are we to understand

10 that Caicos Group has no other capital or assets, other

11 than potentially an interest in a piece of land?

12 A. That is correct.

13 Q. When you originally wrote to the Commission, and I have

14 here, you will find at page 7 in your bundle, at

15 paragraph 3(b)(v), towards the very bottom, you stated

16 you had:

17 "... 100 ordinary shares in the Caicos Group,

18 acquired 24th May 2004, when the company was

19 incorporated. The value of my shares today is

20 approximately US\$250,000. I have not paid for

21 the shares but I owe \$100 for them, because they were

22 issued at \$1 each."

23 So how do you arrive at an valuation of \$250,000?

24 A. The interest in the Caicos Group, my 100 per cent -- my

25 20 per cent interest --

1 Q. I thought it was 10 per cent?

2 A. The Caicos Group is 20 per cent. Caicos Group has 10  
3 per cent in another entity.

4 Q. Forgive me, carry on.

5 A. At the time that I wrote this, I would have imagined  
6 that it would have been valued at perhaps the same 400K  
7 that I had initially. However, for me, taking into  
8 account the difficulty in this climate to move things,  
9 it perhaps is not worth what it would have been two  
10 years ago. So I just -- I don't have any real means of  
11 knowing that I didn't -- I just took a figure as to what  
12 seemed reasonable to me.

13 Q. One interpretation that could be placed upon this, and  
14 I am going to give you the opportunity to comment on it,  
15 is the Caicos Group, which has no assets other than  
16 the interest we have discussed, plays no other role but  
17 fronting for an overseas developer. Would you agree  
18 that is an accurate depiction or would you dispute it?

19 A. I would not call it fronting.

20 Q. Right. But no effective addition, no added value comes  
21 from the Caicos Group save the fact that it is in their  
22 name that the application is made for the land?

23 A. Yes.

24 Q. For that role, you have been paid handsome sums of money  
25 and although we don't have the figures for your

1 colleagues, can we assume that they would receive --

2 A. Equal amounts.

3 Q. Equal amounts to you?

4 A. Yes.

5 Q. Certainly like sums. They don't appear to be the same

6 cheques split up each time but clearly 2.1 million has

7 gone into this and we see close on 300,000 going to you.

8 Are we to assume that other sums from that 2 million

9 have also come to you, although not reflected here?

10 A. No, the amount that came to me would have been about

11 400K.

12 Q. The money that goes in, which we see at page 183, is

13 clear, that is easy to tally, but the others are odd

14 sums in the sense that they are all round figures; 190,

15 95, 90 and so on?

16 A. I can remember, for example, that 21st June, I had

17 gotten an amount from the Caicos Group of 3K. When

18 I was -- when the draw came on 13th December, I would

19 have gotten 97. The other three is reflected at

20 an earlier point in June of that year.

21 Q. So if we were to see this account in fact only runs as

22 far as January 2008, are funds still coming in?

23 A. No.

24 Q. So the funds have now been lodged and presumably drawn

25 out?

1 A. Yes. As I understand it, there should be a balance in  
2 the account of about 25K.

3 Q. Caicos Group has not invested in anything else with  
4 a view to the development; it has simply lent its name  
5 to it?

6 A. That is correct.

7 Q. Two matters, three matters very quickly. Cem Kinay, who  
8 is ultimately your employer, and you have told us that  
9 you don't have any close or direct dealings with him,  
10 have you had any dealings on his behalf or on his  
11 instruction in relation to the development of  
12 Joe Grant's Cay?

13 A. No.

14 Q. Prior to the Commission of Inquiry, were you aware that  
15 he had any interest in Joe Grant's Cay?

16 A. No.

17 Q. Have you had any involvement in working for, I think it  
18 is called the O Collection, his company?

19 A. Yes, the O Property Collection.

20 Q. Is that the parent company for the company which employs  
21 you?

22 A. I believe it is an associated company. I am not sure  
23 how that is structured.

24 Q. The work you do at present for Mr Kinay is solely in  
25 relation to Dellis Cay?

1 A. Yes, in relation to Dellis Construction.

2 Q. A further point is this: you as Secretary General of  
3 the PNP were promoted to the role of party Chairman in  
4 August of 2008?

5 A. Yes.

6 Q. You as an employee of Turks Limited, in the very same  
7 month, saw your salary triple. Are those two events  
8 connected in any way?

9 A. No.

10 Q. Did you ever discuss your new role with your employers?

11 A. No. I never discussed my political involvement, save  
12 that I am a Member of Parliament and when I took on  
13 the new position at Dellis, I -- we agreed that it would  
14 be that I could continue in that role.

15 Q. Finally, this, in 2007, October of that year, you lent  
16 your name, together with a number of colleagues, to  
17 a letter that was subsequently published, whether or not  
18 that was intended, but the letter was originally  
19 addressed to the Premier, and it was critical in pointed  
20 terms of his behaviour and of the running of the  
21 government.

22 Do you recall that letter?

23 A. I have heard of that letter.

24 Q. Your name is attached to it.

25 A. I am told that it is.

1 Q. Was it your wish that your name be attached to it?

2 A. No.

3 Q. Who sent it in your name, then, without your consent?

4 A. To the best of my knowledge, that letter was never  
5 delivered or sent to the party leader.

6 Q. We have heard evidence from others that it was  
7 discussed, so that he clearly did see it?

8 A. I knew of it when I heard that it was online. I make it  
9 my business not to read the local press, and I make it  
10 my business not to, except I am in the room and can't  
11 avoid it, if I am in a room and can't avoid it, I make  
12 it my business not to -- be online or being involved in  
13 that kind of -- the blogosphere type of environment.

14 So when I was told of it I was actually surprised  
15 because I knew that I had no part in drafting the letter  
16 and --

17 Q. You have seen it since then?

18 A. I have seen it, yes.

19 Q. It is purportedly signed. Obviously the circulated copy  
20 does not have original signatures, it has names typed at  
21 the bottom, but a series of party officials, of whom you  
22 were one, appear to have attached their names to it.

23 A. I can say that I did not draft nor did I have any part  
24 in the drafting, nor did I sign, nor did I deliver, nor  
25 did I discuss with the leader of the party that



1 document.

2 Q. Were you outraged when you discovered this had been done

3 in your name?

4 A. Yes, I was pissed off.

5 (5.03 pm)

6 Q. Did you speak to anybody about that?

7 A. I spoke to the Chairman at the time or the person who

8 had immediately preceded me as Chairman. I spoke to

9 several Parliamentary colleagues about it and I spoke

10 with -- I believe I might have spoken with the party

11 leader as well.

12 Q. So you spoke to the Premier?

13 A. Yes.

14 Q. When was it you spoke to him?

15 A. Shortly after that -- I think that may have been

16 published on the blogosphere shortly after I became

17 Chairman. I believe it may have been in August or

18 September or some of last year, I am not sure.

19 Q. That may be the case.

20 A. So shortly around that time, when I knew of it is when

21 I actually spoke to persons about it.

22 Q. Before it was placed on the Internet you had no idea?

23 A. No. I never saw it, I never knew that it existed.

24 Q. And nobody said anything to you about it?

25 A. No.

1 Q. The Premier never said anything to you about it?

2 A. No.

3 Q. Were you able to determine whether anybody else had  
4 signed this letter?

5 MR SMITH: I am objecting because I am trying to understand  
6 the relevance of it.

7 SIR ROBIN AULD: What is the relevance of it?

8 MR MILNE: Sir, this is a letter that has circulated widely  
9 which involves criticisms of the Premier and we are  
10 simply seeking to establish whether individuals have, on  
11 the face of it, endorsed these concerns and if so what  
12 was done about it. It comes as something of a surprise,  
13 I must confess, that the gentleman whose name is clearly  
14 attached to it says that he knew nothing of it until  
15 several months later.

16 SIR ROBIN AULD: Is it your intention to ask him whether he  
17 agrees with the content of the letter or not or are you  
18 simply trying to find out whether he was a signatory in  
19 some form or other?

20 MR MILNE: Well, sir, since he said he was not a signatory,  
21 it may matter or it may not matter whether or not he  
22 agrees with it. I am not here simply to elicit  
23 criticism of the Premier. But if letters are being  
24 distributed by individuals within the party where  
25 essentially signatories are being forged or signatories

1 are being put on who would not otherwise have given  
2 consent, it would be interesting for the Commission to  
3 be able to establish whether this has any validity at  
4 all. It may be that this is a piece of mischief that  
5 nobody will actually put their hands up to.

6 SIR ROBIN AULD: Well, he is the Chairman of the party, he  
7 should be interested. What do you say Mr Smith?

8 MR SMITH: I am saying he can't answer any of that because  
9 he indicated to the Inquiry in definitive terms that he  
10 never saw it, he never wrote, he doesn't agree --

11 SIR ROBIN AULD: We have got past that stage, I agree with  
12 you. Do you want to ask him whether he stands behind  
13 the statement or not?

14 MR MILNE: When you saw it, Mr Gardiner, did you agree with  
15 its contents?

16 A. I don't remember it in its entirety. I believe that  
17 I would agree with certain aspects of it. I don't  
18 recall it particularly.

19 Q. Other than that I was simply seeking to establish  
20 whether you were able to identify who had prepared it,  
21 who had signed it and whether they believed that you  
22 consented to it when they did so? Did you ever find  
23 that out?

24 A. No, I never found it out. The persons that I spoke to  
25 who are mentioned there, I spoke to two of the persons

1 who are mentioned there and, as far as I am concerned,  
2 based on what they have said to me, they don't know  
3 whether that letter was actually delivered to  
4 the Premier and I certainly never signed it, I certainly  
5 never saw it.

6 Q. Did either of them say that they had endorsed it or  
7 signed it at the time?

8 A. What -- no. What they said to me was that those issues  
9 were discussed and that a decision was made that  
10 afterwards that they would prepare something and have it  
11 sent on to the leader.

12 I don't know who prepared it, but I know it was  
13 never circulated to me for my signature.

14 SIR ROBIN AULD: Presumably you would have expected it to be  
15 circulated to you as the Chairman of the party, wouldn't  
16 you, if something like that was to go out bearing your  
17 name?

18 A. I would have at the very least expected to get a cc of  
19 it. I never saw it.

20 MR MILNE: I think in fairness, sir, at the time of the  
21 letter itself Mr Gardiner was the Secretary General and  
22 became Chairman --

23 SIR ROBIN AULD: He only became Chairman.

24 MR MILNE: In August 2008.

25 SIR ROBIN AULD: Secretary General. Same applies really.

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

2 SIR ROBIN AULD: Mr Fitzgerald.

3 Cross-examination by MR FITZGERALD

4 MR FITZGERALD: Just this in relation to that letter,

5 Mr Don-Hue Gardiner, it does have at the bottom

6 "respectfully" and then it has a series of typed names,

7 including Don-Hue Gardiner Secretary General.

8 A. That is me.

9 Q. I appreciate that. To the extent that it presents

10 itself as something signed and endorsed by you, it is

11 bogus, isn't it? You never did sign?

12 A. I never -- I did not sign, I did not author it, nor did

13 I sign it.

14 Q. Indeed you were not even consulted about it, as far as

15 I can understand?

16 A. I had no input in the drafting of the letter.

17 Q. So someone thought that it would have more effect,

18 presumably, if they put your name to it without

19 consulting you?

20 A. Or someone thought that had they presented to me that

21 I may have signed it and it was probably someone's

22 intention to pass it by me, but I never saw it.

23 Q. Your understanding, and certainly this accords with my

24 instructions from the Premier, is that in fact

25 the letter was never signed and never delivered to him?

1 A. I am told by -- I am told that he never received it.

2 Q. Just to deal with this, as I understand it, you are now

3 the Chairman, formerly the Secretary General?

4 A. Yes.

5 Q. But your evidence is really finances were not your area?

6 A. Never my area.

7 Q. I think you did deal with the fact that the Premier,

8 insofar as he was leader, was entitled to a salary?

9 A. Yes.

10 Q. Were you aware of the amount of that salary?

11 A. I don't remember.

12 Q. But you --

13 A. I remember specifically the Chairman because I know the

14 Chairman had raised the issue with me at that point.

15 Q. So whether he drew it or whether he drew it in full, he

16 was entitled to a salary as leader of the party?

17 A. Yes.

18 Q. And that salary, your understanding was, was to continue

19 whilst he was Premier?

20 A. Basically what happened, if I may say, as I understand

21 it, at the time that he became the leader designated of

22 the party, going back to 2003 I believe, he had just

23 returned home. He had taken over the leadership of the

24 party at a time when elections were anticipated. In

25 an effort to have his full time and attention, the party

1 agreed that the leader, the deputy leader and the  
2 Chairman, who at the time is the late Rudolph Outen(?)  
3 that they would receive a salary because they were  
4 involved in the day-to-day running and planning and  
5 getting the party machinery geared up for the election  
6 of 2003. That was the decision. There was no, to the  
7 best of my recollection, sunset --

8 Q. There was no rescinding of that decision?

9 A. There was no sunset put on it, as far as I am concerned.

10 Q. Certainly you may be aware or you may not, that the  
11 Premier has said that, as far as he was concerned, he  
12 continued to be entitled to draw a salary throughout  
13 these years. Would you disagree with that?

14 A. I am not aware that he would have said that.

15 Q. Well, he has said that. Do you disagree with it?

16 A. I do not disagree based on the -- all I can say is that  
17 the party approved his salary, there was never -- at the  
18 time that it was approved there was never, to the best  
19 of my recollection, a sunset put on it as to when that  
20 salary reached an end.

21 Q. Of course during this period the Treasurer was  
22 Mr Floyd Hall?

23 A. Yes.

24 Q. Would you expect him to have been the person who was in  
25 charge of the books on the bank accounts?

1 A. Yes. I expect as Treasurer he would be the person

2 responsible for the accounts of the party.

3 Q. You have been asked a few questions about Dellis Cay.

4 Just this about the history of this. Is this right,

5 that the development agreement for that had already been

6 approved by the Cabinet in July 2005, quite long way

7 back? Quite a long way back.

8 A. Yes.

9 Q. And it was supported by the government and indeed has

10 been progressing during the years after that,

11 the construction of the hotel?

12 A. Yes. As far as I am concerned it has been progressing.

13 Q. And the purchase of that land, that land was purchased

14 from a private owner, is that right? Can you recall

15 that?

16 MR SMITH: I don't think he is going to have knowledge of

17 this.

18 MR FITZGERALD: He works there. I must be entitled to ask.

19 SIR ROBIN AULD: He can say if he does or he doesn't, do you

20 know the answer?

21 A. I don't know for a fact.

22 SIR ROBIN AULD: Is this a terribly important point?

23 A. It is. I met -- I am told by people around the bars and

24 places that I may hang out --

25 SIR ROBIN AULD: By repute.



1 A. -- that it has been in private hands for hundreds of

2 years. I don't know.

3 MR FITZGERALD: You have dealt with the fact that this

4 letter was never signed by you and never authorised by

5 you. I just want to ask this further question. Is it

6 right that, nonetheless, there were discussions with

7 the Premier about concerns about what was being said

8 about him and about excessive expenditure that involved

9 yourself and him? Just informal discussions.

10 A. I have always had frank and open discussions with

11 the Premier on any matter that I was involved with him

12 on, and indeed in the party I am jokingly referred to as

13 the leader of the opposition, because on many things --

14 SIR ROBIN AULD: As a what?

15 A. The leader of the opposition, on things, if there is

16 anything about it, I will normally raise it.

17 MR FITZGERALD: Is this right, that when you voiced those

18 concerns, he listened to you?

19 A. Yes. He heard what I had to say.

20 Q. He explained some of the matters about which there was

21 complaint and took on board some of the criticisms that

22 were made?

23 A. Yes, he would have answered them. Sometimes I thought

24 he was overly patient at listening to the criticisms,

25 because sometimes there were many, ie if you are sitting

1 around in a room with a number of persons raising  
2 criticisms, to wait until everyone has finished before  
3 you answer them, I guess, some level of patience,  
4 I guess.

5 MR FITZGERALD: I have no further questions.

6 SIR ROBIN AULD: Thank you, Mr Fitzgerald.

7 SIR ROBIN AULD: Any from the attorney?

8 MS BROOKES: No, sir.

9 SIR ROBIN AULD: Yes, Mr Smith.

10 Cross-examination by MR SMITH

11 MR SMITH: Just a few questions. Let me understand you,  
12 the Caicos Group situation. Let me see if I understand  
13 your testimony about that. You had this company formed  
14 back in 2004.

15 A. Yes.

16 Q. At some point in time you were approached by Mr  
17 Lightbourne about this arrangement, is that correct?

18 A. Yes.

19 Q. You can disagree with me or you can agree with me: was  
20 one of the things that Mr Lightbourne said to you, that  
21 it needed additional Belonger participation, due to the  
22 amount of land that was involved?

23 A. Yes.

24 SIR ROBIN AULD: Despite the preface, "you can agree or  
25 disagree with me", that is leading, is it not?

1 MR SMITH: I could put it another way. What exactly did

2 Mr Lightbourne say?

3 SIR ROBIN AULD: That is it.

4 A. He said that because of the acreage involved, he thought

5 that for him to proceed he would feel more comfortable

6 if there were additional Belonger participation.

7 Q. Were you at all at any time personally involved in the

8 negotiations with Caicos Resort and the government?

9 A. No.

10 Q. Let me see if I can understand you correctly: there came

11 a point when the entities or individuals involved in

12 Caicos Group were required by the financing entity to do

13 something, is that correct?

14 A. Yes, Credit Suisse required the injection of some

15 capital.

16 Q. Your interest was bought out? A portion of your

17 interest?

18 (5.17 pm)

19 A. Yes, a part of the interest.

20 Q. So could you put in your own words, and explain to the

21 Commission so everybody can understand exactly what was

22 that money for, the money that you got paid,

23 the approximate \$400,000, what was that money and who

24 paid it?

25 A. The money was paid by Caicos Resorts Investments and it

1 was paid because the Caicos Group was giving up

2 a certain percentage of its participation in

3 the investment, in the project.

4 Q. At any point in time at all was the land, the Crown land

5 granted by the government to Caicos Group?

6 A. To the best of my recollection, no.

7 Q. In relation to the 40,000 -- \$400,000 you received, am

8 I correct that you receive it over what period of time?

9 A. Two to two and a half years.

10 Q. There were some questions posed in relation to payments

11 to your credit cards. Were any of those funds utilised

12 to make those credit card payments?

13 A. Yes.

14 Q. As the nephew of the Premier, have you ever benefited

15 from any developers in terms of them paying you any

16 bribes or any kickbacks for any projects?

17 A. No.

18 Q. Would you agree with me, sir, that bank accounts that

19 you provided here to the Commission, they pre-date you

20 being an elected Member, is that right?

21 A. An appointed Member, yes.

22 Q. An appointed Member, is that correct?

23 A. Yes.

24 Q. A lot of those questions that were posed to you in

25 relation to monies going in and out of your account, did

1 it have anything to do with you being an appointed  
2 Member?  
3 A. No, other than my salary.  
4 Q. You indicated at some point in time you received funds  
5 on behalf of clients, is that correct?  
6 A. Yes.  
7 Q. You are an attorney, are you not, sir?  
8 A. Yes, I am.  
9 Q. You realise that there is a preference way to keep  
10 a client's account.  
11 A. Separate, yes.  
12 Q. And do you understand the concern that you place  
13 the money in your --  
14 A. Yes, but I maintain that in any situation where that was  
15 done, it was done on the express authority and consent  
16 of the client involved.  
17 Q. Let me ask you this: did you misappropriate any of that  
18 money for your own personal use.  
19 A. No.  
20 Q. Have there ever been any complaints filed against you  
21 by the bar --  
22 A. No.  
23 Q. Let me finish my question. Have any complaints been  
24 filed against you to the Bar, or any discipline about  
25 clients owing or you owing clients money?

1 A. No.

2 MR SMITH: I have nothing else.

3 Re-direct by MR MILNE

4 MR MILNE: Simply this, the rules of the Bar Association in  
5 relation to client accounts.

6 A. Pardon?

7 Q. The rules of the Bar Association in relation to client  
8 accounts, are there any rules?

9 A. Yes.

10 Q. What do those rules require you to do?

11 A. The rules are that they should be -- is that they should  
12 be segregated from other funds.

13 MR MILNE: Right. I have no further questions, sir.

14 SIR ROBIN AULD: Thank you. Mr Smith, I have not had  
15 an opportunity to audit the various documents that  
16 Mr Don-Hue Gardiner has produced in the last two days  
17 against the request for missing bank accounts. Are you  
18 satisfied from your preparation of the bundle that he  
19 has now produced every bank statement for which we asked  
20 and which was not present in his earlier disclosure?

21 MR SMITH: That is my understanding. I could take some  
22 further instructions. If there are missing bank  
23 statements I will provide them to the Commission.

24 SIR ROBIN AULD: Thank you. Subject to that and subject to  
25 any further information that you may wish to provide on

1 much of the topic that has taken the afternoon today,  
2 that is your evidence, Mr Don-Hue Gardiner. Thank you  
3 for attending.

4 A. Thank you.

5 MR MILNE: Sir, in relation to the schedule for tomorrow,  
6 which I note is already version 17, we have Mr Melbourne  
7 Wilson who we should be able to start, I trust, first  
8 thing, and I must realistically expect that he will take  
9 the bulk of the morning, given the length of time that  
10 the Honourable Jeffrey Hall, whose evidence coincides  
11 with the same area, took. We also have  
12 Mr Gary Lightbourne and Mr Clyde Robinson. In fairness  
13 to those witnesses, I would propose, sir, that we not  
14 have them before 2.00 in the afternoon. It may assist  
15 that we give them notice of that at this stage.

16 SIR ROBIN AULD: Yes, I think that sounds sensible and we  
17 should give notice and will.

18 MR MILNE: The only issue that remains is whether we should  
19 invite the Honourable McAllister Hanchell to be  
20 available for the afternoon. It may be that if he  
21 wishes to be elsewhere but to be, as it were, on the end  
22 of a phone.

23 SIR ROBIN AULD: Just in case.

24 MR MILNE: Just in case, failing which his evidence will  
25 slip into the Friday morning.

1 SIR ROBIN AULD: Is that convenient?

2 MS MISSICK: Sir, I will take instructions from

3 the Honourable Hanchell. About what time should he be

4 expected to be on the other end of a phone?

5 SIR ROBIN AULD: Be available on the phone from 2.00 pm in

6 the afternoon. Not too far away.

7 MR FITZGERALD: Sir, could we just forecast, are we going to

8 conclude, then, the evidence on Friday?

9 SIR ROBIN AULD: We are aiming to, Mr Fitzgerald. That is

10 our hope.

11 MR FITZGERALD: I will ask my learned friend.

12 MR MILNE: We have gone from canter to gallop at present,

13 sir.

14 MS MISSICK: Sir if I may raise another point in relation to

15 Mr Gary Lightbourne, are there any documents

16 the Commission would be relying on in relation to either

17 Mr Hanchell or Mr Hall, Jeffrey Hall, that we can

18 probably exchange tonight?

19 SIR ROBIN AULD: You can deal with Lightbourne first,

20 Mr Milne, can you help on that?

21 MR MILNE: Sir, the documents that were produced by

22 Mr Lightbourne went into the Honourable

23 McAllister Hanchell's file. It is volume 2. I have

24 volume 1 here, but volume 2, I am afraid, is not in

25 the hall.



1       There were a small number of additional documents  
2       that I believe -- I only have to say the word and it  
3       appears. There were other documents provided by  
4       the Honourable McAllister Hanchell which I think went  
5       into the same section at the rear of volume 2. I am not  
6       proposing to adduce further documentation in relation to  
7       him. That would be everything that we would expect to  
8       rely upon.

9       MS MISSICK: Sorry, those would be the documents we received  
10      that day when Honourable Hanchell was giving evidence?

11     SIR ROBIN AULD: You should have received some since,  
12     I think.

13     MR MILNE: There were --

14     MS MISSICK: We received the bundle which I think we  
15     supplied in relation to the letters to the ministry of  
16     natural resources when the Honourable Hanchell was  
17     giving evidence. If that is the complete set, then we  
18     are holding all the papers.

19     SIR ROBIN AULD: There is a further letter, of which I think  
20     you have seen a copy, to the Attorney General.

21     MS MISSICK: Yes, sir, we do have a copy of that.

22     SIR ROBIN AULD: Concerning applications for Crown land  
23     which was copied to the Honourable --

24     MS MISSICK: Yes, sir. Shall we put that in the back of the  
25     bundle?

1 SIR ROBIN AULD: I think that is a good idea. There will  
2 also be some documents put to him about the grant of  
3 allocations and specimen documents, I don't know whether  
4 you have got those or not, of the kind that was put to  
5 Mr Floyd Hall.

6 MS MISSICK: Unfortunately I was not here for Honourable  
7 Hall's testimony. Would it be possible that  
8 the documents are contained in any of the core bundles?  
9 I can turn my attention to them.

10 SIR ROBIN AULD: We might be able to let you have  
11 a convenient bundle of those, well before he gives his  
12 evidence.

13 MS MISSICK: I am grateful.

14 MR MILNE: The documents are readily available. Our only  
15 concern is to make sure that they are properly numbered.

16 SIR ROBIN AULD: They don't follow the main bundle  
17 numbering. They have a life of their own at the moment.

18 MS MISSICK: They will be Hanchell bundle 5 or they will  
19 have their own name on them?

20 SIR ROBIN AULD: If there is room, we will put them into  
21 the one we have got.

22 MR MILNE: I will have a word with my learned friend once  
23 the Tribunal has risen and we will try to make sure we  
24 are working from the same documentation.

25 MS MISSICK: Much obliged.

1 SIR ROBIN AULD: 10.30 tomorrow.

2 (5.30 pm)

3 (The court adjourned until 10.30 am

4 on Thursday, 4th February 2009)

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